



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, November 17, 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>](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

CLOSED SESSIONS ARE NOT OPEN TO THE PUBLIC. YOU MAY JOIN THE MEETING AT 6:00 P.M. TO SUBMIT PUBLIC COMMENT FOR CLOSED SESSION ITEMS THEN EXIT AND REJOIN THE REGULAR MEETING AT 7:00 P.M.

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

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Authority: Government Code 54957(b)(1)

Title: City Manager

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Authority: Government Code 54957(b)(1)

Title: City Attorney

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 # 34- Cultural Competence

PROCLAMATIONS

Proclaiming the month of November 2021 as Family Court Awareness Month

November 17, 2021

Proclaiming the month of November 2021 as Alzheimer's Awareness Month

Proclaiming the month of November 2021 as Native American Heritage Month

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. ACCEPT RESIGNATION OF PLANNING COMMISSIONER JUAN MIGUEL MUNOZ MORRIS

Recommendation:

1. Accept Juan Miguel Munoz Morris' resignation from the Planning Commission effective immediately; and
2. Direct the City Clerk to continue recruitment efforts to fill an unexpired term ending June 2023, on the Planning Commission.

2. ADOPT RESOLUTION AUTHORIZING THE GRANT APPLICATION, ACCEPTANCE, AND EXECUTION FOR THE FY 2021/2022 DROUGHT RELIEF WATER SUPPLY PROJECT

Recommendation:

Adopt resolution to:

1. Authorize the grant application, acceptance, and execution for the FY 2021/2022 Drought Relief Water Supply Project; and
2. Authorize the City Manager to execute documents required to apply and accept the grant for the City.

3. APPROVE CONSULTANT AGREEMENT WITH SANDIS CIVIL ENGINEERS SURVEYORS PLANNERS IN THE AMOUNT NOT TO EXCEED \$260,500 FOR ENGINEERING DESIGN SERVICES FOR JACKSON OAKS AND EL TORO UTILITY ACCESS ROADS DESIGN

Recommendation:

1. Adopt resolution amending the Fiscal Year 2021-22 Adopted CIP Budget to appropriate \$200,000 from the Sewer Capital Improvements Project Fund (Fund 643) for Engineering Services for Jackson Oaks Access Roads Design, and \$60,500 from the Water Capital Improvements Project Fund (Fund 653) for Engineering Services for El Toro Access Roads Design; and
2. Authorize the City Manager to execute a consulting agreement with Sandis Civil Engineers Surveyors Planners in the not to exceed amount of \$260,500 for Engineering Services for Jackson Oaks and El Toro Access Roads Design.

4. APPROVE EXEMPTION TO STREET TREE MASTER PLAN FOR FOUR TREES ON THE SOUTHWEST CORNER OF MONTEREY ROAD AND FIRST STREET

Recommendation:

Approve an exemption to the Street Tree Master Plan for the installation of Olive trees to replace Black Locust trees in the Downtown near First Street.

5. APPROVE MEMORANDUM OF UNDERSTANDING (MOU) WITH THE AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES (AFSCME), MOU WITH MORGAN HILL POLICE OFFICERS' ASSOCIATION (POA) AND CORRESPONDING SALARY SCHEDULES; AND APPROVE MANAGEMENT, PROFESSIONAL, AND CONFIDENTIAL EMPLOYEES RESOLUTION, PART-TIME TEMPORARY AND SEASONAL EMPLOYEES SALARY SCHEDULE

Recommendation:

1. Approve a Memorandum of Understanding (MOU) with AFSCME effective December 26, 2021 – December 31, 2023 and corresponding salary schedules;
2. Approve a MOU with POA effective December 26, 2021 - December 31, 2023 and corresponding salary schedules;
3. Approve the Management, Professional, and Confidential Employees Resolution effective December 26, 2021 and corresponding salary schedules; and
4. Approve the Part-Time Temporary and Seasonal Employees salary schedule effective January 1, 2022.

6. APPROVE THE NOVEMBER 3, 2021 MEETING MINUTES

Recommendation:

Approve Minutes.

7. RECEIVE REPORT REGARDING UPCOMING 2022 COMMISSION VACANCIES - PER MADDY ACT

Recommendation:

Receive report.

OTHER BUSINESS

8. INTRODUCE ORDINANCE MANDATED BY SB 1383 REQUIRING ORGANIC WASTE DISPOSAL REDUCTION THROUGH ORGANIC WASTE RECYCLING AND EDIBLE FOOD RECOVERY PROGRAMS

Recommendation:

1. Waive first and second reading of the ordinance updating Section 13.28, Solid Waste Collection and Disposal, of the City of Morgan Hill Municipal Code in order to institute the mandatory organic waste disposal reduction requirements required by California law; and
2. Introduce the ordinance.

Estimated Time: 30 Minutes

9. RECEIVE OUTDOOR SPORTS CENTER USE UPDATE

Recommendation:

Receive report on the Outdoor Sports Center.

Estimated Time: 45 Minutes

10. APPROVE AN AFFORDABLE HOUSING AGREEMENT WITH BROOKFIELD PROPERTIES FOR THE RESIDENTIAL DEVELOPMENT ROSEWOOD, BFH CM, LLC. TO ACCEPT A HOUSING IN-LIEU FEE AS SATISFACTION FOR 50% OF THE INCLUSIONARY REQUIREMENT

Recommendation:

Authorize the City Manager to execute an Affordable Housing Agreement with BFH CM, LLC. The agreement will be negotiated and subject to the review and approval by the City Attorney.

Estimated Time: 10 Minutes

11. REVIEW AND APPROVE THE UPDATED CITY COUNCIL MEETING POLICY AND 2022 CITY COUNCIL MEETING SCHEDULE

Recommendation:

Review and approve:

1. Updated City Council Meeting Schedule Policy (City Council Policy 06-02); and
2. The 2022 City Council meeting schedule.

Estimated Time: 10 Minutes

12. SELECT AND APPOINT CITY COUNCIL MAYOR PRO TEMPORE

Recommendation:

1. Open floor to nomination(s) for Mayor Pro Tempore; and
2. Select a Council Member to serve as Mayor Pro Tempore per City Council Policy 99-01.

Estimated Time: 15 Minutes

FUTURE COUNCIL INITIATED AGENDA ITEMS

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

ADJOURNMENT

NOTICE

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

PUBLIC COMMENT

Members of the Public are entitled to directly address the City Council concerning any item that is described in the notice of this meeting, before or during consideration of that item. If you wish to address the Council on any issue that is on this agenda, please complete a speaker request card located in the foyer of the Council Chambers and deliver it to the Minutes Clerk prior to discussion of the item. You are not required to give your name on the speaker card in order to speak to the Council, but it is very helpful. When you are called, proceed to the podium and the Mayor will recognize you. If you wish to address the City Council on any other item of interest to the public, you may do so during the public comment portion of the meeting following the same procedure described above. Please limit your comments to three (3) minutes or less.

Please submit written correspondence to the Minutes Clerk, who will distribute correspondence to the City Council.

Persons interested in proposing an item for the City Council agenda should contact a member of the City Council who may plan an item on the agenda for a future City Council meeting. Should your comments require Council action, your request may be placed on the next appropriate agenda. Council discussion or action may not be taken until your item appears on an agenda. This procedure is in compliance with the California Public Meeting Law (Brown Act) Government Code §54950.

City Council Policies and Procedures (CP 03-01) outlines the procedure for the conduct of public hearings. Notice is given, pursuant to Government Code Section 65009, that any challenge of Public Hearing Agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to the Public Hearing on these matters.

The time within which judicial review must be sought of the action by the City Council, which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.

For a copy of City Council Policies and Procedures CP 97-01, please contact the City Clerk's office (408) 779-7259, (408) 779-3117 (fax) or by email cityclerk@morganhill.ca.gov.

AMERICANS WITH DISABILITIES ACT (ADA)

In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact the City Clerk's Office at (408)779-7259, (408)779-3117 (fax) or by email cityclerk@morganhill.ca.gov. Requests must be made as early as possible and at least two-full business days before the start of the meeting.

SUSTAINABLE MORGAN HILL



VISION

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

Choose Morgan Hill

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

City Council Ongoing Priorities

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

2020-2021 Strategic Priorities

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



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



CITY COUNCIL STAFF REPORT

MEETING DATE: November 17, 2021

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

ACCEPT RESIGNATION OF PLANNING COMMISSIONER JUAN MIGUEL MUNOZ MORRIS

RECOMMENDATION(S)

1. Accept Juan Miguel Munoz Morris' resignation from the Planning Commission effective immediately; and
2. Direct the City Clerk to continue recruitment efforts to fill an unexpired term ending June 2023, on the Planning Commission.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Supporting Our Youth

Seniors

and Entire Community

Fostering a Positive Organizational Culture

Preserving and Cultivating Public Trust

Enhancing Equity

Diversity and Inclusiveness

REPORT NARRATIVE:

On November 5, 2021, Juan Miguel Munoz-Morris submitted his resignation from the Planning Commission effective Wednesday, November 10, 2021 due to change in his residency. The City Clerk's office has begun the recruitment efforts to fill the vacancy that has a term ending in June 2023. Staff recommends that the Council accept Mr. Munoz Morris' resignation and direct the City Clerk's office to continue the recruitment efforts.

COMMUNITY ENGAGEMENT: Involve

Recruitment efforts are underway encouraging citizens to apply for City Council appointment consideration to the Planning Commission.

ALTERNATIVE ACTIONS:

Not applicable.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

Recruitment efforts are conducted each year to appoint or reappoint commissioners as their terms expire.

FISCAL AND RESOURCE IMPACT:

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

CEQA (California Environmental Quality Act):

Not a project.

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



CITY COUNCIL STAFF REPORT

MEETING DATE: November 17, 2021

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

ADOPT RESOLUTION AUTHORIZING THE GRANT APPLICATION, ACCEPTANCE, AND EXECUTION FOR THE FY 2021/2022 DROUGHT RELIEF WATER SUPPLY PROJECT

RECOMMENDATION(S)

Adopt resolution to:

1. Authorize the grant application, acceptance, and execution for the FY 2021/2022 Drought Relief Water Supply Project; and
2. Authorize the City Manager to execute documents required to apply and accept the grant for the City.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Infrastructure

2020-2021 Strategic Priorities

Fiscal Sustainability

REPORT NARRATIVE:

The purpose of this item is to provide the Council with an opportunity to approve a resolution authorizing the City's submission, acceptance, and execution of a drought relief grant from the State of California.

With groundwater levels falling due to the drought, the City is working expediently on two projects to increase the resiliency of the City's water distribution system. The first is constructing an additional well somewhere in the City and the second is a mobile booster station that will facilitate moving water from the Nob Hill Zone to the Boys Ranch Zone. The need for this latter improvement is magnified by the draining of Anderson Reservoir.

The State of California has recently made a pool of drought relief funding available. Since the City is currently pursuing new infrastructure projects in response to the drought, applying for State funds makes sense and, if awarded, will enable the City to make these investments without impacting local water rates.

Staff recommends that the Council adopt the attached resolution.

COMMUNITY ENGAGEMENT: Not Applicable

This is an administrative action at this time and not enough is known about the well site to begin community engagement. Engagement efforts will begin with well site neighbors once a site is chosen.

ALTERNATIVE ACTIONS:

The Council could decline to adopt the resolution which would result in City ratepayers having to pay for the costs of these projects via increased water rates.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

While the Council has supported many investments in the City's water system for decades, this is the first opportunity that the Council has had to consider these particular projects.

FISCAL AND RESOURCE IMPACT:

The City intends to request \$3,906,032 in grant funding which will address 82.4% of the project's costs. Matching funds will be from the Water Impact Fund and/or the Water Fund. Applying for grant funds is an activity included in the work program of the Public Services Department.

CEQA (California Environmental Quality Act): Not a Project

This is solely an administrative action at this time and the ultimate project is not well-enough defined to conduct an environmental analysis. If the grant is obtained and a well site is chosen, a CEQA review will be required as a component of awarding the construction project.

LINKS/ATTACHMENTS:

1. Drought Relief Grant Resolution

RESOLUTION NO: 21-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AUTHORIZING THE GRANT APPLICATION, ACCEPTANCE, AND EXECUTION FOR THE FY 2021/2022 DROUGHT RELIEF WATER SUPPLY PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE DOCUMENTS REQUIRED TO APPLY AND ACCEPT THE GRANT FOR THE CITY, IF AWARDED, AND DIRECTING CERTAIN ACTIONS IN CONNECTION THEREWITH

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

WHEREAS, the City of Morgan Hill proposes to implement the FY 2021/2022 Drought Relief Water Supply Project; and

WHEREAS, the City of Morgan Hill has the legal authority and is authorized to enter into a funding agreement with the State of California; and

WHEREAS, the City of Morgan Hill intends to apply for grant funding from the California Department of Water Resources for the FY 2021/2022 Drought Relief Water Supply Project.

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:

1. That pursuant and subject to all of the terms and provisions of Budget Act of 2021 (Stats. 2021, ch. 240, § 80), the City Manager, or designee, is hereby authorized and directed to prepare and file an application for funding with the Department of Water Resources, and take such other actions necessary or appropriate to obtain grant funding; and
2. The City Manager, or designee, is hereby authorized and directed to execute the funding agreement with the Department of Water Resources and any amendments thereto; and
3. The City Manager, or designee, is hereby authorized and directed to submit any required documents, invoices, and reports required to obtain grant funding.

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

PASSED, APPROVED AND ADOPTED by the City Council of the City of Morgan Hill at a regular meeting held on November 17, 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 November 17, 2021.

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

DATE: _____

MICHELLE BIGELOW, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: November 17, 2021

PREPARED BY: Inga Alonzo, Management Analyst

APPROVED BY: City Manager

APPROVE CONSULTANT AGREEMENT WITH SANDIS CIVIL ENGINEERS SURVEYORS PLANNERS IN THE AMOUNT NOT TO EXCEED \$260,500 FOR ENGINEERING DESIGN SERVICES FOR JACKSON OAKS AND EL TORO UTILITY ACCESS ROADS DESIGN

RECOMMENDATION(S)

1. Adopt resolution amending the Fiscal Year 2021-22 Adopted CIP Budget to appropriate \$200,000 from the Sewer Capital Improvements Project Fund (Fund 643) for Engineering Services for Jackson Oaks Access Roads Design, and \$60,500 from the Water Capital Improvements Project Fund (Fund 653) for Engineering Services for El Toro Access Roads Design; and
2. Authorize the City Manager to execute a consulting agreement with Sandis Civil Engineers Surveyors Planners in the not to exceed amount of \$260,500 for Engineering Services for Jackson Oaks and El Toro Access Roads Design.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Enhancing Public Safety
Maintaining Infrastructure

2020-2021 Strategic Priorities

Fiscal Sustainability

GUIDING DOCUMENTS

Water System Master Plan
Wastewater System Master Plan

REPORT NARRATIVE:

The City of Morgan Hill has approximately three miles of dirt paths in the Jackson Oaks area that serve as access to City sewer lines in that area. Currently, Utility Division teammates utilize the roadways to service and maintain the sewer lines in the area using an off-road vehicle. This project will consist of improving those dirt roads into gravel roads, which will have a significant number of benefits. Making access to these sewer lines much easier and safer for City staff, will considerably reduce risk to the City. Risk will be reduced by allowing utility staff to quickly and effectively respond to sewer overflows in the area. Furthermore, the improved roadways will reduce the risk for City teammates accessing the areas. Another benefit of the project to the area is that the gravel access roads will also create improved fire breaks in an area of heightened fire concern. Engineering services needed for the access roadway improvements include topographic, geotechnical, boundary survey, design, stormwater management plan, bidding support, construction cost estimate, and construction administration.

A formal Request for Qualification (RFQ) was solicited in August 2021 to select a qualified consultant for these services. The RFQ was advertised in both the Morgan Hill Times and the San Jose Mercury News. Additionally, it was posted to the City's website, Public Purchase website. The City received two responsive submittals from CSG Consultants and Sandis Civil Engineers Surveyors Planners.

Selection Method:

Staff requested submittals in two separate sealed envelopes; the first for consultant qualifications and the second for the consultant schedule of costs. A four-member evaluation panel rated each qualification submittal based on experience and qualifications. Raters scored a maximum of 10 points for consultant information, and 30 maximum points each in the categories of relevant experience, responsible personnel, and project management. The overall weighted scores are included in the first attachment with Sandis edging CSG as the highest overall.

Consultant schedule of costs were opened after qualification selection to assure the selected consultant rates were responsible and reasonable. Rates from both the submittals were quite competitive and reasonable. Sandis' cost for the Jackson Oaks access road improvements was \$200,000 which was within staff's estimated cost.

After the evaluations were completed, staff requested an additional line item proposal from Sandis for El Toro roads design. The proposal for the additional road design was submitted at a cost of \$60,500.

Staff recommends award of the contract for engineering design services for Jackson Oaks and El Toro access roads to Sandis Civil Engineers Surveyors Planners.

Following the design of the improvements, the City will ultimately use the designs to develop projects to implement the improvements. The improvement projects will be included in the Capital Improvement Program for the next Fiscal Year and may be phased or completed as one single project depending upon the costs and funding availability.

COMMUNITY ENGAGEMENT: Inform/Consult

City staff intend to engage the Jackson Oaks Neighborhood during the design process to discuss proposed plans for the access road improvements. Feedback from the residents will be considered in the design process.

ALTERNATIVE ACTIONS:

Staff recommends that Council adopts the resolution for a CIP budget amendment and approves execution of the agreement to Sandis; however, Council may consider other alternatives such as:

1. Have the consultant do the originally solicited design work on Jackson Oaks access roads but not the El Toro added line item work. This is not recommended as the El Toro project will provide safer access to the storage tank, lines, and improve water repairs and services response time.

2. Reject all proposals, this action is not recommended by staff as this project will enhance wastewater and water access roads which will allow staff to get to their assigned tasks safely.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

There are no prior City Council actions for this project.

FISCAL AND RESOURCE IMPACT:

Funding for the Engineering Design Services will come from Sewer and Water CIP funds 643 and 653. The future construction costs will be budgeted in the next two year budget cycle.

CEQA (California Environmental Quality Act): Not Applicable

Project Discussion regarding NEW IMPROVEMENTS 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. Access Roads JO Weighted Scores
2. Sandis Services Agreement
3. Resolution Engineering Services for Jackson Oaks and El Toro Access Roads Design

Title: Jackson Oaks Access Roads RFQ

CSG Consultants

Sandis

1. Consultant Information (Cover Sheet) Did the consultant provide all the basic information requested in the RFQ? Did they provide a good statement of the consultant's qualifications, including a list of recently performed projects, past performance, and individual or team accomplishments? Are there exceptions or modifications to the City's agreement?

POINTS 10

9.25

9.00

2. Relevant Consultant Experience Has the consultant done similar work with other municipalities? Was the work described in detail with and complete with all contact information? Does the consultant show the capacity and intent to proceed without delay?

POINTS 30

26.50

28.75

3. Responsible Personnel Is the consultant committing experienced key personnel professionals to the project? What is the experience, background, training of key personnel assigned to this project? What sub-contractors are they using and what are their qualifications?

POINTS 30

27.50

28.25

4. Project Management Is the consultant's approach well laid out and easy to understand? How well will they work with City staff? Does the consultant understand the needs of the City? Did they provide a project schedule?

POINTS 30

27.25

27.00

OVERALL WEIGHTED SCORE

90.50

93.00

CONSULTANT AGREEMENT FOR DESIGN PROFESSIONALS SANDIS CIVIL ENGINEERS SURVEYORS PLANNERS

THIS AGREEMENT is entered into and becomes effective on _____ (Effective Date), by and between the CITY OF MORGAN HILL, a municipal corporation, ("CITY"), and Sandis Civil Engineers Surveyors Planners 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 June 30, 2023, at which time CONSULTANT'S services shall be completed. The City Manager is authorized to extend the term of this Agreement for a maximum of two one-year extensions. 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 engineering services for Jackson Oaks and El Toro access road improvements as further described in **Exhibit A.**
4. **Compensation.** CONSULTANT shall be compensated as follows:
 - 4.1. **Amount.** \$260,500.00. Total compensation to CONSULTANT under this Agreement during its initial term set forth in Section 2 above shall not exceed Two Hundred Sixty Thousand, Five Hundred 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 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 each subsequent extended one-year term exceed 105% of the maximum compensation allowed to be paid to CONSULTANT for one year of service during the immediately preceding prior year of service, 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:

Sandis Civil Engineer Surveyors Planners
1700 S. Winchester Boulevard
Suite 200
Campbell, CA 95008

Address of CITY is as follows:

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

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

 Christina J. Turner

 Print Name

 Print Name

Date: _____

Date: _____

APPROVED AS TO FORM:

Sandis Civil Engineer Surveyors Planners

 City Attorney

By: _____

 Donald A. Larkin

 Jeffrey M Setera, President

 Print Name

 Print Name and Title of Signer.

If Corporate: Chairman, President or Vice President

Date: _____

Date: _____
 October 21, 2021

By: _____

 Tony Brubaker, CFO

 Print Name and Title of Signer.

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

Date: _____
 10/21/2021

EXHIBIT A SCOPE OF SERVICES

The Jackson Oaks project consists of converting approximately 3.0 miles of dirt paths (Attachment A) into gravel roads that will serve as access roads for City Teammates to service sewer lines. The consultant shall provide design services, bidding support, construction cost estimate, and construction administration per the task descriptions below for the Jackson Oaks area access roadway improvements.

Task 1 – Project Coordination, Management and Administration

This task includes activities needed for general project management, coordination, and administration. Activities to be performed under this task shall include but are not limited to activities such as project status reports, scheduling, accounting, meetings, request for information, project coordination, site visits, billing reviews, and record keeping. It also covers coordination of resources, budget, products and contracts reviews, and management of other contractors.

Task 2 – Surveying

This task covers the following activities:

A) Topographic

Provide a topographic survey to show areas of the roadway to improve along with existing structures such as trees, walkways, fences, adjacent roadways, and location of utilities within the project areas. Contours to clearly define the slopes.

B) Geotechnical

Provide a geotechnical survey to collect subgrade samples and conduct laboratory testing to evaluate, design and determine appropriate material based on the anticipated use for the road improvements.

C) Boundary

Provide a boundary survey to show existing parcel lines location, and easements.

Task 3 – Roadway Design/Engineering

This task consists of activities such as:

A) Construction Documents

Prepare engineering plans (including drainage and grading) and technical specifications. The primary focus of those documents should be to provide improve access roads with the ability to handle City utilities service vehicles, and to serve as firebreaks while meeting and/or exceeds all applicable codes and standards.

Provide design submittals at 50% and 100% completion.

Provide Engineer's construction estimate.

Provide plans and specifications in electronic format.

Provide and answer comments as needed.

Provide construction details.

B) Construction Bidding

Attend and conduct pre-bid meeting.

Respond to questions, issue clarifications in writing, and addendum as necessary.

Provide specifications copies, signed and stamped drawings bid set, as necessary.
 Re-release plans with request for information and document all changes.
 Assist with review of formal bids and advise on award recommendation.

C) Construction Administration

Create public outreach material informing residents of impending project in their neighborhoods and work with the contractor to distribute the information.
 Provide support with construction scheduling, and project's progress.
 Hold pre-construction meeting, review submittals and change orders.
 Conduct site visits as necessary to observe site work construction.
 Assist the City with requests for information.
 Conduct site visits and prepare punch list. Close out project and provide as-built drawings.

Task 4 - Stormwater Management

This task includes activities to control erosion, pollution, and stormwater runoff.

- A) Develop stormwater design plans and specifications.
- B) Develop Stormwater Pollution Prevention Plan (SWPPP) for implementation during construction.
- C) Develop an ongoing maintenance plan.

Consultant shall utilize the sub-consultant and project team proposed in their project submittal. Any sub-consultant or project team member changes must be approved by the City's project manager. Consultant shall adhere to the project approach, project management, and quality control objectives as laid out in their proposal for this project.

The El Toro Roadway access road improvements project consists of a topographic survey and construction documents, bidding, and administration.

Topographic Survey

- Consultant shall perform a topographic survey of the project site (Attachement B).
- Consultant shall provide field and office work to produce a topographic survey at a scale of 1" = 20'. This survey will show the location of existing trees, structures, walkways, fences, adjacent roadways, and utility information within the project areas. The location of utility vaults, manholes, catch basins and invert information of storm and sanitary sewers will be shown based upon a field survey. The location of underground utilities lines such as gas, water, electric, and any onsite utilities will be shown based upon available agency records. Mechanical detection of existing utilities is specifically excluded.
- Contours will be shown at one (1) foot intervals or as appropriate to clearly define the slopes. Spot elevations collected by ground surveys, including finish floor elevations, will be shown to an accuracy of 0.01' (one hundredth) of a foot.
- Consultant will reserve the right to utilize aerial survey techniques if deemed appropriate for scope and site features. Aerial survey will be supplemented with conventional survey for utility information and survey under trees or areas not visible from above. Aerial spot elevations for aerial survey will be shown to an accuracy of ±0.1 (one tenth) of a foot.

Construction Documents

- Consultant shall attend up to one (1) design meeting to discuss civil related issues. All other project coordination is assumed to be done via phone and email or other web-based project coordination platforms.
- Consultant shall prepare Civil Related Construction Documents, limited to:
 - o Civil cover sheet and notes
 - o Topographic survey
 - o Plan and profile sheets
 - o Construction details
 - o Erosion control plan and details
 - o Cost estimate
- Consultant shall issue construction document civil documents to the client in electronic format, assumes that submittals will be issued in no more than two (2) submittals (50% and Permit Set).
 - It is assumed that construction documents will be done as one (1) package or phase. Separate packages, submittals or phases will be done as additional service.
 - Consultant shall address up to three (3) rounds of comments. Subsequent rounds of comments will be addressed as an additional service.

Bidding Phase

- Consultant shall respond to bidder's questions and issue design clarifications, as necessary.
- Consultant shall reissue plans once with RFIs and clarification changes documented.
- Consultant shall assist client with review of bids.

Construction Administration Phase

- Consultant shall provide three (3) site visits to observe the construction of the civil related site work.
- Consultant shall assist the owner/client in civil related requests for information and contractor submittals during construction.
- Consultant shall conduct a final site visit and prepare a civil punch list. It is assumed that the contractor will address all punch list items and that a follow-up site visit is not necessary.



SCHEDULE OF COSTS

City of Morgan Hill - Jackson Oaks Access Road Improvements

TASK	COST
Task 1 - Project Coordination, Management and Administration	\$15,000
Task 2 - Surveying	\$100,000
Task 3 - Roadway Design/ Engineering	\$80,500
Task 4 - Stormwater Management	\$4,500
Total	\$200,000

City of Morgan Hill - El Toro Access Road Improvements

TASK	COST
Topographic Survey	\$8,500
Construction Documents	\$32,000
Bidding Phase	\$2,000
Construction Administration Phase	\$18,000
Total	\$60,500

**EXHIBIT C
SCHEDULE OF PERFORMANCE**

The scope of work described in Exhibit A shall be completed by the consultant on or before the expiration date of this agreement, June 30, 2023.

Attachment: Sandis Services Agreement (3204 : Engineering Services for Jackson Oaks and El Toro Access Roads Design)

RESOLUTION NO. 21-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO THE CITY'S FISCAL YEAR 2021-2022 BUDGET IN THE SEWER CAPITAL IMPROVEMENT PROJECT FUND (FUND NO. 643) TO APPROPRIATE \$200,000 AND IN THE WATER CAPITAL IMPROVEMENT PROJECT FUND (FUND NO. 653) TO APPROPRIATE \$60,500, THEREFOR

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

WHEREAS, the reasons supporting this Resolution are set forth in detail in that certain City Council Staff Report entitled "Engineering Services for Jackson Oaks and El Toro Access Roads Design" submitted for City Council consideration at its meeting of November 17, 2021, submitted to the City Council by the City Manager (the "Staff Report"), the contents of which Staff Report are incorporated herein by this reference; and

WHEREAS, recommended amendments are needed and proposed to the City's previously adopted Annual Budget for Fiscal Year 2021-2022 as set forth on Exhibit A to this Resolution, to appropriate the requisite funds to implement the actions authorized by this Resolution; and

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

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

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

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

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

- a. That the City's previously adopted Fiscal Year 2021-2022 Budget, as the same has been amended to date, is hereby further amended in accordance with and as

reflected on Exhibit A attached hereto and incorporated herein by this reference;
 and

- b. That the City Clerk is hereby authorized and directed to forward a copy of this Resolution to the City's Finance Director, who is hereby authorized and directed to take all actions necessary to implement the terms of this Resolution pertaining to the Fiscal Year 2021-2022 Budget of City.

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

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Morgan Hill at its meeting held on this 17th day of November 2021 by the following vote:

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

APPROVED:

ATTEST:

RICH CONSTANTINE, Mayor

MICHELLE BIGELOW, City Clerk

∞ CERTIFICATION ∞

I, Michelle Bigelow, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 21-_____ adopted by the City Council at the meeting held on the 17th day of November 2021.

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

DATE: _____

MICHELLE BIGELOW, City Clerk

AGENDA BUDGET SCORECARD

FISCAL YEAR 2021-2022

ADJUSTMENT #

007

FUND:

DEPARTMENT:

OBJECT:

643	Sewer System Replacement Fund
8170	Sewer System Replace
86360	CONSTRUCTION

AGENDA DATE:

AGENDA ITEM TITLE:

11/17/21
Engineering Design Services - Jackson Oaks and El Toro Access Roads

	07/01/21 PROJECTED BEGINNING FUND BALANCE	ESTIMATED REVENUES	AMENDED APPROPRI- ATIONS	06/30/22 PROJECTED ENDING FUND BALANCE
ORIGINAL BUDGET	24,769,449	4,707,648	10,456,667	19,020,430
CUMULATIVE REVISIONS PRIOR TO RECOMMENDED ACTION	-	-	-	-
RECOMMENDED ACTION		-	200,000	(200,000)
RESULT OF RECOMMENDED ACTION	<u>24,769,449</u>	<u>4,707,648</u>	<u>10,656,667</u>	<u>18,820,430</u>

AGENDA BUDGET SCORECARD

FISCAL YEAR 2021-2022

ADJUSTMENT #

008

FUND:

653 Water System Replacement Fund

DEPARTMENT:

8120 Water System Replacement

OBJECT:

86360 CONSTRUCTION

AGENDA DATE:

11/17/21

AGENDA ITEM TITLE:

Engineering Design Services - Jackson Oaks and El Toro Access Roads

	07/01/21 PROJECTED BEGINNING FUND BALANCE	ESTIMATED REVENUES	AMENDED APPROPRI- ATIONS	06/30/22 PROJECTED ENDING FUND BALANCE
ORIGINAL BUDGET	8,503,305	5,047,350	5,274,857	8,275,798
CUMULATIVE REVISIONS PRIOR TO RECOMMENDED ACTION	-	-	-	-
RECOMMENDED ACTION		-	60,500	(60,500)
RESULT OF RECOMMENDED ACTION	<u>8,503,305</u>	<u>5,047,350</u>	<u>5,335,357</u>	<u>8,215,298</u>



CITY COUNCIL STAFF REPORT

MEETING DATE: November 17, 2021

PREPARED BY: Chris Ghione, Public Services Director

APPROVED BY: City Manager

APPROVE EXEMPTION TO STREET TREE MASTER PLAN FOR FOUR TREES ON THE SOUTHWEST CORNER OF MONTEREY ROAD AND FIRST STREET

RECOMMENDATION(S)

Approve an exemption to the Street Tree Master Plan for the installation of Olive trees to replace Black Locust trees in the Downtown near First Street.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Infrastructure

2020-2021 Strategic Priorities

Economic Development

REPORT NARRATIVE:

The City of Morgan Hill has been approached by the owner of the building at 17485 Monterey Road with a request to replace four street trees on the southwest corner of Monterey Road and First Street. The owner of the property also owns the Granada Theater and Hotel located across Monterey Road and the request is to provide consistency and ambiance with planned use of Olive trees on the opposite side of the road.

There are currently four Black Locust Trees located in the area, which would require removal (Attachment 1). Black Locust Trees, while prevalent in the Downtown, are no longer approved street trees within the Master Street Tree Plan (Plan) and City staff regularly receive complaints regarding their appearance. The trees are not indigenous. Should the trees ever require removal, they would be replaced by a different type of tree within the City approved Plan.

The installation of the Olive trees is also inconsistent with the Plan as no Fruit Trees were included in the plan due to maintenance concerns related to dropping fruit on the roadways and sidewalks. The owner has demonstrated to staff through maintenance of the Olive trees located on private and public property that they can be treated to not fruit. The owner has further committed to all maintenance, ongoing treatments and liability relating to the trees. These commitments would be obtained through an encroachment permit that includes the following provisions:

- Maintenance of replanted trees is the responsibility of the property owner.
- Liability for trees is the responsibility of the property owner.
- Property owner must ensure trees remain fruitless. If trees bear fruit, the property owner shall be responsible for cleaning fruit droppings from City sidewalk.

- City bears no responsibility for ensuring irrigation to the locations.
- Agreement shall last until terminated by the City or property owner.
- Property owner shall maintain a valid encroachment permit with approved insurance for the entirety of agreement.
- Should the property owner neglect to maintain or decide not to maintain the trees in the future and/or terminate the agreement, then the property owner shall be required to remove and replace the Olive trees with approved street trees per the City's tree plan and as approved by the City's Public Services Director.
- Should the property owner default on the agreement, the City shall be allowed to seek compensation from the current or future property owner to replace the trees.

The encroachment permit may be administered by City staff, but approval of using the Olive trees requires approval of the City Council consistent with the municipal code for the planting of trees outside the Plan. The Council may wish to consider the consistency of the trees in the Downtown area and the ability to support future coordination. The encroachment permit will allow for future changes and as previously mentioned the existing street trees are not consistent with the current plan. Additionally, coordination of street trees in small sections of the Downtown may be viewed as advantageous to supporting efforts associated with economic development and business support. Furthermore, the property owner taking on required maintenance will relieve the City of a small amount of infrastructure maintenance costs.

Should the Council approve this request for an exemption, the City staff will work to issue an encroachment permit for this work to occur.

COMMUNITY ENGAGEMENT: Inform/Involve

This proposal was brought forward from an existing business. The community at large would be informed of any construction work and changes through the City's communications on City projects and maintenance activities.

ALTERNATIVE ACTIONS:

The Council could choose not to provide the exemption to the Plan, resulting in the existing street trees remaining.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Council approved an exemption for a similar request on July 22, 2020.

FISCAL AND RESOURCE IMPACT:

There is no significant fiscal impact associated with the proposed action. A small amount of ongoing funds will be saved through not having to maintain four street trees, estimated at \$500 every 5-6 years.

CEQA (California Environmental Quality Act): Categorical

The planned maintenance and management of city facilities, such as the Downtown streetscape, falls within the CEQA categorical exemption of Class 1, Existing Facilities.

LINKS/ATTACHMENTS:

1. Master Tree Plan (weblink)
2. Olive Trees for First and Monterey Part 2

Attachment 1

Monterey and 1st Street Corner Property Owner Tree Improvement

Location



Attachment: Olive Trees for First and Monterey Part 2 (3218 : APPROVE EXEMPTION TO STREET TREE MASTER PLAN FOR FOUR TREES ON



CITY COUNCIL STAFF REPORT

MEETING DATE: November 17, 2021

PREPARED BY: Michael Horta, Human Resources Director
APPROVED BY: City Manager

APPROVE MEMORANDUM OF UNDERSTANDING (MOU) WITH THE AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES (AFSCME), MOU WITH MORGAN HILL POLICE OFFICERS' ASSOCIATION (POA) AND CORRESPONDING SALARY SCHEDULES; AND APPROVE MANAGEMENT, PROFESSIONAL, AND CONFIDENTIAL EMPLOYEES RESOLUTION, PART-TIME TEMPORARY AND SEASONAL EMPLOYEES SALARY SCHEDULE

RECOMMENDATION(S)

1. Approve a Memorandum of Understanding (MOU) with AFSCME effective December 26, 2021 – December 31, 2023 and corresponding salary schedules;
2. Approve a MOU with POA effective December 26, 2021 - December 31, 2023 and corresponding salary schedules;
3. Approve the Management, Professional, and Confidential Employees Resolution effective December 26, 2021 and corresponding salary schedules; and
4. Approve the Part-Time Temporary and Seasonal Employees salary schedule effective January 1, 2022.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Infrastructure
Fostering a Positive Organizational Culture
Preserving and Cultivating Public Trust

2020-2021 Strategic Priorities

Fiscal Sustainability

REPORT NARRATIVE:

The City's negotiating team and the AFSCME and POA bargaining units have respectively reached agreements related to Memorandums of Understanding (MOUs) for an additional two-year contract period. The new terms for the MOUs are December 26, 2021 through December 31, 2023.

The AFSCME agreement was ratified by AFSCME members on Wednesday, November 3, 2021 and the POA agreement was ratified by POA members on November 11, 2021. All of the agreements fall within the negotiating economic parameters given by the City Council. These parameters were based on the "Employee Compensation Guiding Principles" that were adopted by the City Council on May 17, 2017, which included seven guiding principles, including: (1) recruitment and retention, (2) fiscal sustainability,

(3) compensation structure, (4) market-based compensation, (5) internal equity, (6) transparency and accountability, and (7) legal compliance.

The total compensation package offered to Association members is competitive with that of our twelve local comparator government employers in this region and provides incentive for employees to continue employment with the City of Morgan Hill. The compensation and benefits provided to our employees allow the City to continue to recruit and retain a quality workforce.

At the time of this staff report, the City and two bargaining units were finalizing the agreement language. The final documents and salary schedules will be made available as a supplement, prior to the City Council meeting of November 17, 2021. All provisions included in the AFSCME and POA MOUs, which affect wages, shall be implemented December 26, 2021.

AFSCME

A summary of the major components of the recommended AFSCME MOU is provided below:

- **Base Salary Increases**
4% effective December 26, 2021
2% effective the pay period including January 1, 2023 or 2.5% if San Francisco Bay Area CPI for Urban Wage Earners and Clerical Workers for the twelve month period ending June 30 is higher than two percent effective the pay period including January 1, 2023
- **Retirement Contribution:** Effective July 1, 2022, Union members will share the employer's CalPERS contribution rate at 6.12%. The employee's contribution towards employer's share of pension cost will be capped at 6.12%. The City and Union members agree to split any rate decreases below the FY 2022-23 employer's CalPERS contribution rate of 28.77% at a 50/50 ratio.
- **Health:** The City will contribute (monthly) to the City's medical and dental plans as follows:

	2022	2023
Employee + Family	\$2,178	\$2,309
Employee + 1	\$1,662	\$1,762
Employee Only	\$831	\$881
Health / Dental In-Lieu (waive)	\$250/\$40	\$250/\$40

POA

A summary of the major components of the recommended POA MOU is provided below.

- **Base Salary Increases for Sworn Personnel (Police Officer, Police Corporal, Police Sergeant) and Non-Sworn Personnel (Multi-Service Officer)**
4.00% effective December 26, 2021
4.00% effective the pay period including January 1, 2023
- **Specialized Pay Assignments:** Increase per pay period pay by 4% effective December 26, 2021 and increase per pay period pay by 4% effective the pay period including January 1, 2023.

	2022	2023
Police Officer	\$260 per pay period	\$270.40 per pay period
Police Corporal	\$286 per pay period	\$297.44 per pay period
Police Sergeant	\$312 per pay period	\$324.48 per pay period

- **Retirement Contributions:** Effective July 1, 2022, non-sworn Union members will share the employer's CalPERS contribution rate at 6.12%. The employee's contribution towards employer's share of pension cost will be capped at 6.12%. The City and Union members agree to split any rate decreases below the FY 2022-23 employer's CalPERS contribution rate of 28.77% at a 50/50 ratio.
- **Health:** The City will contribute (monthly) to the City's health plans up to the following monthly amounts:

	2022	2023
Employee + Family	\$2,273	\$2,387
Employee + 1	\$1,817	\$1,908
Employee Only	\$908	\$953
Health-In- Lieu (waive)	\$610	\$610

Management, Professional, and Confidential Employees Resolution and Corresponding Salary Schedules

Annually, the City Council considers revisions to the City's existing Management, Professional, and Confidential Employees Resolution based on a recommendation from the City Manager. All provisions included in this Resolution which affect wages and benefits shall be implemented beginning December 26, 2021. A summary of the components of the recommended Resolution is provided below:

- **Salary:** Employees covered by the Resolution are recommended to receive a 4% salary increase effective December 26, 2021 and 2% effective the pay period including January 1, 2023 or 2.5% if San Francisco Bay Area CPI for Urban Wage Earners and Clerical Workers for the twelve month period ending June 30

is higher than two percent effective the pay period including January 1, 2023, which is consistent with the salary increases for AFSCME.

- b. **Deferred Compensation Program:** The City will contribute 2% of an employee's base salary to a City-sponsored IRS 457 deferred compensation program of the employee's choice (ICMA or Empower). Note this is not a new or added benefit but rather the timing or availability of this benefit is made available at the time of hire similar to AFSCME, instead of after certain years of service.
- c. **Retirement:** Effective July 1, 2022, miscellaneous employees will share the employer's CalPERS contribution rate at 6.12%. The employee's contribution towards employer's share of pension cost will be capped at 6.12%. The City and employees agree to split any rate decreases below the FY 2022-23 employer's CalPERS contribution rate of 28.77% at a 50/50 ratio.
- d. **Health Benefit:** The City will contribute to the City's medical and dental plans as follows:

	2022	2023
Employee + Family	\$2,178	\$2,309
Employee + 1	\$1,662	\$1,762
Employee Only	\$831	\$881
Health / Dental In-Lieu (waive)	\$610	\$610

- e. **Bilingual Pay:** Employees identified by the City Manager/Department Head to use another language in their work and who are certified by the approved process shall receive a monthly stipend of \$150.

Part-Time Temporary and Seasonal Employees Salary Schedule

The Part-Time Temporary and Seasonal Salary Schedule has been updated to align with the increased minimum wage of \$15.00 per hour which takes effect January 1, 2022. Some positions show more significant increases in the pay scale than others to account for compaction issues related to the hierarchy of positions in a series (i.e. Lifeguard, Lifeguard – Lead, Recreation Leader and Recreation Specialist). The new salary schedule is designed to support recruitment and retention of part-time teammates in the Recreation Division, within the existing budget.

Level I and Level II Reserve Police Officer classifications have been added to the salary schedule which were approved in the midcycle budget review. In addition, title updates to the Customer Service Coordinator and Customer Service Representative classifications back to their original titles of Welcome Desk Coordinator and Welcome Desk Representative respectively.

COMMUNITY ENGAGEMENT: Inform

The Human Resources Team will post the approved AFSCME and POA MOUs and corresponding salary schedules, Management, Professional, and Confidential Employees Resolution and corresponding salary schedules, and the Part-Time Temporary and Seasonal Employees Resolution and corresponding salary schedules on the Human Resources website page as is the City's practice for all labor agreements and salary information.

ALTERNATIVE ACTIONS:

The City Council could decide to take any or all of the following alternate actions:

1. Not approve the AFSCME MOU and direct staff to continue with labor negotiations.
2. Not approve the POA MOU and direct staff to continue with labor negotiations.
3. Not approve the Management, Professional, and Confidential Employees Resolution and continue operating under the current resolution.
4. Not approve the Part-Time Temporary and Seasonal Employees Salary Schedule and continue operating under the current Salary Schedule or Council could decide to choose select classification salary ranges to increase.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On December 5, 2018, the City Council approved a three-year POA MOU from December 30, 2018 – December 31, 2021, and corresponding salary schedules.

On December 6, 2018, the City Council approved a three-year AFSCME MOU from December 30, 2018 – December 31, 2021, and corresponding salary schedules.

On September 16, 2020, the City Council approved the Part-Time Temporary and Seasonal Employees salary schedule.

On May 26, 2021, the City Council approved the Management, Professional, and Confidential Employees Resolution and corresponding salary schedules.

FISCAL AND RESOURCE IMPACT:

The fiscal impact of the two MOUs (AFSCME and POA), the Management Resolution, and the Part-Time Temporary and Seasonal Employees Resolution is within the City Council's approved parameters. The total cost for the two-year term is estimated at about \$350,000 more than budget or about \$90,000 for the current FY 2021-22. Staff anticipates savings from vacancies will sufficiently cover the net cost through the term. Therefore, no budgetary appropriations are needed at this time.

Part-Time Temporary and Seasonal Employees Salary Schedule – There is no fiscal impact to increase the minimum part-time temporary and seasonal employees' salaries from the current California minimum wage rate of \$14.00 per hour to the California new minimum wage requirement of \$15.00 per hour effective January 1, 2022. The fiscal impact to increase salary ranges was known and included in the adopted biennial budget. Future salary increases would have a fiscal impact as select positions' salary increases fall within the new ranges.

CEQA (California Environmental Quality Act):

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

LINKS/ATTACHMENTS:

1. Pt-Time Temp and Seasonal Employees Salary Schedule effective 1.1.2022 - draft
2. 2021-2022 Mgmt Reso 11.17.21 Draft

CITY OF MORGAN HILL
PART-TIME TEMPORARY AND SEASONAL EMPLOYEES SALARY SCHEDULE

Salaries effective the pay period including January 1, 2022

CLASSIFICATIONS	Bottom Step Hourly	Top Step Hourly
INTERNS		
High School/College Work Experience Student	\$154.00	\$25.00
POLICE DEPARTMENT		
Graffiti Abatement Worker	\$154.00	\$17.00
Level I Reserve Police Officer	Hourly rate for Step A Police Officer	
Level II Reserve Police Officer	90% of hourly rate for Step A Police Officer	
Per Diem Dispatcher	Hourly rate for Public Safety Dispatcher	
Police Cadet – High School	\$154.00	\$165.00
Police Cadet – Junior College	\$165.00	\$18.00
Police Cadet – College	\$18.00	\$21.00
Police Officer Trainee	90% of monthly rate for Step A Police Officer	
TEMPORARY AND SEASONAL		
Building Coordinator	\$187.00	\$25.00
Clerical Assistant	\$15.00	\$230.00
Cleaning and Safety Representative	\$14.00	\$21.00
Communications Technician	\$15.00	\$30.00
Customer Service Coordinator	\$18.00	\$23.00
Customer Service Representative	\$14.00	\$21.00
Deck Coordinator	\$20.00	\$30.00
Government Access Technician	\$20.00	\$30.00
Fire Plans Examiner/Inspector	\$35.50	\$45.00
Lifeguard	\$14.505.50	\$2148.00
Lifeguard - Lead	\$18.00	\$230.00
Maintenance Worker Assistant	\$15.00	\$20.00
Recreation Instructor	\$15.75	\$52.50
Recreation Leader	\$14.0015.00	\$167.00
Recreation Specialist	\$18.00	\$3523.00
Retired Annuitant	\$20.00	\$100.00
Senior Recreation Leader	\$16.00	\$21.00
Special Projects Coordinator	\$18.00	\$50.00
Swim Instructor	\$154.00	\$21.00
Swim Instructor - Lead	\$18.00	\$23.00

<u>Welcome Desk Coordinator</u>	<u>\$18.00</u>	<u>\$23.00</u>
<u>Welcome Desk Representative</u>	<u>\$15.00</u>	<u>\$21.00</u>

Other Part-Time Temporary or Seasonal positions may be tied to the Salary Schedule for the Bargaining Units which are not listed above. The above list only includes those part-time and temporary positions which are frequently used or are not contained on a bargaining unit salary schedule.

RESOLUTION NO. 21-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ADJUSTING THE SALARY SCHEDULE FOR MANAGEMENT, PROFESSIONAL, AND CONFIDENTIAL EMPLOYEES (THIS RESOLUTION RESCINDS RESOLUTION NO. 21-02544)

WHEREAS, the City Manager has presented to the City Council of the City of Morgan Hill a recommended set of salary ranges and benefits for the Management, Professional, and Confidential employees; and

WHEREAS, the City Council of the City of Morgan Hill has reviewed said recommendations;

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

SECTION 1 - SALARY RANGES

~~A. Effective July 1/December 26, 2021, base salaries for Groups 1-A, 1-B, 1-C, and 1-D, increase by 43.25%.~~

~~B-A.~~ See Salary Schedule attached as **Exhibit A**.

B. Effective the pay period including January 1, 2023, base salaries for Groups 1-A, 1-B, 1-C, and 1-D, increase by 2%, or 2.5% if San Francisco Bay Area CPI for Urban Wage Earners and Clerical Workers for the twelve month period ending June 30 is higher than 2%. See Salary Schedule attached as **Exhibit B and Exhibit C**.

C. Groups 1-A, 1-B, 1-C, and 1-D base salary ranges include the employee PERS contribution which is deducted from payroll (See SECTION 3, E-H.)

SECTION 2 - ESTABLISHMENT OF COMPENSATION AND JOB DESCRIPTIONS FOR GROUPS 1-A, 1-B, 1-C, and 1-D

A. The City Manager will establish the monthly compensation for the classifications in Group 1-A. In order to attract high quality executive managers, foster job security within a professional climate, and provide the flexibility to remain competitive within the area job market, the City Manager has authority to enter into individual employment agreements with each executive manager; provided that the terms of the employment agreement do not exceed the total compensation permitted by this Resolution.

Employees listed in Group 1-A may receive a severance allowance as provided for in an individual employment agreement when they are separated in good standing from employment; provided that such separation is not for cause, or for reasons listed in Government Code 19572, or for any employee who voluntarily resigns from City service for personal reasons.

1. The City Manager shall establish an allowance amount, not to exceed six months' salary, which is determined to be in the best interest of the city for the following executive classifications of the Group 1-A:

Assistant City Manager for Administrative Services*
Assistant City Manager for Development Services
Chief of Police
Public Services Director

**Currently Unfunded Position*

2. The City Manager shall establish an allowance amount, not to exceed three months' salary, which is determined to be in the best interest of the City for the remaining classifications of the Group 1-A.
 3. This severance allowance is in addition to any unused vacation or administrative leave pay unused at the time of separation.
- B. Each Department Director will recommend to the City Manager the proposed monthly salary to be paid to each of the employees whose classification appears in Group 1-B, 1-C, and 1-D. Upon approval of the City Manager, the monthly salary will be set within the prescribed range for each classification. The City Manager has the authority to increase the monthly compensation for employees in Group 1-B, 1-C, and 1-D, by a maximum of 10% within the prescribed range each fiscal year based on each individual employee's performance.
- C. The City will contribute 2% of an employee's base salary to a City-sponsored IRS 457 deferred compensation program of the employee's choice (ICMA or ~~MassMutualEmpower~~). ~~according to the following schedule:~~
- ~~1. 1% of base salary per pay period for employees who have been employed with the City from four to eight years.~~
 - ~~2. 2% of base salary per pay period for employees who have been employed with the City for over eight years.~~
- D. When it is proposed by the Personnel Officer that a new classification be created or an existing classification be changed, the City Manager shall submit justification for approval of that action to the City Council and if that action is approved, the City Manager will have the authority to approve new and revised job descriptions.

SECTION 3 - CONTRIBUTIONS TO THE CalPERS RETIREMENT SYSTEM, GROUPS 1-A, 1-B, 1-C, and 1-D

- A. For "Classic Members" as defined by the Public Employees' Pension Reform Act of 2013 (PEPRA) and in the CalPERS retirement system:

1. Non-Safety (miscellaneous) employees listed in Groups 1-A, 1-B, 1-C, and 1-D will receive CalPERS retirement benefits under the 2.5% at age 55 plan.
 2. Safety (sworn) employees listed in Groups 1-A and 1-B, will receive CalPERS retirement benefits under the 3% at age 50 plan.
- B. For "New Members" as defined by PEPRA and in the CalPERS retirement system:
1. Non-Safety (miscellaneous) employees listed in Groups 1-A, 1-B, 1-C, and 1-D will receive CalPERS retirement benefits under the 2.0% at 62 plan.
 2. Safety (sworn) employees listed in Groups 1-A and 1-B will receive CalPERS retirement benefits under the 2.7% at age 57 plan.
- C. CalPERS defines a "New Member" as:
1. A new hire who is brought into CalPERS membership for the first time on or after January 1, 2013, and who has no prior membership in any other California public retirement system.
 2. A new hire who is brought into CalPERS membership for the first time on or after January 1, 2013, and who is not eligible for reciprocity with another California public retirement system.
 3. A member who established CalPERS membership prior to January 1, 2013, and who is hired by a different CalPERS employer after January 1, 2013, after a break in service of greater than six months.
 4. CalPERS refers to all members that do not fit the definition of a "new member" as a "classic member."
- D. Non-Safety (miscellaneous) employees: Beginning with CalPERS rates effective July 1, 2013, the City and Non-Safety (miscellaneous) Management, Professional, and Confidential employees agreed to split future employer rate increases at a 50/50 ratio. This methodology will be used in subsequent years should CalPERS increase the Miscellaneous contribution rates.
- E. The Miscellaneous "Classic Members" shall contribute, in addition to the "Classic Members" rate of 8.0%, an additional 5.165% towards the "Classic Members" CalPERS contribution rate for FY 2021-22. The total "Classic Members" employee contribution obligation shall be 13.165%.
- F. The Miscellaneous "New Members" shall contribute, in addition to the "New Members" rate of 7.0%, an additional 5.165% towards the "New Members" CalPERS contribution rate for FY 2020-21. The total "New Members" employee contribution obligation shall be 12.165%.
- G. Effective July 1, 2022 miscellaneous employees will share the employer's CalPERS contribution rate at 6.12%. The employee's contribution towards employer's share of pension cost will be capped at 6.12%. The City and employees agree to split any rate decreases below the FY 2022-23 employer's CalPERS contribution rate of 28.77% at a 50/50 ratio.

G.H. Safety (sworn) PEPRA employees: Beginning with CalPERS rates effective July 1, 2013, at which time the City's employer contribution PEPRA rate was 11.5%, the City and Association agreed that, beginning with CalPERS PEPRA rates effective July 1, 2013, safety (sworn) PEPRA employees would not pay less than 11.50% and would split future increases to the City's employer PEPRA contribution rates, including both the normal cost and any unfunded actuarial liability at a 50/50 ratio. For example, the City's employer CalPERS safety PEPRA obligation was 12.114% in FY 16-17 with the PEPRA employees' obligation was at 11.50%. Therefore, City paid half of the 0.614% increase over the base year City's employer PEPRA cost of 11.50% (equal to 0.307%) and safety PEPRA employees paid the other half (also equal to 0.307%). This methodology has been used in each year subsequent to FY 2016-17 and will be used in future years should CalPERS increase the City's employer Safety PEPRA contribution rates. The Safety PEPRA employees CalPERS contributions rate for 2021-22 shall be 14.709% (13.00% employee + 1.709% of the employer share).

H.I. Safety (sworn) Classic employees: Beginning December 30, 2018, the City and Safety (sworn) Management, Professional, and Confidential employees agreed, in addition to employee CalPERS rate of 9.0%, a 6.12% towards the employer's share of pension costs (i.e. the total safety (Sworn) employee contribution for FY 2019-20 shall be 15.12% (9.00% employee + 6.12% of the employer share). The total employee contribution shall remain at 15.12% for the Safety (sworn) classic employees during the term of the Morgan Hill Police Officers' Association Memorandum of Understanding (MOU), which is December 30, 2018 – December 31, 2021.

SECTION 4 - HEALTH CARE CONTRIBUTIONS AND IRS 125 PLAN, GROUPS 1-A, 1-B, 1-C, and 1-D

A. The City will contribute to the City's medical and dental plans as follows:

1. For employees with family coverage, up to ~~\$1,976~~2,178/month in 2022~~0~~ and up to ~~\$2,309~~055/month in 202~~4~~3.
2. For employees with employee plus one coverage, up to ~~\$1,508~~1,662/month in 2022~~0~~ and up to ~~\$1,568~~1,762/month in 2023~~1~~.
3. For employees with employee only coverage, up to ~~\$800~~831/month in 2022~~0~~ and up to ~~\$832~~881/month in 2023~~1~~.
4. Employees enrolling in City health but not using the maximum amount available from the City for their premium category (employee only, employee + 1, employee + family) shall not be entitled to the surplus. Employees enrolling in plans whose cost exceeds the maximum amount available from the City for their premium category shall have the difference deducted on a pre-tax basis from their paycheck.
5. Employees who waive medical coverage and annually provide proof of alternate medical coverage shall be entitled to a taxable health in lieu payment of six hundred ten dollars (\$610) per month.
6. If an employee waives medical and elects dental coverage, the employee will receive the taxable health in lieu payment of six hundred ten dollars (\$610) per month but will pay the appropriate dental premium.

- B. The City will continue to provide coverage under the Concern Employee Assistance Program.
- C. The City will continue to offer an IRS Section 125 program.

SECTION 5 - GENERAL BENEFIT PROVISIONS, GROUPS 1-A, 1-B, 1-C, AND 1-D

The City will comply with the requirements of the City Personnel Rules and Regulations and the Fair Labor Standards Act governing the use of taking and reporting time off work for management employees.

A. Holidays

1. The City will grant the following paid holidays to employees:

New Year's Day
 Martin Luther King, Jr. Day
 President's Day
 Cesar Chavez Day
 Memorial Day
 Independence Day
 Labor Day
 Thanksgiving Day
 Day after Thanksgiving
 Christmas Eve
 Christmas Day

One-half (1/2) day holiday to be used during the furlough period or on the last workday before the holiday.

Two floating holidays which must be used during the fiscal year.

2. Holidays are paid at a rate of eight hours of time off; employees on alternate work schedules must use additional leave balances to receive full pay on a holiday.
3. With the approval of the employee's supervisor, employees may "float" holidays to another day within the same fiscal year provided they work on the holiday.

B. Sick Leave Accrual

1. Sick Leave credit for employees will be accumulated on the basis of eight hours of sick leave per month (96 hours per year).
2. The City will, at the end of each calendar year, pay each employee twenty-five percent of the unused sick leave earned that year unless the employee requests not to receive such a payment.

3. The balance of the unused sick leave will then be accumulated on an unlimited basis.
4. Upon retirement, 100% of the employee's unused sick leave balance will be credited to the employee's retirement eligibility. This amount would then be converted into time in service and added to the employee's retirement eligibility. (Reference - City contract with CalPERS, Section 20862.8)
5. Each employee may take 16 hours of personal leave time during the fiscal year which is charged against the current year's sick leave accrual.
6. The City Manager may negotiate establishing a leave "bank" with new employees at time of hire.

C. Vacation Leave Accrual

1. Each employee will be credited vacation on the basis of 120 hours per year for the first five years of City service. After five years of service, vacation will be credited on the basis of 160 hours per year.
2. The maximum accumulation of vacation will be no more than that earned for two years.
3. Additional vacation accrual will not be provided until the employee's vacation balance drops below the maximum accrual limit as of June 30 in any given year.
4. The City Manager may negotiate vacation accrual rates and/or establish a leave "bank" with new employees at time of hire.

D. Administrative Leave, Groups 1-A, 1-B, and 1-C

1. Employees listed in Groups 1-A, 1-B, and 1-C receive and may use up to 72 hours of administrative leave with pay per fiscal year.
2. Administrative leave time for employees in Groups 1-A, 1-B, and 1-C will be available for one additional year if not used in the fiscal year that it was initially available. If, however, the administrative leave time that was carried over to the following fiscal year is not used during the second year, it will be lost at the end of the second fiscal year. In effect, the maximum amount of administrative leave time that may be available to an employee at any given time is 144 hours.
3. Effective July 1, 2016, new employees who are hired during any month other than July, will initially receive prorated administrative leave hours of six (6) hours per month depending on date of hire and the hours will be banked at time of hire (i.e. employees hired in the month of August would receive 66 hours of administrative leave because they will be working a total of eleven (11) months in the fiscal year). All regular, full-time employees will receive 72 hours of administrative leave each fiscal year following their hire date. Part-time employees have prorated benefits and their total administrative leave hours will be prorated based on their position allocation.

E. Leave Cash Out

Employees listed in Groups 1-A, 1-B, 1-C and 1-D may cash out up to 120 hours of accrued vacation, administrative leave, or a combination of the two, per calendar year. Employees must make an irrevocable election by December 1 of each year for the following calendar year stating their intent to cash out and the eligible number of hours. If employees do not request payment of the elected cash amount by November 1 of each year, Payroll will automatically cash out the amount designated by the employee on or after the pay period including November 1st.

F. Bereavement Leave

Management, Professional, and Confidential employees shall, per occurrence, be granted Bereavement Leave when a death occurs in the employee's or spouse's immediate family. For the purpose of this section, "immediate family" is defined as father, mother, brother, sister, spouse, natural or legally adopted child, step-child, in-laws, grandparents, and grandchildren. Up to three (3) days of bereavement leave shall be granted when the death and service are within the State of California and up to five (5) days when the death or service is outside the State. Bereavement Leave usage shall not be charged against the employee's Sick Leave or Vacation Time. Employees may also use up to two (2) additional days of Sick Leave to supplement their allotted Bereavement Leave if other circumstances require absence during this time, subject to the approval of the employee's supervisor and deducted from the employee's other leave banks.

Special circumstances beyond this definition may be considered on a case-by-case basis and must be approved by the City Manager. This leave will not affect the twenty-five percent cash out of sick leave for the same calendar year.

G. Professional Development

It shall be the philosophy of the City to encourage employees to attend classes, seminars, conferences, etc. which will enable the employee to develop professionally. Such attendance must be approved by the Department Director or the City Manager. The City may request employees who complete such a course to report or train other employees in the skills they have attained.

1. Tuition Reimbursement Program

Employees are eligible to receive tuition reimbursement of up to \$3,000 per fiscal year for the cost of books and tuition for classes or courses beneficial to the employee's career development. All classes must be approved in advance by the Department Director or City Manager. Reimbursement will take place upon a successful completion or passing of the course.

2. Membership Dues

For employees listed in Groups 1-A and 1-B, the City shall provide a personal membership dues reimbursement of up to \$1,200 per fiscal year for costs associated with joining and participating in Morgan Hill community service organizations such as

Rotary or Kiwanis. Reimbursement of membership dues for community service organizations requires the prior approval by the Department Director or the City Manager.

H. **Life and Disability Insurance**

The City shall pay the premiums for short-term disability, long-term disability, and life insurance plans.

1. Life insurance levels shall be as follows for the employees listed in Section 1:

Group 1-A	\$250,000
Group 1-B	\$150,000
Group 1-C	\$100,000
Group 1-D	\$100,000

This amount decreases when the employee reaches age 65, 70, and 75. The Life Insurance benefit will be paid to the employee's beneficiary upon the death of the employee as outlined in the program documents.

2. Short-term disability coverage for employees shall be at the maximum rate of \$1,384 per week based on 66⅔% of the actual weekly salary after an eight-day elimination period.
3. Long-term disability coverage for employees shall be at the maximum rate of \$6,000 per month based on 66⅔% of the actual monthly salary after a 60-day elimination period.

I. **Retirement Medical Plan**

Upon retirement, employees may continue enrollment in the medical insurance plans provided by CalPERS without an interruption of coverage. Such enrollment will be contingent upon the employee meeting the requirements of the medical plans provided by CalPERS and paying the monthly premium to CalPERS at the employee's expense. It will be the employee's responsibility to make sure the insurance premium is paid to CalPERS before the due date. Failure to do so will result in the employee being terminated from their medical coverage.

J. **Special Assignment Pay**

Special Assignment Pay may be granted to employees who have assumed, for an extended period, significant additional responsibilities outside their current classification. The request for special assignment shall describe the assignment, justify why it is to be performed by the designated employee, and give a specific duration for completion of the assignment with a start and end date. Special assignment pay is up to 10% above the employee's normal pay rate. The special assignment and related compensation may be revoked at any time at the discretion of the Department Director, or the City Manager or designee. Special Assignment Pay will be requested in advance by the Department Director and authorized by the City Manager or designee, and then processed by the Human Resources Division. Special Assignment Pay shall be discontinued on the date originally identified for completion of the assignment, unless an extension of specific duration is approved by the City Manager or designee prior to the end of the original assignment end date. This pay will not be considered additional compensation as defined by the California Public Employees' Retirement Systems (CalPERS).

K. Employee Uniform Allowance

Safety employees in Groups 1-A and 1-B will be eligible for the following uniform allowance:

Chief of Police and Police Captain:	\$1,400
Police Support Services Manager:	\$810

L. Work Schedule

The City Manager will establish the standard work schedule for employees. Based on the needs of the City, the City Manager may at his/her discretion, change the work schedules of employees at any time.

M. Auto Allowance

The City Manager may establish a monthly allowance for selected employees listed in Groups 1-A and 1-B who use their personal vehicles on City business. Based on the needs of the City, the City Manager may, at his/her discretion, change the auto allowance of employees at any time. The current monthly allowance range is \$225 - \$325.

N. Cell Phone Allowance

The City Manager may establish a monthly allowance for selected employees who use their personal cell phones on City business. Based on the needs of the City, the City Manager may, at his/her discretion, change the cell phone allowance of employees at any time. The current monthly allowance is established in Administrative Policy III019.

O. Bilingual Pay

Employees identified by the City Manager/Department Head to use another language in their work and who are certified by the process described below shall receive the following compensation:

- a. Employees shall receive a monthly stipend of \$150.
- b. The Certification process shall be completed by a provided contractor by Human Resources or a 3 person panel (established by Human Resources) to determine conversational competence. Employees shall be subject to recertification every 2 years unless waived by City.
- a-c. An eligible employee may request to be tested for bilingual certification at any time and the test shall occur within a reasonable amount of time.

SECTION 6- EFFECTIVE DATE

This resolution shall be effective ~~July 1~~ December 26, 2021. Compensation shall be made available to only those employees covered by this section who are still employed as a Management, Professional, or Confidential employee with the City as of the effective date of this agreement. As of the effective date of this Resolution, Resolution No. 21-02544 shall be superseded and rescinded.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 17th day of November 2021 by the following vote:

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

APPROVED:

ATTEST:

RICH CONSTANTINE, Mayor

Michelle Bigelow, City Clerk

∞ CERTIFICATION ∞

I, Michelle Bigelow, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 21-XXX, adopted by the City Council at the meeting held on November 17, 2021.

