



REGULAR MEETING OF THE MILPITAS CITY COUNCIL

AGENDA

TUESDAY, MAY 16, 2023

CITY COUNCIL CHAMBERS, 455 E CALAVERAS BLVD, MILPITAS, CA

6:00 PM (CLOSED SESSION)

7:00 PM (PUBLIC BUSINESS)

For assistance in the following languages, you may call:

Đối với Việt Nam, gọi 408-586-2400

Para sa Tagalog, tumawag sa 408-586-3051

Para español, llame 408-586-3072

The City Council meeting is held in the City Council Chamber at City Hall, 455 E. Calaveras Blvd., Milpitas and via teleconference/Zoom webinar.

You may watch the Council meeting without providing public comment by accessing it via links here.

Meeting shall be livestreamed - Go to:

Facebook: <https://www.facebook.com/CityofMilpitas/>

YouTube: <https://www.milpitas.gov/youtube>

Web Streaming: <https://www.milpitas.gov/webstreaming>

PUBLIC COMMENT INSTRUCTIONS

Oral public comments may be provided live during the City Council meeting in person or by registering for the zoom meeting in advance. To register you will need to provide an email address (not disclosed) and a name. To minimize technical difficulties, please make sure that you have the latest version of the Zoom Application. Below is the link to register for this meeting only:

https://ci-milpitas-ca-gov.zoom.us/webinar/register/WN_KIZP29aHRK-XUqLY1ZHxqg

After you register a link will be sent to you to join the City Council meeting in order to give your comments. All Zoom meeting attendees who wish to speak must click on the "raise hand" icon when the Mayor calls for public comments. If participating via phone, dial *9 to use the "raise hand" feature, and when called to speak, dial *6 to unmute your phone. Your phone number will be displayed in the live meeting. The Mayor will call speakers by name to address the City Council.

All comments provided shall be limited to three minutes or less as determined by the Mayor. All members of the public will be limited to one comment per agenda item, and one comment for non-agenda items.

NOTE: If a member of the public wishes to share any presentation materials for Council consideration, they must be submitted to the Clerk's Office by email to CityClerk@milpitas.gov by 12:00 p.m. on the day of the meeting. No presentations will be accepted in person in the Council Chambers.

MILPITAS CITY COUNCIL CODE OF CONDUCT

- Be respectful and courteous (words, tone, and body language).
- Model civility.
- Avoid surprises.
- Praise publicly and criticize privately.
- Focus on the issue, not the person.
- Refrain from using electronic devices while on the Council dais.
- Disclose conflicts of interest and affiliations related to agenda items.
- Separate governing from campaigning.
- The Council speaks with one voice after making policy on issues.
- Respect the line between policy and administration.
- Council will hold one another accountable to comply with this Code of Conduct.

CALL MEETING TO ORDER by Mayor and ROLL CALL by City Clerk (6:00 PM)

ADJOURN TO CLOSED SESSION

(a) CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

Agency designated representative: Nick Raisch, Human Resources Director

Bargaining unit: LIUNA, UPEC (Pro-Tech, MEA, MidCon), IAFF, MPOA

(b) CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION

Pursuant to Government Code Section 54956.9(d)(1)

City as Defendant

Hanhong Chen, et al. v. City of Milpitas, et al., Santa Clara Superior Court case number 22CV393670

(c) PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to California Government Code Section 54957

Position: City Attorney

CLOSED SESSION ANNOUNCEMENT:

Report on action taken in Closed Session, if required per Government Code Section 54957.1, including the vote or abstention of each member present.

PLEDGE OF ALLEGIANCE

INVOCATION (Mayor Montano)

PRESENTATIONS (7:05 PM)

- Asian Pacific American Heritage Month (Proclamation)
- Public Works Week (Proclamation)
- Certificates for Earth Day and Library and Education Advisory Commission Essay Winners
- Certificates for Milpitas High School students: Sydney Moon and Sukhad Mutakar

PUBLIC FORUM (7:15 PM)

Members of the public are invited to speak on any item that does not appear on today's agenda. Comments will be limited to three minutes or less at the Mayor's discretion. When called to speak, you are encouraged to state your name for the record. As an item not listed on the agenda, no action can be taken, however the City Council may instruct the City Manager to place the item on a future meeting agenda.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

READING OF THE CITY COUNCIL CODE OF CONDUCT

APPROVAL OF AGENDA

CONSENT CALENDAR (7:20 PM)

Consent calendar items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a City Councilmember, member of the audience or staff requests the Council to remove an item from (or be added to) the consent calendar. Any person desiring to speak on any item on the consent calendar should ask to have that item removed from the consent calendar.

C1. Receive City Council Calendar of Meetings for May and June 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Receive City Council Calendar of Meetings for May and June 2023.

C2. Approve City Council City Council Meeting Minutes of April 25 and May 2, 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Approve City Council Special Meeting minutes of April 25, 2023 and Regular Meeting minutes of May 2, 2023.

C3. Receive the Preview List of Anticipated Items for the Next Regular City Council Meeting (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Receive the list of anticipated agenda items for the next regular City Council meeting.

C4. Receive and Review the List of Agenda Items Requested by City Councilmembers (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Review the list of items that have been requested by City Councilmembers and provide direction to staff as necessary. No substantive discussion about any specific item shall occur and the City Council shall hold all debate about the item until it is scheduled as a full agenda item.

C5. Consider the Recommendation from Mayor Montano for Appointments to City Commissions and Declare an Unscheduled Vacancy (Contact: Mayor Montano, 408-586-3024)

Recommendation: (1) Receive the recommendation from Mayor Montano and approve appointments to City Commissions; and (2) Declare an unscheduled vacancy on the Senior Advisory Commission and direct the City Clerk to post the notice of unscheduled vacancy.

C6. Authorize and Approve Out-of-State Travel to Columbus, OH, for Mayor Carmen Montano to Attend the United States Conference of Mayors to be Held on June 2 – 5, 2023, for a Combined Total Estimated Amount of \$3,500.00 (Staff Contact: Ashwini Kantak, Acting City Manager, 408-586-3053)

Recommendation: Authorize and approve out-of-state travel to Columbus, OH, for Mayor Carmen Montano to attend the United States Conference of Mayors to be held on June 2 – 5, 2023, for a combined total estimated amount of \$3,500.00.

C7. Adopt a Resolution Granting Acceptance of Fire Station No. 2 Replacement, Project No. 3447, Authorizing the City Engineer to file a Notice of Completion, and Authorizing the City to Issue a Notice of Final Acceptance after the One-Year Warranty (Staff Contact: Michael Silveira, Capital Improvement Program Manager, 408-586-3303)

Recommendation: Adopt a resolution granting acceptance of Fire Station No. 2 Replacement, Project No. 3447, authorizing the City Engineer to file a Notice of Completion, and authorizing the City Engineer to issue a Notice of Final Acceptance after the one-year warranty.

C8. Adopt a Resolution Designating Project No. 4305 Street Resurfacing 2023-2024 to be Funded by SB-1 The Road Repair and Accountability Act of 2017 (Staff Contact: Matt Cano, Deputy City Manager, 408-586-3012)

Recommendation: Adopt a resolution designating Project No. 4305 Street Resurfacing 2023-2024 to be funded by SB-1 the Road Repair and Accountability Act of 2017.

C9. Adopt a Resolution Approving the Annual Engineer's Report, Adopt a Resolution Declaring the City Council's Intention to Levy and Collect Assessments, and Provide Notice of Public Hearing to be held on June 20, 2023 for Landscaping and Lighting Maintenance Assessment District No.

95-1 (LLMD 95-1 McCarthy Ranch) (Staff Contact: Roberto Alonzo, Principal Civil Engineer, 408-586-3316)

Recommendation: Adopt a resolution approving the Annual Engineer's Report, adopt a resolution declaring the City Council's intention to levy and collect assessments, and provide notice of public hearing to be held on June 20, 2023, for LLMD 95-1 McCarthy Ranch.

C10. Adopt a Resolution Approving the Annual Engineer's Report, Adopt a Resolution Declaring the City Council's Intention to Levy and Collect Assessments, and Provide Notice of the Public Hearing to be held on June 20, 2023, for Landscaping and Lighting Maintenance Assessment District No. 98-1 (LLMD 98-1 Sinclair Horizon) (Staff Contact: Roberto Alonzo, Principal Civil Engineer, 408-586-3316)

Recommendation: Adopt a resolution approving the Annual Engineer's Report, adopt a resolution declaring the City Council's intention to levy and collect assessments, and provide notice of the Public Hearing to be held on June 20, 2023, for LLMD 98-1 Sinclair Horizon.

C11. Adopt a Resolution Granting Acceptance of Delano Manongs Park (Formerly Known as McCandless Park), Project No. 2005, 5102, 7076, Authorizing the City Engineer to File a Notice of Completion, and Authorizing the City to Issue a Notice of Final Acceptance after the One-Year Warranty (Staff Contact: Michael Silveira, Capital Improvement Program Manager, 408-586-3303)

Recommendation: Adopt a resolution granting acceptance of Delano Manongs Park (formerly known as McCandless Park), Project No. 2005, 5102, 7076, authorizing the City Engineer to file a Notice of Completion, and authorizing the City Engineer to issue a Notice of Final Acceptance after the one-year warranty.

C12. FY 2022-23 3rd Quarter Financial Status Report for the Quarter Ended March 31, 2023 (Staff Contact: Lauren Lai, Finance Director, 408-586-3111)

Recommendation: Review the FY 2022-23 Quarterly Financial Status Report for the quarter ended March 31, 2023.

C13. Adopt a Resolution Approving a Site Development Permit and Amending the Previously Approved Design Standards of an Existing Planned Unit Development (PUD No. 68, Countryside Estates) to Allow Development of a New One-Story Single-Family Residence on a Vacant 1.653-Acre Lot Located in the R1-H Single-Family Residential Zoning District and Hillside Combining District at 1311 Countryside Court (Staff Contact: Ned Thomas, Planning Director, 408-586-3273)

Recommendation: Consider the exemption in accordance with CEQA and adopt a resolution approving Site Development Permit No. SD21-0010 and PUD Amendment Permit No. PA21-0003, subject to the attached Conditions of Approval.

C14. Adopt a Resolution to Terminate the Water Shortage Level 2 Drought Emergency (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; and Elaine Marshall, Deputy Public Works Director, 408-586-2603)

Recommendation: Adopt a resolution terminating the City's Level 2 Water Shortage Emergency.

C15. Receive an Update on the Emergency Repairs to the HVAC System and Equipment at City Hall and at the Public Works/Information Technology/Police Department Buildings and Determine that the Condition Continues to Constitute an Emergency (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)

Recommendation: (1) Receive an update on the emergency repairs to the HVAC system and equipment at City Hall and at the Public Works/Information Technology/Police Department Buildings; and (2) Determine by a four-fifths vote that the condition continues to constitute an emergency.

C16. Approve Parks and Recreation and Community Services Programs Donation for a Memorial Bench in Honor of Dale Flunoy (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)

Recommendation: Approve the Parks and Recreation Donation for a Memorial Bench for Dale Flunoy.

C17. Approve Amendment No.1 to the Memorandum of Understanding with the MUSD for Expansion of After the Bell for the Extended Learning Opportunities Program (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)

Recommendation: Authorize the Acting City Manager to approve Amendment No.1 to the Memorandum of Understanding with the MUSD for expansion of After the Bell for the Extended Learning Opportunities Program.

C18. Consider One Fee Waiver Request and One Donation Request from Show Up and Love and Contemporary Asian Theatre Scene (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)

Recommendation: (1) Approve a Fee Waiver of \$700.00 for the Show Up & Love 1st Annual Fundraiser Cook off for Love at the Barbara Lee Senior Center Community Room on Sunday, July 16, 2023; and (2) Approve a donation of \$500.00 to the Contemporary Asian Theatre Scene to help pay for the cost of renting one theatre from Century Theatres on Tuesday, May 30, 2023.

C19. Adopt a Resolution to Supersede Resolution 9145 to update City Event Celebration Flags and/or other Commemorative Flags at Cesar Chavez Plaza (Staff Contact: Renee Lorentzen, Director of Recreation and Community Services, 408-586-3409)

Recommendation: Adopt a resolution to supersede Resolution No. 9145 updating City Event Celebration Flags and/or other Commemorative Flags at Cesar Chavez Plaza.

PUBLIC HEARINGS (7:30 PM)

Members of the public may be allotted up to three (3) minutes or less at the Mayor's discretion, to comment on any public hearing item. Applicants/Appellants and their representatives may be allotted up to a total of ten (10) minutes for opening statements and up to a total of five (5) minutes maximum for closing statements. Items requested/recommended for continuance are subject to Council's consent at the meeting.

20. Hear Administrative Appeal of Hearing Officer's Decision Upholding the Police Chief's Denial of a Massage Establishment Permit (Staff Contact: Michael Mutalipassi, City Attorney, 408-586-3041, Christopher Creech, Assistant City Attorney, 408-586-3049)

Recommendation: (1) Open a public hearing; (2) Take evidence in accordance with MMC I-20-3.02; and (3) vote to (i) uphold the previous decision, or (ii) reverse and remand the decision for further consideration, or (iii) reverse the decision (without remand) and reach an opposite decision, or (iv) modify the previous decision, or (v) add new or additional conditions to the permit with additional notice, or (vi) continue the matter for further discussion for a meeting no later than 60 days from the date of the close of evidence.

COMMUNITY SERVICES AND SUSTAINABLE INFRASTRUCTURE (8:30 PM)

21. Receive Presentation from Staff on Exploratory Storm Drain System Funding Options (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)

Recommendation: Receive an informational presentation on the Preliminary Stormwater Funding Options Analysis and provide feedback to staff.

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS (9:30 PM)

Members of the City Council or City Manager may make brief announcements at this time. Members of the City Council may also suggest future agenda items. For future agenda items, the City Council shall not debate the topic or engage in discussion but shall simply state a “yes” or “no” as whether to move the item forward. If a majority of the City Council agrees to move the item forward, the City Manager shall place the item on a future agenda.

ADJOURNMENT (9:35 PM)

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions and other City agencies exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and City operations are open to the people's review. For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035
e-mail: mmutalipassi@milpitas.gov / Phone: 408-586-3040

The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website www.milpitas.gov by selecting the Milpitas Municipal Code link.

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3rd floor 455 E. Calaveras Blvd., Milpitas and on City website. City Council agendas and related materials can be viewed online: www.milpitas.gov/government/council/agenda_minutes.asp (select meeting date)

APPLY TO SERVE ON A CITY COMMISSION

Commission application forms are available online at www.milpitas.gov or at Milpitas City Hall. Contact the City Clerk's Office at 408-586-3001 for more information.

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, please call the City Clerk at 408-586-3001 or send an e-mail to CityClerk@milpitas.gov prior to the meeting. You may request a larger font agenda.

April 2023						
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Milpitas City Council Calendar

May 2023

June 2023						
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Item # C1.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1 7:00 PM-Parks, Recreation & Cultural Resources Commission (HL)	2 5:30 PM-Closed Session 7:00 PM-City Council	3 2:00 PM-Santa Clara VTA Monthly Briefing - Northeast Group (CM) 7:00 PM-Community Advisory Commission (EC)	4 5:30 PM-Santa Clara VTA Board of Directors (CM) 5:30 PM-Milpitas Chamber of Commerce Board (GB)	5	6
7	8 4:30 PM-Economic Development and Trade Commission (CM)	9 5:30 PM-City Council Special Meeting: Budget Study Session Senior Center, Room 140/141	10 7:00 PM-Planning Commission 7:00 PM-Silicon Valley Clean Energy Board of Directors (EC) (Cupertino)	11 11:00 AM-City Council Finance Subcommittee (CM/EC) 4:00 PM-Santa Clara VTA Policy Advisory Committee (EC) 5:30 PM-Cities Assoc of SCC Legislative and City Selection Committees (CM) (Mountain View) 6:00 PM-Youth Advisory Commission (HL) 7:00 PM-Cities Assoc of SCC (CM) (Mountain View)	12	13
14	15 7:00 PM-Special Meeting: Science, Technology, and Innovation Commission (GB) 7:00 PM-Library and Education Commission (EC) (Milpitas Public Library)	16 6:00 PM-Closed Session 7:00 PM-City Council	17 2023 New Mayors Cohort hosted by Mayors Innovation Project, Madison, WI (Mayor Montano) 6:00 PM-Energy and Environmental Sustainability Commission (EC)	18 4:00 PM-Treatment Plant Advisory Committee (CM) (San Jose) 6:30 PM-Bay Area Water Supply Conserv Agency (CM) (Oak Room - San Mateo Main Library) 7:00 PM-Public Safety and Emergency Preparedness Commission (HL)	19	20
21	22 7:00 PM-Arts Commission (EC)	23 Tent: 5:30 PM-City Council Special Meeting 6:00 PM-Zoning Advisory Group	24	25 1:30 PM-SCC Emergency Operational Area Council Meeting (CM) (San Jose) 4:00 PM-City/School Collaborative Subcommittee (CM/EC) (Randall School) 4:00 PM-Silicon Valley Regional Interoperability Authority (SVRIA) (GB) (Santa Clara)	26	27
28	29 9:00 AM-Memorial Day Ceremony, Civic Center Plaza  City Hall Closed	30	31			

*Finance Subcommittee will only meet as needed

May 2023						
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Milpitas City Council Calendar

June 2023

July 2023						
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Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1 5:30 PM -Milpitas Chamber of Commerce Board (GB) 5:30 PM -Santa Clara VTA Board of Directors (CM)	2	3
4	5 7:00 PM -Parks, Recreation & Cultural Resources Commission (HL)	6 6:00 PM -Closed Session 7:00 PM -City Council	7 5:30 PM -Veterans Commission (CM) 7:00 PM -Community Advisory Commission (EC)	8 4:00 PM -Treatment Plant Advisory Committee (CM) (San Jose) 4:00 PM -Santa Clara VTA Policy Advisory Committee (EC) 5:30 PM -Cities Assoc of SCC Legislative Action Committee (CM) 6:00 PM -Youth Advisory Commission (HL) 7:00 PM -Cities Assoc of SCC (CM)	9	10
11	12 4:30 PM -Economic Development and Trade Commission (CM)	13	14 4:00 PM -City Council Transportation Subcommittee (CM/EC) 7:00 PM -Silicon Valley Clean Energy Board of Directors (EC) (Cupertino) 7:00 PM -Planning Commission	15 5:30 PM -Measure F Oversight Committee 6:00 PM -General Plan Advisory Committee	16	17
18	19 7:00 PM -Science, Technology, and Innovation Commission (GB)	20 6:00 PM -Closed Session 7:00 PM -City Council	21 6:00 PM -Energy and Environmental Sustainability Commission (EC)	22	23	24
25	26	27 1:30 PM -Senior Advisory Commission (CM)	28 5:30 PM -Cities Assoc. of SCC - Recycling and Waste Reduction Commission (CM) 7:00 PM -Planning Commission	29	30	

**Finance Subcommittee will only meet as needed*



SPECIAL MEETING OF THE MILPITAS CITY COUNCIL

MINUTES TUESDAY, APRIL 25, 2023

The City Council of the City of Milpitas convened in a Special Meeting of the Milpitas City Council on April 25, 2023, in the Barbara Lee Senior Center, 40 N. Milpitas Blvd, Room 140/141, Milpitas, CA, and via teleconference/ Zoom webinar.

CALL MEETING TO ORDER by Mayor and ROLL CALL by City Clerk

Mayor Montano called the meeting to order at 5:31p.m. Roll Call was taken by City Clerk Guzzetta.

PRESENT: Mayor Montano, Vice Mayor Chua, Councilmembers Barbadillo, Lien and Phan.

ABSENT: Councilmember Barbadillo (5:35 pm).

PLEDGE OF ALLEGIANCE

Vice Mayor Chua led the pledge of allegiance.

PUBLIC FORUM

There were the following public speakers:

1. Mindy Zheng

Councilmember Phan requested to participate remotely pursuant to the AB 2449 emergency circumstances provision due to the birth of his child. Upon a call for the motion by Vice Mayor Chua and seconded by Councilmember Barbadillo, the request was approved unanimously.

Motion/Second: Vice Mayor Chua / Councilmember Barbadillo

AYES: Councilmembers Barbadillo, Lien, Vice Mayor Chua, and Mayor Montano

The City Council authorized Councilmember Phan's remote appearance pursuant to the emergency circumstances provision of AB2449.

ANNOUNCEMENT OF CONFLICT OF INTEREST

City Attorney Mutalipassi asked the Mayor and City Councilmembers if they had any personal conflicts of interest. By roll call, there were no conflicts of interest.

READING OF THE CITY COUNCIL CODE OF CONDUCT

Councilmember Lien read the City Council Code of Conduct.

APPROVAL OF AGENDA

Motion: to approve the April 25, 2023 Special Meeting Agenda.

Motion/Second: Vice Mayor Chua / Councilmember Barbadillo

Motion carried by the following:

AYES: Councilmembers Barbadillo, Lien, Phan, Vice Mayor Chua, and Mayor Montano

NOES: None.

AGENDA ITEMS

Receive Progress Report on the Work Completed and Community Feedback from Ascent Environmental and Staff on the Milpitas Gateway-Main Street Specific Plan, Provide Direction on Land Use, Mobility, and Public Realm Strategies and Alternatives, and Receive a Presentation on Ongoing Main Street Revitalization Efforts (Staff Contact: Ned Thomas, Planning Director, 408-586-3273; Alex Andrade, Economic Development Director, 408-586-3046; and Jay Lee, Principal Planner, 408-586-3077)

Assistant City Manager Kantak and Planning Director Thomas provided introductory remarks. Principal Planner Lee presented the report, joined by Ascent Environmental Consultants Christine Barbla and Anh Thai, and BAE Consultant David Shiver.

Mayor Montano voiced concerns with the scope of the presentation covering four areas. She noted that her understanding was to first focus on one area and then the other areas would be phased in, starting with Marilyn to Corning Streets as the historic section that needs revitalization. She asked about the recommended building heights. Planning Director Thomas responded that the General Plan defers to the Specific Plans for the land use in those designated areas. He noted that under current regulations it isn't enough for developers to invest. Mayor Montano suggested the area just be business instead of mixed use. She emphasized the importance of starting small scale and building from there. Planning Director Thomas responded that areas can be prioritized in the plan. Acting City Manager Kantak added that the City can prioritize implementation but that having the plan in place provides the opportunity to have an infrastructure plan and set impact fees. She noted that it's important to have plan adopted and in place.

Vice Mayor Chua questioned the timeline and asked if there was a way to reduce the time required to adopt the plan. Acting City Manager Kantak noted that environmental documents take time to be certified. Vice Mayor Chua recommended cutting unnecessary items from the timeline such as workshops that have already been conducted. She asked why the consultant recommended 4-5 stories for buildings in the plan. Consultant Barbla responded that studies show that additional floors increase feasibility. Planning Director Thomas added that it creates potential for developers and that additional height and density provides opportunity to meet City RHNA numbers. Vice Mayor Chua expressed concern with being locked into certain heights, expressed a desire for the possibility of greater numbers of floors, and asked if there could be a variance. Principal Planner Lee noted that a variance was possible and that a development with affordable housing could ask for even greater density.

Councilmember Lien urged the importance of moving the plan forward quickly. She asked about the incentives that could be offered to developers, if street parking should be metered, and branding. Principal Planner Lee noted the importance of creating a consistent atmosphere and that the City is looking into a more detailed program for branding. Councilmember Lien questioned plans to allow easier access to moving in and out of the area. Principal Planner Lee noted that the City is exploring options such as a stairway. The Councilmember agreed with prioritizing portions of the plan but stressed the importance of adopting the entire plan.

Councilmember Barbadillo questioned if the City is considering all adopted plans to create a greater vision, and noted the importance of making connections between plan visions. Consultant Barbla noted that one idea is creating a shuttle loop to link up to public transit. Councilmember Barbadillo questioned attracting economic development by looking at possible investors, asked what kind of investment the City is looking at regarding the plan, and what the City has learned since the Midtown plan was last looked at. Principal Planner Lee noted that much of the southern portion near the Great Mall was redeveloped in that period and was removed from the plan.

Councilmember Phan expressed appreciation for the staff and consultant team in their work with the plan.

Mayor Montano responded affirmatively to the Serra Way questions 1 for supporting up to 5-6 stories and 2 supporting the preferred Serra Way option.

Consultant Christine Barbla continued with the presentation. Planning Director Thomas noted that the idea for this is to slow the movement of vehicular traffic and create gathering places.

Mayor Montano suggested that in the Main Street Focus Area near Corning Street to consider placing a signal there to slow down traffic. She added that a park next to the library would be a good gathering place, agreed with limiting height to 4 or 5 stories, and expressed a desire for a museum in the area.

Vice Mayor Chua asked the height of the proposed development next to St. John Church. Principal Planner Lee responded that it is 3 or 4 stories.

Councilmember Lien questioned the plan for parking, noting that on street parking isn't enough to serve the area. Consultant Barbla noted that parking spot numbers won't be considered until receiving direction on density.

Councilmember Phan supported the staff recommendations for Main Street as a shared street and urged for anything to make the area more walkable.

Consultant Christine Barbla continued with the presentation and asked questions about the Abbot Focus Area. Economic Development Director Andrade responded to questions from the City Council.

Mayor Montano commented that the parcels are not owned by the City, and observed the City has limited ability to affect them as they are owned by the county and school district. Consultant Barbla noted that this area was added for the future and, if circumstances change, to provide guidance on what the city envisions for the area.

Vice Mayor Chua agreed that the Abbot Focus area be last in terms of prioritization. She emphasized the focus of the City need to be on Main Street from Marilyn to Curtis. She added that at the next review, she wants to see what can be done now and what can be done to prepare for the revitalization of Main Street while waiting to adopt the specific plan. Acting City Manager Kantak noted that current efforts will be featured later in the presentation.

Principal Planner Lee continued with the report.

Mayor Montano and Vice Mayor Chua voiced concerns about going out for another round of community feedback. Acting City Manager Kantak assured the Council that their feedback was received and staff would look at ways to streamline the process.

Economic Development Director Andrade and Recreation and Community Services Director Lorentzen presented the final portion of the report.

Vice Mayor Chua thanked Economic Development staff and asked if arts funding can be used for lights on Main Street. Recreation and Community Services Director Lorentzen stated it possible to use public art funding on a lighting installation that is both artist-designed and installed.

Mayor Montano asked for information on when the Business Improvement District meeting would occur. Economic Development Director Andrade responded that the kickoff meeting would occur virtually with the consultant on May 3, 2023. Mayor Montano suggested the recommended SPAR presents an opportunity for the City to use those funds to purchase one or two lots for parking.

There were the following speakers:

1. Christopher Denise from Stage One

ANNOUNCEMENTS

Mayor Montano and the Council offered congratulations to Councilmember Phan on the birth of his child.

ADJOURNMENT

Mayor Montano adjourned the meeting at 8:21 PM.

Draft meeting minutes submitted by City Clerk, Suzanne Guzzetta



REGULAR MEETING OF THE MILPITAS CITY COUNCIL

MINUTES
TUESDAY, MAY 2, 2023

The City Council of the City of Milpitas convened in a Regular Meeting of the Milpitas City Council on May 2, 2023, in the City Council Chamber at City Hall, 455 E. Calaveras Blvd., Milpitas, and via teleconference/ Zoom webinar.

CALL MEETING TO ORDER by Mayor and ROLL CALL by City Clerk

Mayor Montano called the Regular City Council meeting to order at 5:30 PM. Roll Call was taken by City Clerk Guzzetta.

PRESENT: Mayor Montano, Vice Mayor Chua, Councilmembers Barbadillo (5:50 PM), Lien and Phan.
ABSENT: None.

City Attorney Mutalipassi announced the closed session items. Staff announced that Closed Session Item (a) would be deferred to the next City Council meeting. The City Council adjourned to Closed Session at 5:32 PM.

ADJOURN TO CLOSED SESSION

(a) CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

Agency designated representative: Nick Raisch, Human Resources Director

Bargaining unit: LIUNA, UPEC (Pro-Tech, MEA, MidCon), IAFF, MPOA

(b) PUBLIC EMPLOYEE APPOINTMENT/HIRING

Title: City Manager Recruitment Process

Agency designated representative: Nick Raisch, Human Resources Director

(c) PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to California Government Code Section 54957

Position: City Attorney

The City Council reconvened in open session at 7:16 PM

CLOSED SESSION ANNOUNCEMENT:

Assistant City Manager Kantak stated there was nothing to report on Closed Session Items (a) and (c). City Attorney Mutalipassi reported that for Closed Session Item (b) the Council voted to form a City Manager Selection Subcommittee (Motion/Second: Vice Mayor Chua / Mayor Montano. Vote: 5-0), and then voted to appoint Mayor Montano and Vice Mayor Chua as the subcommittee members (Motion/Second: Mayor Montano / Vice Mayor Chua. Vote: 4-0-1; Abstain: Councilmember Lien).

PLEDGE OF ALLEGIANCE

Councilmember Phan led the Pledge of Allegiance.

INVOCATION

Mayor Montano provided the invocation.

PRESENTATIONS

Mayor Montano presented proclamations in recognition of Affordable Housing and Building Safety Month, Older Americans Month and Teacher Appreciation Week. Housing and Neighborhood Services Administrator Robert Musallam accepted the Affordable Housing and Building Safety Month proclamation and provided comments. Senior Advisory Commissioners Deborah Langley, Ha Phan, Nona Tolentino, Jenny Berryhill, and Barbara Jo Navarro accepted the Older Americans Month Proclamation. Senior Advisory Commission Chair Jenny Berryhill accepted the proclamation and Commission Staff Liaison John Macon provided comments. Weller Elementary School teacher Cyd Mathias accepted the Teacher Appreciation Week proclamation and provided comments.

PUBLIC FORUM

There were the following public speakers:

1. Voltaire Montemayor
2. Kavita Sreedhar
3. Kishan S

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Mutalipassi asked the Mayor and City Councilmembers if they had any personal conflicts of interest. By roll call, there were no conflicts of interest. City Attorney Mutalipassi asked the Mayor and City Councilmembers if they had any reportable campaign contributions. By roll call, there were no reportable campaign contributions.

READING OF THE CITY COUNCIL CODE OF CONDUCT

Vice Mayor Chua read the Code of Conduct.

APPROVAL OF AGENDA

Motion: to approve the May 2, 2023 Regular Meeting Agenda.

Motion/Second: Vice Mayor Chua / Councilmember Barbadillo

Motion carried by the following:

AYES: Councilmembers Barbadillo, Lien, Phan, Vice Mayor Chua, and Mayor Montano

NOES: None

Councilmember Phan requested to participate remotely due to a Just Cause accommodation pursuant to AB 2449 to assist with childcare. There were no questions from the City Council. Upon motion by Vice Mayor Chua, seconded by Councilmember Lien, the motion passed unanimously.

Motion/Second: Vice Mayor Chua / Councilmember Lien

AYES: Councilmembers Barbadillo, Lien, Vice Mayor Chua, and Mayor Montano

The City Council authorized Councilmember Phan's remote appearance pursuant to the Just Cause provision of AB 2449.

CONSENT CALENDAR

Motion: to approve the Consent Calendar

Motion/Second: Vice Mayor Chua / Councilmember Barbadillo

Motion carried by the following:

AYES: Councilmembers Barbadillo, Lien, Phan, Vice Mayor Chua, and Mayor Montano

NOES: None

There were no public speakers.

C1. Receive City Council Calendar of Meetings for May 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Received City Council Calendar of Meetings for May 2023.

C2. Approve City Council City Council Meeting Minutes of April 12 and April 18, 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Approved City Council Special Meeting minutes of April 12, 2023 and Regular Meeting minutes of April 18, 2023.

C3. Receive the Preview List of Anticipated Items for the Next Regular City Council Meeting (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Received the list of anticipated agenda items for the next regular City Council meeting.

C4. Receive and Review the List of Agenda Items Requested by City Councilmembers (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Reviewed the list of items that have been requested by City Councilmembers and provided direction to staff as necessary.

C5. Accept Commissioner Resignation (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Accepted the resignation of Patti Sexton from the Energy and Environmental Sustainability Commission and directed the City Clerk to post the notice of unscheduled vacancy.

C6. Consider the Recommendation from Mayor Montano for Appointments to City Commissions (Contact: Mayor Montano, 408-586-3024)

Received the recommendation from Mayor Montano and approved the following appointments to City Commissions:

Economic Development and Trade Commission:

1. Reappoint Casey McNeil to the Technology/Trades seat with a term ending April 2026.

Senior Advisory Commission:

1. Promote Barbara Jo Navarro to a full voting seat with an unexpired term ending December 2023.

C7. Authorize and Approve Travel to Madison, Wisconsin for Mayor Carmen Montano to Attend the 2023 Mayors Innovation Project New Mayors Cohort, at no Cost to the City, to be Held on May 17 – 19, 2023 (Staff Contact: Ashwini Kantak, Acting City Manager, 408-586-3053)

Authorized and approved travel to Madison, Wisconsin for Mayor Carmen Montano to attend the 2023 Mayors Innovation Project New Mayors Cohort, at no cost to the City, to be held on May 17 – 19, 2023.

C8. Adopt a Resolution Granting Acceptance of the Street Resurfacing 2022 Project, Project No. 4283, 4298, & 4303, Authorizing the City Engineer to file a Notice of Completion and Issue a Notice of Final Acceptance after the One-Year Warranty (Staff Contact: Matt Cano, Deputy City Manager, 408-586-3012)

Adopted **Resolution No. 9236** granting acceptance of the Street Resurfacing 2022 Project, Project NO. 4283, 4298, & 4303, authorizing the City Engineer to file a Notice of Completion and issue a Notice of Final Acceptance after the one-year warranty.

- C9. Award IFB 23-070 and Authorize the City Manager to Execute the Purchase Order with Core and Main for Valve Parts for the Not-to-Exceed Amount of \$135,866.71 (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)**

Awarded IFB 23-070 and authorized the City Manager to execute the purchase order with Core and Main for the purchase of valve parts for the not-to-exceed amount of \$135,866.71.

- C10. Receive a Report on the Selection of Representatives from Various City Commissions to Serve on the Zoning Advisory Group (ZAG) for the Comprehensive Zoning Update (Staff Contact: Ned Thomas, Planning Director, 408-586-3273)**

Received the report on the selection of representatives from various City Commissions to serve on the Zoning Advisory Group for the Comprehensive Zoning Update.

- C11. Receive an Update on the Emergency Repairs to the HVAC System and Equipment at City Hall and at the Public Works/Information Technology/Police Department Buildings and Determine that the Condition Continues to Constitute an Emergency (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)**

(1) Received an update on the emergency repairs to the HVAC system and equipment at City Hall and the Public Works/Information Technology/Police Department buildings; and (2) Determined by a four-fifths vote that the condition continues to constitute an emergency.

Councilmember Phan left the meeting at 7:41 PM. and joined the meeting virtually.

PUBLIC HEARINGS

- 12. Conduct a Public Hearing to Approve the Substantial Amendment to the FY 2022-25 Consolidated Plan, the Allocations for FY 2023-24 Community Development Block Grant, and the Corresponding Annual Action Plan, and Authorize the Use of \$594,882.86 from the City's Revolving Loan Fund to Continue Administration of the Home Rehab Loan Program (Staff Contact: Alex Andrade, Director of Economic Development, 408-586-3046; and Robert Musallam, Housing and Neighborhood Services Administrator, 408-586-3275)**

Recommendation: (1) Open the public hearing, hear testimony, then close the public hearing; (2) Adopt the FY2023-24 Annual Action Plan with recommended allocation amounts as set forth in the presentation; (3) Approve a substantial amendment to the FY2022-25 Consolidated Plan; (4) Authorize the Acting City Manager, or designee, to make any necessary changes to the approved FY2022-25 Consolidated Plan and FY2023-24 Annual Action Plan as needed to comply with CDBG submission guidelines; (5) Authorize the Acting City Manager, or designee, to execute CDBG agreements with the approved subrecipients, and amend the CDBG agreements as needed to comply with CDBG guidelines; (6) Authorize the use of \$594,882.86 from the City's Revolving Loan Fund to continue administration of the Home Rehab Loan Program; and (7) Authorize the Acting City Manager, or designee, to pursue a subgrantee to administer a microenterprise grant assistance program.

Housing and Neighborhood Services Administrator Musallam presented the report.

Mayor Montano opened the public hearing.

There were the following public speakers:

1. Teresa Johnson
2. Marina Sanchez
3. Kisha S
4. Georgia Bacil
5. Kavita Sreedhar
6. Alaina Purcell Schroeder
7. Liza Navarro

Mayor Montano closed the public hearing.

Council discussion ensued.

After discussion, motion to: Adopt the FY2023-24 Annual Action Plan with recommended allocation amounts as set forth in the presentation; Approve a substantial amendment to the FY2022-25 Consolidated Plan; Authorize the Acting City Manager, or designee, to make any necessary changes to the approved FY2022-25 Consolidated Plan and FY2023-24 Annual Action Plan as needed to comply with CDBG submission guidelines; Authorize the Acting City Manager, or designee, to execute CDBG agreements with the approved subrecipients, and amend the CDBG agreements as needed to comply with CDBG guidelines; Authorize the use of \$594,882.86 from the City's Revolving Loan Fund to continue administration of the Home Rehab Loan Program; and Authorize the Acting City Manager, or designee, to pursue a subgrantee to administer a microenterprise grant assistance program.

Motion/Second: Vice Mayor Chua / Councilmember Barbadillo

Motion carried by the following:

AYES: Councilmembers Barbadillo, Lien and Phan, Vice Mayor Chua, and Mayor Montano

NOES: None

COMMUNITY SERVICES AND SUSTAINABLE INFRASTRUCTURE

13. Consider Community Garden Rules and Regulations Update (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)

Recommendation: (1) Approve new Community Garden Rules for the Community Garden at the Delano Manongs Park; (2) Receive recommendation from the Parks, Recreation and Cultural Resources Commission on Cesar Chavez Garden Plot reconfiguration; and (3) Provide feedback on potential changes to the Community Garden Rules for the Cesar Chavez Garden.

Acting City Manager Kantak introduced the item and Recreation and Community Services Director Lorentzen presented the report.

There were the following public speakers:

1. Pat Yung
2. Joann De Herrera
3. Mark Flores
4. Voltaire Montemayor
5. Enedina Navarro
6. Jackie Romero

Council discussion ensued.

Councilmember Barbadillo suggested the City explore other parks spaces to create more community garden plots.

Vice Mayor Chua proposed dividing the plots and conducting a study to determine the feasibility of permanent plots for long-time community garden users. She asked to create a process for determining that plots have become unused. She suggested that a standardized clean out schedule should be included in the SOP and to look at the Parks Master Plan to identify parks for additional community garden plots. The Vice Mayor suggested to include discussion of dividing plots and repairing the Cesar Chavez Community Garden gate in the upcoming Budget Session.

Mayor Montano voiced support for the seven-year term proposed by the commission but not the exclusion of single-family residences. She suggested reducing the size of some community garden plots, growing ivy on the fences at Delano Manongs Park to reduce weeds, asked to develop a plan for maintenance and include garden users in the discussion to address the unused and/or abandoned lots.

Vice Mayor Chua asked for a list of gardeners that have been in the community garden for 20 or more years and to consider permanent lots for those community garden users. She asked staff to come back with a recommendation for the Cesar Chavez Community Garden based on Council feedback.

After discussion, motion to: approve the Delano Manongs Garden Rules and Regulations and come back with a recommendation for the Cesar Chavez Community Garden

Motion/Second: Vice Mayor Chua / Councilmember Barbadillo

Motion carried by the following:

AYES: Councilmembers Barbadillo , Lien, Phan, Vice Mayor Chua, Mayor Montano

NOES: None.

LEADERSHIP AND SUPPORT SERVICES

14. Adopt a Resolution for Exception to the 180-Day Wait Period in Accordance with California Government Code Section 7522.56 and 21224 (Staff Contact: Nick Raisch, Human Resources Director, 408-586-3086)

Human Resources Director Nick Raisch responded to questions from the City Council.

There were no public speakers.

After discussion, motion: to adopt **Resolution No. 9237** for exception to the 180-day wait period in accordance with California Government Code Sections 7522.56 and 21224; and approve and authorize the Acting City Manager to execute a limited term and scope employment agreement with Jeannine Seher, with the agreement term from May 3, 2023 through June 30, 2023.

Motion/Second: Councilmember Lien / Councilmember Phan

Motion carried by the following:

AYES: Councilmembers Barbadillo , Lien, Phan, Vice Mayor Chua, Mayor Montano

NOES: None

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

Vice Mayor Chua asked for the Human Resources Director to conduct a job fair specific to the job openings at City Hall. By a roll call vote, there was a consensus to add to the item to the future agenda items request list.

Councilmember Lien asked for City Council microphone management to return to the method used in the earlier portion of 2023.

Mayor Montano asked for the Community Advisory Commission staff liaison to bring for commissioner consideration conducting a contest for businesses that are beautifully maintained.

ADJOURNMENT

Mayor Montano adjourned the meeting at 9: 38 PM.

Draft meeting minutes submitted by City Clerk, Suzanne Guzzetta

TENTATIVE CITY COUNCIL AGENDA ITEM LIST

Item # C3.

as of 5/11/2023

June 6, 2023 – Regular Meeting

CLOSED SESSION

- Labor Relations

INVOCATION (Vice Mayor Chua)

PRESENTATION

- Parks and Recreation Month (Proclamation)

CONSENT CALENDAR

1. Receive City Council calendar for June 2023 (City Clerk)
2. Approve City Council Meeting minutes of May 9 and 16, 2023 (City Clerk)
3. Preview list of items for June 20, 2023 (City Clerk)
4. Councilmember Request List (City Clerk)
5. O&M Agreement – Springhill Suites Hotel (Engineering)
6. Street Resurfacing Project – Project Award (Engineering)
7. Adopt a Resolution Granting Acceptance of Delano Manongs Park Sports Field, (formerly known as McCandless Park Sports Field), Project No. 5102 authorizing the City Engineer to file a Notice of Completion, and authorize the City to issue a Notice of Final Acceptance after the one-year warranty. (Engineering)
8. Memorial Bench for Mikhaila Saso (Recreation)

PUBLIC HEARING

9. Adoption of the Proposed FY 2023-2024 Operating Budget (Finance)
10. South Main St. General Plan Map amendment and rezoning (Planning)

COMMUNITY DEVELOPMENT

COMMUNITY SERVICES

PUBLIC SAFETY

LEADERSHIP

REPORTS

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

Item # C4.

OPEN ITEMS				
Request No.	Topic	Submitted by:	Date Requested	STATUS and/or DATE scheduled on City Council meeting agenda:
1	Human Resources Director to conduct a job fair specific to the job openings at City Hall	Chua	5/2/2023	This item will be discussed at the next quarterly prioritization in June 2023
2	Have City-owned parcels 2 and 3 on Main Street appraised	Montano	4/18/2023	This item will be discussed at the next quarterly prioritization in June 2023
3	Have the City look into the possibility of a Citywide Senior Discount	Barbadillo	2/7/2023	This item will be discussed at the next quarterly prioritization in June 2023
4	See if City Manager and staff could assist in finding a month and day to celebrate an International Cultural Festival on Main Street	Lien	2/7/2023	This item will be discussed at the next quarterly prioritization in June 2023
5	Look into purchasing a larger electronic billboard for Library	Montano	2/7/2023	At the February 28, 2023 CIP Study Session, the Council opted to discuss at the next prioritization session in June 2023

ACTIVE ITEMS				
Request No.	Topic	Submitted by:	Date Requested	STATUS and/or DATE scheduled on City Council meeting agenda:
6	Add lights to Gill Park for Nighttime Usage	Chua	2/21/2023	At the February 28, 2023 CIP Study Session, Council asked for an inventory of parks with types of lighting available. This was provided in an info memo released on April 13, 2023
7	Look into the impact of and how the City can compensate for the massive number of layoffs in the Bay Area. Staff consider how the City can help residents affected by layoffs, reach out to those affected and show them city programs.	Chua	12/6/2022	Referred to Economic Development and Trade Commission. Staff, in partnership with NOVAworks, provided information about past and upcoming layoffs, wage and labor data as well as job and career resources available to Milpitas residents and businesses at the Economic Development and Trade Commission meeting on January 9, 2023. City staff is continuing to partner with NOVAworks by promoting their upcoming layoff assistance webinars to assist with career transition and unemployment services and resources. One webinar took place on January 24 and other webinars are scheduled to take place on February 7 and 21.
8	Staff explore eliminating or waiving the fee for the gym at the Milpitas Senior Center	Chua	10/18/2022	This was approved by the City Council as part of the FY 2023-24 Proposed Master Fee Schedule adoption in April 2023.

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

Item # C4.

9	City Manager to look into defining either a standalone teen center or updating information to indicate the Senior Center also functions as a Teen Center	Chua	9/20/2022	Discussed at February 2023 Quarterly City Council Workplan Items Prioritization Discussion; Approved to move forward during Prioritization Discussion on 2/7/23. At the 2/28/2023 CIP Study Session, Council directed staff to include funding for a feasibility analysis.
10	Schedule an additional ADU workshop	Chua	9/6/2022	Similar to last year, staff will support any webinar hosted by a community partner.
11	Discuss converting vacant lot that was a basketball court into a community garden at Vasona and Adobe	Montano	8/16/2022	Item brought forward as part of the City Council additional workplan items prioritization in February 2023. Mayor Montano asked it come back after a survey of residents was completed to determine community support. At the February 28, 2023 CIP Study Session, Council asked staff to ask the nearby community for their input on other uses they would want for the property.
12	City Manager look into implementing a workshop for small businesses on the bidding process for projects in the city	Chua	8/9/2022	Discussed at February 2023 Quarterly City Council Workplan Items Prioritization Discussion; Approved to move forward during Prioritization Discussion on 2/7/23
13	Quarterly or Monthly crime statistics on Homekey Project	Chua	6/7/2022	PD will present quarterly reports starting on November 15, 2022.
14	Establish a SPAR fund modelled after the City of Mountain View - sets asides moneys for opportunities to buy real estate	Montano	6/7/2022	At the January 31, 2023 City Council budget hearing, staff was directed to update the City's Fiscal Policies to provide an option for a portion of future surplus funding to be reserved for real estate acquisition. Staff will include this edit to the Fiscal Policies as part of the Proposed Fiscal Year 2023-2024 Operating Budget; Discussed at Spring Quarterly City Council Workplan Items Prioritization Discussion; Approved to move forward during Summer Quarterly City Council Workplan Items Prioritization Discussion on 9/06/2022. A SPAR fund is part of the Proposed Fiscal Year 2023-2024 Operating Budget.
15	Memorial Plaque in honor of youth skateboarder that passed away	Montano	6/7/2022	At the January 31 2023 City Council budget hearing, City Council voted to consider this item in the FY 2023-24 budget development.; Discussed at Spring Quarterly City Council Workplan Items Prioritization Discussion; Approved to move forward during Summer Quarterly City Council Workplan Items Prioritization Discussion on 9/06/2022

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

Item # C4.

16	Funding to hire a consultant for the Sunnyhills Historical Designation on a state level	Tran	6/7/2022	Based on staff research, the best way to try for a Historical District Designation is at the National Level. This can be wrapped into the approved CIP for the Historical Resources Plan update or through grant consultant California Consulting. Request will be included with the Historic Resources Master Plan project approved as part of the 2023-2027 Capital Improvement Program.
17	Explore the policy for locking mechanisms on shopping carts for large commercial businesses	Tran	4/19/2022	MMC V-13-140 Mandatory Plan to Prevent Cart Removal includes requirement for physical measures to prevent cart removal however V-13-120 provides an exemption for cart owner that agrees to enter into a contract with a City-designated retrieval service. Staff suggestion to Council is to review this exemption and repeal it which would require all cart owners to have physical measures to prevent cart removal. Business outreach was conducted to grocery store operators in Q2 of 2022 to inquire about shopping cart removal and theft. Grocery stores contacted were Ocean Supermarket, Seafood City Supermarket, Chung Chou City, Milpitas Grocery Outlet, and 99 Ranch Market. Discussed at Spring Quarterly City Council Workplan Items Prioritization Discussion; Approved to move forward during Summer Quarterly City Council Workplan Items Prioritization Discussion on 9/06/2022
18	Explore an ordinance or policy to reduce thefts and increase security in the commercial retail parking areas	Chua	4/5/2022	CAO conducting legal review of policies requiring businesses to hire security/install cameras; Discussed at Spring Quarterly City Council Workplan Items Prioritization Discussion; Approved to move forward during Summer Quarterly City Council Workplan Items Prioritization Discussion on 9/06/2022
19	Request for Crossing Guards at McCandless and Montague Expressway and review wages for Crossing Guards	Montano	4/5/2022	Info Memos were sent to the City Council on 6/13/2022 and 1/27/2023. At the January 31st budget study session, Council voted to move to a contract model; Staff is in the middle of a citywide traffic study, which includes school aged pedestrian counts around schools in the City including the McCandless and Montague Expressway intersection.