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

DATE: _____

Michelle Bigelow, City Clerk

EXHIBIT A

CITY OF MORGAN HILL MANAGEMENT, PROFESSIONAL, AND CONFIDENTIAL EMPLOYEE GROUP SALARY SCHEDULE

Effective: December 26, 2021

* Currently Unfunded Positions

Job Classification	Bottom of Range	Top of Range Monthly
Group 1-A: Executive Management		
Assistant City Manager for Administrative Services *	\$15,495	\$20,361
Assistant City Manager for Development Services	\$15,495	\$20,361
Chief of Police	\$15,495	\$20,361
Public Services Director	\$15,495	\$20,361
Community Services Director *	\$14,760	\$19,436
Development Services Director	\$14,760	\$19,436
Economic Development Director	\$14,760	\$19,436
Engineering and Utilities Director *	\$14,760	\$19,436
Finance Director	\$14,760	\$19,436
Housing Director	\$14,760	\$19,436
Communications and Engagement Director	\$12,736	\$16,736
Human Resources Director	\$12,736	\$16,736
Information Technology Director	\$12,736	\$16,736
Group 1-B: Middle Management		
Police Captain	\$12,989	\$17,066
Building Official	\$12,736	\$16,736
Deputy Director for Engineering	\$12,736	\$16,736
Deputy Director for Utilities Services	\$12,736	\$16,736
Housing Manager*	\$12,736	\$16,736
Planning Manager *	\$12,736	\$16,736
Program Administrator	\$12,736	\$16,736
Assistant City Attorney	\$11,934	\$15,655
Assistant to the City Manager *	\$11,934	\$15,655
City Clerk	\$11,934	\$15,655
Economic Development Manager*	\$11,259	\$14,769
Environmental Services Administrator	\$11,259	\$14,769
Principal Planner	\$11,259	\$14,769
Senior Civil Engineer	\$11,259	\$14,769
Senior Project Manager	\$11,259	\$14,769
Budget Manager	\$10,411	\$13,693
Building Manager *	\$10,411	\$13,693
Communications and Engagement Manager *	\$10,411	\$13,693
Community Services Manager *	\$10,411	\$13,693
Environmental Services Manager	\$10,411	\$13,693
Information Services Manager *	\$10,411	\$13,693
Maintenance Manager	\$10,411	\$13,693
Police Support Services Manager	\$10,411	\$13,693
Recreation Manager	\$10,411	\$13,693
Supervising Civil Engineer	\$10,411	\$13,693
Utility Systems Manager	\$10,411	\$13,693
Accounting Manager *	\$9,691	\$12,739
Financial and Policy Analyst *	\$9,691	\$12,739
Police Administrative Manager	\$9,691	\$12,739
Public Services Administrative Manager	\$9,691	\$12,739
Senior Planner	\$9,691	\$12,739
Community Services Supervisor	\$8,780	\$11,203
Council Services and Records Manager *	\$8,780	\$11,203
Deputy City Attorney *	\$8,780	\$11,203
Economic Development Coordinator	\$8,780	\$11,203
Emergency Services Coordinator	\$8,780	\$11,203
GIS / Land Use Data Administrator	\$8,780	\$11,203
Maintenance Services Coordinator	\$8,780	\$11,203
Older Adult Services Supervisor	\$8,780	\$11,203
Programmer Analyst	\$8,780	\$11,203
Senior Human Resources Analyst	\$8,780	\$11,203
Risk Management Analyst (.50 FTE)	\$4,185	\$5,491
Group 1-C: Confidential Exempt		
Administrative Analyst	\$8,369	\$10,982
Legal Specialist	\$7,530	\$9,907
Group 1-D: Confidential Non-Exempt		
Accounting Technician	\$6,676	\$8,761
Human Resources Technician	\$6,676	\$8,761
Human Resources Assistant *	\$5,228	\$6,839

***Monthly figures are rounded to the nearest \$1.00

EXHIBIT B

CITY OF MORGAN HILL MANAGEMENT, PROFESSIONAL, AND CONFIDENTIAL EMPLOYEE GROUP SALARY SCHEDULE

CPI below 2% Increase is 2%
Effective: December 25, 2022

* Currently Unfunded Positions

Job Classification	Bottom of Range	Top of Range Monthly
Group 1-A: Executive Management		
Assistant City Manager for Administrative Services *	\$15,805	\$20,768
Assistant City Manager for Development Services	\$15,805	\$20,768
Chief of Police	\$15,805	\$20,768
Public Services Director	\$15,805	\$20,768
Community Services Director *	\$15,055	\$19,825
Development Services Director	\$15,055	\$19,825
Economic Development Director	\$15,055	\$19,825
Engineering and Utilities Director *	\$15,055	\$19,825
Finance Director	\$15,055	\$19,825
Housing Director	\$15,055	\$19,825
Communications and Engagement Director	\$12,991	\$17,071
Human Resources Director	\$12,991	\$17,071
Information Technology Director	\$12,991	\$17,071
Group 1-B: Middle Management		
Police Captain	\$13,249	\$17,408
Building Official	\$12,991	\$17,071
Deputy Director for Engineering	\$12,991	\$17,071
Deputy Director for Utilities Services	\$12,991	\$17,071
Housing Manager *	\$12,991	\$17,071
Planning Manager *	\$12,991	\$17,071
Program Administrator	\$12,991	\$17,071
Assistant City Attorney	\$12,173	\$15,968
Assistant to the City Manager *	\$12,173	\$15,968
City Clerk	\$12,173	\$15,968
Economic Development Manager*	\$11,485	\$15,065
Environmental Services Administrator	\$11,485	\$15,065
Principal Planner	\$11,485	\$15,065
Senior Civil Engineer	\$11,485	\$15,065
Senior Project Manager	\$11,485	\$15,065
Budget Manager	\$10,620	\$13,967
Building Manager *	\$10,620	\$13,967
Communications and Engagement Manager *	\$10,620	\$13,967
Community Services Manager *	\$10,620	\$13,967
Environmental Services Manager	\$10,620	\$13,967
Information Services Manager *	\$10,620	\$13,967
Maintenance Manager	\$10,620	\$13,967
Police Support Services Manager	\$10,620	\$13,967
Recreation Manager	\$10,620	\$13,967
Supervising Civil Engineer	\$10,620	\$13,967
Utility Systems Manager	\$10,620	\$13,967
Accounting Manager *	\$9,885	\$12,993
Financial and Policy Analyst *	\$9,885	\$12,993
Police Administrative Manager	\$9,885	\$12,993
Public Services Administrative Manager	\$9,885	\$12,993
Senior Planner	\$9,885	\$12,993
Community Services Supervisor	\$8,956	\$11,427
Council Services and Records Manager *	\$8,956	\$11,427
Deputy City Attorney *	\$8,956	\$11,427
Economic Development Coordinator	\$8,956	\$11,427
Emergency Services Coordinator	\$8,956	\$11,427
GIS / Land Use Data Administrator	\$8,956	\$11,427
Maintenance Services Coordinator	\$8,956	\$11,427
Older Adult Services Supervisor	\$8,956	\$11,427
Programmer Analyst	\$8,956	\$11,427
Senior Human Resources Analyst	\$8,956	\$11,427
Risk Management Analyst (.50 FTE)	\$4,269	\$5,601
Group 1-C: Confidential Exempt		
Administrative Analyst	\$8,536	\$11,201
Legal Specialist	\$7,680	\$10,105
Group 1-D: Confidential Non-Exempt		
Accounting Technician	\$6,810	\$8,936
Human Resources Technician	\$6,810	\$8,936
Human Resources Assistant *	\$5,333	\$6,976

***Monthly figures are rounded to the nearest \$1.00

EXHIBIT C

CITY OF MORGAN HILL MANAGEMENT, PROFESSIONAL, AND CONFIDENTIAL EMPLOYEE GROUP SALARY SCHEDULE

CPI more than 2% Increase is 2.5%
Effective: December 25, 2022

* Currently Unfunded Positions

Job Classification	Bottom of Range	Top of Range Monthly
Group 1-A: Executive Management		
Assistant City Manager for Administrative Services *	\$15,882	\$20,870
Assistant City Manager for Development Services	\$15,882	\$20,870
Chief of Police	\$15,882	\$20,870
Public Services Director	\$15,882	\$20,870
Community Services Director *	\$15,129	\$19,922
Development Services Director	\$15,129	\$19,922
Economic Development Director	\$15,129	\$19,922
Engineering and Utilities Director *	\$15,129	\$19,922
Finance Director	\$15,129	\$19,922
Housing Director	\$15,129	\$19,922
Communications and Engagement Director	\$13,055	\$17,155
Human Resources Director	\$13,055	\$17,155
Information Technology Director	\$13,055	\$17,155
Group 1-B: Middle Management		
Police Captain	\$13,313	\$17,493
Building Official	\$13,055	\$17,155
Deputy Director for Engineering	\$13,055	\$17,155
Deputy Director for Utilities Services	\$13,055	\$17,155
Housing Manager*	\$13,055	\$17,155
Planning Manager *	\$13,055	\$17,155
Program Administrator	\$13,055	\$17,155
Assistant City Attorney	\$12,232	\$16,046
Assistant to the City Manager *	\$12,232	\$16,046
City Clerk	\$12,233	\$16,046
Economic Development Manager*	\$11,541	\$15,138
Environmental Services Administrator	\$11,541	\$15,138
Principal Planner	\$11,541	\$15,138
Senior Civil Engineer	\$11,541	\$15,138
Senior Project Manager	\$11,541	\$15,138
Budget Manager	\$10,672	\$14,036
Building Manager *	\$10,672	\$14,036
Communications and Engagement Manager *	\$10,672	\$14,036
Community Services Manager *	\$10,672	\$14,036
Environmental Services Manager	\$10,672	\$14,036
Information Services Manager *	\$10,672	\$14,036
Maintenance Manager	\$10,672	\$14,036
Police Support Services Manager	\$10,672	\$14,036
Recreation Manager	\$10,672	\$14,036
Supervising Civil Engineer	\$10,672	\$14,036
Utility Systems Manager	\$10,672	\$14,036
Accounting Manager *	\$9,934	\$13,057
Financial and Policy Analyst *	\$9,934	\$13,057
Police Administrative Manager	\$9,934	\$13,057
Public Services Administrative Manager	\$9,934	\$13,057
Senior Planner	\$9,934	\$13,057
Community Services Supervisor	\$8,999	\$11,483
Council Services and Records Manager *	\$8,999	\$11,483
Deputy City Attorney *	\$8,999	\$11,483
Economic Development Coordinator	\$8,999	\$11,483
Emergency Services Coordinator	\$8,999	\$11,483
GIS / Land Use Data Administrator	\$8,999	\$11,483
Maintenance Services Coordinator	\$8,999	\$11,483
Older Adult Services Supervisor	\$8,999	\$11,483
Programmer Analyst	\$8,999	\$11,483
Senior Human Resources Analyst	\$8,999	\$11,483
Risk Management Analyst (.50 FTE)	\$4,290	\$5,629
Group 1-C: Confidential Exempt		
Administrative Analyst	\$8,578	\$11,256
Legal Specialist	\$7,718	\$10,155
Group 1-D: Confidential Non-Exempt		
Accounting Technician	\$6,843	\$8,980
Human Resources Technician	\$6,843	\$8,980
Human Resources Assistant *	\$5,359	\$7,010

***Monthly figures are rounded to the nearest \$1.00

CITY OF MORGAN HILL
MANAGEMENT, PROFESSIONAL, AND CONFIDENTIAL EMPLOYEE GROUP
SALARY SCHEDULE

Revised: May 26, 2021
Effective: July 01, 2021

* Currently Unfunded Positions

Job Classification	Bottom of Range Monthly	Top of Range Monthly
Group 1-A: Executive Management		
Assistant City Manager for Administrative Services *	\$14,899	\$19,577
Assistant City Manager for Development Services	\$14,899	\$19,577
Chief of Police	\$14,899	\$19,577
Public Services Director	\$14,899	\$19,577
Community Services Director *	\$14,193	\$18,688
Development Services Director	\$14,193	\$18,688
Economic Development Director	\$14,193	\$18,688
Engineering and Utilities Director *	\$14,193	\$18,688
Finance Director	\$14,193	\$18,688
Housing Director	\$14,193	\$18,688
Communications and Engagement Director	\$12,247	\$16,093
Human Resources Director	\$12,247	\$16,093
Information Technology Director	\$12,247	\$16,093
Group 1-B: Middle Management		
Police Captain	\$12,489	\$16,410
Building Official	\$12,247	\$16,093
Deputy Director for Engineering	\$12,247	\$16,093
Deputy Director for Utilities Services	\$12,247	\$16,093
Housing Manager*	\$12,247	\$16,093
Planning Manager *	\$12,247	\$16,093
Program Administrator	\$12,247	\$16,093
Assistant City Attorney	\$11,475	\$15,053
Assistant to the City Manager *	\$11,475	\$15,053
City Clerk	\$11,475	\$15,053
Economic Development Manager	\$10,826	\$14,201
Environmental Services Administrator	\$10,826	\$14,201
Principal Planner	\$10,826	\$14,201
Senior Civil Engineer	\$10,826	\$14,201
Senior Project Manager	\$10,826	\$14,201
Budget Manager	\$10,011	\$13,167
Building Manager *	\$10,011	\$13,167
Communications and Engagement Manager *	\$10,011	\$13,167
Community Services Manager *	\$10,011	\$13,167
Environmental Services Manager	\$10,011	\$13,167
Information Services Manager *	\$10,011	\$13,167
Maintenance Manager	\$10,011	\$13,167
Police Support Services Manager	\$10,011	\$13,167
Recreation Manager	\$10,011	\$13,167
Supervising Civil Engineer	\$10,011	\$13,167
Utility Systems Manager	\$10,011	\$13,167
Accounting Manager *	\$9,319	\$12,249
Financial and Policy Analyst *	\$9,319	\$12,249
Police Administrative Manager	\$9,319	\$12,249
Public Services Administrative Manager	\$9,319	\$12,249
Senior Planner	\$9,319	\$12,249
Community Services Supervisor	\$8,442	\$10,772
Council Services and Records Manager *	\$8,442	\$10,772
Deputy City Attorney *	\$8,442	\$10,772
Economic Development Coordinator	\$8,442	\$10,772
Emergency Services Coordinator	\$8,442	\$10,772
GIS / Land Use Data Administrator	\$8,442	\$10,772
Maintenance Services Coordinator	\$8,442	\$10,772
Older Adult Services Supervisor	\$8,442	\$10,772
Programmer Analyst	\$8,442	\$10,772
Senior Human Resources Analyst	\$8,442	\$10,772
Risk Management Analyst (.50 FTE)	\$4,024	\$5,280
Group 1-C: Confidential Exempt		
Administrative Analyst	\$8,047	\$10,559
Legal Specialist	\$7,240	\$9,526
Group 1-D: Confidential Non-Exempt		
Accounting Technician	\$6,419	\$8,424
Human Resources Technician	\$6,419	\$8,424
Human Resources Assistant *	\$5,027	\$6,576

***Monthly figures are rounded to the nearest \$1.00

DRAFT



Meeting Minutes City Council

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

Wednesday, November 3, 2021 6:00 pm

Virtual Meeting

SPECIAL/REGULAR MEETING

A special meeting of the City Council was 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 called the meeting to order at 6:02 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	

Minutes Acceptance: Minutes of Nov 3, 2021 6:00 PM (CONSENT CALENDAR)

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.

CLOSED SESSION

City Attorney Don Larkin announced the closed session items.

OPPORTUNITY FOR PUBLIC COMMENT

Public comment opened at 6:03 p.m. There being no requests to speak, public comment closed.

ADJOURN TO CLOSED SESSION

The meeting adjourned to closed session at 6:04 p.m.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Authority: Government Code 54957(b)(1)
 Title: City Manager

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Authority: Government Code 54957(b)(1)
 Title: City Attorney

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 regular meeting convened at 7:03 p.m.

The meeting recessed at 7:03 p.m. and reconvened at 7:08 p.m.

Minutes Acceptance: Minutes of Nov 3, 2021 6:00 PM (CONSENT CALENDAR)

PRESENTATIONS

End of Session Legislative Update- Senator John Laird

PROCLAMATIONS

Proclaiming the Month of November as Philanthropy Month

CITY COUNCIL REPORTS

Mayor Constantine spoke regarding the Valley Water Commission meeting on October 27th. He brought up recycled water at this meeting. The Board stated that the 2021-2022 work plan, which would expand the use of non-potable water and production of use of recycled water, is of high priority. He stated that he is looking for a more concrete plan, Valley Water's Board stated that they will be implementing the Countywide Water Reuse Master Plan. If you would like to read the Plan you can find it on the County's website or you can email the Mayor for a copy. He shared that Valley Water requested from the Federal Energy Regulatory Commission (FERC), to store more rain water in Anderson Dam. FERC recently denied that request.

CITY MANAGER'S REPORT

City Manager Christina Turner spoke to the evening's supplements and presentations. She announced that the City has received permit applications from Frontier Communications. They are our incumbent local telephone company; they are planning to significantly advance infrastructure and the service that they offer Morgan Hill. Construction is slated for next year. Frontier's improvements along with the continued development of wireless service options from other independent companies indicate that our residents and businesses will continue to have more choices and better services in the not to distant future. She shared that the COVID-19 vaccines for ages 5-11 are now available. Parents and guardians can go to www.sccfreevax.org <<http://www.sccfreevax.org>> for appointments or locations. She concluded by inviting community members to join us for the Downtown Beautification Project Town Hall on Thursday, November 4th at 5:30 p.m.

CITY ATTORNEY'S REPORT

City Attorney Donald Larkin announced that there was no reportable action from the two employee performance evaluation closed session items. He shared that the City has reached an agreement with the American Federation of State, County, and Municipal Employees Local 101 Union (AFSCME), the contract will come to City Council at the November 17, 2021 meeting for final adoption.

OTHER REPORTS

Council Member Martinez Beltran shared that Nueva Esperanza and herself built a beautiful altar for Dia de los Muertos at the Community Center. She requested that we end the meeting in honor of Michael Daniel Zuniga Macias, the youth victim in the shooting in Gilroy.

Council Member Borgioli shared that he took his grandson to DePaul Medical Center for a vaccine, and was surprised at the efficiency, friendliness, and process. He encouraged the community to take advantage of that great organization.

Mayor Pro Tem McKay shared that he and the City are aware of wild and feral pigs that are tearing up private property. He expressed that the City cannot address the issue. He encouraged those with any questions to email him or the City Manager to get more information. He announced that the Morgan Hill Unified School District is once again hosting COVID Vaccination Clinics in partnership with Safeway.

PUBLIC COMMENT

Public comment opened at 7:45 p.m. The following people were called to speak:

Dave Mathews

Armando Benavides

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

Public comment opened at 7:54 p.m. The following people were called to speak; they spoke regarding item #1:

Joe Baranowski

Dave Mathews

Armando Benavides

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

MOTION:

Approving consent calendar items 1 through 6.

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

1. ADOPT RESOLUTION DETERMINING THAT CONDUCTION OF IN-PERSON MEETINGS WOULD PRESENT A PUBLIC HEALTH RISK AND CONTINUING TELECONFERENCE MEETINGS

Recommendation:

Adopt resolution to continue holding City Council and commission meetings by teleconference.

2. APPROVE AGREEMENT WITH TYLER TECHNOLOGIES FOR A NEW ENTERPRISE RESOURCE PLANNING SYSTEM

Recommendation:

Approve and authorize the City Manager to execute an agreement with Tyler Technologies for a New Enterprise Resource Planning System for a total of \$796,864, including a \$140,690 contingency.

3. APPROVE AGREEMENT WITH TESCO CONTROLS, INC. FOR SUPERVISORY CONTROL AND DATA ACQUISITION (SCADA) SYSTEMS INTEGRATION CONSULTING SERVICES

Recommendation:

Approve and authorize the City Manager to execute a consulting agreement with Tesco Controls, Inc. in the not to exceed amount of \$87,090 for SCADA systems integration services.

4. APPROVE THE OCTOBER 6, 2021 MEETING MINUTES

Recommendation:

Approve Minutes.

5. APPROVE THE OCTOBER 20, 2021 MEETING MINUTES

Recommendation:

Approve Minutes.

6. AWARD COMMUNITY AND CULTURAL CENTER AND CENTENNIAL RECREATION CENTER SENIOR CENTER FLOORING PROJECT TO BT MANCINI COMPANY, INC.

Recommendation:

1. Award contract to BT Mancini Company, Inc. in the amount of \$63,497 for the Community and Cultural Center and Centennial Recreation Center Senior Center Flooring Replacement Project;
2. Authorize the expenditure of 10% contingency funds not to exceed \$6,349; and
3. Authorize the City Manager to execute and administer that certain contract with BT Mancini Company, Inc.

OTHER BUSINESS

7. RECEIVE MONTHLY BUDGET UPDATE; SEPTEMBER 2021 FINANCIAL AND INVESTMENT REPORTS; AND CITY MANAGER AUTHORITY REPORT

Recommendation:

Accept and file report.

Finance Director Dat Nguyen provided a presentation and answered questions.

Public comment opened at 8:20 p.m.

Joe Baranowski was called to speak.

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

RESULT:	ACCEPT REPORT
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8. REFINANCE AND RE-SUBORDINATION OF MURPHY RANCH I & II APARTMENTS, FIRST COMMUNITY HOUSING

Recommendation:

1. Authorize City Manager to negotiate and approve re-subordination of the \$3,453,426 former City of Morgan Hill Redevelopment Agency (RDA) note on Murphy Ranch I and the \$3,406,574 note on Murphy Ranch II with First Community Housing (FCH) to a new first mortgage to support re-capitalization and rehabilitation of these properties. The agreement will be negotiated and subject to the review and approval by the City Attorney; and
2. Approve FCH's proposal to refinance two existing first mortgages from senior lender totaling \$5,605,813 on Murphy Ranch I and II with two new mortgage loans.

Housing Director Rebecca Garcia provided a report and answered questions.

Public comment opened at 8:28 p.m.
 Peter Villareal was called to speak.
 There being no further requests to speak, public comment closed.

MOTION:

Approving the recommended actions.

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

9. APPROVE COMMUNITY FUNDING REQUEST POLICY

Recommendation:

Approve recommended Community Funding Request Policy.

Public Services Director Chris Ghione provided a presentation and answered questions.

Public comment opened at 8:55 p.m.
 Delia Gomez was called to speak.
 There being no further requests to speak, public comment closed.

MOTION:

Approving the recommended action with language clarification for section 6 of the Policy.

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

FUTURE COUNCIL INITIATED AGENDA ITEMS

Council Member Martinez Beltran asked for an update or discussion on when we anticipate returning to in-person Council meetings.

ADJOURNMENT

There being no further business, the meeting adjourned in memory of the shooting victims in Gilroy at 9:01 p.m.

MINUTES PREPARED BY:

Angie Gonzalez, Deputy City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: November 17, 2021

PREPARED BY: Kim Mancera, Municipal Services Assistant
APPROVED BY: City Manager

RECEIVE REPORT REGARDING UPCOMING 2022 COMMISSION VACANCIES - PER MADDY ACT

RECOMMENDATION(S)

Receive report.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Supporting Our Youth
Seniors
and Entire Community
Fostering a Positive Organizational Culture
Preserving Our Community History
Enhancing Equity
Diversity and Inclusiveness

2020-2021 Strategic Priorities

Community Outreach
Engagement and Messaging

REPORT NARRATIVE:

Government Code Section 54972 (Maddy Act) requires that before December 31st of each year, the City Council cause to be prepared a list of appointments of all ongoing boards, commissions and committees that are appointed by the City Council. The list includes which terms will expire during the next calendar year with the name of the incumbent appointee, the date of appointment, the date the term expires, and the necessary qualifications for the position.

Chapter 2.22.010 - Master Provisions for Boards and Commissions of the Municipal Code established the following commissions: Planning Commission; Parks and Recreation Commission (PRC); and the Library, Culture, and Arts Commission (LCAC). Chapter 2.22.010, Section B, states that: "Unless otherwise set forth, all members of boards, commissions and committees shall be residents of the city and shall continue to be residents of the city during their terms of office. Notwithstanding the foregoing, individuals who reside within the Morgan Hill Unified School District boundary and who do not otherwise reside in any city other than Morgan Hill may be appointed to boards, commissions and committees provided that no more than thirty percent of the members of any board, commission or committee shall be non-Morgan Hill residents."

LCAC and PRC commissioners with terms due to expire in 2022 are highlighted in the attached "Local Appointment List". The LCAC will have three (3) members with terms due to expire on April 1, 2022, and the PRC will have four (4) members with terms due

to expire on April 1, 2022. No terms for the Planning Commission are due to expire in the 2022 calendar year.

COMMUNITY ENGAGEMENT: Inform

This report serves to inform the public of the upcoming board, commission, and committee vacancies.

ALTERNATIVE ACTIONS:

Not Applicable.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

Per Resolution No. 7082 adopted by the City Council on December 17, 2014, this report is being presented as an informational item. The City Clerk's Office will post the "Local Appointment List" in accordance with Government Code Section 54972.

FISCAL AND RESOURCE IMPACT:

The time necessary to prepare this report is accommodated in the Administrative Services Budget.

CEQA (California Environmental Quality Act):

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

LINKS/ATTACHMENTS:

1. chapter 2.22 Master Provisions for boards and commissions
2. chapter 2.32 Parks and Rereation Commission
3. Chapter 2.36 Planning Commission
4. chapter 2.68 Library, Culture and Arts Commission
5. Local Appt Term Listing
6. Resolution 7082

Chapter 2.22 - MASTER PROVISIONS FOR BOARDS AND COMMISSIONS*

Sections:

2.22.010 - Establishment of boards and commissions.

- A. There are established within the city the following boards and commissions:
 - 1. Planning commission;
 - 2. Parks and recreation commission;
 - 3. Library, culture and arts commission; and
 - 4. Disaster council.
- B. Unless otherwise set forth, all members of boards, commissions and committees shall be residents of the city and shall continue to be residents of the city during their terms of office. Notwithstanding the foregoing, individuals who reside within the Morgan Hill Unified School District boundary and who do not otherwise reside in any city other than Morgan Hill may be appointed to boards, commissions and committees provided that no more than thirty percent of the members of any board, commission or committee shall be non-Morgan Hill residents.
- C. Members shall be appointed by the mayor subject to approval of a majority vote of the city council and may be removed without cause by vote of any three members of the city council.
- D. The appointment terms of members may be extended, at the discretion of the city council, until such time as a successor member may be appointed and take office.
- E. Vacancies in the commission occurring other than by expiration of term shall be filled for the unexpired term in the same manner as original appointments.
- F. The members of the commission shall organize the commission and shall elect from its members a chair and vice-chair and such other officers as may be necessary in accordance with adopted city council policy.

(Ord. 1778 N.S. § 2 (part), 2006)

(Ord. No 1930 N.S., § 2, 4-22-2009; Ord. No. 1935 N.S., § 1, 6-3-2009)

2.22.030 - Clerk and secretary.

The city clerk or designate shall also act as clerk for each of the boards and commissions and shall have authority to sign any official notices and also to certify any resolution of the commissions or boards. The city council may appoint a person not a member of the commission or board to act as secretary of the

commission or board. The secretary shall keep a record of all proceedings of said board or commission, its resolutions, its findings and actions, which records shall be a public record and kept with the city clerk in the City Hall building.

(Ord. 1778 N.S. § 2 (part), 2006)

2.22.040 - Rules of procedure.

- A. The chair shall preside at all meetings of the board or commission. The vice chair shall assume the duties of the chair in the absence of or in case of inability of the chair.
- B. A majority of the members of the commission or board shall constitute a quorum for the transaction of business.
- C. Unless otherwise specified herein, each board or commission may adopt its own rules and regulations for the transaction of its business. Such rules shall be subject to approval of the city council before becoming effective.

(Ord. 1778 N.S. § 2 (part), 2006)

2.22.050 - Rules of attendance.

If any member is absent from three of any six consecutive regular board or commission meetings, unless such absence is with the permission of the chair, or vice chair in absence of the chair, expressed in the official minutes, the member's seat shall be deemed vacated. The city manager shall so notify the city council and the council shall take action to fill the seat within a reasonable period of time.

(Ord. 1778 N.S. § 2 (part), 2006)

2.22.060 - Meetings.

Unless otherwise specified, the commission shall hold regular meetings once every two months at a designated time and place which shall be fixed and determined by the commission and entered upon in its minutes. Special meetings of the commission may be called at any time by the chair or by a majority of the members of the board upon notice being given to all members of the board and to all news media at least twenty-four hours in advance of the meetings, as required by the laws of the state of California.

(Ord. 1778 N.S. § 2 (part), 2006)

(Ord. No. 1930 N.S., § 3, 4-22-2009)

2.22.070 - Compensation.

Members of the boards and commissions shall serve without compensation but may receive reimbursement for actual and necessary expenditures made or incurred in the performance of their prescribed duties in accordance with state law and the Municipal Code and policies of the city of Morgan Hill.

(Ord. 1778 N.S. § 2 (part), 2006)

2.22.080 - Effect.

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

(Ord. 1778 N.S. § 2 (part), 2006)

Chapter 2.32 - PARKS AND RECREATION COMMISSION*

Sections:

2.32.010 - Created.

There is established a new commission which is entitled the "Morgan Hill parks and recreation commission" to serve in an advisory capacity to the city council.

(Ord. 1778 N.S. § 4 (part), 2006)

2.32.020 - Membership—Terms of office.

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

For the first seven members appointed, the terms of three of the members shall expire on May 1, 1999, and the terms of four of the members shall expire on May 1, 2000. All new full term appointments after April 1, 2006 shall be for a period of four years.

(Ord. 1778 N.S. § 4 (part), 2006)

2.32.030 - Powers and duties.

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

- A. To hold hearings on matters pertaining to planning and development of parks, trails, recreation programs for all segments of the population, bicycle facilities, and capital expenditures related to parks, trails, recreational facilities, and bicycle facilities;
- B. To facilitate coordination of the efficient and effective use of recreation facilities by other public, private, and non-profit groups and organizations to city residents;
- C. To consider, formulate and propose fiscally prudent programs, activities, resources, plans and development designed to provide for, regulate, and direct the future growth and development of the parks facilities and recreation programming for the people of the city;
- D. To make investigations and reports for future acquisition of park sites;
- E. To review opportunities for joint use of recreation/parks, and storm retention/detention;
- F. To act on behalf of the city and function as the City of Morgan Hill Bicycle and Trails Advisory Committee;
- G. To conduct such other hearings as are necessary and in accordance with its own rules and regulations for the transaction of its business, or rules for conduct; and
- H. To report its decisions and recommendations relating to the above matters, in writing to the city council.

(Ord. 1778 N.S. § 4 (part), 2006)

(Ord. No. 1930 N.S., § 4, 4-22-2009)

Chapter 2.36 - PLANNING COMMISSION*

Sections:

2.36.010 - Created—Statutory authority.

The planning commission is established pursuant to the authority contained in Chapter 3 of Title VII of the California Government Code, entitled "Local Planning, " as existing or hereafter amended. Reference shall be made to said Chapter 3 for interpretation of this chapter.

(Ord. 811 N.S. § 1 (II-3-1), 1987)

2.36.020 - Membership—Terms of office—Vacancies.

- A. The city planning commission shall consist of seven members. Members of the planning commission shall serve the following terms:
1. In the year 1998, three members shall be appointed to serve terms ending June 1, 2001;
 2. The four members who were appointed in 1996 shall serve terms ending June 1, 1999;
 3. Thereafter, all terms shall be for four years and shall expire on June 1st.

(Ord. 1778 N.S. § 5, 2006; Ord. 1407 N.S. § 2, 1998; Ord. 1083 N.S. § 1, 1992; Ord. 811 N.S. § 1 (II-3-2), 1987)

2.36.030 - Meetings.

The commission shall hold regular meetings at least twice a month or as otherwise deemed necessary by the commission. All meetings of the commission shall be held in the city council chambers at City Hall or other location designated by minute order of the city council or at a location deemed necessary or appropriate by the planning commission.

(Ord. 1197 N.S. § 1 (part), 1994; Ord. 811 N.S. § 1 (II-3-3), 1987)

2.36.040 - Powers and duties.

The planning commission shall have the powers and shall perform all the duties conferred and imposed upon city planning commissions by the applicable provisions of Chapter 3 of Title VII of the Government Code of the state and, in addition, the planning commission shall:

- A. Perform all the functions assigned to the commission by the subdivision and zoning ordinances (Titles 17 and 18 of this code) of the city, and all general laws of the state of California;
- B. Serve as an advisory body to the city council on matters related to city growth and

- development and on such other matters as may be requested by the council;
- C. Promote public interest in and understanding of the subdivision and zoning ordinances of the city, and also of all master plans and other official plans and regulations pertaining to planning which have been approved officially by the city council;
 - D. Review and advise the city council on all proposed amendments to Title 17, Subdivisions, and Title 18, Planning and Land Use Regulations;
 - E. Approve or disapprove application for designation of cultural resources and historic districts pursuant to Chapter 18.75 of this code, or as amended;
 - F. Approve or disapprove permits sought to remove or demolish a cultural resource, cultural resource site or historic district pursuant to Chapter 18.75 of this code, or as amended.

(Ord. 1111 N.S. §§ 2, 3, 1992; Ord. 899 N.S. § 18, 1989; Ord. 811 N.S. § 1 (II-3-4), 1987)

Chapter 2.68 - LIBRARY, CULTURE AND ARTS COMMISSION

Sections:

2.68.010 - Created.

There is established a new commission which is entitled the "library, culture and arts commission" to serve in an advisory capacity to the city council.

(Ord. 1778 N.S. § 9 (part), 2006: Ord. 1374 N.S. § 1 (part), 1998)

2.68.020 - Membership—Terms of office.

The commission shall consist of seven members. Members shall not be officials or employees of the city, county library employees nor paid members of any organization receiving financial support from the city for library and art services.

(Ord. 1778 N.S. § 9 (part), 2006: Ord. 1559 N.S. § 1, 2002: Ord. 1407 N.S. § 5, 1998; Ord. 1382 N.S. § 1, 1998; Ord. 1374 N.S. § 1 (part), 1998)

2.68.030 - Powers and duties.

The powers and functions of the commission shall be as follows:

- A. To act in an advisory capacity to the city council in all matters pertaining to library, culture and arts in the community;
- B. To serve as a liaison between the city and the Santa Clara County library;
- C. To consult with private community groups supportive of library, culture and art programs and serve as a liaison between such groups and the city;
- D. To provide advice and recommendations regarding the adequacy of existing library facilities and operations;
- E. To look for opportunities for participation of artists and performers in city-sponsored activities, and ways to encourage community involvement in the arts;
- F. To work cooperatively with city boards and commissions and other public and private organizations in creating and promoting art and cultural programs and activities within the city;
- G. To coordinate and strengthen existing organizations in the arts and develop cooperation with regional organizations;
- H. To make recommendations to the city council regarding the funding of community art projects, including the search for private and public grants, and regarding the disbursement of revenues consistent with the needs of the community;
- I. To review and make recommendations to the city council upon all works of art to be acquired by the city, either by purchase, gift or otherwise, and exterior works of art installed in the city on public property;
- J. To recommend to the city council the adoption of such ordinances or policies as it may deem necessary for the administration and preservation of the arts and cultural development of the city;
- K. To perform such other tasks as may be expressly requested of it by the city council;

- L. To conduct such other hearings as are necessary and in accordance with its own rules and regulations for the transaction of its business, or rules for conduct; and
- M. To report its decisions and recommendations relating to the above matters, in writing to the city council.

(Ord. 1778 N.S. § 9 (part), 2006: Ord. 1374 N.S. § 1 (part), 1998)



17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

general@morganhill.ca.gov

POSTED ON November 17, 2021 PER MADDY ACT

LOCAL APPOINTMENTS LIST

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

LIBRARY, CULTURE & ARTS COMMISSION

(Two Year Term converting to 4 year by 2024)

Meets monthly to serve as a liaison with the County Library, advise the City Council and City staff on culture and art related projects and programming, and support efforts to initiate art and cultural events in the community.

<u>Date Appointed</u>	<u>Name</u>	<u>Term Expires</u>
July 22, 2020	Emily Borchers	April 1, 2022
June 6, 2018	Poonam Chabra	April 1, 2024
July 22, 2020	Patrice Lyn	April 1, 2022
March 20, 2019	Suman Ganapathy	April 1, 2024
May 3, 2017	Katie Khera	April 1, 2024
April 16, 2014	Paul Lake	April 1, 2022
April 21, 2021	Amanda Santiago	April 1, 2024

PARKS & RECREATION COMMISSION

(Four Year Term)

Meets monthly to make recommendations regarding the planning and development of parks, cultural facilities and recreation programs.

<u>Date Appointed</u>	<u>Name</u>	<u>Term Expires</u>
November 28, 2018	Neil Berman	April 1, 2022
February 21, 2018	Maureen Grzan-Pieracci	April 1, 2022
October 2, 2013	Ronald Locicero	April 1, 2022
February 17, 2016	Richard Scott	April 1, 2024
July 22, 2020	David Lovato	April 1, 2024
May 4, 1998	Craig C. van Keulen	April 1, 2022
July 22, 2020	John Moniz	April 1, 2024

PLANNING COMMISSION

(Four Year Term)

Meets twice monthly to advise on matters related to City growth and development.

<u>Date Appointed</u>	<u>Name</u>	<u>Term Expires</u>
July 15, 2015	Liam Downey	June 1, 2023
May 3, 2017	Mohammad Habib	June 1, 2025
April 17, 2019	Laura Gonzalez Escoto	June 1, 2025
April 17, 2019	Malisha Kumar	June 1, 2025
January 28, 1989	Joseph Mueller	June 1, 2023
June 21, 2017	Juan Miguel Munoz Morris	June 1, 2023
April 25, 2007	Wayne Tanda	June 1, 2023

Note: Yellow Highlighted Commissioners have terms expiring in 2022

Attachment: Local Appt Term Listing [Revision 2] (3210 : Upcoming 2022 Commission Vacancies - Maddy Act)

RESOLUTION NO. 7082

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, ACCEPTING THE CITY CLERK'S REPORT ON UPCOMING 2015 COMMISSION VACANCIES, DIRECTING THE CITY CLERK TO PREPARE A "LOCAL APPOINTMENT LIST" OF ALL ONGOING BOARDS, COMMISSIONS AND COMMITTEES APPOINTED BY THE CITY COUNCIL, AND THAT THE LIST OF APPOINTMENTS TO BE POSTED ACCORDING TO LAW PRIOR TO DECEMBER 31, 2014 AND PRIOR TO EVERY DECEMBER 31, THEREAFTER

WHEREAS, the "Maddy Act" was enacted to maximize public awareness of local appointments made by the City Council; and

WHEREAS, the Maddy Act takes into consideration a vast and largely untapped reservoir of talent which exists among the citizenry that all too frequently are not aware of the opportunities for participation on local regulatory and advisory boards and commissions; and

WHEREAS, in accordance with Government Code Sections 54972, the City Council shall cause to be prepared a list of appointments (Local Appointment List) of all ongoing boards, commissions and committees that are appointed by the City Council; and

WHEREAS, the "Local Appointment List" is to include the terms due to expire during the next calendar year with the name of the incumbent appointee, the date of appointment, the date the term expires, and the necessary qualifications for the position.

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

SECTION 1. Pursuant to Government Code 54972, the City Council directs the City Clerk to prepare the "Local Appointment List" to include all the information required by law.

SECTION 2. That the City Clerk, or his/her designee, is directed to post the "Local Appointment List" according to law prior to December 31, 2014 and every December 31 thereafter.

SECTION 3. That the City Clerk shall forward to the City Council the "Local Appointment List," as an informational report.

SECTION 4. That City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED AND ADOPTED by the City Council of the of the City of Morgan Hill at a Regular Meeting held on the 17th day of December 2014 by the following vote:

AYES:	COUNCIL MEMBERS:	Larry Carr, Rich Constantine, Marilyn Librers, Gordon Siebert, Steve Tate
NOES:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None

ATTEST:



IRMA TORREZ
City Clerk



STEVE TATE, Mayor

∞ **CERTIFICATION** ∞

I, Irma Torrez, City Clerk of the City of Morgan Hill, California, do hereby certify that the foregoing is a true and correct copy of Resolution No. 7082, adopted by the City Council at the meeting held on December 17, 2014.

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

DATE: 1/15/2015



IRMA TORREZ, City Clerk



17575 PEAK AVENUE MORGAN HILL CALIFORNIA 95037
general@morganhill.ca.gov

POSTED ON _____, 2014 PER MADDY ACT

LOCAL APPOINTMENTS LIST

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

LIBRARY, CULTURE & ARTS COMMISSION

(Two Year Term)

Serves as liaison with the County Library and meets monthly to advise on the adequacy of library services.

<u>Date Appointed</u>	<u>Name</u>	<u>Term Expires</u>
January 13, 2011	Susan Brazelton	April 1, 2015
May 16, 2012	Loren Burks-Winzeler.	April 1, 2016
September 17, 2014	Cecilia Clark	April 1, 2015
April 16, 2014	Judith Cowan	April 1, 2016
April 16, 2014	Bill Haskell	April 1, 2016
April 25, 2007	Tim Hennessey	April 1, 2015
April 16, 2014	Paul Lake	April 1, 2016

PARKS & RECREATION COMMISSION

(Four Year Term)

Meets monthly to make recommendations regarding the planning and development of parks, cultural facilities and recreation programs.

<u>Date Appointed</u>	<u>Name</u>	<u>Term Expires</u>
November 7, 2007	Martin Cheek	April 1, 2016
April 16, 2014	LaRene Green	April 1, 2018
May 16, 2012	Matthew Kelly	April 1, 2016
April 26, 2006	Kimberly Leiser	April 1, 2018
October 2, 2013	Ronald Locicero	April 1, 2018
April 16, 2014	Mary Seehafer	April 1, 2016
May 4, 1998	Craig C. van Keulen	April 1, 2018
<i>School District Liaison</i>	Bob Benevento	N/A
<i>Ex-Officio Member:</i>		

PLANNING COMMISSION

(Four Year Term)

Meets twice monthly to advise on matters related to City growth and development.

<u>Date Appointed</u>	<u>Name</u>	<u>Term Expires</u>
May 18, 2011	John Kim KcKay	June 1, 2017
February 9, 2005	Susan Koepp-Baker	June 1, 2015
February 5, 2014	Zenon Komarczyk	June 1, 2015
January 28, 1989	Joseph Mueller	June 1, 2015
September 1, 2014	Michael Orosco	June 1, 2017
May 16, 2012	Rene Angelo Spring	June 1, 2017
April 25, 2007	Wayne Tanda	June 1, 2015

Attachment: Resolution 7082 (3210 : Upcoming 2022 Commission Vacancies - Maddy Act)



CITY COUNCIL STAFF REPORT

MEETING DATE: November 17, 2021

PREPARED BY: Tanya Carothers,
APPROVED BY: City Manager

INTRODUCE ORDINANCE MANDATED BY SB 1383 REQUIRING ORGANIC WASTE DISPOSAL REDUCTION THROUGH ORGANIC WASTE RECYCLING AND EDIBLE FOOD RECOVERY PROGRAMS

RECOMMENDATION(S)

1. Waive first and second reading of the ordinance updating Section 13.28, Solid Waste Collection and Disposal, of the City of Morgan Hill Municipal Code in order to institute the mandatory organic waste disposal reduction requirements required by California law; and
2. Introduce the ordinance.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Protecting the Environment and Preserving
Open Space and Agricultural Land
Advancing Regional Initiatives

REPORT NARRATIVE:

Senate Bill 1383 (SB 1383) was signed into law in September 2016, establishing methane emission reduction targets in a statewide effort to address the impacts of climate change on human health and the environment. A major source of methane is from organic waste decomposing in landfills. Organic waste includes green waste, wood waste, food waste, and fibers such as paper and cardboard. Organic waste is the largest waste stream in California and comprises two-thirds of the total waste stream. To reduce methane gasses generated by organic waste in landfills, SB 1383 contains provisions for organic waste recycling and edible food recovery, including a requirement that jurisdictions adopt ordinances and implement programs to ensure compliance by January 1, 2022.

The purpose of this agenda item is to introduce an ordinance (Attachment A) updating Chapter 13.28, *Solid Waste Collection and Disposal*, of the City's Municipal Code to bring the City's code into compliance with SB 1383. The proposed ordinance is based largely on the Model Mandatory Organic Waste Disposal Reduction Ordinance (Model Ordinance) released by CalRecycle in January 2021. The proposed ordinance language is also based on a coordinated countywide effort that adjusted relevant sections of the Model Ordinance to accommodate a regional edible food recovery program.

The ordinance requirements can generally be described within the context of two main programs, the Organic Waste Recycling Program and the Edible Food Recovery Program.

Organic Waste Recycling Program

SB 1383 requires that each jurisdiction in California provide containers to organic waste generators for organic waste recycling. Organic waste generators include single-family residential properties and commercial businesses (including multi-family residential with > 5 units). The basic SB 1383 requirements for organic waste recycling, as written into the ordinance, are summarized below.

- 1) Materials shall be properly sorted by the organic waste generator.
- 2) City or designated representative has the right to review the number and size of containers to verify appropriate service levels.
- 3) The organic waste generator shall adjust service levels for collection services upon City or designated representative's request.
- 4) Generators have the right to manage their organic waste through prevention and reduction.

In addition to the items listed above, the following requirements apply to commercial businesses only (not applicable to single-family residential generators).

- 5) Access to containers with specified labels and colors shall be supplied by businesses for use by employees, contractors, tenants, and customers.
- 6) Education information shall be provided by businesses before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep green container organic waste and recyclable materials separate from gray container non-recyclable landfill waste, and the location of containers and the rules governing their use at each property.
- 7) Excluding multi-family residential dwellings, containers shall be provided for the collection of green container organic waste and recyclable materials in all outdoor and indoor areas where disposal containers are provided for customers, for materials generated by that business.
- 8) Businesses shall annually provide information to employees, contractors, tenants, and customers about organic waste recovery requirements and proper sorting.

City Compliance Strategy for Organic Waste Recycling

For compliance with SB 1383 requirements related to organic waste recycling, the City intends to assign the bulk of implementation, inspection, and recording/reporting responsibilities to its solid waste hauler through its Franchise Agreement. Enforcement activities will be completed through coordination with the City.

Edible Food Recovery Program

SB 1383 requires each jurisdiction in California to implement an edible food recovery program that will feed hungry people. Edible food generators will be required to arrange food recovery through a contract or written agreement with food recovery organizations or services, who will collect or accept self-hauled edible food for redistribution to hungry Californians. Businesses that generate edible food scraps which are regulated under SB 1383 and the proposed ordinance are as follows:

Tier 1 commercial edible food generators will be required to donate their edible food starting January 1, 2022. Tier 1 generators include:

- wholesale food vendors
- food service providers and distributors
- grocery stores over 10,000 sf
- supermarkets

Tier 2 commercial edible food generators will be required to donate their edible food starting January 1, 2024. Tier 2 generators include:

- restaurants over 5,000 sf
- hotels with on-site food facilities/200 + rooms
- local education agencies with on-site food facilities
- large venues/events
- health facilities with at least 100 beds and on-site food facilities

City Compliance Strategy for Edible Food Waste Recovery

For compliance with SB 1383 requirements related to edible food recovery, the City will participate in a centrally managed countywide edible food recovery program organized through the Santa Clara County Recycling and Waste Reduction Commission (RWRC) in partnership with Joint Venture Silicon Valley (JVSV). A countywide food recovery program will benefit the City and the region in a variety of ways. There is general consensus that uniform requirements throughout the county for edible food waste recovery will make it easier for businesses with facilities in multiple cities to comply. Food recovery organizations prefer standardized requirements because they do not normally operate or report on a city-by-city basis. Furthermore, SB 1383 requires the county to lead food recovery capacity planning efforts through: 1) coordination with cities, regional agencies, and special districts to determine how much edible food will be recovered countywide through edible food recovery programs; 2) identification of available existing capacity to accept food at food recovery organizations; and 3) leading the way in active expansion of infrastructure and/or creation of new infrastructure to grow food recovery networks if it is determined that additional capacity is needed. Uniform record keeping and reporting through a countywide centrally managed edible food recovery program will support the countywide capacity planning that is required by SB 1383.

The proposed ordinance has been developed with flexible language that will enable future decisions to be made on items that are not fully fleshed out for the countywide food recovery program at this time (e.g., enforcement, funding, MOU, etc.). To date, JVSV has coordinated a Food Recovery Steering Committee to strategize

implementation procedures, create education and outreach, develop a countywide ordinance, and make recommendations on future inspection and enforcement processes.

Other Regulated Entities

There are several entities that will support the Organic Waste Recycling Program and the Edible Food Recovery Program to ensure proper pickup, hauling, recycling and/or redistribution of organic waste and food scraps. SB 1383 and the proposed City ordinance regulate these program support entities, as summarized below and described in detail in the ordinance (Attachment A).

Food Recovery Organizations and Services. Food recovery organizations and services receiving or coordinating the collection of Edible Food directly from Tier 1 or Tier 2 commercial edible food generators via a contract or written agreement, will have their own set of record keeping and reporting requirements.

Haulers including Self-Haulers. Haulers, including self-haulers, must follow requirements related to sorting, selection of facility for material drop-off, education, equipment, signage, container labeling, container color, contamination monitoring, and recording and reporting.

Facility Operators and Community Composting Operations. Facility Operators must provide information on capacity and operations upon City request for planning purposes.

Inspection and Enforcement

The ordinance gives the City or designated representative(s) the authority to inspect and enforce as needed. Inspections may include confirmation of proper placement of materials in containers through route reviews, in-person or electronic review of edible food recovery arrangements and activities, review of records, annual compliance reviews, complaint investigations, or any other inspection to ensure compliance with the requirements of the ordinance. Enforcement may start with a warning and may escalate to issuance of a Notice of Violation with specified penalties and fines.

Note, the State's requirements in this area will require the City to enforce this ordinance with more rigor and force than the City normally enforces other provisions in the Municipal Code. The City will be required to document and report on enforcement activities annually and will be fined itself if ongoing noncompliance by waste generators or others continues without tangible and progressive enforcement activities. The City intends to incorporate a mechanism into the solid waste franchise to fund the City's enforcement efforts.

COMMUNITY ENGAGEMENT: Inform.

Prior to this Council meeting, staff sent a flyer out to all businesses that briefly described the ordinance being proposed. The flyer had a QR Code and a webpage URL where recipients of the flyer could go to view the draft ordinance. A Business Community

Meeting was organized and advertised on the flyer. The Business Community Meeting and webpage details were advertised for two consecutive weeks in the City's Weekly 411 Newsletter, as well as in the Chamber of Commerce Newsletter which reached over 2,000 business representatives. The flyer was mailed out in both English and Spanish languages to over 1,000 businesses, and the Business Community Meeting held on October 27, 2021, included Spanish translation. Additionally, in 2021, outreach was conducted by JVSV to all Tier 1 edible food generators in the County of Santa Clara notifying them of their food recovery responsibilities starting in January of 2022.

While community engagement occurred prior to tonight's meeting, the engagement effort is far from over. SB 1383 includes a two-year outreach and educational period where violators of the ordinance may be educated on the new SB 1383 requirements in lieu of enforcement and penalties. After approved, there will be community education efforts conducted, as needed, to achieve a high level of compliance prior to 2024 when enforcement by the City on violators will be required.

ALTERNATIVE ACTIONS:

The City Council may choose not to adopt the proposed ordinance update. This would put the City out of compliance with SB 1383 which requires adoption of the ordinance by January 1, 2022. Additionally, without adoption of the ordinance, the City will be unable to benefit from participation in the countywide Edible Food Recovery Program, and unable to enforce violations of SB 1383. This could result in enforcement on the City by CalRecycle, including possible penalties and fines.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

While this is the first opportunity that the City Council has had to consider the proposed ordinance update, the adoption of the ordinance would be consistent with prior Council decisions to adopt policies and programs that keep the City operating in compliance with State laws.

FISCAL AND RESOURCE IMPACT:

Fiscal impacts will be felt by all residents and businesses subscribing to waste collection services since compliance costs for implementation of the Organic Waste Recycling Program will be incorporated into trash hauler franchise fees. Direct costs to the City related to participation in the countywide Edible Food Recovery Program are currently unknown, pending further coordination with the RWRC and JVSV.

While the trash haulers and RWRC/JVSV will complete the bulk of the work for City compliance with SB 1383, including general program implementation, inspection, and recording/reporting, there will nonetheless be impacts to the City's operations. Environmental Services staff will oversee enforcement of the ordinance and prepare an annual report to the State. Other staff implementation efforts will involve oversight, coordination with, and management of the trash haulers, as well as active engagement with regional partners in the countywide Edible Food Recovery Program. In the short-term, when the SB 1383 programs are still in the beginning phases of implementation, it is anticipated that current Environmental Services staff can incorporate these activities within their existing work plan. However, over time the programs related to SB 1383 will

become increasingly complex due to added requirements such as the addition of regular enforcement in 2024, and increased staffing will be required for continued compliance.

CEQA (California Environmental Quality Act): Categorical Exemption

The activities described in this Staff Report are categorically exempt under CEQA, specifically pursuant to Section 15308 of the CEQA Guidelines (Actions by Regulatory Agencies for Protection of the Environment). The ordinance being adopted will implement programs to protect the environment from the impacts of climate change as required under SB 1383.

LINKS/ATTACHMENTS:

1. 13.28 Ordinance Update for SB 1383 Compliance

ORDINANCE NO. 13.28 UPDATE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL TO UPDATE CHAPTER 13.28 (SOLID WASTE COLLECTION AND DISPOSAL) OF TITLE 13 (PUBLIC SERVICES) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL TO IMPLEMENT THE REQUIREMENTS OF SB 1383

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

Section 1. Section 13.28.010 (Definitions) of Chapter 13.28 (Solid Waste Collection and Disposal) is hereby deleted and replaced in its entirety as follows:

13.28.010 – Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivations have the meaning given in this section:

- A. “Blue Container” or “Blue/Brown Container” has the same meaning as in 14 CCR Section 18982.2(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials or Source Separated “Blue” Container Organic Waste. Source Separated Recyclable Materials or Source Separated “Blue” Container Organic Waste may go into a Brown Container until the end of the useful life of the container or no later than January 1, 2036, whichever comes first. Starting January 1, 2036, all brown containers shall be phased out and replaced by blue containers. For the purpose of this chapter, containers for collection of Source Separated Recyclable Materials or Source Separated “Blue” Container Organic Waste are referred to as Blue/Brown Containers.
- B. “CalRecycle” means California's Department of Resources Recycling and Recovery, which is the Department designated with responsibility for developing, implementing, and enforcing SB 1383 Regulations on cities (and others).
- C. “California Code of Regulations” or “CCR” means the State of California Code of Regulations. CCR references in this ordinance are preceded with a number that refers to the relevant Title of the CCR (e.g., “14 CCR” refers to Title 14 of CCR).

- D. “City Enforcement Official” means the director of public services and his or her designee(s) who is/are partially or wholly responsible for enforcing the ordinance. See also “Regional or County Agency Enforcement Official”.
- E. “Commercial Business” or “Commercial” means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a Multi-family Residential Dwelling, or as otherwise defined in 14 CCR Section 18982(a)(6). A residential premises that consists of fewer than five (5) units and/or any Common Interest Development is considered Single-family and is not a Commercial Business for the purposes of implementing this ordinance.
- F. “Commercial Edible Food Generator” includes a Tier One or a Tier Two Commercial Edible Food Generator as defined in Section 13.28.010(ttt) and 13.28.010(uuu) of this ordinance or as otherwise defined in 14 CCR Section 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR Section 18982(a)(7).
- G. “Common Interest Development” for the purpose of this chapter means any residential development with five (5) or more dwelling units comprised of privately owned housing units with maintained common areas and shared amenities, where each unit subscribes to its own individual refuse collection service.
- H. “Community Composting” means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and Compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR Section 17855(a)(4); or, as otherwise defined by 14 CCR Section 18982(a)(8).
- I. “Compliance Review” means a review of records by the city, Department, or Designee to determine compliance with this ordinance.
- J. “Compost” has the same meaning as in 14 CCR Section 17896.2(a)(4), which stated, as of the effective date of this ordinance, that “Compost” means the

product resulting from the controlled biological decomposition of organic solid Wastes that are Source Separated from the municipal Solid Waste stream, or which are separated at a centralized facility.

- K. “Compostable Plastics” or “Compostable Plastic” means plastic materials that meet the ASTM D6400 standard for compostability, or as otherwise described in 14 CCR Section 18984.1(a)(1)(A) or 18984.2(a)(1)(C).
- L. “Container Contamination” or “Contaminated Container” means a container, regardless of color, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR Section 18982(a)(55).
- M. “C&D” means construction and demolition debris.
- N. “Department” or “authorized Department” means any department of the County of Santa Clara, or any other public agency authorized by the city to enforce or administer this chapter, as authorized in 14 CCR Section 18981.2 who may act as the designated enforcement representative. The Department may be authorized by the city to impose civil penalties.
- O. “Designee” means any private entity that the city or authorized Department contracts with or otherwise designates to carry out any of the city’s responsibilities of this chapter as authorized in 14 CCR Section 18981.2 who may act as the designated enforcement representative. A Designee shall not be given authority by the city to impose civil penalties. A Designee may be a hauler, a private entity, or a combination of private entities.
- P. “Edible Food” means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this chapter, “Edible Food” is not Solid Waste if it is recovered and not discarded. Nothing in this ordinance or in 14 CCR, Division 7, Chapter 12 requires or authorizes the recovery of edible food that does not meet the food safety requirements of the California Retail Food Code.

- Q. “Enforcement Action” means an action of the city or authorized Department to address non-compliance with this ordinance including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.
- R. “Excluded Waste” means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the city and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in the city, or its Designee’s reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose city, or its Designee, to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with sections 41500 and 41802 of the California Public Resources Code. Excluded Waste does not include used motor oil and filters and/or household batteries when the generator or customer has properly placed the materials for collection pursuant to instructions provided by city or its Designee for collection services.
- S. “Food Distributor” means a company that distributes food to entities including, but not limited to, Supermarkets and Grocery Stores, or as otherwise defined in 14 CCR Section 18982(a)(22).
- T. “Food Facility” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to facilities listed in Section 113789 of the Health and Safety Code.

- U. “Food Recovery” means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).
- V. “Food Recovery Organization” means an entity that engages in the collection or receipt of edible food from commercial edible food generators and distributes that edible food to the public for food recovery either directly or through other entities. “Food Recovery Organization” includes, but is not limited to:
1. A food bank as defined in Section 113783 of the Health and Safety Code;
 2. A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and
 3. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

A Food Recovery Organization is not a commercial edible food generator for the purposes of this chapter and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7). If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this chapter.

- W. “Food Recovery Service” means a person or entity that collects and transports Edible Food from a commercial edible food generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator.
- X. “Food Scraps” means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.
- Y. “Food Service Provider” means an entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations of

others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).

- Z. “Food-Soiled Paper” is compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, pizza boxes, and milk cartons.
- AA. “Food Waste” means Food Scraps, Food-Soiled Paper, and Compostable Plastics.
- BB. “Gray Container” has the same meaning as in 14 CCR Section 18982.2(a)(28) and shall be used for the purpose of storage and collection of Gray Container Waste.
- CC. “Gray Container Waste” means Solid Waste that is collected in a Gray Container that is part of a three-container Organic Waste collection service that prohibits the placement of Organic Waste in the Gray Container as specified in 14 CCR Sections 18984.1(a) and (b), or as otherwise defined in 14 CCR Section 17402(a)(6.5).
- DD. “Green Container” has the same meaning as in 14 CCR Section 18982.2(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste.
- EE. “Grocery Store” means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR Section 18982(a)(30).
- FF. “Hauler Route” means the designated itinerary or sequence of stops for each segment of the city’s collection service area, or as otherwise defined in 14 CCR Section 18982(a)(31.5).
- GG. “Health Facility” has the same meaning as in Section 1250 of the Health and Safety Code.
- HH. “High Diversion Organic Waste Processing Facility” means a facility that is in compliance with the reporting requirements of 14 CCR Section 18815.5(d) and meets or exceeds an annual average Mixed Waste organic content Recovery rate

of 50 percent between January 1, 2022 and December 31, 2024, and 75 percent after January 1, 2025, as calculated pursuant to 14 CCR Section 18815.5(e) for Organic Waste received from the “Mixed waste organic collection stream” as defined in 14 CCR Section 17402(a)(11.5); or, as otherwise defined in 14 CCR Section 18982(a)(33).

- II. “Hotel” has the same meaning as in Section 17210 of the Business and Professions code.
- JJ. “Inspection” means the city, an authorized Department, or a Designee’s electronic or onsite review of records, containers, and an entity’s collection, handling, recycling, or landfill disposal of organic waste or edible food handling to determine if the entity is complying with requirements set forth in this chapter, or as otherwise defined in 14 CCR Section 18982(a)(35).
- KK. “Large Event” means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this Chapter.
- LL. “Large Venue” means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. A venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. A site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR Section

18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this chapter.

- MM. “Local Education Agency” means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40).
- NN. “Multi-Family Residential Dwelling” or “Multi-Family” means of, from, or pertaining to residential premises with five (5) or more dwelling units with common or shared solid waste management services, and any rental residential premises with five (5) or more dwelling units. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses. Under the SB 1383 Regulations and for the purpose of this ordinance, Multi-Family Residential Dwellings with five (5) or more units are included under the definition of a Commercial Business per 14 CCR 18982(a)(6).
- OO. “Non-Compostable Paper” includes but is not limited to paper that is coated in a plastic material that will not breakdown in the composting process, or as otherwise defined in 14 CCR Section 18982(a)(41).
- PP. “Non-Local Entity” means an entity that is an organic waste generator but is not subject to the control of a jurisdiction’s regulations related to solid waste. These entities may include, but are not limited to, special districts, federal facilities, prisons, facilities operated by the state parks system, public universities, including community colleges, county fairgrounds, and state agencies.
- QQ. “Non-Organic Recyclables” means non-putrescible and non-hazardous recyclable wastes including but not limited to bottles, cans, metals, plastics and glass, or as otherwise defined in 14 CCR Section 18982(a)(43).
- RR. “Notice of Violation (NOV)” means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section 18995.4.

- SS. “Organic Waste” means Solid Wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, Paper Products, Printing and Writing Paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 CCR Section 18982(a)(46). Biosolids and digestate are as defined by 14 CCR Section 18982(a).
- TT. “Organic Waste Generator” means a person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(48).
- UU. “Paper Products” include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 CCR Section 18982(a)(51).
- VV. “Printing and Writing Papers” include, but are not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 CCR Section 18982(a)(54).
- WW. “Prohibited Container Contaminants” means the following: (i) discarded materials placed in the Blue/Brown Container that are not identified as acceptable Source Separated Recyclable Materials for the city’s Blue/Brown Container; (ii) discarded materials placed in the Green Container that are not identified as acceptable Source Separated Green Container Organic Waste for the City’s Green Container; (iii) discarded materials placed in the Gray Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Green Container Organic Wastes to be placed in City’s Green Container and/or Blue/Brown Container; and, (iv) Excluded Waste placed in any container.
- XX. “Recovered Organic Waste Products” means products made from California, landfill-diverted recovered Organic Waste processed in a permitted or otherwise authorized facility, or as otherwise defined in 14 CCR Section 18982(a)(60).

- YY. “Recovery” means any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).
- ZZ. “Recycled-Content Paper” means Paper Products and Printing and Writing Paper that consists of at least 30 percent, by fiber weight, postconsumer fiber, or as otherwise defined in 14 CCR Section 18982(a)(61).
- AAA. “Regional Agency” means regional agency as defined in Public Resources Code Section 40181.
- BBB. “Regional or County Agency Enforcement Official” means a regional or county agency enforcement official, authorized by the city with responsibility for enforcing the ordinance in conjunction or consultation with City Enforcement Official.
- CCC. “Remote Monitoring” means the use of the internet of things (IoT) and/or wireless electronic devices to visualize the contents of Blue/Brown Containers, Green Containers, and Gray Containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of Prohibited Container Contaminants.
- DDD. “Renewable Gas” means gas derived from Organic Waste that has been diverted from a California landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by 14 CCR to recycle Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(62).
- EEE. “Restaurant” means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption, or as otherwise defined in 14 CCR Section 18982(a)(64).
- FFF. “Route Review” means a visual Inspection of containers along a Hauler Route for the purpose of determining Container Contamination, and may include mechanical Inspection methods such as the use of cameras, or as otherwise defined in 14 CCR Section 18982(a)(65).
- GGG. “SB 1383” means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and

39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

- HHH. “SB 1383 Regulations” or “SB 1383 Regulatory” means or refers to, for the purposes of this ordinance, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.
- III. “Self-Hauler” means a person, who hauls Solid Waste, Organic Waste or recyclable material he or she has generated to another person. Self-hauler also includes a person who back-hauls waste, or as otherwise defined in 14 CCR Section 18982(a)(66). Back-haul means generating and transporting Organic Waste to a destination owned and operated by the generator using the generator’s own employees and equipment, or as otherwise defined in 14 CCR Section 18982(a)(66)(A).
- JJJ. “Share Table” has the same meaning as in Section 114079 of the Health and Safety Code.
- KKK. “Single-Family” for the purpose of this ordinance means of, from, or pertaining to any residential premises with fewer than five (5) units and/or any Common Interest Development where there is no common or shared solid waste management services.
- LLL. “Solid Waste” or “Solid Waste Matter” has the same meaning as defined in State Public Resources Code Section 40191, which defines Solid Waste as all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid

wastes, and other discarded solid and semisolid wastes, with the exception that Solid Waste does not include any of the following wastes:

1. Hazardous waste, as defined in the State Public Resources Code Section 40141.
2. Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code).
3. Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in State Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the State Public Resources Code.

MMM. "Solid waste collector" means any person with whom the city has duly contracted under the terms set out in this chapter, to collect and transport solid waste matter through the streets, alleys or public ways of the city.

NNN. "Source Separated" means materials, including commingled recyclable materials, that have been separated or kept separate from the Solid Waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace, or as otherwise defined in 14 CCR Section 17402.5(b)(4). For the purposes of this chapter, Source Separated shall include separation of materials by the generator, property owner, property owner's employee, property manager, or property manager's employee into different containers for the purpose of collection such that Source Separated materials are separated from Gray Container Waste or other Solid Waste for the purposes of collection and processing.

- OOO. “Source Separated Blue/Brown Container Organic Waste” means Source Separated Organic Wastes that can be placed in a Blue/Brown Container that is limited to the collection of those Organic Wastes and Non-Organic Recyclables as defined in Section 18982(a)(43), or as otherwise defined by Section 17402(a)(18.7) such as Paper Products and Printing and Writing Paper, and, if permitted by the city to be placed in the Blue/Brown Container, wood, dry lumber, and textiles.
- PPP. “Source Separated Green Container Organic Waste” means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate collection of Organic Waste by the generator, excluding Source Separated Blue/Brown Container Organic Waste, carpets, Non-Compostable Paper, and textiles.
- QQQ. “Source Separated Recyclable Materials” means Source Separated Non-Organic Recyclables and Source Separated Blue/Brown Container Organic Waste.
- RRR. “State” means the State of California.
- SSS. “Supermarket” means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR Section 18982(a)(71).
- TTT. “Tier One Commercial Edible Food Generator” means the following:
1. Supermarket, as defined above.
 2. Grocery Store with a total facility size equal to or greater than 10,000 square feet.
 3. Food Service Provider, as defined above.
 4. Food Distributor, as defined above.
 5. Wholesale Food Vendor, as defined above.

(i) If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this ordinance.

(ii) For the purposes of this chapter, Food Recovery Organizations and Food Recovery Services are not commercial edible food generators.

UUU. “Tier Two Commercial Edible Food Generator” means the following:

1. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
2. Hotel with an on-site Food Facility and 200 or more rooms.
3. Health facility with an on-site Food Facility and 100 or more beds.
4. Large Venues, as defined above.
5. Large Event, as defined above.
6. A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
7. Local Education Agency facilities, as defined above, with on-site Food Facilities, as defined above.

(i) If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this ordinance.

(ii) Non-local entities that operate a facility that meets this definition are Tier Two Commercial Edible Food Generators.

(iii) For the purposes of this chapter, food recovery organizations and food recovery services are not commercial edible food generators.

VVV. “Wholesale Food Vendor” means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer,

warehouse, distributor, or other destination, or as otherwise defined in 14 CCR Section 189852(a)(76).

Section 2. Section 13.28.150 through Section 13.28.240 of Chapter 13.28 (Solid Waste Collection and Disposal) of Title 13 (Public Services) are hereby added to read as follows:

13.28.150 – Requirements for Single-Family Generators.

Single-Family Organic Waste Generators shall comply with the following requirements:

- A. Shall subscribe to city's Organic Waste collection services for all Organic Waste generated as described below in Section 13.28.150(B). City, authorized Department and/or Designee shall have the right to review the number and size of a generator's containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Single-Family generators shall adjust its service level for its collection services as requested by the city, Department or Designee. Generators may additionally manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste on site, and/or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).
- B. Shall participate in the city's Organic Waste collection service(s) by placing designated materials in designated containers as described below, and shall not place Prohibited Container Contaminants in collection containers.

Generator shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue/Brown Container; and Gray Container Waste in the Gray Container. Generators shall not place materials designated for the Gray Container into the Green Container or Blue/Brown Container.

13.28.160 – Requirements for Commercial Businesses.