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

Item # C4.

20	Create a plan for future solar paneling at City facilities	Montano	3/1/2022	As discussed with the City Council at the 1/31/2023 Budget Study Session, staff will continue to explore grant opportunities to install additional solar panels on City facilities. However, staff will only proceed with further development if this grant funding is identified so work (other than reviewing grant opportunities) is on hold at this time. Discussed at Spring Quarterly City Council Workplan Items Prioritization Discussion; Approved to move forward at the 5/03/2022 meeting; Discussed at the May 10 budget meeting and approved funding of \$25,000 in the 2022-23 budget
21	Evaluate reopening the childcare center with a non-profit organization running the center	Montano	2/1/2022	No additional funds required to complete the internal review. Internal review can be done by late 2023. Approved during Spring Quarterly City Council Workplan Items Prioritization Discussion on 5/03/2022.
22	Requested an appropriation in an amount not to exceed \$250,000 to procure a contract to address the streetlights that are pending fieldwork.	Tran	2/1/2022	At this time, staff has sufficient Council approved resources to address the remaining streetlight outages; however, will bring relevant actions for Council consideration, if needed.
23	Staff to look into mural Art on Great Mall Parkway on the VTA owned Light rail pillars	Montano	11/16/2021	VTA is not responsive to requests from the City to meet on this project. A discussion on other locations or projects with Council may be needed; Discussed at Spring Quarterly City Council Workplan Items Prioritization Discussion; Approved at the 5/03/2022 meeting; discussed funding at the 5/10/2022 budget meeting and approved \$100,000 of funding for one site
24	Request for the City to make the temporary third-party food deliver fee caps permanent and add additional provisions for enforcement	Phan	11/16/2021	Requires legal analysis of 1:21-cv-07695-AT-SLC DoorDash, Inc. v. city of New York and 3:21-cv-05502-EMC Doordash, Inc. et al v. City and County of San Francisco. Doordash v. NYC remains pending and may settle the law on the matter. CAO will prepare confidential memorandum for the Council. Discussed at Spring Quarterly City Council Workplan Items Prioritization Discussion; Approved to move forward at the 5/03/2022 meeting
25	Have a picture of Albert Vogel Sr. put up in the Senior Center	Montano	10/19/2021	No additional funding needed. Need final names from City Council. Approved to move forward at the 1/11/2022 Council meeting; Staff engaged the artist of the existing mural regarding this Council approved item.
26	Include a bust of Maria Lemire on the Mural in front of the Senior Center	Montano	8/17/2021	Maria Lemery is to be included on the Senior Center Mural. It's not an actual "bust." Approved to move forward at the 1/11/2022 Council meeting; Staff engaged the artist of the existing mural regarding this Council approved item.

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

Item # C4.

27	Look into bringing back a roller rink	Montano	8/5/2021	Monies budgeted. Roller Rink bids coming back end of Feb/early March. Event schedule for August 4 & 5, 2023. Approved to move forward at the 1/11/2022 Council meeting. Funding for the program will need to be prioritized through the FY 22-23 budget process; Discussed at 5/10/2022 budget meeting and approved \$100,000 funding for a two-day event in 2023
28	Staff to create a plan on how to increase the number of local businesses doing business with the City	Chua	4/6/2021	Staff is tracking this local business participation item as part of Council Priority Item 3 in Group 1 on this list; At 8/9/2021 Council meeting, Council voted that this item may have to come back for additional discussion because there may be some legal considerations.
29	Staff to provide information on a landmark policy for the City of Milpitas	Tran	3/16/2021	This is part of the CIP for updating the Historic and Cultural Resources Plan; 8/09/2021 Council voted 5-0 to move this item forward; this item will be included for funding consideration in the development of the FY 2023-27 CIP for assessment of historical and cultural resources and development of landmark policy; The funding for the assessment of historical and cultural resources and development of a landmark policy will be included in the 2023-2027 Capital Improvement Program scheduled for adoption on May 3, 2022. This project will be scheduled to begin in FY 2022-23.
30	Amendment to the existing ordinance for third-party food delivery vendor services to prohibit regulatory response fees	Phan	2/16/2021	See update to item titled "Request for the City to make the temporary third-party food deliver fee caps permanent and add additional provisions for enforcement." Agendized for discussion on 3/16/2021, deferred to 4/06/2021; CC direction for City Attorney to prepare a report; At the 11/12/2021 Transportation Subcommittee, the Subcommittee directed to bring back this request to Council as part of the FY 2022-23 budget process.
31	Ordinance to ban vaping in the City	Montano	12/15/2020	Ordinance regarding a ban on use in certain areas adopted by Council on 6/15/2021. Council received a follow-up presentation from staff on 6/21/22 and provided direction on establishing a local tobacco retail permitting program and regulating tobacco retail locations and the sale of flavored tobacco and electronic cigarette products in Milpitas. Staff is now coordinating with the Santa Clara County Department of Environmental Health (DEH) to set up the program, and those arrangement will be brought back to the Council in early 2023.

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

Item # C4.

32	Consider Community Museum and Park on Main St.	Phan	8/20/2019	to Rules Subcommittee 8/23/2019. Moved to Specific Plan Community Conversation events.
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CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Consider the Recommendation from Mayor Montano for Appointments to City Commissions and Declare an Unscheduled Vacancy (Contact: Mayor Montano, 408-586-3024)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	5/16/2023
	<u>Recommendation:</u> (1) Receive the recommendation from Mayor Montano and approve appointments to City Commissions; and (2) Declare an unscheduled vacancy on the Senior Advisory Commission and direct the City Clerk to post the notice of unscheduled vacancy.

Background:

The City of Milpitas has 13 Commissions (including the Measure F Oversight Committee), with members appointed by the Mayor and confirmed by the City Council. The Commissions advise the Milpitas elected officials on a variety of community interest and policy areas.

Any resident interested in serving on a City Commission must complete a Commission Application and submit the form to the City Clerk. Copies of the applications are provided to the Mayor for her consideration. Per Government Code 40605, in a general law city where the office of Mayor is an elective office, the Mayor with the approval of the City Council, shall make all appointments to boards, commissions, and committees unless otherwise specifically provided by statute.

Current Commissioners may seek to be reappointed upon the expiration of their current term, but reappointment to a new term is not automatic. Those Commissioners seeking reappointment must contact the City Clerk and the Mayor to convey their request. Re-appointment must be recommended by the Mayor and confirmed by the City Council.

Analysis:

Mayor Montano is making the following recommendations for appointment:

Community Advisory Commission:

1. Promote Kavita Sreedhar to a full voting seat with an unexpired term ending January 2024.
2. Promote Raghu Reddy to Alternate no. 1 with an expired term ending January 2024.
3. Appoint Andrea D'George as Alternate no. 2 with a term ending January 2026.

Senior Advisory Commission:

1. Promote Ha Phan to a full voting seat with an unexpired term ending December 2023.

All recommended Commissioner appointments have been reviewed and confirmed by the City Clerk's office.

The promotion of Ha Phan results in a vacancy in an Alternate seat on the Senior Advisory Commission, and a notice of Unscheduled Vacancy must be posted to advertise the opening.

Fiscal Impact:

There is no fiscal impact associated with this item.

Recommendation:

(1) Receive the recommendation from Mayor Montano and approve appointments to City Commissions; and (2) Declare an unscheduled vacancy on the Senior Advisory Commission and direct the City Clerk to post the notice of unscheduled vacancy

Attachments:

1. Promotion request from Ha Phan

From: [Phan Hà](#)
To: [Suzanne Guzzetta](#)
Cc: [Carmen Montano](#)
Subject: Approval needed
Date: Wednesday, April 26, 2023 10:38:22 PM

Dear Mayor Montano,

Please accept my interest in being considered for a full Commissioner seat on the Senior Advisory Commission when a position/seat becomes available. Currently, I am Alternate #1 on the Commission.

Thank you in advance for your consideration,
Hà Phan
Alternate #1
Senior Advisory Commission



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Authorize and Approve Out-of-State Travel to Columbus, OH, for Mayor Carmen Montano to Attend the United States Conference of Mayors to be Held on June 2 – 5, 2023, for a Combined Total Estimated Amount of \$3,500.00 (Staff Contact: Ashwini Kantak, Acting City Manager, 408-586-3053)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	5/16/2023
	<u>Recommendation:</u> Authorize and approve out-of-state travel to Columbus, OH, for Mayor Carmen Montano to attend the United States Conference of Mayors to be held on June 2 – 5, 2023, for a combined total estimated amount of \$3,500.00.

BACKGROUND:

The United States Conference of Mayors holds an Annual Meeting each June in a different United States city. This year's Annual Meeting is scheduled in Columbus, Ohio, from June 2 to 5, 2023. During the Conference's June Annual Meeting, standing committees recommend policy positions the organization should adopt. All policy positions adopted at the annual meeting collectively represent the views of the nation's mayors and are distributed to the President of the United States and Congress. This year's conference discussion priorities will include public safety, technology, innovation, achieving "functional zero" homelessness, climate resiliency, as well as a major focus on the mental health crisis in America's cities. Additionally, the mayors will discuss how state legislatures are preempting local control and imposing policies that conflict with the wishes of city residents. The preliminary agenda is attached to this report.

ANALYSIS:

The City of Milpitas Travel and Expense Policy requires all travel for the elected officials and City Manager to be approved by City Council. Council approval of this request will allow Mayor Montano to garner additional knowledge from other US Mayors and elected officials and to bring it back to share with her Council colleagues. Continued participation and attendance in national conferences and events is a way to ensure that the Milpitas community is fully represented at the regional, state, and national levels.

POLICY ALTERNATIVE(S):

Not applicable

FISCAL IMPACT:

The total estimated expenses for the United States Conference of Mayor in Columbus, Ohio per attendee is \$3,500 (including the registration and hotel fees, as well as transportation, and meal reimbursements).

To date, Mayor Montano has a remaining balance of \$3,568.41 in her Individual Elected Official Allocation of \$5,000 for Conferences/Meetings/Memberships to cover the travel expenses related to the United States Conference of Mayors. With the approval of this out-of-state travel, the new estimated remaining balance will be \$68.41.

California Environmental Quality Act (CEQA):

By the definition provided in the California Environmental Quality Act (CEQA) Guidelines Section 15378, this action does not qualify as a "project" for the purpose of CEQA.

RECOMMENDATION:

Authorize and Approve Out-of-State Travel to Columbus, OH, for Mayor Carmen Montano to Attend the United States Conference of Mayors to be held on June 2 – 5, 2023, for a combined total estimated amount of \$3,500.

Attachment(s):

Attachment 1: Draft United States Conference of Mayors Agenda

Attachment 2: Council budget tracking

DRAFT AGENDA**Notes:**

- Times and days of events are subject to change.
- More details on speakers and forum topics will be added as they confirm.
- The listing of chairs does not confirm attendance.

**The 91st
Annual Meeting
of
The United States
Conference of
Mayors**



**June 2-5, 2023
Columbus, OH
Columbus Hilton Downtown**

Welcome

To the 91st Annual Meeting of The United States Conference of Mayors

June 2-5, 2023
Columbus Hilton Downtown
Columbus, OH

Key Information for Attendees
Themes and Opportunities

Page 2
Page 4

DAILY SCHEDULE

Thursday, June 1	Page 5
Friday, June 2	Page 5
Saturday, June 3	Page 16
Sunday, June 4	Page 27
Monday, June 5	Page 37

Workforce Development Council (WDC)	Page 39
The United States Conference of Mayors Presidents	Page 41
The United States Conference of Mayors Leadership	Page 43



Key Information for Attendees

Participation

Unless otherwise noted, all plenary sessions, committee meetings, council meetings, best practice forums, and social events are open to all mayors and other officially registered attendees.

Registration/Host City Hospitality

The Registration Desk hours are:

- Thursday, June 1: 3:00 p.m. - 7:00 p.m.
- Friday, June 2: 7:00 a.m. - 5:00 p.m.
- Saturday, June 3: 7:00 a.m. - 5:00 p.m.
- Sunday, June 4: 7:00 a.m. - 5:00 p.m.
- Monday, June 5: 7:00 a.m. - 11:00 a.m.

Badges and Lanyards

The badge provided to you upon check-in is the official identification for admission to all events at the 90th Winter Meeting. It is required that all delegates, participants, and guests wear their registration badges to enter all sessions, meeting areas, and social events. The color-coded lanyard supplied must also be worn with the badge at all times. Failure to wear the badge and lanyard for viewing by security may cause inconvenience to participants. There will be a \$50 fee for the replacement of lost badges. Photo ID will be required upon check-in to pick up your badge.

Lanyard Color Code

BLUE	MEMBER MAYOR
RED	SERVICE CITY MEMBER MAYOR
YELLOW	NON-MEMBER MAYOR
BLACK	USCM PLATINUM PARTNER, BUSINESS COUNCIL or SPONSOR
SILVER	USCM STAFF
ORANGE	PRESS
LIGHT BLUE	USCM SPEAKER; GUEST
DARK GREEN	CITY OFFICIAL
CORAL	REGISTRANT'S FAMILY, SPOUSE, PARTNER, OR CHILD
PURPLE	HOST CITY STAFF, VOLUNTEERS, AND GUESTS

Mobile App

Download the official mobile app to view the agenda, attending mayors, and more. You can find it at usmayors.org/app. Available on the App Store and Google Play.

Participation

Unless otherwise noted, all plenary sessions, committee meetings, council meetings, best practice forums, and social events are open to all mayors and other officially-registered attendees.

Spouse and Guest Activities

Spouses and youth are welcome to attend all Conference evening social functions. Information on spouse and family day activities are available on the [Host City Website](#).



Media Coverage

Unless otherwise noted, all plenary sessions, committee meetings, council meetings, and best practice forums are all open to credentialed press. All social/evening events are CLOSED to press.

All plenary sessions are streamed live on our YouTube, Twitter, and Facebook channels.

The hashtag for the meeting is **#Mayors2023**

Press Registration

All press must register and pick up credentials to gain access to Annual Meeting events. Press credentials may be picked up beginning at 7:00 a.m. on Friday, June 2 at the USCM registration desk. Please register [here](#).

Resolution and Committee Deadline

The deadline for submission of proposed resolutions by member mayors was Wednesday, May 3 at 5:00 pm ET. This was the same deadline for standing committee membership changes.

Voting

Only member mayors of a standing committee are eligible to vote on resolutions before that standing committee. Mayors who wish to record a no vote in a standing committee or the business session should do so within the mobile app.

Business Session Voting Credentials

Voting Credentials will be available for the Monday Business Session Vote at the Conference Registration Desk, beginning at 7:00 a.m. on Sunday, June 4.

It will be necessary for all Official Delegates who wish to vote to have these credentials in their possession. There is but one credential for each member city. If the mayor of a member city is registered, the credential will be issued to him or her. If the mayor is not registered and has not been in attendance at the Annual Conference, a registered official from their city must have been designated, in advance, in writing, to be the Official Delegate to receive the city's credentials.

If a registered Member Mayor anticipates that they will not be present at the Business Session, they may designate an alternate, who must be a registered official from their city, to pick up the city's voting credential and exercise the city's vote on Sunday morning. Such an alternate, however, cannot have the floor to speak to any issue under discussion.

The appropriate form for designating an alternate may be filled out at the Registration Desk from 7:00 a.m. to 11:00 a.m. on Sunday, June 4 and prior to the Business Session on Monday, June 5.

Themes/Areas of Focus/Opportunities

The 91st Annual Meeting of The United States Conference of Mayors is being developed around the following areas:

1. Priorities identified by the 80th President of The United States Conference of Mayors Miami Mayor Francis X. Suarez including public safety, technology, innovation, achieving “functional zero” homelessness, climate resiliency, and more.
2. A major focus on the mental health crisis in America’s cities - under the leadership of Vice President and Mental Health Task Force Chair Mayor Hillary Schieve of Reno.
3. Engagement with high-level Biden Administration officials, Congressional leaders, as well as other key policy and thought leaders.
4. A Mayors-Only Discussion on Friday afternoon.
5. A focus on how state legislatures are preempting city authority and imposing policies that conflict with the wishes of city residents.
6. Strategies and actions needed to reduce the scourge of gun violence occurring daily on our streets and in endless mass shootings.
7. Continued implementation of historic legislation passed by the 117th Congress and signed into law by President Biden:
 - The American Rescue Plan Act (ARPA) — \$65.1 Billion for ALL Cities and New Flexibility
 - The Bipartisan Infrastructure Investment and Jobs Act (IIJA) — \$1.2 Trillion over 10 Years
 - The Bipartisan CHIPS and Science Act
 - The Bipartisan Safer Communities Act
 - The Inflation Reduction Act (which includes key USCM priorities related to climate change and health care affordability and access)
 - The Bipartisan Fiscal Year 2023 Omnibus Appropriations Act.
8. Numerous opportunities for direct mayor-to-mayor engagement on a wide range of topics impacting cities of all sizes and in all regions of our Nation, and the sharing of best practices and innovative projects among mayors.
9. The consideration, debate, and adoption of policy resolutions submitted by member mayors. This will occur during the meetings of the 11 policy Standing Committees on Friday, June 2 and Saturday, June 3, and then during the official Annual Business Session on Monday morning, June 5.
10. The inauguration of Mayor Schieve as the 81st President of The United States Conference of Mayors during a special luncheon on Monday, June 5.
11. Networking opportunities with USCM Platinum Partners and Mayors Business Council Members.
12. Evening events arranged by Second Vice President Mayor Andrew J. Ginther and his host committee that will highlight the very best of Columbus - and give all attendees the opportunity to talk, share stories, and be together as part of the USCM family. You can see all that is happening by checking out the [Host City Webpage](#).



THURSDAY, JUNE 1

Registration

3:00 p.m. - 7:00 p.m.

Location TBA

FRIDAY, JUNE 2

Registration

7:00 a.m. - 5:00 p.m.

Location TBA

Friday Morning Plenary Session

8:00 a.m. - 9:00 a.m.

Location TBD

Continental breakfast will be available beginning at 7:15 a.m.

Program will begin at 8:00 a.m.

Presiding FRANCIS X. SUAREZ
Mayor of Miami
President, The United States Conference of Mayors

Remarks *National Call to Service*
MAJOR GENERAL WILLIAM J. BOWERS
Commanding General
United States Marine Corps Installations Pacific

Greetings CHAD CASTRUITA
CEO
Care Solace

*Armchair
Discussion* TBA

Remarks TBA

Announcement *PLAY BALL Weekend and Summer Sandlot Fun*
TONY REAGINS
Chief Baseball Development Officer
Major League Baseball
USCM Platinum Partner

Remarks THE HONORABLE SHERROD BROWN
Chairman, Banking, Housing, And Urban Affairs Committee
United States Senate (OH)



FRIDAY, JUNE 2

Council on Metro Economies and the New American City

9:15 a.m. - 10:30 a.m.

Location TBD

Chair ANDREW J. GINTHER
Mayor of Columbus, OH

Vice Chair SATYA RHODES-CONWAY
Mayor of Madison

Remarks *US Metro Economies: GMP and Jobs Forecast*
JAMES DIFFLEY
Executive Director
S & P Global Market Intelligence

ARPA's State and Local Fiscal Recovery Fund
MARISA G. WAXMAN
Director, State and Local Fiscal Recovery Funds
United States Department of Treasury

LAURA MCDANIEL
Policy Outreach Lead, State and Local Fiscal Recovery Funds
United States Department of the Treasury

PAIGE COGNETTI
Mayor of Scranton

Promoting Immigrant Entrepreneurial Business
JUSTIN BIBB
Mayor of Cleveland

Helping Minority Firms Become Contract-Ready
DARRELL BYERS
CEO
Interise

Retirement Security for LMI Workers
CATHERINE LYONS
Director of Policy
Economic Innovation Group

Using Data to Inform Use of Federal Infrastructure Dollars
SEAN CONLIN
Principal
Deloitte



FRIDAY, JUNE 2

Mayors Water Council

9:15 a.m. - 10:30 a.m.

Location TBD

Co-Chair DEBORAH ROBERTSON
Mayor of Rialto

Mayor's Roundtable Members of the Mayors Water Council and other attending mayors identify themselves and their city, and identify their most pressing water issues.

Remarks *Workforce Development in the Water Sector*
FRED VAN HEEMS, CEO
Veolia Water

Reclaiming Stormwater and Generating City Revenues in Central California-Lake Rialto Project
DEBORAH ROBERTSON
Mayor of Rialto

Protecting our Nation's Critical Water Infrastructure from Rogue Attacks
PUNDI NARASIMHAM
Chief Mentor
SAFEKRIT, Inc.

Discussion *Water Regulations Review Panel*

Moderator DEBORAH ROBERTSON
Mayor of Rialto

Panelists MARY LOU PAULY
Mayor of Issaquah, WA

KIM NORTON
Mayor of Rochester, MN

DANEEN SORACE
Mayor of Lancaster, PA

REUBEN RODRIGUEZ
Senior Director, External Communications
American Water

CHAD SEIDEL
President
Corona Environmental

Remarks JAMIE PIZIALI
Municipal Ombudsman
United States Environmental Protection Agency



FRIDAY, JUNE 2

First-Time Attendee Mayors Session

9:15 a.m. - 10:15 a.m.

Location TBD

Is this your first United States Conference of Mayors meeting? Then this session is for you! Come hear from our President, our CEO & Executive Director, and other active mayors to get the most out of the organization.

Remarks

FRANCIS X. SUAREZ

Mayor of Miami

President, The United States Conference of Mayor

ANDREW J. GINTHER

Mayor of Columbus, OH

Second Vice President, The United States Conference of Mayors

TOM COCHRAN

CEO & Executive Director

The United States Conference of Mayors

NAN WHALEY

Director of Membership

The United States Conference of Mayors

Opening Press Conference

11:00 a.m. - 11:45 a.m.

Location TBD

Remarks by USCM Officers



FRIDAY, JUNE 2

Mayors Climate Protection Awards Luncheon

12:00 p.m. - 1:30 p.m.

Location TBD

Sponsored by Walmart

Program will begin at 12:15 p.m.

Presiding FRANCIS X. SUAREZ
Mayor of Miami
President, The United States Conference of Mayors

Awards Presentation 2023 Mayors Climate Protection Awards
Walmart Representative TBA
USCM Platinum Partner

Panel *Broadband & Digital Equity Best Practices*

Moderator SCOTT WOODS
President, Public-Private Partnerships
Broadband.Money

Panelists FRANK WHITFIELD
Mayor of Elyria

JADE PIROS de CARVALHO
Mayor of Hutchinson, KS
Director of Broadband Development, State of Kansas

Support provided by Broadband.Money.

Remarks TBA



FRIDAY, JUNE 2

BEST PRACTICE FORUMS

Asian American Pacific Islander Alliance Inaugural Meeting

2:00 p.m. - 3:00 p.m.

Location TBD

Join our inaugural meeting of our Asian American Pacific Islander (AAPI) Alliance. For mayors who are from the AAPI community as well as mayors who want to expand AAPI leadership in their community.

Moderator LILY MEI
Mayor of Fremont
Chair, Asian American Pacific Islander Alliance

Remarks TBA

Promoting Entrepreneurship in Your City

2:00 p.m. - 3:00 p.m.

Location TBD

Moderator ELIZABETH B. KAUTZ
Mayor of Burnsville
Chair, Small Business and Entrepreneurship Task Force

Remarks LOU MOSCA
Chief Operating Officer
American Management Services
USCM Platinum Partner

Responding to the Influx of Migrants to our Cities and our Nation

2:00 p.m. - 3:00 p.m.

Location TBD

This session will focus on the current situation in and around the border with the expiration of Title 42, expectations for additional migrants entering the United States, and how cities are managing the influx of migrants and what they need.

Moderators JOHN GILES
Mayor of Mesa
Chair, Immigration Reform Task Force

TODD GLORIA
Mayor of San Diego
Vice Chair for Border Policy, Criminal and Social Justice Standing Committee

Remarks TBA



FRIDAY, JUNE 2

Utilizing New Federal Tools to Implement Your City's Climate Plans

2:00 p.m. - 3:00 p.m.

Location TBD

As cities continue to implement climate action plans in their communities there are a wide array of available resources through the Inflation Reduction Act and Bipartisan Infrastructure Law that offer local leaders federal financial assistance to reach their goals. This session features federal and technical experts who will outline the resources that local governments can take advantage of regarding funding opportunities, best practices, and new tax credits to support and finance city efforts.

Moderators DAN GELBER
Mayor of Miami Beach
Chair, Environment Standing Committee

JUSTIN BIBB
Mayor of Cleveland
Vice Chair, Environment Standing Committee

Remarks JEREMIAH BAUMANN
Chief of Staff, Office of Infrastructure
United States Department of Energy

TIM KELLER
Mayor of Albuquerque

JON MITCHELL
Mayor of New Bedford

Presentation *Alliance for a Sustainable Cities New Report -
Cities Advancing Climate Action:
Unlocking the Potential of the Inflation Reduction Act*

KATRINA LEWIS
Vice President, Sustainability
AECOM - Energy

Remarks TBA
United States Environmental Protection Agency

FRIDAY, JUNE 2

Site Visit

Designer Brands Omnichannel Warehouse Operation

2:15 p.m. - 3:15 p.m.

DSW Distribution Center, Columbus

(Buses will begin loading at 1:30 p.m. for a 1:45 p.m. departure. Buses will arrive at the Distribution Center at 2:00 p.m. Buses will begin loading for a return trip to the hotel at 3:15 p.m. Buses will arrive back at the hotel at 3:30 p.m.)

Designer Brands is one of North America's largest designers, producers and retailers of footwear and accessories with world-class design and sourcing operations, a robust wholesaling business, and more than 1,000 points of distribution. Come tour their flagship Designer Shoe Warehouse (DSW) "warehouse reimagined" concept — a state of the art omnichannel warehouse — to see the impact of technology on logistics and learn more about how DSW staffs its distribution center and delivers hands-on training and instruction on warehouse operations and other logistics settings to ALL residents of Columbus, in a true effort to embed diversity, equity, inclusion and accessibility into their successful business model.

Remarks ANDREW J. GINTHER
Mayor of Columbus, OH

LISA PATT MCDANIEL
CEO
Workforce Development Board of Central Ohio

TARYN WILLIAMS
Assistant Secretary for Disability Employment
United States Department of Labor

JEFF GIRARD
Senior Vice President of Distribution & Logistics
Designer Brands Inc.

KEVIN L. MILLER
Director
Opportunities for Ohioans with Disabilities

SARAH DUPLESSIS
Director
Food for Good Thought

Supported by the Department of Labor's State Exchange on Employment & Disability (SEED) Initiative.

FRIDAY, JUNE 2

Children, Health, and Human Services Standing Committee

3:15 p.m. - 4:15 p.m.

Location TBD

Chair LEVAR STONEY
Mayor of Richmond, VA

Consideration of Proposed Resolutions

Remarks TBA

Energy Standing Committee

3:15 p.m. - 4:15 p.m.

Location TBD

Chair JON MITCHELL
Mayor of New Bedford

Consideration of Proposed Resolutions

Update The Energy Efficiency and Conservation Block Grant (EECBG)
TBA

Discussion Cities Can Monetize Tax Credits/Rebates for Clean Energy Investments Under IRA
JEREMIAH BAUMANN
Chief of Staff
Office of Infrastructure
United States Department of Energy

DANIEL RICKENMANN
Mayor of Columbia, SC

MAYOR TBA

Remarks Update: Administration Adjusts Offshore Wind Energy Strategy
JON MITCHELL
Mayor of New Bedford



FRIDAY, JUNE 2

Metro Economies Standing Committee

3:15 p.m. - 4:15 p.m.

Location TBD

Chair LUKE BRONIN
Mayor of Hartford

Consideration of Proposed Resolutions

Remarks TBA

Transportation Standing Committee

3:15 p.m. - 4:15 p.m.

Location TBD

Chair MICHAEL B. HANCOCK
Mayor of Denver

Consideration of Proposed Resolutions

Remarks TBA

Mayors-Only Session (Closed to the Press)

4:45 p.m. - 6:15 p.m.

Location TBD



FRIDAY, JUNE 2

EVENING EVENT



The Art Of US - Columbus Museum of Art

7:00 p.m. - 10:00 p.m.

Welcome to Columbus and our award-winning museum of art. Enjoy art in all its forms as you wander the museum at your leisure with an impressive collection through the museum as well as curated event moments. This will be an elevated evening showcasing Columbus' best food and beverage offerings.

Transportation: Evening event shuttles will operate on a circulator 30 minutes prior to event start and until 1 hour after event start. All shuttles will depart from the 402 Tower of the Hilton Columbus Downtown.

Suggested Attire: Business Casual

SATURDAY, JUNE 3

Registration

7:00 a.m. - 5:00 p.m.

Location TBD

International Affairs Standing Committee

8:00 a.m. - 9:00 a.m.

Location TBD

Acting Chair DAVID HOLT
Mayor of Oklahoma City

Consideration of Proposed Resolutions

Remarks TBA

DAVID RUTLEY MP
Parliamentary Under Secretary of State (Americas and Caribbean)
Government of the United Kingdom

TIM KELLER
Mayor of Albuquerque
Sister City with Kharikiv, Ukraine

LIZ SCHRAYER
President & CEO
U.S. Global Leadership Coalition (USGLC)

MELANIE MARON PELL
Chief Field Operations Officer
American Jewish Committee (AJC)

TBA

Tourism, Arts, Parks, Entertainment, and Sports Standing Committee

8:00 a.m. - 9:00 a.m.

Location TBD

Chair HILLARY SCHIEVE
Mayor of Reno

Consideration of Proposed Resolutions

Remarks ANNA BLUE
President
American Hotel & Lodging Association Foundation

NINA OZLU TUNCELI
Chief Counsel of Gov't & Public Affairs
Americans for the Arts



SATURDAY, JUNE 3

BEST PRACTICE FORUMS

Local Infrastructure Hub - Federal Funding Opportunities through the U.S. Department of Transportation

8:00 a.m. - 9:00 a.m.

Location TBD

Department of Transportation (DOT) officials will brief mayors on the status of key Bipartisan Infrastructure Law (BIL) funding programs. Mayors will have the opportunity to engage in a dialogue with DOT officials and highlight projects being implemented in their cities.

Moderator ANDREW J. GINTHER
Mayor of Columbus, OH

Remarks JAIME LAVIN
Government Innovation
Bloomberg Philanthropies

LYNDA TRAN
Director of Public Engagement
Senior Advisor to the Secretary
United States Department of Transportation

CHRISTOPHER COES
Assistant Secretary for Transportation Policy
United States Department of Transportation

EMILY SCHWENINGER
Sr. Policy Advisor
Transportation Health and Safety
United States Department of Transportation

RAISE Fontana: Building a Better Connected Inland Empire
ACQUANETTA WARREN
Mayor of Fontana

Vision Zero Project: Safe Streets & Roads for All
DANENE SORACE
Mayor of Lancaster, PA

Q&A

Support provided by Bloomberg Philanthropies.



SATURDAY, JUNE 3**New Environmental Mandates - What Your Community Needs to Know**

8:00 a.m. - 9:00 a.m.

Location TBD

Local governments play a critical role in the effective implementation of environmental policy through balancing public health and consumer costs. The US Environmental Protection Agency (EPA) has been moving forward with many new environmental policies intended to protect public health and the environment, but that will have costly impacts on municipal resources and services. This session will provide Mayors with a review of upcoming mandates that will add new local compliance costs and will offer insights on the types of impacts your community might expect.

<i>Moderator</i>	DAN GELBER Mayor of Miami Beach Chair, Environment Standing Committee
<i>Presentation</i>	<i>PFAS - CERCLA and Drinking Water Standards</i> ADRIENNE NEMURA, P.E. Principal Geosyntec Consultants DR. JANET ANDERON or CHAD SEIDEL Water and Health Advisory Council CHRIS MOODY, P.E. Regulatory Technical Manager American Water Works Association
<i>Remarks</i>	MARY LOU PAULY Mayor of Issaquah
<i>Presentation</i>	<i>Lead and Copper Rule -Existing and New Rule</i> STEVE VIA Director, Federal Relations American Water Works Association
<i>Remarks</i>	KIM NORTON Mayor of Rochester, MN DANENE SORACE Mayor of Lancaster, PA

SATURDAY, JUNE 3

Opening Plenary Session

9:30 a.m. - 11:15 a.m.

Location TBD

Program will begin at 9:35 a.m.

Presiding FRANCIS X. SUAREZ
Mayor of Miami
President, The United States Conference of Mayors

*Presentation
of the Colors*

National Anthem

Invocation

Welcome ANDREW J. GINTHER
Mayor of Columbus, Host

*Video
Introduction* TOM COCHRAN
CEO and Executive Director
The United States Conference of Mayors

Video *The Suarez Presidency*

*President's
Address* FRANCIS X. SUAREZ
Mayor of Miami
President, The United States Conference of Mayors

Panel *Strengthening City Small Business and Entrepreneur Ecosystems*

This discussion will focus on mayoral leadership in support of small business and entrepreneur growth in cities with a focus on Wells Fargo's commitment to strengthening the local ecosystem to ensure their success.

Moderator Wells Fargo Executive Leader TBD
Title
Wells Fargo
USCM Platinum Partner

Panelists HILLARY SCHIEVE
Mayor of Reno
Vice President, The United States Conference of Mayors

ELIZABETH B. KAUTZ
Mayor of Burnsville
Chair, Small Business and Entrepreneurship Task Force



SATURDAY, JUNE 3

Small Business Owner — Women Entrepreneurs
Program TBD

Community Development Financial Institutions (CDFI)
Fund Executive TBD

Support provided by Wells Fargo.

Remarks TBA

BEST PRACTICE FORUMS

Advancing Climate and Equity Plans - A Framework for Community Design Excellence

11:45 a.m. - 12:45 p.m.

Location TBD

Meeting your cities' climate goals is critical to reducing the risk of catastrophic weather events, and you cannot meet these goals without addressing how buildings are constructed and operated in your community. This session will highlight ways mayors are utilizing climate action plans to reduce risk, address affordability and improve health outcomes. Mayors who are seeking to establish community-based climate goals, create a new climate action plan, or implement an existing plan will learn more about specific building-related issues to consider throughout this process.

Moderator TBA

Panelists TBA

Support provided by American Institute of Architects.

The Electric Vehicle Revolution

11:45 a.m. - 12:45 p.m.

Location TBD

Electric Vehicles and Fleets are revolutionizing the nation's transportation system. Hear Mayors and Industry Representatives about the dramatic progress being made in EV adoption and charging.

Moderator DAVID HOLT
Mayor of Oklahoma City
Co-Chair, Electric Vehicles Task Force

Panelists JAMAEL TITO BROWN
Mayor of Youngstown
Co-Chair, Electric Vehicles Task Force



SATURDAY, JUNE 3

JOHN GILES
Mayor of Mesa

NATE HILL
Head of Energy Policy, North America
Amazon

Support provided by Amazon.

Saturday Plenary Lunch

1:00 p.m. - 3:00 p.m.
Location TBD

Program will begin at 1:15 p.m.

Presiding FRANCIS X. SUAREZ
Mayor of Miami
President, The United States Conference of Mayors

Armchair
Discussion *Hotel Impact: Elevating Communities Through Workforce Development Opportunities*

The U.S. hotel industry is a cornerstone for local economic activity. Cities with a thriving hotel base have increased employment opportunities, greater tax revenues to State and local governments, and a stream of hotel guests who spend millions - sometimes billions - in local economies. This conversation will center on collaborative ways we can grow and strengthen a diverse local workforce, driving more opportunities to citizens looking for a career full of opportunity and growth.

Moderator ANNA BLUE
President
American Hotel & Lodging Association Foundation

Discussant TBA

Support provided by the American Hotel & Lodging Association.

Greetings LAKISHA ANN WOODS, CAE
Executive Vice President/Chief Executive Officer
American Institute of Architects (AIA)

Remarks ERIC STEVENSON
President
Nationwide Retirement Solutions
USCM Platinum Partner



SATURDAY, JUNE 3

Panel *How Young Mayors are Redefining Collaboration and Shaping the Future of Local Government*

Moderator TBA

Panelists CHOKWE ANTAR LUMUMBA
Mayor of Jackson, MS

Other TBA

Support provided by the Walton Family Foundation.

Panel TBA

Remarks THE HONORABLE MARCIA L. FUDGE
Secretary
United States Department of Housing and Urban Development

Community Development and Housing Standing Committee

3:15 p.m. - 4:15 p.m.

Location TBD

Chair WADE KAPSZUKIEWICZ
Mayor of Toledo

Consideration of Proposed Resolutions

Remarks TBA

Criminal and Social Justice Standing Committee

3:15 p.m. - 4:15 p.m.

Location TBD

Chair QUINTON LUCAS
Mayor of Kansas City, MO

Consideration of Proposed Resolutions

Remarks TBA



SATURDAY, JUNE 3

Environment Standing Committee

3:15 p.m. - 4:15 p.m.

Location TBD

Chair DAN GELBER
Mayor of Miami Beach

Consideration of Proposed Resolutions

Remarks TBA

Jobs, Education, and the Workforce Standing Committee

3:15 p.m. - 4:15 p.m.

Location TBD

Chair KATE GALLEG0
Mayor of Phoenix

Consideration of Proposed Resolutions

Public Service Loan Forgiveness: Supporting America's Frontline Workers

Remarks RICHARD CORDRAY
Chief Operating Officer of Federal Student Aid
United States Department of Education

Technology and Innovation Standing Committee

3:15 p.m. - 4:15 p.m.

Location TBD

Chair BRUCE HARRELL
Mayor of Seattle

Consideration of Proposed Resolutions

Remarks TBA



SATURDAY, JUNE 3

BEST PRACTICE FORUMS

A New Era for Intercity Passenger Rail

4:45 p.m. - 5:45 p.m.

Location TBD

Moderator CHRIS KOOS
Mayor of Normal
Vice Chair for Passenger Rail, Transportation Standing Committee

Remarks STEPHEN J. GARDNER
Chief Executive Officer
Amtrak

Learning From the Past to Better Plan for the Next Census Count

4:45 p.m. - 5:45 p.m.

Location TBD

What did we learn from the 2020 Census that can help us improve the next census count? How can mayors continue to mitigate 2020 Census undercounts in the population numbers used to allocate vital resources? Join us for a timely panel discussion with mayors and senior Census Bureau officials to learn what mayors can do now to help shape the 2030 Census.

Moderator TBA

Remarks TBA

Small Cities Forum

4:45 p.m. - 5:45 p.m.

Location TBD

Moderator TBA

Remarks TBA



SATURDAY, JUNE 3

Working with our Federal Law Enforcement Partnerships to Keep our Cities Safe

4:45 p.m. - 5:45 p.m.

Location TBD

This session will highlight how mayors and police chiefs are working and can work in partnership with federal law enforcement agencies to reduce and respond to violent crimes.

Moderator TBA

Remarks TBA

RONALD L. DAVIS
Director
United States Marshals Service
United States Department of Justice

TBA

USCM Nominating Committee (Closed)

5:00 p.m. - 6:00 p.m.

Location TBD

Chair SYLVESTER TURNER
Mayor of Houston

Members BRYAN K. BARNETT
Mayor of Rochester Hills, MI
Past President, The United States Conference of Mayors

JAMES BRAINARD
Mayor of Carmel, IN

JANE CASTOR
Mayor of Tampa

PAIGE COGNETTI
Mayor of Scranton

T.M. FRANKLIN COWNIE
Mayor of Des Moines

JOHN GILES
Mayor of Mesa



SATURDAY, JUNE 3

TISHAURA O. JONES
Mayor of St. Louis

ELIZABETH B. KAUTZ
Mayor of Burnsville
Past President, The United States Conference of Mayors

LEVAR STONEY
Mayor of Richmond, VA

LUCY VINIS
Mayor of Eugene

ACQUANETTA WARREN
Mayor of Fontana

STEVE WILLIAMS
Mayor of Huntington, WV

Alternates BRIAN C. WAHLER
Mayor of Piscataway

JAMES HOVLAND
Mayor of Edina

EVENING EVENT



The Columbus Way - KembaLive!

7:00 p.m. - 10:00 p.m.

Celebrate Columbus' vibrant communities, filled with local colors, urban arts, and dynamic culture. This event is the platform to honor the creative communities around us. Come see our city shine and enjoy a night of entertainment, The Columbus Way!

Transportation: Evening event shuttles will operate on a circulator 30 minutes prior to event start and until 1 hour after event start. All shuttles will depart from the 402 Hilton Tower.

Suggested Attire: Casual

SUNDAY, JUNE 4

Registration

7:00 a.m. - 5:00 p.m.

Location TBD

Mayors and Business Leaders Plenary Breakfast

7:30 a.m. - 9:00 a.m.

Location TBA

Program will begin at 7:50 a.m.

<i>Presiding</i>	CAROLYN G. GOODMAN Mayor of Las Vegas Chair, Mayors Business Council Task Force
<i>Greetings</i>	TOM COCHRAN CEO and Executive Director The United States Conference of Mayors
<i>Greetings</i>	CHARLES HALES Urban Planning Cross Sector Director HDR Co-Chair, Mayors Business Council Steering Committee
	DAVID GOLDWATER Vice President, Senior Policy Advisor Stantec Co-Chair, Mayors Business Council Steering Committee
<i>Greetings</i>	<i>The Recycling Partnership</i>
<i>Panel</i>	<i>Subject TBA</i>
<i>Moderator</i>	TBA
<i>Panelists</i>	JIM CATHEY Chief Commercial Officer Qualcomm Technologies, Inc.
	Other TBA

Support provided by Qualcomm.

Panel Responding to Mass Shootings

Several mayors whose cities experienced recent mass shootings will talk about how they navigated the aftermath of those shootings, what they learned, and their advice for mayors.



SUNDAY, JUNE 4

BEST PRACTICE FORUMS

Leveraging Body Camera Data to Improve Community Trust

9:15 a.m. - 10:15 a.m.

Location TBD

While body-worn cameras (BWC) are intended in great part to increase the public's trust in the police, recent research shows that hasn't happened and that the use of these cameras alone does not significantly improve police performance and accountability. In this forum, we will discuss how BWC data can be used for coaching, training, and accountability to increase police legitimacy, professionalism, and citizen satisfaction scores with police interactions.

Moderator JANE CASTOR
Mayor of Tampa

Panelists MARILYN EZZY ASHCRAFT
Mayor of Alameda

NISHANT JOSHI
Chief, Alameda Police Department

ART ACEVEDO
Chief, Aurora Police Department

CHARLES RAMSEY
Advisor, The United States Conference of Mayors
Former Chief, Philadelphia and Washington D.C. Police Departments

Support provided by Truleo.

The Power of Policy: A Health-Centric Approach to Governing

9:15 a.m. - 10:15 a.m.

Location TBD

Adopting health-related policy solutions can have real, lasting impacts on people's lives — and help build vibrant, equitable communities. From improving the accessibility of city streets to ensuring families have access to safe and affordable housing, hear from leading mayors who are taking a health-centered approach to governing.

Moderator TBA

Panelists TBA

RON NIRENBERG
Mayor of San Antonio

Support provided by Cityhealth.



SUNDAY, JUNE 4

Subject TBA

9:15 a.m. - 10:15 a.m.

Location TBD

Moderator TBA

Panelists TBA

Support provided by Crown Castle and Incompas.

Sunday Morning Plenary Session

10:30 a.m. - 11:30 a.m.

Location TBD

Program will begin at 10:35 a.m.

Presiding FRANCIS X. SUAREZ
Mayor of Miami
President, The United States Conference of Mayors

Panel *The Local Infrastructure Hub: Implementing the Bi-partisan Infrastructure Law*

Moderator TBA

Panelists SYLVESTER TURNER
Mayor of Houston

MATT TUERK
Mayor of Allentown

Support provided by Bloomberg Philanthropies.

Panel *Better Cities for Pets: Strategies for Keeping People and Their Pets Together During Difficult Times*

Moderator TBA

Panelists NADINE WOODARD
Mayor of Spokane

SYLVESTER TURNER
Mayor of Houston

Support provided by Mars Petcare.

Remarks TBA



SUNDAY, JUNE 4

BEST PRACTICE FORUMS

Vacant Commercial to Occupied Residential: Reimagining Commercial Space as Housing

11:45 a.m. - 12:45 p.m.

Location TBD

Communities across the country are struggling to provide high-quality affordable housing. The nation needs to build 266,000 apartments each year to keep up with demand. The National Apartment Association will present its latest research on what's happening in specific cities and metro areas, and cities will showcase how they are working with housing industry groups, private employers, and other partners to increase affordable housing in downtowns and other neighborhoods.

Moderator TBA

Panelists TBA

Support provided by the National Apartment Association (NAA).

Subject TBA

11:45 a.m. - 12:45 p.m.

Location TBD

Moderator TBA

Panelists TBA

Support provided by Honeywell.



SUNDAY, JUNE 4

Sunday Plenary Luncheon

1:00 p.m. - 2:30 p.m.

Location TBD

Program will begin at 1:15 p.m.

Presiding FRANCIS X. SUAREZ
Mayor of Miami
President, The United States Conference of Mayors

Remarks TBA

Panel *Using Climate Data for Better City Planning and Enhanced Resilience*

Moderator TBA

Panelists VICTORIA WOODARDS
Mayor of Tacoma

KAREN MARSH
Director, Resilience Analysis and Capacity Development Division, Risk Management Directorate
Federal Disaster Management Agency

SHANNON CARROLL
Assistant Vice President, Environmental Sustainability
AT&T

Support provided by AT&T.

Remarks TBA

Awards
Presentation *Police Reform and Equitable Justice Grant Program –
Presentations to Mayors Receiving Grants in Third Round of Award Program.*

Support provided by Target Corporation.

Remarks TBA



SUNDAY, JUNE 4

BEST PRACTICE FORUMS

Local Strategies to Reduce Homelessness

3:00 p.m. - 4:00 p.m.

Location TBD

Moderator TBA

Remarks TBA

MICD: Achieving Design Excellence and Equitable Outcomes Through the RFP Process

3:00 p.m. - 4:00 p.m.

Location TBD

Moderator TRINITY SIMONS WAGNER
Executive Director
Mayors' Institute on City Design

Remarks TBA

Partnering With the VA and DOD to Better Serve Veterans and Defense Communities

3:00 p.m. - 4:00 p.m.

Location TBD

Mayors will be informed about various programs available to assist veterans in need of health care, education and training, and other assistance; and about infrastructure grants available to assist communities with military installations close by.

Moderator JIM ROSS
Mayor of Arlington
Co-Chair, Veterans Affairs Task Force

Remarks TBA



SUNDAY, JUNE 4

Promoting Economic Mobility in America's Cities

3:00 p.m. - 4:00 p.m.

Location TBD

Mayors will discuss economic mobility efforts underway in their cities, and how DollarWise Innovation Grants have helped them serve disadvantaged residents in their communities.

Moderator SATYA RHODES-CONWAY
Mayor of Madison
Vice Chair, Council on Metro Economies & the New American City

Remarks STEPHANIE LOMIBAO
SVP Philanthropy Program Director
Bank of America Charitable Foundation

SHANNON GINTHER
Columbus First Lady
Chair
Columbus Women's Commission

Panelists JUSTIN BIBB
Mayor of Cleveland

ANDY SCHOR
Mayor of Lansing

SHARETTA T. SMITH
Mayor of Lima

STEVEN REED
Mayor of Montgomery

Sponsored by the DollarWise Economic Mobility Campaign, and its founding sponsor the Bank of America Charitable Foundation

Sports in Cities Post Pandemic

3:00 p.m. - 4:00 p.m.