Generators that are Commercial Businesses, including Multi-Family Residential Dwellings, shall:

- A. Subscribe to city's three-container collection services and comply with requirements of those services as described below in Section 13.28.160(B), except Commercial Businesses that meet the Self-Hauler requirements in Section 13.28.210 of this ordinance. City shall have the right to review the number and size of a generator's containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Commercial Businesses shall adjust their service level for their collection services as requested by the city.
- B. Except Commercial Businesses that meet the Self-Hauler requirements in Section 13.28.210 of this ordinance, participate in the city's Organic Waste collection service(s) by placing designated materials in designated containers as described below.
 - 1. Generator shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue/Brown Container; and Gray Container Waste in the Gray Container. Generator shall not place materials designated for the Gray Container into the Green Container or Blue/Brown Container.
- C. Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with sections 13.28.160(D)(1) and 13.28.160(D)(2) below) for employees, contractors, tenants, and customers, consistent with the city's Blue/Brown Container, Green Container, and Gray Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Section 13.28.210.
- D. Excluding Multi-Family Residential Dwellings, provide containers for the collection of Source Separated Green Container Organic Waste and Source

Separated Recyclable Materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business. Such containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the business shall have either:

1. A body or lid that conforms with the container colors provided through the collection service provided by the city, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.
 2. Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.
- E. Multi-Family Residential Dwellings are not required to comply with container placement requirements or labeling requirement in Section 13.28.160(D) pursuant to 14 CCR Section 18984.9(b).
- F. To the extent practical through education, training, Inspection, and/or other measures, excluding Multi-Family Residential Dwellings, prohibit employees from placing materials in a container not designated for those materials per the city's Blue/Brown Container, Green Container, and Gray Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Section 13.28.210.

- G. Excluding Multi-Family Residential Dwellings, periodically inspect Blue/Brown Containers, Green Containers, and Gray Containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).
- H. Annually provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials.
- I. Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep Source Separated Green Container Organic Waste and Source Separated Recyclable Materials separate from Gray Container Waste (when applicable) and the location of containers and the rules governing their use at each property.
- J. Provide or arrange access for city, Department and/or Designee to properties during all Inspections conducted in accordance with Section 13.28.220 of this ordinance to confirm compliance with the requirements of this ordinance.
- K. If applicable, accommodate and cooperate with city's Remote Monitoring program for Inspection of the contents of containers for Prohibited Container Contaminants, which may be implemented at a later date, to evaluate generator's compliance with Section 13.28.160(B). If implemented, the Remote Monitoring program shall involve installation of Remote Monitoring equipment on or in the Blue/Brown Containers, Green Containers, and Gray Containers.
- L. At Commercial Business's option and subject to approval required from the city, implement a Remote Monitoring program for Inspection of the contents of its Blue/Brown Containers, Green Containers, and Gray Containers for the purpose of monitoring the contents of containers to determine appropriate levels of service and to identify Prohibited Container Contaminants. Generators may install Remote Monitoring devices on or in the Blue/Brown Containers, Green Containers, and Gray Containers subject to written notification to and approval by the city, authorized Department, or its Designee.

- M. If a Commercial Business wants to self haul, meet the Self-Hauler requirements in Section 13.28.210 of this ordinance.
- N. Nothing in this section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).
- O. Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to Section 13.28.180.

13.28.170 – Waivers for Generators.

- A. De Minimis Waivers: A city may waive a Commercial Business' obligation (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste requirements of this ordinance if the Commercial Business provides documentation that the business generates below a certain amount of Organic Waste material as described in Section 13.28.170(A)(2) below. Commercial Businesses requesting a de minimis waiver shall:
 - 1. Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted in Section 13.28.170 (A)(2) below.
 - 2. Provide documentation that either:
 - (i) The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Blue/Brown Container or Green Container comprises less than 20 gallons per week per applicable container of the business' total waste; or,
 - (ii) The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Blue/Brown Container or Green Container comprises less than 10 gallons per week per applicable container of the business' total waste.

3. Notify city if circumstances change such that Commercial Business's Organic Waste exceeds threshold required for waiver, in which case waiver will be rescinded.
 4. Provide written verification of eligibility for de minimis waiver every 5 years, if city has approved de minimis waiver.
- B. Physical Space Waivers: city may waive a Commercial Business' or property owner's obligations (including Multi-Family Residential Dwellings) to comply with some or all of the recyclable materials and/or Organic Waste collection service requirements if the city has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the Organic Waste collection requirements of Section 13.28.160.

A Commercial Business or property owner may request a physical space waiver through the following process:

1. Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.
2. Provide documentation that the premises lacks adequate space for Blue /Brown Containers and/or Green Containers including documentation from its hauler, licensed architect, or licensed engineer.
3. Provide written verification to city that it is still eligible for physical space waiver every five years, if city has approved application for a physical space waiver.

13.28.180 – Requirements for Commercial Edible Food Generators.

- A. Tier One Commercial Edible Food Generators must comply with the requirements of this section commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.

- B. Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this section, commencing January 1, 2024.
- C. Tier One and Tier Two Commercial Edible Food Generators shall comply with the following requirements:
1. Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.
 2. Contract with, or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for:
 - (i) the collection of Edible Food for Food Recovery; or,
 - (ii) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.
 3. Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.
 4. Allow the city, authorized Department and/or Designee to access the premises, conduct Inspections, and review electronic and hard copy records pursuant to 14 CCR Section 18991.4.
 5. Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:
 - (i) A list of each Food Recovery Service or Organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).
 - (ii) A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b). A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).
 - (iii) A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:

- (a) The name, address and contact information of the Food Recovery Service or Food Recovery Organization.
 - (b) The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.
 - (c) The established frequency that food will be collected or self-hauled.
 - (d) The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.
- D. Tier One Commercial Edible Food Generators shall submit Food Recovery Reports, as defined below, to the city, authorized Department or Designee according to the following schedule:
 - 1. On or before August 1, 2022, Tier One Commercial Edible Food Generators shall submit a Food Recovery Report for the period of January 1, 2022 through June 30, 2022.
 - 2. On or before May 1, 2023, and on or before May 1st each year thereafter, Tier One Commercial Edible Food Generators shall submit a Food Recovery Report for the period covering the entire previous calendar year.
- E. Tier Two Commercial Edible Food Generators shall submit Food Recovery Reports, as defined below, to the city, authorized Department or Designee according to the following schedule:
 - 1. On or before May 1, 2025, and on or before May 1st each year thereafter, Tier Two Commercial Edible Food Generators shall submit a Food Recovery Report for the period covering the entire previous calendar year.
- F. Food Recovery Reports submitted by Tier One and Tier Two Commercial Edible Food Generators shall include the following information:
 - 1. The name and address of the Commercial Edible Food Generator;
 - 2. The name of the person responsible for the Commercial Edible Food Generator's edible food recovery program;

3. A list of all contracted Food Recovery Services or Food Recovery Organizations that collect Edible Food from the Commercial Edible Food Generator;
 4. The total number of pounds of Edible Food, per year, donated through a contracted Food Recovery Organization or Food Recovery Service.
- G. Nothing in this chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance issued by the California Department of Education pursuant to Senate Bill 557 (2017).

13.28.190 – Requirements for Food Recovery Organizations and Services.

- A. Food Recovery Services collecting, receiving, or coordinating the collection of Edible Food directly from Tier One or Tier Two Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(1):
1. The name, address, and contact information for each Commercial Edible Food Generator from which the Service collects Edible Food.
 2. The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.
 3. The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.
 4. The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.
- B. Food Recovery Organizations collecting, receiving, or coordinating the collection of Edible Food directly from Tier One or Tier Two Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR Section

18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR Section 18991.5(a)(2):

1. The name, address, and contact information for each Commercial Edible Food Generator from which the Organization receives Edible Food.
2. The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.
3. The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.

C. Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the city and contract with or have written agreements with one or more Tier One or Tier Two Commercial Edible Food Generators pursuant to 14 CCR Section 18991.3(b) shall submit Food Recovery Reports, as defined below, to the city, authorized Department and/or Designee according to the following schedule:

1. On or before August 1, 2022, Food Recovery Organizations and Food Recovery Services shall submit a Food Recovery Report for the period of January 1, 2022 through June 30, 2022;
2. On or before May 1, 2023, and on or before May 1st each year thereafter, Food Recovery Organizations and Food Recovery Services shall submit a Food Recovery Report for the period covering the entire previous calendar year.

D. Food Recovery reports submitted by Food Recovery Services or Organizations shall include the following information:

1. Total pounds of Edible Food recovered in the previous calendar year from Tier One and Tier Two Edible Food Generators with whom the reporting entity has a contract or written agreement pursuant to 14 CCR Section 18991.3(b).
2. Total pounds of Edible Food recovered in the previous calendar year from Tier One and Tier Two Edible Food Generators within Santa Clara County

with whom the reporting entity has a contract or written agreement pursuant to 14 CCR Section 18991.3(b).

- E. In order to support Edible Food Recovery capacity planning assessments or other studies conducted by the city, the County of Santa Clara or other authorized Department or their Designees, Food Recovery Services and Food Recovery Organizations operating in the city shall provide information and consultation to the city, Department, or Designee upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the city and its Tier One and Tier Two Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the city, authorized Department, or a Designee shall respond to such request for information within 60 days, unless a shorter timeframe is specified.

13.28.200 – Requirements for Haulers and Facility Operators.

- A. Requirements for Haulers are as follows:
 - 1. All haulers including exclusive franchised haulers, non-exclusive franchised haulers, permitted haulers, and licensed haulers providing residential, Commercial, or industrial Organic Waste collection services to generators within city boundaries shall meet the following requirements and standards as a condition of approval of a contract, agreement, or other authorization with the city to collect Organic Waste:
 - (i) Through written notice to the city annually on or before February 1 of each year, identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials and Source Separated Green Container Organic Waste, and Mixed Waste.
 - (ii) Transport Source Separated Recyclable Materials and Source Separated Green Container Organic Waste to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.

(iii) Obtain approval from the city to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting C&D in a manner that complies with 14 CCR Section 18989.1.

2. All haulers including exclusive franchised haulers, non-exclusive franchised haulers, permitted haulers, and licensed haulers with authorization to collect Organic Waste shall comply with education, equipment, signage, container labeling, container color, contamination monitoring, reporting, and other requirements contained within its franchise agreement, permit, license, or other agreement entered into with the city.

B. Requirements for Facility Operators and Community Composting Operations

1. Owners of facilities, operations, and activities that recover Organic Waste, including, but not limited to, Compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon city's request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the city shall respond within 60 days.
2. Community Composting operators, upon city request, shall provide information to the city to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation. Entities contacted by the city shall respond within 60 days.

13.28.210 – Self-Hauler Requirements.

- A. Self-Haulers shall source separate all recyclable materials and Organic Waste (materials that city otherwise requires generators to separate for collection in the city's organics and recycling collection program) generated on-site from Solid Waste in a manner consistent with 14 CCR sections 18984.1 and 18984.2, or shall

haul Organic Waste to a High Diversion Organic Waste Processing Facility as specified in 14 CCR Section 18984.3.

- B. Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Green Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility.
- C. Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to Inspection by the city. The records shall include the following information:
 - 1. Delivery receipts and weight tickets from the entity accepting the waste.
 - 2. The amount of material in cubic yards or tons transported by the generator to each entity.
 - 3. If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste.
- D. Self-Haulers that are Commercial Businesses (including Multi-Family Self-Haulers) shall provide information collected in Section 13.28.210(C) to city if requested.
- E. A residential Organic Waste Generator that self hauls Organic Waste is not required to record or report information in Section 13.28.210(C) and (D).

13.28.220 – Inspections and Investigations by City.

- A. The city, authorized Department(s) and/or Designee(s) are authorized to conduct Inspections and investigations, at random or otherwise, of any collection

container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or Source Separated materials to confirm compliance with this chapter by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Tier One and Tier Two Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This section does not allow the city, authorized Department(s), and/or Designee(s) to enter the interior of a private residential property for Inspection.

- B. Regulated entities shall provide or arrange for access during all inspections (with the exception of residential property interiors) and shall cooperate with the city, authorized Department(s) and/or Designee(s) during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in containers, in-person or electronic review of Edible Food Recovery activities, records, or any other requirement of this chapter described herein. Failure to provide or arrange for access to an entity's premises or access to records for any Inspection or investigation is a violation of this chapter and may result in penalties described.
- C. Any records obtained by the city, authorized Department(s), and/or Designee(s) during Inspections, Remote Monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.
- D. The city, authorized Department(s) and/or their Designee(s) are authorized to conduct any Inspections, Remote Monitoring, or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws.
- E. The city, authorized Department(s), and/or Designee(s) shall receive written complaints, including anonymous complaints, regarding entities that may be in violation of this chapter. Complaints shall include the name and contact information of the complainant, if the complainant is not anonymous; the identity

of the alleged violator, if known; a description of the alleged violation including location(s) and all other relevant facts known to the complainant; any relevant photographic or documentary evidence to support the allegations in the complaint; and the identity of any witnesses, if known.

13.28.230 – Enforcement.

- A. *Responsible Entity for Enforcement.* Enforcement pursuant to this section may be undertaken by the following:
- (1) City Enforcement Official, which is the public services director and his/her designee, City Attorney, or combination thereof.
 - (2) Regional or County Agency Enforcement Official or other authorized Department(s) and/or Designee(s), as designated by the city and in consultation with the city Enforcement Official and his/her designee as needed.
 - (i) City Enforcement Official and Regional or County Agency Enforcement Official and/or other authorized Department(s) or Designee(s) when applicable, will interpret ordinance; determine the applicability of waivers, if violation(s) have occurred; implement Enforcement Actions; and, determine if compliance standards are met. The authorized Department(s) and/or Designee(s) will consult with the City Enforcement Official(s) and his/her designees as needed.
 - (ii) Enforcement Official(s), including City Enforcement Official and his/her designees, Regional or County Agency Enforcement Official or other authorized Department(s) and Designee(s), may issue Notices of Violation(s).
- B. *Notice of Violation.* Violation of any provision of this ordinance shall constitute grounds for issuance of a Notice of Violation. Before assessing an administrative citation and fine, the city or authorized Department(s) and/or Designee(s) shall issue a Notice of Violation requiring compliance within sixty days of issuance of

the Notice. The Notice shall include: (1) the name(s) of each person or entity to whom it is directed, (2) a factual description of the violations, including the regulatory section(s) being violated, (3) a compliance date by which the respondent is to take specified action(s), and (4) the penalty for not complying before the specified deadline.

C. *Extensions to Notice of Violation Compliance Deadlines.* The city, authorized Department(s) and/or Designee(s) may extend the compliance deadlines set forth in a Notice of Violation if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

1. Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;
2. Delays in obtaining discretionary permits or other government agency approvals;
3. Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the existence of a corrective action plan imposed by CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies; or
4. Any other circumstance in which the city, in their sole discretion, finds good cause to extend the compliance deadlines.

D. *Administrative Citations and Fines.* Absent compliance by the respondent within the deadline set forth in the Notice of Violation, the city or authorized Department(s) shall commence an action to impose penalties, via an administrative citation and fine. The city's procedures on imposition of administrative fines, or the procedures of the authorized Department as applicable, are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this ordinance and any rule or regulation adopted pursuant to this ordinance, except as otherwise indicated in this ordinance.

- E. *Amount of Fine.* The amount of the administrative fine for each violation of this chapter shall be as follows:
1. For a first violation, the amount of the base penalty shall be \$50 to \$100 per violation.
 2. For a second violation, the amount of the base penalty shall be \$100 to \$200 per violation.
 3. For a third or subsequent violation, the amount of the base penalty shall be \$250 to \$500 per violation.
- F. *Factors Considered in Determining Penalty Amount.* The following factors shall be used to determine the amount of the penalty for each violation within the appropriate penalty range:
1. The nature, circumstances, and severity of the violation(s).
 2. The violator's ability to pay.
 3. The willfulness of the violator's misconduct.
 4. Whether the violator took measures to avoid or mitigate violations of this chapter.
 5. Evidence of any economic benefit resulting from the violation(s).
 6. The deterrent effect of the penalty on the violator.
 7. Whether the violation(s) were due to conditions outside the control of the violator.
- G. *Hearing request.* Persons receiving an administrative citation for an uncorrected violation may request a hearing to contest the citation as provided in section 1.19.080, or per the established procedures of the authorized Department when applicable.
- H. *Other Remedies.* Other remedies allowed by law may be used to enforce this ordinance, including civil action or prosecution as misdemeanor or infraction. The city and/or authorized Department may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. The city or authorized

Department(s) may choose to delay court action until such time as court action is a reasonable use of staff and resources. Nothing in this section shall be construed as preventing a jurisdiction from revoking, suspending, or denying a permit, registration, license, or other authorization consistent with local requirements outside the scope of this chapter in addition to the imposition of penalties authorized under this section.

- I. *Education Period for Non-Compliance.* Beginning January 1, 2022 and through December 31, 2023, the city, authorized Department, and/or Designee will conduct Inspections, Remote Monitoring (if program is active), Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance. If the city, authorized Department(s) and/or Designee(s) determine that an Organic Waste Generator, Self-Hauler, hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, it shall provide educational materials to the entity describing its obligations under this ordinance and a notice that compliance is required. It shall also provide notice that violations may be subject to administrative civil penalties starting on January 1, 2024.
- J. *Process for Enforcement*
 1. The City Enforcement Official or designated city department(s), Regional or County Enforcement Officials or other authorized Department(s) and/or Designee(s) will monitor compliance with the ordinance randomly and through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program (that may include Remote Monitoring). Section 13.28.220 establishes the city's right to conduct inspections and investigations.
 2. *Contamination Processing Fees/Penalties.* For incidences of Prohibited Container Contaminants found in containers, city or authorized Department may issue a Notice of Violation to any generator found to have Prohibited Container Contaminants in a container. Such notice may be provided via a cart tag or other communication immediately upon identification of the

Prohibited Container Contaminants and no later than within one week after determining that a violation has occurred. If the city, authorized Department or Designee observes Prohibited Container Contaminants in a generator's containers on more than three consecutive occasion(s), the city may assess contamination processing fees or contamination penalties on the generator.

- K. *Civil Penalties for Non-Compliance.* Beginning January 1, 2024, if the city, authorized Department, or Designee determines that an Organic Waste Generator, Self-Hauler, hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this ordinance, it shall document the noncompliance or violation, and the city or authorized Department will issue a Notice of Violation, and take Enforcement Action pursuant to Section 13.28.230, as needed.
- L. *Enforcement Table.* Table 1 below is a list of most common likely violations related to this ordinance. Possible violations related to this ordinance are not limited to those listed in the table.

Table 1. List of Violations

Requirement	Description of Violation
Commercial Business and Commercial Business Owner Responsibility Requirements, Section 13.28.160	Commercial Business fails to provide or arrange for Organic Waste collection services consistent with city requirements and as outlined in this ordinance, for employees, contractors, tenants, and customers, including supplying and allowing access to adequate numbers, size, and location of containers and sufficient signage and container color.
Organic Waste Generator Requirements, Section 13.28.150 and 13.28.160	Organic Waste Generator fails to comply with requirements adopted pursuant to this ordinance for the collection and Recovery of Organic Waste.
Hauler Requirements, Section 13.28.200	A hauler providing residential, Commercial or industrial Organic Waste collection service fails to transport Organic Waste to a facility, operation, activity, or property that recovers Organic Waste, as prescribed by this ordinance.
Hauler Requirements, Section 13.28.200	A hauler providing residential, Commercial, or industrial Organic Waste collection service fails to obtain applicable approval issued by the city to haul Organic Waste as prescribed by this ordinance.
Hauler Requirements, Section 13.28.200	A hauler fails to keep a record of the applicable documentation of its approval by the city, as prescribed by this ordinance.
Self-Hauler Requirements, Section 13.28.210	A generator who is a Self-Hauler fails to comply with the requirements of 14 CCR Section 18988.3(b).

Commercial Edible Food Generator Requirements, Section 13.28.180	Tier One Commercial Edible Food Generator fails to arrange to recover the maximum amount of its Edible Food that would otherwise be disposed by establishing a contract or written agreement with a Food Recovery Organization or Food Recovery Service and comply with this section commencing Jan. 1, 2022.
Commercial Edible Food Generator Requirements, Section 13.28.180	Tier Two Commercial Edible Food Generator fails to arrange to recover the maximum amount of its Edible Food that would otherwise be disposed by establishing a contract or written agreement with a Food Recovery Organization or Food Recovery Service and comply with this section commencing Jan. 1, 2024.
Commercial Edible Food Generator Requirements, Section 13.28.180	Tier One or Tier Two Commercial Edible Food Generator intentionally spoils Edible Food that is capable of being recovered by a Food Recovery Organization or Food Recovery Service.
Organic Waste Generator, Commercial Business Owner, Commercial Edible Food Generator, Food Recovery Organization or Food Recovery Service, sections 13.28.160 and 13.28.180	Failure to provide or arrange for access to an entity's premises for any Inspection or investigation.
Recordkeeping Requirements for Commercial Edible Food Generators, Section 13.28.180	Tier One or Tier Two Commercial Edible Food Generator fails to keep records, as prescribed by Section 13.28.180.
Recordkeeping Requirements for Food Recovery Services and	A Food Recovery Organization or Food Recovery Service that has established a contract or written agreement to collect or receive Edible Food directly from

Food Recovery Organizations, Section 13.28.190	a Commercial Edible Food Generator pursuant to 14 CCR Section 18991.3(b) fails to keep records, as prescribed by Section 13.28.190.
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Section 3. Severability. Should any provision of this ordinance be deemed unconstitutional or unenforceable by a court of competent city, such provision shall be severed from the ordinance, and such severance shall not affect the remainder of the ordinance.

Section 4. Effective Date; Posting. This Ordinance shall take effect on January 1, 2022. The City Clerk is hereby directed to publish this Ordinance or a summary thereof pursuant to Government Code Section 36933.

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

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

MICHELLE BIGELOW, City Clerk

RICHARD CONSTANTINE, Mayor

CERTIFICATE OF THE CITY CLERK

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. _____, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the ____ day of _____, 2021.

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

DATE: _____

MICHELLE BIGELOW, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: November 17, 2021

PREPARED BY: Jennie Tucker, Recreation Manager
APPROVED BY: City Manager

RECEIVE OUTDOOR SPORTS CENTER USE UPDATE

RECOMMENDATION(S)

Receive report on the Outdoor Sports Center.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Maintaining Infrastructure
Supporting Our Youth
Seniors
and Entire Community

2020-2021 Strategic Priorities

Economic Development
Fiscal Sustainability

GUIDING DOCUMENTS

Bikeways
Trails
Parks
and Recreation Masterplan
Economic Blueprint

REPORT NARRATIVE:

BACKGROUND

This report is being brought to the City Council to provide an update on the operations of the Outdoor Sports Center. On July 9, 2019, MHOSC, LLC took over operations at the Outdoor Sports Center (OSC) through a two-year RFP process. Guided by Parks and Recreation Commission recommendations and City Council approval the partnership with the MHOSC was developed to achieve several outcomes:

- Balance community access with regional use
- Operate the OSC without any City subsidy
- Maintain the facility at an exceptional level
- Provide sustainable, fiscally responsible, and transparent operations
- Ensure a diverse mix of field use by sport type
- Coordinate and manage event parking plans
- Operations that integrate with:
 - o City facilities, including the adjacent Morgan Hill Dennis Kennedy Aquatics Center
 - o Local businesses and hotel operators
 - o Visit Morgan Hill

- Use innovative approaches to improvements to the facility, including making improvements to the OSC Facility and through partnerships with other partners/operators.

An important consideration must always be given in balancing cost recovery with community access. With this concept, the MHOSC as the operator, must balance regional event bookings and users funding the significant portion of the operations and maintenance, while still ensuring local users have access to the facilities. Historically, this provides for more regional use on weekends and more local use on weekdays.

The first two years of operation have been a challenge with the Covid-19 Pandemic changing operations drastically. However, City staff believe that the partnership with the MHOSC has helped to move towards reaching these outcomes at the OSC.

Agreement Key Points

The following sections are provided to remind the Council of the key points of the operating agreement with the MHOSC.

Facility Use and Management
The MHOSC is granted exclusive right and obligation to operate and maintain the OSC for sporting events and ancillary uses, and other appropriate uses at the OSC. This includes maintenance of the adjacent “Lomanto Property” area outside of the area used for Aquatics Center Parking. Furthermore, the City and operator must work jointly to manage parking for the Outdoor Sports Center/Aquatics Center area.

Term of Agreement
The initial term of the agreement is 10 years. The City may terminate early without cause after 5 years, but is responsible to pay for the depreciated value of the initial MHOSC \$400,000 investment.

Revenue Split
The operator shall pay 75% of its net profits to the City to be held in a reserve fund for replacement of major facility components (including artificial turf fields). The City shall have no responsibility for operator deficits.

Reporting
The operator shall provide biannual reports. Reports shall include a statement of revenue and expense, which coincides with the profit payment to be deposited in the reserve fund. Reports shall also include hours of usage by sport type and by user group. For major events (500 or more people) operator will provide more detailed information to support sports tourism management.

User Fees and Usage
The agreement includes several provisions that support the use by local user groups and a mix of sport types. This includes limitations on increases to existing fees (weekday practice uses) and ongoing fees for local and existing users. This also includes required 50% local use and 10% non-soccer uses at the facility. Local use is

defined as Morgan Hill youth sports program. The agreement further prevents MHOSC from reducing fees for its affiliate groups below the fees provided to other groups in the same categories.

Improvement

Program

MHOSC committed to spending \$400,000 on improvements to irrigation and turf within the facility, over the first five years of operation. This funding is above any routine maintenance funded through operational revenues. The City committed to and funded approximately \$150,000 in improvements at the OSC to help return the site to good condition. The total improvement amount equaling \$550,000. Additionally, funding from both organizations would go towards adding an additional half soccer field on much of the area currently used for the maintenance yard, as well as fencing to secure parking on the adjacent "Lomanto Property", and other improvements.

Annual Update

MHOSC has been managing the OSC for just over two years, most of which has been during the Covid-19 pandemic. Working closely with City teammates to ensure all proper safety protocols and operating requirements were being followed, MHOSC was able to continue to provide a safe place for local youth and adults to practice outdoors. While large events and tournaments have been limited, local and regional practices were still held. MHOSC has had to continue to cover the high expense to operate the OSC, without the additional revenue weekend tournaments bring in. MHOSC has lost significant dollars funding the operation of the facility through the Covid-19 pandemic but was a valuable resource for many local sports organizations.

The purpose of the partnership is to have an organization manage and operate the City owned facility with the same guiding principles of balancing cost recovery with community access that the City and Community Services Department follow. MHOSC puts a great deal of effort into working with local groups. The terms in the agreement regarding local user fees and usage are constantly being evaluated by City teammates. The great working partnership and communication between the City and MHOSC helps ensure these principles are being met.

During this past fiscal year, MHOSC was able to provide 2,492 hours to local users and 1,212 hours to regional users. With large events and tournaments normally held on weekends, the weekday usage at the OSC is typically local and resident groups. During the pandemic, more local use was available on weekends than in the past since there was a pause on large events. The OSC has seen larger events coming back this year and anticipates even more in the future, which will help with the cost of operating the facility. The larger weekend events help promote tourism in the City as well as help keep the fees for local, weekday usage down. MHOSC is committed and obligated to continue to provide local usage and lower fees as per the operating agreement.

Currently the groups utilizing the OSC are soccer, cricket, lacrosse, flag football and regular football. The hourly use by percentage for the last fiscal year was:

74% Soccer (Audax, Orchard Valley, Local High Schools and Middle Schools)

15% Cricket
11% Other (Football, Lacrosse)

The only major regional event held in Fiscal Year 2020/21 was the CrossFit Games. During the planning phases the event location needed to remain confidential so competitors did not get added advantage. MHOSC worked meticulously with the organizers to keep the venue a secret from the competitors and provide a safe place to host the regional event. The event gained national media attention and Morgan Hill and the OSC received a lot of media coverage. MHOSC anticipates more tournaments and large events to take place this fiscal year and are working hard to schedule and secure these events.

Improvements and Upgrades

As outlined in the agreement, MHOSC committed to spending \$400,000 on improvements. The MHOSC team has been diligently making these improvements so far expending approximately \$354,000. The significant improvements and upgrades over the last couple of years include:

- Sprinklers installed on all six (6) south side fields – MHOSC Funded
- Sprinklers installed along North fence line – MHOSC Funded
- Well upgrade – MHOSC Funded
- Large Concrete Walkway to replace gravel path – MHOSC Funded
- Remodeled bathrooms – City Funded
- New football scoreboard with horn and wireless controls – City Funded
- Renovated picnic area surfacing next to concession stands – MHOSC Funded
- Cricket pitches installed between soccer fields – MHOSC Funded
- Landscape replanting along turf fields – MHOSC Funded
- Reseeding for turf improvements – MHOSC Funded
- New field separation netting between turf fields – MHOSC Funded

Goals and Work Plan

As MHOSC and the community emerge from the Covid-19 pandemic, increased usage, diversity of events and diversity of users will be a focus for the OSC. MHOSC plans to continue their successful collaboration with the City, local schools and sports tourism groups over the next year. They are also planning on connecting with past users and continuing field development ideas in the area.

COMMUNITY ENGAGEMENT: Inform

During the RFP process, City teammates performed a variety of outreach to local sports organizations and the community in general through the process. Multiple local

organizations submitted proposals. Coordination on the process also involved the local business community through the Chamber of Commerce and the local hotel group.

ALTERNATIVE ACTIONS:

Not Applicable. City Council may provide feedback to City staff on operations.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

- May 19, 2010 - Selected the MHYSA as the operator of the OSC
- June 16, 2010 - Approved the Concessionaire Agreement with the MHYSA
- June 19, 2013 - Approved First Amendment to Concessionaire Agreement with the MHYSA
- September 24, 2014 - Audits of MHYSA operations of OSC presented
- October 1, 2014 - Council received OSC operations update and directed staff to offer the MHYSA a one-year extension to the Concessionaire Agreement
- December 3, 2014 – Council approved Second Amendment to the Concessionaire Agreement with the MHYSA extending it for one year through June 2016
- February 17, 2015 – The Parks and Recreation Commission reviewed operations and made a recommendation to Council on future OSC operations
- March 4, 2015 – Council directed staff to negotiate an agreement extension with the MHYSA
- May 18, 2016 – City approved Third Amendment to the Concessionaire Agreement with the MHYSA extending it for an additional three years and updating various provisions.
- May 17, 2017 – City staff presented an update on OSC operations and made recommendations on future operations.
- July 19, 2017 – The City Council directed City Staff to issue an RFP for operations of the Outdoor Sports Center and approved the guiding principles for the RFP.
- January 17, 2018 – The City Council directed City Staff to request full proposals from NewCo (now MHOSC, LLC) and Sports Facilities Management.
- March 20, 2018 – The Parks and Recreation Commission recommended to the City Council that City staff move forward with negotiations with NewCo to operate the Outdoor Sports Center
- April 4, 2018 – The City Council directed staff to negotiate an operator agreement with NewCo to operate the Outdoor Sports Center
- December 19, 2018 – The City Council approved the Operations and Maintenance Agreement with MHOSC, LLC to operate the Outdoor Sports Center

FISCAL AND RESOURCE IMPACT:

The current operating agreement is structured for the City to have no ongoing operating costs other than contract oversight and inspection costs. On years MHOSC is successful financially, the City will see funds contributed to the facilities replacement fund. The operator's capital improvements and the operator's connections to tournament organizers should result in increased sports tourism and related transit

occupancy and sales tax revenues in future years. At this point, no revenue has been received from the operator.

CEQA (California Environmental Quality Act):

Categorical Exemption

The planned maintenance and management of city facilities falls within the CEQA categorical exemption of Class 1, Existing Facilities.



CITY COUNCIL STAFF REPORT

MEETING DATE: November 17, 2021

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

APPROVE AN AFFORDABLE HOUSING AGREEMENT WITH BROOKFIELD PROPERTIES FOR THE RESIDENTIAL DEVELOPMENT ROSEWOOD, BFH CM, LLC. TO ACCEPT A HOUSING IN-LIEU FEE AS SATISFACTION FOR 50% OF THE INCLUSIONARY REQUIREMENT

RECOMMENDATION(S)

Authorize the City Manager to execute an Affordable Housing Agreement with BFH CM, LLC. The agreement will be negotiated and subject to the review and approval by the City Attorney.

COUNCIL PRIORITIES, GOALS & STRATEGIES

Ongoing Priorities

Supporting Our Youth
Seniors
and Entire Community
Enhancing Equity
Diversity and Inclusiveness
Advancing Regional Initiatives

2020-2021 Strategic Priorities

Affordable Housing and Homelessness

GUIDING DOCUMENTS

Morgan Hill 2035 General Plan

POLICY CONSIDERATIONS:

Should the City accept a housing in-lieu fee payment for fifty percent (50%) of the Inclusionary Housing Ordinance (IHO) requirement for the Rosewood by Brookfield project to facilitate the future development of very low and extremely low-income housing goals or require that all Below Market Rate units be constructed within the project? Note, if a payment is accepted for 50% of the obligation, the remaining 50% of the obligation remains intact.

REPORT NARRATIVE:

The proposed project, Rosewood by Brookfield, (previously known as Lillian Commons, also referred to as Juan Hernandez - MH Medical Properties), includes a 120-unit residential development, located at 16130 Juan Hernandez Drive, on the southeast corner of Barrett Avenue and Juan Hernandez Drive (APNs 817-09-039, 817-09-040 and 817-09-041). The project proposes a range of housing types, including three and four-bedroom units and affordable units. The housing would be conveniently co-located with services including medical office / hospital, retail uses, open space/park uses, and Barrett Elementary School.

The City's Inclusionary Housing Ordinance (IHO) (Chapter 14.04 of the Morgan Hill Municipal Code) requires that 15% of the project's 120 units be Below Market Rate (BMR) homes. BMR homes are made available at affordable rents or sales prices and are deed-restricted for a term. The Rosewood Project's Affordable Housing obligation is to construct eighteen (18) BMR units. While it has been the practice to require construction of all of the BMR units within the development, the IHO permits the payment of a housing in-lieu fee as one of the alternative modes of compliance subject to City Council approval. The applicant's request to meet 50% of its obligation by paying in-lieu fees is authorized by the current IHO with City Council approval, and is consistent with proposed amendments to the IHO that have been recommended by the Planning Commission.

In May and June of 2021, staff held a series of Housing workshops, at which the Council expressed the need to meet the City's RHNA numbers at all affordability levels, as soon as possible to protect the City from being subject to SB35, which allows projects to be constructed through a streamlined ministerial review process, bypassing CEQA review and eliminating any public engagement. SB35 applies when a municipality has not met their total RHNA allocation. Despite the fact that the City of Morgan Hill has exceeded most of its RHNA requirements by 222%, the City remains subject to SB35 because the required number of very low-income units has not been produced. The City has not traditionally been able to meet the very low-income RHNA requirement because VLI units are primarily rental and require services.

5th Cycle (2015 - 2023) Summary with Affordable Units

Morgan Hill	RHNA Goal	Units Permitted	Units Pledged	Remaining / (Surplus)	% Complete
VLI	273	80	264	193	29.3%
LI	154	190	44	(80)	123%
Mod	185	404	382	(601)	218%
Above Mod	316	1431	TBD	(1115)	453%
TOTAL	928	2,105	690	(1603)	227%

Currently, in the current 5th RHNA cycle (2015-2023), Morgan Hill has exceeded its total RHNA goal of 928 by producing 2,105 homes since 2014. The last remaining goal

is 193 very low-income units.

In light of the need to meet the increased number of deeper affordable units earlier in the Housing Element planning cycle (2023-2031), the City will need to be strategic and deliberate. To this end, staff is working on an amendment to the IHO that would create a hybrid model that among other modifications, would allow developers to pay up to 50% of their BMR obligations through an in-lieu fee. This would allow the City to generate funds that could be targeted for the development of very low and extremely low-income units. These funds will facilitate the City's ability to provide local housing match dollars to leverage 100% affordable projects for these very low (VLI) and extremely low-income (ELI) units that are so difficult to achieve.

Consistent with proposed changes to the IHO, staff is recommending the City Council approve an alternative hybrid approach for the proposed Rosewood project, allowing an in-lieu fee payment for fifty percent (50%) of the Inclusionary Housing Ordinance (IHO) requirement. In this scenario, half of the IHO obligation would be met with a housing in-lieu fee; thus, nine (9) of the 18 required BMR units would be paid for and not constructed. The other 9 BMR units would be built under the existing policies of the IHO and sold to first-time homebuyers at 120% of the Area Median Income (AMI). (See 2021 BMR Sales Price table) The City would receive housing in-lieu fees totaling \$2,378,824.29 (or \$264,313.81 per each of the nine BMRs) prior to issuance of building permits per the agreed upon phasing schedule.

The proposal was analyzed with respect to consistency with the 2015-2023 Housing Element Strategies:

1. Build new housing to meet the full range of future community housing needs, including affordability and accessibility.
2. Build housing for groups with special needs.
3. Ensure a range of housing types for all age groups, served by transit, recreational amenities, shopping and health and personal services, that allow residents to age in place.
4. Preserve and rehabilitate existing affordable housing in the community.

COMMUNITY ENGAGEMENT: INFORM

This staff report serves to inform the community of the proposed Affordable Housing agreement with BFH CM, LLC for the Rosewood residential development by Brookfield Properties.

ALTERNATIVE ACTIONS:

The City Council could choose to not allow a 50% in-lieu payment for the required BMR requirement and require the developer to construct all 18 units. This alternative would also satisfy the IHO obligation.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

On September 29, 2020, the Planning Commission held a public hearing; adopted a Resolution recommending the City Council approve the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for the project; adopted a Resolution recommending the City Council approve an amendment to the General Plan land use designation; adopted a Resolution recommending the City Council approve a Zoning Amendment for a Planned Development Combining District; and adopted a Resolution recommending the City Council approve a Tentative Parcel Map for the project site (previously known as Lillian Commons) consisting of a 4,500 square foot urgent care facility, a 10,000 square foot medical building, a 100,000 square foot medical office/hospital with 55 beds, a three-story parking garage, a 10,000 square foot commercial retail/restaurant building, and up to 150 dwelling units.

On November 4, 2020, the City Council held a public hearing; adopted a Resolution approving the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for the project; adopted a resolution approving an amendment to the General Plan land use designation; introduced the Zoning Amendment Ordinance; and adopted a Resolution approving a Tentative Parcel Map for the project site.

On November 18, 2020, the City Council adopted an ordinance approving a Zoning Map Amendment for a Mixed Use Flex and Planned Development combining district and Master Plan for the Mixed Use Development.

FISCAL AND RESOURCE IMPACT:

The recommended option allows the City to collect \$2,378,824.29 in Housing In-Lieu fee funds (Fund 236) should the City move forward with the approval of the Affordable Housing Agreement (AHA).

CEQA (California Environmental Quality Act):

This AHA is exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines, it is not a project with potential for causing a significant effect on the environment requiring California Environmental Quality Act (CEQA) analysis.

LINKS/ATTACHMENTS:

1. Rosewood - Inclusionary Affordable Housing Agreement Final
2. EXHIBIT B Rosewood - Construction Phasing
3. Morgan Hill Pricing 5.13.2021v2 - Grid 2021_202109011837427314

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037
Attention: Community Development Agency

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE §27383

Space above this line for Recorder's use.

APN: _____

AFFORDABLE HOUSING AGREEMENT
(City of Morgan Hill Inclusionary Housing Program)

(Rosewood by Brookfield)

This Affordable Housing Agreement (this “**Agreement**”) is entered into effective as of _____, 2021 (the “**Effective Date**”) by and among the City of Morgan Hill, a California municipal corporation (“**City**”), BFH CM, LLC, a Delaware limited liability company (“**Developer**”), and HouseKeys Inc., a California corporation (“**Administrator**”). City, Developer, and Administrator are referred to herein individually as a “Party” and collectively as the “Parties.”

RECITALS

The following recitals are an integral part of this Agreement and are binding on the Parties. Capitalized terms used in these Recitals and elsewhere in this Agreement shall have the meanings ascribed to such terms as set forth in Section 2 below.

A. Developer is the owner of the real property located in the City of Morgan Hill, California located at 16130 Juan Hernandez Drive, known as Santa Clara County Assessor’s Parcel Nos. 817-09-039, 817-09-040, and 817-09-041, and more particularly described in Exhibit A attached hereto (the “**Property**”).

B. Developer intends to construct a 120-unit residential development (the “**Project**”) on the Property in accordance with the Site Plan and all conditions of approval issued by City related to development of the Property and the Project (“**Conditions of Approval**”).

C. Pursuant to the City’s Inclusionary Housing Ordinance (Morgan Hill Municipal Code Title 14, Chapter 14.04), developers of residential projects in the City are required to either construct a specified percentage of affordable housing units on-site within the project or comply with the Inclusionary Housing Ordinance by satisfying an alternative means of compliance as set forth in Section 14.04.070 of the Inclusionary Housing Ordinance.

Attachment: Rosewood - Inclusionary Affordable Housing Agreement Final (3217 : APPROVE AFFORDABLE HOUSING AGREEMENT,

D. As more particularly set forth herein, to comply with the Inclusionary Housing Ordinance, Developer has agreed to (i) sell nine (9) residential units in the Project to Eligible Households at Affordable Sales Price, and (ii) pay to City a fractional in lieu fee in the amount of Two Million, Three Hundred Seventy-Eight Thousand, Eight Hundred Twenty-Four and 29/100 Dollars (\$2,378,824.29).

E. This Agreement is intended to satisfy the requirements of the City's Inclusionary Housing Ordinance, and to regulate and restrict the Project's Restricted Units for sale to Eligible Purchasers at Affordable Sales Prices. The Parties intend the covenants set forth in this Agreement to run with the land and to be binding upon Developer and Developer's successors and assigns.

F. As more particularly specified herein, the City has delegated responsibility for administering and monitoring compliance with the requirements of this Agreement to Administrator pursuant to the Administrative Services Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Recitals Incorporated. The Recitals set forth above are hereby incorporated into this Agreement.
2. Definitions. The following terms shall have the meanings set forth below whenever used in this Agreement or the Exhibits hereto, unless the context clearly indicates otherwise.

"Actual Household Size" means the actual number of persons in the applicable household.

"Administrative Services Agreement" means that certain Consultant Agreement, dated July 15, 2015, and executed by and between City and Administrator, as such agreement may be amended or replaced from time to time.

"Administrator" means HouseKeys Inc., a California corporation, and any other person or entity to which City delegates the responsibilities of the Administrator under this Agreement.

"Affordable Housing Cost" means a monthly obligation to pay mortgage payments (principal and interest), property taxes, property insurance, mortgage insurance, utilities, and homeowners' association dues (if applicable) in an aggregate amount not greater than the following: for units that are restricted for sale to Moderate-Income Households - one-twelfth of thirty-five percent (35%) of one hundred twenty percent (120%) of Area Median Income, adjusted for Household Size Appropriate for the Unit.

"Affordable Sales Price" means the maximum sales price for a Restricted Unit as determined by the City pursuant to Section 11.F, below and Exhibit C that will result in an Affordable Housing Cost for the homebuyer.

"Area Median Income" or "AMI" means the median annual income for Santa Clara County, California, adjusted for Actual Household Size, as determined by the U.S. Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937 and as published from time to time by the State of California Department of Housing and Community Development in Section 6932 of Title 25 of the California Code of Regulations or successor provision published pursuant to California Health and Safety Code Section 50093(c).

"City" means the City of Morgan Hill, California

"City's Authorized Representative" means the City Manager of the City of Morgan Hill.

"City Council" means the City Council of the City of Morgan Hill.

"Claims" is defined in Section 15.

"Conditions of Approval" is defined in Recital B.

"Developer" is defined in the preamble to this Agreement. Each reference herein to the "Developer" shall mean the Developer and the Developer's successors and assigns.

"Eligible Purchaser" means a person whose annual household Gross Income does not exceed the qualifying limit for Moderate-Income Households and who demonstrates to the reasonable satisfaction of the Administrator that he or she:

- (i) Is a First-Time Homebuyer as defined in 24 CFR 92.2;
- (ii) Will provide personal funds (cannot be financed) in the amount of at least three percent (3%) of the purchase price of the Restricted Unit;
- (iii) Will qualify for and obtain a mortgage loan to finance acquisition of the Restricted Unit in a maximum amount equal to ninety-seven percent (97%) of the sales price plus closing costs;
- (iv) Will, after purchase of a Restricted Unit, have a monthly housing cost (principal, interest, taxes, insurance and homeowner association fees) that does not exceed Affordable Housing Cost;
- (v) Will, after purchase of a Restricted Unit, have a total debt (housing cost and all other monthly debt service payments) that does not exceed forty-five percent (45%) of his or her monthly household Gross Income;
- (vi) In the acquisition of a Restricted Unit, agrees to use a lender from the approved lender list maintained by the Administrator;
- (vii) Has provided verification satisfactory to the Administrator of income, job history, and prior home ownership history.

“Excess Proceeds Note” means the Secured Promissory Note that each purchaser of a Restricted Unit will be required to execute for the benefit of City at the closing for the purchase of the Restricted Unit. The Excess Proceeds Note shall be in a form approved by City and provided by the Administrator.

“Gross Income” shall have the meaning set forth in Section 6914 of Title 25 of the California Code of Regulations as such Section may be revised from time to time, and shall mean the combined Gross Income of all adult persons in the applicable household.

“Household Size Appropriate for the Unit” means the number of bedrooms in a dwelling unit plus one, consistent with Section 50052.5(h) of the California Health and Safety Code, subject to the application of federal rules and regulations applicable to Project financing sources (if any).

“Inclusionary Housing Ordinance” means Morgan Hill Municipal Code Title 14, Chapter 14.04, adopted by Ordinance No. 2278, and amended by Ordinance No. 2299.

“Indemnitees” is defined in Section 10.

“Map” means the final Subdivision Map for the Property that will be recorded in the Official Records.

“Moderate-Income Household” means a household whose annual household Gross Income does not exceed one hundred twenty percent (120%) of AMI, adjusted for Actual Household Size.

“Official Records” means the Official Records of the Santa Clara County Recorder.

“Performance Deed of Trust” means the Performance Deed of Trust and Assignment of Rents, that each purchaser of a Restricted Unit will be required to execute for the benefit of City to secure the homebuyer obligations under the Resale Restriction Agreement and the Excess Proceeds Note. The Performance Deed of Trust will be in a form approved by City and provided by the Administrator, and will be recorded in the Official Records at the closing for the sale of each Restricted Unit.

“Project” is defined in Recital B.

“Property” is defined in Recital A.

“Resale Restriction Agreement” means the Affordable Housing Resale Restriction Agreement and Option to Purchase that each purchaser of a Restricted Unit will be required to execute at the closing for the purchase of the Restricted Unit. The Resale Restriction Agreement shall be in a form approved and executed by City and provided by the Administrator, and will be recorded in the Official Records against the Restricted Unit at the closing for the sale of the Restricted Unit.

“Restricted Units” means the nine (9) residential units to be constructed within the Project that are required to be sold at Affordable Sales Price to Eligible Purchasers pursuant to this Agreement.

“Site Plan” means the site plan for the Project attached hereto as Exhibit B or such amended site plan in substantial conformance therewith as approved by the City Council in conjunction with its approval of the Project. The Site Plan depicts the location of the Restricted Units.

3. Compliance with Inclusionary Housing Ordinance; Conditions of Approval. Developer shall construct the Project in accordance with plans approved by City, and shall satisfy all Conditions of Approval, including without limitation, all contingencies regarding the issuance of permits, entitlements, and certificates of occupancy for the Project, which shall remain in full force and effect and unmodified by this Agreement. Developer shall comply with the Inclusionary Housing Ordinance by selling nine (9) residential units developed within the Project to Eligible Households at Affordable Sales Prices in accordance with the terms of this Agreement, and paying a Fractional In-Lieu Fee as described in Section 5 below.

4. Restricted Units, Income Categories. Developer hereby covenants and agrees for itself and its successors and assigns, that all of the Restricted Units shall be sold to Eligible Households at Affordable Sales Price in accordance with this Agreement. The Restricted Units shall consist of nine (9) four-bedroom units, and shall be restricted for sale at Affordable Sales Prices to Eligible Purchasers of the Income Categories shown in the following table. In connection with the sale of each Restricted Unit, the City and the homebuyer shall execute a Resale Restriction Agreement that will be recorded against the Restricted Unit, the homebuyer will be obligated to execute and deliver to City an Excess Proceeds Note, and the homebuyer will be obligated to execute a Performance Deed of Trust that will be recorded against the Restricted Unit. Among other requirements, the Resale Restriction Agreement for each Restricted Unit shall provide that the Restricted Unit must be occupied as the homebuyer’s principal residence.

Unit Size	Moderate-Income (120% AMI)	Total Units
Four-Bedroom □	9	9
Total Units	9	9

5. Payment of Inclusionary Housing In-Lieu Fee. Pursuant to Sections 14.04.040 and 14.04.070.D of the Inclusionary Housing Ordinance, Developer shall pay the sum of Two Million, Three Hundred Seventy-Eight Thousand, Eight Hundred Twenty-Four and 29/100 Dollars (\$2,378,824.29) (the **“Fractional In-Lieu Fee”**). Pursuant to Paragraph D.4 of Section 14.04.070 of the Inclusionary Housing Ordinance, the Fractional In-Lieu Fee must be paid to City in full prior to, and as a condition of, the issuance of building permits for the Project. If building permits are initially issued for only some of the units in the Project, the Fractional In-

Lieu Fee shall be due and payable on a pro rata basis in proportion to the number of units for which building permits are issued.

6. Phasing; Location; Amenities. The Restricted Units shall be constructed and made available for sale to Eligible Households concurrently with the market-rate units in each phase of construction of the Project as follows; provided however, in Developer's discretion, Developer may provide Restricted Units in earlier phases than those specified below:

Phase	Number of Restricted Units	Unit Size	Income Category
		4-BR	
<u>Townhomes</u>			
Phase #1 (units 1 thru 6)	In lieu fee paid		
Phase #3 (units 12 thru 15)	In lieu fee paid		
Phase #4 (units 16 thru 19)	In lieu fee paid		
Phase #6 (units 26 thru 30)	In lieu fee paid		
Phase #7 (units 31 thru 35)	In lieu fee paid		
-			
Phase 8 (units 36 thru 40)	1	4	Moderate-Income
Phase #10 (units 45 thru 48)	1	4	Moderate-Income
Phase #11 (units 49 thru 53)	1	4	Moderate-Income
Phase #12 (units 54 thru 59)	1	4	Moderate-Income
Phase #13 (units 60 thru 64)	1	4	Moderate-Income
Phase #15 (units 70 thru 74)	1	4	Moderate-Income
Phase #16 (units 75 thru 78)	1	4	Moderate-Income
Phase #17 (units 79 thru 84)	1	4	Moderate-Income
<u>Duets</u>			
Phase #2 (units 5 thru 8)	In lieu fee paid		
Phase 4 (units 13 thru 16)	In lieu fee paid		
Phase #5 (units 17 thru 22)	In lieu fee paid		
Phase #6 (units 23 thru 28)	In lieu fee paid		
-			
Phase 7 – specific unit to be determined but in no case anything later than the 32 nd of 34 units total)	1	4	Moderate-Income

The Restricted Units shall not be concentrated in one location within the Project, nor clustered on one floor or within one area within any particular building comprising the Project, but instead shall be dispersed throughout the Project, and shall be located as shown on the Site Plan. The

Restricted Units shall be comparable to the market-rate units in the Project in their appearance, materials, and exterior and interior finishes, appliances, and fixtures. The Restricted Units must contain dishwashers, refrigerators, garbage disposals, cooking facilities, and laundry facilities. The City and the Administrator shall have the right to inspect the Restricted Units to determine whether they have been constructed in accordance with this Section. Residents of Restricted Units shall have access to all Project amenities and recreational facilities available to residents of the Project's market-rate units.

7. Recordation of Agreement; Term. This Agreement shall be recorded against the Property in the Official Records promptly following its execution by all Parties, and as a condition precedent to the recordation of a final subdivision map for the Property. This Agreement shall remain effective and fully binding regardless of any sale, assignment, transfer, or conveyance of the Property or the Project or any part thereof or interest therein, and shall remain in effect until the Fractional In Lieu Fee has been paid in full to City and all Restricted Units have been sold at Affordable Sales Prices to Eligible Households in accordance with this Agreement.

8. No Subordination. Developer hereby represents, warrants and covenants that with the exception of easements of record, absent the written consent of City which City may grant or withhold in the exercise of its sole discretion, this Agreement shall not be subordinated in priority to any lien (other than those pertaining to taxes or assessments), encumbrance, or other interest in the Property or the Project. If at the time this Agreement is recorded, any interest, lien, or encumbrance has been recorded against the Project in position superior to this Agreement, upon the request of City, Developer hereby covenants and agrees to promptly undertake all action necessary to clear such matter from title or to subordinate such interest to this Agreement consistent with the intent of and in accordance with this Section 8, and to provide such evidence thereof as City may reasonably request.

9. Binding on Successors; Covenants Run with the Land. Developer hereby subjects the Property to the covenants and restrictions set forth in this Agreement. The Parties hereby declare their express intent that the covenants and restrictions set forth herein shall be deemed covenants running with the land pursuant to California Civil Code §1468, and subject to the provisions of Section 10 below, shall be binding upon and inure to the benefit of the respective heirs, administrators, executors, successors in interest, transferees, and assigns of Developer and City, regardless of any sale, assignment, conveyance or transfer of the Property or any part thereof or interest therein. So long as this Agreement remains of record, any conveyance of the Property shall be conclusively held to have been delivered and accepted subject the requirements set forth in this Agreement, without regard to whether any party to such transaction has actual knowledge of the restrictions hereof. The burden of this Agreement touches and concerns each of the Restricted Units, the Project and the Property in that the restrictions set forth herein may render the owner's interest therein less valuable, and they enhance and increase the enjoyment and use of the Project, the Property and the Restricted Units by Eligible Purchasers who will benefit from such covenants and restrictions. Developer agrees for itself and for its successors that in the event that a court of competent jurisdiction determines that the covenants herein do not run with the land, such covenants shall be enforced as equitable servitudes against the Property in favor of City.

10. Reconveyance. Concurrently with the sale of each Restricted Unit to an Eligible Purchaser and recordation of the Resale Restriction Agreement and the Performance Deed of Trust, the Parties shall execute and record appropriate instruments to release and reconvey this Agreement as to such Restricted Unit. Such instrument shall be deposited with the escrow holder with instructions to record it concurrently with the close of escrow for the sale of the Restricted Unit to the Eligible Purchaser. Upon the sale of all Restricted Units, this Agreement shall terminate, and Developer shall be released from all obligations hereunder except those that expressly survive termination. Nothing contained herein shall terminate Developer's obligations if any, with regard to the construction and quality of the Restricted Units, which obligations shall survive the sale of the Restricted Units and shall terminate only as provided by law.

11. Sale of Restricted Units. The initial sale of the Restricted Units shall be subject to the following terms and conditions:

- A. Eligible Purchasers. The Restricted Units may be sold only to Eligible Purchasers who qualify as Moderate-Income Households as solely determined by City and/or Administrator. In the event that there are more interested Eligible Purchasers than the available Restricted Units, then the Administrator shall select the purchaser in a manner consistent with City policies and procedures in effect at the time of sale. Developer shall have no responsibility for this determination.
- B. Notifications. The Developer shall provide notice of availability of Restricted Units to the Administrator and the City at least 120 days prior to the expected date of issuance of the certificate of occupancy for the Restricted Units.
- C. Administrator to Screen and Select Buyers and Facilitate Closing. The Administrator will pre-screen and select the Eligible Purchasers in accordance with the City's policies and procedures. The Administrator will assist the Developer to facilitate the close of escrow and will be responsible for obtaining Eligible Purchaser signatures and depositing into escrow all documents required under the City's Inclusionary Housing Program, including without limitation, a Resale Restriction Agreement, an Excess Proceeds Note, and a Performance Deed of Trust. The Administrator will perform these functions in coordination with the Developer, and Developer will compensate Administrator for such services in accordance with Section 14 below and Exhibit D.
- D. Marketing Restricted Units. Administrator shall be solely responsible for marketing the Restricted Units. Developer shall not be responsible for marketing, and shall not market, the Restricted Units. Furthermore, Developer's sales personnel shall not communicate with potential buyers concerning eligibility and/or availability of Restricted Units for sale. All communication regarding the Restricted Units shall come from the Administrator or the City. Notwithstanding the foregoing, Developer shall not be precluded from offering closing cost concessions or other incentives provided that any such offers are coordinated with the Administrator.

- E. Mortgage Lending. Each Eligible Purchaser must work with a mortgage lender that has been approved by the Administrator, that has provided pre-approval of the forms of Resale Restriction Agreement, Performance Deed of Trust, and all other City-required documents associated with the sale of the Restricted Units, and that has been included on the approved lender list for at least sixty (60) days prior to the closing for the sale of a Restricted Unit. For the purpose of ensuring that risk to the Eligible Purchaser and the City is minimized, the proposed mortgage financing terms are subject to approval by the Administrator. Except as approved by the Administrator, the first mortgage loan shall have a fixed interest rate and a 30-year term. Developer shall have no responsibilities with respect to the selection of lenders or approval of mortgage terms for the Restricted Units.

 - F. Sale Price. Sale prices for the Restricted Units shall be the Affordable Sales Price for Eligible Purchasers based upon the Household Size Appropriate for the Unit. The Affordable Sales Price shall be determined by the City in accordance with Exhibit C. The Affordable Sales Price may increase or decrease to reflect annual changes in the Area Median Income.

 - G. Purchase and Sale Agreement. The purchase and sale agreement to be used for the sale of each Restricted Unit by Developer to the Eligible Purchaser shall be in the form approved for the Project by the California Department of Real Estate, or by the Administrator, as applicable. The purchase and sale agreement shall provide that all conditions to closing shall be satisfied and the close of escrow shall occur by not later than the ninetieth (90th) day (or the first business day thereafter, if the ninetieth (90th) day is a Saturday, Sunday, or holiday) after execution of the purchase and sale agreement, and shall provide that Developer shall have the right to terminate the agreement if closing does not occur on or before such deadline unless the parties mutually agree to an extension of the closing date. Upon termination of the purchase and sale agreement, the Administrator shall promptly identify the next priority Eligible Purchaser.

 - H. Closing Documents. The Administrator will provide escrow instructions on behalf of City regarding recordation of the Resale Restriction Agreement and Performance Deed of Trust. Within five (5) business days following closing for the sale of any Restricted Unit, Developer shall forward to the Administrator copies of the buyer's and seller's settlement statements and all closing documents executed in connection with the sale. Developer shall retain all records related to the sale of the Restricted Units and compliance with obligations under this Agreement for a period not less than two (2) years from the date of sale of each Restricted Unit, and upon five (5) business days' written notice, shall make them available to employees or other designees of City and/or Administrator for the purpose of inspection and copying.
12. Duties of Administrator. Administrator shall carry out its responsibilities in connection with the marketing and sale of the Restricted Units and the selection of Eligible Purchasers in accordance with the terms and conditions of the Agreement and the Administrative Services

Agreement. Pursuant to the Administrative Services Agreement and this Agreement, the Administrator shall perform the following services, among others:

- A. Conduct ongoing homebuyer education training programs, including preparation of program materials;
- B. Screen and select and qualified buyers according to City policies and procedures;
- C. Assist in arranging mortgage financing for purchase of the Restricted Units;
- D. Administer programs for monitoring compliance with terms and conditions of Restricted Unit sales;
- E. Administer City requirements concerning the future resale of the Restricted Units, including, if applicable, exercise of the City's option to buy the Restricted Units, and assist in resale of Restricted Units to Eligible Purchasers; and
- F. Comply with all other responsibilities of the Administrator under this Agreement and the Administrative Services Agreement.

13. City Rights Regarding Administrator. Developer acknowledges that City and Administrator have the right to terminate the Administrative Services Agreement without cause at any time on thirty (30) days written notice, and that City may also terminate the Administrative Services Agreement for cause at any time on written notice. If the Administrator resigns or the Administrative Services Agreement is terminated, City shall have the right to appoint a successor to carry out the Administrator's responsibilities under this Agreement, or City may elect to undertake these responsibilities itself. Upon any resignation or termination, Administrator shall act with due diligence and in good faith to turn over to City or to such party as City may designate in writing all records related to the Project and the Restricted Units, and shall brief City and such designee on the status of all Restricted Units. In connection with the sale of the Restricted Units, Developer agrees to cooperate with City, Administrator, and any successor City designates to fulfill the role of Administrator hereunder.

14. Administrator's Compensation and Expenses. Developer shall compensate the Administrator for its activities pursuant to this Agreement in accordance with the schedule of compensation specified in Exhibit D. Administrator is a consultant hired by the City, and shall not be deemed to be a consultant, contractor, or employee of Developer.

15. Hold Harmless and Indemnification. To the greatest extent permitted by law, Developer will indemnify, defend (with counsel approved by City) and hold harmless City and Administrator and their respective elected and appointed officials, officers, employees, agents, consultants, contractors, and board members (all of the foregoing, collectively the "**Indemnitees**") from and against all liability, loss, cost, expense (including without limitation attorneys' fees and costs of litigation), claim, demand, action, suit, judicial or administrative proceeding, penalty, deficiency, fine, order, and damage (all of the foregoing collectively "**Claims**") arising directly or indirectly, in whole or in part, as a result of or in connection with or relating in any manner to the Property, the Project, the Restricted Units, or Developer's performance or non-performance under this Agreement, except to the extent arising from the

negligence or willful misconduct of the Administrator or the gross negligence or willful misconduct of the other Indemnitees. The provisions of this Section shall survive the expiration or other termination of this Agreement and the release of part or all of the Property from the burdens of this Agreement.

16. Administrator Disclosure and Indemnity. Some of the duties to be performed under this Agreement by the Administrator require a real estate license issued by the California Department of Real Estate (“**DRE**”). Administrator certifies that Administrator is duly licensed to perform such services by the DRE under DRE License No. 02124196. To the greatest extent permitted by law, Administrator shall indemnify, defend, and hold harmless Developer and City and their respective officials, officers, members, managers, employees, and agents from and against all Claims arising from or in connection with Administrator’s performance or failure to perform under this Agreement or failure to maintain a real estate license except to the extent arising from the gross negligence or willful misconduct of such indemnified parties. The provisions of this Section shall survive the expiration or other termination of this Agreement.

17. Default; Remedies. In the event of any breach of this Agreement, the non-defaulting Party shall provide written notice of default to the Party in default. If the default is not cured within thirty (30) days after delivery of such notice, then the non-defaulting Party shall have the right to take legal or other action to enforce this Agreement, including without limitation, bringing an action for equitable relief seeking the specific performance of the terms and conditions of this Agreement, and/or enjoining, abating, or preventing any violation of such terms and conditions, and/or seeking declaratory relief or damages. Each of the remedies provided herein is cumulative and not exclusive, and each Party may exercise from time to time any rights and remedies available to it under applicable law or in equity, in addition to, and not in lieu of, any rights and remedies expressly provided in this Agreement.

18. Fair Housing; Non-Discrimination. Developer shall comply with all applicable State and federal fair housing laws in the marketing and sale of all residential units in the Project. Administrator shall comply with all applicable State and federal fair housing laws in the marketing and sale of the Restricted Units. Developer shall not restrict the rental, sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, the Project, or any portion thereof, on the basis of race, color, religion, creed, sex, sexual orientation, disability, actual or perceived gender identity, marital status, ancestry, or national origin of any person. Developer covenants for itself and all persons claiming under or through it, and this Agreement is made and accepted upon and subject to the condition that there shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property or part thereof, nor shall Developer or any person claiming under or through Developer establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in, of, or for the Property or part thereof. Developer shall include such provision in all deeds, leases, contracts and other instruments executed by Developer, and shall enforce the same diligently and in good faith. Administrator

shall include language to this effect in all agreements relating to the selection of Eligible Purchasers and the sale of Restricted Units.

19. Mortgagee Protection. No violation of any provision contained herein shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value upon all or any portion of the Project or the Property, and the purchaser at any trustee's sale or foreclosure sale shall not be liable for any violation of any provision hereof occurring prior to the acquisition of title by such purchaser. Such purchaser shall be bound by and subject to this Agreement from and after such trustee's sale or foreclosure sale.

20. Miscellaneous.

20.1 Notices. Except as otherwise specified herein, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by: (i) personal delivery, in which case notice is effective upon delivery; (ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered upon receipt if delivery is confirmed by a return receipt; or (iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service.

City:

City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037
Attention: Housing Program Administrator

Developer:

BFH CM, LLC
12657 Alcosta Blvd., Suite 250
San Ramon, CA 94583
Attention: Josh Roden

Administrator:

House Keys
358 Digital Drive
Morgan Hill, CA 95037
Attention: Julius Nyanda

20.2 No Third-Party Beneficiaries. This Agreement is not intended to be for the benefit of any person other than the Parties and their permitted successors and assigns.

20.3 Attorneys' Fees. If any legal or administrative action is brought to interpret or enforce the terms of this Agreement, the prevailing party shall be entitled to recover all reasonable attorneys' fees and costs incurred in such action, including without limitation, attorneys' fees attributable to City's in-house counsel based upon comparable fees of private attorneys practicing in Santa Clara County.

20.4 Amendments. This Agreement may be amended, changed, or modified only by an agreement in writing signed by the Parties or their respective permitted successors and recorded in the Official Records.

20.5 No Waiver. Any waiver of any term or provision of this Agreement must be in writing. No waiver shall be implied from any delay or failure by a Party to take action on any breach or default hereunder or to pursue any remedy allowed under this Agreement or applicable law. No failure or delay by a Party at any time to require strict performance of any provision of this Agreement or to exercise any election contained herein or any right, power or remedy hereunder shall be construed as a waiver of any other provision or any succeeding breach of the same or any other provision hereof or a relinquishment for the future of such election.

20.6 Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or illegal, such invalidity or illegality shall not affect, impair or invalidate any other provision hereof, and such remaining provisions shall remain in full force and effect.

20.7 Headings; Interpretation. The captions used in this Agreement are for convenience only and shall not be considered in the construction or interpretation of any provision hereof. Unless expressly stated otherwise, each reference to a particular Section of this Agreement shall mean all subsections and subparagraphs of such Section. The language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any Party, notwithstanding the drafting of the Agreement by any Party or Party's representative. All references in this Agreement to particular statutes, regulations, ordinances or resolutions of the United States, the State of California, or the City of Morgan Hill shall be deemed to include the same statute, regulation, ordinance or resolution as hereafter amended or renumbered, or if repealed, to such other provisions as may thereafter govern the same subject.

20.8 Governing Law and Venue. This Agreement shall be construed and enforced in accordance with the laws of the State of California without regard to principles of conflicts of law. Any action to enforce or interpret this Agreement shall be filed and heard in the Superior Court of Santa Clara County, California or in the Federal District Court for the Northern District of California.

20.9 Authority. Each person executing this Agreement on behalf of a Party represents warrants that he or she has the actual authority to execute and deliver the Agreement on behalf of such Party and that the Agreement is binding on such Party.

20.10 Entire Agreement; Exhibits. This Agreement, together with the Conditions of Approval, contains the entire agreement of Parties with respect to the subject matter hereof, and supersedes all prior oral or written agreements with respect thereto. Exhibits A through D

attached hereto are incorporated herein by this reference. The Parties each acknowledge and agree that they have not relied on any representations of the other Parties or their representatives, except to the extent that such representations are expressly set forth herein.

20.11 Further Assurances. Each Party shall execute, acknowledge and deliver to the other Parties such other documents and instruments, and take such other actions, as either shall reasonably request as may be necessary to carry out the intent of this Agreement

20.12 Parties Not Co-Venturers; No Agency Relationship. Nothing in this Agreement is intended to or shall establish the Parties as partners, co-venturers, or principal and agent with one another. The relationship of the Parties shall not be construed as a joint venture, equity venture, partnership or any other relationship. City neither undertakes nor assumes any responsibility or duty to Developer (except as expressly provided in this Agreement) or to any third party with respect to the Project. Developer and its agents and employees shall at no time pretend to be or hold themselves out as employees or agents of City, and Developer shall have no authority to act as an agent or to bind City to any obligation. Except as City may specify in this Agreement, the Administrative Services Agreement, or in another written instrument, Administrator shall have no authority to act as an agent of City or to bind City to any obligation. Administrator shall have no authority to act as an agent of Developer or bind Developer to any obligation.

20.13 Action by the City. Whenever action and/or approval by City is required under this Agreement, such action or approval shall be in writing, and the City's Authorized Representative or his or her designee may act on and/or approve such matter unless specifically provided otherwise, or the City's Authorized Representative determines in his or her discretion that such action or approval requires referral to City Council for consideration.

20.14 Non-Liability of City and City Officials, Employees and Agents. No member, official, employee or agent of the City shall be personally liable to Developer or Administrator or any successor in interest, in the event of any default or breach by the City, or for any amount of money which may become due to Developer or Administrator, or their respective successors, or for any obligation of City under this Agreement.

20.15 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

SIGNATURES ON FOLLOWING PAGES.

IN WITNESS WHEREOF, the Parties have executed this Affordable Housing Agreement effective as of the date first written above.

DEVELOPER:

BFH CM, a Delaware limited liability company

By: _____

Print Name: _____

Title: _____

By: _____

Print Name: _____

Title: _____

CITY:

CITY OF MORGAN HILL, a municipal corporation

By: _____
Christina Turner, City Manager

Approved as to form:

By: _____
Donald Larkin, City Attorney

ADMINISTRATOR:

HOUSEKEYS INC., a California corporation

By: _____
Julius Nyanda, Chief Executive Officer

SIGNATURES MUST BE NOTARIZED.

ACKNOWLEDGMENT

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, _____,
(Name of Notary)

notary public, 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.

(Notary Signature)

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.

(Notary Signature)

ACKNOWLEDGMENT

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, _____,
(Name of Notary)

notary public, 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.

(Notary Signature)

Exhibit A**PROPERTY**

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

[Insert legal description.]

Exhibit B**SITE PLAN**

(Attach Site Plan showing location of Restricted Units.)

Attachment: Rosewood - Inclusionary Affordable Housing Agreement Final (3217 : APPROVE AFFORDABLE HOUSING AGREEMENT,

Exhibit C**RESTRICTED UNIT SALE PRICES**

[Attach updated schedule listing applicable unit sizes and income categories]

	Affordable Sale Price for Moderate Income Household as of _____, 2021
3-Bedroom	\$ _____
4-Bedroom	\$ _____

The Affordable Sales Price is based upon Area Median Income for the applicable household income category, the unit size, and an affordability percentage. These figures are combined with an estimated total housing payment. Pricing applies to homes sold within the specified fiscal year. Pricing is subject to change.

Exhibit D**ADMINISTRATOR COMPENSATION SCHEDULE**

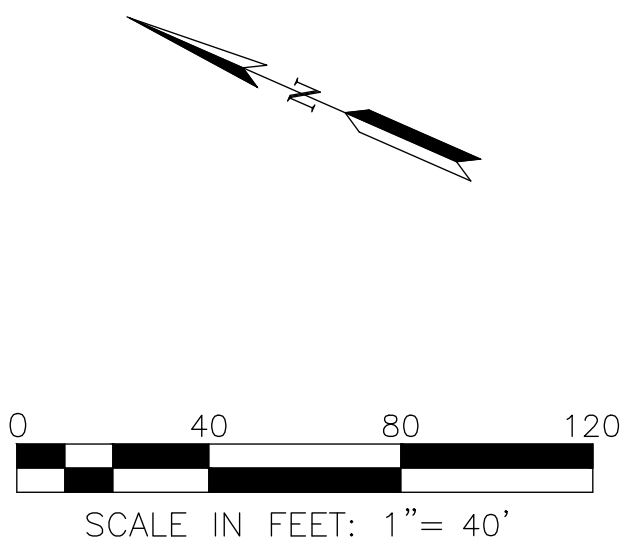
For each Restricted Unit, Developer shall pay a Transaction Processing Fee to the Administrator equal to three percent (3%) of the Affordable Sales Price as established pursuant to this Agreement for such unit. This fee is not a Real Estate Commission or Real Estate Broker Commission. This fee shall be listed as an “Additional Settlement Charge” paid by the Seller as reflected in section 1300 of the U.S. Department of Housing and Urban Development (HUD) Settlement Statement (HUD-1) or “Other Costs” paid by the Seller in the new Closing Disclosure as determined by the TILA-REPA Integrated Disclosure rule.

Construction Phasing
Updated: 10.01.2021

 = Mailbox Locations (suggest / to be confirmed)

PARKING SUMMARY:	
BARRETT AVE DROP-OFF	16
ON-SITE STREET PARKING	48
ALLEY PARKING STALLS	4
ADA PARKING STALLS	2
TOTAL:	70

SHADED AREA (PARK SPACE) IS 1.98 ACRES +/-



SITE PLAN
ROSEWOOD
MORGAN HILL, CALIFORNIA
AUGUST 23, 2021


RUGGERI-JENSEN-AZAR
ENGINEERS • PLANNERS • SURVEYORS
8055 CAMINO ARROYO • GILROY, CA 95020
PHONE: (408) 848-0300 FAX: (408) 848-0302

JOB NUMBER: 212006

SHEET 1 OF 1

PLOT DATE: August 23, 2021
FILE PATH: W:\Jobs\212006 - Lillian Commons, Morgan Hill\Drawings\Prelim\Conceptual Layouts\SK-ROSEWOOD_2021-08-23.dwg

Attachment: EXHIBIT B Rosewood - Construction Phasing (3217 : APPROVE AFFORDABLE HOUSING AGREEMENT, BROOKFIELD PROPERTIES ROSEWOOD)

City of Morgan Hill	
INCLUSIONARY FOR-SALE UNIT PRICES	
California HCD Income Levels (Santa Clara County) Issued 4/26/2021	
For-Sale Projects in Downtown:	For-Sale Projects Outside of Downtown
10% of the Dwelling Units for sale are required to be sold at Affordable Sales Prices to Moderate-Income Households	15% of the Dwelling Units for sale are required to be sold at Affordable Sales Prices to Moderate-Income Households
Bedroom Count	Upper Moderate 120%
Studio	\$ 437,079.00
1-Bedroom	\$ 512,102.00
2-Bedroom	\$ 581,842.00
3-Bedroom	\$ 651,001.00
4-Bedroom	\$ 704,718.00
5-Bedroom	\$ 758,643.00



CITY COUNCIL STAFF REPORT

MEETING DATE: November 17, 2021

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

REVIEW AND APPROVE THE UPDATED CITY COUNCIL MEETING POLICY AND 2022 CITY COUNCIL MEETING SCHEDULE

RECOMMENDATION(S)

Review and approve:

1. Updated City Council Meeting Schedule Policy (City Council Policy 06-02); and
2. The 2022 City Council meeting schedule.

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
Cannabis Policy
High Speed Rail
Affordable Housing and Homelessness
Housing
Transportation

REPORT NARRATIVE:

The City Council has adopted policy CP 06-02 regarding its meeting schedule. Staff is recommending that it be updated to reflect the May Budget Workshop and City Council's summer recess. The team requests that the City Council review its meeting schedule for the months of January 2022 through December 2022. The following meetings are proposed to be cancelled and/or scheduled:

1. January 5th regular meeting of the City Council cancelled per Council Policy CP-06-02. **(Cancel)**
2. January 28th at 1:00 p.m. and January 29th at 9:00 a.m. Special City Council Goal Setting Workshop. **(Schedule)**
3. May 25th at 5:30 p.m. Special City Council Budget Workshop. **(Schedule)**
4. July 6th, July 20th, and July 27th regular meetings of the City Council cancelled pursuant to Council Policy CP-06-02 **(Cancel)**

5. August 5th at 9:00 a.m. Special City Council Mid-Year Goal Review Workshop. **(Schedule)**
6. September 7th regular meeting of the City Council cancelled to allow the City Council and staff to attend the League of California Cities Annual Conference. **(Cancel)**
7. October 5th regular meeting of the City Council cancelled per Council Policy CP-06-02. **(Cancel)**
8. November 23rd regular meeting of the City Council cancelled pursuant to Council Policy CP-06-02. **(Cancel)**
9. December 14th at 7:00 p.m. Special Meeting of the City Council scheduled for the certification of election results and swearing in of elected officials. **(Schedule)**
10. December 28th regular meeting of the City Council cancelled due to the City Holiday furlough. **(Cancel)**

Given the above information, the City Council may wish to retain, adjust, and/or cancel regularly scheduled meetings.

COMMUNITY ENGAGEMENT: Inform

This report serves to inform the public of the 2022 City Council meeting schedule.

ALTERNATIVE ACTIONS:

Not Applicable.

PRIOR CITY COUNCIL AND COMMISSION ACTIONS:

The City Council reviews the meeting schedule annually.

FISCAL AND RESOURCE IMPACT:

There is no fiscal impact associated with this action.

CEQA (California Environmental Quality Act):

Not a Project. Administrative activities of governments that do not result in direct physical changes in the environment do not qualify as a project for purposes of CEQA.

LINKS/ATTACHMENTS:

1. Revised CP-06-02-City Council Meeting Schedule
2. Draft 2022 City Council Meeting Schedule

CITY OF MORGAN HILL

CITY COUNCIL/REDEVELOPMENT AGENCY

POLICIES AND PROCEDURES

CP-06-02

SUBJECT: CITY COUNCIL MEETING SCHEDULE

EFFECTIVE DATE: March 22, 2006, Revised June 27, 2007, Revised November 20, 2013, Revised October 21, 2015; Revised November 17, 2021

ORIGINATING DEPT: City Clerk

The City Council has ordained that regular meetings are to be held on the first, third and fourth Wednesdays of every month at 7:00 p.m. In the event of a legal holiday occurring on a regular City Council meeting day, the meeting(s) will be canceled. Should the Mayor and City Manager determine that the third meeting of the month is not necessary, they shall have the authority to cancel the meeting.

The City Council desires to take official legislative recesses, at various times, to accommodate community and civic commitments, vacations, and the City's operations schedule. As such, the following meeting schedule will apply for the months of January, May, July, ~~August~~, September, October, November and December of every year:

- For the month of January, should the City furlough its employees the last week in December, the first meeting in January shall be canceled. The Council will hold its annual Goal Setting retreat the last Friday and Saturday of the month.
- The Council will hold its annual Budget Workshop during the month of May.
- For the month of July, ~~the first Wednesday~~ meetings ~~is~~are to be cancelled for summer recess.
- ~~For the month of August, the third Wednesday meetings is to be canceled.~~
- For the months of September and October, regular meetings will be held on the first, third, and fourth Wednesdays, beginning at 7:00 p.m.; unless the meeting date falls on Rosh Hashanah or Yom Kippur. In which case, said meeting will be canceled.
- For the month of November, regular meetings will be held on the first, third and fourth Wednesdays, beginning at 7:00 p.m.; unless the Wednesday meeting date falls the day before the Thanksgiving Holiday. In which case, said meeting will be canceled.
- For the month of December, regular meetings will be held on the first, third and fourth Wednesdays, beginning at 7:00 p.m.; unless the Wednesday meeting date(s) fall on the Christmas Holiday and/or during the Holiday furlough. In which case, said meeting(s) will be canceled.

The City Council shall have the ability to adjust and/or add other meeting dates, as deemed appropriate.

This policy shall remain in effect until modified by the City Council respectively.

APPROVED:

RICH CONSTANTINE, Mayor

2022 City Council Meeting Schedule

Meeting Date	Type of Meeting	Notes
01/05/2022 Wednesday	Regular CC	Cancelled per Council Policy (CP 06-02)
01/19/2022 Wednesday	Regular CC	
01/26/2022 Wednesday	Regular CC	
01/28/2022 Friday	Special CC	1:00 p.m. – 5:00 p.m. Goal Setting Workshop
01/29/2022 Saturday	Continued from 01/28/2022	9:00 a.m. – 5:00 p.m. Continued Goal Setting Workshop
02/02/2022 Wednesday	Regular CC	
02/16/2022 Wednesday	Regular CC	
02/23/2022 Wednesday	Regular CC	
03/02/2022 Wednesday	Regular CC	
3/9/2022 Wednesday		State of the City Address
03/16/2022 Wednesday	Regular CC	
03/23/2022 Wednesday	Regular CC	
04/06/2022 Wednesday	Regular CC	
04/20/2022 Wednesday	Regular CC	
04/27/2022 Wednesday	Regular CC	
05/04/2022 Wednesday	Regular CC	
05/18/2022 Wednesday	Regular CC	
5/25/2022 Wednesday	Regular CC	Budget Workshop 5:30 p.m.
06/01/2022 Wednesday	Regular CC	
06/15/2022	Regular CC	

2022 City Council Meeting Schedule

Meeting Date	Type of Meeting	Notes
Wednesday		
06/22/2022 Wednesday	Regular CC	
07/06/2022 Wednesday	Regular CC	Cancelled per Council Policy (CP 06-02)
07/20/2022 Wednesday	Regular CC	Cancelled Summer Recess
07/27/2022 Wednesday	Regular CC	Cancelled Summer Recess
08/03/2022 Wednesday	Regular CC	
08/05/2022 Friday	Special CC	9:00 am – 5:00 pm Mid-Year Goal Review Workshop
08/17/2022 Wednesday	Regular CC	
08/24/2022 Wednesday	Regular CC	
09/07/2022 Wednesday	Regular CC	Cancelled League of California Cities Annual Conference
09/21/2022 Wednesday	Regular CC	
09/28/2022 Wednesday	Regular CC	
10/05/2022 Wednesday	Regular CC	Cancelled per Council Policy (CP 06-02)
10/19/2022 Wednesday	Regular CC	
10/26/2022 Wednesday	Regular CC	
11/02/2022 Wednesday	Regular CC	
11/16/2022 Wednesday	Regular CC	
11/23/2022 Wednesday	Regular CC	Cancelled per Council Policy (CP 06-02)
12/07/2022 Wednesday	Regular CC	

2022 City Council Meeting Schedule

Meeting Date	Type of Meeting	Notes
12/14/2022	Special CC	Election Certification and swearing-in of elected officials
12/21/2022 Wednesday	Regular CC	
12/28/2022 Wednesday	Regular CC	Cancelled

Attachment: Draft 2022 City Council Meeting Schedule [Revision 3] (3215 : 2022 City Council Meeting Schedule)



CITY COUNCIL STAFF REPORT

MEETING DATE: November 17, 2021

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

SELECT AND APPOINT CITY COUNCIL MAYOR PRO TEMPORE

RECOMMENDATION(S)

1. Open floor to nomination(s) for Mayor Pro Tempore; and
2. Select a Council Member to serve as Mayor Pro Tempore per City Council Policy 99-01.

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
Cannabis Policy
High Speed Rail
Affordable Housing and Homelessness
Housing
Transportation

REPORT NARRATIVE:

Mayor Pro Tempore

The City Council has adopted policy CP-99-01, which sets forth the criteria for the selection of Mayor Pro Tempore annually for a one-year term. The adopted policy is intended to provide every Council Member with the opportunity to serve as Mayor Pro Tempore. Nomination for the Mayor Pro Tempore seat is generally based on: (1) the length of time that an individual has served on the City Council, and (2) whether or not the nominee has previously had the opportunity to serve as Mayor Pro Tempore. However, these factors are not binding, and every member is eligible to serve as Mayor Pro Tempore. The Mayor or any member of the City Council may nominate a member to serve as Mayor Pro Tempore. A copy of the Council Policy CP-99-01 is attached and the recent Mayor Pro Tempore history is as follows:

CITY COUNCIL

MAYOR PRO TEMPORE RECENT HISTORY

	From:	To:
Council Member Carr	December 3, 2014	December 2, 2015
Council Member Constantine	December 2, 2015	December 14, 2016
Council Member Carr	December 14, 2016	January 17, 2018
Council Member Constantine	January 17, 2018	December 19, 2018
Council Member Spring	December 19, 2018	December 4, 2019
Council Member Martínez Beltrán	December 4, 2019	December 16, 2020
Council Member McKay	December 16, 2020	November 17, 2021

COMMUNITY ENGAGEMENT: Inform

This report serves to inform the community of the process for selection of the Mayor Pro Tempore.

ALTERNATIVE ACTIONS:

Not Applicable.

PRIOR CITY COUNCIL AND commission ACTIONS:

The Council selects a Council Member to serve as the Mayor Pro Tempore annually.

FISCAL AND RESOURCE IMPACT:

There are no fiscal impacts. Selection of Mayor Pro Tempore is an activity of the City Council's annual workplan.

CEQA (California Environmental Quality Act):

Selection of a Mayor Pro Tempore is an administrative governmental activity that will not result in direct or indirect physical changes in the environment.

LINKS/ATTACHMENTS:

1. CP-99-01 Selection of Mayor Pro Tem 12-19-16.pdf

CITY OF MORGAN HILL

CITY COUNCIL POLICIES AND PROCEDURES

CP 99-01

(Rescinded CP 94-05, CP 98-03)

SUBJECT: SELECTION OF MAYOR PRO TEMPORE

DATE: December 17, 1999, Reviewed 6/27/07,

AMENDED: August 24, 2005, December 19, 2016

It is the policy of the City Council of the City of Morgan Hill to annually nominate and select a member to serve as Mayor Pro Tempore for a one year term. The Mayor or any member of the City Council may nominate a member, who shall be selected by majority vote.

In order to provide every member with an opportunity to serve as Mayor Pro Tempore, it is the policy of the City Council that nominations be made on the basis of the length of time that a nominee has served on the City Council, and whether or not the nominee has previously had the opportunity to serve. However, these factors are not binding, and every member is eligible to serve as Mayor Pro Tempore. If more than one individual is nominated, the first person to receive a majority of the votes shall be selected to serve.

Selection of Mayor Pro Tempore shall occur at the first regular meeting of the City Council held after the general municipal election, and after the new members have been sworn in and have taken their seats; or at the second regular meeting in November in each year that a general municipal election is not held.

The Mayor Pro Tempore shall serve at the pleasure of the City Council and may be removed from the appointed position by a majority vote of the Council. The City Council shall fill all vacancies for Mayor Pro Tempore in accordance with the selection procedure set forth herein.

This policy shall remain in effect until modified by the City Council.

APPROVED:


STEVE TATE, MAYOR

Attachment: CP-99-01 Selection of Mayor Pro Tem 12-19-16.pdf (3214 : Selection of Mayor Pro Tem)

From: [Chris Ghione](#)
To: [D. Muirhead](#)
Cc: [Christina Turner](#); [Michelle Bigelow](#); [Angie Gonzalez](#)
Subject: FW: [EXTERNAL] Comment City Council November 17 2021 Item #2: Water Supply Well
Date: Monday, November 15, 2021 11:22:15 AM

Hi Doug,

Christina asked me to reply to your comments to the Council on this item. Thank you very much for sharing your comments. The City is not doing "the same old thing", we are applying for grant funds to support improvements to the Water System that may ultimately benefit the ratepayers by reducing the amount of rates that are required or allowing rates to be used for supply side work as you have indicated. The City does not control the timing of grant funding nor the funding opportunities. A City grant application for recycled water efforts, while noble, would result in no funding being obtained, as the City nor Valley Water are far enough in the planning to apply for these projects. The wells in the Boys Ranch Zone (Northeastern section of the City) can support other areas of the City, but the wells in the other areas cannot support the Boys Ranch Zone under normal operations, these improvements will change this. Other efforts towards improving the resiliency of our Water System cannot be put on hold while we work towards recycled water in Morgan Hill. They need to occur simultaneously. Not applying for grant funds would actually be counter to the efforts you are so very interested in.

As always, I'm happy to discuss.

Thanks,

Chris

From: D. Muirhead <[REDACTED]>
Sent: Monday, November 15, 2021 10:29 AM
To: CC Public Comment <CCPublicComment@morganhill.ca.gov>
Subject: [EXTERNAL] Comment City Council November 17 2021 Item #2: Water Supply Well

Dear Morgan Hill City Council,

Comments for your City Council meeting:

November 17 2021

Item #2: FY 2021/2022 Drought Relief Water Supply Project

Item #2:FY 2021/2022 Drought Relief Water Supply Project

Resilience is additional water supply, not another well.

I am extremely disappointed that the City is choosing to do the same old thing in the same old way with respect to preparing for the next long-term drought.

The City proposes to respond to falling groundwater levels by constructing an additional well somewhere in the City. They say this will "increase the resiliency of the City's water distribution system". This only puts another (possibly longer) straw into the same

basin that all of South County draws from. So as the groundwater level drops, we will be one of the last to be affected.

What the City should do in the name of local control and local resilience is develop drought-proof supplies. You have put a lot of work into conservation programs and may even implement water efficiency requirements for new construction (draft ordinance created during last drought). But you do nothing for the supply side.

Graywater is under your control now.

Bringing recycled water to Morgan Hill has disappeared into a staff technical working group formed by the Joint Water District Water Resources Committee with Cities of Gilroy and Morgan Hill. Our representatives on that Committee are Council Members Spring and McKay. They did not require any timeline or deliverables to be made public and have settled for quarterly meetings of the Committee while the TWG is meeting monthly. I consider silence to show that you have no sense of urgency.

If we are not able to recharge the groundwater basin with local resources (no runoff stored in reservoirs if no rain) and the State and Federal projects have no water for us to import (currently 5% of maximum allocation with an additional special delivery for health and safety), groundwater levels in the basin will drop. And since 100% of our water in South County comes from groundwater, that will be extremely bad for us.

Please show us that you understand that additional supply is real resilience. And since you did nothing on the supply side during the last drought, the Time to Act really is Now.

For extra credit, you could educate our residents on how Anderson being empty causes a need for a booster pump. I cannot see the connection.

"a mobile booster station that will facilitate moving water from the Nob Hill Zone to the Boys Ranch Zone. The need for this latter improvement is magnified by the draining of Anderson Reservoir"

Thank you for your consideration,
Doug Muirhead, Morgan Hill

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From: [Christina Turner](#)
To: [Michelle Bigelow](#); [Angie Gonzalez](#)
Cc: [Chris Ghione](#); [Edith Ramirez](#); [Matt Mahood](#)
Subject: FW: [EXTERNAL] Consent Agenda Item # 4- APPROVE EXEMPTION TO STREET TREE MASTER PLAN FOR FOUR TREES.
Date: Wednesday, November 17, 2021 10:33:51 AM

Please supplement.

From: Armando Be <[REDACTED]>
Sent: Wednesday, November 17, 2021 9:43 AM
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] Consent Agenda Item # 4- APPROVE EXEMPTION TO STREET TREE MASTER PLAN FOR FOUR TREES.

Dear City Council Members and City Manager.

I do want to express dismay at how this item is being rushed without reason. First, the owner who has requested the tree removal and replacement has not even yet submitted a comprehensive development plan for the property that he recently purchased. In my opinion, before you consider his request, he should first submit a planned development plan that would incorporate his request to replace the trees.

Second, the trees are public property and benefit the entire downtown business owners. The fact that no effort was made to survey the opinion of the other business owner within the downtown as to the desirability of removing the trees. It is irrelevant that the trees front the property of the owner who seeks the tree removal.

Second, there was no public outreach to assess the desirability of once again giving away public property of city lands. Here is a definition of an encroachment : "**An encroachment exists when any portion of a building, fence, driveway, retaining wall or other structure extends from privately-owned lands onto City lands or interests.**" This agenda item is not just a request to remove desirable and healthy trees, but to allow the owner to obtain an encroachment which basically is giving the owner a right of possession of public land, above and beyond the replanting of substitute trees. A request for encroachment should require a higher level of deliberation and public outreach

Third: There is no mention of who should bear the cost of the removal of those trees. Tree removal is expensive and we should know the costs and who will bear the cost. And even though there is a termination clause, there is no provision for what happens to the ownership of the trees if the city seeks to terminate the contract.

Will the owner give the trees to the city or would we have to compensate him for terminating the contract?

Fourth: The owner can just give the trees to the city so there would not be a need for an encroachment. The cost to maintain the trees is minimal and maintaining city ownership of those trees should be highly desirable.

There is no rush to decide on this issue because the owner is just at the beginning stages of developing the property. He still has a hotel to build. The fact that the council approved the placement of olive trees in the parklet area on the MOHI side is completely different from granting the owner an encroachment and basically the right to take control of city property.

Lets not continue to rush the decisions we are making on the downtown that continue to appear to be made using a piecemeal approach instead of planned and designed in a comprehensive way.

Regards,

Armando Benavides

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From: Christina Turner

To: Michelle Bigelow; Angie Gonzalez

Subject: Supplement for Item 4

Date: Monday, November 15, 2021

Q: How is the liability of the street trees the responsibility of the property owner? Through an insurance policy relieving the City from any financial harm?

A: Yes, through an insurance policy required in the encroachment permit.

Q: Is the cost savings to the City for not maintaining the four street trees the \$500 listed in Fiscal and Resource Impact?

A: Yes, it is the \$500 listed in the Fiscal and Resource Impact.

From: Christina Turner

To: Michelle Bigelow; Angie Gonzalez

Subject: Supplement for Item 4

Date: November 17, 2021

Q. What does approving this change mean short term and long term?

A. It means four black locust trees are replaced with 4 olive trees.

Q. What does approving an encroachment permit that is not of right to remove 4 locust trees and replace with 4 olive trees mean for other businesses that want to change their trees to another type of tree?

A. Other businesses could make the same request.

Q. Can they?

A. They can make the request and it will be reviewed.

Q. What does the specific plan or tree ordinance call for in downtown?

A. See the following link: <https://www.morgan-hill.ca.gov/DocumentCenter/View/36931/Final-Master-Street-Tree-Plan-PDF?bidId=>
Approved trees include those listed in Zone 2.

Q. Wasn't there some change recently to the ordinance and do any of those changes pertain to this?

A. The plan was updated and adopted by the Council in March 2019.

Q. When was this change allowed for the other olive trees and why?

A. The Council approved it on July 22, 2020 for similar reasons as outlined in the current staff report. Black Locust Trees, while prevalent in the Downtown, are no longer approved street trees within the Master Street Tree Plan (Plan) and City staff regularly receive complaints regarding their appearance. Additionally, coordination of street trees in small sections of the Downtown may be viewed as advantageous to supporting efforts associated with economic development and business support. Furthermore, the property owner taking on required maintenance will relieve the City of a small amount of infrastructure maintenance costs.

Q. Do we allow businesses to install any tree of their preference?

A. New development would install trees consistent with the Street tree master plan. Existing businesses would not be responsible for replacing trees, but could apply to do so with the City.

Q. Will the olive trees take the same design and overall space on the east side of Monterey as they have on the west side of Monterey?

- A. The four trees will be very similar to those trees done on the other side of the street. These are the trees in the permanent spaces.
- Q. Will this still remain public space where the locust trees are removed and the new olive trees are?
- A. The area is a public sidewalk area and will remain public.
- Q. What does this cost the City and/or what costs does it trigger short term or long term?
- A. The City is estimated to save \$500 on trimming costs every 5-6 years.

Please see further questions below

- Q. What was the City cost of installing the locust trees and all parts to be removed?
- A. We do not have this number and detail for the specific area.
- Q. How much would it cost to install a locust tree now?
- A. A new 24" Box Tree would cost \$333 to install. We would not install black locusts in the future. These would be smaller trees that would take several years to mature.
- Q. Who is paying to remove the Locust trees and how much will it cost?
- A. The applicant at their cost, so no cost numbers are available.
- Q. Who is paying to install the olive trees and how much will it cost?
- A. The applicant.
- Q. Will every business be able to install olive trees?
- A. Every business could apply and if they took on the responsibility it would be reviewed. Council approval would be required as is the case here.
- Q. Is the olive tree native to Morgan Hill?
- A. No.

MEMORANDUM OF UNDERSTANDING



American Federation of State, County, and Municipal Employees Local 101, District Council 57

December ~~26~~³⁰, 20~~21~~¹⁸ - December 31, 202~~31~~³⁴

AFSCME
MEMORANDUM OF UNDERSTANDING
December 30, 2018 – December 31, 2021
TABLE OF CONTENTS

Preamble	3
Article I – Term	3
Article II – Representation	3
Meet & Confer Process	3
Release Time	3
Dues Deduction Process	4
Voluntary Union Dues Deductions	4
Indemnification, Defense and Hold Harmless for Dues Deduction	5
Maintenance of Membership	5
Agreement to Meet and Confer	5
Printing of MOU	5
Article III – Management Rights	5
Article IV – Definitions	6
Salaries, Wages, and Salary and Wages	6
Personnel Rules	6
Article V – Salaries, Wages, & Paid Benefits	6
Holiday Pay	6
Work Furlough	7
Other Pay	7
Water Certification Pay	7
Weekend and Weeknight Standby Pay	8
Out of Class Pay	8
Special Assignment Pay	8
Bilingual Pay	8
Overtime Pay/Compensatory Time	9
Base Work Schedules	10
Health Benefits	11
Article VI – Educational Incentive Pay Program	12
Educational Incentive Pay Program	12
Tuition Reimbursement	12
Article VII – Types of Leave	13
Sick Leave	13

Vacation Accrual	13	
Extended Leave Policy	14	
Bereavement Leave	15	
Article VIII – Miscellaneous Benefits	15	
CalPERS Retirement Contributions	15	
Deferred Compensation Plan	16	
Life Insurance Program	16	
Long Term Disability Program	16	
Short Term Disability Program	16	
IRS 125 Program	16	
Article IX – Miscellaneous Policies and Procedures	17	
Hepatitis B Vaccines	17	
Uniforms	17	
Light Duty Determination	17	
Substance Abuse Policy	18	
Class "A" License	18	
City-Wide Safety Committee	18	
Layoff Procedure	18	
Work Stoppage, Any Job Action, Slowdown	20	
Article X – Grievance Procedure	20	
Informal and Formal Grievances	20	
Employee Relations Panel	21	
Article XI – Miscellaneous	23	
Article XII – Ratification	23	
Signature Page	24	
Exhibits		
Exhibit A	Salary Schedule December 202118	25
Exhibit B	Salary Schedule January 20233 2% increase0	26
Exhibit C	Salary Schedule January 20233 2.5% increase1	27
Exhibit D	Educational Incentive Pay Program	28
Exhibit E	Drug and Alcohol Testing Program	42

This Memorandum of Understanding (“MOU”) has been executed by representatives of the Morgan Hill City Council (“City”) and representatives of the American Federation of State, County and Municipal Employees Local 101 (“Union”).

ARTICLE I. – TERM

- 1.01 The term of this Agreement shall commence December ~~2630~~, 20~~21~~~~48~~, and end on December 31, 202~~34~~.

ARTICLE II. – REPRESENTATION

- 2.01 Union is a recognized employee organization within the meaning of City’s Employer-Employee Relations Resolution No. 4955.
- 2.02 Union represents all regular full and part-time City employees excluding positions represented by the Police Officers’ Association (“POA”), the Community Service Officers’ Association (“CSOA”), and those identified in the Management/Confidential Resolution.
- 2.03 Regular Part-Time Employees – Regular part-time employees in Union represented classifications who work at least twenty (20) hours per week shall receive insurance, educational incentive, tuition reimbursement, and paid leave benefits provided for in this agreement on a pro-rated basis, according to the number of hours worked per week.
- 2.04 **Meet & Confer Process**
- 2.04.01 Union is the only employee organization which is entitled to meet and confer with City on behalf of represented employees as outlined in Item 2. 2 above.
- 2.04.02 No agreement, alteration, understanding, variation, waiver, or modification of any of the terms or provisions contained herein shall in any manner be binding upon the parties hereto, unless made and executed in writing by all parties hereto, and, if required, approved and implemented by City and Union.
- 2.05 **Release Time**
- 2.05.01 The Union President, Steward, or designee shall be allowed release time with pay on an as-needed basis to participate in meetings related to employee discipline as set forth in Section 11 of the City of Morgan Hill Personnel Rules. This includes meetings with City management which may lead to discipline of an employee, when the employee has requested representation by Union and the employee has a legal right to be represented. No notation is required on the Union President, Steward, or designee’s timecard when using release time for the purposes described in this Section.
- 2.05.02 A total of up to forty (40) hours each fiscal year of release time with pay may be used by the Union President, Steward, or designee for the following purposes when representation is requested by the employee and the employee has a legal right to be represented:

- A. Preparation for pre-disciplinary or disciplinary meetings;
- B. Processing formal grievances in accordance with the formal grievance procedure set forth in Section X of this MOU;
- C. Meeting with employees regarding informal grievances and presenting informal grievance issues to City management; and
- D. Attending Union sponsored trainings, meetings, conferences, or other functions. The forty (40) hours of release time are cumulative - the Union President, Steward, or designee together are allowed a total of forty (40) hours under this provision. The Union President, Steward, or designee shall note "Release Time" on their timecard when using release time for the purposes described in this Section.

2.05.03 The Union President, Steward, or designee shall be allowed release time with pay on an as-needed basis to participate in City-initiated meetings to discuss issues within the scope of representation. No notation is required on the Union President, Steward, or designee's timecard when using release time for the purpose described in this Section.

2.05.04 The Union President, Steward, or designee shall first obtain permission from his or her supervisor or other appropriate management personnel before using release time, regardless of the purpose for which release time is needed. Permission to use release time may be delayed in circumstances when City work would be seriously compromised by the Union President, Steward, or designee stopping work. However, permission will be granted within a reasonable time frame and will not be unreasonably denied.

2.05.05 Union general membership meetings will continue to be held during lunch or after work.

2.05.06 City shall provide release time for three (3) Union employees selected by Union for attendance at formal meet and confer sessions.

2.06 **Dues Deduction Process**

2.07 **Voluntary Union Dues Deduction**

2.07.01 City shall deduct Union dues from the pay checks of members if Union follows the requirements of this paragraph. Union dues are the dues that Union charges members for membership in the Union, representation in collective bargaining and other employment related matters within the scope of representation and Union political activity.

2.07.02 City shall only deduct Union dues from an employee's pay check if the employee has submitted a signed authorization card to City clearly stating the employee's desire for City to deduct Union dues. It is understood and agreed by both City and Union that Union accepts responsibility for submitting authorization cards to City and for informing City whenever an employee withdraws his or her authorization. Such deductions shall be made from each authorizing employee's pay check and remitted to Union each month.

2.09 **Indemnification, Defense and Hold Harmless for Dues Deduction**

Union agrees that City undertakes these deductions as a convenience and courtesy and that City shall incur no liability for providing this courtesy service. Union further agrees to indemnify, defend and hold City harmless against any and all claims, suits, orders, judgments, costs or attorney's fees, including, but not limited to, pre-litigation, administrative staff, retained outside counsel costs and any other matters for which City may seek indemnification for as a result of the action taken or not taken by City for any dues deduction.

2.10 **Maintenance of Membership**

2.10.01 Any Member who is tendering Union Dues through payroll deduction as of the date of execution of this MOU, or who becomes a Member during the term of this MOU, shall remain a Member and continue to have Union Dues deducted for the duration of this MOU and each subsequent MOU thereafter. For the period of ninety to seventy (90–70) days prior to the expiration of this or any subsequent MOU, a Member shall have the right to withdraw from Union by discontinuing the Union Dues deduction. Such withdrawal shall be communicated in writing by the Member to Union during the aforementioned ninety to seventy (90–70) day period. Members may also withdraw from Union once this MOU has expired if a subsequent MOU has not been executed. A Member who moves to a position outside Union's bargaining unit shall not be required to continue Union Dues deduction.

2.11 **Agreement to Meet and Confer**

Should City change the terms and conditions of employment of any job classification(s) represented herein, City will meet and confer with Union no later than thirty (30) days before effective date of such change or changes for the purpose of negotiating appropriate salary adjustment(s) for the so changed classification(s) at a level appropriate to compensate for the increased duties, requirements or safety hazards.

2.12 **Printing of MOU**

2.12.01 City and Union will split the printing cost of the Agreement equally. Union will choose the printer.

ARTICLE III. – MANAGEMENT RIGHTS

3.01 The rights of City, as exercised by the City Council and the City administration include, but are not limited to, 1) the exclusive right to determine the mission of its constituent departments, commissions and boards, 2) set standards of service, 3) determine the procedures and standards of selection for employment, 4) direct its employees, 5) take disciplinary action, 6) relieve its employees from duty because of lack of work or other legitimate reasons, 7) maintain the efficiency of governmental operations, 8) determine the methods, means, and personnel by which government operations are to be conducted, 9) determine the content of job classifications, subject to any requirement to meet and confer or under current state law, 10) require that employees work overtime, and 11) exercise complete control and discretion over its organization and the technology of

performing its work, except that any agreement between City and Union evidenced by a MOU pursuant to Government Code 3500 et. seq. shall take precedence over any of the above enumerated employee and management rights and that such MOU will be honored in good faith during the life of this contract, subject to City's rights to determine when an emergency exists and to take all necessary action to carry out its mission in emergencies.

- 3.02 Nothing in this article shall be construed to limit, amend, decrease, revoke, or otherwise modify the rights vested in City by any law regulating, authorizing, or empowering City to act or refrain from acting.

ARTICLE IV. – DEFINITIONS

4.01 **Salaries, Wages, and Salary and Wages**

- 4.01.01 The terms "Salaries", "Wages" or "Salary and Wages" shall mean the gross monthly base pay prior to any deductions.

4.02 **Personnel Rules**

- 4.02.01 The term "Personnel Rules" as used in this Agreement means those regulations titled "City of Morgan Hill Personnel Rules" enacted as Resolution No. 6150 and thereafter and hereafter amended. In the event a conflict in interpretation between these Personnel Rules as included by reference and similar sections as contained in this MOU, the language in the MOU will be used for interpretation.

ARTICLE V. – SALARIES, WAGES & PAID BENEFITS

- 5.01 The Salaries and Wages paid by the City to employees represented by Union will be in accordance with the job classifications they hold with pay rates to be increased by ~~three and one half~~four percent (~~43.5~~4%) effective December ~~30~~26, 20214~~8~~ (Exhibit B)

- 5.02 The Salaries and Wages paid by City to employees represented by Union will be in accordance with the job classifications they hold with pay rates to be increased by ~~three two and a quarter~~ percent (~~23.25~~2%) , or two and half percent (2.5%) if CPI is higher than two percent (2%) effective the pay period including January 1, 20230 (ExhibitC).

- ~~5.03 The Salaries and Wages paid by City to employees represented by Union will be in accordance with the job classifications they hold with pay rates to be increased by three and a quarter percent (3.25%) effective the pay period including January 1, 2021 (Exhibit D).~~

5.05 **Holiday Pay**

- 5.05.01 City will observe the following holidays: New Year's Day, Martin Luther King Day, President's Day, Cesar Chavez Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, Day after Thanksgiving, Christmas Eve and Christmas. Employees will receive one (1) half (1/2) day holiday to be used during the furlough period or on the last work day before the furlough. City will maintain minimum staffing levels on these days and the Department Director will determine which half day the employee may take off.

- A. Each employee will receive two (2) floating holidays each fiscal year to be used during that fiscal year with the approval of the employee's supervisor.
- B. Recognized holidays of City will be aligned to coincide with school holidays in the Morgan Hill Unified School District.
- C. Any hours worked on a holiday shall be compensated at double time. If a holiday falls on a Friday or a Monday, any hours worked on the weekend (Saturday or Sunday) connected to the holiday will be compensated at the holiday pay rate.
- D. Holiday standby shall be compensated at the rate of three (3) hours at double time.

5.06 **Work Furlough**

5.06.01 City shall annually implement an end of year furlough that includes the time period of December 24 through January 1st of each year. The specific furlough dates and staffing requirements shall be determined by City. Furlough dates shall be provided to Union by November 1st of each year, and staffing requirements shall be finalized and published by December 1st of each year.

5.07 **Other Pay**

5.08 **Water Certification Pay**

5.08.01 All employees in classifications that are required by the State of California to have Water Distribution Certificates to perform their jobs, and who in fact possess the appropriate current certificate, will be entitled to receive the following compensation:

- A. Employees who possess a Water Distribution Certificate as of June 30, 2015 shall receive either the fixed amount of two and a half percent (2.5%) of base salary as of July 1, 2015 or one hundred and sixty dollars (\$160.00) per month, whichever is greater.
- B. Should there be subsequent adjustments to base salaries, the amount determined on June 30, 2015 shall remain the fixed amount in perpetuity.
- C. Employees who do not possess a Water Distribution Certificate as of June 30, 2015 and who subsequently receive one shall receive a monthly stipend of one hundred and sixty dollars (\$160.00).

5.08.02 If a Maintenance Worker has the required current Water Distribution Certification and is assigned to work in a position that requires that certification, he/she will receive certification pay. For employees hired after June 30, 2015, certification pay is one hundred and sixty dollars (\$160.00) per month. For employees hired on or before June 30, 2015, certification pay will be a flat amount equal to two and a half percent (2.5%) of their base salary on June 30, 2015.

5.09 **Weekend and ~~Week-Night~~Weeknight Standby Pay**

5.09.01 Weekend Standby (~~Friday (9/80 day off)~~, Saturday or Sunday) shall be compensated at the rate of four (4) hours at time and one-half (1/2) for each twenty-four (24) hour period covered.

Shift:

Saturday – Starts 24 hours after start of work shift Friday until start of standby shift on Sunday.

Sunday – Starts 48 hours after start of work shift Friday until start of work shift on Monday.

9/80 Friday- Start of work shift Friday through 24 hours from start of work shift Friday

5.09.02 ~~Each W~~weeknight Standby (Monday – Friday) ~~of standby~~ shall be compensated at the rate of one and a half (1.50) hours at time and one-half (1/2) for each ~~week-~~nightweeknight of standby.

Shift:

The week-night standby period shall begin at the end of the regular work shift and end with the commencement of the regular work shift the following morning or if assigned Friday, 24 hours from the start of the work shift Friday.

Employees assigned standby must be able to report to the Corporation Yard within thirty-fourty five (3045) minutes from the time they are called.

5.10 **Out of Class Pay**

5.10.01 Whenever an employee is temporarily assigned in writing by their supervisor to work in a higher vacant classification to perform all of the duties of the higher classification for a period of more than ten (10) cumulative working days, the employee shall be entitled to out of class pay on the eleventh (11th) day of assignment. Having once satisfied the ten (10) day qualifying requirement, any subsequent such assignment shall be so compensated an additional five percent (5%) beginning with the first day of reassignment. Any out of class assignment must meet CalPERS guidelines in order to be considered pensionable compensation. Out of class assignment are of a limited curation and shall not exceed 960 hours in any fiscal year.

5.10.02 Should the assignment last more than sixty (60) consecutive calendar days, the employee shall be compensated at a step within the normal range which is at least an additional five percent (5%) higher than that received in accordance with 5.10.01.

5.10.03 **Special Assignment Pay**

Special assignment pay may be granted to employees who have assumed, for an extended period, significant additional responsibilities outside their current classification. The request for special assignment pay shall describe the assignment, justify why it is to be performed by the designated employee, and give a specific duration for completion of the assignment with a start and end date. Special assignment

pay is up to 10% above the employee's normal pay rate. The special assignment and related compensation may be revoked at any time at the discretion of the Department Director, or the City Manager (or designee). Special assignment pay will be requested in advance by the Department Director and authorized by the City Manager or designee, and then processed by the Human Resources Division. Special assignment pay shall be discontinued on the date originally identified for completion of the assignment, unless an extension of specific duration is approved by the City Manager or designee prior to the end of the original assignment end date. Special assignment pay is not be considered pensionable compensation as defined by CalPERS.

5.11 **Bilingual Pay**

5.11.01 Union employees identified by a Department Director to use Spanish or American Sign Language in their work and who are certified by the process described below shall receive the following compensation:

- A. Employees hired prior to June 30, 2013 shall receive five percent (5%) of base salary. On July 1, 2013, that amount will be calculated and converted to a fixed amount, or one hundred and fifty dollars (\$150.00) per month, whichever is greater.
- B. Should there be subsequent adjustments to base salaries, the amount determined on July 1, 2013 shall remain the fixed amount in perpetuity.
- C. Employees hired on or after July 1, 2013 shall receive a monthly stipend of one hundred and fifty dollars (\$150.00).
- D. The Certification process shall be completed by a provider contracted by Human Resources or a three (3) person panel (established by Human Resources) to determine conversational competence. Employees shall be subject to recertification every two (2) years unless waived by City.
- E. An eligible employee may request to be tested for bilingual certification at any time and the test shall occur within a reasonable amount of time.

5.12 **Overtime/Compensatory Time**

5.12.01 Overtime/Compensatory time is defined as one-and-a-half (1.5) times an employee's total hourly salary. Overtime/Comp time is paid for any amount of time exceeding fifteen (15) minutes more than the employee's normal work shift, provided the employee is working an eight (8) hour or more work shift or any work time in excess of the forty (40) hour work week unless additional hours are worked as a result of a shift change. Overtime/Compensatory time for a regular part-time employee who works over his/her normal work schedule will accrue compensatory time at the employee's normal rate of hourly salary for hours under forty (40) per week, and one-and-a-half (1.5) times for hours over forty (40) per week. All such time must be approved in advance with the employee's supervisor or Department Director. Overtime is paid on completed fifteen (15) minute increments above the half (1/2) hour minimum. Time spent on paid sick leave, disability leave, vacation leave, military leave, compensatory time off, or other authorized paid leave shall be deemed time worked for the purposes of this Article.

5.12.02 Employees called back to work outside their regular work shift shall be compensated for a minimum of two (2) hours at time and one half (1/2) of their regular pay rate. For purposes of this provision, the job shall commence once an employee arrives on-site and shall be considered completed when either management or police dispatch is notified. City reserves the right to assign additional work within the two (2) hour period and subsequent call outs within the original two (2) hour call out do not receive an additional two (2) hour call out minimum. Consecutive work time which is past a two (2) hour call out shall be at time and one half (1/2) pay. Additional call-outs during the course of the day (once a two (2) hour call out is completed), and outside of a completed two (2) hour call out period, shall re-start the two (2) hour call out time.

- 5.12.03 Union personnel will have the option of receiving either paid overtime or compensatory time off. In the event that overtime pay is not available or authorized, the employee can either choose compensatory time off or decline working overtime. The compensatory time accrual limit shall be one hundred sixty (160) hours maximum.
- 5.12.04 During emergency situations (EOC activation) such as floods, earthquakes, severe storms, etc., City reserves the right to require that all overtime be compensated in pay, not compensatory time.
- 5.12.05 Employees working more than twelve (12) hours in a day shall receive double time for hours worked beginning with the thirteenth (13th) hour of work.
- 5.12.06 Employees who are contacted and consulted by telephone about a work-related problem outside their regular work shift, and who provide advice or direction, shall be compensated at an overtime rate for the actual time spent on the telephone, rounded up to the nearest thirty (30) minutes. The time will be recorded on timesheets as overtime.
- 5.13 **Base Work Schedules**
- 5.13.01 The work day, for pay purposes, shall be a twenty four (24) hour period commencing with the beginning of the employee's regularly scheduled shift.
- 5.13.02 The normal work schedule shall be forty (40) hours consisting of five (5) consecutive days of eight (8) hours each, exclusive of a lunch period, Monday through Friday or any schedule identified in Administrative Policy VI-001 Section 4.
- 5.13.03 Should the normal work schedule need to be modified in terms of days or shift hours by the Department Director to facilitate the needs of City, such modification in normal work schedules will be discussed with Union representatives as to methods for changing or rotating assignments fifteen (15) days prior to any change, except in cases of emergencies.
- A. The affected employee should be notified at least ten (10) full working days prior to any change. Such modification cannot exceed a forty (40) hour work week unless additional hours are worked as a result of a shift change or in cases of emergencies.
- B. Recreation employees may choose to request schedule changes as needed rather than work overtime.
- 5.13.03 For the purposes of calculating overtime, compensatory time and defining payroll periods, the aforementioned schedules will apply.
- 5.13.04 Reporting for Duty
- A. Employees who are unable to report for work at the beginning of their established shift shall notify their immediate supervisor at least thirty (30) minutes prior to the commencement of that shift. Employees shall follow departmental procedures for providing notice of their absence.

- B. Failure to report to work for three (3) consecutive days (or shifts if applicable for which the employee is scheduled to work) without giving proper notice to City will be considered a voluntary resignation of employment even if a co-worker or supervisor covers the shift or otherwise arranges for coverage of the shift. Such employee shall, however, be reinstated provided the employee satisfactorily shows that his/her failure to report was the result of reasonable extenuating circumstances beyond the employee's control.

5.13.05 Except in the case of emergencies, employees shall receive a lunch break after four (4) hours of overtime worked.

5.13.06 Any employee working eight (8) or more hours at the overtime rate during the sixteen (16) hour period immediately preceding the beginning of his/her regular work shift shall be entitled to a rest period of eight (8) consecutive hours on the completion of such overtime work with the following provisions:

- A. No employee shall be required to work in excess of sixteen (16) hours without rest unless an emergency is investigated and continued work is deemed necessary to prevent extreme property damage or to preserve human life.
- B. If the eight (8) hour rest period overlaps his/her regular work shift in whole or in part, he/she will be paid at the straight-time rate for the time that falls within his/her regular work shift.
- C. If the eight (8) hour rest period overlaps a portion of the first half of his/her work shift, the employee may be excused from work until the beginning of the second half of said shift. If the eight (8) hour rest period overlaps a portion of the second half of his/her work shift, he/she may be excused from work until the following work shift. He/she will be paid, however, for that portion of the rest period that overlaps his/her normal working shift. He/she will not be paid for the time between expiration of the rest period and his/her reporting for work.
- D. Hours worked prior to an eight (8) hour rest period shall not be included in determining another rest period.
- E. If the employee is called back to work during his/her eight (8) hour rest period, a new rest period will commence at the conclusion of such work.

5.14 **Health Benefits**

5.14.01 The City will contribute to the City's medical and dental health plans as follows:

- A. For employees with family coverage, up to ~~\$1,900~~\$2,178/month in 2022~~19~~, ~~up to \$1,976/month in 2020~~, and up to ~~\$2,055~~\$2,309 in 2023~~1~~.

- ~~B.~~ For employees with employee plus one coverage, up to ~~\$1,450~~\$1,662/month in 2022~~19~~, ~~up to C.B. \$1,508/month in 2020~~, and up to ~~\$1,568~~\$1,762/month in 2023~~1~~.

~~D.C.~~ For employees with employee only coverage, up to ~~\$725831~~/month in 20~~22~~~~19~~, up to ~~\$754~~ in 2020, and up to ~~\$881784~~ in 202~~31~~.

~~E.D.~~ Employees enrolling in City health but not using the maximum amount available from the City for their premium category (ee only, ee+1, ee+family) shall not be entitled to the surplus. Employees enrolling in plans whose cost exceeds the maximum amount available from the City for their premium category shall have the difference deducted on a pre-tax basis from their paycheck.

~~F.~~ Employees who waive medical coverage and annually provide proof of alternative medical coverage shall be entitled to a taxable cash in lieu payment of two hundred fifty dollars (\$250.00) per month. Employees who waive dental coverage and annually provide proof of alternative dental coverage shall be entitled to a taxable cash in lieu payment of forty dollars (\$40.00) per month.

~~G.E.~~

~~H. The City will implement a cafeteria plan in or before October 2019 consistent with paragraphs A-D above.~~

- 5.14.02 City agrees to provide, at City's expense, up to 100 percent (100%) of the premium cost per employee for the Employee Assistance Program, as presently constituted.
- 5.14.03 All members shall have the option of continuing their current medical insurance at the employee's own cost after retirement. This option can continue as long as there is no lapse in coverage and so long as the employee pays the monthly premium to the California Public Employees Retirement System (CalPERS) or to the Finance Department as per their billing requirements.
- 5.14.04 The CalPERS Medical insurance program shall remain in effect for the term of this agreement or unless the parties agree to terminate the agreement with CalPERS.

ARTICLE VI. – EDUCATIONAL INCENTIVE PROGRAM

6.01 **Educational Incentive Pay Program (for employees hired before July 1, 2008)**

6.01.01 See Exhibit E

6.02 **Tuition Reimbursement**

6.02.01 City shall provide a tuition reimbursement program of up to fifteen hundred dollars (\$1,500) per fiscal year for the cost of books and tuition for classes beneficial to the employee's career development. Mandatory fees required to attend classes and parking fees also may be reimbursed through tuition reimbursement. All classes must be approved in advance by the Department Director. Reimbursement will take place upon a successful completion or passing of the course.

ARTICLE VII. - TYPES OF LEAVE

7.01 **Sick Leave**

- 7.01.01 Sick Leave credit shall be accumulated on the basis of eight (8) hours per month. The employee's accumulated sick leave is unlimited.
- 7.01.02 City will pay twenty-five percent (25%) of unused sick leave at the end of each calendar year. This payment will be based on semi-annual calculations, made on June 1 and December 1 of each year. Employees who have a balance of at least one hundred sixty (160) hours of sick leave may receive fifty percent (50%) of the unused sick leave earned that year. The balance of sick leave will be added to the employee's accumulated sick leave.
- A. The twenty five percent (25%) payout will not be calculated or paid to any employee absent from work on a work related injury which is being covered by worker's compensation.
- 7.01.03 Upon retirement, one hundred percent (100%) of the employees' unused sick leave balance will be credited to the employees' retirement eligibility. This amount would then be converted into time in service and added to the employee's retirement eligibility. (Reference - City contract with CalPERS, Section 20862.8)
- 7.01.04 Union employees shall be allowed to utilize two (2) Personal Leave Days totaling sixteen (16) hours per fiscal year chargeable to sick leave.
- 7.01.05 Employees may use up to twenty four (24) hours of compensatory time when ill or to attend a medical/dental appointment. All other time missed in a fiscal year due to illness or medical/dental appointments requires the use of sick leave. If the employee does not have sick leave and is not on an approved extended leave, the employee may choose to use vacation or compensation leave or may take that time off without pay. Vacation or compensatory time will not substitute for sick leave when the employee has available sick leave, with the exception of twenty four (24) hours of compensatory time per fiscal year as noted above. Per Section 7.01.04, employees may use sixteen (16) hours of personal time, which is charged to sick leave, for unforeseen appointments and unexpected absences.

7.02 **Vacation Accrual**

- 7.02.01 Vacation Accrual shall be as follows:
- A. Eighty (80) hours per year from the date of hire through the second (2nd) year of employment.
- B. Eighty eight (88) hours vacation during the third (3rd) year of employment.
- C. One hundred and four (104) hours vacation during the fourth (4th) year of employment.

- D. One hundred and twelve (112) hours vacation during the fifth (5th) year of employment.
- E. One hundred and twenty (120) hours vacation during the sixth (6th) year of employment.
- F. One hundred and twenty eight (128) hours vacation during the seventh (7th) year of employment.
- G. One hundred and thirty six (136) hours vacation during the eighth (8th) year of employment.
- H. One hundred and forty four (144) hours vacation during the ninth (9th) year of employment.
- I. One hundred and fifty two (152) hours vacation during the tenth (10th) year of employment.
- J. One hundred and sixty (160) hours vacation after the tenth (10th) year of service.

7.02.02 Maximum accumulation of vacation shall be no more than that earned for two (2) years. This vacation accumulation maximum shall be enforceable on June 30th of each year. Employees may exceed the maximum prior to June 30th. Any employee who has more than two (2) years annual accrual on the books on July 1st shall not accrue additional vacation until vacation usage drops below the two (2) years allowable accrual.

7.02.03 City guarantees during the term of the MOU, that no employee will lose vacation accrued if the employee follows departmental guidelines for requesting time off.

7.02.04 Employees who have vacation or compensatory time off at least equal to two (2) weeks shall have the option, twice per fiscal year, of receiving pay in lieu of time off for a total of eighty (80) hours of the accrued time per fiscal year. Employees may elect this option by December 1 of each year for the cash-out of the following calendar year. The cash out election is irrevocable. City will follow IRS regulations regarding cash-out of leave and communicate the procedures for cashing-out to Association.

7.03 **Extended Leave Policy**

7.03.01 In the event an employee is absent from work for illness or injury, unless notified otherwise, prior to the end of the affected pay period, the time off will be coded and deducted from (1) accumulated sick leave, (2) accumulated comp time, and (3) accumulated vacation time, in that order. If a determination is subsequently made by City that the injury was job related, all sick leave, comp time and vacation time used to cover the leave will be credited back to the employee in an amount up to the worker's compensation determination. The amount of compensation from City may need to be offset by payments received from worker's compensation. At no time shall the employee receive compensation and worker's compensation payment in excess of their normal pay. Employees with insufficient time off credited to them will be coded on

payroll as absent without pay. Extended leave is defined as two (2) weeks or more of consecutive time off due to illness or injury.

7.04 Bereavement Leave

7.04.01 Union members shall, per occurrence, be granted Bereavement Leave when a death occurs in the employee's or the employee's spouse's immediate family. For the purpose of this section, "immediate family" is defined as father, mother, brother, sister, spouse, natural or legally adopted child, step-child, in-laws, grandparents, and grandchildren. Up to three (3) days of Bereavement Leave shall be granted when the death and service are within the State of California and up to five (5) days when the death or service is outside the State. Bereavement Leave usage shall not be charged against the employee's Sick Leave or Vacation Time. Employees may also use up to two (2) additional days of Sick Leave to supplement their allotted Bereavement Leave if other circumstances require absence during that time.

7.04.02 Requests for additional Bereavement Leave beyond the allotted three (3) or five (5) days shall be subject to the approval of the employee's supervisor and deducted from the employee's accumulated Comp Time, Personal Leave, or Vacation Time. Special circumstances beyond this definition may be considered on a case-by-case basis and must be approved by the City Manager.

7.04.03 This leave will not affect the twenty-five percent (25%) or fifty percent (50%) cash out of sick leave for the same calendar year.

ARTICLE VIII. – MISCELLANEOUS BENEFITS

8.01 CalPERS Retirement Contributions

8.01.01 For employees hired on or before January 1, 2013, and "Classic Employees" as defined in Government Code section 7522.02(c) of the California Public Employees' Pension Reform Act of 2012 ("PEPRA") hired on or after January 1, 2013, City agrees to continue its CalPERS miscellaneous contract with for all applicable retirement benefits in effect on July 1, 2007 which will provide the single highest year and the 2.5% @ 55 basic retirement formula.

8.01.02 For employees that are considered "New Members" as defined in Government Code section 7522.04(f) of PEPRA hired on or after January 1, 2013, the PERS miscellaneous contract will provide for the three (3) highest years compensation average and the 2.0% @ 62 retirement formula.

8.01.03 Beginning with CalPERS rates effective July 1, 2014, City and Union members agreed to split any rate differences at a 50/50 ratio.

8.01.04 Effective July 1, 2013, Union members will pay the full employee contribution rate of eight percent (8%).

8.01.05 Effective July 1, 2022 Union Members will share the employer's CalPERS contribution rate at 6.12%. The employee's contribution towards employer's share of pension cost will be capped at 6.12%. The City and Union members agree to split any

rate decreases below the FY 2022-23 employer's CalPERS contribution rate of 28.77% at a 50/50 ratio.

8.02 **Deferred Compensation Plan**

8.02.1 City shall continue to contribute two percent (2%) of an employee's base salary to a 457 Deferred Compensation plan per pay period. Employees may elect to contribute via payroll deduction to the City's deferred compensation plans. Employees' contributions can be a lump sum contribution or a percentage of base wages. Employees must submit a completed deferred compensation enrollment/change form to the Human Resources Division for changes in their deferred compensation contributions. Changes shall be effective consistent with the Human Resources submittal deadlines and effective dates.

8.03 **Life Insurance Program**

8.03.01 For the term of this agreement, City will maintain a Life Insurance Program for each employee represented by Union in the amount of one hundred thousand dollars (\$100,000.00) effective August 1, 2008. This amount decreases when the employee reaches age 65, 70, and 75. The Life Insurance benefit will be paid to the employee's beneficiary upon the death of the employee as outlined in the program documents. City will continue to pay 100 percent (100%) of the cost involved with this program. Any employee currently purchasing additional life insurance through the flexible benefits plan may continue to do so.

8.04 **Long Term Disability Program**

8.04.01 For the term of this agreement, City will maintain a Long Term Disability Program on all employees represented by Union. The amount of monthly coverage for the Long Term Disability will be sixty six and two thirds percent (66 2/3%) of the employee's monthly earnings or a maximum benefit paid of four thousand dollars (\$4,000.00) per month, reduced by any deductive benefits. The maximum benefit period is to age sixty five (65) or twelve (12) months, whichever is longer. The elimination period is the sixty (60) days of total disability. Employees may be eligible for some benefits for partial disability as outlined in the Plan documents. City will continue to pay one hundred percent (100%) of the costs involved with this Long Term Disability Program.

8.05 **Short Term Disability Program**

8.05.01 For the term of this agreement, City will maintain a Short Term Disability Program on all employees represented by Union. The amount of weekly coverage for the Short Term Disability will be sixty six and two thirds percent (66 2/3%) of the employee's weekly earnings or a maximum of nine hundred eighty three (\$983.00.00) per week with a duration of eight (8) weeks and the elimination period of eight (8) days. The employee must be totally disabled to qualify for benefits. Per Plan requirements, maternity benefits are included in the Short-Term Disability coverage. City will continue to pay 100 percent (100%) of the costs involved with this program.

8.06 **IRS 125 Program**

8.06.01 City shall maintain in effect the IRS-125 Program.

ARTICLE IX. – MISCELLANEOUS POLICIES AND PROCEDURES

9.01 Hepatitis B Vaccines

9.01.01 City agrees to provide Hepatitis-B shots for those employees represented by Union who regularly or occasionally perform field duties.

9.02 Uniforms

9.02.01 City will provide uniforms for those employees in the Parks, Streets and Utility Divisions required to wear uniforms as a condition of employment. All divisions will be provided soft caps with the City logo attached. With the exception of City provided soft cap or safety helmet, no other caps, head gear, or hats are to be worn. City will also provide regular uniform cleaning. The uniform cleaning amount is \$21.75 per pay period and will be PERSable under special compensation. Employees assigned uniforms are to report to work in uniforms that are neat and clean.

9.02.02 City will pay a safety shoe allowance of two hundred and fifty (\$250.00) per fiscal year to be used for the purchase of safety shoes and any related accessories, to include shoe protectant spray, shoelaces, and insoles, to employees who regularly or occasionally perform field duties. Newly hired employees shall receive an initial safety shoe allowance of two hundred and fifty (\$250) dollars. If a new employee receives their initial safety shoe allowance between the months of January – July, their next safety shoe allowance will be paid the following July. Employees must purchase at least one pair of safety shoes each fiscal year and provide proof of purchase at time of purchase to their Department. The employee is required to wear the shoes at all times when applicable duties are performed. City will provide up to two hundred and fifty dollars (\$250.00) per fiscal year towards a one-time purchase of safety shoes for employees who regularly or occasionally perform field duties. This purchase will be made by City issued credit card. If the total cost of the safety shoe purchase is less than the amount provided by the City, the employee may apply the difference towards additional safety shoes or other safety-shoe related accessories at time of purchase, such as shoe protectant spray, shoelaces, insoles. Shoe-related accessories does not include socks. At no time, should the purchase exceed the \$250 limit. If the total cost does exceed the \$250 limit, the employee must use their personal credit card, debit card, or cash to pay the difference at the time of purchase. Proof of purchase is required to be submitted to their department; once purchased, employees are required to wear the shoes at all times when applicable duties are performed. If a new employee receives their initial safety shoes between the months of January – July, their next safety shoe purchase will be the following July.

It is the employee's responsibility to maintain safety shoes in proper working condition and replace them if necessary if they are damaged, worn, or unsafe. At any ~~time~~time, an employee's supervisor or manager may determine that shoes are unsafe and require replacement.

9.03 Light Duty Determination

9.03.01 In the event an employee is injured and off the job for ten (10) working days or more and may be able to return to work but not able to perform all her/his normal job duty assignments, a temporary “light duty” assignment may be made by City. To be eligible for such a modified assignment, City may require the employee to provide the Human Resources Office with a medical statement from his/her treating physician that clearly states the medical limitations and abilities of the employee. City may require a second or third doctor’s determination at City expense. All light duty work requests shall be coordinated through the Human Resources Office. Light duty may be granted provide that:

- A. A temporary modified work assignment is available and may be accommodated without adverse consequences to City or disruption in services or operations,
- B. City may change regular days off and work hours while the employee is assigned to the temporary modified work assignment,

- C. No temporary modified work assignment shall extend for more than ninety (90) days with the approval of the City Manager, and
- D. No temporary modified work assignment creates any employee entitlement to an assignment in a light duty position.

9.03.02 An employee receiving such a light duty determination could be reassigned to another assignment or other reduced work schedule up to a forty (40) hour work week upon the determination of the Department Director. Once the employee is certified by his/her treating physician or City doctor as no longer in need of light duty, he/she will be reassigned to their normal work assignment.

9.04 **Substance Abuse Policy**

9.04.01 City's Substance Abuse Policy (Administrative Policy VI018) shall continue in effect for the term of this agreement.

9.05 **Class "A" License**

9.05.01 All Utility Worker and Maintenance Worker employees are required to maintain a Class "A" license. Pursuant to the Department of Transportation regulations, such employees are subject to the Department of Transportation Drug Policy. A copy of the Drug and Alcohol Testing Policy as agreed to by City and Union is attached Exhibit F).

9.06 **City-Wide Safety Committee**

9.06.01 City shall maintain a City-wide Safety Committee with Union appointing up to two (2) members. The Committee shall meet at least quarterly and shall review all accident reports and make recommendations thereon, review departmental safety programs and make recommendations thereon, and assist in planning and presenting safety programs. Responsibility for and authority over safety continues to be vested in City Management.

9.07 **Lay Off Procedure**

9.07.01 The City Council may abolish any position in the Classified Service due to lack of funds, work or need.

9.07.02 If City implements a reduction in work force, City will administer the lay-off policy consistent with the following concepts:

A. ORDER: The order of lay-off shall be as follows:

1. Temporary (as-needed) employees;
2. Probationary employees; and
3. Permanent employees in inverse order of seniority within the classification series being reduced.

B. SENIORITY: Seniority shall be determined by the length of current continuous permanent service with City regardless of classification in which employed. Continuous service shall be defined as that which has not been interrupted by

separation of service from City. Seniority shall be retained, but shall not accrue, during any period of authorized leave without pay (more than thirty (30) days), except for military leave. The treatment of personnel employed by means of State or Federal grant monies shall be in accordance with regulations for retention as established by the grantor. In the absence of such regulations, the type of position (Classified or Exempt) shall govern treatment of such personnel. Part time employees shall only receive their total hours of credit and are only subject to combine their total hours for bumping another part-time employee. At no time shall a part time employee be eligible to bump a full-time employee, regardless of seniority. Should a full-time employee who is subject to lay off, be eligible or certified to work in a part time position, the full-time employee may bump into that position beginning with the least senior part time employee first.

C. NOTICE: Probationary and regular employees in the Classified Service, who are scheduled to be laid off, shall receive at least a twenty-one (21) day notice. When City determines that it must implement a reduction in work force, notice to the employee shall be in writing and the bargaining unit shall receive the following information, in addition to the opportunity to discuss with a representative of management:

1. Reason for layoff,
2. Effective date of layoff,
3. Conditions governing re-employment, and
4. Information regarding unemployment insurance.

9.07.03 In lieu of layoff, an employee may elect transfer or demotion to a vacant position in the Classified Service which City intends to fill and for which the employee is qualified. Such actions shall be governed by the terms of Section 10 of the Personnel Rules and in no event shall result in an employee being placed in a classification carrying a higher maximum rate of pay. If two (2) or more employees have requested transfer or demotion to the same vacant position and City has determined they are both qualified to fill it, the more senior employee shall receive preference. For purposes of this section, total time in the Classified Service shall be utilized in determining seniority.

9.07.04 Within ten (10) days from the date layoff notices are issued, an employee who would otherwise be laid off may elect to displace an employee in a classification carrying a lower or the same maximum rate of pay, provided that the displacing employee must have held regular status in such classification and have greater time in the classification and directly related higher classifications combined than the employee being displaced. For example, related classifications would mean Utility Worker I, Utility Worker II, Senior Utility Worker, etc.

9.07.05 A probationary or regular employee displaced in accordance with this paragraph shall, in turn, be provided the same notice and “bumping” privilege as set forth in that paragraph.

9.07.06 Regular and probationary personnel laid off in accordance with this Section shall, unless they request otherwise, be placed on a re-employment list for three (3) years. If an employee is re-employed from such a list, all service credits and sick leave accrued to

the date of layoff shall be restored. In no event, however, shall City be required to restore credits for vacation and sick leave paid out at the time of layoff.

9.07.07 At the time of layoff, the employee's name shall be removed from all promotional eligible lists, but, at the employee's request, shall be retained on open-competitive lists subject to the provisions of Section 10 of the City's Personnel Rules. If the employee is re-employed prior to the expiration of a promotional list, they shall be reinstated to the list.