Location TBD

Moderator BUDDY DYER
Mayor of Orlando
Chair, Mayors Professional Sports Alliance

Remarks RICK HORROW
Anchor
Sportfolio



SUNDAY, JUNE 4

Executive Committee Meeting (Closed)

3:00 p.m. - 4:00 p.m.

Location TBD

Women Mayors Leadership Alliance of The U.S. Conference of Mayors Plenary Session

4:15 p.m. - 5:15 p.m.

Location TBD

This meeting is open to all 91st Annual Meeting participants.

Program will begin at 4:15 p.m.

Chair VICTORIA WOODARDS
Mayor of Tacoma, WA

Vice Chair KATHY SHEEHAN
Mayor of Albany

Remarks TBA

Panel *Resilient Women: Overcoming Adversity and Challenges in the Public Eye*

Moderator KATHY SHEEHAN
Mayor of Albany

Panelists ANGELA F. WILLIAMS
President and CEO
United Way Worldwide

ELIZABETH Z. BARTZ
President and CEO
State and Federal Communications, Inc.

MAYORS TBA



SUNDAY, JUNE 4

**Community Leaders of America (CLA) | Forum for Community Leaders (FCL) Republican Mayor Forum Reception
(Closed to Press)**

5:30 p.m. - 6:30 p.m.

Location TBD

Chair JOSEPH C. BORELLI
 Councilmember
 New York City

Democratic Mayors Association Meeting (Closed to Press)

5:30 p.m. - 6:30 p.m.

Location TBD

President LEVAR STONEY
 Mayor of Richmond, VA



SUNDAY, JUNE 4

EVENING EVENT



The Space Around Us - The Center Of Science And Industry (COSI)

7:00 p.m. - 10:00 p.m.

Columbus is one of the fastest growing cities in the country. Because of this, we take pride in conserving parts of the city's lush greenery that makes Columbus feel like home. This event recognizes the balance between Columbus' technological advancements and the thriving foliage around the city. The future of Columbus is limitless! With so much to celebrate, we're excited to show off the space around US.

Transportation: Evening event shuttles will operate on a circulator from 6:30pm to 8:00pm. All shuttles will depart from the 402 Hilton Tower.

Suggested Attire: Casual



**Celebration Honoring
Outgoing USCM President Francis X. Suarez of Miami
and**

Incoming USCM President Hillary Schieve of Reno

9:30 p.m. -

Location TBD

Columbus Hilton Downtown



MONDAY, JUNE 5

Registration

7:00 a.m. - 11:00 a.m.

Location TBD

Continental breakfast will be available beginning at 8:00 a.m.

Monday Morning Plenary/Business Session

9:00 a.m. - 10:30 a.m.

Location TBD

Program will begin at 9:35 a.m.

Presiding FRANCIS X. SUAREZ
Mayor of Miami
President, The United States Conference of Mayors

*Debate and Adoption by Membership of Resolutions
Reported out by the Standing Committees*

Vote on Nominating Committee Recommendations

Installation of Officers

Panel TBA

BEST PRACTICE FORUMS

How to Tap Into Your Local Universities' Resources

11:45 a.m. - 11:45 a.m.

Location TBD

Moderator TBA

Remarks KATE GARMAN BURNS
Executive Director
Metrolab Network

Others TBA



MONDAY, JUNE 5

**Inaugural Luncheon Honoring the 81st President
of The United States Conference of Mayors**

12:00 p.m. - 1:30 p.m.

Location TBD

Program will begin at 12:15 p.m.

Moderator TOM COCHRAN
CEO and Executive Director
The United States Conference of Mayors

Performance

*Video
Presentation*

Address HILLARY SCHIEVE
Mayor of Reno
81st President of The United States Conference of Mayors





WORKFORCE DEVELOPMENT COUNCIL (WDC)

The Workforce Development Council is an affiliate organization of The U.S. Conference of Mayors.

FRIDAY, JUNE 2

Workforce Development Council Board/Annual Meeting

8:00 a.m. - 4:00p.m.

Location TBD

TAMARA ATKINSON

Chief Executive Officer

Workforce Solutions Capital Area

WDC President

Site Visit

Designer Brands Omnichannel Warehouse Operation

2:15 p.m. - 3:15 p.m.

DSW Distribution Center, Columbus

(Buses will begin loading at 1:30 p.m. for a 1:45 p.m. departure. Buses will arrive at the Distribution Center at 2:00 p.m. Buses will begin loading for a return trip to the hotel at 3:15 p.m. Buses will arrive back at the hotel at 3:30 p.m.)

Designer Brands is one of North America's largest designers, producers and retailers of footwear and accessories with world-class design and sourcing operations, a robust wholesaling business, and more than 1,000 points of distribution. Come tour their flagship Designer Shoe Warehouse (DSW) "warehouse reimaged" concept — a state of the art omnichannel warehouse — to see the impact of technology on logistics and learn more about how DSW staffs its distribution center and delivers hands-on training and instruction on warehouse operations and other logistics settings to ALL residents of Columbus, in a true effort to embed diversity, equity, inclusion and accessibility into their successful business model.

Remarks

ANDREW J. GINTHER

Mayor of Columbus, OH

LISA PATT MCDANIEL

CEO

Workforce Development Board of Central Ohio

TARYN WILLIAMS

Assistant Secretary for Disability Employment

United States Department of Labor



FRIDAY, JUNE 2

JEFF GIRARD
Senior Vice President of Distribution & Logistics
Designer Brands Inc.

KEVIN L. MILLER
Director
Opportunities for Ohioans with Disabilities

SARAH DUPLESSIS
Director
Food for Good Thought

Supported by the Department of Labor's State Exchange on Employment & Disability (SEED) Initiative.

SATURDAY, JUNE 3

Workforce Development Council Board/Annual Meeting

8:00 a.m. - 4:00 p.m.

Location TBD

TAMARA ATKINSON
Chief Executive Officer
Workforce Solutions Capital Area
WDC President



THE UNITED STATES CONFERENCE OF MAYORS PRESIDENTS

FRANCIS X. SUAREZ, Miami, FL 2022-Present (80th)
 NAN WHALEY, Dayton, OH 2021 (79th)
 GREG FISCHER, Louisville, KY 2020-2021 (78th)
 BRYAN K. BARNETT, Rochester Hills, MI 2019-2020 (77th)
 STEPHEN K. BENJAMIN, Columbia, SC 2018-2019 (76th)
 MITCHELL J. LANDRIEU, New Orleans 2017-2018 (75th)
 MICK CORNETT, Oklahoma City 2016-2017 (74th)
 STEPHANIE RAWLINGS-BLAKE, Baltimore 2015-2016 (73rd)
 KEVIN JOHNSON, Sacramento 2014-2015 (72nd)
 SCOTT SMITH, Mesa 2013-2014 (71st)
 MICHAEL A. NUTTER, Philadelphia 2012-2013 (70th)
 ANTONIO R. VILLARAIGOSA, Los Angeles 2011-2012 (69th)
 ELIZABETH B. KAUTZ, Burnsville 2009-2011 (68th)
 GREG NICKELS, Seattle 2009 (67th)
 MANUEL A. DIAZ, Miami 2008-2009 (66th)
 DOUGLAS H. PALMER, Trenton 2006-2008 (65th)
 MICHAEL A. GUIDO, Dearborn 2006 (64th)
 BEVERLY O'NEILL, Long Beach 2005-2006 (63rd)
 DONALD L. PLUSQUELLIC, Akron 2004-2005 (62nd)
 JAMES A. GARNER, Hempstead 2003-2004 (61st)
 THOMAS M. MENINO, Boston 2002-2003 (60th)
 MARC H. MORIAL, New Orleans 2001-2002 (59th)
 H. BRENT COLES, Boise 2000-2001 (58th)
 WELLINGTON E. WEBB, Denver 1999-2000 (57th)
 DEEDEE CORRADINI, Salt Lake City 1998-1999 (56th)
 PAUL HELMKE, Fort Wayne 1997-1998 (55th)
 RICHARD M. DALEY, Chicago 1996-1997 (54th)
 NORMAN B. RICE, Seattle 1995-1996 (53rd)
 VICTOR ASHE, Knoxville 1994-1995 (52nd)
 JERRY E. ABRAMSON, Louisville 1993-1994 (51st)
 WILLIAM J. ALTHAUS, York 1992-1993 (50th)
 RAYMOND L. FLYNN, Boston 1991-1992 (49th)
 ROBERT M. ISAAC, Colorado Springs 1990-1991 (48th)
 KATHRYN J. WHITMIRE, Houston 1989-1990 (47th)
 ARTHUR J. HOLLAND, Trenton 1988-1989 (46th)
 RICHARD L. BERKLEY, Kansas City 1987-1988 (45th)
 JOSEPH P. RILEY, JR., Charleston 1986-1987 (44th)
 ERNEST N. MORIAL, New Orleans 1985-1986 (43rd)
 HERNAN PADILLA, San Juan 1984-1985 (42nd)
 RICHARD H. FULTON, Nashville 1983-1984 (41st)
 COLEMAN A. YOUNG, Detroit 1982-1983 (40th)
 HELEN G. BOOSALIS, Lincoln 1981-1982 (39th)
 RICHARD G. HATCHER, Gary 1980-1981 (38th)
 RICHARD E. CARVER, Peoria 1979-1980 (37th)
 WILLIAM H. McNICHOLS, JR., Denver 1978-1979 (36th)
 LEE ALEXANDER, Syracuse 1977-1978 (35th)
 KENNETH A. GIBSON, Newark 1976-1977 (34th)
 MOON LANDRIEU, New Orleans 1975-1976 (33rd)
 JOSEPH L. ALIOTO, San Francisco 1974-1975 (32nd)



ROY B. MARTIN, JR., Norfolk 1973-1974 (31st)
LOUIE WELCH, Houston 1972-1973 (30th)
HENRY W. MAIER, Milwaukee 1971-1972 (29th)
JAMES H.J. TATE, Philadelphia 1970-1971 (28th)
JACK D. MALTESTER, San Leandro 1969-1970 (27th)
TERRY D. SCHRUNK, Portland, OR 1968-1969 (26th)
JOSEPH M. BARR, Pittsburgh 1967-1968 (25th)
JEROME P. CAVANAUGH, Detroit 1966-1967 (24th)
NEAL S. BLAISDELL, Honolulu 1965-1966 (23rd)
RAYMOND R. TUCKER, St. Louis 1963-1965 (22nd)
ARTHUR L. SELLAND, Fresno 1963 (21st)
RICHARD C. LEE, New Haven 1962-1963 (20th)
ANTHONY J. CELEBREEZE, Cleveland 1962 (19th)
HAYDON BURNS, Jacksonville 1961-1962 (18th)
RICHARDSON DILWORTH, Philadelphia 1960-1961 (17th)
RICHARD J. DALEY, Chicago 1959-1960 (16th)
NORRIS POULSON, Los Angeles 1958-1959 (15th)
ROBERT F. WAGNER, New York 1957-1958 (14th)
JOHN B. HYNES, Boston 1955-1957 (13th)
ELMER E. ROBINSON, San Francisco 1953-1955 (12th)
THOMAS A. BURKE, Cleveland 1953 (11th)
MARTIN H. KENNELLY, Chicago 1952-1953 (10th)
DAVID L. LAWRENCE, Pittsburgh 1950-1952 (9th)
W. COOPER GREEN, Birmingham 1949-1950 (8th)
GEORGE W. WELSH, Grand Rapids 1947-1949 (7th)
EDWARD J. KELLY, Chicago 1945-1947 (6th)
FIORELLO H. LAGUARDIA, New York 1935-1945 (5th)
DANIEL W. HOAN, Milwaukee 1934-1935 (4th)
T. SEMMES WALMSLEY, New Orleans 1933-1934 (3rd)
JAMES M. CURLEY, Boston 1933 (2nd)
FRANK MURPHY, Detroit 1933 (1st)

THE UNITED STATES CONFERENCE OF MAYORS LEADERSHIP

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JOY COOPER, Hallandale Beach, FL
T.M. FRANKLIN COWNIE, Des Moines, IA
JOHN GILES, Mesa, AZ
TODD GLORIA, San Diego, CA
DAVID HOLT, Oklahoma City, OK
TISHAURA O. JONES, St. Louis, MO
LORI E. LIGHTFOOT, Chicago, IL
SYLVESTER TURNER, Houston, TX
ACQUANETTA WARREN, Fontana, CA

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CHRIS BARNETT, Charter Township of Orion, MI
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LUKE BRONIN, Hartford, CT
SHARON WESTON BROOME, Baton Rouge, LA
PAIGE G. COGNETTI, Scranton, PA
BUDDY DYER, Orlando, FL
JERRY DYER, Fresno CA
KATE GALLEGO, Phoenix, AZ
JOSEPH P. GANIM, Bridgeport, CT
CAROLYN G. GOODMAN, Las Vegas, NV
GERARD HUDSPETH, Denton, TX
ERIC JOHNSON, Dallas, TX
TIM KELLER, Albuquerque, NM
JON MITCHELL, New Bedford, MA
KENNETH D. MIYAGISHIMA, Las Cruces, NM
CHRISTINA MURYN, Findlay, OH
RON NIRENBERG, San Antonio, TX
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AFTAB PUREVAL, Cincinnati, OH
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LEVAR STONEY, Richmond, VA
BRIAN C. WAHLER, Piscataway, NJ
STEVE WILLIAMS, Huntington, WV
VICTORIA WOODARDS, Tacoma, WA

CEO and Executive Director

TOM COCHRAN



Travel and Training FY 22-23 Budget Tracking for Council

ATTACHMENT 2

Item # C6.

Mayor Montano				
	Training/Travel Event	FY22-23 Amount Expended/Estimated	Total \$ 1,431.59	Remaining Balance \$ 3,568.41
1	2022 League of CA Cities Annual Conference & Expo in Long Beach from 9/7/2022 to 9/9/2022 (canceled, charged for the flight only)	\$ 157.95		
2	2022 LoCC Annual Conference Registration	\$ 600.00		
3	2022 LoCC Conference Refund	\$ (525.00)		
4	2023 LoCC New Mayors and Council Members Academy	\$ 1,198.64		

Vice Mayor Chua				
	Training/Travel Event	FY22-23 Amount Expended/Estimated	Total \$ 1,377.60	Remaining Balance \$ 3,622.40
1	2022 League of CA Cities Annual Conference & Expo in Long Beach from 9/7/2022 to 9/9/2022 (canceled, charged for the flight only)	\$ 127.96		
2	2022 LoCC Annual Conference Registration	\$ 600.00		
3	2022 LoCC Conference Refund	\$ (525.00)		
4	2023 LoCC New Mayors and Council Members Academy	\$ 1,174.64		

Councilmember Phan				
	Training/Travel Event	FY22-23 Amount Expended/Estimated	Total \$ 2,219.64	Remaining Balance \$ 2,780.36
1	Working Partnership - Champions for Change Event	\$ 100.00		
2	2022 Elected/Public Officials Retreat & Lunch in Palo Alto, 8/27/2022	\$ 10.00		
3	2022 LGBTQ+ Asian Pacific Alliance (GAPA) Banquet in Oakland, 10/01/2022	\$ 85.00		
4	2023 LoCC New Mayors and Council Members Academy	\$ 1,174.64		
5	2023 CivicWell Policymakers Conference Registration	\$ 1,700.00		
6	2023 CivicWell Policymakers Conference Refund	\$ (850.00)		

Councilmember Lien				
	Training/Travel Event	FY22-23 Amount Expended/Estimated	Total \$ 1,198.64	Remaining Balance \$ 3,801.36
1	2023 LoCC New Mayors and Council Members Academy	\$ 1,198.64		

Councilmember Barbadillo				
	Training/Travel Event	FY22-23 Amount Expended/Estimated	Total \$ 625.00	Remaining Balance \$ 4,375.00
1	2023 LoCC New Mayors and Council Members Academy	\$ 625.00		



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Granting Acceptance of Fire Station No. 2 Replacement, Project No. 3447, Authorizing the City Engineer to file a Notice of Completion, and Authorizing the City to Issue a Notice of Final Acceptance after the One-Year Warranty (Staff Contact: Michael Silveira, Capital Improvement Program Manager, 408-586-3303)
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	5/16/2023
	<u>Recommendation:</u> Adopt a resolution granting acceptance of Fire Station No. 2 Replacement, Project No. 3447, authorizing the City Engineer to file a Notice of Completion, and authorizing the City Engineer to issue a Notice of Final Acceptance after the one-year warranty.

Background:

On December 15, 2020, the City Council awarded a construction contract to Sausal Corporation for the Fire Station No. 2 Replacement, Project No. 3447 in the amount of \$7,638,200 ("Project"). Fire Station No. 2, located at 1263 Yosemite Drive, was originally constructed in 1968 which had reached the end of its service life. The new 10,300 square foot single story wood frame structure is constructed to meet the current building and fire codes for an essential facility, using sustainable elements and to improve operation efficiencies and response times. The facility includes a community meeting room for public use, three apparatus bays, nine dorm rooms, day room, kitchen, exercise room, gender equality restrooms, drought tolerant landscaping, sustainable green infrastructure such as pervious pavers and rain gardens, and site improvements.

Analysis:

The Project was successfully completed on time and within budget and the station has been in operation since October 2022. Staff recommends that City Council adopt a Resolution (**Attachment 1**) granting acceptance of the Project and authorizing the City Engineer to file a Notice of Completion in accordance with the provisions of Section 9204 of the Civil Code. Staff also recommends the City Council authorize the City Engineer to issue a notice of final acceptance after the one-year warranty period without further City Council action, provided that all warranty work is completed to the satisfaction of the City Engineer.

Policy Alternative:

Alternative: Do not adopt Resolution and deny Project acceptance, deny filing a notice of completion and not begin the one-year warranty.

Pros: None

Cons: A denial would result in the City being unable to commence the one-year warranty, release the retention to the Contractor and release any funds remaining back into the Project budget.

Reason not Recommended: Denial would result in the City being unable to close out the Project and release any funds remaining back into the Project budget.

Fiscal Impact:

No additional funding is requested for new fire station as the project is now complete. Information Technology and Public Works department budgets for maintenance and operations of this project will be considered during the annual budget development.

California Environmental Quality Act:

The Project qualifies for categorical exemption under Class 2 “Replacement or Reconstruction” as defined in CEQA Guidelines Section 15302.

Recommendations:

Adopt a Resolution granting acceptance of Fire Station No. 2 Replacement, Project No. 3447, authorizing the City Engineer to file a Notice of Completion, and authorizing the City Engineer to issue a Notice of Final Acceptance after the one-year warranty.

Attachments:

Attachment 1: Resolution

RESOLUTION NO. _____**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS GRANTING
ACCEPTANCE OF THE FIRE STATION NO. 2 REPLACEMENT, PROJECT NO. 3447**

WHEREAS, the City of Milpitas has heretofore entered into a contract with Sausal Corporation, for Fire Station No. 2 Replacement, Project No. 3447, in the amount of \$7,638,200.00 (“Project”), and the City Engineer of the City of Milpitas has recommended acceptance of said improvement as completed in accordance with plans, specifications and approved change orders and correction lists, and in accordance with the final inspection of said City Engineer.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City of Milpitas does hereby accept said improvement as completed on this 16th day of May, 2023, and does hereby authorize and direct the City Engineer of the City of Milpitas to file a Notice of Completion in accordance with the provisions of Section 9204 of the Civil Code of the State of California, and does hereby authorize and direct the City Engineer to file a Certificate of Completion in accordance with the provisions of Section 4005 of the Government Code of the State of California, if said work was by day’s labor or force account.
3. The City Council authorizes the City Engineer to issue the Notice of Final Acceptance after the one-year warranty period without further City Council action, provided all required warranty repairs are completed to the satisfaction of the City Engineer; and nothing herein contained shall in any way be deemed to be a waiver, release or relinquishment by City of any obligations imposed upon the contractor or its surety, or sureties, by law or by the above-referenced improvement contract, save and except those obligations specifically mentioned herein.

PASSED AND ADOPTED this _____ day of _____, 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney

Recording Requested by and
When Recorded Mail to:

City of Milpitas
455 East Calaveras Boulevard
Milpitas, CA 95035
Attention: City Clerk

Record without fee under
Section 6103 - Government Code
State of California

CITY OF MILPITAS
NOTICE OF COMPLETION
(Civil Code Section 9204)

NOTICE IS HEREBY GIVEN:

1. On or about December 16, 2020, the City Council of the City of Milpitas, a municipal corporation of the State of California, whose address is City Hall, 455 East Calaveras Boulevard, Milpitas, California, 95035 (as owner) entered into a contract for work of: **Fire Station No.2 Replacement, Project No. 3447.**
2. A description of the site of which the City is co-owner for said work of improvement is: **1263 Yosemite Drive** in the City of Milpitas, Santa Clara County, California, more particularly described on the plans.
3. The name and address of the direct contractor is: **Sausal Corporation, 3550 Willow Pass Road, Concord, CA 94519.**
4. A general statement of the kind of work done or materials furnished to the City is as follows: **The Project provides for construction of a new 10,300 square foot single story wood frame fire station and corresponding site improvements.**
5. Said work of improvement was accepted by the Milpitas City Council as complete on May 16, 2023.

I, the undersigned, declare that I am the **City Engineer** of the City of Milpitas and am authorized to execute the foregoing Notice of Completion and this Verification thereof. I have read the foregoing Notice of Completion. I declare under penalty of perjury that the foregoing Notice of Completion is true and correct. Executed on May ____, 2023 at Milpitas, California.

Matt Cano, Interim City Engineer/Deputy City
Manager, City of Milpitas

NOTE: RECORD WITHIN 15 DAYS OF ACCEPTANCE WITH COUNTY RECORDER OF
SANTA CLARA COUNTY



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Designating Project No. 4305 Street Resurfacing 2023-2024 to be Funded by SB-1 The Road Repair and Accountability Act of 2017 (Staff Contact: Matt Cano, Deputy City Manager 408-586-3012)
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	5/16/2023
Recommendation:	Adopt a Resolution Designating Project No. 4305 Street Resurfacing 2023-2024 to be Funded by SB-1 The Road Repair and Accountability Act of 2017

BACKGROUND:

California Senate Bill 1 (SB-1) Road Repair and Accountability Act of 2017 (RMRA) (Chapter 5, Statute of 2017) was signed into law by the Governor in April 2017 to address significant statewide transportation funding shortfalls. The distribution of SB-1 funding to local jurisdictions for road maintenance is based on a population formula. The City of Milpitas is estimated to receive \$2,027,406 in SB-1 funding for fiscal year 2023-2024, which begins on September 1, 2023.

ANALYSIS:

The recently adopted (2024-2028) 5-year Capital Improvement Program includes Project No. 4305 Street Resurfacing 2023-2024, the "Project".

Street locations for the Project (**Attachment 1**) were selected based on their pavement condition index (PCI) and the pavement management program recommendations designed to maintain the City's overall pavement condition goal of good or better condition. Currently, the citywide PCI is a 70, which means the City's pavement condition is in "Good Condition".

Project No. 4305 Street Resurfacing Project 2023-24 – Estimated Total Project Cost \$7.0M

- Great Mall Parkway from Highway 880 to Montague Expressway
- Thompson Street from Machado Avenue to Great Mall Parkway

The Project is to be partly funded using the estimated \$2M in SB-1 funds and is proposed to be in construction summer of 2024. The adoption of a Resolution specifying City projects where SB-1 funding will be used is required to receive the funding, and the approved Resolution must be received by the California Transportation Commission (CTC) no later than July 1, 2023.

As required by the SB-1 RMRA program, staff recommends the City Council adopt a Resolution (**Attachment 2**) designating Project No. 4305 Street Resurfacing 2023-2024 to be funded using SB-1 funds in Fiscal Year 2023-2024.

POLICY ALTERNATIVE(S):

Alternative 1: Do not adopt a Resolution stating Project No. 4305 Street Resurfacing 2023-2024 is to be funded by SB-1 as required by CTC.

Pros: None.

Cons: To receive the annual SB-1 funding, the required Resolution must be adopted and is required to be received by CTC no later than July 1, 2023.

Reason not Recommended: SB-1 funding is needed to help offset the cost of the annual street resurfacing program to maintain and improve the condition to the City's pavement infrastructure.