9.07.08 Prior to the effective date of layoff, the Department Director shall furnish the City Manager a final evaluation of the employee's performance.

9.07.09 Management employees are not eligible to "bump down" into a Union represented position regardless of their previous seniority or status.

9.08 Work Stoppage, Any Job Action, Slowdown

9.08.01 During the life of this MOU, no work stoppage, strikes, or picketing shall be caused or sanctioned by Union and no lockouts shall be made by City.

9.08.02 In the event that any employee covered by this Agreement, individually or collectively, violates the provisions of this article and Union fails to exercise good faith in halting the work interruption, Union and the employees involved shall be deemed in violation of this article and City shall be entitled to seek all remedies available to it under applicable law.

9.08.03 Should City change or increase the duties, requirements, or safety hazards of any job classification(s) represented herein, City will meet and confer with Union no later than thirty (30) days before effective date of such change or changes for the purpose of negotiating appropriate salary adjustment(s) for the so changed classification(s) at a level appropriate to compensate for the increased duties, requirements or safety hazards.

ARTICLE X. – GRIEVANCE PROCEDURE

10.01 The following grievance procedure will be in effect:

10.02 A grievance is defined as any dispute involving the interpretation, application or alleged violation of:

A. A current Memorandum of Understanding between City and Union.

B. City's Personnel Rules where the provision in dispute is within the scope of representation.

10.03 Disciplinary appeals are subject to the provisions of City's Personnel Rules- Disciplinary appeals are subject to the provisions of City's Personnel Rules.

10.04 Informal and Formal Grievances

10.04.01 Step 1. Union or an employee who has a grievance shall bring it to the attention of his/her immediate supervisor within ~~twenty~~ (20) working days of the occurrence of the

act which is the basis for the dispute. If the employee and the immediate supervisor are unable to resolve the grievance within ten (10) working days of the date it is raised with the immediate supervisor, the employee shall have the right to submit a formal grievance which shall contain the following information:

- A. The name of the grievant;
- B. The grievant's department and specific work site;
- C. The name of the grievant's immediate supervisor;
- D. A statement of the nature of the grievance including the date and place of occurrence;
- E. The specific provision, policy, or procedure alleged to have been violated;
- F. The remedies sought by the grievant; and
- G. The name of the individual or organization, if any, designated by the grievant to represent him/her in the processing of the grievance. However, in no event, shall an employee organization other than the one which formally represents the position occupied by the grievant be designated as the grievant's representative.

10.04.02 Step 2. If Union or an employee is dissatisfied with the decision of the immediate supervisor in Step 1, they may submit the grievance to the appropriate Department Director within ten (10) working days from the date of the immediate supervisor's decision. The Department Director shall respond to the Grievance in writing within seven (7) working days from the date of its receipt.

10.04.03 Step 3. If the employee is dissatisfied with the decision of the Department Director in Step 2, he/she may submit the grievance to the City Manager within ten (10) working days from receipt of the Department Director's response. The City Manager or his/her designated representative shall respond to the Grievance in writing within the ten (10) working days of its receipt. Within this period, the City Manager or his/her designee, at his/her discretion, may conduct an informal hearing involving the parties to the dispute.

10.04.04 Step 4. If Union or the employee is dissatisfied with the decision of the City Manager, he/she may submit the grievance to an Employee Relations Panel as provided in Part C, listed below. Notice of such appeal must be filed in writing by the employee with the City Manager within fifteen (15) working days of receipt of the City Manager or his/her designee's decision.

10.05 **Employee Relations Panel**

10.05.01 The Employee Relations Panel shall consist of three (3) members selected as follows:

- A. A City Management official selected by the City Manager;

- B. A City employee selected by the grievant provided, however, that the participation of the employee so selected shall not constitute a conflict of interest nor subject that employee to any recriminations as a result of his/her participation; and
- C. A representative of the California State Mediation and Conciliation Service, or an individual chosen by the parties knowledgeable in public sector labor relations from any source reasonably likely to produce such an individual, including, but not limited to, a labor organization or management organization. This person shall serve as chairperson.
 - i. Where provided compensation, pay shall be shared by City and the grievant or Union.
 - ii. The majority decision of the panel shall be final and binding, subject only to ratification by the City Council if said decision mandates a capital expenditure or significant, unbudgeted expenditures. In those instances, the ruling shall be submitted to the City Council for action which may include modification or reversal. Denial of an award by the City Council does not constitute a waiver of Union's right to seek enforcement of the Award in the Courts.

10.05.02 The conduct of the Panel's hearing shall be governed by the following ground rules.

- A. All hearings shall be convened during regular established City hours to the participation in the hearing is required by the Panel, shall not suffer loss of wages for time devoted to this purpose.
- B. All hearings shall be conducted in an expeditious manner, with the Chairperson retaining final authority to rule on procedural matters or on other points affecting the length and conduct of the hearing. Legal counsel, court reporters and briefs shall only be utilized upon agreement between City and Union or grievant and shall not serve to delay the Panel's decision, except by mutual agreement.
- C. The Panel shall be committed to resolving the grievance in an objective, timely and equitable fashion and shall not permit either party to engage in any presentation or line of an argument which detracts from this purpose. Moreover, the Panel shall not accept evidence not presented in Step 3 of this procedure.
- D. No hearing shall be convened unless both parties have stipulated in writing to the issue or issues to be heard by the panel.

10.05.03 **General Conditions**

- A. Any time limit set forth in this procedure may be extended by written agreement between City and the grievant or Union.
- B. Failure on the part of the grievant or their designated representative to comply with the time limits of this procedure or any extension thereto shall constitute a withdrawal of the grievance without further recourse for re- submittal under this procedure. Failure on the part of City to comply with prescribed time limits or

extension thereto shall result in the grievance being moved to the next step of the procedure.

- C. The grievant shall be entitled to have a representative of his own choosing, except as provided in Step 1, B-G., present at any grievance meeting with City.
- D. A representative of a recognized employee organization which represents the grievant's position shall be entitled to be present at any hearing held in conjunction with Step 3 and Step 4 of this procedure.
- E. The City Manager or his/her designated representative shall serve as the central repository for all grievance records.

ARTICLE XI. – MISCELLANEOUS

- 11.01 City and Union consent to form a committee whose task shall be to create a program that provides for certain positions within City's classifications to be designated as "flexibly staffed." Flexibly staffed positions will afford City the opportunity to increase the capacity of the work force to deliver quality services to citizens and provides City employees with advancement opportunities within their job classification. Once the program is established, Human Resources shall be responsible for its oversight.

ARTICLE XII. – RATIFICATION

- 12.01 This MOU shall become effective December ~~2630~~, 2021~~18~~.
- 12.02 Unless mutually agreed otherwise by City and Union, Union shall provide City with its written requests on terms within the scope of representation for the period beginning January 1, 202~~42~~ no later than two (2) weeks prior to the start of negotiations. City and Union shall begin to meet and confer on or before August 1, 202~~31~~ and endeavor to complete negotiations on a successor MOU by the end of November 202~~31~~.

FOR THE CITY OF MORGAN HILL

FOR AFSCME, LOCAL 101

<u>Christina Turner</u>	<u>Date</u>	<u>Osbaldo Esquivel</u>	<u>Date</u>
<u>City Manager</u>		<u>President</u>	

<u>Donald Larkin</u>	<u>Date</u>	<u>John Henry</u>	<u>Date</u>
<u>City Attorney</u>		<u>Treasurer</u>	

<u>Michael Horta</u>	<u>Date</u>	<u>Lisa Cvitanich</u>	<u>Date</u>
<u>Human Resources Director</u>		<u>Secretary</u>	

<u>Dat Nguyen</u>	<u>Date</u>
<u>Finance Director</u>	

CITY OF MORGAN HILL AFSCME LOCAL 101 MONTHLY SALARY FOR REGULAR EMPLOYEES BY CLASSIFICATION

Exhibit A

Effective 12/30/2018 (3.5% increase)												
Position	A-Monthly	A-Hourly	B-Monthly	B-Hourly	C-Monthly	C-Hourly	D-Monthly	D-Hourly	E-Monthly	E-Hourly	F-Monthly	F-Hourly
Accountant-I	\$ 6,876	\$ 39.67	\$ 7,219	\$ 41.65	\$ 7,580	\$ 43.73	\$ 7,959	\$ 45.92	\$ 8,358	\$ 48.22	\$ 8,776	\$ 50.63
Accounting Asst.-I	4,546	26.23	4,773	27.54	5,013	28.92	5,263	30.36	5,526	31.88	5,802	33.47
Accounting Asst.-II	4,758	27.45	4,996	28.82	5,245	30.26	5,507	31.77	5,783	33.36	6,071	35.03
Assistant Planner	6,876	39.67	7,219	41.65	7,580	43.73	7,959	45.92	8,358	48.22	8,776	50.63
Assistant Engineer	7,638	44.07	8,021	46.28	8,423	48.59	8,843	51.02	9,285	53.57	9,750	56.25
Associate Planner	7,401	42.70	7,772	44.84	8,160	47.08	8,568	49.43	8,996	51.90	9,446	54.50
Associate Engineer	8,873	51.19	9,317	53.75	9,783	56.44	10,272	59.26	10,786	62.23	11,325	65.34
Business Assistant	5,269	30.40	5,533	31.92	5,810	33.52	6,100	35.19	6,406	36.96	6,725	38.80
Building Inspector-II	7,676	44.28	8,059	46.49	8,461	48.81	8,884	51.26	9,329	53.82	9,795	56.51
Building Inspector-Supervisor	9,029	52.09	9,481	54.70	9,955	57.43	10,453	60.30	10,975	63.32	11,524	66.48
Code Compliance Officer	6,952	40.11	7,300	42.11	7,665	44.22	8,048	46.43	8,451	48.75	8,873	51.19
Community Services Coordinator	5,786	33.38	6,076	35.05	6,380	36.81	6,699	38.65	7,034	40.58	7,386	42.61
Council Services Assistant	5,235	30.20	5,496	31.71	5,771	33.30	6,060	34.96	6,363	36.71	6,681	38.54
Custodian	3,504	20.21	3,678	21.22	3,863	22.28	4,056	23.40	4,259	24.57	4,472	25.80
Development Services Technician	6,072	35.03	6,376	36.78	6,694	38.62	7,029	40.55	7,381	42.58	7,750	44.71
Electrician	7,233	41.73	7,595	43.82	7,975	46.01	8,373	48.31	8,792	50.72	9,232	53.26
Engineering Technician-I	5,369	30.97	5,637	32.52	5,918	34.14	6,214	35.85	6,525	37.64	6,851	39.52
Engineering Technician-II	5,936	34.24	6,233	35.96	6,544	37.76	6,871	39.64	7,215	41.63	7,576	43.71
Environmental Programs Coordinator	6,876	39.67	7,219	41.65	7,580	43.73	7,959	45.92	8,358	48.22	8,776	50.63
Exec. Sec. to the Chief of Police	5,369	30.97	5,637	32.52	5,918	34.14	6,214	35.85	6,525	37.64	6,851	39.52
Facilities Maintenance Specialist	5,786	33.38	6,076	35.05	6,380	36.81	6,699	38.65	7,034	40.58	7,386	42.61
Housing Program Coordinator	7,401	42.70	7,772	44.84	8,160	47.08	8,568	49.43	8,996	51.90	9,446	54.50
Information Services Technician	6,876	39.67	7,219	41.65	7,580	43.73	7,959	45.92	8,358	48.22	8,776	50.63
Junior Engineer	6,876	39.67	7,219	41.65	7,580	43.73	7,959	45.92	8,358	48.22	8,776	50.63
Maintenance Worker-I	4,758	27.45	4,996	28.82	5,245	30.26	5,507	31.77	5,783	33.36	6,071	35.03
Maintenance Worker-II	5,250	30.29	5,512	31.80	5,788	33.39	6,078	35.06	6,382	36.82	6,701	38.66
Maintenance Supervisor	7,625	43.99	8,006	46.19	8,406	48.50	8,827	50.92	9,267	53.47	9,731	56.14
Management Analyst	7,050	40.68	7,403	42.71	7,774	44.85	8,163	47.09	8,571	49.45	8,999	51.92
Municipal Services Assistant	5,014	28.92	5,264	30.37	5,527	31.89	5,803	33.48	6,093	35.15	6,397	36.91
Office Assistant-I	3,616	20.86	3,797	21.91	3,987	23.00	4,187	24.15	4,396	25.36	4,615	26.63
Office Assistant-II	4,546	26.23	4,773	27.54	5,013	28.92	5,263	30.36	5,526	31.88	5,802	33.47
Police Analyst	7,775	44.86	8,164	47.10	8,572	49.45	9,000	51.93	9,451	54.52	9,924	57.25
Public Works Inspection Supervisor	9,029	52.09	9,481	54.70	9,955	57.43	10,453	60.30	10,975	63.32	11,524	66.48
Public Works Inspector	7,233	41.73	7,594	43.81	7,974	46.00	8,372	48.30	8,790	50.71	9,230	53.25
Recreation Services Coordinator	5,786	33.38	6,076	35.05	6,380	36.81	6,699	38.65	7,034	40.58	7,386	42.61
Senior Maintenance Worker	5,786	33.38	6,076	35.05	6,380	36.81	6,699	38.65	7,034	40.58	7,386	42.61
Senior Utility Worker	5,786	33.38	6,076	35.05	6,380	36.81	6,699	38.65	7,034	40.58	7,386	42.61
Senior Public Works Inspector	7,775	44.86	8,164	47.10	8,572	49.45	9,000	51.93	9,451	54.52	9,924	57.25
Support Services Supervisor	6,859	39.57	7,202	41.55	7,562	43.63	7,940	45.80	8,337	48.10	8,754	50.50
Utility Worker-I	4,758	27.45	4,996	28.82	5,245	30.26	5,507	31.77	5,783	33.36	6,071	35.03
Utility Worker-II	5,250	30.29	5,512	31.80	5,788	33.39	6,078	35.06	6,382	36.82	6,701	38.66
Utility Supervisor	7,750	44.71	8,137	46.95	8,544	49.29	8,971	51.76	9,420	54.34	9,891	57.06
Water Quality Specialist	6,391	36.87	6,711	38.72	7,046	40.65	7,398	42.68	7,768	44.81	8,156	47.05

Exhibit A CITY OF MORGAN HILL AFSCME LOCAL 101 MONTHLY SALARY FOR REGULAR EMPLOYEES BY CLASSIFICATION

Effective 12/26/2021 (4% increase)	Monthly figures are rounded to the nearest \$1.00											
Position	A Monthly	A Hourly	B Monthly	B Hourly	C Monthly	C Hourly	D Monthly	D Hourly	E Monthly	E Hourly	F Monthly	F Hourly
Accountant I	\$ 7,623	\$ 43.98	\$ 8,004	\$ 46.18	\$ 8,404	\$ 48.49	\$ 8,824	\$ 50.91	\$ 9,266	\$ 53.46	\$ 9,730	\$ 56.13
Accounting Asst. I	5,040	29.08	5,292	30.53	5,557	32.06	5,835	33.66	6,127	35.35	6,433	37.11
Accounting Asst. II	5,275	30.43	5,539	31.96	5,816	33.55	6,106	35.23	6,411	36.99	6,731	38.83
Assistant Planner	7,623	43.98	8,004	46.18	8,404	48.49	8,824	50.91	9,266	53.46	9,730	56.13
Assistant Engineer	8,469	48.86	8,893	51.31	9,338	53.87	9,804	56.56	10,294	59.39	10,810	62.36
Associate Planner	8,206	47.34	8,617	49.71	9,047	52.19	9,499	54.80	9,974	57.54	10,473	60.42
Associate Engineer	9,838	56.76	10,330	59.60	10,846	62.57	11,389	65.71	11,958	68.99	12,556	72.44
Business Assistant	5,842	33.70	6,135	35.39	6,441	37.16	6,763	39.02	7,102	40.97	7,457	43.02
Building Inspector II	8,510	49.10	8,934	51.54	9,381	54.12	9,850	56.83	10,343	59.67	10,860	62.65
Building Inspector Supervisor	10,011	57.75	10,511	60.64	11,037	63.67	11,589	66.86	12,168	70.20	12,776	73.71
Code Compliance Officer	7,708	44.47	8,093	46.69	8,498	49.03	8,923	51.48	9,370	54.05	9,838	56.76
Community Services Coordinator	6,415	37.01	6,736	38.86	7,073	40.81	7,427	42.85	7,798	44.99	8,189	47.24
Council Services Assistant	5,804	33.48	6,093	35.15	6,399	36.92	6,719	38.76	7,055	40.70	7,407	42.73
Custodian	3,884	22.41	4,078	23.53	4,282	24.71	4,497	25.94	4,722	27.24	4,958	28.61
Development Services Technician	6,732	38.84	7,069	40.78	7,422	42.82	7,793	44.96	8,183	47.21	8,593	49.57
Electrician	8,019	46.26	8,420	48.58	8,842	51.01	9,283	53.56	9,748	56.24	10,236	59.05
Engineering Technician I	5,952	34.34	6,249	36.05	6,561	37.85	6,890	39.75	7,234	41.73	7,595	43.82
Engineering Technician II	6,581	37.97	6,910	39.87	7,256	41.86	7,618	43.95	7,999	46.15	8,400	48.46
Environmental Programs Coordinator	7,623	43.98	8,004	46.18	8,404	48.49	8,824	50.91	9,266	53.46	9,730	56.13
Exec. Asst. to the Chief of Police	5,952	34.34	6,249	36.05	6,561	37.85	6,890	39.75	7,234	41.73	7,595	43.82
Facilities Maintenance Specialist	6,415	37.01	6,736	38.86	7,073	40.81	7,427	42.85	7,798	44.99	8,189	47.24
Homeless Unhoused Specialist	6,415	37.01	6,736	38.86	7,073	40.81	7,427	42.85	7,798	44.99	8,189	47.24
Housing Program Coordinator	8,206	47.34	8,617	49.71	9,047	52.19	9,499	54.80	9,974	57.54	10,473	60.42
Information Services Technician	7,623	43.98	8,004	46.18	8,404	48.49	8,824	50.91	9,266	53.46	9,730	56.13
Junior Engineer	7,623	43.98	8,004	46.18	8,404	48.49	8,824	50.91	9,266	53.46	9,730	56.13
Maintenance Worker I	5,275	30.43	5,539	31.96	5,816	33.55	6,106	35.23	6,411	36.99	6,731	38.83
Maintenance Worker II	5,820	33.58	6,112	35.26	6,417	37.02	6,738	38.87	7,075	40.82	7,429	42.86
Maintenance Supervisor	8,454	48.77	8,876	51.21	9,320	53.77	9,786	56.46	10,275	59.28	10,789	62.24
Management Analyst	7,817	45.10	8,208	47.35	8,619	49.73	9,050	52.21	9,503	54.82	9,978	57.56
Municipal Services Assistant	5,559	32.07	5,836	33.67	6,128	35.35	6,434	37.12	6,755	38.97	7,093	40.92
Office Assistant I	4,009	23.13	4,210	24.29	4,420	25.50	4,642	26.78	4,873	28.12	5,117	29.52
Office Assistant II	5,040	29.08	5,292	30.53	5,557	32.06	5,835	33.66	6,127	35.35	6,433	37.11
Plan Check Engineer	10,011	57.75	10,511	60.64	11,037	63.67	11,589	66.86	12,168	70.20	12,776	73.71
Plans Examiner	8,510	49.10	8,934	51.54	9,381	54.12	9,850	56.83	10,343	59.67	10,860	62.65
Police Analyst	8,620	49.73	9,052	52.22	9,504	54.83	9,979	57.57	10,478	60.45	11,002	63.47
Public Works Inspection Supervisor	10,011	57.75	10,511	60.64	11,037	63.67	11,589	66.86	12,168	70.20	12,776	73.71
Public Works Inspector	8,019	46.26	8,419	48.57	8,840	51.00	9,282	53.55	9,746	56.23	10,233	59.04
Recreation Services Coordinator	6,415	37.01	6,736	38.86	7,073	40.81	7,427	42.85	7,798	44.99	8,189	47.24
Senior Accountant	8,385	48.38	8,804	50.79	9,244	53.33	9,707	56.00	10,192	58.80	10,702	61.74
Senior Maintenance Worker	6,415	37.01	6,736	38.86	7,073	40.81	7,427	42.85	7,798	44.99	8,189	47.24
Senior Utility Worker	6,415	37.01	6,736	38.86	7,073	40.81	7,427	42.85	7,798	44.99	8,189	47.24
Senior Public Works Inspector	8,620	49.73	9,052	52.22	9,504	54.83	9,979	57.57	10,478	60.45	11,002	63.47
Support Services Supervisor	7,605	43.87	7,984	46.06	8,384	48.37	8,803	50.78	9,243	53.33	9,706	55.99
Utility Worker I	5,275	30.43	5,539	31.96	5,816	33.55	6,106	35.23	6,411	36.99	6,731	38.83
Utility Worker II	5,820	33.58	6,112	35.26	6,417	37.02	6,738	38.87	7,075	40.82	7,429	42.86
Utility Supervisor	8,593	49.57	9,022	52.05	9,473	54.65	9,947	57.38	10,443	60.25	10,966	63.26
Water Quality Specialist	7,086	40.88	7,440	42.93	7,812	45.07	8,202	47.32	8,612	49.69	9,042	52.17

Effective 12/25/2022 (2% increase)												
Position	A Monthly	A Hourly	B Monthly	B Hourly	C Monthly	C Hourly	D Monthly	D Hourly	E Monthly	E Hourly	F Monthly	F Hourly
Accountant I	\$ 7,775	\$ 44.86	\$ 8,164	\$ 47.10	\$ 8,572	\$ 49.46	\$ 9,001	\$ 51.93	\$ 9,451	\$ 54.53	\$ 9,924	\$ 57.26
Accounting Asst. I	5,141	29.66	5,398	31.14	5,668	32.70	5,952	34.34	6,249	36.05	6,562	37.86
Accounting Asst. II	5,381	31.04	5,650	32.59	5,932	34.22	6,228	35.93	6,539	37.73	6,866	39.61
Assistant Planner	7,775	44.86	8,164	47.10	8,572	49.46	9,001	51.93	9,451	54.53	9,924	57.26
Assistant Engineer	8,638	49.83	9,071	52.33	9,525	54.95	10,000	57.69	10,500	60.58	11,026	63.61
Associate Planner	8,370	48.29	8,789	50.71	9,228	53.24	9,689	55.90	10,174	58.69	10,683	61.63
Associate Engineer	10,034	57.89	10,536	60.79	11,063	63.83	11,617	67.02	12,197	70.37	12,807	73.89
Business Assistant	5,959	34.38	6,257	36.10	6,570	37.90	6,899	39.80	7,244	41.79	7,606	43.88
Building Inspector II	8,680	50.08	9,113	52.58	9,568	55.20	10,047	57.96	10,549	60.86	11,077	63.91
Building Inspector Supervisor	10,211	58.91	10,721	61.85	11,257	64.95	11,820	68.19	12,412	71.60	13,032	75.18
Code Compliance Officer	7,862	45.36	8,255	47.63	8,668	50.01	9,102	52.51	9,557	55.14	10,034	57.89
Community Services Coordinator	6,543	37.75	6,871	39.64	7,215	41.62	7,575	43.70	7,954	45.89	8,352	48.19
Council Services Assistant	5,920	34.15	6,215	35.86	6,527	37.65	6,853	39.54	7,196	41.51	7,555	43.59
Custodian	3,962	22.86	4,160	24.00	4,368	25.20	4,587	26.46	4,816	27.79	5,058	29.18
Development Services Technician	6,867	39.62	7,210	41.60	7,571	43.68	7,949	45.86	8,347	48.15	8,765	50.56
Electrician	8,179	47.19	8,589	49.55	9,018	52.03	9,469	54.63	9,943	57.36	10,440	60.23
Engineering Technician I	6,071	35.03	6,374	36.77	6,693	38.61	7,027	40.54	7,378	42.57	7,747	44.70
Engineering Technician II	6,713	38.73	7,049	40.67	7,401	42.70	7,771	44.83	8,159	47.07	8,568	49.43
Environmental Programs Coordinator	7,775	44.86	8,164	47.10	8,572	49.46	9,001	51.93	9,451	54.53	9,924	57.26
Exec. Asst. to the Chief of Police	6,071	35.03	6,374	36.77	6,693	38.61	7,027	40.54	7,378	42.57	7,747	44.70
Facilities Maintenance Specialist	6,543	37.75	6,871	39.64	7,215	41.62	7,575	43.70	7,954	45.89	8,352	48.19
Homeless Unhoused Specialist	6,543	37.75	6,871	39.64	7,215	41.62	7,575	43.70	7,954	45.89	8,352	48.19
Housing Program Coordinator	8,370	48.29	8,789	50.71	9,228	53.24	9,689	55.90	10,174	58.69	10,683	61.63
Information Services Technician	7,775	44.86	8,164	47.10	8,572	49.46	9,001	51.93	9,451	54.53	9,924	57.26
Junior Engineer	7,775	44.86	8,164	47.10	8,572	49.46	9,001	51.93	9,451	54.53	9,924	57.26
Maintenance Worker I	5,381	31.04	5,650	32.59	5,932	34.22	6,228	35.93	6,539	37.73	6,866	39.61
Maintenance Worker II	5,937	34.25	6,234	35.96	6,545	37.76	6,873	39.65	7,217	41.64	7,578	43.72
Maintenance Supervisor	8,623	49.75	9,053	52.23	9,507	54.85	9,982	57.59	10,480	60.46	11,005	63.49
Management Analyst	7,973	46.00	8,372	48.30	8,791	50.72	9,231	53.26	9,693	55.92	10,177	58.71
Municipal Services Assistant	5,670	32.71	5,953	34.34	6,250	36.06	6,563	37.86	6,890	39.75	7,235	41.74
Office Assistant I	4,090	23.59	4,294	24.77	4,509	26.01	4,735	27.31	4,971	28.68	5,219	30.11
Office Assistant II	5,141	29.66	5,398	31.14	5,668	32.70	5,952	34.34	6,249	36.05	6,562	37.86
Plan Check Engineer	10,211	58.91	10,721	61.85	11,257	64.95	11,820	68.19	12,412	71.60	13,032	75.18
Plans Examiner	8,680	50.08	9,113	52.58	9,568	55.20	10,047	57.96	10,549	60.86	11,077	63.91
Police Analyst	8,792	50.73	9,233	53.26	9,694	55.93	10,178	58.72	10,687	61.66	11,222	64.74
Public Works Inspection Supervisor	10,211	58.91	10,721	61.85	11,257	64.95	11,820	68.19	12,412	71.60	13,032	75.18
Public Works Inspector	8,179	47.19	8,588	49.54	9,017	52.02	9,468	54.62	9,941	57.35	10,438	60.22
Recreation Services Coordinator	6,543	37.75	6,871	39.64	7,215	41.62	7,575	43.70	7,954	45.89	8,352	48.19
Senior Accountant	8,553	49.34	8,980	51.81	9,429	54.40	9,901	57.12	10,396	59.98	10,916	62.98
Senior Maintenance Worker	6,543	37.75	6,871	39.64	7,215	41.62	7,575	43.70	7,954	45.89	8,352	48.19
Senior Utility Worker	6,543	37.75	6,871	39.64	7,215	41.62	7,575	43.70	7,954	45.89	8,352	48.19
Senior Public Works Inspector	8,792	50.73	9,233	53.26	9,694	55.93	10,178	58.72	10,687	61.66	11,222	64.74
Support Services Supervisor	7,757	44.75	8,144	46.98	8,551	49.33	8,979	51.80	9,428	54.39	9,900	57.11
Utility Worker I	5,381	31.04	5,650	32.59	5,932	34.22	6,228	35.93	6,539	37.73	6,866	39.61
Utility Worker II	5,937	34.25	6,234	35.96	6,545	37.76	6,873	39.65	7,217	41.64	7,578	43.72
Utility Supervisor	8,765	50.56	9,202	53.09	9,662	55.74	10,146	58.53	10,652	61.46	11,185	64.53
Water Quality Specialist	7,228	41.70	7,589	43.78	7,968	45.97	8,366	48.27	8,784	50.68	9,223	53.21

Exhibit C

CPI more than 2% Increase is 2.5%

Monthly figures are rounded to the nearest \$1.00

Effective 12/25/2022 (2.50% increase)												
Position	A Monthly	A Hourly	B Monthly	B Hourly	C Monthly	C Hourly	D Monthly	D Hourly	E Monthly	E Hourly	F Monthly	F Hourly
Accountant I	\$ 7,814	\$ 45.08	\$ 8,204	\$ 47.33	\$ 8,614	\$ 49.70	\$ 9,045	\$ 52.18	\$ 9,498	\$ 54.79	\$ 9,973	\$ 57.54
Accounting Asst. I	5,166	29.80	5,425	31.30	5,696	32.86	5,981	34.51	6,280	36.23	6,594	38.04
Accounting Asst. II	5,407	31.19	5,677	32.75	5,961	34.39	6,258	36.11	6,571	37.91	6,900	39.80
Assistant Planner	7,814	45.08	8,204	47.33	8,614	49.70	9,045	52.18	9,498	54.79	9,973	57.54
Assistant Engineer	8,680	50.08	9,116	52.59	9,572	55.22	10,049	57.98	10,552	60.88	11,080	63.92
Associate Planner	8,411	48.52	8,832	50.95	9,273	53.50	9,737	56.17	10,224	58.98	10,735	61.93
Associate Engineer	10,084	58.17	10,588	61.08	11,117	64.14	11,674	67.35	12,257	70.71	12,870	74.25
Business Assistant	5,988	34.55	6,288	36.28	6,602	38.09	6,933	40.00	7,279	42.00	7,643	44.09
Building Inspector II	8,723	50.32	9,158	52.83	9,615	55.47	10,096	58.25	10,601	61.16	11,131	64.22
Building Inspector Supervisor	10,261	59.20	10,774	62.16	11,313	65.26	11,878	68.53	12,472	71.96	13,096	75.55
Code Compliance Officer	7,901	45.58	8,296	47.86	8,711	50.26	9,146	52.77	9,604	55.41	10,084	58.17
Community Services Coordinator	6,575	37.93	6,904	39.83	7,250	41.83	7,612	43.92	7,993	46.12	8,393	48.42
Council Services Assistant	5,949	34.32	6,246	36.03	6,559	37.84	6,887	39.73	7,231	41.72	7,592	43.80
Custodian	3,982	22.97	4,180	24.12	4,390	25.32	4,610	26.59	4,840	27.92	5,082	29.32
Development Services Technician	6,901	39.81	7,245	41.80	7,608	43.89	7,988	46.08	8,388	48.39	8,807	50.81
Electrician	8,219	47.42	8,631	49.79	9,063	52.28	9,516	54.90	9,992	57.64	10,492	60.53
Engineering Technician I	6,101	35.20	6,406	36.95	6,725	38.80	7,062	40.74	7,415	42.78	7,785	44.91
Engineering Technician II	6,745	38.92	7,083	40.86	7,437	42.91	7,809	45.05	8,199	47.30	8,610	49.67
Environmental Programs Coordinator	7,814	45.08	8,204	47.33	8,614	49.70	9,045	52.18	9,498	54.79	9,973	57.54
Exec. Asst. to the Chief of Police	6,101	35.20	6,406	36.95	6,725	38.80	7,062	40.74	7,415	42.78	7,785	44.91
Facilities Maintenance Specialist	6,575	37.93	6,904	39.83	7,250	41.83	7,612	43.92	7,993	46.12	8,393	48.42
Homeless Unhoused Specialist	6,575	37.93	6,904	39.83	7,250	41.83	7,612	43.92	7,993	46.12	8,393	48.42
Housing Program Coordinator	8,411	48.52	8,832	50.95	9,273	53.50	9,737	56.17	10,224	58.98	10,735	61.93
Information Services Technician	7,814	45.08	8,204	47.33	8,614	49.70	9,045	52.18	9,498	54.79	9,973	57.54
Junior Engineer	7,814	45.08	8,204	47.33	8,614	49.70	9,045	52.18	9,498	54.79	9,973	57.54
Maintenance Worker I	5,407	31.19	5,677	32.75	5,961	34.39	6,258	36.11	6,571	37.91	6,900	39.80
Maintenance Worker II	5,966	34.42	6,265	36.14	6,577	37.95	6,907	39.85	7,252	41.84	7,615	43.93
Maintenance Supervisor	8,665	49.99	9,098	52.49	9,553	55.11	10,031	57.87	10,532	60.76	11,059	63.80
Management Analyst	8,012	46.22	8,413	48.54	8,835	50.97	9,277	53.52	9,740	56.19	10,227	59.00
Municipal Services Assistant	5,698	32.87	5,982	34.51	6,281	36.24	6,595	38.05	6,924	39.95	7,270	41.94
Office Assistant I	4,110	23.71	4,315	24.90	4,531	26.14	4,758	27.45	4,995	28.82	5,245	30.26
Office Assistant II	5,166	29.80	5,425	31.30	5,696	32.86	5,981	34.51	6,280	36.23	6,594	38.04
Plan Check Engineer	10,261	59.20	10,774	62.16	11,313	65.26	11,878	68.53	12,472	71.96	13,096	75.55
Plans Examiner	8,723	50.32	9,158	52.83	9,615	55.47	10,096	58.25	10,601	61.16	11,131	64.22
Police Analyst	8,836	50.97	9,278	53.53	9,741	56.20	10,228	59.01	10,740	61.96	11,277	65.06
Public Works Inspection Supervisor	10,261	59.20	10,774	62.16	11,313	65.26	11,878	68.53	12,472	71.96	13,096	75.55
Public Works Inspector	8,219	47.42	8,630	49.79	9,061	52.28	9,514	54.89	9,989	57.63	10,489	60.51
Recreation Services Coordinator	6,575	37.93	6,904	39.83	7,250	41.83	7,612	43.92	7,993	46.12	8,393	48.42
Senior Accountant	8,595	49.58	9,024	52.06	9,476	54.67	9,949	57.40	10,447	60.27	10,970	63.29
Senior Maintenance Worker	6,575	37.93	6,904	39.83	7,250	41.83	7,612	43.92	7,993	46.12	8,393	48.42
Senior Utility Worker	6,575	37.93	6,904	39.83	7,250	41.83	7,612	43.92	7,993	46.12	8,393	48.42
Senior Public Works Inspector	8,836	50.97	9,278	53.53	9,741	56.20	10,228	59.01	10,740	61.96	11,277	65.06
Support Services Supervisor	7,795	44.97	8,184	47.21	8,593	49.58	9,023	52.05	9,474	54.66	9,948	57.39
Utility Worker I	5,407	31.19	5,677	32.75	5,961	34.39	6,258	36.11	6,571	37.91	6,900	39.80
Utility Worker II	5,966	34.42	6,265	36.14	6,577	37.95	6,907	39.85	7,252	41.84	7,615	43.93
Utility Supervisor	8,807	50.81	9,247	53.35	9,709	56.02	10,195	58.82	10,705	61.76	11,240	64.84
Water Quality Specialist	7,263	41.90	7,626	44.00	8,008	46.20	8,408	48.50	8,827	50.93	9,269	53.47

Effective 01/01/2020 (3.25% increase)												
Position	A Monthly	A Hourly	B Monthly	B Hourly	C Monthly	C Hourly	D Monthly	D Hourly	E Monthly	E Hourly	F Monthly	F Hourly
Accountant I	\$ 7,099	\$ 40.96	\$ 7,454	\$ 43.00	\$ 7,827	\$ 45.15	\$ 8,218	\$ 47.41	\$ 8,629	\$ 49.78	\$ 9,061	\$ 52.28
Accounting Asst. I	4,693	27.08	4,929	28.43	5,175	29.86	5,434	31.35	5,706	32.92	5,991	34.56
Accounting Asst. II	4,913	28.34	5,158	29.76	5,416	31.25	5,686	32.81	5,970	34.44	6,269	36.17
Assistant Planner	7,099	40.96	7,454	43.00	7,827	45.15	8,218	47.41	8,629	49.78	9,061	52.28
Assistant Engineer	7,887	45.50	8,282	47.78	8,697	50.17	9,130	52.68	9,587	55.31	10,067	58.08
Associate Planner	7,642	44.09	8,024	46.29	8,425	48.61	8,846	51.04	9,289	53.59	9,753	56.27
Associate Engineer	9,162	52.85	9,620	55.50	10,101	58.27	10,606	61.19	11,136	64.25	11,693	67.46
Business Assistant	5,440	31.39	5,713	32.96	5,998	34.61	6,299	36.34	6,614	38.16	6,944	40.06
Building Inspector II	7,925	45.72	8,320	48.00	8,736	50.40	9,173	52.92	9,632	55.57	10,114	58.35
Building Inspector Supervisor	9,323	53.79	9,789	56.47	10,278	59.30	10,792	62.26	11,332	65.38	11,898	68.64
Code Compliance Officer	7,178	41.41	7,537	43.48	7,914	45.66	8,310	47.94	8,726	50.34	9,162	52.85
Community Services Coordinator	5,974	34.46	6,273	36.19	6,587	38.00	6,916	39.90	7,263	41.90	7,626	44.00
Council Services Assistant	5,405	31.18	5,675	32.74	5,959	34.38	6,257	36.10	6,570	37.90	6,898	39.80
Custodian	3,617	20.87	3,798	21.91	3,988	23.01	4,188	24.16	4,397	25.37	4,618	26.64
Development Services Technician	6,270	36.17	6,583	37.98	6,912	39.88	7,257	41.87	7,621	43.96	8,002	46.17
Electrician	7,468	43.08	7,842	45.24	8,234	47.50	8,645	49.88	9,078	52.37	9,532	54.99
Engineering Technician I	5,543	31.98	5,820	33.58	6,110	35.25	6,416	37.02	6,737	38.87	7,073	40.81
Engineering Technician II	6,129	35.36	6,435	37.13	6,757	38.98	7,095	40.93	7,450	42.98	7,822	45.13
Environmental Programs Coordinator	7,099	40.96	7,454	43.00	7,827	45.15	8,218	47.41	8,629	49.78	9,061	52.28
Exec. Sec. to the Chief of Police	5,543	31.98	5,820	33.58	6,110	35.25	6,416	37.02	6,737	38.87	7,073	40.81
Facilities Maintenance Specialist	5,974	34.46	6,273	36.19	6,587	38.00	6,916	39.90	7,263	41.90	7,626	44.00
Housing Program Coordinator	7,642	44.09	8,024	46.29	8,425	48.61	8,846	51.04	9,289	53.59	9,753	56.27
Information Services Technician	7,099	40.96	7,454	43.00	7,827	45.15	8,218	47.41	8,629	49.78	9,061	52.28
Junior Engineer	7,099	40.96	7,454	43.00	7,827	45.15	8,218	47.41	8,629	49.78	9,061	52.28
Maintenance Worker I	4,913	28.34	5,158	29.76	5,416	31.25	5,686	32.81	5,970	34.44	6,269	36.17
Maintenance Worker II	5,420	31.27	5,692	32.84	5,976	34.48	6,275	36.20	6,589	38.01	6,918	39.91
Maintenance Supervisor	7,873	45.42	8,266	47.69	8,680	50.07	9,113	52.58	9,569	55.20	10,047	57.97
Management Analyst	7,280	42.00	7,644	44.10	8,027	46.31	8,428	48.62	8,849	51.05	9,292	53.61
Municipal Services Assistant	5,177	29.86	5,435	31.36	5,707	32.92	5,992	34.57	6,291	36.29	6,605	38.11
Office Assistant I	3,734	21.54	3,921	22.62	4,116	23.75	4,323	24.94	4,539	26.18	4,765	27.49
Office Assistant II	4,693	27.08	4,929	28.43	5,175	29.86	5,434	31.35	5,706	32.92	5,991	34.56
Police Analyst	8,028	46.31	8,429	48.63	8,851	51.06	9,293	53.61	9,758	56.29	10,246	59.11
Public Works Inspection Supervisor	9,323	53.79	9,789	56.47	10,278	59.30	10,792	62.26	11,332	65.38	11,898	68.64
Public Works Inspector	7,468	43.08	7,841	45.23	8,233	47.50	8,644	49.87	9,076	52.36	9,530	54.98
Recreation Services Coordinator	5,974	34.46	6,273	36.19	6,587	38.00	6,916	39.90	7,263	41.90	7,626	44.00
Senior Maintenance Worker	5,974	34.46	6,273	36.19	6,587	38.00	6,916	39.90	7,263	41.90	7,626	44.00
Senior Utility Worker	5,974	34.46	6,273	36.19	6,587	38.00	6,916	39.90	7,263	41.90	7,626	44.00
Senior Public Works Inspector	8,028	46.31	8,429	48.63	8,851	51.06	9,293	53.61	9,758	56.29	10,246	59.11
Support Services Supervisor	7,082	40.86	7,436	42.90	7,808	45.04	8,198	47.29	8,608	49.66	9,039	52.15
Utility Worker I	4,913	28.34	5,158	29.76	5,416	31.25	5,686	32.81	5,970	34.44	6,269	36.17
Utility Worker II	5,420	31.27	5,692	32.84	5,976	34.48	6,275	36.20	6,589	38.01	6,918	39.91
Utility Supervisor	8,002	46.17	8,402	48.47	8,822	50.89	9,263	53.44	9,726	56.11	10,212	58.91
Water Quality Specialist	6,599	38.07	6,929	39.98	7,275	41.97	7,639	44.07	8,020	46.27	8,421	48.58

Effective 01/01/2021 (3.25% increase)												
Position	A Monthly	A Hourly	B Monthly	B Hourly	C Monthly	C Hourly	D Monthly	D Hourly	E Monthly	E Hourly	F Monthly	F Hourly
Accountant I	\$ 7,330	\$ 42.29	\$ 7,696	\$ 44.40	\$ 8,081	\$ 46.62	\$ 8,485	\$ 48.95	\$ 8,910	\$ 51.40	\$ 9,356	\$ 53.97
Accounting Asst. I	4,846	27.96	5,089	29.36	5,344	30.83	5,611	32.37	5,891	33.99	6,186	35.69
Accounting Asst. II	5,072	29.26	5,326	30.73	5,592	32.26	5,871	33.87	6,164	35.56	6,472	37.34
Assistant Planner	7,330	42.29	7,696	44.40	8,081	46.62	8,485	48.95	8,910	51.40	9,356	53.97
Assistant Engineer	8,143	46.98	8,551	49.33	8,979	51.80	9,427	54.39	9,898	57.11	10,394	59.96
Associate Planner	7,890	45.52	8,285	47.80	8,699	50.19	9,134	52.69	9,591	55.33	10,070	58.10
Associate Engineer	9,459	54.57	9,933	57.30	10,429	60.17	10,951	63.18	11,498	66.34	12,073	69.65
Business Assistant	5,617	32.41	5,899	34.03	6,193	35.73	6,503	37.52	6,829	39.40	7,170	41.36
Building Inspector II	8,183	47.21	8,591	49.56	9,020	52.04	9,471	54.64	9,945	57.37	10,442	60.24
Building Inspector Supervisor	9,626	55.53	10,107	58.31	10,612	61.22	11,143	64.29	11,700	67.50	12,285	70.87
Code Compliance Officer	7,411	42.76	7,782	44.90	8,172	47.14	8,580	49.50	9,009	51.98	9,459	54.57
Community Services Coordinator	6,168	35.58	6,477	37.37	6,801	39.24	7,141	41.20	7,499	43.26	7,874	45.42
Council Services Assistant	5,581	32.20	5,859	33.80	6,153	35.50	6,460	37.27	6,784	39.14	7,122	41.09
Custodian	3,735	21.55	3,921	22.62	4,118	23.76	4,324	24.95	4,540	26.19	4,768	27.51
Development Services Technician	6,473	37.35	6,797	39.21	7,137	41.17	7,493	43.23	7,868	45.39	8,262	47.67
Electrician	7,710	44.48	8,097	46.71	8,502	49.05	8,926	51.50	9,373	54.08	9,842	56.78
Engineering Technician I	5,723	33.02	6,009	34.67	6,309	36.40	6,625	38.22	6,956	40.13	7,303	42.13
Engineering Technician II	6,328	36.51	6,645	38.33	6,977	40.25	7,325	42.26	7,692	44.37	8,077	46.60
Environmental Programs Coordinator	7,330	42.29	7,696	44.40	8,081	46.62	8,485	48.95	8,910	51.40	9,356	53.97
Exec. Sec. to the Chief of Police	5,723	33.02	6,009	34.67	6,309	36.40	6,625	38.22	6,956	40.13	7,303	42.13
Facilities Maintenance Specialist	6,168	35.58	6,477	37.37	6,801	39.24	7,141	41.20	7,499	43.26	7,874	45.42
Housing Program Coordinator	7,890	45.52	8,285	47.80	8,699	50.19	9,134	52.69	9,591	55.33	10,070	58.10
Information Services Technician	7,330	42.29	7,696	44.40	8,081	46.62	8,485	48.95	8,910	51.40	9,356	53.97
Junior Engineer	7,330	42.29	7,696	44.40	8,081	46.62	8,485	48.95	8,910	51.40	9,356	53.97
Maintenance Worker I	5,072	29.26	5,326	30.73	5,592	32.26	5,871	33.87	6,164	35.56	6,472	37.34
Maintenance Worker II	5,596	32.29	5,877	33.90	6,170	35.60	6,479	37.38	6,803	39.25	7,143	41.21
Maintenance Supervisor	8,129	46.90	8,535	49.24	8,962	51.70	9,410	54.29	9,880	57.00	10,374	59.85
Management Analyst	7,516	43.36	7,892	45.53	8,288	47.81	8,702	50.21	9,137	52.71	9,594	55.35
Municipal Services Assistant	5,345	30.83	5,612	32.38	5,892	33.99	6,187	35.69	6,496	37.47	6,820	39.35
Office Assistant I	3,855	22.24	4,048	23.36	4,250	24.52	4,463	25.75	4,686	27.03	4,920	28.38
Office Assistant II	4,846	27.96	5,089	29.36	5,344	30.83	5,611	32.37	5,891	33.99	6,186	35.69
Police Analyst	8,289	47.82	8,703	50.21	9,138	52.72	9,595	55.36	10,075	58.12	10,579	61.03
Public Works Inspection Supervisor	9,626	55.53	10,107	58.31	10,612	61.22	11,143	64.29	11,700	67.50	12,285	70.87
Public Works Inspector	7,710	44.48	8,095	46.70	8,500	49.04	8,925	51.49	9,371	54.06	9,840	56.77
Recreation Services Coordinator	6,168	35.58	6,477	37.37	6,801	39.24	7,141	41.20	7,499	43.26	7,874	45.42
Senior Maintenance Worker	6,168	35.58	6,477	37.37	6,801	39.24	7,141	41.20	7,499	43.26	7,874	45.42
Senior Utility Worker	6,168	35.58	6,477	37.37	6,801	39.24	7,141	41.20	7,499	43.26	7,874	45.42
Senior Public Works Inspector	8,289	47.82	8,703	50.21	9,138	52.72	9,595	55.36	10,075	58.12	10,579	61.03
Support Services Supervisor	7,312	42.18	7,677	44.29	8,061	46.51	8,464	48.83	8,888	51.27	9,332	53.84
Utility Worker I	5,072	29.26	5,326	30.73	5,592	32.26	5,871	33.87	6,164	35.56	6,472	37.34
Utility Worker II	5,596	32.29	5,877	33.90	6,170	35.60	6,479	37.38	6,803	39.25	7,143	41.21
Utility Supervisor	8,262	47.67	8,675	50.05	9,108	52.55	9,564	55.18	10,042	57.93	10,544	60.83
Water Quality Specialist	6,813	39.31	7,154	41.27	7,512	43.34	7,887	45.50	8,281	47.77	8,695	50.16

EXHIBIT D

AFSCME, LOCAL 101 EDUCATIONAL INCENTIVE PAY PROGRAM

Effective: July 2, 1995

(Employees hired prior to July 1, 2008 are eligible for EIP)

I. INTRODUCTION

Educational Incentive Pay (EIP) shall be paid in addition to regular pay when education is in addition to the regular requirements of their job as stated in City's adopted job descriptions and said education is job-related. An employee may not receive more than a seven- and one-half percent (7.5%) increase above the employee's base monthly salary.

II. PROGRAM GOALS

The goals of this program are:

- A. To encourage employees to pursue education and programs which enhance their job performance and understanding.
- B. To prepare employees for possible promotions to other positions or future openings within City.
- C. To reward employees for their own initiative demonstrated through their participation in this program.

Any evaluation or decision regarding this program or an employee's participation in the program will be made based on the intent of the above stated goals.

III. DEFINITIONS

- A. "Job-Related" - A course or training program that directly relates to or enhances the employee's ability to perform the duties of their classification.
- B. "Degree Program" - A series of college level courses that when completed results in an Associate of Arts, Associate of Science, Bachelor of Arts, Bachelor of Science, Master of Arts, or Master of Science degree. Courses that qualify for a degree program are those courses identified by the college or university that count toward the specific degree program the employee has selected.
- C. "Requalification" - The annual process that an employee must complete in order to continue receiving EIP for the following fiscal year.
- D. "Minimum job requirements" - The minimum job qualifications listed on the job description for each job classification.

IV. RATES OF PAY FOR EDUCATION ABOVE STATED JOB REQUIREMENTS

A. For classifications that have a minimum education requirement of high school diploma or the equivalent (GED), the following steps are available for attainment of up to seven- and one-half percent (7.5%) EIP:

- (1) One and a quarter percent (1.25%) = fifteen (15) recognized semester college units, two hundred forty (240) hours of job-related training, or the equivalent.

- (2) One and a quarter percent (1.25%) = thirty (30) recognized semester college units, four hundred eighty (480) hours of job-related training, or the equivalent.
 - (3) One and a quarter percent (1.25%) = forty-five (45) recognized semester college units, seven hundred twenty (720) hours of job-related training, or the equivalent.
 - (4) One and a quarter percent (1.25%) = sixty (60) recognized semester college units, nine hundred sixty (960) hours of job-related training, attainment of an Associate of Arts degree or Associate of Science degree, or the equivalent.
 - (5) One and a quarter percent (1.25%) = ninety (90) recognized semester college units, one thousand four hundred forty (1440) hours of job-related training, or the equivalent.
 - (6) One and a quarter percent (1.25%) = one hundred twenty (120) recognized semester college units, one thousand nine hundred twenty (1920) hours of job-related training, attainment of a Bachelor of Arts degree or Bachelor of Science degree, or the equivalent.
- B. For classifications that have a minimum education requirement of an Associate of Arts or Associate of Science degree or two (2) years of job-related college course work, the following steps are available for attainment of up to seven and a half percent (7.5%) EIP:
- (1) One and a quarter percent (1.25%) = fifteen (15) recognized semester college units toward attainment of a Bachelor's degree, two hundred forty (240) hours of job-related education or training, or the equivalent.
 - (2) One and a quarter percent (1.25%) = thirty (30) recognized semester college units toward attainment of a Bachelor's degree, four hundred eighty (480) hours of job-related education or training, or the equivalent.
 - (3) One and a quarter percent (1.25%) = Attainment of a Bachelor of Arts or Bachelor of Science degree, nine hundred sixty (960) hours of job-related education or training, or the equivalent.
 - (4) One and a quarter percent (1.25%) = Following attainment of a Bachelor's degree, fifteen (15) recognized semester units that qualify toward attainment of a Master of Arts or Master of Science degree, or the equivalent.
 - (5) One and a quarter percent (1.25%) = Attainment of a Master of Arts or Master of Science degree or the equivalent.
 - (6) One and a quarter percent (1.25%) = Following attainment of a Bachelor's degree or Master's degree, an additional two hundred forty (240) hours of job-related education or training.
- C. For classifications that have a minimum education requirement of a Bachelor of Arts or Bachelor of Science degree, the following steps are available for attainment of up to seven and a half percent (7.5%) EIP:
- (1) One and a quarter percent (1.25%) = fifteen (15) recognized semester units that qualify toward attainment of a Master of Arts or Master of Science degree, or the equivalent.
 - (2) One and a quarter percent (1.25%) = Attainment of a Master of Arts or Master of Science degree or the equivalent.

- (3) One and a quarter percent (1.25%) = Following attainment of a Bachelor's degree or Master's degree, an additional two hundred forty (240) hours of job-related education or training, or the equivalent.
- (4) One and a quarter percent (1.25%) = Following attainment of a Bachelor's degree or Master's degree, four hundred eighty (480) hours of job-related education or training, or the equivalent.
- (5) One and a quarter percent (1.25%) = Following attainment of a Master's degree, seven hundred twenty (720) hours of job-related education or training, or the equivalent.
- (6) One and a quarter percent (1.25%) = Following attainment of a Bachelor's degree or Master's degree, nine hundred sixty (960) hours of job-related education or training, or the equivalent.
- D. "Equivalents" are defined in the requalification section of this policy.
- E. Different certificates will qualify towards EIP based on the certificate's degree of difficulty, hours required for completion, and the recommendation of the Department Director. Attachment A lists specific certificates and licenses, and the respective EIP points that qualify for EIP.

V. REVIEW PROCESS FOR CERTIFICATIONS

The following review process will be used for assessing how a certification, other than a college course, will count towards EIP:

- A. Where possible, the formula found in the "Equivalents other than college units" section of this article will be used to evaluate the degree to which the certificate counts towards EIP.
- B. If it is possible to obtain, the Human Resources Manager will contact the agency awarding the certificate and request a statement describing the number of preparation and/or course hours needed to obtain the certificate. This statement will then be converted to formula hours.
- C. In the event a determination cannot be made using paragraphs A and B listed above, the employee will make a recommendation to their Department Director and to the Union President or in the absence of the Union President, the Vice-President. This recommendation by the employee shall be in writing and shall include the degree to which the employee feels the certificate should count towards EIP and the justification for such.
- D. If these two (2) individuals agree with the employee's recommendation or if they both agree with a modified recommendation, they will present such to the Human Resources Manager for final determination.
- E. The Human Resources Manager, if he/she concurs with the recommendation, will see that such certification is counted towards the employee's EIP.
- F. If the Department Director and Union President cannot agree on a recommendation, the Human Resources Manager will, with both parties present, conduct an informal hearing and allow both individuals to state their recommendation along with appropriate justification. The Human Resources Manager may decide to choose one of the recommendations presented or a modification of such. The decision of the Human Resources Manager will be final.
- G. If both the Department Director and the Union President agree on a recommendation which the Human Resources Manager cannot endorse, the Human Resources Manager will explain

his/her justifications and attempt to get the parties to modify their recommendation. If agreement cannot be reached the issue will be presented to the City Manager for determination.

- H. If the employee is not satisfied with the decision of the City Manager, the employee may file a grievance pursuant to the grievance procedure contained in the AFSCME MOU. The grievance will be advanced to the final step in the grievance process as the City Manager review has already taken place.

VI. PROGRAM QUALIFICATIONS AND GUIDELINES

The following qualifications and guidelines exist to help administer this program:

- A. An employee must have completed his/her initial probation before being eligible for this program. Employees on probationary status as a result of promotions shall be deemed eligible under this program.
- B. The employee must demonstrate that the course or degree being sought and being considered for the EIP program will be directly related towards enhancing the employee's present job skills or future promotional opportunities within City. The Human Resources Manager will make this determination after discussions with the employee and the Department Director. The burden of proof as to job relatedness of specific educational levels shall be upon employee. In addition, courses required as part of a degree program will also be considered.
- C. Employees should contact their Department Director prior to enrollment in a course or class to receive confirmation that such a class would qualify for this program. The Department Director will contact the Human Resources Office to receive confirmation that a specific course or certification qualifies for EIP.
- D. Upon Department Director approval, City will make every effort to reasonably accommodate employee course schedules provided employee workload, overtime budgets, etc. are not adversely impacted.
- E. All attendance and participation in this program will be on the employee's own time and at their own expense.
- F. The tuition reimbursement program is a separate benefit contained in the MOU and employees may have the option of using the tuition reimbursement program towards the attainment of their education or professional development goals. Use of the tuition reimbursement program by the employee will not violate any provisions of this article.
- G. To qualify for this program, the employee must complete the course(s) with a passing grade of "C" or better. If grades are not assigned, the employee must provide other written certification which demonstrates that the employee has successfully passed the course or obtained certification.
- H. Payment of EIP will be effective on the first day of the payroll period following the date of the college degree, course certification, etc., provided the employee has made a timely request to the Human Resources Manager for such pay. In no circumstances will payroll periods be split to match the exact date appearing on the degree or certificate.
- I. EIP is based upon education which is in addition to the regular requirements of the job as stated on City's adopted job description. Employees should refer to each specific job description for the minimum educational requirements. These educational requirements are used as the starting point for EIP calculations.

VII. DOCUMENTATION OF EDUCATIONAL ACHIEVEMENT

- A. City will provide an EIP Program form to be kept in the employee's personnel file to track the employee's participation in this program.
- B. Evidence of successful completion of a degree, course or certificate shall consist of a diploma or certificate indicating the major field of study along with a copy of college transcripts.
- C. The employee is responsible to furnish in a timely fashion all necessary documentation to the Human Resources Office.

VIII. TERMINATION OF EDUCATIONAL INCENTIVE PAY

- A. EIP shall be terminated at such time as the employee receiving EIP is promoted to or otherwise placed in a position requiring the educational level which the employee already possesses or a higher educational level.
- B. In cases where a promotion would cause an employee to lose their EIP due to a reclassification, the employee will receive a new base salary equal to or greater than an amount five percent (5%) above their old base salary and EIP combined.
- C. EIP will also be terminated when an employee fails to requalify as per the guidelines outlined in this policy.
- D. Once an employee fails to requalify, they will lose their EIP until such time as they have completed the outlined requalification requirements. At such time, the employee will then be able to return to the EIP level they enjoyed before they failed to requalify.

IX. REQUALIFICATION PROCESS

Requalification for continued receipt of EIP shall be training sessions provided by the City during each year of the contract as identified by the Human Resources Manager.

X. EMPLOYEES PREVIOUSLY ON LONGEVITY

- A. Effective October 1, 1989, the City's Longevity Pay Program will be replaced entirely with a special EIP for only those employees still on the Longevity Pay Program as of that date. The terms of this special program will be as follows:
 - i. All eligible employees shall be converted to the special EIP program at the same pay as they enjoyed under the Longevity Pay Program. No employee will be allowed to begin receiving longevity pay who is not already receiving such pay prior to October 1, 1989. This special EIP Program assumes that these employees will continue to requalify under the City's existing EIP program guidelines for continued receipt of EIP.
 - ii. An employee previously on the longevity pay program may use this special EIP program or they may convert at any time they choose to the regular EIP program outlined in this article. This is a one-way conversion. Once an employee elects the regular EIP Program, he/she may not return to this special EIP Program.
 - iii. Employees covered under the previous longevity program may advance on their anniversary date to the various pay levels of five percent (5%) after ten (10) years

service, seven- and one-half percent (7.5%) after fifteen (15) years of service, and ten percent (10%) after twenty (20) years of service. Advancement is based upon the assumption that these employees will continue to requalify under the City's existing EIP program guidelines for continued receipt of EIP pay.

- B. Once an employee fails to requalify, they will lose their EIP until such time as they have completed the outlined requalification requirements. At such time, the employee will then be able to return to the EIP level they enjoyed before they failed to requalify.
- C. Employees previously on the City longevity program who do not wish to continue to requalify annually may make a one-time decision to freeze their percentage benefit at its current rate.

**Attachment A of AFSCME
Educational Incentive Pay Program
List of Qualifying Certificates and Point Values**

EIP Point Equivalency

ISSUING ORGANIZATION	CERTIFICATE NAME	GRADE NO.	EIP POINT VALUE
State of California	Water Treatment Operator	I - V	6 points ea.
AWWA	Water Distribution Operator	I - IV	6 points ea.
AWWA	Backflow Prevention Tester	n/a	40 hours = 2.5 points
AWWA	Cross Connection Specialist	n/a	40 hours = 2.5 points
CWEA	Collection System Maintenance	I - IV	6 points ea.
CWEA	Mechanical/Electrical/Instrumentation Technologist	I - IV	6 points ea.
CSUS Homestudy Program	Operation and Maintenance of Wastewater Collection Systems Vol. 1	n/a	6 points
CSUS Homestudy Program	Operation and Maintenance of Wastewater Collection Systems Vol. 2	n/a	6 points
CSUS Homestudy Program	Water Treatment Plant Operation Vol. 1 (90 hours)	n/a	6 points
CSUS Homestudy Program	Water Treatment Plant Operation Vol. 2 (90 hours)	n/a	6 points
CSUS Homestudy Program	Small Water System Operation and Maintenance (90 hours)	n/a	6 points
CSUS Homestudy Program	Water Distribution System Operation and Maintenance (90 hours)	n/a	6 points
State of California	Qualified Applicators License	B	6 points
CSUS Homestudy Program	Manage for Success: Effective Utility Leadership Practices (45 hours)	n/a	3 points
CSUS Homestudy Program	Utility Management	n/a	1.5 points

ISSUING ORGANIZATION	CERTIFICATE NAME	GRADE NO.	EIP POINT VALUE
CSUS Homestudy Program	Collection Systems: Methods for Evaluation and Improving Performance	n/a	2 points
CSUS Homestudy Program	Small Wastewater System Operation and Maintenance Volume I (90 hours)	n/a	6 points
CSUS Homestudy Program	Operation of Wastewater System Treatment Plants Volume I (90 hours)	n/a	6 points
CSUS Homestudy Program	Operation of Wastewater System Treatment Plants Volume II (90 hours)	n/a	6 points
CSUS Homestudy Program	Operations of Wastewater Treatment Plants Volume I (90 hours)	n/a	6 points
CSUS Homestudy Program	Operations of Wastewater Treatment Plants Volume II (90 hours)	n/a	6 points
State of California	Water Distribution Operator	I - V	6 points ea.
AWWA	Water Treatment Operator	I - IV	6 points ea.
AWWA	Water Conservation Practitioner	n/a	2.5 points
State of California	Journeyman Electrician Certification	n/a	6 points
International Society of Arboriculture	Certified Arborist	n/a	6 points
State of California	Class A Drivers License	n/a	6 points
State of California	Real Estate Salesperson License	n/a	10 points
State of California	Real Estate Broker License	n/a	25 points
State of California	Notary Public	n/a	3.5 points
State of California	General Contractors License	n/a	up to 4.5 points
IIMC	Certified Municipal Clerk	n/a	up to 38.75 EIP points
ICC	Plans Examiner	n/a	4 points
ICC	Building Inspector	n/a	4 points

ISSUING ORGANIZATION	CERTIFICATE NAME	GRADE NO.	EIP POINT VALUE
ICC	Electrical Inspector	n/a	4 points
ICC	Building Code Accessibility/Usability Specialist	n/a	4 points
ICC	Housing Inspector	n/a	4 points
ICC	Zoning Inspector	n/a	4 points
ICC	Mechanical Inspector	n/a	4 points
ICC	Plumbing Inspector	n/a	4 points
ICC	Light Commercial Combination Inspector	n/a	4 points
ICC	Elevator Inspector	n/a	4 points
ICC	Special Inspector	n/a	4 points
CABO	One- and Two-Family Dwelling Inspector	n/a	4 points
State of California	Engineer in Training	n/a	7.5 points
State of California	Professional Engineer	n/a	12 points
State of California	Land Surveyor in Training	n/a	7.5 points
State of California	Land Surveyor	n/a	10.5 points
International Assn. of Administrative Professionals	Computer Concepts	n/a	3
International Assn. of Administrative Professionals	Information Systems	n/a	3
International Assn. of Administrative Professionals	Records Management	n/a	3
International Assn. of Administrative Professionals	Business Communications	n/a	3
International Assn. of Administrative Professionals	Human Resources Management	n/a	3

ISSUING ORGANIZATION	CERTIFICATE NAME	GRADE NO.	EIP POINT VALUE
International Assn. of Administrative Professionals	Accounting	n/a	1
International Assn. of Administrative Professionals	Management <i>or</i> Supervision	n/a	4
International Assn. of Administrative Professionals	Organizational Behavior	n/a	3
International Assn. of Administrative Professionals	Communications	n/a	3
International Assn. of Administrative Professionals	Leadership	n/a	3

RATIONALE FOR ASSIGNING POINT VALUES

In general, certification/license requirements were equated to college units by using our standard formula of three (3) college semester units = forty-eight (48) hours of class time = three (3) EIP points. None of the organizations listed above offered standard Continuing Professional Education (CPE) credits for the certifications/licenses, however, employees may take preparatory courses at institutions which do offer CPE credits. If such credits are offered, they count toward EIP, with one (1) CPE credit being equal to one (1) college semester unit.

EIP credit may also be given for home study which is *not* related to a preparatory class, provided that the employee keeps a detailed written log showing the hours of study and the specific topics studied.

For certifications which accept college courses or degrees in lieu of experience, employees will receive credit for the courses/degree under Section IV of the EIP Program.

Real Estate License

The State of California offers two (2) real estate licenses which might be obtained by City employees to benefit their job: a Real Estate Salesperson License, and a Real Estate Broker License. The requirements for each license are outlined below.

Real Estate Salesperson License	EIP Points	Real Estate Broker License	EIP Points
Must be 18 years old	0	Must be 18 years old	0
Must complete 1 3-semester unit course on Real Estate Principles, and 2 additional 3-unit courses within 18 months of receiving the license (9 semester units total required)	9 college units = 9 EIP points	Must take 8 3-unit classes and have two years of full-time licensed real estate sales person experience or a 4-year degree	24 college units = 24 EIP points
Pass Real Estate Salesperson exam	1	Pass Real Estate Broker exam	1
TOTAL POINTS	10	TOTAL POINTS	25

Notary Public

The requirements for becoming a Notary Public in the State of California are outlined below.

Notary License	EIP Points
Must be 18 years old, legal resident	0
Certified home study, up to 32 hours	up to 2
Optional 8-hour preparatory class for the exam	.5
Pass Notary exam	1
TOTAL POSSIBLE POINTS	up top 3.5

General Contractors License

The requirements for obtaining a General Contractors License in the State of California are outlined below.

General Contractors License	EIP Points
Must have 4 years of experience at the journey level (or a BS degree and 1 year of experience)	0
Certified home study, up to 32 hours	up to 2
Optional 24-hour preparatory class for the exam	24 hours = 1.5 EIP points

General Contractors License	EIP Points
Pass General Contractors exam	1
TOTAL POSSIBLE POINTS	up to 4.5

Certified Municipal Clerk

The process for becoming a Certified Municipal Clerk varies considerably depending on the work experience and educational level of the applicant. This table summarizes the primary ways individuals become a Certified Municipal Clerk and assigns EIP points for individuals working on this certification. A copy of the IIMC application for certification is available for review.

Certified Municipal Clerk	EIP Points
Must be a City or Deputy City Clerk, a 3-year member of IIMC, accept the IIMC Code of Ethics, submit an application form, and have a letter from a Clerk sponsor	0
<i>Educational Requirements:</i> Must attend a 100-hour Clerks Institute, have a BA degree in Public Administration or a related field, or have an AA in Public Administration and 67 of Clerks Institute training	100 hours = 6.25 EIP points
<i>Experience Requirements:</i> Must obtain 50 IIMC points based on a combination of work experience, Municipal Clerks Conferences, and relevant college/university course credits not included in educational qualifications.	Depends on method of meeting the requirement
Up to 40 IIMC points for work experience: 4 points per year for a full-time Municipal or Deputy Clerk with administrative responsibility	0 EIP points for work experience
Up to 20 IIMC points for attending IIMC Conferences (1 IIMC point per 6-hour day; total 120 hours) Up to 25 IIMC points for college course credits, 1 pt=1 course hour	up to 7.5 EIP points for 120 hours at conferences 25 college credits = 25 EIP points
TOTAL POSSIBLE POINTS	up to 38.75

ICBO and CABO Certifications

The International Code Council (ICC) and the California Association of Building Officials (CABO) offer a number of different certifications (Plans Examiner, Building Inspector, Plumbing Inspector etc.) useful for the professional development in certain fields. The certification process for each of the certificates list above is the same and is summarized below.