FISCAL IMPACT:

The receipt of annual SB-1 funding for use in the City's pavement maintenance program is needed to help offset the City costs and will reduce the need for funding from other City sources such as the General Fund. It is anticipated the City will receive \$2M in SB-1 funds to be used in Project No. 4305 Street Resurfacing 2023-2024

California Environmental Quality Act (CEQA):

The project is categorically exempt under Section 15301 of the California Environmental Quality Act guidelines for maintenance of existing facilities.

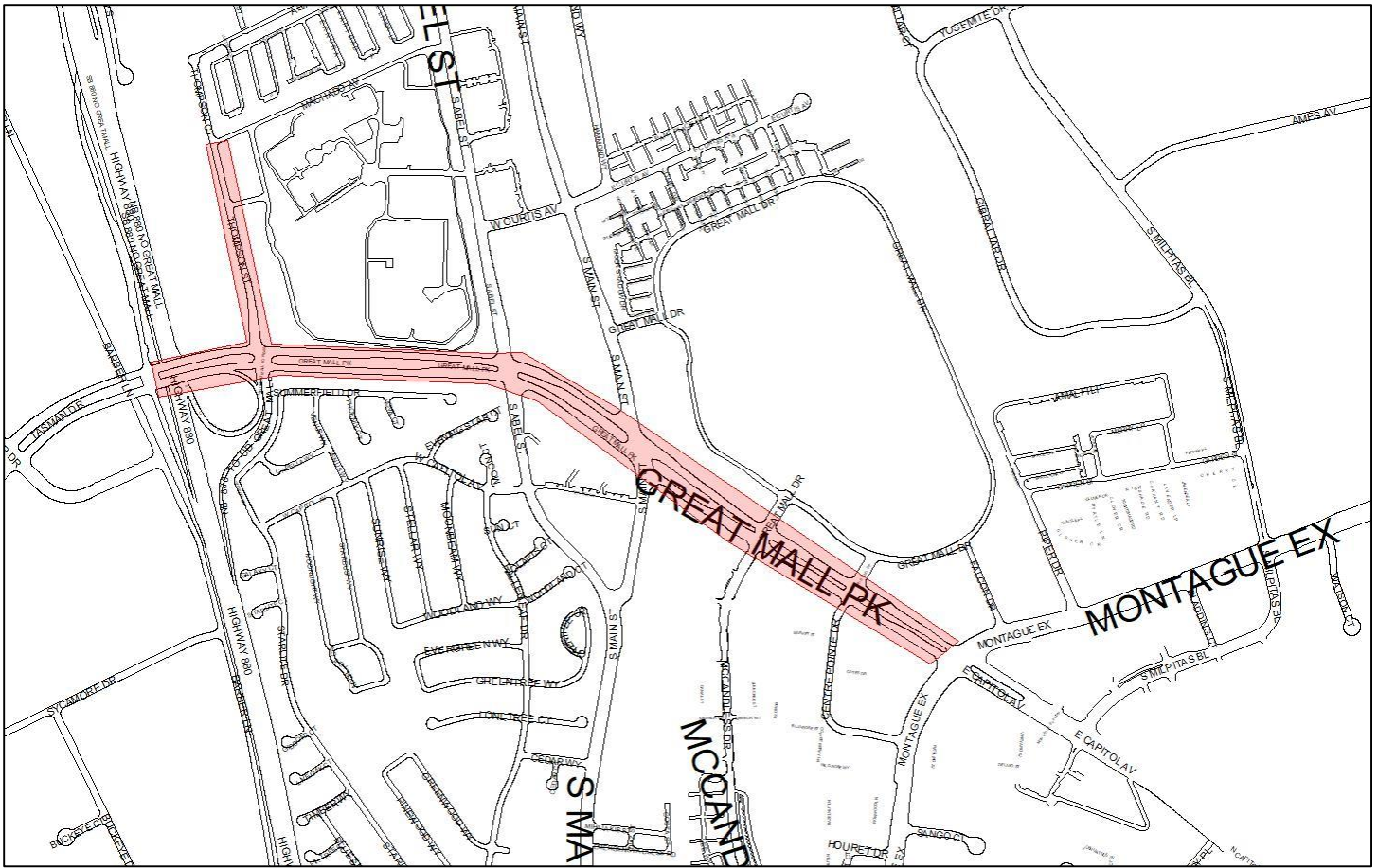
RECOMMENDATION:

Adopt a Resolution Designating Project No. 4305 Street Resurfacing 2023-2024 to be Funded by SB-1 The Road Repair and Accountability Act of 2017.

Attachment(s):

Attachment 1 – Project Locations Map
Attachment 2 – Resolution

Great Mall Parkway from Highway 880 to Montague Expressway, and Thompson Street from Machado Avenue to Great Mall Parkway (Streets highlighted in Red)



**RESOLUTION ADOPTING A LIST OF PROJECTS FOR FISCAL YEAR 2023-2024 FUNDED BY
SB 1: THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017**

WHEREAS, Senate Bill 1 (SB 1), the Road Repair and Accountability Act of 2017 (Chapter 5, Statutes of 2017) was passed by the Legislature and Signed into law by the Governor in April 2017 to address the significant multi-modal transportation funding shortfalls statewide; and

WHEREAS, SB 1 includes accountability and transparency provisions that will ensure the residents of our City of Milpitas are aware of the projects proposed for funding in our community and which projects have been completed each fiscal year; and

WHEREAS, the City of Milpitas must adopt by resolution a list of projects proposed to receive fiscal year funding from the Road Maintenance and Rehabilitation Account (RMRA), created by SB 1, which must include a description and the location of each proposed project, a proposed schedule for the project's completion, and the estimated useful life of the improvement; and

WHEREAS, the City of Milpitas, will receive an estimated \$2,027,406 in RMRA funding in Fiscal Year 2023-24 from SB 1; and

WHEREAS, this is the seventh year in which the City of Milpitas is receiving SB 1 funding and will enable the City of Milpitas to continue essential road maintenance and rehabilitation projects, safety improvements, repairing and replacing aging bridges, and increasing access and mobility options for the traveling public that would not have otherwise been possible without SB 1; and

WHEREAS, the City of Milpitas has undergone a robust public process to ensure public input into our community's transportation priorities/the project list; and

WHEREAS, the City of Milpitas used a Pavement Management System to develop the SB 1 project list to ensure revenues are being used on the most high-priority and cost-effective projects that also meet the community's priorities for transportation investment; and

WHEREAS, the funding from SB 1 will help the City of Milpitas maintain and rehabilitate 131 streets/roads, throughout the City of Milpitas this year and similar projects in the future; and

WHEREAS, the 2018 California Statewide Local Streets and Roads Needs Assessment found that the City of Milpitas streets and roads are in a "good" condition and this revenue will help us increase the overall quality of our road system and over the next decade will bring our streets and roads into a "good" condition; and

WHEREAS, the SB 1 project list and overall investment in our local streets and roads infrastructure with a focus on basic maintenance and safety, investing in complete streets infrastructure, and using cutting-edge technology, materials and practices, will have significant positive co-benefits statewide.

NOW, THEREFORE the City Council of the City of Milpitas, State of California, as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

2. The following list of newly proposed projects will be funded in-part or solely with Fiscal Year 2023-24 Road Maintenance and Rehabilitation Account revenues:

Project Title: Project No. 4305 Street Resurfacing 2024
Project Description: This project consists of AC digout, repair, and overlay, microsurfacing, minor concrete work upgrading existing curb ramps to comply with current ADA requirements, curb and gutter repair, striping, and adjusting utility covers to finished grade
Project Location: Great Mall Parkway from Highway 880 to Montague Expressway and Thompson Street from Machado Avenue to Great Mall Parkway
Estimated Project Schedule: Start (04/23)– Completion (12/25) based on the component being funded with RMRA funds
Estimated Project Useful Life: 7-10 years

PASSED AND ADOPTED by the City Council of the City of Milpitas, State of California this _____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: APPROVED:

 Suzanne Guzzetta, City Clerk

 Carmen Montano, Mayor

APPROVED AS TO FORM:

 Michael Mutalipassi, City Attorney



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Approving the Annual Engineer's Report, Adopt a Resolution Declaring the City Council's Intention to Levy and Collect Assessments, and Provide Notice of Public Hearing to be held on June 20, 2023 for Landscaping and Lighting Maintenance Assessment District No. 95-1 (LLMD 95-1 McCarthy Ranch) (Staff Contact: Roberto Alonzo, Principal Civil Engineer, 408-586-3316)
Category:	Consent Calendar-Community Development
Meeting Date:	5/16/2023
	<u>Recommendation:</u> Adopt a resolution approving the Annual Engineer's Report, adopt a resolution declaring the City Council's intention to levy and collect assessments, and provide notice of public hearing to be held on June 20, 2023, for LLMD 95-1 McCarthy Ranch.

BACKGROUND:

LLMD 95-1 McCarthy Ranch provides the maintenance and improvement of public landscaping, irrigation systems, pedestrian lighting, gateway columns and entry signs along portions of North McCarthy Boulevard and the Ranch Drive gateway between State Route 237 and Dixon Landing Road in the areas as shown on the attached location map.

ANALYSIS:

Before the City Council may levy the annual assessments for LLMD 95-1 McCarthy Ranch, the Landscaping and Lighting Act of 1972 requires the City Council to adopt a resolution approving the annual Engineer's Report (Report) evaluating the landscape and lighting maintenance district's maintenance and improvement costs for fiscal year 2023-24. On March 7, 2023, the City Council directed the City Engineer to prepare the Report, which is included in the City Council packet. The proposed total assessment for fiscal year 2023-24 is \$0.0365 per lot square foot with an assessment rate not exceeding the maximum assessment rate of \$0.0543 with a net amount of \$430,992 to be assessed. The FY 2023-24 rate is approximately 4.58% higher than the previous year FY 2022-23 rate of \$0.0349.

In order to proceed with the annual assessments, the City Council must adopt:

- Resolution approving the Report, and
- Resolution declaring its intent to levy and collect an assessment and direct publishing of notice of a public hearing to be held on June 20, 2023 (collectively the "Resolutions").

POLICY ALTERNATIVE(S):

Alternative 1:

Not adopt the Resolutions for LLMD 95-1 McCarthy Ranch.

Pros: None.

Cons: The Landscaping and Lighting Act of 1972 requires the legislative body to adopt the Resolutions, and if the City Council does not adopt the Resolutions, the City's will not be able to collect to assessments for LLMD 95-1 McCarthy Ranch.

Reason Alternative 1 is Not Recommended: To allow for the continued maintenance and service of LLMD 95-1 McCarthy Ranch, staff recommends approving the Resolutions into order to levy and collect assessments for fiscal year 2023-24.

Fiscal Impact:

The levy and collection of assessments provides a funding resource for the City to improve and maintain public landscaping, irrigation systems, pedestrian lighting, gateway columns and entry signs within LLMD 95-1 McCarthy Ranch.

California Environmental Quality Act:

Levy and collection of assessment is not considered a project under CEQA as there will be no direct or reasonably foreseeable indirect physical change in the environment.

RECOMMENDATION:

Adopt a resolution approving the Annual Engineer's Report, adopt a resolution declaring its intention to levy and collect assessments, and provide notice of public hearing to be held on June 20, 2023 for LLMD 95-1 McCarthy Ranch.

Attachment(s):

1. Resolution Approving Annual Engineer's Report
2. Resolution Declaring Intention to Levy and Collect Assessments
3. Engineer's Report LLMD No. 95-1 McCarthy Ranch
4. Location Map

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS,
 APPROVING THE ANNUAL REPORT FOR
 THE LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT NO. 95-1
 FOR FISCAL YEAR 2023/24**

The City Council of the City of Milpitas (hereafter referred to as the “City Council”) does resolve as follows:

WHEREAS, the City Council previously completed its proceedings in accordance with and pursuant to the Landscaping and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (the “Act”) to establish the Landscaping and Lighting Maintenance Assessment District 95-1 (the “Assessment District”); and

WHEREAS, the City Council has retained NBS for the purpose of assisting with the annual levy of the Assessment District, and the preparation and filing of and the report required pursuant to Section 22622 of the Act (the “Annual Report”); and

WHEREAS, the City Council has, by previous resolution, ordered NBS to prepare and file such Annual Report; and

WHEREAS, NBS has prepared and filed such Annual Report with the City Clerk.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines and resolves as follows:

1. **Approval of Report:** The City Council hereby approves the Annual Report for the Assessment District concerning the levy of assessments as submitted by NBS for the fiscal year commencing July 1, 2023 and ending June 30, 2024.
2. The Assessment District exterior boundaries are as shown by a map filed in the office of the City Clerk, which map is made a part hereof by this reference.

PASSED AND ADOPTED this ____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS,
DECLARING ITS INTENTION TO LEVY AND COLLECT ASSESSMENTS FOR
THE LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT NO. 95-1
FOR FISCAL YEAR 2023/24**

The City Council of the City of Milpitas (hereafter referred to as the “City Council”) does resolve as follows:

WHEREAS, the City Council previously completed its proceedings in accordance with and pursuant to the Landscaping and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (the “Act”) to establish the Landscaping and Lighting Maintenance Assessment District No. 95-1 (the “Assessment District”); and

WHEREAS, the City Council has retained NBS for the purpose of assisting with the annual levy of the Assessment District, and the preparation and filing of the report required pursuant to Section 22622 of the Act (the “Annual Report”); and

WHEREAS, the City Council adopted a Resolution approving the Annual Report for the Assessment District for Fiscal Year 2023/24.

**NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE
CITY COUNCIL, AS FOLLOWS:**

1. **Intention:** The City Council hereby declares its intention to levy and collect assessments within the Assessment District to pay the costs of the Improvements for the fiscal year commencing July 1, 2023 and ending June 30, 2024. The City Council finds that the public’s best interest requires such action.

Improvements: The improvements within the Assessment District include, but are not limited to: operating, maintaining and servicing of all public landscaping improvements, consisting of landscaping and grass. Operating, maintaining and servicing costs include, but are not limited to: personnel, materials, electrical energy and water. Services provided include all necessary service, operations, administration, and maintenance required to keep the improvements in a healthy, vigorous, and satisfactory condition. A project renovating the landscape and irrigation improvements in the Assessment District was initiated in Fiscal Year 2021/22 and will be completed in Fiscal Year 2025/26.

2. **Assessment District Boundaries:** The boundaries of the Assessment District are as shown by the assessment diagram filed in the offices of the City Clerk, which map is made a part hereof by reference.
3. **Annual Report:** Reference is made to the Annual Report prepared by NBS, on file with the City Clerk, for a full and detailed description of the improvements, the boundaries of the Assessment District and the zones therein, and the proposed assessments upon assessable lots and parcels of land within the Assessment District.

4. **Notice of Public Hearing:** The City Council hereby declares its intention to conduct a public hearing concerning the levy of assessments in accordance with Section 22629 of the Act. All objections to the assessment, if any, will be considered by the City Council. The public hearing will be held on **Tuesday, June 20, 2023 at 7:00 pm** or as soon thereafter as is feasible in the meeting place of the City Council located at 455 E. Calaveras Boulevard, Milpitas, CA 95035. The City Council further orders the City Clerk to publish notice of this resolution in accordance with Section 22626(a) of the Act.
5. **Increase of Assessment:** The maximum assessment is not proposed to increase from the previous year above that was previously approved by the property owners (as “increased assessment” is defined in Section 54954.6 of the Government Code).

PASSED AND ADOPTED this ____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney

CITY OF MILPITAS

Fiscal Year 2023/24 Annual Report For:

Landscaping and Lighting Maintenance Assessment District No. 95-1

April 2023

Prepared by:



Corporate Headquarters
32605 Temecula Parkway, Suite 100
Temecula, CA 92592
Toll free: 800.676.1234

CITY OF MILPITAS
LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT NO. 95-1
455 East Calaveras Boulevard
Milpitas, California 95035
Phone (408) 586-3000

CITY COUNCIL

Carmen Montano, Mayor
Evelyn Chua, Vice-Mayor
Anthony Phan, Council Member
Hon Lien, Council Member
Garry Barbadillo, Council Member

CITY STAFF

Roberto Alonzo, PE, Principal Civil Engineer
Lauren Lai, Finance Director
Christian Di Renzo, Public Works Director

NBS

Tim Seufert, Client Services Director
Amanda Welker, Project Manager
Tom Zetz, Administrator

TABLE OF CONTENTS

1. Engineer's Letter.....	1
2. Plans and Specifications.....	3
2.1 Location of Improvements	3
2.2 Landscaping Improvements	3
2.3 Capital Improvements	4
2.4 Overhead	4
3. Estimate of Costs	5
3.1 District Budget	5
4. Special and General Benefit	7
4.1 Identification of Benefit	7
4.2 Special Benefits Identified	7
4.3 General Benefits Identified	8
4.4 Quantification of Benefit	8
4.5 Special Benefit Trips	12
5. Method of Assessment	14
5.1 Introduction.....	14
5.2 Method of Assessment Spread	14
5.3 Maximum Assessment Rates	15
5.4 Appeals	15
6. Assessment Diagram.....	16
7. Assessment Roll.....	17

1. ENGINEER'S LETTER

WHEREAS, in 1995 the City Council of the City of Milpitas (the "City"), State of California, under the Landscaping and Lighting Act of 1972 (the "Act"), created the City of Milpitas Landscaping and Lighting Maintenance Assessment District No. 95-1 (the "District") in order to provide for the continued maintenance, operation, and administration of various improvements within the boundaries of the District; and

WHEREAS, the City Council has directed NBS to prepare and file a report for Fiscal Year 2023/24 in accordance with Chapter 1, Article 4 of the Act presenting plans and specifications describing the general nature, location and extent of the improvements to be maintained; an estimate of the costs to maintain, operate, and service the improvements for the District for the referenced fiscal year; a diagram for the District showing the area and properties to be assessed; and an assessment of the estimated costs to maintain and service the improvements, stating the net amount to be assessed upon all assessable lots or parcels within the District in proportion to the special benefit received.

NOW THEREFORE, the following assessments have been calculated in accordance with the assessment methodology adopted and approved by the City Council at the time of District formation, and are made to cover the portion of the estimated costs of maintenance, operation, and servicing of the improvements, to be paid by the assessable real property within the District in proportion to the special benefit received:

District	Parcels	2023/24 Maximum Assessment Rate per Lot Sq. Ft. ⁽¹⁾	2023/24 Actual Assessment Rate per Lot Sq. Ft.	2023/24 Net Amount to be Assessed ⁽²⁾⁽³⁾
LLMAD 95-1	44	\$0.0543	\$0.0365	\$430,902

⁽¹⁾ The April 1, 2023 CPI was not available at the time of writing of this report. The Fiscal Year 2023/24 CPI increase was estimated using the February 2023/24 CPI.

⁽²⁾ Amounts placed on the tax roll include the 1% Santa Clara County Collection Fee.

⁽³⁾ This amount is only an estimate and does not reflect the final billed amount with rounding adjustments. Refer to Section 7 for the rounded figure.

I identified all parcels which will have a special benefit conferred upon them from the improvements described in District's Plans and Specifications section of this Engineer's Report (the "Benefited Parcels") have been identified. For particulars as to the identification of said parcels, reference is made to the Assessment Diagram, a copy of which is on file in the office of the City Clerk.

I have assessed the costs and expenses of the improvements upon the Benefited Parcels. In making such assessment:

- The proportionate special benefit derived by each Benefited Parcel from the improvements was determined in relationship to the entirety of the maintenance costs of the improvements;
- No assessment has been imposed on any Benefited Parcel which exceeds the reasonable cost of the proportional special benefit conferred on such parcel from the improvements; and
- Any general benefits from the improvements have been separated from the special benefits and only special benefits have been assessed.

I, the undersigned, respectfully submit the enclosed Engineer's Report and, to the best of my knowledge, information and belief, the Engineer's Report, Assessments, and the Assessment Diagrams herein have been prepared and computed in accordance with the order of the City Council of the City of Milpitas, the Act, and Article XIIID.

Roberto Alonzo, PE
Principal Civil Engineer

2. PLANS AND SPECIFICATIONS

The District provides for the continued administration, maintenance, operation, and servicing of various improvements located within the public right-of-way and dedicated easements within the boundaries of the District.

2.1 Location of Improvements

The District is located on the west side of the City of Milpitas, bounded on the east by State Route 880, on the west by Coyote Creek, on the south by State Route 237, and on the north by Dixon Landing Road. The improvements maintained include public landscaping and irrigation improvements, including jogging paths, pedestrian lighting, gateway improvements, and entry signage, which are primarily situated within the public right-of-way and dedicated public easements within the District.

2.2 Landscaping Improvements

Landscaping, pedestrian lighting, gateway, and signage improvements were installed along the roadways and sidewalks within the District to enhance the overall visual appearance for adjacent parcels.

The improvements within the District consist of the maintenance and installation of any or all public landscaping and irrigation improvements adjacent to curbs of the following described streets, including jogging paths, planter walls, grass berms, pedestrian lighting and appurtenant irrigation systems, ornamental planting including lawns, shrubs, and trees; installation and maintenance of gateway columns and entry signs. Such maintenance includes all necessary repairs, replacements, water, electric current, spraying, care, supervision, debris removal and all other items of work necessary and incidental for property maintenance and operation thereof. The landscaping, irrigation, pedestrian lighting, gateway, and signage improvements are collectively referred to as “landscaping improvements.” All such work will be performed in the following areas:

2.2.1 N. MCCARTHY BOULEVARD

1. A strip of land including an earth berm approximately 50 feet in width from face of each curb line, from the southerly connection with Ranch Drive northerly 2,400 feet, more or less, to the northerly connection with Ranch Drive. A strip of land including a grass berm approximately 35 feet in width, west of the face of westerly curb, along the West Side of N. McCarthy Boulevard, from the southerly connection with Ranch Drive, northerly 2,400 feet, more or less. The initial phase includes a strip of land 6 feet wide on the west side of McCarthy Boulevard.
2. Commencing at a location approximately 2,400 feet north of State Route 237 thence proceeding north to the northern boundary of Lands of N. McCarthy, 7,800 feet more or less, a strip of land approximately 27 to 34 feet in width on each side along the east and west sides of McCarthy Boulevard between the northerly connection with Ranch Drive and Dixon Landing Road.
3. A median island from the southerly intersection with Ranch Drive northerly to the intersection with Dixon Landing Road.

4. Gateway Improvements, at the southerly intersection of N. McCarthy Boulevard and Ranch Drive and southerly of Bridge No. 1 along N. McCarthy Boulevard, including curved stone planter walls, gateway columns with entry sign appurtenant mounding ornamental plantings including flat work, trees and ground cover, irrigation systems; all as shown on landscape plans.
5. Lighting costs in the District are limited to the supplemental pedestrian lights installed on the east side of McCarthy Boulevard between the two intersections at Ranch Drive and McCarthy Boulevard. The conventional lighting along McCarthy Boulevard is not included. There also exists decorative up-lighting for the Gateway Towers in other areas near the southern Ranch Drive intersection of McCarthy.

2.2.2 MILPITAS ENTRY SIGN

1. City of Milpitas Entry Identification Sign along N. McCarthy Blvd., including walls, columns, lighting, and other appurtenances.

2.2.3 RANCH DRIVE

1. Commencing at a Northerly location where the right-of-way of Ranch Drive is contiguous with the right-of-way of Interstate 880, thence southerly, a strip of land approximately 10 feet in width measured from the east face of curb of Ranch Drive, from the northerly connection with Interstate 880 and Ranch Drive, southerly 630 feet, more or less, thence 405 feet south to the southerly end of Gateway location, varying in width from 10 feet to 132 feet, more or less.
2. Gateway Improvements, at the southerly connection of Ranch Drive and Interstate 880, including curved stone planter walls, gateway columns with entry sign appurtenant mounding ornamental plantings including flat work, trees and ground cover, irrigation systems; all as shown on landscape plans (Part A), except the Shopping Center's Monument Sign. As mentioned above, there also exists decorative up-lighting for the Gateway Towers in other areas near the southern Ranch Drive intersection of McCarthy.

2.3 Capital Improvements

In Fiscal Year 2021/22, the City initiated the design and construction of landscape and irrigation renovation on N. McCarthy Blvd. between State Route 237 and Dixon Landing Road and a portion of Ranch Drive. The landscape and irrigation renovation design has been completed and the project is now in the construction stage.

2.4 Overhead

In addition to the hard costs of maintaining the improvements mentioned above, the City will incur costs for staff time and expenses related to the management and maintenance of the improvements within the District. Staff time includes oversight and coordination of both City and contractor provided services, annual tax roll preparation, and addressing property owner questions and concerns. These activities are directly related to the maintenance of the improvements, and without them the improvements could not be efficiently completed or properly maintained on an ongoing basis.

3. ESTIMATE OF COSTS

The estimated costs of maintenance and servicing of the improvements as described in the Plans and Specifications are summarized below.

3.1 District Budget

The Fiscal Year 2023/24 estimated cost budget for the maintenance and servicing of the improvements is as follows:

Description	Fiscal Year 2023/24 Budget
Maintenance Staff and Contract Services ⁽¹⁾	\$271,000
Capital Equipment	0
Supplies	36,800
Utilities (Water, Electricity)	63,000
Reserve Fund	6,830
Capital Improvement Program	66,500
Maintenance Costs	\$444,130
NBS	\$4,750
City Staff District Administration	400
County Auditor-Controller Fee ⁽²⁾	4,006
District Specific Costs	\$9,156
Total District Costs	\$453,286
General Benefit Contribution ⁽³⁾	(22,384)
Operating Reserve Contribution	0
Net Amount to be Assessed	\$430,902
Total District Square Footage⁽⁴⁾	11,792,520
Rate per Square Foot⁽⁵⁾⁽⁶⁾	\$0.0365
Maximum Rate Per Square Foot – 2023/24⁽⁷⁾	\$0.0543

⁽¹⁾ Fiscal 2023/24 Landscape Maintenance Contract Services includes Terracare and Irvine Company.

⁽²⁾ County Auditor-Controller Fee is currently 1% of the total levy submittal.

⁽³⁾ General Benefit Contribution is not applied to District Specific Costs as these are special benefits to the District.

⁽⁴⁾ Total District Square Footage includes the 50% reduction for Parcel 5-7 (Sewer Main Pump Station) and Parcel 5-3C (Storm Pump Station).

⁽⁵⁾ The Rate per Square Foot equals the Net Amount to be Assessed / Total District Square Footage.

⁽⁶⁾ The assessed rate cannot exceed the maximum rate.

⁽⁷⁾ The April 1, 2023 CPI was not available at the time of writing of this report. The Fiscal Year 2023/24 CPI increase was estimated by using the February 2023/24 CPI.

3.1.1 OPERATING RESERVE

It is the intent of the City to maintain an operating reserve which shall not exceed the estimated costs of maintenance and servicing of the improvements prior to December 10 of the fiscal year, or when the City expects to receive its apportionment of special assessments from the County, whichever is later. The operating reserve balance information for the District is as follows:

Estimated Fiscal Year Ending 6/30/2023 Operating Reserve Cash Balance	\$166,170
Operating Reserve Collection for Fiscal Year 2023/24	6,830
Estimated Fiscal Year Ending 6/30/2024 Operating Reserve Cash Balance	\$173,000

3.1.2 CAPITAL IMPROVEMENT BUDGET

The City completed the design and has begun construction of the landscape and irrigation renovations on N. McCarthy Blvd. between State Route 237 and Dixon Landing Road and a portion of Ranch Drive in 2022. As of January 31, 2023, the balance available for the Capital Improvement Project was \$369,000. The City will utilize these funds to finance the project.

4. SPECIAL AND GENERAL BENEFIT

The improvements defined in Section 2 are expected to confer certain special benefits to parcels within the District. The special benefits are described in this section. Figures in this section are derived from a Special v. General Benefit Analysis performed in Fiscal Year 2020/21.

4.1 Identification of Benefit

Section 4 of Article XIID of the California Constitution provides that once a local agency which proposes to impose assessments on property has identified those parcels that will have special benefits conferred upon them and upon which an assessment will be imposed, the local agency must next “separate the general benefits from the special benefits conferred,” and only the special benefits can be included in the amount of the assessments imposed.

4.2 Special Benefits Identified

The improvements described in Section 2 are expected to confer certain special benefits to parcels within the District. The special benefits conferred to property within the District can be grouped into three primary benefit categories: aesthetic benefit, safety benefit, and economic benefit. The three District benefit categories are further expanded upon below.

- Improved Aesthetics:** The aesthetic benefit relates to the increase in the overall aesthetics as a result of the ongoing maintenance, servicing, and operation of the improvements within the District. The landscaping improvements enhance the overall image and desirability of the properties within the District. Street landscaping improvements improve the livability, commercial activity, appearance, and desirability for properties within the District. Regular maintenance ensures that the improvements do not reach a state of deterioration or disrepair so as to be materially detrimental to properties adjacent to or in close proximity to the improvements. The overall appeal of the District is enhanced when improvements are in place and kept in a healthy and satisfactory condition. Conversely, appeal decreases when improvements are not well-maintained, unsafe, or destroyed by the elements or vandalism. Streetscapes have a significant effect on how people view and interact with their community.¹ With streetscapes that are safe and inviting, people are more likely to walk, which can help reduce automobile traffic, improve public health, stimulate local economic activity, and attract residents and visitors to the community.²
- Increased Safety:** Well maintained areas mitigate crime, especially vandalism, and enhance pedestrian safety. A recent study found that after landscape improvements were installed, there was a 46% decrease in crash rates across urban arterial and highway sites and a second study reviewed found a 5% to 20% reduction in mid-block crashes after trees and planters in urban arterial roads were put in place. In addition, there is less graffiti, vandalism, and littering in outdoor spaces with natural landscapes than in comparable plant-less spaces.³ The Victoria

¹ Victoria Transport Policy Institute. (2011). *Community Livability. Helping to Create Attractive, Safe, Cohesive Communities*. Retrieved from <http://www.vtpi.org/tdm/tdm97.htm>.

² Ibid.

³ Wolf, Kathleen L. (2010). *Safe Streets – A Literature Review*. In: *Green Cities: Good Health* (www.greenhealth.washington.edu). College of the Environment, University of Washington.

Transport Policy Institute has found that streetscapes reduce traffic speeds and when combined with improved pedestrian crossing conditions can significantly reduce collisions.⁴

- **Economic Activity:** Well maintained street landscape improvements not only make adjacent properties appear more stable and prosperous but can spur investment in the property. The National Complete Streets Coalition notes that street design that is inclusive of all modes of transportation, where appropriate, not only improves conditions for existing businesses, but also is a proven method for revitalizing an area and attracting new development.⁵ Landscaped sidewalks create an inviting place for customers to shop and do business.⁶ Well-maintained and safe District areas will encourage an increase in the overall pedestrian activity. The area will become more pedestrian friendly, thus improving the retail environment by encouraging individuals to shop, dine, and stay within the District boundaries. The District will provide a cleaner more inviting environment to businesses and consumers which will attract, retain and expand the retail and business climate throughout. The effort will reduce vacancy rates and increase lease rates and utilization of property within the District.

4.3 General Benefits Identified

Section 4 of Article XIID of the California Constitution provides that once a local agency which proposes to impose assessments on property has identified those parcels that will have special benefits conferred upon them and upon which an assessment will be imposed, the local agency must next “separate the general benefits from the special benefits conferred,” and only the special benefits can be included in the amount of the assessments imposed.

General benefit is an overall and similar benefit to the public at large resulting from the maintenance of the District’s improvements provided by the assessments levied. The improvements to be maintained by the District are located within the District boundaries only. There will be no District maintenance activities provided for improvements located outside of the District boundaries.

The ongoing maintenance of the District improvements will provide aesthetic, safety and economic activity benefits to the property within the District. However, it is recognized that the ongoing maintenance activities will also provide a level of benefit to some property within proximity to the District, as well as individuals passing through. Therefore, the general benefit created as a result of the District maintenance activities has been considered.

4.4 Quantification of Benefit

As a result of the maintenance and operation of the improvements, there will be a level of general benefit to people that do not work or intend to conduct business within the District. In order for property within the District to be assessed only for that portion of special benefits received from the District’s maintenance

⁴ Victoria Transport Policy Institute. (2011). *Community Livability. Helping to Create Attractive, Safe, Cohesive Communities*. Retrieved from <http://www.vtpi.org/tdm/tdm97.htm>.

⁵ Pugliese, Philip. (2008). *Complete Streets provide all the elements of multi-modal transportation*. Retrieved from <http://www.americantrails.org/resources/trans/completestreets08.html>

⁶ U.S Department of Transportation. Federal Highway Administration. (2001). *Designing Sidewalks and Trails for Access, Part II of II: Best Practices Design Guide*. Retrieved from http://www.fhwa.dot.gov/environment/bicycle_pedestrian/publications/sidewalk2/

activities, general benefits provided by the ongoing maintenance of the improvements needs to be quantified. The amount of general benefit that is provided from the District's maintenance activities cannot be funded via property owners' assessments.

Based upon the City's General Plan, the streets within the City are classified into one of the following categories: freeway, expressway, arterial, collector or local streets. The landscaping improvements are primarily located along N McCarthy Boulevard and Ranch Drive and situated within the public rights-of-way. The portion of the maintained landscaping that is located along N McCarthy Boulevard (classified as an arterial street) provides some general benefit to pass-through traffic.

Arterial streets are intended to provide a higher degree of mobility and generally serve longer vehicle trips. The landscape improvements within the District boundaries not only serve the parcels in the immediate vicinity, but persons who live outside of the District and are passing by. The City's most recent traffic study⁷ completed in 2016 does not identify the percentage of traffic, which is pass-through traffic, but it does provide an estimated number of daily trips for N McCarthy Boulevard at the entrance of the District. However, the daily trip count estimate is lower than the trip count utilized in the 2015 findings report. This would not be expected with the increase in development to this area. Therefore, In the absence of a more recent reading of traffic along N. McCarthy Boulevard, the 2015 average number of daily trips of 35,050 per the General Plan has been utilized for the base trip count.

In order to account for the estimated increase in daily average trips as a result of the increased development, the City commissioned a traffic study for each new development. Per the traffic studies, it is estimated there will be an increase of 9,156 average daily trips. Adding this increase to the 35,050 previously identified above, the estimated number of average vehicles per day is 44,206 as shown below.

Street Name	Average Number of Vehicles per Day
N McCarthy Boulevard – between SR 237 and Ranch Drive	44,206

Before the determination and allocation of the percentage of special and general benefit for the District can be made, the estimated pass-through traffic must be computed. The pass-through trips are vehicles driving along the maintained streets for a portion of their trips, but not working, shopping or conducting business in the District or benefiting from the landscaping improvements in place.

Research consistently shows that developments with multiple land uses that make walking safe and convenient and are near other development, allow residents and workers to drive significantly less if they choose. While this District is not a mixed-use development, there are multiple land uses adjacent to one another. Therefore, treating this development area as though the uses were separated and accessible only by car would result in inflated trip counts in comparison to conventional, single-use developments.

In lieu of having a comprehensive traffic study that identifies the pass-through traffic, the estimated number of special benefit trips for each parcel has been determined using the average daily trips according

⁷ City of Milpitas. (2016 Traffic Study). Retrieved from City's Assistant Traffic Engineer

to the ITE Trip Generation Report, 9th Edition⁸ and the 2010 NCHRP Report 684 Enhancing Trip Capture Estimation for Mixed-use Developments⁹.

Utilizing the ITE Trip Generation Report, each parcel within the District was assigned an average daily number of special benefit trips using the parcel's land use, building size or number of units. Further, to ensure the number of trips generated by the parcels has not been overstated, the percentage of total trips that are made internally within the development has been considered. Using the 2010 NCHRP Report 684 Enhancing Trip Capture Estimation for Mixed-Use Developments, the total special benefit trips have been reduced by approximately 31% (19,258 trips) to account for internal trips between the various businesses within the District. The total number of special benefit trips is therefore 42,864 as shown below.

Property Type	Combined Trip Generations
Retail (ITE Land Uses 815, 820, 869)	24,978.76
Office (ITE Land Uses 710, 714, 750)	15,832.41
Industrial/Warehousing (ITE Land Uses 140, 150, 151)	8,660.43
Fast-Food Restaurant w/ drive thru (ITE Land Use 934)	3,925.30
Gas Station (ITE Land Use 945)	3,758.16
Restaurant (ITE Land Uses 931, 932)	3,710.03
Hotel (ITE Land Use 310)	1,256.82
Total Trips	62,121.92
Internal Trip Reduction ¹	(19,257.79)
Total Adjusted Special Benefit Trips	42,864.12

(1) The internal trip rate percentage was calculated by using the NCHRP 684 Internal Rate Capture Estimation Tool.¹⁰

The total of all special benefit trips was removed from the average number of vehicles per day traveling within the District to estimate the number of pass-through trips daily.

Street Name	Average Number of Vehicles per Day	Less: Estimated Special Benefit Trips	Estimated Number of Pass Through Trips	Estimated % General Benefit
McCarthy Blvd.	44,206	42,864	1,342	3.04%

Based on the above calculations, the general benefit portion of the improved aesthetics, increased safety, and economic activity benefits resulting from the landscaping improvements is estimated to be 3.04%.

Pass-thru Vehicle General Benefit	3.04%
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⁸ Trip Generation, 9th Edition: An Informational Report of the Institute of Transportation Engineers. (2012) Washington, DC: Institute of Transportation Engineers.

⁹ Bochner, Brian S., Hooper, Kevin, Sperry, Benjamin and Dunphy, Robert. National Cooperative Highway Research Program, Transportation Research Board of National Academies (2011). NCHRP Report 684 Enhancing Trip Capture Estimation for Mixed-Use Developments. Retrieved from onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rpt_684.pdf

¹⁰ Ibid.

The commonly accepted distance people will walk for public transportation, goods and services is one-quarter mile.¹¹ However, based on the location of the District, and given that it is bounded by State Route 880 and 237, and Coyote Creek, there is not an efficient or practical means of walking into the District. Although unlikely, a person may decide to use the paths within the District, and as such the general benefit portion of the improved aesthetics, increased safety, and economic activity benefits resulting from the landscaping improvements is estimated to be 1.00%.

Pass-thru Walking General Benefit	1.00%
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An estimated 1% of all US trips are made by bicycle¹². Although the District is bounded by State Route 880 and 237, and Coyote Creek, there is a bike lane on N McCarthy Boulevard and a bike path along Coyote Creek¹³. According to the National Household Travel Surveys, 49% of bike trips are for recreation, exercise, and sports¹⁴. As result of the District maintenance activities, there will be a level of general benefit to bicycle traffic that is not associated with property in the District. As such the general benefit portion of the improved aesthetics, increased safety, and economic activity benefits resulting from the landscaping improvements is estimated to be .50%, rounded up to 1.00%.

Pass-thru Biking General Benefit	1.00%
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Collective District-Wide General Benefit

Since the District is comprised of improved aesthetics, safety, and economic activity benefits resulting from the collective landscaping improvements, the activity of both pedestrians and vehicles must be addressed in a collective form rather than independently. The sum of the calculated general benefits is the total general benefit related to vehicle, walking, and biking pass-thru traffic. This general benefit result is provided in the table below:

Pass-thru Vehicle General Benefit	3.04%
Pass-thru Walking General Benefit	1.00%
Pass-thru Biking General Benefit	1.00%
Total General Benefit	5.04%

The general benefit, which is the percentage of the total budget that must be funded through sources other than assessments, is 5.04%. The special benefit then, which is the percentage of the budget that may be funded by assessments, is 95.00%. **This general benefit percentage is in line with the level of general benefit determined by the assessment engineer at formation of the District (less than 10%).**

¹¹ Walkscore. (2014). Walk Score Methodology. Retrieved from <http://www.walkscore.com/methodology.shtml>

¹² U.S Department of Transportation. Federal Highway Administration. (2011). Summary of Travel Trends: 2009 National Household Travel Survey. (Report No. FHWA-PL-11-022). Retrieved from <http://nhts.ornl.gov>

¹³ City of Milpitas. (2002). General Plan. Retrieved from <http://www.ci.milpitas.ca.gov>

¹⁴ Pucher, J., Buehler R., Meron, F., and Bauman, A. American Journals of Public Health, Supplement 1, Vol 101, No S1 (2011). Walking and Cycling in the United States, 2001-2009: Evidence from the National Household Travel Surveys. Retrieved from <http://www.ncbi.nlm.nih.gov/pubmed/21551387>

4.5 Special Benefit Trips

The detailed breakdown of the estimated special benefit trips for each parcel in the District is shown in the following table.

Assmt ID	Assessor's Parcel Number	Land Use Description	Acreage	Gross Leasable Area	Average Trip Rate ¹	Estimated # of Daily Special Benefit Trips ²
1-1A-1	022-54-016	710 - General office	1.05	8,500	11.03	93.76
1-1A-2	022-54-017 ⁽³⁾	310 – Hotel	3.29	83,310	8.17	680.64
1-1A-3	022-54-018 ⁽³⁾	310 – Hotel	2.31	70,524	8.17	576.18
1-1A-4	022-54-019	934 - Fast Food	0.19	0.00	496.12	0.00
1-1B	022-54-008	934 - Fast Food	0.78	2,912	496.12	1,444.70
1-2	022-54-002	820 - Shopping Center	0.58	5,600	42.70	239.12
1-3	022-54-003	932 - High Vol. Restaurant	1.02	5,465	127.15	694.87
1-4A	022-54-009	869 - Home Superstore	8.47	86,250	20.00	1,725.00
1-4B	022-54-012	820 - Shopping Center	3.02	15,000	42.70	640.50
1-4C	022-54-013	820 - Shopping Center	0.23	10,000	42.70	427.00
1-4D	022-54-015	931 - Quality Restaurant	1.78	8,285	89.95	745.24
1-4E	022-54-014	932 - High Vol. Restaurant	0.64	3,710	127.15	471.73
1-4F	022-54-011	820 - Shopping Center	1.31	9,100	42.70	388.57
1-4G	022-54-010	931 - Quality Restaurant	1.03	7,476	89.95	672.47
2-1	022-53-001	931 - Quality Restaurant	0.75	6,500	89.95	584.68
2-2	022-53-002	820 - Shopping Center	1.23	15,020	42.70	641.35
2-3	022-53-003	820 - Shopping Center	0.76	12,000	42.70	512.40
2-4	022-53-004	934 - Fast Food	0.6	2,000	496.12	992.24
2-5	022-53-005	934 - Fast Food	0.74	3,000	496.12	1,488.36
2-6	022-53-006	820 – Shopping Center	1.19	51,250	45.04	2,308.30
2-7	022-53-007	820 - Shopping Center	21.92	187,134	42.70	7,990.62
3	022-29-016	815 - Discount Superstore	14.56	125,000	50.75	6,343.75
4-1A-1	022-56-005	714 - Corp Headquarters	2.04	115,753	7.98	923.71
4-1A-2	022-56-006	714 - Corp Headquarters	2.06	174,483	7.98	1,392.37
4-1A-3	022-56-007	714 - Corp Headquarters	2.07	174,483	7.98	1,392.37
4-1A-4	022-56-008	Undeveloped	34.52	-	-	-
4-1A-5	022-56-009	Parking Lot	24.32	-	-	-
4-1B	022-29-037	Undeveloped	6	-	-	-
5-1A-1	022-29-034	750 - Office Park	36.49	572,660	11.42	6,539.78
5-2A-1	022-29-035	750 - Office Park	31.31	480,772	11.42	5,490.42
5-3A-1	022-29-040	150 – Warehousing/710 General Office	15.55	313,978	8.87	2,784.67
5-3A-2	022-29-041	931 – Quality Restaurant	0.14	6,015	89.95	541.05
5-3A-3	022-29-042	150 – Warehousing/710 General Office	6.94	136,632	8.87	1,211.79
5-3A-4	022-29-043	150 – Warehousing/710 General Office	7.36	122,208	8.87	1,083.86
5-3A-5	022-29-044	140 - Manufacturing and 710 General Office	7.73	131,331	8.87	1,164.77
5-3B-1A	022-30-054	140 - Manufacturing and 710 General Office	5.63	99,576	8.87	883.14
5-3B-2	022-30-038	Undeveloped	10	-	-	-
5-3B-3	022-30-039	Undeveloped	5	-	-	-
5-3C	022-30-035 ⁴	Pump Station	0.19	-	-	1.00

Assmt ID	Assessor's Parcel Number	Land Use Description	Acreage	Gross Leasable Area	Average Trip Rate ¹	Estimated # of Daily Special Benefit Trips ²
5-5A-1	022-30-055	815 - Discount Superstore	5.6	74,131	50.75	3,762.15
5-5A-2	022-30-056	915 – Gasoline/Service Station	0.59	3,182	1,181.07	3,758.16
5-5A-3	022-30-057	151 – Mini-Warehouse	3.15	114,707	13.34	1,530.19
5-6	022-30-041	Open Space	0	-	-	-
5-7	022-30-049 ⁴	Sewer Pump Station	9.12	8,500	11.03	1.00
Total Estimated Daily Special Benefit Trips						62,121.92
Internal Trip Reduction ⁵						(19,257.79)
Total Special Benefit Trips						42,864.12

(1) Average Trip Rate per Day is from the Institute of Traffic Engineer's, Trip Generation Report. ¹⁵

(2) Average Number of Special Benefit Trips per Day is the Average Trip Rate times each 1,000 square feet of gross leasable area.

(3) Average Number of Special Benefit Trips per Day is the Average Trip Rate times number of hotel rooms for this parcel.

(4) Pump Station trips are an estimate.

(5) The internal trip rate percentage was calculated by using the NCHRP 684 Internal Rate Capture Estimation Tool. ¹⁶

¹⁵ Trip Generation, 9th Edition: An Informational Report of the Institute of Transportation Engineers. (2012) Washington, DC: Institute of Transportation Engineers.

¹⁶ Bochner, Brian S., Hooper, Kevin, Sperry, Benjamin and Dunphy, Robert. National Cooperative Highway Research Program, Transportation Research Board of National Academies (2011). NCHRP Report 684 Enhancing Trip Capture Estimation for Mixed-Use Developments. Retrieved from onlinepubs.trb.org/onlinepubs/nchrp/nchrp_rpt_684.pdf

5. METHOD OF ASSESSMENT

5.1 Introduction

The special benefits that accrue to the properties in the District are limited to those properties that abut an improved public street or which have been obligated by issuance of bonds for necessary public improvements (the “Benefited Parcels”). Other properties in the District receive only a general benefit from the work of the improvements, and there is also some general benefit that accrues to the community as a whole. As outlined in Section 4, the total amount of general benefit from the improvements is determined to be 5.04%.

The Benefited Parcels receive a special benefit proportionate to their net acreage and thus they are assessed on the basis of total net acreage for all costs associated with the maintenance and installation of the District’s improvements, with the following exceptions:

- Of the 9.12 acres of parcel 022-30-049 (sewer pump station), 5.51 acres is the pump station and is not assessable. The remaining 3.61 acres does not benefit from landscaping as much as other Benefited Parcels because it is dedicated to municipal sanitary sewer and storm facilities use and will not otherwise be developed. Therefore, it is assigned a special benefit equal to 50% of other Benefited Parcels.
- Parcel 022-30-035 (storm pump station) does not benefit from landscaping as much as other Benefited Parcels because it is dedicated to municipal sanitary sewer and storm facilities use and will not otherwise be developed. Therefore, it is assigned a special benefit equal to 50% of other Benefited Parcels.
- Parcel 022-29-037 and parcel 022-30-041 are dedicated to open space and therefore do not receive special benefit from the maintenance and improvements.

5.2 Method of Assessment Spread

The amount of assessment levied on each Benefited Parcel in the District, for Fiscal Year 2023/24, is \$0.03654 per square foot. The assessment rate was determined by taking the Fiscal Year 2023/24 Net Amount to be assessed (\$430,902) divided by the total net square footage of the District (11,792,520 sq. ft.).

The maximum assessment rate for Fiscal Year 2023/24 is approximately \$0.0543, which is a preliminary number. Each year the maximum assessment rate per square foot is increased by the percentage change from April 1st of the prior year to April 1st of the current year in the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Indexes, Pacific Cities and U.S. City Average, San Francisco-Oakland-Hayward. The April 1, 2023 CPI was not available at the time of writing of this report. For purposes of this report, the CPI increase was estimated by using the February 2023/24 CPI.