ICC /CABO Certificates	EIP Points
Certified home study, up to 32 hours	up to 2
Optional 8-hour exam preparation class	8 hours = .5 EIP points
Pass ICC /CABO exam	1.5
TOTAL POSSIBLE POINTS	up to 4

Engineer-in-Training

The requirements to obtain an Engineer-in-Training certificate are outlined in the California Business and Professions Code and are summarized below.

Engineer-in-Training Certificate	EIP Points
Three years of engineering experience <i>or</i> 3 years of college education (90 units) in an engineering curriculum	0 EIP points for experience
Certified home study, up to 48 hours	up to 3
Optional 42-hour exam preparation class	42 hours = 3 EIP points
Pass EIT exam	3
TOTAL POSSIBLE POINTS	up to 9 EIP points

Professional Engineer

The requirements to obtain a Professional Engineer certificate are outlined in the California Business and Professions Code and are summarized below.

Professional Engineer Certificate	EIP Points
Six years of engineering experience <i>or</i> 4-year college degree in an engineering curriculum plus two years of experience	0 EIP points for experience
Certified home study, up to 96 hours	up to 6
Optional 42-hour exam preparation class	42 hours = 3 EIP points
Pass PE exam	6
TOTAL POSSIBLE POINTS	up to 15 EIP points

Land Surveyor-in-Training

The requirements to obtain a Land Surveyor-in-Training certificate are outlined in the California Business and Professions Code and are summarized below.

Land Surveyor-in-Training Certificate	EIP Points
Two years of land surveying experience or 2 years post-secondary education in land surveying (60 units)	0 EIP points for experience
Certified home study, up to 48 hours	up to 3
Optional 42-hour exam preparation class	42 hours = 3 EIP points
Pass LSIT exam	3
TOTAL POSSIBLE POINTS	up to 9 EIP points

Land Surveyor

The requirements to obtain a Land Surveyor certificate are outlined in the California Business and Professions Code and are summarized below.

Land Surveyor Certificate	EIP Points
Six years of engineering experience <i>or</i> 4-year college degree in (120 units) in an engineering curriculum plus two years of experience	0 EIP points for experience
Certified home study, up to 96 hours	up to 6
Optional 42-hour exam preparation class	42 hours = 3 EIP points
Pass Land Surveyor exam	3
TOTAL POSSIBLE POINTS	up to 12 EIP points

Exhibit E

CITY OF MORGAN HILL & AFSCME, LOCAL 101 DRUG AND ALCOHOL TESTING PROGRAM PURSUANT TO THE DEPARTMENT OF TRANSPORTATION REGULATIONS

EFFECTIVE DATE: November 3, 1997
REVISED: July 1, 2003

Effective January 1, 1996, the City of Morgan Hill must comply with the United States Department of Transportation regulation implementing the Federal Omnibus Transportation Employee Testing Act (OTETA) of 1991. OTETA requires the City to establish alcohol and drug testing programs to help prevent the misuse of alcohol and drugs by drivers of commercial motor vehicles. Keeping in mind the basic objectives stated in the City of Morgan Hill Policy on Substance Abuse, which went into effect September 26, 1989, the City has established the following alcohol and drug testing procedures and program in compliance with the OTETA, hereafter referred to as "the program".¹

Employees covered by this program are subject to pre-employment, cause, and random testing, and may be subject to post-accident, return-to-duty and unannounced follow-up testing. The testing procedures use an evidential breath test (EBT) device for alcohol testing. For drug testing, urine specimen collection and testing by a laboratory certified by the Department of Health and Human Services is required. If the Medical Review Officer (MRO) determines that an employee has misused alcohol or drugs in violation of this program, the City will remove the employee from safety-sensitive functions. The employee will not perform safety-sensitive functions until the employee meets the requirements established in this program which may include referral to a Substance Abuse Professional (SAP), participation in a rehabilitation program, return-to duty testing, and/or follow-up testing.

DEFINITIONS

Following are the definitions for the Drug and Alcohol Testing Program. This is a list of major definition areas and is not intended to be all inclusive of definition or terms.

WORD/PHRASE	DEFINITION
Adulterated Specimen	A specimen that contains a substance that is not expected to be present in human urine or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.
Alcohol	The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol including methyl and isopropyl alcohol.
Alcohol Concentration (or Content)	The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under this part.
Collection Agency	State licensed service provider that follows procedures for the collection of urine samples in a split specimen process for delivery to a toxicological laboratory for testing.
Collection Site	A place where individuals present themselves for the purpose of providing breath or urine samples to be analyzed for specified alcohol or drugs.

¹This program meets the federal regulatory requirement that the City promulgate policies and procedures on the misuse of alcohol and use of controlled substances.

WORD/PHRASE	DEFINITION
Commercial Motor Vehicle (CMV)	A motor vehicle or combination of motor vehicles used in commerce or transport passengers or property if the motor vehicle: 1. Has a gross vehicle weight rating of 26,001 or more pounds; or 2. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or 3. Is designed to transport 16 or more passengers including the driver; or 4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).
Controlled Substance	Drugs as deemed under this policy include marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP).
DOT	Federal Department of Transportation
Driver	Any person who operates a commercial motor vehicle. This includes, but is not limited to: full time, regularly employed drivers, casual, intermittent or occasional drivers, and leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to the City or who operate a commercial motor vehicle at the direction of or with the consent of the City. For the purposes of pre-employment/ pre-duty testing only, the term "driver" includes a person applying to the City to drive a commercial motor vehicle.
Drug	Any substance (other than alcohol) that is a controlled substance as defined above and 49 CFR Part 40.
FHWA	The Federal Highway Administration, U.S. Department of Transportation.
Owner-Operator (s)	A driver(s) who has been contracted for services with the District. For the purposes of these procedures and the City's Alcohol and Controlled Substances Abuse Policy, owner-operators are not to be considered employees, but will be required to participate in the City's Alcohol and Controlled Substances Abuse Policy like all employee drivers.

WORD/PHRASE	DEFINITION
Medical Review Officer (MRO)	A licensed physician accredited by the Medical Review Officers' Association National with knowledge and expertise of the clinical and medical diagnosis and treatment of alcohol and drug related disorders.
On Duty Time	All time from the time a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work. "On duty time" shall include: 1. All time at a City facility or other City property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the City; 2. All time inspecting, servicing, or conditioning any commercial motor vehicle at any time; 3. All driving time; 4. All time, other than driving time, in or upon any commercial motor vehicle; 5. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; 6. All time spent performing the driver requirements relating to accidents; 7. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
Performing (a safety-sensitive function)	A driver is performing a safety-sensitive function during any period in which the driver is actually performing, ready to perform or immediately available to perform any safety-sensitive functions.
Positive Test	A test is only positive and reported to the City when the initial screening test is positive, the confirming test is positive, and the Medical Review Officer has discussed with the employee the results of the two tests and ascertained that the tests are accurate.
Provider	Certified professional/agency contracted to provide services prescribed by this program.

WORD/PHRASE	DEFINITION
Reasonable Suspicion	The City believes the actions or appearance or conduct of a commercial motor vehicle driver who is on duty as defined below, are indicative of the use of alcohol or drugs.
Refusal to Submit (to an alcohol or drug test)	A covered employee who (1) fails to arrive at the collection site within a reasonable time, as determined by the employer, (2) refuses to take an alcohol or drug test, (3) fails to provide adequate breath for testing without a valid medical explanation after he/she has received notice of the requirement for breath testing in accordance with FHWA regulations, (4) fails to provide adequate urine for drug testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with FHWA regulations, (5) provides a Verified Adulterated or Substituted test, (6) engages in conduct that clearly obstructs the testing process, (7) fails to remain at the collection facility until all testing is completed, or (8) refuses to submit to a direct observation when required by the collector or employer. A refusal includes not providing a breath sample or urine as directed, refusing to sign appropriate control forms, not being readily available following an accident, using alcohol within eight hours of an accident, or tampering with a sample.
Safety-Sensitive Function	Any of those on-duty functions set forth in 49 CFR section 395.2 and as defined under "On duty time."
Split-Specimen	A division of the original urine sample that is stored by the lab when provided by the collection agency for a second test to be used when the primary test results are challenged.
Substance Abuse Professional (SAP)	A licensed physician, or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug related disorders.
Substituted Specimen	A specimen with creatine and specific gravity values that are so diminished that they are not consistent with human urine.
Supervisor	Any one of the following positions: Director of Public Works, Utility Systems Manager, Maintenance Supervisor, or in their absence, a designated trained individual.

WORD/PHRASE	DEFINITION
Toxicological Laboratory	A drug abuse service laboratory licensed to perform alcohol and drug testing under the auspices of the federal government with specific expertise and chain of custody procedures, split specimen sampling, and drug/alcohol record-keeping methodologies. The agency must have all necessary personnel, materials, equipment, facilities and supervision to provide for the collection, security, temporary and long-term storage and transportation or shipment of the samples to a laboratory.

I. COVERED EMPLOYEES

A. Covered employees must comply with the alcohol and drug testing requirements of this program. "Covered employees" are those employees who are required to drive, may be required to drive, or have the potential to drive, and who meet any of the three (3) following qualifications:

1. They are required by the City to possess a Commercial Driver's License (Class A or B) to do their jobs.
 - a. This includes all regular, probationary, temporary, and work-out-of class assignments in job positions which require a Commercial Driver's License.
 - b. This also includes applicants to jobs with the City which require the possession of a Commercial Driver's License.
2. They operate a commercial motor vehicle.

"Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- a. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
- b. Has a gross vehicle weight rating of 26,001 or more pounds; or
- c. Is designed to transport 16 or more passengers, including the driver; or

- d. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded and over 1,000 lbs. under the Hazardous Materials Regulations.²
- 3. They are performing safety-sensitive functions.
 - a. "Safety-sensitive function" means any of the following functions:
 - 1) All time spent at the driving controls of a commercial motor vehicle in operation;
 - 2) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth;
 - 3) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;
 - 4) All time spent performing the requirements for covered employees who are involved in an accident, as further described in Section X;
 - 5) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle;
 - 6) All time inspecting, servicing or conditioning any commercial motor vehicle at any time.
 - b. A covered employee" performs a safety-sensitive function" during any period in which the employee is actually performing, ready to perform, or immediately available to perform any safety-sensitive function.
 - c. Employees who have the required commercial license and who want to be immediately available to perform safety-sensitive functions in a temporary, stand-by, call back, or work-out-of-class status will be subject to the provisions of this program.
- 4. Covered employees will also include any employee who has a Commercial Driver's License where the medical examination and/or license fees are paid for by the City.

²49 C.F.R. Section 390.5

II. GENERAL PROVISIONS FOR ALL ALCOHOL AND DRUG TESTING PROGRAMS

A. Notice to Covered Employees That Alcohol and Drug Testing is Required By Federal Law

Before performing an alcohol or drug test under this program, the City shall notify the employee that the alcohol or drug test is required by federal law.

B. Administration of the City's Alcohol and Drug Testing Program

The City has designated the Drug Program Coordinator in the Human Resources Office to answer employee questions about the City's alcohol and drug testing program and procedures.

C. Record Retention Requirements

In compliance with the record retention requirements under the OTETA, the City shall maintain confidential records of its alcohol and drug misuse prevention program in a secure location with controlled access. Records of positive results, documentation of refusals to take test, calibration documentation for breath testing devices, and driver evaluation and referrals shall be maintained for five (5) years in accordance with federal law. The City or its service agent shall generate an annual calendar year summary of the results of its program, which will also be retained for five (5) years. Records relating to the alcohol and drug collection process and training, including collection logbooks, documents relating to the random selection process, breath alcohol technician training, documents relating to reasonable cause tests, post-accident tests, and random tests, compliance, and evaluation, shall be maintained for up to five (5) years. The City or its service agent shall prepare an annual summary by March 15 for the previous year containing specific information as to the number of covered employees, employees who refused to submit to tests, the number of supervisors receiving training, the covered employees, the number and types of tests given, the results, the number of covered employees who refused to submit to tests, the number of supervisors receiving training, the covered employees who returned to duty after a positive test, and other similar information.

D. Access to Records

Covered employees are entitled, upon written request to the Human Resources Office, to obtain copies of any records pertaining to the employee's misuse of alcohol or drugs, including any records pertaining to his or her alcohol or drug tests. The City shall promptly provide the records requested by the employee.

Copies of or information in these records shall not be otherwise released to any other person except as follows:

1. To the Drug Program Coordinator and the City Manager who require access to

these records to comply with the requirements of federal law and this program;

2. To federal, state or local officials with regulatory authority over the City or any of its covered employees and who have legitimate need for access;
3. To a decision maker in connection with a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee, and arising from the results of an alcohol and/or drug test administered under this program, or from the City's determination that the covered employee engaged in conduct prohibited by Section III; or
4. To a person identified by the covered employee in accordance with the terms of the employee's written consent authorizing such release.

E. Confidentiality and Recordkeeping

The City desires to comply with the confidentiality and recordkeeping requirements. As such, the City stipulates that with the exception of the Drug Program Coordinator or designee, Collection Facility, Testing Laboratory, MRO and SAP, the results of individual tests shall not be released to anyone without the expressed written authorization of the tested individual, unless ordered by means of proper legal procedure and appropriate legal authority, such as a court ordered subpoena, or in connection with a City disciplinary, grievance or arbitration proceeding initiated by or on behalf of the individual and arising from a certified positive alcohol or drug test.

To maintain confidentiality, records pertaining to program administration, the collection process and individual test records will not be a part of the individual personnel files. A separate test records retention system will be maintained by the Drug Program Coordinator.

The records will be secured and maintained by the Drug Program Coordinator. Access to the test records is restricted to the Drug Program Coordinator and the City Manager. The release to City Management of such information from the Drug Program Coordinator, medical sources of MRO will require the signed release of the employee. Unless noted, such records are permanent and are subject to examination by the Drug Program Coordinator, the City Manager or their designee.

However, information related to an employee's availability for work will be provided to the employee's supervisor to ensure that an employee is removed from a safety-sensitive function when necessary or accommodated in a non-safety-sensitive function, when appropriate. In the case of reasonable cause testing, the supervisor will receive the results of the alcohol and/or drug tests.

Collection and test records of employees producing negative alcohol and drug tests must be retained for one (1) year. Collection and test records of employees producing

positive alcohol tests of 0.02% Breath Alcohol Concentration (BAC) or greater must be retained for three (3) years and positive drug test must be retained for five (5) years.

The following lists of records shall be retained and maintained by the Drug Program Coordinator:

1. Supporting documents for pre-employment, post accident, reasonable cause or random testing decisions.
2. Records of 2 (2) year drug and alcohol testing histories of new hires.
3. Records of the collection process to indicate specimen identification, accountability and chain of custody.
4. Any individual reports or records provided directly to the tested employee by the MRO.
5. Records of test results and any information provided by the affected employee concerning split samples, retests, or follow-up tests.
6. Return to work test records.
7. All reports forwarded to reporting agencies.
8. Records and documents provided by the Drug Program Coordinator, Rehabilitation Agencies and any consultants.

III. PROHIBITIONS

A. It is UNLAWFUL for covered employees to do the following:

1. To perform safety-sensitive functions after a positive alcohol test result indicating a 0.04% BAC or a positive drug test result, regardless of when the alcohol or drug was ingested and regardless of whether the employee is under the influence of alcohol or drugs;
2. Report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04% or greater. No employer having actual knowledge that a driver has an alcohol concentration of 0.04% or greater shall permit the driver to perform or continue to perform safety-sensitive functions. (See Federal Register, Section 382.201);
3. Perform or continue to perform safety-sensitive functions with an alcohol concentration of 0.02% to 0.04% (see Federal Register, Section 382.505);
4. To use alcohol or products containing alcohol while performing safety-

sensitive functions;

5. To perform safety-sensitive functions within four (4) hours after using alcohol or products containing alcohol;
6. To use alcohol or products containing alcohol for eight (8) hours following an accident for which the employee is required to take a post-accident alcohol test;
7. To report for duty or remain on duty and perform safety-sensitive functions when the employee is currently using a drug, unless the use of the drug is prescribed by a physician. Employees who are taking prescribed medication that may impair their ability to perform safety-sensitive functions are required to inform their supervisor immediately and prior to performing any safety sensitive functions.
8. To refuse to submit to any of the alcohol or drug test required by OTETA (random, post-accident, reasonable cause, follow-up, return to duty test) and alcohol/drug testing rules as described in this program.

A "Refusal to submit" to an alcohol or drug test means that a covered employee:

- a. Fails to arrive at the collection site within a reasonable time, as determined by the employer;
 - b. Refuses to take the test;
 - c. Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with this program;
 - d. Fails to provide adequate urine for drug testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with this program;
 - e. Provides a Verified Adulterated or Substituted test;
 - f. Engages in conduct that clearly obstructs the testing process;
 - g. Fails to remain at the collection facility until all testing is completed;
- OR
- h. Refuses to submit to a direct observation when required by the collector or the employer.

B. The following drugs are specified in the law and will be analyzed during drug testing:

<u>Drug</u>	<u>Initial Screen (ng/ML)</u>	<u>Confirmation Level</u>
Marijuana	50	15
Cocaine	300	150
Amphetamines/ Methamphetamine	1,000	500
Opiates	300	300
Phencyclidine (PCP)	25	25

IV. CONSEQUENCES TO ENGAGING IN ANY GENERAL PROHIBITION

Any covered employee who engages in any action prohibited by this program under Section III will be subject to the following consequences.³

- A. The employee shall be relieved from performing safety-sensitive functions.
- B. The employee shall be immediately suspended according to Section VI.
- C. The employee shall be evaluated by a SAP who shall determine what assistance, if any, the employee needs in resolving problems associated with the misuse of alcohol or drugs.
- D. After the completion of the suspension period, the employee may return to work as soon as medically certified by the MRO/SAP. The employee must, however, provide a negative test result and be certified for return to duty no later than ninety (90) calendar days after notification of the positive test result.

The employee must, at a minimum, provide six (6) follow-up tests during the first year following the employee's return to safety sensitive duties. The SAP will establish the number and frequency of follow-up tests and that follow-up testing may last up to five (5) years. Failure to be certified by the MRO/SAP or return to work shall result in termination.

- 1. The employee may use accumulated vacation, sick leave, personal leave, comp time or leave without pay while undergoing treatment/rehabilitation.
- 2. Leave accruals may not be used for discipline such as a suspension.
- 3. Any employee who is given an alcohol confirmation test according to 49 CFR 40.65 by the BAT and the BAC level is 0.02% or greater, but less than 0.04%, shall be required to take leave without pay or use vacation or personal leave, but not sick leave time, until the driver's next regularly scheduled duty period, but not less than twenty four (24) hours following administration of the test. Any employee who is given an alcohol confirmation test by the BAT and the BAC level is 0.02% or greater, but less than 0.04%, on the second time shall be suspended without pay for five (5) regularly scheduled work days. The employee shall be referred to the SAP for evaluation and assessment of fitness for duty.
- 4. Any employee who has a BAC level that is 0.02% or greater, but less than 0.04%, on the third time within a five (5) year period will be treated as the second step in random testing.

³For consequences to outside applicants, please see Section VIII (D)(4) of this program regarding pre-employment testing.

- E. Any covered employee who refuses to submit to an alcohol or drug test required by this program shall be terminated.
- F. The City's Drug Program Coordinator or designee will assist in advising the employee of the resources available to the employee in evaluating and resolving problems associated with the misuse of alcohol or drugs, including the names, addresses, and telephone numbers of SAPs and counseling and treatment programs.

V. SELF-IDENTIFICATION PROCEDURE

Covered employees are encouraged to advise the City if they are involved with the misuse of alcohol or for the use of drugs. This procedure is available only to covered employees who have not been notified of a random test, reasonable cause test, or a post-accident test. This procedure cannot be used by covered employees to avoid the consequences for a positive test or a refusal to test.

PROCEDURE

If an employee self-identifies a problem with misuse of alcohol or drugs, the City will refer the employee to a SAP. Prior to returning to a safety-sensitive position, the employee will be tested.

If the SAP determines that the employee requires participation in a rehabilitation program, the employee will be referred to his/her own medical insurance plan and/or the City's Employee Assistance Program (EAP). The City is not required to pay for treatment beyond the cost contributed for those programs as stated in the AFSCME MOU.

If an employee self-identifies a second time, it will be treated as a first incident of a positive test through random testing.

VI. PERSONNEL ACTIONS

A. Disciplinary Action for Misconduct

Any covered employee who engages in an act prohibited by Section III violates federal law. Employee violations of this program may constitute misconduct under the City of Morgan Hill's Personnel Rules and Regulations, Section 11, "Disciplinary Actions" as may be amended from time to time.

B. Nothing in this section shall be interpreted as interfering with the City's right to remove from the workplace an employee who poses a direct threat to another employee or others.

C. All disciplinary action under this program is subject to the disciplinary procedures contained in the City's Personnel Rules and Regulations.

- D. The following is a guideline for disciplinary action when an employee violates the City's alcohol and drug program. Discipline shall be based on the degree of the offense and in accordance with the following guidelines:

E. DISCIPLINARY GUIDELINES

RANDOM TESTING	
1st Incident	* Counseling * Suspension (5 days) * Participate and complete rehabilitation, if necessary * Last Chance Agreement
2nd Incident	* Termination

POST ACCIDENT TESTING	
1st Incident	* Discipline (suspension or termination) dependent on seriousness of accident and/or the degree of disregard for safety * "Last Chance" Agreement * Participate and complete rehabilitation, if necessary
2nd Incident	* Termination

REASONABLE SUSPICION	
1st Incident	* Counseling * Suspension (5 days) * "Last Chance" Agreement * Participate and complete rehabilitation, if necessary
2nd Incident	* Termination

SELF-IDENTIFICATION	
1st Incident	* No discipline * Referred to SAP * Participate and complete rehabilitation, if necessary
2nd Incident	* Termination

PROBATIONARY EMPLOYEES	
Positive Drug Test	* Termination of probation. However, at the City's option, if an employee has status in a previous classification, the employee's probationary appointment may be terminated, or the employee may remain on probation and be subject to these disciplinary guidelines depending on the severity of the case and the classification
Positive Alcohol Test (.04 or greater)	* Termination of probation. However, at the City's option, if an employee has status in a previous classification, the employee's probationary appointment may be terminated, or the employee may remain on probation and be subject to these disciplinary guidelines depending on the severity of the facts of the case and the classification.
Positive Alcohol Test (.02 to .04)	* Termination of probation. However, at the City's option, probationary employee may be referred to SAP and required to participate in rehabilitation, if necessary. Any second positive test for alcohol during probation will result in termination of probation. However, at the City's option, if an employee has status in a previous classification, the employee may remain on probation and be subject to these disciplinary guidelines depending on the severity of the case and the classification. Any second positive test showing a result between 0.02% and 0.04% after completion of probation will be treated as the first step in the appropriate category.

OTHER FACTORS	
1.	If an employee has a confirmed positive test from follow-up testing, the employee will be given a last chance agreement unless he/she is already on a last chance agreement at which point he/she will be terminated.
2.	If an employee is required by the SAP to participate in rehabilitation and the employee refuses to participate in the required rehabilitation program, the employee will be terminated.
3.	If an employee is required by the SAP to participate in rehabilitation and the employee fails to complete the required rehabilitation program, the employee will be terminated.
4.	If an employee refuses to be tested under this program, the employee will be terminated.

VII. DRUG AND ALCOHOL TESTING METHODOLOGY

A. Alcohol Testing

Alcohol testing shall be done based on an "evidential breath testing device" which is the testing method used by law enforcement officials in drunk driving cases. A breath alcohol technician shall explain the test to the employee being tested and properly administer the test to the employee.

B. Drug Testing

Drug testing shall be done based on a "split specimen" procedure of collecting and analyzing urine samples. The specimen taken will be divided into primary and secondary specimens. If the primary specimen test is positive, the employee shall be informed of their right to request a test of the secondary specimen by a separate laboratory or by the same laboratory, if they choose, at the employee's expense. The employee will be removed from the safety-sensitive function pending the outcome of the secondary sample test results. The employee has seventy-two (72) hours within which to make the request for the secondary sample test. If the secondary test result is negative, the City shall reimburse the employee for the cost of the secondary test and all references to the positive test will be expunged from all records. If the secondary test result is positive, the employee will be subject to the procedures in Personnel Rules Section VI.

C. Chain of Custody/Confidentiality

All alcohol and drug tests required to be administered to covered employees under this program shall be conducted by the City's service providers to ensure appropriate chain of custody and confidentiality of results.

VIII. PRE-EMPLOYMENT ALCOHOL AND DRUG TESTING

A. Preface

Prior to performing any safety-sensitive functions for the City, the employee or applicant shall undergo testing for alcohol and drugs. The City shall not allow a covered employee to perform safety-sensitive functions unless the employee has been administered an alcohol test with a result indicating an alcohol concentration less than 0.02% and has received a drug test result indicating a verified negative test result.

B. Procedures

1. All regular, probationary, temporary, limited term, and work-out-of class assignments in job positions which require a Commercial Driver's License and the performance of safety-sensitive functions are subject to pre-employment testing.

2. All persons selected by the City Manager and offered a position from an appropriate employment list for a job position requiring a Commercial Driver's License and the performance of safety-sensitive functions are subject to pre-employment testing. This section applies equally to current employees of the City and outside applicants. The drug samples may be collected during pre-employment medical examinations and the samples will be provided to the City certified laboratory.
3. Every job announcement and internal transfer opportunities bulletin for a position requiring a Commercial Driver's License and the performance of safety-sensitive functions will include a written statement of the alcohol and drug testing requirement as stated above.
4. Pursuant to the City's Policy regarding Substance Abuse, all job positions are subject to pre-employment alcohol and drug testing.
5. All pre-employment alcohol and drug tests will be conducted by the City's service providers to ensure appropriate chain of custody and confidentiality of results.

C. Exceptions to Pre-Employment Testing

1. Persons employed by the City upon implementation of the program and who are in positions requiring the possession of a Commercial Driver's License and the performance safety-sensitive functions will not be required to submit to initial drug testing to continue in their jobs. Commencing on implementation of the program, all other persons who are entering into positions requiring the possession of a Commercial Driver's License and the performance of safety-sensitive functions, for example, but not limited to, new hires, rehires, transfers, and return-to-duty from any leave of absence for 20 consecutive working days or more, shall be required to submit to pre-employment testing under this program.
2. Current employees in covered classes will not be required to submit to pre-employment testing if they have been tested within the last twelve (12) months in their current position.
3. Current employees of the City who wish to be eligible for temporary or work-out-of-class assignments and have previously passed pre-employment alcohol and drug tests and agreed to remain within the pool of employees from which random testing is conducted.

D. Consequences

1. Any covered employee who tests positive on a drug test or has an alcohol test result of 0.04% BAC or greater will be removed from the safety-sensitive eligibility list and will be subject to the provisions in Section IV. The employee may, however, reapply for future safety-sensitive position with the City and will be subject to testing in accordance with this program at that time.
2. If the pre-employment alcohol test result indicates a BAC of 0.02% or greater but less than 0.04%, the employee will have the right to request retesting of the second split specimen at their expense. If the retest result is negative, the employee will be reimbursed the cost by the City and the employee will be considered for the safety sensitive position. If the retest is positive, the employee will be removed from the safety-sensitive eligibility list and will be subject to the provisions in Section IV. The employee may, however, reapply for future safety-sensitive positions with the City and will be subject to testing in accordance with this program at that time.
3. All outside applicants for positions with the City which require the possession of a Commercial Driver's License and the performance of safety-sensitive functions must submit to pre-employment alcohol and-drug testing without exception. Any applicant who has a confirmed positive test for alcohol or drugs or refuses to take the test will not be hired.

IX. NEW HIRE DRUG AND ALCOHOL RECORD CHECK

A. Preface

The City is required to request information about safety-sensitive function employees from previous DOT-regulated employers who have employed the new hires during any period preceding the two (2) years before the date of the new hire's application or transfer. After obtaining written consent from the employee, the City must request information from previous DOT-regulated employers regarding alcohol tests with results of 0.04% or higher concentration, verified positive drug tests, refusals to be tested and other violations of DOT agency and drug and alcohol testing regulations. In respect to any employee who violated a regulation, the City must obtain documentation of the employee's successful completion of DOT return-to-duty requirements.

B. Procedures

1. The City will obtain the written consent of any employee seeking to begin performing safety-sensitive duties for the first time, such as a new hire or an employee transferring into a safety-sensitive position. If the employee refuses to provide this written consent, the City will not permit the employee to perform safety-sensitive functions.

2. The City will request the following information from the employee's previous DOT-related employers:
 - a. Alcohol tests with a result of 0.04% or higher alcohol concentration.
 - b. Verified positive drug tests.
 - c. Refusals to be tested (including verified adulterated or substituted drug test results).
 - d. Other violations of DOT agency drug and alcohol testing regulations.
 - e. With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements including follow-up tests. If the previous employer does not have information about the return-to-duty process (e.g., an employer who did not hire an employee who tested positive on a pre-employment test) the City will seek to obtain this information from the employee.
 - f. This information obtained from a previous employer includes any drug or alcohol test information obtained from previous DOT-regulated employers. The City will obtain a release of information from the new hire. This release will accompany the request for information, and will maintain a written, confidential record of this information, including the date, the party to whom it was released, and a summary of the information provided.
3. The City will maintain a written, confidential record of the information obtained or of the good-faith effort made to obtain the information. The City will retain this information for three (3) years from the date of the employee's first performance of safety-sensitive duties.
4. The City must ask the employee whether he or she has tested positive, or refused to test, on any pre-employment drug or alcohol test administered by an employer to which the employee applied for, but did not obtain, in safety-sensitive work covered by DOT agency drug and alcohol testing rules during the preceding two (2) years. If the employee admits that he or she had a positive test or a refusal to test, the City will not use the employee to perform safety-sensitive functions unless the employee documents successful completion of the return-to-duty process.
5. If the City has not obtained results pre-employment drug or alcohol testing or made a documented good-faith effort to obtain this information within thirty (30) days of the hire date, the employee must be removed from performance of safety-sensitive functions.

6. The City must comply with requests for two (2) year drug and alcohol testing histories from any future employers of personnel covered by this policy.

X. RANDOM ALCOHOL AND DRUG TESTING

A. Preface

Covered employees are required to submit to alcohol and drug testing on a random basis. Twenty-five percent (25%) of the average number of covered employee positions shall be subject to random alcohol testing in each calendar year. Fifty percent (50%) of the average number of covered employee positions shall be subject to random drug testing in each calendar year. The City will change the minimum annual percentage testing rate in compliance with any change by the Federal Highway Administration (FHWA) Administrator to increase or decrease the annual violation rate. The FHWA annual violation rate is based on the reported rate for commercial drivers.

B. Procedures

1. The Provider shall randomly select a sufficient number of covered employees for alcohol and drug testing during each calendar year to equal an annual rate not less than the minimum annual percentage rate established by the FHWA Administrator.
2. The Provider shall select covered employees for random alcohol and drug testing by a scientifically valid method, such as a random number table of a computer-based random number generator matched with the covered employees' Social Security numbers, City identification numbers, or other comparable identifying number. Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made.
3. Random alcohol and drug tests shall be unannounced and the dates for administering random alcohol and drug tests shall be spread reasonably throughout the calendar year.
4. Each covered employee who is notified of selection for random alcohol or drug testing shall go to the test site immediately. If a notified employee is performing a safety-sensitive function, the employee shall cease to perform that safety-sensitive function and go to the testing site as soon as possible.
5. A covered employee shall only be tested for alcohol while the employee is performing safety-sensitive functions, four (4) hours before the employee is to perform safety-sensitive functions, or four (4) hours after the employee has

ceased performing such functions. The employee will be on City paid time during the testing process

6. A covered employee may be tested for drugs at anytime while the employee is at work for the City.
7. The City shall not require any covered employee to submit to a random test while the employee is off work. If a covered employee is off work, the City will skip the employee's name and the next employee's name on the selection list will be selected and tested. The City shall document that the employee was off work and that the employee was in the random selection pool for that cycle. If the employee's absence lasts for more than thirty (30) days, the pre-employment testing provisions of this program shall apply.
8. Employees performing safety-sensitive functions may be tested for alcohol with a pre-trip inspection. . However, if the pre-trip inspection is not appropriate, the employee may be requested to perform other safety-sensitive functions (e.g., driving a truck or loading a truck) in order to comply with the requirements for alcohol testing.
9. Upon notification of a Negative Dilute, the City may immediately re-test the employee.

C. Consequences

1. Covered employees shall be subject to the referral, evaluation, and rehabilitation requirements in Section IV and may be subject to disciplinary action under Section VI if they refuse to submit to a random alcohol or drug test or if they have an alcohol test with a result indicating an alcohol concentration of 0.04% or greater or a drug test with a verified positive test result.
2. Any covered employee who has engaged in conduct in violation of Section III concerning the use of alcohol or who has had an alcohol test with a result of 0.02% to 0.04% BAC or greater shall not return to duty until the employee has submitted to a return to duty alcohol test with a verified negative result. In addition, the employee will be evaluated by the SAP and develop a treatment methodology, if necessary, and may be subject to the referral, evaluation, and rehabilitation requirements in Section IV.

XI. POST-ACCIDENT ALCOHOL AND DRUG TESTING

A. Preface

As soon as practicable following an accident, the City shall test a surviving covered employee for alcohol and drugs where the accident has resulted in any one of the following conditions:

1. Death of a human being.
2. Bodily injury to a person who, as a result of the accident, receives medical treatment away from the scene of the accident.
3. The covered employee received a citation or there is a high probability that the covered employee will receive a citation for a moving traffic violation arising from performance of a safety-sensitive function with respect to the accident. In the case where it is not immediately known if the above criteria is met, the employee will provide a sample and the sample will not be tested until it is determined that the criteria for post-accident testing are met.
4. At least one (1) of the involved vehicles is required to be towed from the scene of the accident.

Following the accident, the covered employee will be tested as soon as possible, not to exceed eight (8) hours for alcohol and thirty-two (32) hours for drugs.

B. Procedures

1. These procedures do not supersede the Vehicle Use Policy contained in the City of Morgan Hill's Administrative Policy and Procedure Manual or any other departmental policy or procedure regarding reporting of vehicle accidents, incidents, citations, or damage.
2. The covered employee shall notify his or her supervisor as soon as possible following an accident. The covered employee shall refrain from using alcohol for eight (8) hours following the accident or until it is determined that a post-accident alcohol test is not required as provided below. Any employee leaving the scene of the accident without appropriate authorization prior to submitting to an alcohol or drug test or being released by the supervisor will be considered to have refused to test.
3. The supervisor at the site of an accident shall:
 - a. Attend to any emergency needs of employees, passengers, pedestrians, etc. by requesting medical, fire and/or police assistance and the presence of another supervisor;

- b. Take the covered employee involved in the accident aside and give the employee a direct verbal order to abstain from alcohol and drugs until after they have been tested or until after eight (8) hours for alcohol or thirty two hours (32) for drugs and to stand by at the site until the supervisor has determined if the accident is one requiring a post-accident alcohol and drug test;
 - c. Evaluate the accident to determine whether a post-accident test is required under this program and document with written notes the supervisor's decision to require or to not require a post-accident alcohol and drug test.
- 4. If the supervisor at the site affirms that a post-accident alcohol or drug test of the covered employee is required, the supervisor shall take the following actions:
 - a. The supervisor shall inform the covered employee the test is required by the OTETA. The supervisor will also explain that by refusing to take the alcohol and drug tests, the employee will be subject to the mandatory referral, evaluation and rehabilitation requirements of Section IV. . Refusal to take the tests will subject the employee to disciplinary action in accordance with Section IV.

Any employee who refuses to submit to a post-accident test as required by federal law shall be terminated from employment pursuant to Section IV. The employee will be offered the opportunity to be safely transported home. If an employee appears to be impaired, refuses the post-accident alcohol and drug test, and intends or attempts to drive home, the City will inform the employee that it is required to notify the proper authorities.

 - b. The supervisor shall transport the employee to the designated collection site to take the necessary tests. The supervisor shall inform the employee that they have a right to request a steward. However, the process will proceed whether or not the steward is present. The supervisor transporting the employee will stay with the employee, verify the employee's identification at the collection site and later return the employee to the employee's division or work unit.
 - c. If the covered employee is injured and requires off-site treatment, the supervisor shall escort the employee to a hospital or other appropriate treatment facility. The hospital will be requested to collect the necessary specimen and provide safe-keeping until the sample is picked up by the City collection agency.

- d. The supervisor shall ensure that the covered employee does not perform any safety-sensitive function until the employee is cleared by the post-accident test results. This includes ensuring that neither the covered employee nor any other employee involved in the accident operates the vehicle any further. If necessary, the supervisor will move the vehicle or request another employee not involved in the accident to do so.
5. If the supervisor at the site of the accident determines that the accident does not meet the criteria for a post-accident alcohol and drug test, the covered employee may continue to perform safety-sensitive functions.
6. If the covered employee is taken into police custody at the site of an accident and the site supervisor has affirmed that the accident is one requiring post-accident drug testing, the City's collection agency will be requested to test the employee for alcohol and drugs.
7. If a post-accident alcohol test is required and is not administered within two (2) hours following the accident, the City shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If the alcohol test is not administered within eight (8) hours, the City shall cease attempts to administer an alcohol test and shall prepare and maintain the same record.
8. If a post-accident drug test is required and is not administered within thirty-two (32) hours following the accident, the City shall cease attempts to administer a drug test and shall prepare and maintain on file a record stating the reasons the test was not promptly administered.

C. Consequences

1. Covered employees shall be subject to the referral, evaluation, and rehabilitation requirements in Section IV and shall also be subject to the disciplinary consequences of Section VI if they refuse to submit to a post-accident alcohol or drug test or if they have a post-accident alcohol test with a result indicating an alcohol concentration of 0.04% or greater or a drug test with a verified positive test result.
2. Any covered employee who has engaged in conduct in violation of Section III concerning the use of alcohol or who has had an alcohol test with a result of 0.02% to 0.04% BAC or greater shall not perform a safety-sensitive function until the employee has submitted to a return to duty alcohol test with a verified negative result. In addition, the employee will be evaluated by the SAP and develop a treatment methodology, if necessary, and may be subject to the referral, evaluation, and rehabilitation requirements in Section IV.

XII. REASONABLE SUSPICION ALCOHOL AND DRUG TESTING

A. Preface

The City shall require a covered employee to submit to an alcohol and/or drug test when the City has reasonable suspicion to believe that the employee is under the influence of alcohol or drugs.

B. Procedures

1. The City's decision to require a covered employee to submit to a reasonable suspicion alcohol and/or drug test shall be based on a supervisor's determination that reasonable suspicion exists that the employee is in violation of Section III . The City's determination must be based on:

- a. Specific, personal, and articulate observations concerning the appearance, behavior, speech or performance of the employee; or
- b. Violation of a safety rule, or other unsafe work incident which, after further investigation of the employee's behavior, leads the supervisor(s) to believe that alcohol or drug use may be a contributing factor; or
- c. Other physical, circumstantial or contemporaneous indicators of alcohol or drug use

Suspicion based solely on third party observation, violation of safety rule or unsafe work incident is not reasonable suspicion for testing. However, such suspicion may be a basis for further investigation, or for action to protect the safety of others, such as ordering the employee to stop work.

No action shall be taken against a covered employee based solely on the employee's behavior and appearance, with respect to alcohol or drug use, without a positive test.

2. The supervisor will obtain the assistance of another supervisor, when feasible, to observe and document the above behavior or factors.
3. The supervisor shall inform the employee of the facts upon which the reasonable suspicion is based, advise the employee that the supervisor wishes to question the employee about the employee's behavior or conduct on which the reasonable suspicion is based, and advise the employee that he or she has the right to request the presence of a steward or other representative before answering the supervisor's questions.
 - a. If the employee chooses to be represented, the steward or other representative will be allowed up to one (1) hour to arrive. If no steward other representative is available within one (1) hour, the supervisor should continue the procedure.

- b. The supervisor shall request an explanation from the employee concerning the employee's behavior or conduct on which the reasonable suspicion is based. If a satisfactory explanation is not provided, the employee will be tested.
 - c. The supervisor must complete the Observation/Incident Report within one (1) hour of the incident. The supervisor will provide a copy of the completed Observation/Incident Report to the Union. A copy should be given to the steward or other representative, if present, and another sent to the Union president.
4. If the employee refuses to submit to the test, the employee will be terminated pursuant to Section VI. The employee shall be offered the opportunity to be safely transported home.

If an employee appears to be impaired, refuses the reasonable suspicion alcohol and drug test, and intends or attempts to drive home, the supervisor will inform the employee that the City is required to notify the proper authorities. Again, an employee who has refused to submit to a post-accident test will be disciplined in accordance with Section VI.

5. If the employee submits to the reasonable suspicion alcohol and/or drug test, the supervisor will assign the employee to non-safety-sensitive duties until the supervisor receives the test results, unless in the supervisor's judgment, the continued presence of the employee in the workplace poses a significant safety risk to the employee or others or is disrupting the workplace. In that event, the supervisor shall place the employee on sick leave or other accrued leave and arrange to safely transport the employee home.
- a. If the alcohol and/or drug test is positive, the employee will be subject to the return to duty/follow-up testing program and procedures.
6. No supervisor shall physically search an employee or an employee's private property (purse, briefcase, car) based on the supervisor's reasonable suspicion that the employee has violated Section III.
7. The supervisor(s) or City official(s) who observe(s) the employee's behavior on which reasonable suspicion testing is based must have received at least sixty (60) minutes of training on alcohol misuse and an additional sixty (60) minutes training on drug use. The training must cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of drugs.
8. No reasonable suspicion alcohol testing may be done except while the employee is performing a safety-sensitive function, four (4) hours before the employee is to perform a safety-sensitive function, or four (4) hours after the employee has ceased performing such function.

9. If an alcohol test is not conducted within two (2) hours of the observation, the City must prepare and maintain a record stating the reasons the alcohol test was not promptly administered. If eight (8) hours have passed, the City will not administer the test.
10. A written record must be made of the observations leading to an alcohol or drug reasonable suspicion test and signed by the supervisor or City official who made the observations, within one (1) hour of the observed behavior or before the results of the alcohol or drug test are received, whichever is earlier.

C. Consequences

1. Covered employees shall be subject to the referral, evaluation, and rehabilitation requirements contained herein and may be subject to the disciplinary consequences of Section VI if they refuse to submit to a reasonable suspicion alcohol or drug test or if they have a reasonable suspicion alcohol concentration of 0.04% or greater or a drug test with a verified positive test result.
2. Any covered employee who has engaged in conduct in violation of Section III concerning the use of alcohol or has had an alcohol test with a result of 0.02% to 0.04% BAC or greater shall not perform a safety-sensitive function until the employee has submitted to a return to duty alcohol test with a verified negative result. In addition, the employee will be evaluated by the SAP and develop a treatment methodology, if necessary.

XIII. RETURN TO DUTY/FOLLOW-UP TESTING

A. Preface

Covered employees who have alcohol test results of 0.04% BAC or greater or who test positive for drugs are subject to return-to-duty testing and are also subject to unannounced follow-up alcohol and/or drug test following their return to duty.

B. Procedures

1. Return to duty test

- a. Any covered employee who has engaged in conduct in violation of Section III concerning the use of alcohol or had an alcohol test with a result of 0.04% BAC or greater shall not return to duty until the employee has submitted to a return to duty alcohol test with a verified negative result. In addition, the employee will be evaluated by the SAP and develop a treatment methodology, if necessary.

- b. Any covered employee who has engaged in conduct in violation of Section III concerning the use of drugs or who has had a drug test with a positive result shall not return to duty until the employee has submitted to a return to duty drug test with a verified negative result. In addition, the employee will be evaluated by the SAP and develop a treatment methodology, of necessary.

2. Follow-up testing

- a. If an employee tests positive for either alcohol or controlled substances, he/she will be subject to unannounced follow-up alcohol and controlled substances tests following his/her return to duty. The number and frequency of such follow-up testing shall be as directed by the SAP and consist of at least six (6) tests in the first twelve (12) months following the employee's return to duty.
- b. Follow-up testing shall not exceed sixty (60) months from the date of the employee's return. The SAP may terminate the requirement for follow-up testing at any time after the first six (6) tests have been administered if the SAP determines that such testing is no longer necessary.
- c. Follow-up alcohol testing shall be conducted only when the employee is performing safety-sensitive functions, four (4) hours before the employee is to perform safety-sensitive functions, or (4) four hours after the employee has ceased performing safety-sensitive functions.
- d. Follow-up drug testing may be conducted at anytime while the employee is at work for the City.

C. Consequences

- 1. Covered employees shall be subject to the referral, evaluation, and rehabilitation requirements contained herein and may be subject to the disciplinary consequences of Section VI if they refuse to submit to a return-to-duty or a follow-up alcohol or drug test or if they have a return-to-duty or follow-up alcohol test with a result indicating a BAC of 0.04% or greater or drug test with a verified positive test result.
- 2. Any covered employee who has engaged in conduct in violation of Section III concerning the use of alcohol or who has had an alcohol test with a result of 0.02% to 0.04% BAC or greater shall not return to duty until the employee has submitted to a return-to-duty alcohol test with a verified negative result. In addition, the employee will be evaluated by the SAP and develop a treatment methodology, if necessary. In addition, the employee may be subject to the

disciplinary consequences of Section VI if they refuse to submit to a return-to-duty or a follow-up alcohol or drug test or if they have a return-to-duty or follow-up alcohol test with a result indicating a BAC of 0.04% or greater or drug test with a verified positive test result.

XIV. DOCUMENT DISTRIBUTION AND TRAINING

A. City's Alcohol and Drug Testing Programs and Procedures

Every employee who is covered by the federal alcohol and drug testing regulation as explained in this program shall be provided with a copy of this program prior to the start of alcohol and drug testing. Each employee is required to sign a statement certifying that he or she has received a copy of this program. The City will maintain the original of the signed document in the official personnel file and will provide a copy of the certificate to the employee.

B. Required Training for Covered Employee

Every covered employee will receive a one (1) hour training course on the City's Alcohol and Drug Testing Programs and Procedures. Each employee will sign an attendance roster and will receive a certificate of completion of this training. A copy of the certificate of completion will be placed in the employee's official personnel file. Every subsequent year, refresher training will be provided.

C. Supervisory Training

All supervisors of covered employees will receive a minimum of one (1) hour of training for alcohol and one (1) hour for drugs related to the City's Alcohol and Drug Testing Program and Procedures. In addition, the supervisor will be trained on alcohol and drug usage and impairment with strategies for dealing with these types of issues. Each supervisor will sign an attendance roster and will receive a certificate of completion of this training. A copy of the certificate of completion will be placed in the supervisor's official personnel file. Every subsequent year, refresher training will be provided.

CERTIFICATE OF RECEIPT
OF CITY OF MORGAN HILL & AFSCME, LOCAL 101
DRUG AND ALCOHOL TESTING PROGRAM

I, _____, understand that I am employed by the City of Morgan Hill in a position that is covered by the federal alcohol and drug testing regulations, and that I will be subject to the alcohol and drug testing programs described in this program which implements those federal alcohol and drug testing regulations. I hereby certify that the City has provided me with a copy of this program. I understand that the City will maintain the original of the signed certificate and that I will be provided a copy of the certificate. I also understand that federal law requires the City to ensure that I have been provided with a copy of the City's alcohol and drug testing program and also requires me to sign this statement certifying my receipt of a copy of this program.

Date _____

Signature of Employee

I hereby acknowledge that I asked for and received a copy of this certificate of receipt.

Date _____

Signature of Employee



CITY OF MORGAN HILL
LAST CHANCE AGREEMENT

CITY OF MORGAN HILL

This Last Chance Agreement is created to assist you in understanding the severity of the issues being confronted and the City's desire that you be successful in resolving of these concerns. Successful completion of this Agreement will prevent further disciplinary action toward you for the issues stated hereafter.

EMPLOYEE NAME: _____

EMPLOYEE CLASSIFICATION: _____

DEPARTMENT: _____

NATURE OF THE INCIDENT:

CREATED PROGRAM FOR REHABILITATION: This may include day treatment, night programs, residential programs or some form of counseling as developed by the Substance Abuse Professional in concert with the employee.

NUMBER OF TESTS REQUIRED FOR UNANNOUNCED TESTING IN COMPLIANCE WITH THIS AGREEMENT: _____

THE AGREEMENT:

I, _____, agree to comply with the guidelines and procedures entailed in the City's Drug and Alcohol Testing Program and the conditions established in the rehabilitation program. I understand that periodic unannounced samples will be taken as a condition of continued employment. Any positive test as a result of unannounced testing will be considered a violation of this last chance agreement. Should I successfully complete the rehabilitation program described above and successfully maintain negative test results for a duration of one (1) year for alcohol and five (5) years for drugs, this agreement shall be null and void and a notice of completion shall be placed in my alcohol and drug file. Another incident of drug and/or alcohol use after completion of this process shall not be subject to a second last chance agreement and I will be terminated as outlined in Section VI of the Program.

Signature of Employee

Date

MEMORANDUM OF UNDERSTANDING



Morgan Hill Police Officers' Association

December ~~2630~~, 20~~21~~~~18~~ – December 31,
202~~31~~

POA
MEMORANDUM OF UNDERSTANDING
December ~~2630~~, 2021~~18~~ – December 31,

~~20231~~TABLE OF CONTENTS

Article I. TERM	5
Article II. REPRESENTATION	5
Section 2.05 New Employee Orientation	5
Section 2.07 Payroll Deductions/Authorizations	5
Section 2.12 Meet & Confer Process.....	6
Section 2.14 Association Meetings	6
Article III. MANAGEMENT RIGHTS	7
Article IV. DEFINITIONS.....	8
Section 4.03 Personnel Rules	8
Section 4.06 Interpretation	8
Article V. SALARY, WAGES & PAID BENEFITS.....	8
Section 5.01 Salaries.....	8
Section 5.05 Specialized Pay Assignments	9
Section 5.14 Out of Class.....	10
Section 5.16 Higher Class Assignment Pay.....	10
Section 5.18 Holiday Pay	10
Section 5.20 Other Pay.....	10
Section 5.21 Callback Pay	10
Section 5.23 Shift Supervisor Pay.....	10
Section 5.25 5.18 FTO Pay	10
Section 5.27 Bilingual Pay	10
Section 5.29 Court Pay	11
Section 5.31 Court Stand By Pay	11
Section 5.33 Rest Period Between Shifts	12
Section 5.35 Overtime Pay and Compensatory Time	12
Section 5.40 In- House Department Training.....	13
Section 5.43 Outside Department Training.....	13

Section 5.46	Base Work Schedules	13
Section 5.48	Health Benefits	14
Section 5.54	Uniforms	15
Article VI.	EDUCATIONAL INCENTIVE PAY PROGRAM	17
Section 6.01	Educational Incentive Pay Program.....	17
Section 6.04	Tuition Reimbursement.....	17
Article VII.	TYPES OF LEAVE/LEAVE PROCEDURES	17
Section 7.01	Sick Leave	18
Section 7.06	Vacation Time.....	18
Section 7.14	Extended Leave Policy	19
Section 7.17	Bereavement Leave.....	20
Section 7.20	Family Illness and Medical Appointments	20
Section 7.23	Maternity Leave.....	20
Article VIII.	MISCELLANEOUS BENEFITS	21
Section 8.01	Retirement/Pension	21
Section 8.06	Gym Equipment.....	23
Section 8.08	Hepatitis B Vaccinations	23
Article IX.	MISC POLICIES AND PROCEDURES	23
Section 9.02	Watch Swaps	23
Section 9.09	Work Stoppage, Any Job Action, Slowdown	24
Section 9.13	Light Duty Assignment.....	25
Section 9.17	Substance Abuse Policy	25
Section 9.21	Emergency Waiver Provision.....	26
Section 9.23	Preferred Vacation Sign-up and Shift Selection (Sworn Classifications)	26
Section 9.26	Sign-up Procedures (Sworn Classifications)	27
Section 9.31	Preferred Vacation for Multi-Service Officers.....	28
Section 9.36	Department Seniority.....	30
Section 9.38	Facial Hair	30
Section 9.40	Vehicles.....	30
Section 9.42	Practice Firearms Training.....	30
Article X.	COMPLAINT/GRIEVANCE PROCEDURE	30
Section 10.07	Definition of a Grievance.....	31
Section 10.11	Grievance Procedure	31

Section 10.16 Employee Relations Panel	32
Section 10.19 General Conditions	33
Article XI. RATIFICATION/FUTURE MEETINGS	33
Article XII. EXHIBIT A Salary Schedules	35

This Memorandum of Understanding ("MOU") has been executed by representatives of the MORGAN HILL CITY COUNCIL ("City") and representatives of the MORGAN HILL POLICE OFFICERS' ASSOCIATION ("Association"). City and Association may be referred to collectively as "Parties" and individually as a "Party."

Article I. TERM

Section 1.01 The term of this MOU shall commence December ~~2630~~, 20~~21~~~~18~~ and end December 31, 202~~31~~.

Article II. REPRESENTATION

Section 2.01 Association is a recognized employee organization within the meaning of City's Employer-Employee Relations Resolution No. 4955.

Section 2.02 Association represents all employees in the Police Unit which consists of City classifications of Multi Service Officer, Police Officer, Police Corporal, and Police Sergeant.

Section 2.03 A Police Officer Trainee is a person being considered for hiring as a Police Officer with City. Police Officer Trainees are not classified City employees, not covered by this MOU and are not represented by Association. A Police Officer Trainee signs a separate contract to attend a P.O.S.T. Certified Academy ("Academy"). Upon successful completion of the Academy, the Police Officer Trainee is hired as a Police Officer and begins to receive a regular salary and benefits pursuant to this MOU.

Section 2.04 All employees within the bargaining unit represented by the Association may voluntarily join the Association and pay dues, initiation fees, and general assessments, as well as payment of any other membership benefit program sponsored by the organization (hereinafter "payroll deductions") as determined by the Association. It shall be the responsibility of the Association to maintain a record of employees who have given their written consent to join and pay dues to the Association. The Association shall certify to the City the identity of such members and the amount of such payroll deductions to be deducted.

Section 2.05 New Employee Orientation

Section 2.06 The City shall provide the Association with reasonable advance notice of the start date of any new hire to a represented classification. The City shall provide the Association with an exclusive 30- minute meeting with any new employee or group of employees covered by this MOU, during the employee orientation (i.e., the first two (2) days of employment). The specific date, time, and location of the 30- minute union meeting with new employees will be coordinated by the Chief of Police and the President of the Association.

Section 2.07 Payroll Deductions/Authorizations

Section 2.08 The City agrees to deduct the periodic payroll deductions from the paycheck of each employee who voluntarily executes a valid authorization form as certified by the Association, or pursuant to an authorization form tendered to the City by either the Association or the employee. All sums deducted by the City shall be remitted to the Association in an expedient manner and at the intervals requested by the Association (i.e., no more than seven (7) calendar days after the deduction), together with a list of names of each employee for whom a deduction was made.

Section 2.09 If an employee member in the bargaining unit desires to revoke, cancel or change prior dues deduction authorization, the City shall direct the employee member to the Association. Any such dues deduction revocation, cancellation and/or change shall only be effective when submitted by the Association directly to the City and is subject to the terms and conditions as set forth in the original payroll deduction/authorization.

Section 2.10 Notification will be provided to the City's Payroll Division. Change, cancellation or deduction requests received by the City prior to the 15th of the month will be processed the first full pay period of the following month. Change, cancellation and deduction requests received by the City on or after the 15th of the month will be processed the second full pay period of the following month.

Section 2.11 The Association shall indemnify and hold the City and its agents and employees harmless from any cost, expense, fee or liability resulting from any claims, demands, lawsuits, or any other action arising from the operation of this Section 2.02.

Section 2.12 Meet & Confer Process

Section 2.13 Association is the only employee organization which is entitled to meet and confer with City on behalf of employees.

Section 2.14 Association Meetings

Employees shall be allowed to attend one (1) Association meeting per month on-duty for not longer than one-and-a-half (1.5) hours, subject to call out. The Association meeting must be for the purpose of Association business and is not a social event. If on-duty Unit Members could be affected by any Association meetings, Association must give three (3) days notice to the Police Chief ("Chief") or his/her designate.

Section 2.15 Association's Elected and Appointed Officers ("Association Officers") and employees may be granted limited privileges to utilize City owned equipment as follows:

- (a) Association Officers may utilize the Police Department ("Department") email system to post official notices to its membership or conduct necessary official business that cannot be conveniently conducted in another fashion. Likewise, employees may utilize this system to reply to notices or other necessary Association business.
- (b) Association Officers or their designates may utilize City's telephones within the Police Station or their department issued cell phone to conduct official Association business for local calls only. All long distance or message calls must be made collect with the use of a private phone credit card.
- (c) Association Officers or their designates may utilize City's copy machines within the Police Station to reproduce notices to its membership, other official correspondence using Association stationary, and copies of the MOU for distribution to its membership. Reproducing multiple copies of large documents or large quantities (more than twenty-five (25) copies) of short documents may only be allowed with permission of the Chief.

- (d) Official business shall be defined as notifying employees of meetings, Association activities, or other official communications, such as preparing election ballots, correspondence, etc. Not included in official business are items such as actually voting on Association issues, lobbying or campaigning with respect to Association issues, expressing personal or political views, making statements which are injurious to individuals or the Department, or other similar transmissions.
- (e) The Chief or his/her designate shall monitor these privileges during the term of this MOU. Should the Chief or his/her designate detect an abuse of these privilege(s), he/she shall notify the Association Officers and allow Association to be heard. If additional abuses are detected after having placed Association on notice, the Chief may unconditionally revoke any or all of these privileges.

Section 2.16 A maximum of four (4) Association Officers shall be allowed to utilize a cumulative total of forty (40) hours per year of release time for Association business and attendance of Association related functions including, but not limited, to meetings, seminars, and schools. Release time shall be granted subject to minimum staffing requirements of the Police Department ("Department") and is subject to Chief and/or City's City Manager ("City Manager") approval.

Section 2.17 Representatives of City and Association have met and conferred, pursuant to the provisions of the Meyers-Miliias-Brown Act and Resolution No. 4955, for the purpose of reaching agreement concerning all matters within the scope of representation for employees during the term of this MOU.

Section 2.18 An agreement has been reached.

Section 2.19 This MOU sets forth the full and entire understanding of the Parties regarding the matters set forth herein, and any other prior or existing understanding or agreements by the Parties, whether formal or informal, regarding any such matters, are hereby superseded or terminated in their entirety.

Section 2.20 It is agreed and understood that each Party hereto voluntarily and unqualifiedly waives its right to negotiate and agrees that the other Party shall not be required to negotiate with respect to any matter covered herein during the term of this MOU. Nothing in this paragraph shall preclude the Parties from jointly agreeing to meet and confer on any issue(s) within the scope of representation during the term of this MOU.

Section 2.21 No agreement, alteration, understanding, variation, waiver, or modification of any of the terms or provisions contained herein shall, in any manner, be binding upon the Parties hereto unless made and executed in writing by all Parties hereto and, if required, approved and implemented by City and Association.

Article III. MANAGEMENT RIGHTS

Section 3.01 The rights of City, as exercised by the City Council and the City Administration, include, but are not limited to: 1) the exclusive right to determine the mission of its constituent departments, commissions and boards, 2) the right to set standards of service and determine the procedures and standards of selection for employment, 3) the right to direct its employees, 4) the right to take disciplinary action, 5) the right to relieve its employees from duty because of lack of work or other legitimate reasons, 6) the right to maintain the efficiency of governmental operations, 7) the right to determine the methods,

means, and personnel by which government operations are to be conducted, 8) the right to determine the content of job classifications, 9) the right to require that employees work overtime, and 10) the right to and exercise complete control and discretion over its organization and the technology of performing its work. These rights are absolute, except that any agreement between City and Association evidenced by a MOU under Government Code § 3500 et. seq. shall take precedence over any of the above enumerated management rights and such MOU will be honored in good faith during the life of this MOU, subject to City's right to determine when an emergency exists and to take all necessary action to carry out its mission in emergencies.

Section 3.02 Nothing in this Article III shall be construed to limit, amend, decrease, revoke, or otherwise modify the rights vested in City by any law regulating, authorizing, or empowering City to act or refrain from acting.

Article IV. DEFINITIONS

Section 4.01 The terms "Salaries", "Wages" or "Salary and Wages" shall mean the gross monthly base pay prior to any deductions.

Section 4.02 The term "Personnel Rules" as used in this MOU means those regulations titled "City of Morgan Hill Personnel Rules and Regulations" enacted by Resolution No. 1485 and thereafter and hereafter amended.

Section 4.03 Personnel Rules

Section 4.04 The Personnel Rules are incorporated by reference as though fully and completely set forth in this MOU.

Section 4.05 It is understood that, during the term of this MOU, City will be reviewing and updating, where needed, the Personnel Rules. City shall meet and confer with Association on revisions that are within the scope of representation.

Section 4.06 Interpretation

Section 4.07 In the event a conflict in interpretation between the Personnel Rules, as included by reference, and similar sections contained in this MOU, the language in the MOU will be used for interpretation.

Article V. SALARY, WAGES & PAID BENEFITS

Section 5.01 Salaries

Section 5.02 The salaries and wages paid by City to employees will be in accordance with the job classifications they hold with pay rates to be amended as follows according to City's adopted salary range schedule. The adopted Salary Schedule, as may be amended from time to time, is attached hereto as Appendix A and is incorporated herein by this reference.

Section 5.03 Sworn Classifications (Police Officer, Police Corporal, and Police Sergeant) and Non-Sworn Classifications (Multi Service Officer): Effective the pay period including December ~~2630~~, ~~2021~~~~18~~, the employee's base salary shall be increased four percent (4.0%). Effective the pay period including January 1, ~~2023~~~~0~~, the employee's base salary shall be increased by four

percent (4.0%). ~~Effective the pay period including January 1, 2021, the employee's base salary shall be increased by four percent (4.0%).~~

~~Section 5.04 Miscellaneous (Non-Sworn) Classifications (Multi Service Officer): Effective the pay period including December 30, 2018, the employee's base salary shall be increased by three and a half percent (3.5%). Effective the pay period including January 1, 2020, the employee's base salary shall be increased by three and a half percent (3.5%). Effective the pay period including January 1, 2021, the employee's base salary shall be increased by three and one quarter percent (3.25%).~~

Section 5.05 **Specialized Pay Assignments**

Section 5.06 Employees may be assigned to special assignment work which entitles the employee to specialty pay, as outlined below (a "Specialized Pay Assignment").

Section 5.07 The Specialized Pay Assignments are Canine (~~Officer/Corporal~~any rank), School Resource Officer, Special Weapons and Tactics ("SWAT") (any rank), Hostage Negotiation team, Crime Scene Investigation Team, Task Force- Regional Auto Theft Task Force (Officer/Corporal), Regional Enforcement Allied Computer Task Force (any rank), Detective (Sergeant/Corporal/Officer) and Traffic (Corporal/Officer). These collateral duties are at-will and at the discretion of the Chief of Police. The pay received by these employees when they are assigned to a Specialized Pay Assignment ("Specialty Pay") ~~shall be~~shall be increased per pay period by 4% effective December 26, 2021 and increased per pay period by 4% effective the pay period including January 1, 2022. Specialized Pay Assignments shall be paid according to the following:

- ~~(a) \$250 per pay period, for Police Officer classification~~
- ~~(b) \$275 per pay period, for Police Corporal classification~~
- ~~(c) \$300 per pay period, for Police Sergeant classification~~

	<u>2022</u>	<u>2023</u>
<u>Police Officer</u>	<u>\$260 per pay period</u>	<u>\$270.40 per pay period</u>
<u>Police Corporal</u>	<u>\$286 per pay period</u>	<u>\$297.44 per pay period</u>
<u>Police Sergeant</u>	<u>\$312 per pay period</u>	<u>\$324.48 per pay period</u>

Section 5.08 Employees in the Detective, Canine, Special Weapons and Tactics ("SWAT"), Hostage Negotiation Team, Crime Scene Investigation Team, Task Force, and Traffic motor Specialized Pay Assignments will be required to be on call for on a rotational basis.

Section 5.09 Employees in the Detective, Canine, and Task Force Specialized Pay Assignments will be given a Department issued vehicle and associated equipment and are required to keep the vehicle and associated equipment immediately available and either keep Morgan Hill Dispatch advised of their location or maintain call-back availability by carrying their Department issued cell phone.

Section 5.10 Traffic Officers and Corporals are assigned to use Department-issued motorcycles for traffic enforcement. Traffic Officers and Corporals will not receive Specialty Pay until successful completion of Motor Officer School.

Section 5.11 Canine Officer(s) (any rank) ~~and Corporals~~ are only eligible for Specialty Pay during periods when assigned an animal as part of their duties.

Section 5.12 The Canine Officers (any rank) ~~or Corporals~~ shall be authorized to receive three-and-one-half (3.5) hours weekly on at the Overtime Pay rate for animal care ("Canine Care Pay"). No additional time shall be worked without the express approval of the Canine Sergeant. Canine Officer(s) are only eligible for animal care pay during periods when assigned an animal as part of their duties.

Section 5.13 With the exception of the Canine Care Pay as specified above, employees who are assigned to these Specialized Assignments will not be entitled to any type of additional pay for the performance of these Specialized Assignments.

Section 5.14 Out of Class

Section 5.15 A supervisor may assign in writing an employee to work "Out of Class" in a higher classification and receive "Out of Class Pay" if (a) the employee will assume the full range of duties of the higher classification, (b) the assignment is for a limited duration, (c) the assignment will not and does not exceed 960 hours in a fiscal year and (d) is to a position in a higher class that is vacant during recruitment for a permanent employee (i.e. does not include a vacancy due to an employee on leave). Out of Class Pay shall be at the pay step in the higher class closest to but no less than 5.0% higher than the employee's base pay and is intended to be PERSable compensation under Government Code section 20480. To qualify as Out of Class Pay rather than Higher Class Assignment Pay (see next paragraph), the assignment must be approved by the Police Chief's designee and the Human Resources Division.

Section 5.16 Higher Class Assignment Pay

Section 5.17 A supervisor may also assign in writing an employee to work in a higher class and receive "Higher Class Assignment Pay" if the employee will assume the full range of duties of the higher classification and does not qualify for Out of Class Pay. Higher Class Assignment Pay shall also be at the pay step in the higher class closest to but no less than 5.0% higher than the employee's base pay but is not PERSable compensation under Government Code section 20480.

Section 5.18 Holiday Pay

Section 5.19 Holiday Pay for entitled employees shall be six and a half percent (6.5%) of the employee's base salary. If the City Council declares an additional holiday for City employees during this MOU, an additional one-half percent (.5%) Holiday Pay will be granted to employees.

Section 5.20 Other Pay

Section 5.21 Callback Pay

Section 5.22 "Callback Pay" is any assignment worked which is not contiguous with an employee's regular shift. Callback Pay is paid at a two (2) hour minimum at the employee's Overtime Pay hourly rate. When overtime worked is contiguous to a regular shift, either preceding or afterwards, it is a "ShiftExtension" and shall be compensated at the normal Overtime Pay rate for completed fifteen (15) minute increments worked.

Section 5.23 Shift Supervisor Pay

Section 5.24 Effective December 30, 2018, the City shall pay an additional two dollars and fifty cents (\$2.50) per hour for Police Officers temporarily assigned to work as Shift Supervisors.

Section 5.25 5.18 FTO Pay

Section 5.26 Effective December 30, 2018, Police Officers serving as Field Training Officers shall receive additional compensation of two dollars and fifty cents (\$2.50) per hour for time spent training newly hired Police Officers.

Section 5.27 Bilingual Pay

Section 5.28 Employees identified by the Chief to use Spanish in the course of performing their work duties and who have successfully completed the certification process, as outlined below, shall receive the following compensation:

- (a) Employees hired prior to June 30, 2013 shall receive five percent (5%) of the employee's basesalary. On July 1, 2013, that amount will be calculated and converted to a fixed amount. Should there be subsequent adjustments to base salaries, the amount determined on July 1, 2013 shall remain fixed in perpetuity. For employees hired on, or after July 1, 2013, employees shall receive a monthly stipend of one hundred dollars (\$100.00).
- (b) The certification process shall be completed by a provider contracted by Human Resources or three (3) person panel established by Human Resources to determine conversational competence. Employees shall be subject to recertification every two (2) years, unless the certification is waived by City.
- (c) An eligible employee may request to be tested for bilingual certification at any time.

Section 5.29 **Court Pay**

Section 5.30 "Court Pay" is any court assignment worked which is not contiguous with a regular shift. Court Pay is paid at a four (4) hour minimum at the employee's Overtime Pay hourly rate.

- (a) The minimum an employee can receive for a court appearance cannot cause the employee to receive a rate of pay which overlaps into their regular shift. The time between the start of the court appearance and the start of the scheduled shift shall be paid as governed under the Department's Policy Manual Section 1038, which is hereby incorporated by this reference and the employee will be required to report to work. The same overlap rule applies for a court appearance which begins within thirty (30) minutes of the end of a regular shift.
- (b) Employees shall be compensated for travel time. "Travel Time" is any time in excess of the time the employee spends going to and from a court appearance. If the sum of the Travel Time and the court appearance does not exceed the four (4) hour minimum paid for court appearances or if the time overlaps into the employee's regular shift, no additional Overtime Pay will be paid. Normal commute is defined as the time necessary for an employee to travel from their residence to the Police Station based on the distance and prevailing commuter speeds and congestion.
- (c) Employees are not required to drive a City vehicle to court but may be provided a City vehicle for out-of-County travel, if available. employees will be reimbursed at the current IRS rate for use of their personal vehicle when making in-County or out-of-County court appearances.
- (d) Except as provided herein, employees receiving Court Pay shall not receive reimbursement for meals nor overtime pay for court meal recesses. employees held over through a court lunch recess, but then released from court immediately following the recess, shall receive Overtime Pay for the lunch recess not to exceed one (1) hour.
- (e) Only one (1) four (4) hour minimum compensation for an off-duty court appearance will be paid per day. If additional off duty court appearances are required beyond the time covered by the four (4) hour minimum, the employee shall be paid at the Overtime Pay rate for actual hours worked as governed by Policy Manual Section 1038.

Section 5.31 **Court Stand By Pay**

Section 5.32 "Court Stand By" is defined as time in which the off-duty activity of an employee is restricted due to the inevitability of said employee having to respond to court within the succeeding twenty-four (24) hours

- (a) In the event that employees are assigned by the Chief or his/her designate to remain on call for the purposes of Court Stand By, the employee shall receive one quarter (1/4) straight time pay for every hour on standby with a two (2) hour minimum and an eight (8) hour maximum per court day.
- (b) The Chief or his/her designate shall be responsible for informing appropriate court officials of the above stated Court Stand By procedure and any conflicts resulting from the procedure.

Section 5.33 **Rest Period Between Shifts**

Section 5.34 Employees who are assigned to and actually work more than four (4) hours between two (2) regularly scheduled twelve (12) hour patrol shifts shall be entitled to an eight (8) hour rest period between said shifts. The eight (8) hour rest period may not necessarily consist of eight (8) consecutive hours, depending upon the circumstances. If any portion of the eight (8) hour rest period occurs during the employee's regularly scheduled twelve (12) hour shift, the employee shall receive normal compensation for that time.

For example, a Police Officer goes off duty at 7:00 a.m. and is subpoenaed to court at 8:00 a.m. The Police Officer remains in court until 3:00 p.m. and is scheduled to return to work at 7:00 p.m. In this case, the Police Officer could return to work at 10:00 p.m. without loss of hours or the need to use accrued time off for the three (3) hour period of the regular work shift.

- (a) The employee is responsible to contact the on-duty Watch Commander to request this rest period as soon as he or she is aware that it will be required so that ample time is available to arrange for replacement officers if necessary.
- (b) The on-duty Watch Commander may exercise discretion as to the exact time the employee must report back to work, based on individual circumstances and operational needs, so long as it complies with the intent of this section.
- (c) This section shall not apply to voluntary overtime work assignments between shifts which are worked at the option of the individual employee.
- (d) This section shall not apply in emergencies such as mutual aid mobilizations or natural disasters.

Section 5.35 **Overtime Pay and Compensatory Time**

Section 5.36 The City has established a 14 day / 86-hour Section 207(k) work period for purposes of Fair Labor Standards Act (FLSA) overtime hours. The established work period begins at 12:01 a.m. every other Sunday and ends every other Saturday, fourteen (14) days later at 12:00 midnight.

Section 5.37 MOU "Overtime Pay" and / Compensatory Time ("Comp Time") are for hours worked outside an employee's regular work schedule, and are paid at one-and-a-half (1.5) times an employee's FLSA regular rate of pay. Overtime Pay and Comp Time shall be calculated on a minimum of fifteen (15) minute increments actually worked outside of the employee's regular work shift. For clarification, this

equates to 15-29 minutes = 15 minutes of overtime pay, 30 - 44 minutes = 30 minutes of overtime pay and so on. All such time must be approved in advance with the employee's supervisor or the Chief.

Section 5.38 Employees will have the option of receiving either Overtime Pay or Comp Time. The Comp Time accrual limit for the term of this MOU is one hundred eighty (180) hours. Comp Time will be cashed out at the FLSA regular rate at time of separation. Comp Time may also be cashed out at the FLSA regular rate each calendar year via an irrevocable cash out election form to the extent and in manner provided in section 7.08.

Section 5.39 Employees may elect to contribute via payroll deduction to the City's Deferred Compensation Plans. Employee contributions can be lump sum contributions or percentage of base wages contributions. Employees must submit a completed "Deferred Compensation Enrollment/Change Form" to the Human Resources Office for changes in their deferred compensation contributions. Changes shall be effective the second full pay period following receipt by Human Resources of the applicable Deferred Compensation Enrollment/Change Form.

Section 5.40 **In- House Department Training**

Section 5.41 When a Department in-house training falls on an employee's scheduled day off and the employee attends the training, the affected employee will have the option of receiving Comp Time, if eligible, or pay if Comp Time is at ~~186~~0 hours, for the training time or, upon approval by the employee's supervisor, the employee may schedule adjust. "Schedule Adjust" is defined as the act of taking the equivalent number of hours off within the same pay period.

Section 5.42 All schedule requests must be approved in advance by the employee's supervisor.

Section 5.43 **Outside Department Training**

Section 5.44 When an outside Department training falls on an employee's day off and the employee attends the training, the affected employee will Schedule Adjust. If the Department is not able to make a schedule adjustment, the employee may take Comp Time or receive Overtime Pay.

Section 5.45 All provisions included in this MOU which affect base wages, including salary, promotions, step increases, etc., shall be implemented beginning the first full pay period following the effective date of this MOU.

Section 5.46 **Base Work Schedules**

Section 5.47 Employees will work schedules based upon assignment as follows:

- (a) The "Work Day", for pay purposes, shall be a twenty-four (24) hour period within which the employee's regularly scheduled shift begins.
- (b) Employees assigned to the Patrol Division will work an approved flexible schedule of five (5) twelve (12) hour Work Days and two (2) ten (10) hour Work Days totaling no more than eighty (80) hours

per pay period.

- (c) Employees assigned to the Special Operations Division will work an approved flexible schedule days totaling no more than eighty (80) hours in each pay period. The schedule shall be the traditional 4/10 schedule, meaning four (4) ten (10) hour days with three (3) consecutive days off each week.
- (d) School Resource Officers shall work ~~rk~~ a traditional 9/80 schedule which consists of five (5) nine (9) hour days one (1) week and four (4) nine (9) hour days on the alternate week or a 4/10 schedule which consists of four (4) ten (10) hour days depending on department needs.
- (e) Employees assigned to Task Forces to work in conjunction with other government agencies shall work schedules which are compatible with the joint needs of the Department and the other agency, not to exceed eighty (80) hours in each pay period.
- (f) Specialty Pay Assignments are limited to a two (2) year assignment with two (2) one (1) year renewals based on the approval of the Special Operations Division Captain. Field Training Officer assignments shall be a two (2) year assignment, which assignment may be extended each year for one year based on the approval of the ~~Patrol Captain.~~ Special Operations Captain.
- (g) Employees assigned to any other Special Assignment that do not fall into any of the assignments listed in 5.47 (b) through 5.47 (f) will work an approved flexible schedule totaling no more than eighty (80) hours per pay period.
- (h) Employees on extended leave (excluding vacation and Comp Time) of two (2) weeks or more will be assigned a base forty (40) hour per week, Monday through Friday, 8:00 a.m. to 5:00 p.m. work schedule. For such individuals who are on Workers Compensation or 4850 leave, the schedule reassignment will not affect compensation.
- (i) The Chief retains the right to make any special exceptions to the above schedules. If at any time it becomes evident to the Chief that the most efficient use of staffing to meet the workload demands of the community are not being met, the Chief reserves the right to modify work schedules on a temporary or permanent basis. The City will attempt to give the affected employees as much notice as possible, but at least five (5) full calendar days prior to the effective date of any temporary schedule change.
- (j) Any permanent schedule change requires a meet and confer with City and Association.

Section 5.48 **Health Benefits**

Section 5.49 The City will contribute to the City's medical and dental health plans as follows:

- (a) For employees with family coverage, up to \$2,000~~273~~/month in 20~~22~~19, up to \$2,080/month in 2020, and up to \$2,165~~387~~/month in 202~~31~~1.
- (b) For employees with employee plus one coverage, up to \$1,600~~817~~/month in 20~~22~~19, up to \$1,665/month in 2020, and up to \$1,730~~908~~/month in 202~~31~~1.
- (c) For employees with employee only coverage, up to \$800~~908~~/month in 20~~19~~2022, up to \$830 in 2020, and up to \$865~~953~~ in 202~~31~~1.

- (d) Employees enrolling in City health but not using the maximum amount available from the City for their premium category (ee only, ee+1, ee+family) shall not be entitled to the surplus. Employees enrolling in plans whose cost exceeds the maximum amount available from the City for their premium category shall have the difference deducted on a pre-tax basis from their paycheck.
- (e) Employees who waive medical coverage and annually provide proof of alternative medical coverage shall be entitled to a taxable cash in lieu payment of six hundred ten dollars (\$610.00) per month.
- (f) If an employee waives medical and elects dental coverage, the employee shall be entitled to a taxable cash in lieu payment of six hundred ten dollars (\$610.00) per month but will pay the appropriate dental premium.

~~(g) The City will implement a cafeteria plan in or before October 2019 consistent with paragraphs (a) through (f) above.~~

Section 5.50 City agrees to provide, at City's expense, up to one hundred percent (100%) of the premium costs per employees for the Psychological Health Program as presently constituted.

Section 5.51 All employees shall have the option of continuing their current medical insurance at the employee's own cost after retirement. This option can continue as long as there is no lapse in coverage and the employee pays the monthly premium to the California Public Employees' Retirement System ("CalPERS") or to the Finance Department as per their billing requirements.

Section 5.52 Effective January 1, 2004, City agrees to provide, at City's expense, one hundred percent (100%) of the premium cost per employees for enrollment in a Basic Long-Term Medical Care Program.

Section 5.53 City has formed a labor – management committee headed by the City Manager to address the issue of worksite wellness. The Wellness Committee will continue to design, plan, and implement worksite policies and programs that encourage healthy outcomes and enhance the quality of life for all employees.

Section 5.54 **Uniforms**

Section 5.55 Effective July 1, 2013, City shall provide a single once a year one thousand four hundred (\$1,400) payment of uniform allowance to employees. The payment shall be made on or about July 1st of each year and will be considered to be payment for the preceding year. Upon an employee's separation from City, the employee will receive a prorated uniform allowance payment for the period worked up to the date of separation. The uniform allowance is for uniform cleaning and replacement of worn uniforms. Employees assigned to the Specialty Assignments of Canine, Bike Patrol, Hostage Negotiation Team, and Special Weapons and Tactics ("SWAT") shall receive an additional fifty-dollar (\$50.00) uniform allowance per year.

Section 5.56 Newly hired employees will, at time of hire, be provided an initial uniform as follows:

- (a) Two (2) Short Sleeve Shirts
- (b) Two (2) Long Sleeve Shirts
- (c) Three (3) Wool Pants
- (d) One (1) Belt

- (e) One (1) Hat Class A
- (f) One (1) Baseball Cap
- (g) One (1) Ultra Duty Jacket
- (h) One (1) pair Shoes

Thereafter, employees shall be paid the annual uniform maintenance and replacement allowance as set forth in 5.47 above.

Section 5.57 City shall pay for the replacement of uniforms/clothing damaged due to the performance of job duties on a prorated basis, based on the age of the uniform and upon the recommendation of the Police Chief or his/her designate. For the purpose of this section, the useful life of uniform items shall be assumed as follows:

- (a) Uniform Shirts/Pants Two (2) years
- ~~(b)~~ Uniform Jackets Five (5) years
- ~~(b)~~
- ~~(c)~~ Uniform Hats Five (5) years

If available, employees shall provide receipts establishing date of purchase.

Section 5.58 Authorized personal property such as watches, glasses, etc. damaged due to the performance of job duties shall be replaced up to a seventy-five-dollar (\$75.00) limit upon the recommendation of the Police Chief or his /her designate. For prescription glasses, this limit will be one hundred twenty-five dollar (\$125.00) for prescription glasses. No reimbursement, however, shall be made for personal property which the employee is using on a voluntary basis in lieu of an item which has been provided by City.

Section 5.59 Newly hired employees, at time of hire, will have their safety equipment including gun, baton, handcuffs, flashlight, duty jacket, ~~rain pants~~gear, leather, and related equipment furnished by City as per Department Policy Manual Section 1046, hereby incorporated by reference. City will repair or replace existing safety equipment owned by employees hired before July 1, 1997 as they are damaged, worn out, or as Department Specifications change, not to exceed the cost of City provided safety equipment.

Section 5.60 Employees who were hired before February 4, 1990 may request, or may be issued, mandatory safety equipment to include: gun, baton, handcuffs, flashlight, rain gear, leather, and related equipment. If any of these items are personally owned when they become worn out or damaged, they shall be replaced with City issued equipment in lieu of repair, except that City may choose to repair, rather than replace, a personally owned firearm or holster. In no event shall City's expense for repairing or replacing personally owned firearms or holsters exceed the cost of City provided equipment.

Section 5.61 City shall provide a Threat Level III protective vest, including shock plate, to all employees. City shall replace a vest after it has been in service for five (5) years, has been compromised, or is otherwise unserviceable per industry standards. Employees in an assignment that requires them to wear a uniform must wear the City issued protective vest at all times. Employees in a non-uniform assignment are not required to wear a vest at all times while on duty but shall maintain the vest in an accessible location and should wear the vest when engaged in planned, high risk events. This provision applies only to vests purchased by City after March 4, 1990.

Section 5.62 Duty Badges are provided to all employees. Duty Badges are personalized with each employee's badge number after they pass their 1-year hiring probation period. When the employee leaves employment (unless termination is the reason for leaving employment), they may keep their personalized duty badge providing a release of liability memo is signed. Any Police Officer employee that was previously issued a personalized flat badge, may keep their flat badge providing a release of liability memo is signed. Any non-personalized duty or flat badge is property of the Morgan Hill Police Department and must be returned at the end of employment.

Article VI. EDUCATIONAL INCENTIVE PAY PROGRAM

Section 6.01 Educational Incentive Pay Program

Section 6.02 All employees who have completed their original probationary period shall have the option of participating in the Educational Incentive Pay ("EIP") Program.

Section 6.03 Rates of Pay for the EIP Program shall be:

- (a) Five percent (5%) - Intermediate P.O.S.T. Certificate
- (b) Seven- and one-half percent (7.5%) - Advanced P.O.S.T. Certificate and/or B.A. or B.S. Degree

Section 6.04 Tuition Reimbursement

Section 6.05 Tuition reimbursement will work on the following basis:

- (a) The Chief must approve all classes in advance.
- (b) Reimbursement will be given upon successful completion of the class. See Article 6 of this MOU for use in conjunction with the EIP Program.
- (c) City will not reimburse for personal transportation, lodging, or meal costs.
- (d) Employees may receive a total of up to one thousand dollars (\$1,000.00) annually in tuition reimbursement according to the following schedule:
 - (i) Up to three hundred fifty dollars (\$350.00) may be used for work-related courses or training subject to the approval of the Chief.
 - (ii) Employees may use an additional three hundred dollars (\$300.00), or a total of six hundred fifty dollars (\$650.00) annually, for courses taken at a community college or toward an Associate of Arts or Science degree.
 - (iii) Employees may use an additional six hundred fifty dollars (\$650.00) or a total of one thousand dollars (\$1,000.00) annually, for courses taken at a four-year college or university which will result in a Bachelor's or Master's degree.
- (e) For classes or training which have been scheduled in advance and approved by the Chief as listed above, City will reimburse the employee for any out of pocket expenses he or she may have incurred if the employee is required to miss their class to cover another shift. The employee must notify the Chief at the time they are being reassigned of any potential schedule conflicts. Failure to do so will result in no reimbursement.

Article VII. TYPES OF LEAVE/LEAVE PROCEDURES

Section 7.01 **Sick Leave**

Section 7.02 Sick Leave credit shall be accumulated on the basis of eight (8) hours per month. The employee's accumulated Sick Leave is unlimited.

Section 7.03 City will pay twenty-five percent (25%) of unused annual Sick Leave at the end of each calendar year. This payment will be based on semi-annual calculations, made on June 1st and December 1st of each year. The balance of Sick Leave will be added to the employee's accumulated Sick Leave.

Section 7.04 City has amended its PERS contract to provide for Government Code § 20965 credit for unused Sick Leave. One hundred percent (100%) of the employee's unused Sick Leave will be converted into service time and added to the employee's retirement eligibility upon retirement.

Section 7.05 Employees are entitled to twelve (12) hours of paid time off per fiscal year to be used as personal leave time. The use of this leave must be approved in advance by the Chief or his/her designee and shall be deducted from the employee's current year Sick Leave accrual.

Section 7.06 **Vacation Time**

Section 7.07 Vacation Time Accrual shall be as follows:

- (a) Eighty (80) hours Vacation Time per year from the date of hire through the second (2nd) year of employment.
- (b) Eighty-eight (88) hours Vacation Time during the third (3rd) year of employment.
- (c) One hundred four (104) hours Vacation Time during the fourth (4th) year of employment.
- (d) One hundred twelve (112) hours Vacation Time during the fifth (5th) year of employment.
- (e) One hundred twenty (120) hours Vacation Time during the sixth (6th) year of employment.
- (f) One hundred twenty-eight (128) hours Vacation Time during the seventh (7th) year of employment.
- (g) One hundred thirty-six (136) hours Vacation Time during the eighth (8th) year of employment.
- (h) One hundred forty-four (144) hours Vacation Time during the ninth (9th) year of employment.
- (i) One hundred fifty-two (152) hours Vacation Time during the tenth (10th) year of employment.

~~(j)~~ One hundred sixty (160) hours Vacation Time after the tenth (10th) year of service.

~~(k)~~(j)

~~(j)~~(k) Maximum accumulation of Vacation Time shall not be more than the equivalent of two (2) years' annual accrual. Employees may "float" over this maximum accrual during the fiscal year but will lose any accumulated Vacation Time over the equivalent of two (2) years' annual accrual on June 30th of each fiscal year.

~~(m)~~(l) If a vacation is canceled due to 7.23 below, employees will not lose any accrued Vacation Time. However, employees will be required to reschedule the Vacation Time in a reasonable period of time in accordance with Sections 7.22 and 7.24 below.

Section 7.08 An employee may submit an Irrevocable Cash-Out Declaration Form to cash out up to eighty (80) hours of accrued vacation and/or comp time in the following calendar year. To be effective, the Form must be received by payroll no later than December 1st of the year prior to the calendar year in which the employee wishes to cash-out vacation and/or comp time. It is understood that an employee using vacation or comp time shall always use vacation or comp time earned in prior years first before using vacation or comp time earned in the current year.

Section 7.09 The employee shall specify the pay period in the following calendar year in which the employee wishes the cash-out to occur. If no pay period is specified, the City shall process and pay the cash-out request in the pay period including November 1st. Employees are responsible for ensuring a sufficient balance of available accrued vacation and/or comp time on the date of the requested cash-out. Accrued comp time shall be cashed out first and then accrued vacation once an accrued comp balance is exhausted. If there is an insufficient balance, the maximum available up to eighty (80) hours will be cashed out.

Section 7.10 As part of the City's open enrollment packet each year, the City will provide all employees with a copy of the Irrevocable Cash-Out Declaration form and a reminder of the for submission of the Form.

Section 7.11 Employees may request Vacation Time of one (1) week (the equivalent of thirty-four (34) consecutive hours or more) in one (1) of the following ways:

- (a) Preferred vacations sign-up procedure beginning with Section 9.23 of this MOU.
- (b) Other vacations may be requested at any time during the year on a first come, first serve basis. Approval of other Vacation Time is subject to adequate staffing due to the scheduling of preferred vacations, training assignments, or other leaves which may take precedence.

Section 7.12 Approved Vacation Time and/or Comp Time will not be canceled unless there is an unforeseen and/or urgent staffing need. Comp Time shall not be denied if, at the time of request, the request itself will not place a shift below minimum allowed number, with the exception of a planned or outstanding major event.

Section 7.13 If an employee signs up for enough preferred vacation to bring them below the vacation accrual limit by June 30th, City cancels the employee's preferred vacation, and the employee is unable to reschedule in the current fiscal year, causing them to be above the limit on June 30th, City will cash out the Vacation Time to bring the employee in compliance with the limit or, at the employee's option, the Vacation Time will be rescheduled within sixty (60) days, subject to departmental approval and Preferred Vacation Sign-Up Rules, as defined in Section 9.23.

Section 7.14 **Extended Leave Policy**

Section 7.15 In the event that an employee is absent from work for illness or injury or disability or per the Family Medical Leave Act or California Family Rights Act, unless notified otherwise, the time off will be

coded and deducted from the leave banks in the following order: (1) accumulated sick leave, (2) accumulated comp time, and (3) accumulated vacation time. If a determination is subsequently made by City that the leave taken was for a job related illness or injury, all sick leave, comp time, and vacation time used to cover the leave will be credited back to the employee in an amount up to the worker's compensation determination. Employees without accrued/credited time off will be coded on payroll as "absent without pay."

Section 7.16 City and Association acknowledge that City has the authority, in its discretion, to place employees on paid administrative leave in appropriate circumstances. Examples include investigations, waiting periods for disciplinary hearings of use of weapons, etc.

Section 7.17 **Bereavement Leave**

Section 7.18 Employees shall, per occurrence, be granted Bereavement Leave when a death occurs in the employee's or the employee's spouse's immediate family. For the purpose of this section, "immediate family" is defined as father, mother, brother, sister, spouse, natural or legally adopted child, step-child, in-laws, grandparents, and grandchildren. Up to three (3) days of Bereavement Leave shall be granted when the death and service are within the State of California and up to five (5) days when the death or service is outside the State. Bereavement Leave usage shall not be charged against the employee's Sick Leave or Vacation Time. Employees may also use up to two (2) additional days of Sick Leave to supplement their allotted Bereavement Leave if other circumstances require absence during that time.

Section 7.19 Requests for additional Bereavement Leave beyond the allotted three (3) or five (5) days, shall be subject to the approval of the employee's Division Captain and deducted from the employee's accumulated Comp Time, Personal Leave, or Vacation Time. Special circumstances beyond this definition may be considered on a case-by-case basis and must be approved by the City Manager.

Section 7.20 **Family Illness and Medical Appointments**

Section 7.21 Employees may utilize accrued Sick Leave for an illness or injury of a member of their immediate household, or per the FMLA, including bonding and caring for a partner after the birth or adoption of a child. Paid leave for birth or adoption of a new child shall not exceed the use of four (4) weeks of accrued Sick Leave. Accrued Sick Leave may also be used for the employee's medical and dental appointments where it is not feasible for the employee to schedule the appointment on the employee's own time. All appointments may only be taken with prior approval of the Watch Commander. Prior approval is not needed for emergency appointments; however, the Watch Commander must be notified.

Section 7.22 Pursuant to Personnel Rule 18.03, the Chief may require a physician's certificates attesting to the nature of the illness, injury, or treatment.

Section 7.23 **Maternity Leave**

Section 7.24 A pregnant employee shall be entitled to a Leave of Absence without pay for up to one hundred and twenty (120) days. This Leave shall commence upon certification from the employee's attending physician that she is no longer capable of performing the regular duties of her position. Upon expiration of the approved Leave, the employee shall be reinstated to her former position or to a comparable one if her former position is abolished during the period of leave and the employee would otherwise not have been laid off. Prior to the employee being reinstated, the Chief may require a

statement from the employee's attending physician that the employee is physically capable of resuming the regular duties of her position.

Section 7.25 Where the Chief believes that the employee should be placed on leave sooner than prescribed by her physician due to her inability to perform the regular duties of her position or for the protection of the employees' personal health and safety, the Chief, with the concurrence of the City Manager, shall direct the employee to be examined by a second physician. The cost of this examination shall be paid by City.

Section 7.26 An employee may, based upon medical factors, request that her leave be extended beyond one hundred and twenty (120) days and shall submit a supporting statement from her attending physician to Human Resources. The Chief, with the prior approval of the City Manager, may extend the Leave for an additional one hundred and twenty (120) days.

Article VIII. MISCELLANEOUS BENEFITS

Section 8.01 Retirement/Pension

(a) Sworn/Public Safety Employees

- (i) For employees hired on or before January 1, 2013 ("Classic Employees") as defined in Government Code Section 7522.02(c) of the Public Employees' Pension Reform Act of 2013 ("PEPRA") and employees hired after January 1, 2013 that do not meet the definition of "New Members" under PEPRA, City agrees to continue its Safety contract with CalPERS to provide the single highest year and the "3% @ 50" basic retirement formula, that was in effect as of July 1, 2007.
- (ii) For employees hired on or after January 2, 2013 ("New Members") as defined in Government Code Section 7522.04(f) of PEPRA, City agrees to continue its Safety contract with CalPERS to provide for the three (3) highest years compensation average and the "2.7% @ 57" retirement formula.
- (iii) Safety (sworn) PEPRA employees: Beginning with CalPERS rates effective July 1, 2013, at which time the PEPRA rate was 23.0%, the PEPRA employees' obligation was 11.50% and the City's obligation was 11.50%, the City and Association agreed that safety (sworn) PEPRA employees would not pay less than 11.50% and would split future increases to the PEPRA rates, including both the normal cost and any unfunded actuarial liability, above 23.0% at a 50/50 ratio. For example, the overall CalPERS safety PEPRA obligation was 22.65% in FY 15-16 with the PEPRA employees' obligation still at 11.50% and the City's obligation at 11.15%. On July 1, 2016, the effective PEPRA rate increased to 23.62% for FY 16-17. Therefore, City paid half of the 0.62% increase over the base year PEPRA cost of 23.00% (equal to 0.31%) and safety PEPRA employees paid the other half (also equal to 0.31%). This methodology will be used in subsequent years should CalPERS increase the PEPRA Safety rates. This methodology has been used in each year subsequent to FY 2016-17 and will be used in future years should CalPERS increase the Safety PEPRA contribution rates.

- (iv) Safety (sworn) Classic Employees: Safety (sworn) classic employees shall contribute, in addition to the employee classic CalPERS rate of 9.0%, an additional 6.12% towards the classic employer CalPERS contribution rate (i.e. the total safety (sworn) classic employee contribution obligation shall be 15.12%, (9.00% employee share + 6.12% of the employer share). As soon as administratively feasible, pursuant to Government Code section 20516, the City shall amend its contract with the CalPERS to convert the additional sworn employee contribution of 6.12% to the employee share.

(b) Non-Sworn/Miscellaneous Employees

- (i) For non-sworn employees hired on or before January 1, 2013 ("Classic Employees") as defined in Government Code section 7522.02(c) of the Public Employees' Pension Reform Act ("PEPRA") and employees hired after January 1, 2013 that do not meet the definition of "New Members" under PEPRA, City agrees to continue its miscellaneous contract with CalPERS for all applicable retirement benefits in effect on July 1, 2007 which will provide the single highest year and the "2.5% @ 55" basic retirement formula.
- (ii) For non-sworn employees that are considered "New Members," as defined in Government Code section 7522.04(f) of PEPRA, hired on or after January 1, 2013, the miscellaneous contract will provide for the three (3) highest years compensation average and the "2.0% @ 62" retirement formula.
- (iii) The City's CalPERS employer contribution rate for miscellaneous employees is "blended" and factors both "Classic" and "PEPRA" employees. The City and Association agreed that, beginning with CalPERS rates effective July 1, 2014, the City and miscellaneous employees would split future increases to the City's employer contribution rate at a fifty/fifty (50/50) ratio. For example, for miscellaneous employees in FY 13-14, the City's contribution rate was 16.38%, the classic miscellaneous employee contribution rate was 8.0% and the PEPRA employees' rate/obligation was 6.25% (which was 50% of the normal cost at that time). On July 1, 2014, the City's contribution rate for miscellaneous employees increased to 18.50%. Thus, starting in July 2014, miscellaneous employees started contributing fifty percent (50%) of the increase to the employer contribution rate, i.e. $(18.50\% - 16.38\%) = 2.12\% / 2 = 1.06\%$. Accordingly, for FY2014-15, classic miscellaneous employees' obligation increased from 8.0% to 9.06% and PEPRA miscellaneous employees' obligation increased from 6.25% to 7.31%. This methodology has been used in each subsequent year to FY 2015-16 and will be used in future years should CalPERS increase the miscellaneous contribution rate.
- (iv) The City will continue to offer the CalPERS "2.5% @ 55" retirement program for "Classic Employees." The retirement plan shall continue all present options for "Classic Employees" including Credit for Unused Sick Leave (Government Code § 20965), the Fourth Level of 1959 Survivor Benefit (Government Code § 21574), Two Years Additional Service Credit (Government Code § 20903), and the One-Year Final Compensation (Government Code § 20042). The employee's base salary includes the eight percent (8%) CalPERS employee contribution and will be deducted from the employee's gross earnings pursuant to IRS § 414 (h)(2). Two dollars (\$2.00) per month will be deducted from employees' paychecks pursuant to the 1959 Survivor Benefit

(ninety three cents (\$0.93) per pay period). Any provision above may not conflict with the terms and conditions in Government Code § 7522.02(c).

(v) Effective July 1, 2022 Union Members will share the employer's CalPERS contribution rate at 6.12%. The employee's contribution towards employer's share of pension cost will be capped at 6.12%. The City and Union members agree to split any rate decrease below the FY 2022-23 employer's CalPERS contribution rate of 28.77% at a 50/50 ratio.

Section 8.02 Long Term Disability Insurance shall be paid by employees through payroll deduction.

Section 8.03 City will provide reimbursement for traveling, lodging, and meal expenditures incurred by employees traveling on City business in accordance with existing Policies and Procedures. Overtime Pay will be paid for travel time, other than court time, if it is beyond the established work week.

Section 8.04 Employees may be entitled to three (3) fifteen (15) minute breaks and one (1) forty-five (45) minute break during each twelve (12) hour shift. Employees working less than a twelve (12) hour shift shall be entitled to two (2) fifteen (15) minute breaks and one (1) thirty (30) minute break during the shift. Employees may request to take the fifteen (15) minute breaks in conjunction with the forty-five (45) minute break, workload permitting, at the discretion of the on-duty Watch Commander.

Section 8.05 Employees are responsible for the employees' nine percent (9%) CalPERS contribution deferred from federal and state income taxes pursuant to IRS Section 414(h)(2).

Section 8.06 Gym Equipment

Section 8.07 City agrees to maintain the existing gym equipment in the Police Station for the term of this MOU.

Section 8.08 Hepatitis B Vaccinations

Section 8.09 City agrees to provide Hepatitis-B shots for employees.

- (a) If the employee selects a medical plan which provides this benefit, the employee in these classifications must get the shots through their medical plan.
- (b) If not covered by their group medical plan, employees wishing to receive the Hepatitis-B shots must submit a written request to the Human Resources Office. The Human Resources Office will contact the medical office currently being used for City medical examinations to set up the first appointment.
- (c) Charges for Hepatitis-B shots for these employees pursuant to 8.09(b) above will be paid by City.

Article IX. MISC POLICIES AND PROCEDURES

Section 9.01 The Parties to this MOU recognize and acknowledge that the services performed by the employees are essential to the public health, safety, and general welfare of the residents of City.

Section 9.02 Watch Swaps

Section 9.03 A "Watch Swap" is a voluntary agreement between two employees of similar rank to trade a specific and equal number of work shifts. When one employee agrees to work for another, the second employee must reciprocate by working an equal amount of time for the first employee. When a trade is agreed upon and reciprocated, both involved Employees will have accounted for two thousand eighty (2080) base work hours per year.

Section 9.04 Employees may negotiate Watch Swaps among other Employees provided that:

- (a) The involved employees complete the "Watch Swap Request" at the bottom of the "Overtime Form" at least one (1) working day prior to the Watch Swap;
- (b) The on-duty Watch Commander for the affected shift approves the request;
- (c) The trade is among members of a similar rank. Police Officers may negotiate a Watch Swap with Police Officers and Corporals, Corporals may negotiate a Watch Swap with ~~Corporals and Sergeants~~any rank, and Sergeants may negotiate a Watch Swap with Sergeants and Corporals.
- (d) The regularly scheduled employee shall code his/her time sheet as if he/she had worked.

Section 9.05 The Reverse Portion of the Watch Swap may occur at any time at the employee's direction, provided that the steps listed above are also followed for the reverse portion of the Watch Swap. The Reverse Portion of the Watch Swap is the sole responsibility of the two involved employees. No employee shall have any recourse with the Department for failure to pay back a shift or for working in excess of eighty (80) hours per pay period without Overtime Pay in which a Watch Swap was negotiated.

Section 9.06 Watch Swaps are intended to be a convenience for the regularly scheduled employee and it is the sole responsibility of the regularly scheduled employee to ensure that his/her replacement reports to work. If for any reason the replacement employee fails to appear for duty, the regularly scheduled employee will be ordered back to work or, if that is not possible, will be considered to have taken the day off without pay. Since Watch Swaps are usually the result of inadequate staffing to allow that employee to take time off by other means, the regularly scheduled employee may not account for the missing time by use of Sick Leave, Comp Time, or the like.

Section 9.07 The on-duty Watch Commander shall not approve a Watch Swap for the purposes of allowing the regularly scheduled employee to work an overtime assignment the same day. The Watch Commander may disapprove Watch Swap requests due to operational needs, including days on which there are planned special events that require maximum available staffing, etc.

Section 9.08 The Chief may evaluate this process from time to time and may suspend this process if it becomes apparent that employees are failing to honor Watch Swap commitments.

Section 9.09 Work Stoppage, Any Job Action, Slowdown

Section 9.10 Association agrees that, under no circumstances, will it recommend, encourage, or cause a work stoppage, any job action, or slowdown in any office or department of City or curtail any work, restrict any production, or interfere with any operation of City. In the event any such work stoppage, job action, or slowdown is instigated by Association, City shall not be required to negotiate on the merits of any dispute which may have given rise to such work stoppage until said work stoppage has ceased.

Section 9.11 In the event of any work stoppage during the term of this MOU, whether by Association or by any employee, Association by its Association Officers shall immediately declare in writing and publicize that such work stoppage is illegal and unauthorized and further direct its employees in writing to cease the said conduct and resume work. Copies of such written notice shall be served upon City. If, in the event of

any work stoppage, job action, or slowdown, Association promptly and in good faith performs the obligations of this Section 9.09, provided Association has not otherwise authorized, permitted, or encouraged such work stoppage, Association shall not be liable for any damages caused by the violation of this Section 9.09.

Section 9.12 City shall not be liable for any damages caused by the violation of this Section 9.09. City shall have the right to discipline, including termination, any employee who instigates, participates in, or gives leadership to any work stoppage activity herein prohibited. City shall also have the right to seek full legal redress, including damages, against any such employee.

Section 9.13 Light Duty Assignment

Section 9.14 In the event an employee is injured and may be able to return to work but not able to perform all their normal duty assignments, a temporary "Light Duty Assignment" may be made by City for each injury, provided that a suitable Light Duty Assignment is available within the Department. To be eligible for such a Light Duty Assignment, City may require the employees to provide the Human Resources Office with a medical statement from his/her treating physician that clearly states the medical limitations and abilities of the employee. City may require a second or third doctor's determination at City's expense. No initial or subsequent light duty assignment may exceed ninety (90) days, and all light duty assignments will be evaluated and may not be extended without approval of the Police Chief or Police Chief's designee.

Section 9.15 An employee receiving such a Light Duty Assignment could be reassigned to any type of forty (40) hour work week or reduced work schedule and may be assigned to any type of job or task consistent with the Light Duty limitations upon the determination of the Chief. Once the employee is certified by City doctor as no longer in need of a Light Duty Assignment, the employee will be reassigned to their normal work.

Section 9.16 In the event an employee is injured and unable to return to work for a specific period of time and is on City-approved leave, the employee is required to (1) respond by phone within eight (8) hours upon receiving a call from Human Resources and (2) to inform Human Resources if the employee away from their primary residence for a duration exceeding seven (7) calendar days.

Section 9.17 Substance Abuse Policy

Section 9.18 City and Association mutually agree City will maintain a drug-free workplace. Alcohol and drug abuse on the job will not be tolerated and will result in immediate disciplinary action. Drug or alcohol abuse off the job, which can be shown to affect the job performance or safety of the employee or other employees, will be documented and will result in quick disciplinary action up to and including termination. City cannot and will not put its employees or members of the general public in danger by having employed an employee on duty who may be a risk to themselves or others.

Section 9.19 City does not intend to test any employees for drug use unless a documented reasonable suspicion exists. City agrees to be bound by applicable State and Federal Laws.

Section 9.20 Association and City recognize the need for a drug-free workplace and the need to assist employees whose job performance is impaired due to chemical or alcohol dependency. Association and City agree to abide by the Substance Abuse Policy dated May 3, 2006, as adopted by the City Council, and incorporated herein by this reference.

Section 9.21 **Emergency Waiver Provision**

Section 9.22 In the event of circumstances beyond the control of City such as acts of God, fire, flood, insurrection, civil disorder, national emergency, or similar circumstances, the provisions of this MOU which restrict City's ability to respond to these emergencies shall be suspended for the duration of such emergency. After the emergency is over, Association shall have the right to meet with City regarding the impact of the suspension of these provisions in the MOU on employees.

Section 9.23 **Preferred Vacation Sign-up and Shift Selection** ~~(Sworn-Classifications)~~

Section 9.24 The sign-up period for preferred vacation shall occur following the first shift selection of the calendar year. There will be one (1) sign-up period for the Patrol Division and one (1) sign-up for the Special Operations Division.

- (a) Each employee may sign up for only one (1) preferred vacation period of thirty-four (34) hours or more. The preferred vacation sign up may not to exceed ~~two-four~~ (24) consecutive weeks of preferred vacation per ~~fiscal-calendar~~ year, unless specifically authorized by the employee's supervisor and the Division Captain for up to two (2) additional consecutive weeks. ~~e-Chief or his/her designate.~~ Employees must utilize accrued vacation prior to utilizing accrued compensatory time off for preferred vacation.
- (b) A maximum of ~~two~~ (2) employees assigned to the Patrol Division may request preferred vacation during the same week, provided the employee with the least seniority must select a patrol shift slot with different days off from the senior employee for the shift rotation period during which the vacation will occur. One (1) employee assigned to Special Operations may take preferred vacation at the same time. There will be two separate vacation sign-up forms for each division. If the employee assigned to Special Operations is projected to return to the Patrol Division during their forecasted preferred vacation, the employee must sign up under the Patrol Division sign-ups.
- (c) One (1) Multi Service Officer (MSO) assigned to the Patrol division may request preferred vacation at any given time. Preferred vacation sign-ups for MSOs will be based on seniority amongst the MSOs.
- ~~(c)(d)~~ Preferred vacations which are in compliance with subsections A, ~~and B~~ and C above will be approved and posted, following the sign-up period.
- ~~(d)(e)~~ An employee who fails to request a preferred vacation or who does not take a preferred vacation which has been approved shall lose any right to a preferred vacation until the next sign-up period.
- ~~(e)(f)~~ Every employee shall be included in the sign-up for the preferred vacation schedule.

Section 9.25 The sign-up period for shift selection begins at least forty-five (45) days prior to the next shift rotation. Employees shall select shifts for a six (6) month period, beginning the start of the first pay period in January and June. ~~The approved schedule will be posted at least twenty (20) days prior to the date the schedule is to become effective.~~

- (a) The Field Operations Division Captain may elect to administratively assign an employee to a specific shift for the good of the Department. Examples may include, but are not limited to, long-term

personnel shortage or career enhancement of probationary employees.

~~(b) Once a shift schedule has been finalized for the period, employees may mutually swap shift assignments upon the recommendation of both the affected supervisors and with the approval of the Field Operations Division Captain.~~

(e)(b) The Patrol Captain ~~will~~ may assign probationary employees to a specific watch based on need of the employee and operational necessity during period.

Section 9.26 Sign-up Procedures (Sworn Classifications)

Section 9.27 At least forty five (45) days prior to the end of shift, every employee assigned to the Patrol Division, or who has been issued an order assigning them to the Patrol Division, will be assigned a sign-up due date and time in one (1) hour segments for purposes of selecting their desired shift. The bid process will take place during normal business hours (8:00a.m. – 5p.m.) Monday through Friday. Preferred vacation will be bid after the completion of the shift bid and cover the same period of time.

Section 9.28 Each affected employee is solely responsible for preferred vacation or shift selection sign-up on their assigned date and time. The employee may sign-up using one (1) of five (5) methods:

- (a) The employee may come to the Police Station and physically sign-up for an available vacation or shift slot; or
- (b) The employee may phone the on-duty Watch Commander and verbally select an available vacation or shift slot. If the Watch Commander is not in the office, the employee is responsible for leaving the Watch Commander a return phone number where the employee can be contacted at the Watch Commander's earliest convenience; or
- (c) The employee may leave a message for the Watch Commander in advance of the assigned sign-up date, listing desired shift selection(s) and a phone number where the employee can be reached on the sign-up date and time in order to resolve any conflicts; or
- (d) The employee may designate another employee in writing and in advance of the sign-up period to make a selection on his/her behalf; or
- (e) The employee may notify the Watch Commander in advance that no selection is desired.

Section 9.29 If an employee fails to sign-up within their assigned date and time, that employee will be passed until such a time that the employee makes contact with the Watch Commander either by phone or in person. The employee will then be able to select any remaining shift that is still available. If no request is made, or if a request conflicts with other previous sign-ups, vacations will be approved on a first-come/first-serve basis and shifts will be administratively assigned.

Section 9.30 Sign-ups will be on the employee's own time if the assigned sign-up date and time falls outside of regular work time.

~~Section 9.31 — Preferred Vacation for Multi-Service Officers~~

~~Section 9.32 The sign up period for preferred vacation for MSOs begins on February 1st of each year. Department wide seniority shall be used to determine the schedule for vacation selection. Seniority within a classification is used for shift selection within Department Divisions. If a conflict between these two methods of establishing seniority arises in the process of shift selection, seniority within a classification shall prevail.~~

- ~~(a) Each MSO may sign up for only one preferred vacation period of thirty four (34) hours or more. Following the first rotation of preferred vacation sign up, there will be a second rotation of preferred sign up, not to exceed four (4) consecutive weeks of preferred vacation per fiscal year unless specifically authorized by the Chief.~~
- ~~(b) Only one (1) MSO may request preferred vacation during the same week, provided that the MSO with the least seniority must select a patrol shift slot with different days off from the senior MSO for the shift rotation period during which the vacation will occur.~~
- ~~(c) Preferred vacations which are in compliance with this section 9.31 above will be approved and posted by March 15th, following the sign-up period.~~
- ~~(d) An MSO who fails to request a preferred vacation or who does not take a preferred vacation which has been approved shall lose any right to a preferred vacation until the next sign-up period.~~
- ~~(e) Every MSO covered by this MOU shall be included in the sign-up for the preferred vacation schedule.~~
- ~~(f) The sign-up period for shift selection begins at least forty-five (45) days prior to the next shift rotation. MSOs shall work the same shift rotations as sworn officers.~~
- ~~(g) The approved schedule will be posted at least twenty (20) days prior to the date the schedule is to become effective.~~
- ~~(h) MSOs may only select the same shift for two (2) consecutive watch rotations. MSOs are required to select another shift for a minimum of one (1) four (4) month period. City shifts are designated as the Day, Evening, and Overlap watches. Different days off do not constitute a different watch.~~
- ~~(i) If, due to this seniority-based selection process, an MSO has no choice but to select a shift for the third time, the Division Captain may assign that MSO to another shift. If this assignment requires placing the MSO in an occupied slot, the assignment shall be by seniority from those who have not worked the third term shift the previous period.~~
- ~~(j) MSOs who have been assigned to the Patrol Division for three (3) or more consecutive years are required to select a specific watch if that MSO has not selected that watch during the past three (3) years. For example, an MSO must select to work a Day watch if, during that past three (3)~~

~~consecutive years, that MSO has been assigned to the Patrol Division and has rotated between the Evening and Overlap Watch. An MSO who is reassigned to the Patrol Division after spending a minimum of two (2) years in another Division must work each watch for at least one (1) rotation during the next three (3) years.~~

~~(k) The Operations Division Captain may elect to administratively assign an MSO to a specific shift for the good of the organization. Examples may include, but are not limited to, long term personnel shortage or career enhancement of probationary employees. Any bumping of personnel done in order to accomplish this shall be done by seniority.~~

~~(l) Once a shift schedule has been finalized for the period, MSOs may mutually swap shift assignments only upon the recommendation of both the affected supervisors and with the approval of the Operations Division Captain.~~

~~(m) Only MSOs who are assigned to the Patrol Division, or who, prior to the start of the sign-up period, have received an order assigning them to the Patrol Division during the subject shift rotation, shall be assigned a sign-up due date for shift selection.~~

Section 9.33 At least three (3) weeks prior to the beginning of the sign-up period for either a preferred vacation or shift selection, every affected MSO assigned to the Patrol Division, or who has been issued an order assigning them to the Patrol Division, will be assigned a sign-up due date for shift selection.

- (a) Each affected MSO is solely responsible for preferred vacation or shift selection sign-up on their assigned date. They may be done using one (1) of four (4) methods:
 - (i) Coming to the station and physically sign-up for an available vacation or shift slot;
 - (ii) Phoning the Watch Commander and verbally selecting an available vacation or shift slot. If the Watch Commander is not in the office, the MSO is responsible for leaving the Watch Commander a return phone, or pager number where the MSO can be contacted at the Watch Commander's earliest convenience;
 - (iii) Leaving a message for the Watch Commander, in advance of the assigned sign-up date, listing desired shift selection(s) and a phone number where the MSO can be reached on the sign-up date in order to resolve any conflicts; or
 - (iv) Notifying the Watch Commander in advance that no selection is desired.

Section 9.34 If an MSO fails to sign-up on the assigned date, that MSO forfeits his/her seniority benefit and his/her name will be placed in a pool at the bottom of the list. When the assigned dates have been passed, a preferred vacation or shift selection schedule will be posted. MSOs listed in the pool will have until the end of the sign-up period to submit a request of available slots. For preferred vacations, this period will end on March 1st of each year. For patrol shift selection, this period will end twenty (20) days before the next shift rotation. Requests from MSOs in the pool will be granted on an as-available basis in seniority order. If no request is made or if a request conflicts with other previous sign-ups, vacations will be approved on a first-come/first-serve basis and shifts will be administratively assigned.

Section 9.35 Sign-ups will be on the MSO's own time if the assigned sign-up date falls outside of regular work time.

Section 9.36 Department Seniority

Section 9.37 Department wide seniority shall be used to determine the schedule for vacation selection and seniority within a classification is used for shift selection within Department Divisions. If a conflict between these two (2) methods of establishing seniority arises in the process of shift selection, seniority within a classification shall prevail.

Section 9.38 Facial Hair

Section 9.39 9.31 Employees will be allowed to grow facial hair. Facial hair shall be maintained in accordance with Department Policy Section 1044, which is incorporated herein by this reference.

Section 9.40 Vehicles

Section 9.41 In accordance with Department guidelines, Detective Vehicles, specifically Special Operations Sergeant, Special Operations Corporal, Person Crimes Detective, Property Crimes Detective, Specialized Enforcement Team Detectives, Countywide Task Force Detectives, Traffic Motorcycles, and Canine Vehicles will be available for employees to utilize on a take home basis, provided that the employee lives no more than thirty (30) minutes-mile radius driving time from the Police Station. Employees are provided these vehicles to be available on an on-call basis. Due to operational needs, employees may be required, by their supervisor, to leave their take home vehicle at work.

Section 9.42 Practice Firearms Training

- (a) If requested, the Department will provide up to fifty (50) rounds of ammunition each month to employees who wish to conduct firearms practice. Employees shall obtain their allocation of ammunition from the Range Master with the understanding that the employee has exhausted rounds provided previously.
- (b) Individual practice must occur off duty on the employee's own time.
- (c) Practice must occur at an approved range.
- (d) All practice must conform with the Department Policy Manual.

Article X. COMPLAINT/GRIEVANCE PROCEDURE

Section 10.01 A "Complaint" is an allegation or charge against a party that a wrong has been committed. The "Complaint Procedure" is the orderly process by which a determination is made as to whether or not a wrong has been committed. Each of the following steps is to take no more than five (5) working days to complete before the complaint proceeds to the next step.

Section 10.02 Step 1: The employee should review any Complaint with his/her supervisor. The supervisor is required to review every Complaint and attempt to settle it as quickly and fairly as possible.

Section 10.03 Step 2: If the action taken by the employee's supervisor is not satisfactory to the employee, the employee has the privilege of taking the Complaint to successive levels of supervision as determined by the chart of administrative organization, up to and including the Chief, which can be found in the Policy

Manual.

Section 10.04 Step 3: If the Complaint is against the immediate supervisor, the employee may proceed directly to the next higher level.

Section 10.05 Step 4: If the Complaint is not resolved in Step 2 or Step 3, the employee may take the complaint to the Assistant City Manager for Administrative Services. The decision of the Assistant City Manager for Administrative Services will be final.

Section 10.06 If the Complaint involves an issue which could fall under the Grievance Procedure, as outlined in this MOU, the time requirements for the Grievance are waived while the issue is attempted to be resolved via this Complaint Procedure. The time limits involved in the Grievance Procedure will be followed once the Complaint Procedure has been exhausted and the Complaint comes under the guidelines as outlined in the Grievance Procedure.

Section 10.07 Definition of a Grievance

Section 10.08 A "Grievance" is any dispute involving the interpretation, application, or alleged violation of this MOU, City's Personnel Rules where the provision in dispute is within the scope of representation or State or Federal Law.

Section 10.09 The Association Officers may move a Grievance with an alleged specific violation of State or Federal Law to City by a written certified majority vote.

Section 10.10 Should any dispute concern an agreement, rule, or action which prescribes a separate appeal procedure, that dispute shall be excluded from the Grievance Procedure defined below.

Section 10.11 Grievance Procedure

Section 10.12 Step 1. An employee who has a Grievance shall bring it to the attention of his/her immediate supervisor within five (5) working days of the occurrence of the act which is the basis for the dispute. The immediate supervisor must give the employee a decision within five (5) working days of the date it is raised.

Section 10.13 Step 2. If the employee and his/her immediate supervisor are unable to resolve the Grievance within five (5) working days of the date it is raised with the immediate supervisor or if the employee is dissatisfied with the decision of the immediate supervisor the employee shall have the right to submit a Grievance to the Chief within seven (7) working days from the date of the immediate supervisor's decision. The Grievance shall contain the following information:

- (a) The name of the grievant;
- (b) The grievant's department and specific work site;
- (c) The name of the grievant's immediate supervisor;
- (d) A statement of the nature of the grievance including the date and place of occurrence;
- (e) The specific provision, policy or procedure alleged to have been violated;

- (f) The remedies sought by the grievant; and
- (g) The name of an employee designated by the grievant to represent him or her in the processing of the grievance.

The Chief shall respond to the Grievance in writing seven (7) working days from the date of its receipt.

Section 10.14 Step 3. If the employee is dissatisfied with the decision of the Chief, he or she may submit the Grievance to the City Manager within ten (10) working days from receipt of the Chief's response. The City Manager or his/her designated representative shall respond to the Grievance, in writing, within the ten (10) working days of its receipt. Within this period, the City Manager, at his/her discretion, may conduct an informal hearing involving the parties to the dispute.

Section 10.15 Step 4. If the employee is dissatisfied with the decision of the City Manager, he or she may submit the Grievance to the Employee Relations Panel, as provided in Section 10.11 of this MOU. Notice of such appeal must be filed in writing by the employee with the City Manager within fifteen (15) working days of receipt of the City Manager's decision.

Section 10.16 **Employee Relations Panel**

Section 10.17 The Employee Relations Panel ("Panel") shall consist of three (3) members selected as follows:

- (a) A City representative selected by the City Manager; and
- (b) An employee representative selected by the grievant, provided, however, that the participation of the employee representative shall not be a potential recipient of the grievance settlement; and
- (c) A representative of the California State Mediation and Conciliation Service, or an individual acceptable to both the City Manager and the grievant or, an individual chosen by the parties who is knowledgeable in public sector labor relations. This person may be chosen from any source reasonably likely to produce such an individual, including, but not limited to a labor organization or management organization. The person selected shall serve as Chairperson.
 - (i) The Chairperson shall serve without compensation unless it can be demonstrated that the individual was obliged to use accrued leave benefits or leave without pay to serve on the Panel. Where provided, compensation paid shall be shared by City and the grievant or Association.
 - (ii) The Panel shall be constituted and hear the Grievance within thirty (30) working days from the filing of the appeal with the City Manager. The Panel's decision shall be rendered within fifteen (15) working days from the conclusion of the Panel hearing ("Hearing"). The majority decision of the Panel shall be final and binding, subject only to ratification by City's City Council if said decision mandates a capital expenditure or significant, unbudgeted expenditures. In those instances, the ruling shall be submitted to City's City Council for action, which may include modification or reversal.

Section 10.18 The conduct of the Hearing shall be governed by the following ground rules:

- (a) The Hearings shall be convened during regular established City hours to the extent feasible. The grievant and City employees serving on the Panel or whose participation in the Hearing is required by the Panel shall not suffer loss of wages for time devoted to this purpose. If the Hearing takes place during time other than the City employee's regularly scheduled work period, no compensation shall be provided.
- (b) The Hearing shall be conducted in an expeditious manner. The Chairperson has final authority to the rule on procedural matters or on other points affecting the length and conduct of the Hearing. Legal counsel, court reporters, and briefs shall only be utilized upon agreement between City and the grievant and shall not serve to delay the Panel's decision beyond the prescribed time limit, except by mutual agreement.
- (c) The Panel shall be committed to resolving the grievance in an objective, timely, and equitable fashion and shall not permit either party to engage in any presentation or line of argument which detracts from this purpose. The Panel shall not accept evidence not presented in Step 3 of this procedure.
- (d) No Hearing shall be convened unless both parties have stipulated, in writing, to the issue or issues to be heard by the Panel.

Section 10.19 General Conditions

Section 10.20 Any time limit set forth in 10.11 or 10.16 of Article X of this MOU may be extended by written agreement between City and grievant or Association.

- (a) Failure on the part of the grievant or their Association representative to comply with the time limits of this Grievance Procedure or any extensions thereto shall constitute a withdrawal of the Grievance without further recourse for re-submittal. Failure on the part of City to comply with prescribed time limits or extensions thereto shall result in the Grievance being moved to the next step of the Procedure.
- (b) The grievant shall be entitled to have a representative of his/her own choosing, except as provided in 10.11- 10.18 of Article X of this MOU, present at any grievance meeting with City.
- (c) A representative of Association shall be entitled to be present at any hearing held in conjunction with Step 3 and Step 4 of this Grievance Procedure.
- (d) The City Manager or his/her designated representative shall serve as the central repository for all grievance records.

Article XI. RATIFICATION/FUTURE MEETINGS

Section 11.01 This MOU shall be effective December ~~2630~~, 20~~21~~~~18~~ following ratification by Association's Membership and approval by City's City Council.

11.02 Unless mutually agreed otherwise by City and Association, Association shall provide City with its written requests on terms within the scope of representation for the period beginning January 1, 20~~24~~~~19~~ no later than two (2) weeks prior to the start of negotiations. City and Association shall begin to meet and

confer on or before August 1, 20~~23~~¹⁸ and endeavor to complete negotiations on a successor MOU by the end of November 20~~23~~¹⁸.

FOR THE CITY OF MORGAN HILL

FOR MORGAN HILL POLICE OFFICERS' ASSOCIATION

<u>Christina Turner</u>	<u>Date</u>	<u>Bill Norman</u>	<u>Date</u>
<u>City Manager</u>		<u>POA President</u>	

<u>Donald Larkin</u>	<u>Date</u>	<u>John Kuhlen</u>	<u>Date</u>
<u>City Attorney</u>		<u>POA Vice President</u>	

<u>Michael Horta</u>	<u>Date</u>	<u>Chris Woodrow</u>	<u>Date</u>
<u>Human Resources Director</u>		<u>POA Treasurer</u>	

<u>Dat Nguyen</u>	<u>Date</u>	<u>Carlos Guerrero</u>	<u>Date</u>
<u>Finance Director</u>		<u>POA Negotiator</u>	

EXHIBIT A

City of Morgan Hill Salary Schedule- Morgan Hill Police Officers' Association ~~December 30, 2018—December 31, 2021~~

~~Effective pay period including December 30, 2018~~

% Increase	POSITION	A-Monthly	A-Hourly	B-Monthly	B-Hourly	C-Monthly	C-Hourly	D-Monthly	D-Hourly	E-Monthly	E-Hourly	F-Monthly	F-Hourly
4.00%	Police Sergeant	\$9,388.75	\$54.17	\$9,858.19	\$56.87	\$10,351.10	\$59.72	\$10,868.66	\$62.70	\$11,412.09	\$65.84	\$11,982.69	\$69.13
4.00%	Police Corporal	\$8,729.47	\$50.36	\$9,165.95	\$52.88	\$9,624.24	\$55.52	\$10,105.45	\$58.30	\$10,610.72	\$61.22	\$11,141.26	\$64.28
4.00%	Police Officer	\$8,110.64	\$46.79	\$8,516.16	\$49.13	\$8,941.98	\$51.59	\$9,389.08	\$54.17	\$9,858.53	\$56.88	\$10,351.45	\$59.72
3.50%	Multi-Service Officer	\$6,204.63	\$35.80	\$6,514.86	\$37.59	\$6,840.60	\$39.47	\$7,182.63	\$41.44	\$7,541.76	\$43.51	\$7,918.85	\$45.69

~~Effective pay period including January 1, 2020~~

% Increase	POSITION	A-Monthly	A-Hourly	B-Monthly	B-Hourly	C-Monthly	C-Hourly	D-Monthly	D-Hourly	E-Monthly	E-Hourly	F-Monthly	F-Hourly
4.00%	Police Sergeant	\$9,764.30	\$56.33	\$10,252.52	\$59.15	\$10,765.14	\$62.11	\$11,303.40	\$65.21	\$11,868.57	\$68.47	\$12,462.00	\$71.90
4.00%	Police Corporal	\$9,078.65	\$52.38	\$9,532.58	\$55.00	\$10,009.21	\$57.75	\$10,509.67	\$60.63	\$11,035.15	\$63.66	\$11,586.91	\$66.85
4.00%	Police Officer	\$8,435.06	\$48.66	\$8,856.81	\$51.10	\$9,299.66	\$53.65	\$9,764.64	\$56.33	\$10,252.88	\$59.15	\$10,765.51	\$62.11
3.50%	Multi-Service Officer	\$6,421.79	\$37.05	\$6,742.88	\$38.90	\$7,080.02	\$40.85	\$7,434.02	\$42.89	\$7,805.72	\$45.03	\$8,196.01	\$47.28

~~Effective pay period including January 1, 2021~~

% Increase	POSITION	A-Monthly	A-Hourly	B-Monthly	B-Hourly	C-Monthly	C-Hourly	D-Monthly	D-Hourly	E-Monthly	E-Hourly	F-Monthly	F-Hourly
4.00%	Police Sergeant	\$10,154.87	\$58.59	\$10,662.62	\$61.52	\$11,195.75	\$64.59	\$11,755.54	\$67.82	\$12,343.31	\$71.21	\$12,960.48	\$74.77
4.00%	Police Corporal	\$9,441.79	\$54.47	\$9,913.89	\$57.20	\$10,409.58	\$60.06	\$10,930.06	\$63.06	\$11,476.56	\$66.21	\$12,050.39	\$69.52
4.00%	Police Officer	\$8,772.47	\$50.61	\$9,211.08	\$53.14	\$9,671.65	\$55.80	\$10,155.23	\$58.59	\$10,662.99	\$61.52	\$11,196.13	\$64.59
3.25%	Multi-Service Officer	\$6,630.50	\$38.25	\$6,962.02	\$40.17	\$7,310.12	\$42.17	\$7,675.63	\$44.28	\$8,059.41	\$46.50	\$8,462.38	\$48.82

City of Morgan Hill Salary Schedule
Morgan Hill Police Officers' Association
December 26, 2021 - December 23, 2023

Effective pay period December 26, 2021

% Increase	POSITION	A Monthly	A Hourly	B Monthly	B Hourly	C Monthly	C Hourly	D Monthly	D Hourly	E Monthly	E Hourly	F Monthly	F Hourly
4.00%	Police Sergeant	\$10,561.06	\$60.93	\$11,089.12	\$63.98	\$11,643.58	\$67.17	\$12,225.76	\$70.53	\$12,837.05	\$74.06	\$13,478.90	\$77.76
4.00%	Police Corporal	\$9,819.47	\$56.65	\$10,310.44	\$59.48	\$10,825.96	\$62.46	\$11,367.26	\$65.58	\$11,935.62	\$68.86	\$12,532.40	\$72.30
4.00%	Police Officer	\$9,123.36	\$52.63	\$9,579.53	\$55.27	\$10,058.51	\$58.03	\$10,561.44	\$60.93	\$11,089.51	\$63.98	\$11,643.98	\$67.18
4.00%	Multi-Service Officer	\$6,895.72	\$39.78	\$7,240.50	\$41.77	\$7,602.53	\$43.86	\$7,982.65	\$46.05	\$8,381.79	\$48.36	\$8,800.87	\$50.77

Effective pay period December 25, 2022

% Increase	POSITION	A Monthly	A Hourly	B Monthly	B Hourly	C Monthly	C Hourly	D Monthly	D Hourly	E Monthly	E Hourly	F Monthly	F Hourly
4.00%	Police Sergeant	\$10,983.50	\$63.37	\$11,532.69	\$66.53	\$12,109.32	\$69.86	\$12,714.79	\$73.35	\$13,350.53	\$77.02	\$14,018.06	\$80.87
4.00%	Police Corporal	\$10,212.24	\$58.92	\$10,722.86	\$61.86	\$11,259.00	\$64.96	\$11,821.95	\$68.20	\$12,413.05	\$71.61	\$13,033.70	\$75.19
4.00%	Police Officer	\$9,488.30	\$54.74	\$9,962.71	\$57.48	\$10,460.85	\$60.35	\$10,983.89	\$63.37	\$11,533.09	\$66.54	\$12,109.74	\$69.86
4.00%	Multi-Service Officer	\$7,171.54	\$41.37	\$7,530.12	\$43.44	\$7,906.63	\$45.62	\$8,301.96	\$47.90	\$8,717.06	\$50.29	\$9,152.91	\$52.81

Item #8

Introduce Ordinance

Mandated by Senate Bill 1383

**Requiring Organic Waste Disposal Reduction
Through Organic Waste Recycling and
Edible Food Recovery Programs**

**City Council Meeting
November 17, 2021**



Ordinance Requirements for SB 1383 Compliance

- 1 Organic Waste Recycling Program.
- 2 Edible Food Recovery Program.
- 3 Inspection and Enforcement on All Participating Entities.

Impacts to Residents and Businesses

- All businesses and residents ***are required*** to participate in these programs. The City is required to enforce this ordinance and will be fined by the State if it isn't enforced.
- Impacts to single-family residential properties will be relatively minimal.
- The Edible Food Recovery Program will significantly affect the operations of only specific types of businesses.
- ***The Organic Waste Recycling Program will drastically change how most businesses manage their organic waste.***



Fiscal and Resource Impacts

- To minimize impacts to the General Fund, compliance costs for implementation of the Organic Waste Recycling Program will be incorporated into trash hauler franchise fees to the extent possible.
- Direct costs related to the Edible Food Recovery Program are currently unknown, pending further coordination with regional partners who are working to establish a regional program.





Fiscal and Resource Impacts - Continued

- Over time the programs related to SB 1383 will become increasingly complex due to requirements such as the addition of regular enforcement in 2024. Increased staffing may be required in upcoming years for compliance with SB 1383.

Questions



CITY OF MORGAN HILL

Item #8

Introduce Ordinance

Mandated by Senate Bill 1383

**Requiring Organic Waste Disposal Reduction
Through Organic Waste Recycling and
Edible Food Recovery Programs**

**City Council Meeting
November 17, 2021**



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- ***The Organic Waste Recycling Program will drastically change how most businesses manage their organic waste.***



Fiscal and Resource Impacts

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- Direct costs related to the Edible Food Recovery Program are currently unknown, pending further coordination with regional partners who are working to establish a regional program.





Fiscal and Resource Impacts - Continued

- Over time the programs related to SB 1383 will become increasingly complex due to requirements such as the addition of regular enforcement in 2024. Increased staffing may be required in upcoming years for compliance with SB 1383.

Questions



CITY OF MORGAN HILL

From: Christina Turner

To: Michelle Bigelow; Angie Gonzalez

Subject: Supplement for Item 8

Date: Monday, November 15, 2021

Q: SB1383 – “Food Recovery Organizations and Services. Food recovery organizations and services receiving or coordinating the collection of Edible Food directly from Tier 1 or Tier 2 commercial edible food generators via a contract or written agreement, will have their own set of record keeping and reporting requirements.” What safety and health precautions will be made available to ensure health concerns such as COVID transmissions?

A: Food donation, food handling, and food distribution are highly regulated activities. All food donations must be made in compliance with state and local health, food safety, and food handling laws. Environmental health professionals have been actively involved in the ongoing development of the Edible Food Recovery Program, and the program will be operated by third-party food recovery organizations - not the City. Additionally, according to the CDC there is currently no evidence to support transmission of COVID-19 associated with food. In general, because of poor survivability of coronaviruses on surfaces, there is very low risk of COVID spread from food products or packaging.

Morgan Hill Outdoor Sports Center

NOVEMBER 17, 2021

LISA SCHMIDT, PRESIDENT – ORCHARD VALLEY SOCCER CLUB

BOB JOYCE - VICE-PRESIDENT – CYSA DISTRICT II

SANDRA TODD - TREASURER – SAN JOSE SOCCER COMPLEX FOUNDATION

CHRIS MONAHAN – SECRETARY – MEMBER AT LARGE

SHAWN ZAHRAIE – OPERATIONS DIRECTOR



Upgrades

SPRINKLERS INSTALLED ON ALL SIX (6) SOUTH SIDE FIELDS

SPRINKLERS INSTALLED ALONG NORTH FENCE LINE

WELL UPGRADE

LARGE CONCRETE WALKWAY REPLACED GRAVEL PATH

BATHROOMS REMODELED

OFFICIALS AREA

TWO (2) LIGHTED GRASS FIELDS FOR MORE NIGHT USE

UPGRADED LED FIELD LIGHTS ON TURF SOCCER FIELD

NEW FOOTBALL SCOREBOARD WITH HORN AND WIRELESS CONTROLS

CONCESSION AREA FINES OVERLAY

CRICKET PITCHES INSTALLED BETWEEN SOCCER FIELDS

LANDSCAPE UPGRADES

RESEEDING TURF IMPROVEMENTS

NEW FIELD SEPARATION NETTING BETWEEN TURF FIELDS



Hourly Use by Percentage

July 1, 2020 – June 30, 2021



74%

Soccer Includes Audax,
Orchard Valley, Local
High & Middle Schools



15%

Soccer and Cricket were the only sports that
chose to continue reduced programs
while complying with COVID restrictions.



11%



*COVID



Events



Community Retail Benefits

RESTAURANTS

HOTELS

GAS STATIONS

GROCERY STORES

ATHLETIC STORES



Financials

- ▶ Monthly expenses
 - ▶ Operations Director
 - ▶ Support Staff
 - ▶ Utilities – Water, Power, Garbage
 - ▶ Maintenance – Lawns, Turf, Landscape, Restrooms, Electrical
 - ▶ PPP Loans
 - ▶ Volunteer hours
- ▶ Tournaments & Special Events
 - ▶ Additional income helps to keep local rates affordable
 - ▶ Support of Sports Tourism principles
 - ▶ Regional and National events



2022

- ▶ Increase diversity of events
- ▶ Increase diversity of users (both local and regional)
- ▶ Continued collaboration with the city of Morgan Hill
- ▶ Continued support of the Sports Tourism principles
- ▶ Continued collaboration with the local schools
- ▶ Continued improvements at the center
- ▶ Reconnect with past users
- ▶ Support continued field development ideas in the area



Questions.....

Morgan Hill Outdoor Sports Center

NOVEMBER 17, 2021

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- ▶ Support continued field development ideas in the area



Questions.....

From: [Chris Ghione](#)
To: [REDACTED]
Cc: [CityCouncil](#); [Christina Turner](#); [Michelle Bigelow](#); [Angie Gonzalez](#)
Subject: RE: [EXTERNAL] ITEM #9: RECEIVE OUTDOOR SPORTS CENTER USE UPDATE
Date: Wednesday, November 17, 2021 10:50:10 AM

Hello Armando,

The City Manager asked me to reply to your email. You are correct the operator is required to provide the reports mentioned to the City staff. These reports have all been received. The agreement doesn't require review of the reports by the public or the Council and that is why they were not included. However, if there is Council and public interest we can include and will do so based upon the requests.

Thank you,

Chris

Chris Ghione
Public Services Director
[Engage With Us!](#)

City of Morgan Hill
Community Services, Engineering and Utilities
17575 Peak Avenue, Morgan Hill, California, USA 95037

P: 408.782.9154 | **C:** 408.427.6196
chris.ghione@morganhill.ca.gov
morganhill.ca.gov | [facebook](#) | [twitter](#)

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From: Armando Be <[REDACTED]>
Sent: Wednesday, November 17, 2021 10:29 AM
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] ITEM #9: RECEIVE OUTDOOR SPORTS CENTER USE UPDATE

Dear City Council and City Manager

This item is described as a biannual report that is required pursuant to the contract between the city and MHOSC. One of the requirements as noted in the staff reports includes " Reporting The operator shall provide

biannual reports. Reports shall include a statement of revenue and expense, which coincides with the profit payment to be deposited in the reserve fund. Reports shall also include hours of usage by sport type and by user group. For major events (500 or more people) operator will provide more detailed information to support sports tourism management."

A fair reading of the provision would minimally require the disclosure of the revenue raised and expenses incurred. If the city already has the financial information, it should be disclosed to the public for viewing. If the financial information is not available, the city should request its production. If production is not required, then the question is why not?

Regards,

Armando Benavides

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From: Christina Turner

To: Michelle Bigelow; Angie Gonzalez

Subject: Supplement for Item 9

Date: November 17, 2021

1. While I realize no revenue has been received by the City from the operator, the operator is to provide biannual revenue and expense reports and I don't see any reports attached but the operator has been in place since Dec 2018. Can we please have those reports shared? **Attached are the usage reports and financial reports for 2020-21 and 2019-2020.**
2. Can we see the numbers of who/what organizations are accessing the sports complex fields? How many Morgan Hill residents used the fields versus out of town residents? **The annual reports with documented hours of use are attached.**
3. What are the rates to book fields? **The rates are attached.** What is the Policy on bookings and lead times and availability when you can book field? **This is up to the operator. Weekends there are no limits to how early. Bookings are moved to allow for regional events. Weekdays are booked 3 months in advance. This is to help coordinate with school and non-profit uses.**
4. Is there a limit so you can't book all fields? **Not on weekends for regional use. The format of the agreement prioritizes regional uses. This was done to support cost recovery and support of economic development priorities.**
5. Are there subsidies for organizations who can't afford market rate for community access and local users? **No.**
4. What does this mean please?

"Local use is defined as Morgan Hill youth sports program. The agreement further prevents MHOSC from reducing fees for its affiliate groups below the fees provided to

other groups in the same categories.” Means, they can’t change rates from one group to another.

5. “During this past fiscal year, MHOSC was able to provide 2,492 hours to local users and 1,212 hours to regional users. With large events and tournaments normally held on weekends, the weekday usage at the OSC is typically local and resident groups. During the pandemic, more local use was available on weekends than in the past since there was a pause on large events. The OSC has seen larger events coming back this year and anticipates even more in the future, which will help with the cost of operating the facility. The larger weekend events help promote tourism in the City as well as help keep the fees for local, weekday usage down. MHOSC is committed and obligated to continue to provide local usage and lower fees as per the operating agreement.”

“Currently the groups utilizing the OSC are soccer, cricket, lacrosse, flag football and regular football. The hourly use by percentage for the last fiscal year was:

74% Soccer (Audax, Orchard Valley, Local High Schools and Middle Schools)

15% Cricket

11% Other (Football, Lacrosse) “

“Reports shall also include hours of usage by sport type and by user group.

6. Can you please provide the breakdown of hours for each individual user not just by sport group? No, this isn’t in the statistics required by the agreement.
7. And were they local or regional? You can see the local and regional break downs in the reports.
8. When were the hours used by users (time of day, week & weekend) and how much was paid? That data is not provided per the agreement, but you can ask the operator if they have some information on this at the meeting.

Management Report

MHOSC LLC

For the period ended June 30, 2020



Prepared by

AdminBooks, Inc

Prepared on

August 12, 2020

Table of Contents

Statement of Activity with Comparison3

Statement of Activity % of Total Revenue5

Statement of Activity by Month7

Statement of Financial Position with Comparison8

Uncategorized Income & Expenses9

Statement of Activity Detail10

Capital Improvements - \$400K Foundation Investment16

Statement of Activity with Comparison

July 2019 - June 2020

	Jul 2019 - Jun 2020	Jul 2018 - Jun 2019 (PP)	Total Change
REVENUE			
Food Vendor	14,920.00		14,920.00
Restricted Donation	401,000.00		401,000.00
Sales			
Event & Tournament Rental	7,750.00		7,750.00
Event Misc Charges	15,142.49		15,142.49
Event Rental - Application Fee	465.00		465.00
Field Lining	5,485.00		5,485.00
Field Marshal / Attendants	3,924.00		3,924.00
Flat Rate Field Rental	8,286.00		8,286.00
Goal Set up & Removal	525.00		525.00
Grass Field Hourly Rental	94,634.00	12,000.00	82,634.00
Merchant Fee	57.69		57.69
Parking Fee - Main Lot	104,204.50		104,204.50
Rental Deposits	2,375.00		2,375.00
Snack Shack Rental	1,032.00		1,032.00
Turf Field - Hourly Light Fee	16,762.50	8,600.00	8,162.50
Turf Field Hourly Rental	87,103.50	29,400.00	57,703.50
VIP Parking Fee	1,230.00		1,230.00
Total Sales	348,976.68	50,000.00	298,976.68
Total Revenue	764,896.68	50,000.00	714,896.68
GROSS PROFIT	764,896.68	50,000.00	714,896.68
EXPENDITURES			
Advertising and Promotion	140.00	60.00	80.00
Automobile Expense	29.41		29.41
Bank Service Charges	305.21		305.21
Bathroom Supplies	5,808.34		5,808.34
Computer Software	783.00	1,015.86	-232.86
Dues & Subscriptions	304.83		304.83
Event Supplies	9,841.29		9,841.29
Facility Signage	942.76		942.76
Field Supplies	5,696.71		5,696.71
Field/Equipment Improvements >1000	1,820.38		1,820.38
Fuel Expense	152.67		152.67
Insurance Expense			
Liability	2,628.00	4,042.80	-1,414.80
Workers Comp Insurance	2,969.62	2,311.21	658.41
Total Insurance Expense	5,597.62	6,354.01	-756.39
Landscape	98,875.08		98,875.08
Licenses and Permits	2,024.50	600.00	1,424.50
Meals and Entertainment	370.98		370.98

			Total
	Jul 2019 - Jun 2020	Jul 2018 - Jun 2019 (PP)	Change
Office Supplies	4,562.54	1,035.98	3,526.56
Payroll Expenses			
Taxes	4,786.20		4,786.20
Wages	52,730.12		52,730.12
Total Payroll Expenses	57,516.32		57,516.32
Postage and Shipping	209.55		209.55
Professional Fees			
Bookkeeper	1,425.00		1,425.00
Total Professional Fees	1,425.00		1,425.00
QuickBooks Payments Fees	151.00		151.00
Repairs and Maintenance	24,094.24		24,094.24
Security	1,941.62		1,941.62
Sub-Contractor Labor	74,975.34	8,524.50	66,450.84
Utilities			
Gas & Electrical	41,153.29		41,153.29
Water	41,608.79		41,608.79
Total Utilities	82,762.08		82,762.08
Website and Telephone	474.04		474.04
Total Expenditures	380,804.51	17,590.35	363,214.16
NET OPERATING REVENUE	384,092.17	32,409.65	351,682.52
NET REVENUE	\$384,092.17	\$32,409.65	\$351,682.52

Statement of Activity % of Total Revenue

July 2019 - June 2020

		Total
	Jul 2019 - Jun 2020	% of Revenue
REVENUE		
Food Vendor	14,920.00	1.95 %
Restricted Donation	401,000.00	52.43 %
Sales		
Event & Tournament Rental	7,750.00	1.01 %
Event Misc Charges	15,142.49	1.98 %
Event Rental - Application Fee	465.00	0.06 %
Field Lining	5,485.00	0.72 %
Field Marshal / Attendants	3,924.00	0.51 %
Flat Rate Field Rental	8,286.00	1.08 %
Goal Set up & Removal	525.00	0.07 %
Grass Field Hourly Rental	94,634.00	12.37 %
Merchant Fee	57.69	0.01 %
Parking Fee - Main Lot	104,204.50	13.62 %
Rental Deposits	2,375.00	0.31 %
Snack Shack Rental	1,032.00	0.13 %
Turf Field - Hourly Light Fee	16,762.50	2.19 %
Turf Field Hourly Rental	87,103.50	11.39 %
VIP Parking Fee	1,230.00	0.16 %
Total Sales	348,976.68	45.62 %
Total Revenue	764,896.68	100.00 %
GROSS PROFIT	764,896.68	100.00 %
EXPENDITURES		
Advertising and Promotion	140.00	0.02 %
Automobile Expense	29.41	0.00 %
Bank Service Charges	305.21	0.04 %
Bathroom Supplies	5,808.34	0.76 %
Computer Software	783.00	0.10 %
Dues & Subscriptions	304.83	0.04 %
Event Supplies	9,841.29	1.29 %
Facility Signage	942.76	0.12 %
Field Supplies	5,696.71	0.74 %
Field/Equipment Improvements >1000	1,820.38	0.24 %
Fuel Expense	152.67	0.02 %
Insurance Expense		
Liability	2,628.00	0.34 %
Workers Comp Insurance	2,969.62	0.39 %
Total Insurance Expense	5,597.62	0.73 %
Landscape	98,875.08	12.93 %
Licenses and Permits	2,024.50	0.26 %
Meals and Entertainment	370.98	0.05 %

		Total
	Jul 2019 - Jun 2020	% of Revenue
Office Supplies	4,562.54	0.60 %
Payroll Expenses		
Taxes	4,786.20	0.63 %
Wages	52,730.12	6.89 %
Total Payroll Expenses	57,516.32	7.52 %
Postage and Shipping	209.55	0.03 %
Professional Fees		
Bookkeeper	1,425.00	0.19 %
Total Professional Fees	1,425.00	0.19 %
QuickBooks Payments Fees	151.00	0.02 %
Repairs and Maintenance	24,094.24	3.15 %
Security	1,941.62	0.25 %
Sub-Contractor Labor	74,975.34	9.80 %
Utilities		
Gas & Electrical	41,153.29	5.38 %
Water	41,608.79	5.44 %
Total Utilities	82,762.08	10.82 %
Website and Telephone	474.04	0.06 %
Total Expenditures	380,804.51	49.79 %
NET OPERATING REVENUE	384,092.17	50.21 %
NET REVENUE	\$384,092.17	50.21 %

Statement of Activity by Month

July 2019 - June 2020

	Jul 2019	Aug 2019	Sep 2019	Oct 2019	Nov 2019	Dec 2019	Jan 2020	Feb 2020	Mar 2020	Apr 2020	May 2020	Jun 2020	Total
REVENUE													
Food Vendor			7,834.00	3,348.00	3,618.00					120.00			14,920.00
Restricted Donation				400,000.00	1,000.00								401,000.00
Sales													0.00
Event &Tournament Rental											7,750.00		7,750.00
Event Misc Charges	300.00	5,348.71	3,630.56	3,361.95	1,453.15					1,048.12			15,142.49
Event Rental - Application Fee		90.00	75.00			75.00	75.00		75.00			75.00	465.00
Field Lining		1,350.00	1,035.00	1,275.00	1,675.00					150.00			5,485.00
Field Marshal / Attendants		2,800.00	500.00	624.00									3,924.00
Flat Rate Field Rental			3,500.00	-2,111.50			0.00			6,897.50			8,286.00
Goal Set up & Removal		175.00		350.00									525.00
Grass Field Hourly Rental	20,000.00	23,419.00	6,100.00	12,690.00	20,125.00	700.00		9,500.00	2,100.00				94,634.00
Merchant Fee										35.94		21.75	57.69
Parking Fee - Main Lot	15,914.50	24,062.00	4,500.00	23,523.00	21,215.00			3,380.00	11,610.00				104,204.50
Rental Deposits			1,625.00	500.00		0.00						250.00	2,375.00
Snack Shack Rental					1,032.00								1,032.00
Turf Field - Hourly Light Fee		280.00		157.50	1,500.00	0.00	60.00	13,475.00	1,290.00				16,762.50
Turf Field Hourly Rental	1,520.00	6,640.00	2,675.00	4,980.00	5,180.00	2,445.00	6,332.00	47,616.50	9,315.00			400.00	87,103.50
VIP Parking Fee		480.00	250.00	500.00									1,230.00
Total Sales	37,734.50	64,644.71	23,890.56	45,849.95	52,180.15	3,220.00	6,467.00	73,971.50	24,390.00	8,131.56	7,750.00	746.75	348,976.68
Total Revenue	37,734.50	64,644.71	31,724.56	449,197.95	56,798.15	3,220.00	6,467.00	73,971.50	24,390.00	8,251.56	7,750.00	746.75	764,896.68
GROSS PROFIT	37,734.50	64,644.71	31,724.56	449,197.95	56,798.15	3,220.00	6,467.00	73,971.50	24,390.00	8,251.56	7,750.00	746.75	764,896.68
EXPENDITURES													
Advertising and Promotion	140.00												140.00
Automobile Expense												29.41	29.41
Bank Service Charges	72.28	58.60	13.54	75.40	55.72	21.95	-33.55	9.95	1.47	9.95	9.95	9.95	305.21
Bathroom Supplies		1,428.82	430.11		633.33	954.57	400.00		769.10			1,192.41	5,808.34
Computer Software	39.00	39.00	39.00	354.00	39.00	39.00	39.00	39.00		39.00	39.00	39.00	783.00
Dues & Subscriptions			14.16	14.16	14.16	14.16	64.66	68.66	69.03	5.84	20.00	20.00	304.83
Event Supplies		1,784.06		5,897.13	1,255.94		796.25		107.91				9,841.29
Facility Signage					147.15			730.23	65.38				942.76
Field Supplies		1,835.88	382.50	1,774.08			1,074.37		653.86		-23.98		5,696.71
Field/Equipment Improvements >1000		819.91	438.27	41.41			366.26					154.53	1,820.38
Fuel Expense			37.56	115.11									152.67
Insurance Expense													0.00
Liability												2,628.00	2,628.00
Workers Comp Insurance	-1,356.38	727.50		727.50		727.50				727.50		1,416.00	2,969.62
Total Insurance Expense	-1,356.38	727.50		727.50		727.50				727.50		4,044.00	5,597.62
Landscape		7,387.35	10,723.56	10,136.05	11,199.20	9,542.00	9,542.00	9,726.92	10,192.00	9,542.00	5,442.00	5,442.00	98,875.08
Licenses and Permits	288.00		400.25	577.50	758.75								2,024.50
Meals and Entertainment		370.98											370.98
Office Supplies	1,295.39	1,586.04		368.69			188.66		48.74		851.72	223.30	4,562.54
Payroll Expenses													0.00
Taxes							491.90	1,401.13	662.73	529.58	750.28	950.58	4,786.20
Wages							4,411.67	14,600.19	6,750.55	6,788.46	9,807.69	10,371.56	52,730.12
Total Payroll Expenses							4,903.57	16,001.32	7,413.28	7,318.04	10,557.97	11,322.14	57,516.32
Postage and Shipping	154.00	22.55					33.00						209.55
Professional Fees													0.00
Bookkeeper										225.00	525.00	675.00	1,425.00
Total Professional Fees										225.00	525.00	675.00	1,425.00
QuickBooks Payments Fees									93.05	36.04		21.91	151.00
Repairs and Maintenance	73.72	329.50		3,031.75	300.00		1,424.33	2,143.95	647.11	5,312.95	497.95	10,332.98	24,094.24
Security		75.00		761.62	115.00	123.31	495.00			371.69			1,941.62
Sub-Contractor Labor	7,083.32	13,945.50	12,516.52	11,939.36	17,557.63	7,363.34	4,269.67	300.00					74,975.34
Utilities													0.00
Gas & Electrical		3,733.28	5,504.51	5,450.87	5,640.50	4,033.75	2,646.35	3,374.12	4,033.42	2,802.93	1,403.49	2,530.07	41,153.29
Water		2,996.64		12,492.30	2,592.93	11,652.86	1,850.57	1,431.20	1,638.82	2,986.00	1,819.58	2,147.89	41,608.79
Total Utilities		6,729.92	5,504.51	17,943.17	8,233.43	15,686.61	4,496.92	4,805.32	5,672.24	5,788.93	3,223.07	4,677.96	82,762.08
Website and Telephone			9.67	52.44	4.68	4.68	25.80	353.65	9.26	4.62	4.62	4.62	474.04
Total Expenditures	7,789.33	37,140.61	30,509.65	53,809.37	40,313.99	34,477.12	28,085.94	34,179.00	25,781.43	29,381.56	21,147.30	38,189.21	380,804.51
NET OPERATING REVENUE	29,945.17	27,504.10	1,214.91	395,388.58	16,484.16	-31,257.12	-21,618.94	39,792.50	-1,391.43	-21,130.00	-13,397.30	-37,442.46	384,092.17
NET REVENUE	\$29,945.17	\$27,504.10	\$1,214.91	\$395,388.58	\$16,484.16	\$ -31,257.12	\$ -21,618.94	\$39,792.50	\$ -1,391.43	\$ -21,130.00	\$ -13,397.30	\$ -37,442.46	\$384,092.17

Statement of Financial Position with Comparison

As of June 30, 2020

	As of Jun 30, 2020	As of May 31, 2019 (PP)	Total Change
ASSETS			
Current Assets			
Bank Accounts			
General Checking	300,672.89	54,743.01	245,929.88
Total Bank Accounts	300,672.89	54,743.01	245,929.88
Other Current Assets			
Undeposited Funds	0.00	-50,000.00	50,000.00
Total Other Current Assets	0.00	-50,000.00	50,000.00
Total Current Assets	300,672.89	4,743.01	295,929.88
Fixed Assets			
Equipment - Field	24,992.16		24,992.16
Fixed Assets - 400,000 Foundation Investment	125,939.01		125,939.01
Total Fixed Assets	150,931.17	0.00	150,931.17
Other Assets			
Security Deposits	4,000.00		4,000.00
Total Other Assets	4,000.00	0.00	4,000.00
TOTAL ASSETS	\$455,604.06	\$4,743.01	\$450,861.05
LIABILITIES AND EQUITY			
Liabilities			
Current Liabilities			
Other Current Liabilities			
Payroll Liabilities			
CA PIT / SDI	284.55		284.55
CA SUI / ETT	142.91		142.91
Federal Taxes (941/944)	1,130.37		1,130.37
FUTA	44.41		44.41
Total Payroll Liabilities	1,602.24		1,602.24
PPP Loan	27,500.00		27,500.00
Total Other Current Liabilities	29,102.24	0.00	29,102.24
Total Current Liabilities	29,102.24	0.00	29,102.24
Total Liabilities	29,102.24	0.00	29,102.24
Equity			
City of MH Grant	400,000.00		400,000.00
Opening Balance Equity	0.00	10,000.00	-10,000.00
Unrestricted Net Assets	-357,590.35		-357,590.35
Net Revenue	384,092.17	-5,256.99	389,349.16
Total Equity	426,501.82	4,743.01	421,758.81
TOTAL LIABILITIES AND EQUITY	\$455,604.06	\$4,743.01	\$450,861.05

Uncategorized Income & Expenses

All Dates

This report contains no data for your specified date range.

Statement of Activity Detail

July 2020

Date	Transaction Type	Num	Name	Memo/Description	Split	Amount	Balance
Ordinary Revenue/Expenditures							
Revenue							
Sales							
07/21/2020	Pledge	M007	Sentinels Soccer Club	processing fee	Accounts Receivable	80.00	80.00
Total for Sales						\$80.00	
Grass Field Hourly Rental							
07/21/2020	Pledge	M007	Sentinels Soccer Club	Grass Field Hourly Rental	Accounts Receivable	2,280.00	2,280.00
Total for Grass Field Hourly Rental						\$2,280.00	
Total for Sales with sub-accounts						\$2,360.00	
Total for Revenue						\$2,360.00	
Expenditures							
Bank Service Charges							
07/06/2020	Expenditure			SERVICE CHARGES FOR THE MONTH OF JUNE	General Checking	9.95	9.95
Total for Bank Service Charges						\$9.95	
Computer Software							
07/17/2020	Expenditure		Esoft Planner	MONTHLY FEE	General Checking	39.00	39.00
Total for Computer Software						\$39.00	
Dues & Subscriptions							

Date	Transaction Type	Num	Name	Memo/Description	Split	Amount	Balance
07/02/2020	Expenditure		McAfee	Virus protection for laptop 2yr	General Checking	89.99	89.99
07/06/2020	Expenditure		Quick Books	INT*QuickBooks Online 800-446-88 48 CA 07/06	General Checking	20.00	109.99
Total for Dues & Subscriptions						\$109.99	
Insurance Expense							
Workers Comp Insurance							
07/09/2020	Check	1201	State Compensation Insurance Fund	REVISION OF POLICY REMAINDER POLICY#9255918-20	General Checking	47.94	47.94
07/31/2020	Check	1211	State Compensation Insurance Fund	premium on policy	General Checking	350.25	398.19
Total for Workers Comp Insurance						\$398.19	
Total for Insurance Expense						\$398.19	
Landscape							
07/13/2020	Check	1197	Professional Turf Management, Inc.	JUNE LANDSCAPE MAINTENANCE	General Checking	5,442.00	5,442.00
Total for Landscape						\$5,442.00	
Office Supplies							
07/08/2020	Expenditure		Staples	COVID-19 SIGNAGE AND SUPPLIES	General Checking	121.04	121.04
Total for Office Supplies						\$121.04	
Payroll Expenses							

Date	Transaction Type	Num	Name	Memo/Description	Split	Amount	Balance
Taxes							
07/10/2020	Check	DD	John A. Edwards	Employer Taxes	General Checking	98.77	98.77
07/10/2020	Check	DD	Amy A. Monahan	Employer Taxes	General Checking	116.43	215.20
07/10/2020	Check	DD	Shahab Zahraie	Employer Taxes	General Checking	250.09	465.29
07/24/2020	Check	DD	John A. Edwards	Employer Taxes	General Checking	63.49	528.78
07/24/2020	Check	DD	Amy A. Monahan	Employer Taxes	General Checking	73.43	602.21
07/24/2020	Check	DD	Shahab Zahraie	Employer Taxes	General Checking	250.09	852.30
Total for Taxes						\$852.30	
Wages							
07/10/2020	Check	DD	John A. Edwards	Gross Pay - This is not a legal pay stub	General Checking	840.60	840.60
07/10/2020	Check	DD	Shahab Zahraie	Gross Pay - This is not a legal pay stub	General Checking	3,269.23	4,109.83
07/10/2020	Check	DD	Amy A. Monahan	Gross Pay - This is not a legal pay stub	General Checking	1,174.25	5,284.08
07/24/2020	Check	DD	Amy A. Monahan	Gross Pay - This is not a legal pay stub	General Checking	959.75	6,243.83
07/24/2020	Check	DD	John A. Edwards	Gross Pay - This is not a legal pay stub	General Checking	540.30	6,784.13
07/24/2020	Check	DD	Shahab Zahraie	Gross Pay - This is not a legal pay stub	General Checking	3,269.23	10,053.36
Total for Wages						\$10,053.36	
Total for Payroll Expenses						\$10,905.66	
Postage and Shipping							
07/29/2020	Expenditure		US Postmaster	P.O. Box yearly renewal	General Checking	168.00	168.00

Date	Transaction Type	Num	Name	Memo/Description	Split	Amount	Balance
Total for Postage and Shipping						\$168.00	
Professional Fees							
Bookkeeper							
07/06/2020	Expenditure		AdminBooks	PAYROLL/BOOK KEEPING EXPENSE	General Checking	675.00	675.00
Total for Bookkeeper						\$675.00	
Total for Professional Fees						\$675.00	
QuickBooks Payments Fees							
07/31/2020	Expenditure		QuickBooks Payments	System-recorded fee for QuickBooks Payments. Fee-name: DiscountRateFee, fee- type: Daily.	General Checking	68.69	68.69
Total for QuickBooks Payments Fees						\$68.69	
Repairs and Maintenance							
07/01/2020	Check	1193	A-A Lock	Door lock replacements from break in at the OSC.	General Checking	1,584.51	1,584.51
07/09/2020	Check	1207	Rian Julian	BATHROOM REMODEL LIGHT/ DRYERS/ COVERS ETC.	General Checking	3,850.00	5,434.51
07/13/2020	Check	1205	Animal Damage Management (ADM)	RODENT ERADICATION MONTHLY	General Checking	300.00	5,734.51
07/16/2020	Check	1206		WELL PUMP TEST	General Checking	250.00	5,984.51

Date	Transaction Type	Num	Name	Memo/Description	Split	Amount	Balance
07/21/2020	Check	1208		REPAIRED WALLS IN BOTH ADA BATHROOMS FOR REMODEL	General Checking	250.00	6,234.51
07/29/2020	Check	1209	Knowles Plumbing and Pipeworks inc.	Restroom remodel	General Checking	17,422.00	23,656.51
Total for Repairs and Maintenance						\$23,656.51	
Security							
07/13/2020	Check	1204	Bay Alarm	FIRE MONITORING ACT#4635022	General Checking	285.00	285.00
07/13/2020	Check	1203	Bay Alarm	ALARM MONITORING ACCT#4636922	General Checking	210.00	495.00
Total for Security						\$495.00	
Utilities							
Gas & Electrical							
07/27/2020	Expenditure		PG&E	water	General Checking	2,699.79	2,699.79
Total for Gas & Electrical						\$2,699.79	
Water							
07/10/2020	Expenditure		City of Morgan Hill Utility	WATER BILL CITY OF MORGAN HILL	General Checking	49.94	49.94
07/10/2020	Expenditure		City of Morgan Hill Utility	WATER BILL CITY OF MORGAN HILL	General Checking	1,673.33	1,723.27
07/10/2020	Expenditure		City of Morgan Hill Utility	MORGAN HILL WATER	General Checking	1,540.90	3,264.17
07/31/2020	Check	1210	Valley Water	water for partial march, full april , and full may	General Checking	4,367.48	7,631.65

Date	Transaction Type	Num	Name	Memo/Description	Split	Amount	Balance
Total for Water						\$7,631.65	
Total for Utilities						\$10,331.44	
Website and Telephone							
07/21/2020	Expenditure		Go Daddy	DNH*GODADDY.COM 480-5058855 AZ 07/20	General Checking	4.70	4.70
Total for Website and Telephone						\$4.70	
Total for Expenditures						\$52,425.17	
Net Revenue						\$ -50,065.17	

Capital Improvements - \$400K Foundation Investment

All Dates

Date	Transaction Type	Num	Adj	Name	Memo/Description	Amount	Balance
Fixed Assets - 400,000 Foundation Investment							
01/03/2020	Check	1122	No	Pro Con Concrete	1st installment for concrete pathway	32,919.67	32,919.67
01/07/2020	Check	1127	No	Pro Con Concrete	2nd installment - concrete walkway	32,919.67	65,839.34
01/10/2020	Check	1131	No	Pro Con Concrete	3rd installment of cement walkway	32,919.67	98,759.01
01/10/2020	Check	1129	No	Superior Demolition Services	Base rock for walkway project	4,780.00	103,539.01
01/23/2020	Check	1137	No	Pro Con Concrete	Final installment for cement pathway	20,000.00	123,539.01
03/23/2020	Check	1174	No	Rian Julian	Installation of lights for main walkway	2,400.00	125,939.01
07/09/2020	Check	1202	No	CHAPPELL PUMP AND SUPPLY	DEPOSIT FOR NEW WELL INSTALL	19,404.00	145,343.01
Total for Fixed Assets - 400,000 Foundation Investment						\$145,343.01	
TOTAL						\$145,343.01	

Management Report

MHOSC LLC

For the period ended June 30, 2021



Prepared by

AdminBooks, Inc

Prepared on

October 1, 2021

Table of Contents

Statement of Activity with Comparison3

Statement of Activity % of Total Revenue5

Statement of Activity by Month7

Statement of Financial Position with Comparison8

Uncategorized Income & Expenses10

Capital Improvements - \$400K Foundation Investment11

Statement of Activity with Comparison

July 2020 - June 2021

		Total
	Jul 2020 - Jun 2021	Jul 2019 - Jun 2020 (PY)
INCOME		
Food Vendor		14,920.00
Non-Restricted Donations		1,000.00
Restricted Donation		400,000.00
Sales		
Dirt Lot Rental	500.00	
Event & Tournament Rental	47,700.00	7,750.00
Event Misc Charges	300.00	15,142.49
Event Rental - Application Fee	1,219.00	465.00
Field Lining	350.00	5,485.00
Field Marshal / Attendants		3,924.00
Flat Rate Field Rental	58,448.90	8,286.00
Goal Set up & Removal	175.00	525.00
Grass Field Hourly Rental	46,712.73	94,634.00
Lomoto House Rental Income	6,500.00	
Merchant Fee	55.59	57.69
Parking Fee - Main Lot	7,600.00	104,204.50
Rental Deposits	13,500.00	2,375.00
Snack Shack Rental		1,032.00
Turf Field - Hourly Light Fee	2,616.02	16,762.50
Turf Field Hourly Rental	66,474.42	87,103.50
VIP Parking Fee		1,230.00
Total Sales	252,151.66	348,976.68
Total Income	252,151.66	764,896.68
GROSS PROFIT	252,151.66	764,896.68
EXPENSES		
Advertising and Promotion	0.00	140.00
Automobile Expense	317.94	29.41
Bank Service Charges	79.60	305.21
Bathroom Supplies	1,243.60	5,408.34
Computer Software	767.87	783.00
Dues & Subscriptions	1,126.99	304.83
Event Supplies		9,841.29
Facility Signage		942.76
Field Supplies	2,252.56	5,696.71
Field/Equipment Improvements >1000	1,137.48	1,820.38
Fuel Expense		152.67
Insurance Expense		
Liability		2,628.00
Workers Comp Insurance	2,537.55	2,969.62
Total Insurance Expense	2,537.55	5,597.62

	Total	
	Jul 2020 - Jun 2021	Jul 2019 - Jun 2020 (PY)
Landscape	56,736.06	98,875.08
Licenses and Permits		2,024.50
Lomoto Expenses	9,714.29	
Meals and Entertainment		370.98
Office Supplies	4,445.60	4,562.54
Payroll Expenses		
Taxes	8,485.04	4,786.20
Wages	100,014.87	52,730.12
Total Payroll Expenses	108,499.91	57,516.32
Postage and Shipping	190.00	209.55
Professional Fees		
Bookkeeper	6,007.00	1,425.00
Total Professional Fees	6,007.00	1,425.00
QuickBooks Payments Fees	342.44	151.00
Repairs and Maintenance	50,296.82	24,494.24
Security	2,347.05	1,941.62
Sub-Contractor Labor	500.00	74,975.34
Utilities		
Gas & Electrical	44,804.28	41,153.29
Water	52,414.76	41,608.79
Total Utilities	97,219.04	82,762.08
Website and Telephone	579.15	474.04
Total Expenses	346,340.95	380,804.51
NET OPERATING INCOME	-94,189.29	384,092.17
NET INCOME	\$ -94,189.29	\$384,092.17

Statement of Activity % of Total Revenue

July 2020 - June 2021

	Jul 2020 - Jun 2021	Total % of Income
INCOME		
Sales		
Dirt Lot Rental	500.00	0.18 %
Event & Tournament Rental	47,700.00	17.33 %
Event Misc Charges	300.00	0.11 %
Event Rental - Application Fee	1,314.00	0.48 %
Field Lining	800.00	0.29 %
Flat Rate Field Rental	58,448.90	21.24 %
Goal Set up & Removal	350.00	0.13 %
Grass Field Hourly Rental	58,291.25	21.18 %
Lomoto House Rental Income	6,500.00	2.36 %
Merchant Fee	102.11	0.04 %
Parking Fee - Main Lot	7,600.00	2.76 %
Rental Deposits	14,450.00	5.25 %
Turf Field - Hourly Light Fee	2,750.00	1.00 %
Turf Field Hourly Rental	76,111.50	27.66 %
Total Sales	275,217.76	100.00 %
Total Income	275,217.76	100.00 %
GROSS PROFIT	275,217.76	100.00 %
EXPENSES		
Automobile Expense	317.94	0.12 %
Bank Service Charges	79.60	0.03 %
Bathroom Supplies	1,243.60	0.45 %
Computer Software	767.87	0.28 %
Dues & Subscriptions	1,126.99	0.41 %
Field Supplies	2,252.56	0.82 %
Field/Equipment Improvements >1000	1,137.48	0.41 %
Insurance Expense		
Workers Comp Insurance	2,537.55	0.92 %
Total Insurance Expense	2,537.55	0.92 %
Landscape	56,736.06	20.61 %
Lomoto Expenses	9,714.29	3.53 %
Office Supplies	4,445.60	1.62 %
Payroll Expenses		
Taxes	8,485.04	3.08 %
Wages	100,014.87	36.34 %
Total Payroll Expenses	108,499.91	39.42 %
Postage and Shipping	190.00	0.07 %
Professional Fees		
Bookkeeper	6,007.00	2.18 %
Total Professional Fees	6,007.00	2.18 %

		Total
	Jul 2020 - Jun 2021	% of Income
QuickBooks Payments Fees	342.44	0.12 %
Repairs and Maintenance	50,296.82	18.28 %
Security	2,347.05	0.85 %
Sub-Contractor Labor	500.00	0.18 %
Utilities		
Gas & Electrical	44,804.28	16.28 %
Water	52,414.76	19.04 %
Total Utilities	97,219.04	35.32 %
Website and Telephone	579.15	0.21 %
Total Expenses	346,340.95	125.84 %
NET OPERATING INCOME	-71,123.19	-25.84 %
NET INCOME	\$ -71,123.19	-25.84 %

Statement of Activity by Month

July 2020 - June 2021

	Jul 2020	Aug 2020	Sep 2020	Oct 2020	Nov 2020	Dec 2020	Jan 2021	Feb 2021	Mar 2021	Apr 2021	May 2021	Jun 2021	Total
INCOME													
Sales													0.00
Dirt Lot Rental										500.00			500.00
Event &Tournament Rental				48,000.00		-300.00							47,700.00
Event Misc Charges					300.00								300.00
Event Rental - Application Fee			389.00		75.00	75.00		75.00		75.00	410.00	215.00	1,314.00
Field Lining										75.00	275.00	450.00	800.00
Flat Rate Field Rental							55,040.00				3,408.90		58,448.90
Goal Set up & Removal			175.00									175.00	350.00
Grass Field Hourly Rental	2,280.00					1,400.00		10,000.00	400.00	7,221.25	6,005.00	30,985.00	58,291.25
Lomoto House Rental Income									2,000.00	1,500.00	1,500.00	1,500.00	6,500.00
Merchant Fee	80.00									459.41	-177.39	-259.91	102.11
Parking Fee - Main Lot								7,600.00					7,600.00
Rental Deposits			500.00	1,500.00	250.00	0.00		500.00	750.00	125.00	5,125.00	5,700.00	14,450.00
Turf Field - Hourly Light Fee					225.00			1,225.00		1,180.00	120.00		2,750.00
Turf Field Hourly Rental			7,087.50		712.50			31,500.00		20,409.00	3,337.50	13,065.00	76,111.50
Total Sales	2,360.00		8,151.50	49,500.00	1,562.50	1,175.00	55,040.00	50,900.00	3,150.00	31,544.66	20,004.01	51,830.09	275,217.76
Total Income	2,360.00	0.00	8,151.50	49,500.00	1,562.50	1,175.00	55,040.00	50,900.00	3,150.00	31,544.66	20,004.01	51,830.09	275,217.76
GROSS PROFIT													
	2,360.00	0.00	8,151.50	49,500.00	1,562.50	1,175.00	55,040.00	50,900.00	3,150.00	31,544.66	20,004.01	51,830.09	275,217.76
EXPENSES													
Advertising and Promotion			51.74	-51.74									0.00
Automobile Expense									182.89	37.91	51.29	45.85	317.94
Bank Service Charges	9.95	9.95	9.95	9.95	9.95	-29.85	9.95	9.95	9.95	9.95	9.95	9.95	79.60
Bathroom Supplies		46.33		369.35	136.96				89.38		263.68	337.90	1,243.60
Computer Software	39.00	39.00	39.00	39.00	39.00	39.00	39.00	39.00	39.00	338.87	39.00	39.00	767.87
Dues & Subscriptions	109.99	20.00	132.00	470.00	135.00	20.00	40.00	40.00	40.00	40.00	40.00	40.00	1,126.99
Field Supplies									1,552.74	699.82			2,252.56
Field/Equipment Improvements >1000				128.89					1,258.59			-250.00	1,137.48
Insurance Expense													0.00
Workers Comp Insurance	398.19		-2,980.64	950.00							2,628.00	1,542.00	2,537.55
Total Insurance Expense	398.19		-2,980.64	950.00							2,628.00	1,542.00	2,537.55
Landscape	5,442.00	5,442.00	3,700.00	3,700.00	5,175.00	3,700.00	3,700.00	3,955.06	3,700.00	6,967.00	3,700.00	7,555.00	56,736.06
Lomoto Expenses							5,000.00		1,000.00	1,000.00	1,926.24	788.05	9,714.29
Office Supplies	121.04	273.56		36.77		405.95	298.04	15.24	2,083.43	523.86	33.75	653.96	4,445.60
Payroll Expenses													0.00
Taxes	852.30	534.75	500.19	750.29	500.19	634.53	827.02	519.12	558.93	1,158.13	881.12	768.47	8,485.04
Wages	10,053.36	6,990.21	6,538.46	9,807.69	6,538.46	7,288.46	7,038.46	6,538.46	7,038.46	13,278.54	9,780.27	9,124.04	100,014.87
Total Payroll Expenses	10,905.66	7,524.96	7,038.65	10,557.98	7,038.65	7,922.99	7,865.48	7,057.58	7,597.39	14,436.67	10,661.39	9,892.51	108,499.91
Postage and Shipping	168.00								22.00				190.00
Professional Fees													0.00
Bookkeeper	675.00	535.00	450.00	450.00	450.00	450.00	450.00	450.00	747.00	450.00	450.00	450.00	6,007.00
Total Professional Fees	675.00	535.00	450.00	450.00	450.00	450.00	450.00	450.00	747.00	450.00	450.00	450.00	6,007.00
QuickBooks Payments Fees	68.69		117.86	119.03	36.86								342.44
Repairs and Maintenance	23,656.51	1,296.08	989.43	5,383.86	1,334.52	5,969.46	600.00	42.30	2,509.57	65.69	6,447.23	2,002.17	50,296.82
Security	495.00			285.00			519.75			519.75	527.55		2,347.05
Sub-Contractor Labor						500.00							500.00
Utilities													0.00
Gas & Electrical	2,699.79	3,997.51	3,922.62	4,367.36	4,982.56	3,612.40	3,065.10	2,768.08	3,024.08	3,888.55	4,163.44	4,312.79	44,804.28
Water	7,631.65	3,156.95	2,981.00	12,244.35	2,288.91	8,630.88	1,874.15	5,009.75	1,684.19	1,579.79	1,656.96	3,676.18	52,414.76
Total Utilities	10,331.44	7,154.46	6,903.62	16,611.71	7,271.47	12,243.28	4,939.25	7,777.83	4,708.27	5,468.34	5,820.40	7,988.97	97,219.04
Website and Telephone	4.70	4.70	4.70	76.24	4.71	4.71	25.94	434.34	4.77	4.78	4.78	4.78	579.15
Total Expenses	52,425.17	22,346.04	16,456.31	39,136.04	21,632.12	31,225.54	23,487.41	19,821.30	25,544.98	30,562.64	32,603.26	31,100.14	346,340.95
NET OPERATING INCOME	-50,065.17	-22,346.04	-8,304.81	10,363.96	-20,069.62	-30,050.54	31,552.59	31,078.70	-22,394.98	982.02	-12,599.25	20,729.95	-71,123.19
NET INCOME	\$ -50,065.17	\$ -22,346.04	\$ -8,304.81	\$10,363.96	\$ -20,069.62	\$ -30,050.54	\$31,552.59	\$31,078.70	\$ -22,394.98	\$982.02	\$ -12,599.25	\$20,729.95	\$ -71,123.19

Statement of Financial Position with Comparison

As of June 30, 2021

	Total	
	As of Jun 30, 2021	As of Jun 30, 2020 (PY)
ASSETS		
Current Assets		
Bank Accounts		
General Checking	111,509.30	300,672.89
Total Bank Accounts	111,509.30	300,672.89
Accounts Receivable		
Accounts Receivable	23,066.10	0.00
Total Accounts Receivable	23,066.10	0.00
Other Current Assets		
Undeposited Funds	12,218.90	0.00
Total Other Current Assets	12,218.90	0.00
Total Current Assets	146,794.30	300,672.89
Fixed Assets		
Equipment - Field	24,992.16	24,992.16
Fixed Assets - 400,000 Foundation Investment	348,626.10	125,939.01
Tracker ATV	7,609.79	
Total Fixed Assets	381,228.05	150,931.17
Other Assets		
Security Deposits	4,000.00	4,000.00
Total Other Assets	4,000.00	4,000.00
TOTAL ASSETS	\$532,022.35	\$455,604.06
LIABILITIES AND EQUITY		
Liabilities		
Current Liabilities		
Other Current Liabilities		
Payroll Liabilities		
CA PIT / SDI	0.00	284.55
CA SUI / ETT	295.13	142.91
Federal Taxes (941/944)	0.00	1,130.37
FUTA	98.59	44.41
Total Payroll Liabilities	393.72	1,602.24
PPP Loan	46,250.00	27,500.00
Total Other Current Liabilities	46,643.72	29,102.24
Total Current Liabilities	46,643.72	29,102.24
Long-Term Liabilities		
The Soccer Foundation Loan	100,000.00	
Total Long-Term Liabilities	100,000.00	0.00
Total Liabilities	146,643.72	29,102.24
Equity		
City of MH Grant	400,000.00	400,000.00

	Total	
	As of Jun 30, 2021	As of Jun 30, 2020 (PY)
Unrestricted Net Assets	56,501.82	-357,590.35
Net Income	-71,123.19	384,092.17
Total Equity	385,378.63	426,501.82
TOTAL LIABILITIES AND EQUITY	\$532,022.35	\$455,604.06

Uncategorized Income & Expenses

July 2020 - June 2021

This report contains no data for your specified date range.

Capital Improvements - \$400K Foundation Investment

July 2020 - June 2021

Date	Transaction Type	Num	Adj	Name	Memo/Description	Amount	Balance
Fixed Assets - 400,000 Foundation Investment							
Beginning Balance							125,939.01
07/09/2020	Check	1202	No	Chappell Pump and Supply, Inc.	DEPOSIT FOR NEW WELL INSTALL	19,404.00	145,343.01
10/02/2020	Deposit		No	American Cricket Enterprises Inc.	Their portion of the irrigation project for their pitch	-10,034.00	135,309.01
11/06/2020	Check	1226	No	Chappell Pump and Supply, Inc.	remaining balance/final payment for new WELL pump	22,363.09	157,672.10
11/20/2020	Check	1235	No	New Path Landscape Services	Field 1-6 Irrigation 1st and 2nd installment	118,546.56	276,218.66
01/15/2021	Check	1245	No	Professional Turf Management, Inc.	Field Recovery Seeding (Capital Improvement)	7,074.00	283,292.66
02/03/2021	Check	1248	No	New Path Landscape Services	Final Payment for Sprinkler Project	65,333.44	348,626.10
Total for Fixed Assets - 400,000 Foundation Investment						\$222,687.09	
TOTAL						\$222,687.09	

MHOSC, LLC															
Outdoor Sports Center															
	July (2019)	August	September	October	November	December	January (2020)	February	March	April	May	June	Total	Goal	
Field Rentals															
Field Rental Reservation Hours (Individuals)	177.5	456	747	632.5	425.5	136	185.15	154.65	152				3066.3		
Field Rental Reservation Hours (Major Events)	444	558	108	365	307	0	0	298	52				2132		
Total Number of Facility Rental Visitors	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a		
Total Hours of Use by Sports Type															
Soccer (Individuals)	135.5	197	506	407.5	387.5	107	159.15	121.15	139				2159.8		
Soccer (Major Events)	0	558	108	365	307	0	0	298	52				1688		
Football	0	173	187	175	29	16	21.5	24.5	3				629		
Cricket	28	32	15	8	0	0	0	0	0				83		
Lacrosse	0	0	0	0	2	3	4.5	9	10				28.5		
Field Hockey	0	0	0	0	0	0	0	0	0				0		
Cheerleading	0	54	39	42	7	0	0	0	0				142		
Bouncers (Major Events)	444	0	0	0	0	0	0	0	0				444		
Camp Activities	14	0	0	0	0	0	0	0	0				14		
Controlled Study	0	0	0	0	0	10	0	0	0				10		
Rental Bookings by User Groups															
Local	3	5	7	10	12	10	10	11	6				74		
Regional	1 - Big Bounce	1 - Alianza	1 - COPA Univision	0	0	0	0	1 - Cal North; 1 - Surf Cup; 1 - Passing Down	1 - Surf Cup						
Hours of City Use	14	0	0	15	17	13	0	0	0				59		
Major Hosted Events (500+ Attendees)															
Number of Major Events (OSC)	1 - Big Bounce (7/12-7/14; 7/18-7/21; 7/26-7/28)	1 - Alianza (8/24-8/25)	1 - Magic Cup (8/17-8/18)	1 - COPA Univision (9/14)	1 - Thriller (10/26-10/27)	1 - Distict Cup (Fall) (10/19-10/20)	1 - Distict Cup (A) (11/2-11/3)	1 - Distict Cup (B) (11/9-11/10)	1 - Cal North (2/7-2/9)	1 - Surf Cup (2/29)	1 - Passing Down (2/15-2/16)	1 - Surf Cup (3/1)			
Estimated Attendance	10,960	7,000-9,000	5,500-7,500	5,000-8,000	8,000-10,500	6,000-8,500	4,000-7,000	2,500-5,000	400-600	2,500-4,500	800-1,200	2,500-4,500			
Estimated % of Overnight Stays	unknown	10-20%	8-15%	5-10%	5-10%	5-10%	7%	5%	5-7%	6-8%	15-20%	6-8%			
Average Travel Distance to Reach Facility	20 miles	28 miles	23 miles	25 miles	25 miles	23 miles	20 miles	20 miles	33 miles	45 miles	104 miles	45 miles			
Financial															
Gross Receipts							see Quickbooks								
Net Profit							see Quickbooks								
Expenses							see Quickbooks								
Revenues							see Quickbooks								

Week Day Existing Rates

	MH Non Profit		MH Resident		Visitor Non Profit		Visitor	
	Turf	Grass	Turf	Grass	Turf	Grass	Turf	Grass
1-2 Fields	\$ 53	\$ 43	\$ 63	\$ 53	\$ 78	\$ 63	\$ 98	\$ 73
3-5 Fields	\$ 48	\$ 38	\$ 58	\$ 48	\$ 73	\$ 58	\$ 93	\$ 68
6-8 Fields	\$ 43	\$ 33	\$ 53	\$ 43	\$ 68	\$ 53	\$ 88	\$ 63
9-11 Fields	\$ 38	\$ 28	\$ 48	\$ 38	\$ 63	\$ 48	\$ 83	\$ 58

MH Non Profit Large Volume	
Turf	Grass
\$ 33	\$ 23

MH Non Profit Large Volume Weekend	
Turf	Grass
\$ 50	\$ 40

Weekend Rates	
Turf	Grass
\$150-200	\$95-125

Rates are hourly.

MH Non Profit Large Volume Rates for groups booking 250 hours plus annually.

Monday through Friday hours only, weekend hours do not apply.

Weekend usage/event rates are negotiated individually by MHOSC Director.

From: Christina Turner

To: Michelle Bigelow; Angie Gonzalez

Subject: Supplement for Item 9

Date: Monday, November 15, 2021

Q: Outdoor Sports Center (OSC) Use Update - Could you explain a little about the Lomanto property? Is it private property? Also, is the use of the property because there's no room on the OSC?

A: This property is owned by the City, but in the planning stages for future recreation facilities. However, it is granted to the MHOSC for parking use until the City develops those future facilities. Much of the site will ultimately be parking to support the facilities.

Q: "The OSC operator shall pay 75% of its net profits to the City to be held in a reserve fund for replacement of major facility components (including artificial turf fields). The City shall have no responsibility for operator deficits." Where is the reserve fund held? At City accounts or outside of the City such as a bank?

A: The money is held in City accounts.

Q: "The City committed to and funded approximately \$150,000 in improvements at the OSC to help return the site to good condition." Can you briefly explain these improvements?

A: These improvements were designated to occur ahead of the new operator taking on the facility. They included:

- Addition of a half soccer field
- Fencing to secure parking on the Lomanto Property
- Replace five 20' x 30' shade canopies covering fields #1 bleachers and three 18'x 23' shade canopies covering field #2 bleachers including fabric, attachments, and installation
- Power wash two sail canopies over picnic area, de-rust structure, and repaint structure where rusted
- Repair and repaint interior walls, ceilings, doors and trim as required on Main Building. Repair or replace any damaged fixtures, and/or hardware as may be required in both restrooms, both family restrooms, office, and kitchen/concession building.
- Service the two existing scoreboards on fields #1 and #2 and ensure they are operational
- Ensure the two drinking fountains at the turf fields are operational

- Ensure gates for the parking lot and both synthetic turf fields are operational

Q: Was remodeling the OSC bathrooms a budgeted item within the General Fund?

A: Yes, previously approved with the prior agreement.

Q: Was the new football scoreboard with horn and wireless controls a budgeted item within the General Fund?

A: Yes, previously approved with the prior agreement.

From: 2020 <[REDACTED]>

Sent: Wednesday, November 17, 2021 2:22 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] Morgan Hill Outdoor Sports Center - Questions and Concerns on Local Use as per Contract

Dear Morgan Hill City Council Member,

I have concerns over the use of the the Morgan Hill Outdoor Sports Center (MHOSC).

From my understanding, MHOSC should have access by local clubs with cost recovery by the community.

According to the information reviewed, the questions should be asked and answered:

*2492 hours were allocated to local users and a **breakdown of these hours should include:***

- ***name** of sports club, middle school, and high school*
- ***how many hours** for each of the sports club, middle school, and high school*
- *describe the **sports type** for each sports club, middle school, and high school*
- *75% of the hours was allocated for local use (Toros, Audax, city schools), what is the percentage used between these 3 groups*

*1212 hours were allocated to regional users and a **breakdown of these hours should include:***

- *what is the definition of regional users*
- *provide the same information as above for local users*

What is the definition of fiscal year?

Also, the Sentinels Soccer Club is the 2nd largest soccer club (just below Toros) in the city of Morgan Hill serving the **lower socioeconomic families** who would otherwise not be able to afford soccer.

The Sentinels Soccer Club has not rented the soccer fields this fall season as there was no availability according to the MHOSC schedule.

But, if someone were to drive by the MHOSC, you will see that not all fields are being utilized.

MHOSC should provide a state of revenue and expense details as organizers of MHOSC claim that no profit has been made in the past 2 years.

The community would like to see the direct source of this information as this is a city facility currently being run by a private corporation with no oversight or accountability.

Roberto Aguirrez

From: [Shawn Zahraie](#)
To: [CC Public Comment](#)
Cc: [Chris Ghione](#); [Lisa Schmidt](#); [Chris Monahan](#); [Bob Joyce](#)
Subject: [EXTERNAL] Reference item#9 : Thank you for your support
Date: Wednesday, November 17, 2021 5:45:21 PM

Reference for item#9

Thank you.
Shawn

Shawn Zahraie
Director of Operations
Morgan Hill Outdoor Sports Center
[REDACTED]

Sent via the Samsung Galaxy Note9, an AT&T 5G Evolution capable smartphone

----- Original message -----

From: Paul Richey <[REDACTED]>
Date: 11/17/21 3:58 PM (GMT-08:00)
To: Shawn Zahraie <s[REDACTED]>
Subject: Thank you for your support

Shawn

The South County Outlaws lacrosse program is looking forward to another successful Spring season in 2022. We wanted to thank you for your support last season during a reopening phase after the covid-19 shutdown. We realize you were operating under strict guidelines while trying to work with local clubs to restart. You made the scheduling process very easy by allowing us to see which fields are available on which dates and for us to book our full practice and game schedule in advance. This helped manage the expectations of both the coaches and the families. We also appreciate the upgrades you have been making to the complex and look forward to the new trees to mature and provide much needed shade. Given we are a non-profit bringing the not so well known sport of lacrosse to our community we are faced with keeping expenses as low as possible. We feel the rates for the fields are fair and you have worked with us to modify field bookings as our needs changed throughout the season.

Thanks again.

Paul
South County Outlaws Board Member

WARNING: This message is from an external user. Confidential information such as social security numbers, credit card numbers, bank routing numbers, gift card numbers, wire transfer information and other personally identifiable information should not be transmitted to this user. For question, please contact the Morgan Hill IT Department by opening a new helpdesk request online or call 408-909-0055.

From: Christina Turner

To: Michelle Bigelow; Angie Gonzalez

Subject: Supplement for Item 10

Date: Monday, November 15, 2021

Q: "The proposed project, Rosewood by Brookfield, (previously known as Lillian Commons, also referred to as Juan Hernandez - MH Medical Properties) ..." Why was there a name change?

A: There was a change in ownership. Juan Hernandez refers to the location, and Rosewood is the name chosen by the current owner.

Q: "In this scenario, half of the IHO obligation would be met with a housing in-lieu fee; thus, nine (9) of the 18 required BMR units would be paid for and not constructed. The other 9 BMR units would be built under the existing policies of the IHO and sold to first-time homebuyers at 120% of the Area Median Income (AMI). (See 2021BMR Sales Price table) The City would receive housing in-lieu fees totaling \$2,378,824.29 (or \$264,313.81 per each of the nine BMRs) prior to issuance of building permits per the agreed upon phasing schedule."

So, it sounds like 9 units won't be built at this location but reserved to be built at some other location, what are those proposed locations and time frames?

A: Yes, that is correct, the nine BMR income-based homes would be built at a future 100% affordable housing development, financed by tax credits and other funding sources. The ability to leverage outside funding allows us to develop more than the 9 units. The project specifics and locations are to be determined; however, it would need to have a Certificate of Occupancy after June 30, 2022, to count towards the next 6th RHNA cycle.

Q: "The proposal was analyzed with respect to consistency with the 2015-2023 Housing Element Strategies: 2) Build housing for groups with special needs." Could you elaborate more specifically on special needs?

A: Special needs is loosely defined. It could include a wide range of target populations, including seniors with needs, adult youth exiting out of the foster care system, formerly homeless, families at risk of homelessness, people experiencing mental illness, individuals with intellectual disabilities, physically disabled, HIV/AIDS and substance dependent households.

Q: "Alternative Actions: The City Council could choose to not allow a 50% in-lieu payment for the required BMR requirement and require the developer to construct all 18 units. This alternative would also satisfy the IHO obligation."

What are the benefits of reserving the 9 units for future builds?

A: Accepting a Housing In-Lieu fee on behalf of the 9 units provides the City with the ability to influence and facilitate projects that will help meet its Regional Housing Needs Allocation (RHNA) goals, specifically the Extremely Low Income and Very Low-Income categories that the City struggles to achieve. If the City does not want to be subjected to SB 35 in the future, it must meet its RHNA goals in each category. SB 35 requires that projects be constructed through a streamlined ministerial review process. It eliminates public engagement, expedites the entitlement process, and waives or reduces parking requirements if the project is within ½ mile of transit regardless of transit service. SB35 applies when a municipality has not met their total RHNA allocation in each income category. Accepting funding allows the City to meet its lower income goals earlier on in the next housing cycle.



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, November 17, 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>](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

CLOSED SESSIONS ARE NOT OPEN TO THE PUBLIC. YOU MAY JOIN THE MEETING AT 6:00 P.M. TO SUBMIT PUBLIC COMMENT FOR CLOSED SESSION ITEMS THEN EXIT AND REJOIN THE REGULAR MEETING AT 7:00 P.M.

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

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Authority: Government Code 54957(b)(1)

Title: City Manager

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Authority: Government Code 54957(b)(1)

Title: City Attorney

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 # 34- Cultural Competence

PROCLAMATIONS

Proclaiming the month of November 2021 as Family Court Awareness Month

November 17, 2021

Proclaiming the month of November 2021 as Alzheimer's Awareness Month

Proclaiming the month of November 2021 as Native American Heritage Month

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. ACCEPT RESIGNATION OF PLANNING COMMISSIONER JUAN MIGUEL MUNOZ MORRIS

Recommendation:

1. Accept Juan Miguel Munoz Morris' resignation from the Planning Commission effective immediately; and
2. Direct the City Clerk to continue recruitment efforts to fill an unexpired term ending June 2023, on the Planning Commission.

2. ADOPT RESOLUTION AUTHORIZING THE GRANT APPLICATION, ACCEPTANCE, AND EXECUTION FOR THE FY 2021/2022 DROUGHT RELIEF WATER SUPPLY PROJECT

Recommendation:

Adopt resolution to:

1. Authorize the grant application, acceptance, and execution for the FY 2021/2022 Drought Relief Water Supply Project; and
2. Authorize the City Manager to execute documents required to apply and accept the grant for the City.

3. APPROVE CONSULTANT AGREEMENT WITH SANDIS CIVIL ENGINEERS SURVEYORS PLANNERS IN THE AMOUNT NOT TO EXCEED \$260,500 FOR ENGINEERING DESIGN SERVICES FOR JACKSON OAKS AND EL TORO UTILITY ACCESS ROADS DESIGN

Recommendation:

1. Adopt resolution amending the Fiscal Year 2021-22 Adopted CIP Budget to appropriate \$200,000 from the Sewer Capital Improvements Project Fund (Fund 643) for Engineering Services for Jackson Oaks Access Roads Design, and \$60,500 from the Water Capital Improvements Project Fund (Fund 653) for Engineering Services for El Toro Access Roads Design; and
2. Authorize the City Manager to execute a consulting agreement with Sandis Civil Engineers Surveyors Planners in the not to exceed amount of \$260,500 for Engineering Services for Jackson Oaks and El Toro Access Roads Design.

4. APPROVE EXEMPTION TO STREET TREE MASTER PLAN FOR FOUR TREES ON THE SOUTHWEST CORNER OF MONTEREY ROAD AND FIRST STREET

Recommendation:

Approve an exemption to the Street Tree Master Plan for the installation of Olive trees to replace Black Locust trees in the Downtown near First Street.

5. APPROVE MEMORANDUM OF UNDERSTANDING (MOU) WITH THE AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES (AFSCME), MOU WITH MORGAN HILL POLICE OFFICERS' ASSOCIATION (POA) AND CORRESPONDING SALARY SCHEDULES; AND APPROVE MANAGEMENT, PROFESSIONAL, AND CONFIDENTIAL EMPLOYEES RESOLUTION, PART-TIME TEMPORARY AND SEASONAL EMPLOYEES SALARY SCHEDULE

Recommendation:

1. Approve a Memorandum of Understanding (MOU) with AFSCME effective December 26, 2021 – December 31, 2023 and corresponding salary schedules;
2. Approve a MOU with POA effective December 26, 2021 - December 31, 2023 and corresponding salary schedules;
3. Approve the Management, Professional, and Confidential Employees Resolution effective December 26, 2021 and corresponding salary schedules; and
4. Approve the Part-Time Temporary and Seasonal Employees salary schedule effective January 1, 2022.

6. APPROVE THE NOVEMBER 3, 2021 MEETING MINUTES

Recommendation:

Approve Minutes.

7. RECEIVE REPORT REGARDING UPCOMING 2022 COMMISSION VACANCIES - PER MADDY ACT

Recommendation:

Receive report.

OTHER BUSINESS

8. INTRODUCE ORDINANCE MANDATED BY SB 1383 REQUIRING ORGANIC WASTE DISPOSAL REDUCTION THROUGH ORGANIC WASTE RECYCLING AND EDIBLE FOOD RECOVERY PROGRAMS

Recommendation:

1. Waive first and second reading of the ordinance updating Section 13.28, Solid Waste Collection and Disposal, of the City of Morgan Hill Municipal Code in order to institute the mandatory organic waste disposal reduction requirements required by California law; and
2. Introduce the ordinance.

Estimated Time: 30 Minutes

9. RECEIVE OUTDOOR SPORTS CENTER USE UPDATE

Recommendation:

Receive report on the Outdoor Sports Center.

Estimated Time: 45 Minutes

10. APPROVE AN AFFORDABLE HOUSING AGREEMENT WITH BROOKFIELD PROPERTIES FOR THE RESIDENTIAL DEVELOPMENT ROSEWOOD, BFH CM, LLC. TO ACCEPT A HOUSING IN-LIEU FEE AS SATISFACTION FOR 50% OF THE INCLUSIONARY REQUIREMENT

Recommendation:

Authorize the City Manager to execute an Affordable Housing Agreement with BFH CM, LLC. The agreement will be negotiated and subject to the review and approval by the City Attorney.

Estimated Time: 10 Minutes

11. REVIEW AND APPROVE THE UPDATED CITY COUNCIL MEETING POLICY AND 2022 CITY COUNCIL MEETING SCHEDULE

Recommendation:

Review and approve:

1. Updated City Council Meeting Schedule Policy (City Council Policy 06-02); and
2. The 2022 City Council meeting schedule.

Estimated Time: 10 Minutes

12. SELECT AND APPOINT CITY COUNCIL MAYOR PRO TEMPORE

Recommendation:

1. Open floor to nomination(s) for Mayor Pro Tempore; and
2. Select a Council Member to serve as Mayor Pro Tempore per City Council Policy 99-01.

Estimated Time: 15 Minutes

FUTURE COUNCIL INITIATED AGENDA ITEMS

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

ADJOURNMENT

NOTICE

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

PUBLIC COMMENT

Members of the Public are entitled to directly address the City Council concerning any item that is described in the notice of this meeting, before or during consideration of that item. If you wish to address the Council on any issue that is on this agenda, please complete a speaker request card located in the foyer of the Council Chambers and deliver it to the Minutes Clerk prior to discussion of the item. You are not required to give your name on the speaker card in order to speak to the Council, but it is very helpful. When you are called, proceed to the podium and the Mayor will recognize you. If you wish to address the City Council on any other item of interest to the public, you may do so during the public comment portion of the meeting following the same procedure described above. Please limit your comments to three (3) minutes or less.

Please submit written correspondence to the Minutes Clerk, who will distribute correspondence to the City Council.

Persons interested in proposing an item for the City Council agenda should contact a member of the City Council who may plan an item on the agenda for a future City Council meeting. Should your comments require Council action, your request may be placed on the next appropriate agenda. Council discussion or action may not be taken until your item appears on an agenda. This procedure is in compliance with the California Public Meeting Law (Brown Act) Government Code §54950.

City Council Policies and Procedures (CP 03-01) outlines the procedure for the conduct of public hearings. Notice is given, pursuant to Government Code Section 65009, that any challenge of Public Hearing Agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to the Public Hearing on these matters.

The time within which judicial review must be sought of the action by the City Council, which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.

For a copy of City Council Policies and Procedures CP 97-01, please contact the City Clerk's office (408) 779-7259, (408) 779-3117 (fax) or by email cityclerk@morganhill.ca.gov.

AMERICANS WITH DISABILITIES ACT (ADA)

In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact the City Clerk's Office at (408)779-7259, (408)779-3117 (fax) or by email cityclerk@morganhill.ca.gov. Requests must be made as early as possible and at least two-full business days before the start of the meeting.

SUSTAINABLE MORGAN HILL



VISION

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

Choose Morgan Hill

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

City Council Ongoing Priorities

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

2020-2021 Strategic Priorities

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



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

Supplement & Presentation List

November 17, 2021

City Council Meeting

Supplements

Item 1- Supplement 1 – Water Grant – Email from Doug Muirhead w/ response

Item 4- Supplement 1 – Trees – Email from Armando Benavides

Item 4- Supplement 2 – Trees – Q&A

Item 4- Supplement 3 – Trees – Q&A

Item 5- Supplement 1 – MOUs – AFSCME MOU

Item 5- Supplement 2 – MOUs – POA MOU

Item 8- Supplement 1 – Organic Waste – Q&A

Item 9- Supplement 1 – OSC – Email from Armando Benavides w/ response

Item 9- Supplement 2 – OSC – Q&A

Item 9- Supplement 3 – OSC – Q&A

Item 9- Supplement 4 – OSC – Email from Roberto Aguirrez

Item 10- Supplement 1 – Housing – Q&A

Presentations

YAC Presentation

Item 8- Organic Waste- Staff Presentation

Item 9- OSC – Consultant Presentation



November

Developmental Asset #34

Cultural Competence

Young person has knowledge of and comfort with people of different cultural/racial/ethnic backgrounds.



November

Complementary Asset #33

Interpersonal Competence

Young person has empathy, sensitivity, and friendship skills.

Aadhavan Magesh, YAC Secretary

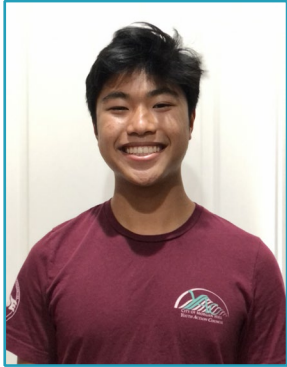


→ How does cultural competence impact a community?

- ◆ Promotes safety
- ◆ Establishes connections
- ◆ Gain new experiences



Andrew Nguyen, YAC Co-Media Ambassador



→ Why is cultural competence important for young people?

- ◆ Supportive environment
- ◆ Understanding new cultures
- ◆ Accepting of different traditions



Logan Guire YAC Active Member



- How does understanding ethnic backgrounds enhance a community?
- ◆ Respect of traditions and cultures
 - ◆ Stronger cohesion
 - ◆ Empathy



Question to Council

What is a lesson you have learned about cultural competence in your life?





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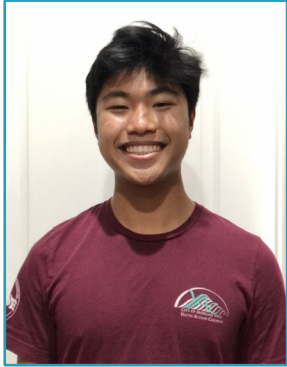


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