5.3 Maximum Assessment Rates

The following table provides the historical maximum assessment rate for Fiscal Year 2001/02 through the current fiscal year:

Fiscal Year	CPI	Percentage Increase ⁽¹⁾	Assessment Rate Range ⁽²⁾	
2001/02	189.1	N/A	\$0.0120	\$0.0300
2002/03	193.0	2.06%	0.0122	0.0306
2003/04	197.3	2.23%	0.0125	0.0313
2004/05	198.3	0.51%	0.0126	0.0315
2005/06	202.5	2.12%	0.0129	0.0321
2006/07	208.9	3.16%	0.0133	0.0331
2007/08	215.842	3.32%	0.0137	0.0342
2008/09	222.074	2.89%	0.0141	0.0352
2009/10	223.854	0.80%	0.0142	0.0355
2010/11	227.697	1.72%	0.0144	0.0361
2011/12	234.121	2.82%	0.0149	0.0371
2012/13	238.985	2.08%	0.0152	0.0379
2013/14	244.675	2.38%	0.0155	0.0388
2014/15	251.495	2.79%	0.0160	0.0399
2015/16	257.622	2.44%	0.0163	0.0409
2016/17	264.565	2.70%	0.0168	0.0420
2017/18	274.589	3.79%	0.0174	0.0436
2018/19	283.422	3.22%	0.0180	0.0450
2019/20	294.801	4.01%	0.0187	0.0468
2020/21	298.074	1.11%	0.0189	0.0473
2021/22	309.419	3.81%	0.0196	0.0491
2022/23	324.878	5.00%	0.0206	0.0515
2023/24	337.173	5.30% ⁽³⁾	0.0217	0.0543

⁽¹⁾ Percentage increase from April 1 of the prior year to April 1 of the current year in the US Department of Labor, Bureau of Labor Statistics, Consumer Price Indexes, Pacific Cities and US City Average, San Francisco-Oakland-Hayward.

⁽²⁾ The left and right column indicate the minimum and maximum assessment rate, respectively.

⁽³⁾ The April 1, 2023 CPI was not available at the time of writing of this report. The Fiscal Year 2023/24 CPI increase was estimated using the February 2023/24 CPI.

5.4 Appeals

Any property owner who feels that the amount of their assessment is in error as a result of incorrect information being used to apply the foregoing method of spread may file an appeal with the Finance Director of the City. Any such appeal is limited to the correction of an assessment during the current or, if before July 1, the upcoming fiscal year. Upon the filing of any such appeal, the Finance Director shall promptly review the information provided by the property owner and if he/she finds that the assessment should be modified, he/she shall have the authority to make the appropriate changes in the assessment roll. If any such changes are provided after the assessment roll has been filed with the County for collection, the Finance Director is authorized to refund to the property owner the amount of any approved reduction.

6. ASSESSMENT DIAGRAM

The following page provides a copy of the assessment diagram of the District.

Figure 1

Filed in the Office of the City Clerk of the City of Milpitas,
County of Santa Clara, State of California this 20th day
of May, 2014

Mary Lavelle
City Clerk of the City of Milpitas

Recorded in the Office of the Superintendent of Streets of the
City of Milpitas, County of Santa Clara, State of California,
this 3rd day of June 2014.

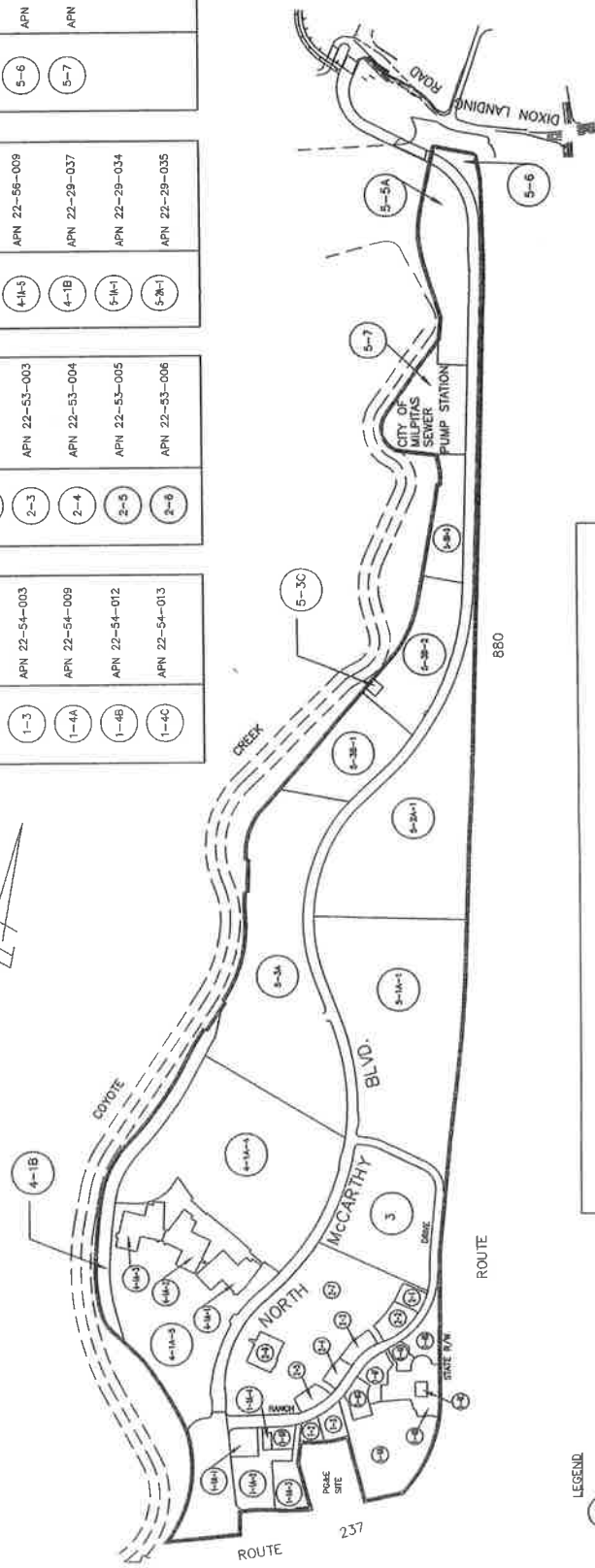
Mary Lavelle
Superintendent of Streets
City of Milpitas

An assessment was levied by the City Council of the City
of Milpitas, County of Santa Clara, State of California on
the lots, pieces and parcels of land shown on this assessment
diagram. Said assessment was levied on the 3rd day
of June 2014; said assessment diagram and the
assessment roll were recorded in the Office of the Superintendent
of Streets of said City on the 3rd day of June 2014.

Reference is made to the assessment roll recorded in the
Office of the Superintendent of Streets for the exact amount
of such assessment levied against each parcel of land
shown on this assessment diagram.

Mary Lavelle
City Clerk of the City of Milpitas

ASSESSMENT NO.	ASSESSOR'S PARCEL NO.	ASSESSMENT NO.	ASSESSOR'S PARCEL NO.	ASSESSMENT NO.	ASSESSOR'S PARCEL NO.	ASSESSMENT NO.	ASSESSOR'S PARCEL NO.
1-1A-1	APN 22-54-016	1-40	APN 22-54-015	2-7	APN 22-53-007	5-3A	APN 22-29-036
1-1A-2	APN 22-54-017	1-4E	APN 22-54-014	3	APN 22-29-016	5-3B-1	APN 22-30-037
1-1A-3	APN 22-54-018	1-4F	APN 22-54-011	4-1A-1	APN 22-56-005	5-3B-2	APN 22-30-038
1-1A-4	APN 22-54-019	1-4G	APN 22-54-010	4-1A-2	APN 22-56-006	5-3B-3	APN 22-30-039
1-1B	APN 22-54-008	2-1	APN 22-53-001	4-1A-3	APN 22-56-007	5-3C	APN 22-30-035
1-2	APN 22-54-002	2-2	APN 22-53-002	4-1A-4	APN 22-56-008	5-5A	APN 22-30-048
1-3	APN 22-54-003	2-3	APN 22-53-003	4-1A-5	APN 22-56-009	5-6	APN 22-30-041
1-4A	APN 22-54-009	2-4	APN 22-53-004	4-1B	APN 22-29-037	5-7	APN 22-30-049
1-4B	APN 22-54-012	2-5	APN 22-53-005	5-1A-1	APN 22-29-034		
1-4C	APN 22-54-013	2-6	APN 22-53-006	5-1A-1	APN 22-29-035		



LEGEND
ASSESSMENT NO.
BOUNDARY DISTRICT
ASSESSMENT LIMIT

PART F - ASSESSMENT DIAGRAM
LANDSCAPING & LIGHTING & MAINTENANCE
ASSESSMENT DISTRICT NO. 95-1
OF
CITY OF MILPITAS
COUNTY OF SANTA CLARA - STATE OF CALIFORNIA

Note:
Reference is hereby made to the maps and deeds of record in the Office of the
Assessor of the County of Santa Clara for a detailed description of the lines and
dimensions of any parcels shown hereon. These maps shall govern for all details
concerning the lines and dimensions of such parcels. Each parcel is identified in
said maps by its distinctive Assessor's Parcel Number.

7. ASSESSMENT ROLL

Assessor's parcel identification, for each lot or parcel within the District, shall be based on the Santa Clara County Assessor's secured roll data for the applicable year in which this report is prepared and is incorporated herein by reference.

A listing of assessor's parcels assessed within the District for Fiscal Year 2023/24, along with the assessment amounts, is on file in the office of the City Clerk and incorporated herein by reference. Based on County Assessor's secured roll data, current assessor's parcels, including corrected and/or new assessor's parcels, will be submitted and/or resubmitted to the Santa Clara County Auditor/Controller. The annual assessment amount to be levied and collected for the resubmitted parcel(s) shall be determined in accordance with the method of apportionment and assessment rate approved in this report. Therefore, if a single assessor's parcel has a status change in development, other land use change, or subdivides into multiple assessor's parcels, the assessment amounts applied to each of the new assessor's parcels shall be recalculated and applied according to the approved method of apportionment and assessment rate rather than a proportionate share of the original assessment amount.

City of Milpitas
LLMAD No. 95-1
Final Billing Detail Report for Fiscal Year 2023/24

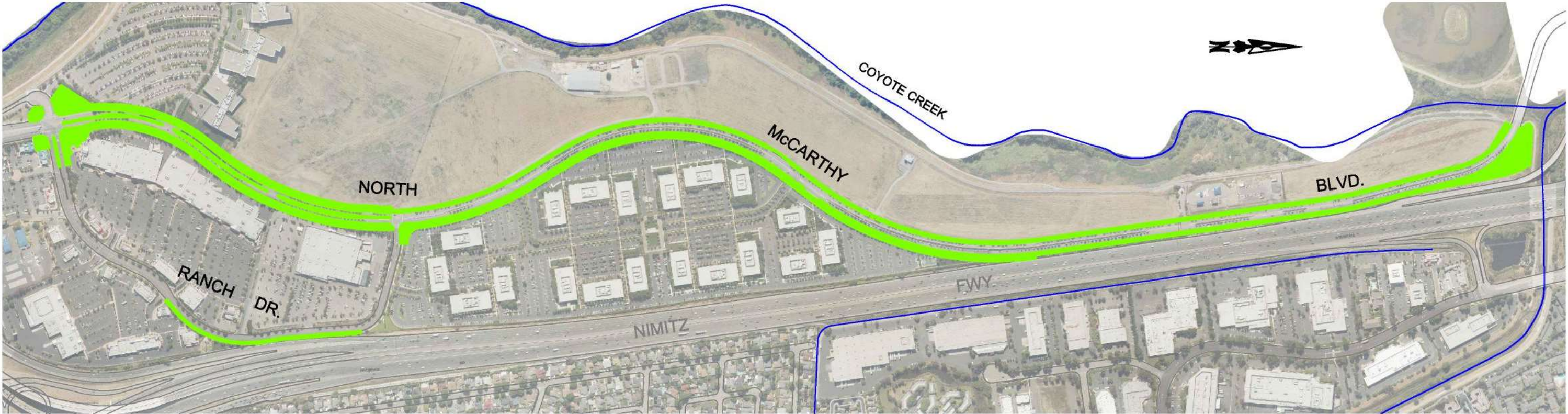
APN	Situs Address	Net Square Foot	Fiscal Year 2023/24 Levy
022-29-016	301 RANCH DR	634,234	\$23,175.06
022-29-034	430 N MCCARTHY BLVD	1,589,504	58,080.90
022-29-035	820 N MCCARTHY BLVD	1,363,864	49,835.94
022-29-040	407 N N MCCARTHY BLVD	677,532	24,757.20
022-29-041	507 N N MCCARTHY BLVD	43,691	1,596.46
022-29-042	607 N N MCCARTHY BLVD	302,350	11,047.94
022-29-043	707 N MCCARTHY BLVD	320,732	11,719.64
022-29-044	807 N MCCARTHY BLVD	336,545	12,297.42
022-30-035		4,138	151.20
022-30-038		435,600	15,916.94
022-30-039	1207 N MC CARTHY BLVD	217,800	7,958.46
022-30-049		78,626	2,873.00
022-30-054	907 N MCCARTHY BLVD	245,330	8,964.42
022-30-055	1645 N MCCARTHY BLVD	243,936	8,913.48
022-30-056	1605 N MCCARTHY BLVD	25,875	945.46
022-30-057	1585 N MCCARTHY BLVD	137,040	5,007.46
022-53-001	275 RANCH DR	32,670	1,193.76
022-53-002	179 RANCH DR	53,579	1,957.78
022-53-003	125 RANCH DR	33,106	1,209.68
022-53-004	81 RANCH DR	26,136	955.00
022-53-005	41 RANCH DR	32,234	1,177.84
022-53-006	63 RANCH DR	51,836	1,894.10
022-53-007	11 RANCH DR	954,835	34,889.92
022-54-002	74 RANCH DR	25,265	923.18
022-54-003	84 RANCH AVE	44,431	1,623.52
022-54-008	50 RANCH DR	33,977	1,241.52
022-54-009	120 RANCH DR	368,953	13,481.64
022-54-010	110 RANCH DR	44,867	1,639.44
022-54-011	170 RANCH DR	57,064	2,085.10
022-54-012	200 RANCH DR	131,551	4,806.90
022-54-013	212 RANCH DR	10,019	366.08
022-54-014	190 RANCH DR	27,878	1,018.68
022-54-015	260 RANCH DR	77,537	2,833.20
022-54-016	12 RANCH DR	46,174	1,687.18
022-54-017	30 RANCH RD	143,312	5,236.66
022-54-018	40 RANCH DR	100,624	3,676.80
022-54-019		8,276	302.42
022-56-005	115 N MCCARTHY BLVD	88,427	3,231.12
022-56-006	135 N MCCARTHY BLVD	89,734	3,278.88
022-56-007	155 N MCCARTHY BLVD	90,169	3,294.80
022-56-010	205 N MCCARTHY BLVD	1,488,719	54,398.18
022-56-011		1,074,352	39,257.08

Slight variances may occur due to rounding

City of Milpitas
LLMAD No. 95-1
Final Billing Detail Report for Fiscal Year 2023/24

APN	Situs Address	Net Square Foot	Fiscal Year 2023/24 Levy
42 Accounts		11,792,520	\$430,901.44
42 Total Accounts		11,792,520	\$430,901.44

CITY OF MILPITAS
LANDSCAPING MAINTENANCE DISTRICT (LMD) 95-1
(N.T.S.)



 2023-2024 FISCAL YEAR LANDSCAPE AREA FUNDED FOR MAINTENANCE



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Approving the Annual Engineer's Report, Adopt a Resolution Declaring the City Council's Intention to Levy and Collect Assessments, and Provide Notice of the Public Hearing to be held on June 20, 2023, for Landscaping and Lighting Maintenance Assessment District No. 98-1 (LLMD 98-1 Sinclair Horizon) (Staff Contact: Roberto Alonzo, Principal Civil Engineer, 408-586-3316)
Category:	Consent Calendar-Community Development
Meeting Date:	5/16/2023
	<u>Recommendation:</u> Adopt a resolution approving the Annual Engineer's Report, adopt a resolution declaring the City Council's intention to levy and collect assessments, and provide notice of the Public Hearing to be held on June 20, 2023, for LLMD 98-1 Sinclair Horizon.

BACKGROUND:

LLMD 98-1 Sinclair Horizon provides the maintenance and improvement of public landscaping, irrigation systems, and pedestrian walking path adjacent to Sinclair Frontage Road and Los Coches Creek abutting the Sinclair Horizon residential subdivision in the areas as shown on the attached location map.

ANALYSIS:

Before the City Council may levy the annual assessments for LLMD 98-1 Sinclair Horizon, the Landscaping and Lighting Act of 1972 requires the Council to adopt a resolution approving the annual Engineer's Report (Report) evaluating the landscape and lighting maintenance district's maintenance and improvement costs for fiscal year 2023-24. On March 7, 2023, the City Council directed the City Engineer to prepare the Report, which is included in the City Council packet. The proposed total assessment for fiscal year 2023-24 is \$516.44 per lot, with an assessment rate not exceeding the maximum assessment rate of \$560.54. The total net amount to be assessed is \$50,612. The FY 2023-24 rate is approximately 4.53% higher than the previous year FY 2022-23 rate of \$493.03.

In order to proceed with the annual assessment, the City Council must also adopt:

- Resolution approving the Report, and
- Resolution declaring its intent to levy and collect an assessment and direct publishing of notice of a public hearing to be held on June 20, 2023 (collectively the "Resolutions").

POLICY ALTERNATIVE(S):

Alternative 1:

Not adopt the Resolutions for LLMD 98-1 Sinclair Horizon.

Pros: None.

Cons: The Landscaping and Lighting Act of 1972 requires the legislative body to adopt the Resolutions, and if the City Council does not adopt the Resolutions, the City will not be able to collect assessments for LLMD 98-1 Sinclair Horizon.

Reason Alternative 1 is Not Recommended: To allow for the continued maintenance and service of LLMD 98-1 Sinclair Horizon, staff recommends approving the Resolutions in order to levy and collect assessments for fiscal year 2023-24.

Fiscal Impact:

The levy and collection of assessments provides a funding resource for the City to improve and maintain public landscaping, irrigation systems, pedestrian lighting, gateway columns and entry signs within LLMD 98-1 Sinclair Horizon.

California Environmental Quality Act:

Levy and collection of assessment is not considered a project under CEQA as there will be no direct or reasonably foreseeable indirect physical change in the environment.

RECOMMENDATION:

Adopt a resolution approving the Annual Engineer's Report, adopt a resolution declaring the City Council's intention to levy and collect assessments, and provide notice of the Public Hearing to be held on June 20, 2023, for LLMD 98-1 Sinclair Horizon.

Attachment(s):

1. Resolution Approving Annual Engineer's Report
2. Resolution Declaring Intention to Levy and Collect Assessments
3. Engineer's Report LLMD No. 98-1 Sinclair Horizon
4. Location Map

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS, APPROVING THE
ANNUAL REPORT FOR THE LANDSCAPING AND LIGHTING MAINTENANCE
ASSESSMENT DISTRICT NO. 98-1 FOR FISCAL YEAR 2023/24**

The City Council of the City of Milpitas (hereafter referred to as the “City Council”) does resolve as follows:

WHEREAS, the City Council previously completed its proceedings in accordance with and pursuant to the Landscaping and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (the “Act”) to establish the Landscaping and Lighting Maintenance Assessment District 98-1 (the “Assessment District”); and

WHEREAS, the City Council has retained NBS for the purpose of assisting with the annual levy of the Assessment District, and the preparation and filing of the report required pursuant to Section 22622 of the Act (the “Annual Report”); and

WHEREAS, the City Council has, by previous resolution, ordered NBS to prepare and file such Annual Report; and

WHEREAS, NBS has prepared and filed such Annual Report with the City Clerk.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. **Approval of Report:** The City Council hereby approves the Annual Report for the Assessment District concerning the levy of assessments as submitted by NBS for the fiscal year commencing July 1, 2023 and ending June 30, 2024.
2. The Assessment District exterior boundaries are as shown by a map filed in the office of the City Clerk, which map is made a part hereof by this reference.

PASSED AND ADOPTED this _____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS,
DECLARING ITS INTENTION TO LEVY AND COLLECT ASSESSMENTS FOR THE
LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT NO. 98-1
FOR FISCAL YEAR 2023/24**

WHEREAS, the City Council previously completed its proceedings in accordance with and pursuant to the Landscaping and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (commencing with Section 22500) (the “Act”) to establish the Landscaping and Lighting Maintenance Assessment District No. 98-1 (the “Assessment District”); and

WHEREAS, the City Council has retained NBS for the purpose of assisting with the annual levy of the Assessment District, and the preparation and filing of the report required pursuant to Section 22622 of the Act (the “Annual Report”); and

WHEREAS, the City Council adopted a Resolution approving the Annual Report for the Assessment District for Fiscal Year 2023/24.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. **Intention:** The City Council hereby declares its intention to levy and collect assessments within the Assessment District to pay the costs of the improvements for the fiscal year commencing July 1, 2023 and ending June 30, 2024. The City Council finds that the public’s best interest requires such action.
2. **Improvements:** The improvements within the Assessment District include, but are not limited to: operating, maintaining and servicing of all public landscaping improvements, consisting of landscaping and grass. Operating, maintaining and servicing costs include, but are not limited to: personnel, materials, electrical energy and water. Services provided include all necessary service, operations, administration, and maintenance required to keep the improvements in a healthy, vigorous, and satisfactory condition. A project renovating the landscape and irrigation improvements in the Assessment District was initiated in Fiscal Year 2021/22 and will be completed in Fiscal Year 2025/26.
3. **Assessment District Boundaries:** The boundaries of the Assessment District are as shown by the assessment diagram filed in the offices of the City Clerk, which map is made a part hereof by reference.
4. **Annual Report:** Reference is made to the Annual Report prepared by NBS, on file with the City Clerk, for a full and detailed description of the improvements, the boundaries of the Assessment District and the zones therein, and the proposed assessments upon assessable lots and parcels of land within the Assessment District.
5. **Notice of Public Hearing:** The City Council hereby declares its intention to conduct a public hearing concerning the levy of assessments in accordance with Section 22629 of the Act. All objections to the assessment, if any, will be considered by the City Council. The public hearing will be held on **Tuesday, June 20, 2023 at 7:00 pm** or as soon thereafter as is feasible in the meeting place of the City Council located at 455 E. Calaveras

Boulevard, Milpitas, CA 95035. The City Council further orders the City Clerk to publish notice of this resolution in accordance with Section 22626(a) of the Act.

6. **Increase of Assessment:** The maximum assessment is not proposed to increase from the previous year above that was previously approved by the property owners (as “increased assessment” is defined in Section 54954.6 of the Government Code).

PASSED AND ADOPTED this ____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney

CITY OF MILPITAS

Fiscal Year 2023/24 Annual Report For:

Landscaping and Lighting Maintenance Assessment District No. 98-1

April 2023

Prepared by:



Corporate Headquarters
32605 Temecula Parkway, Suite 100
Temecula, CA
Toll free: 800.67

CITY OF MILPITAS
LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT NO. 98-1
455 East Calaveras Boulevard
Milpitas, California 95035
(408) 586-3000

CITY COUNCIL

Carmen Montano, Mayor
Evelyn Chua, Vice-Mayor
Anthony Phan, Council Member
Hon Lien, Council Member
Garry Barbadillo, Council Member

CITY STAFF

Roberto Alonzo, PE, Principal Civil Engineer
Lauren Lai, Finance Director
Christian Di Renzo, Public Works Director

NBS

Tim Seufert, Client Services Director
Amanda Welker, Project Manager
Tom Zetz, Administrator

TABLE OF CONTENTS

1. Engineer's Letter.....	1
2. Plans and Specifications.....	3
2.1 Location of Improvements	3
2.2 Landscaping Improvements	3
2.3 Capital Improvements	4
2.4 Overhead	4
3. Estimate of Costs	5
3.1 District Budget	5
4. Special and General Benefit	7
4.1 Introduction.....	7
4.2 Special Benefits Identified	7
4.3 General Benefits Identified	8
4.4 Quantification of Benefit	8
5. Method of Assessment	13
5.1 Method of Assessment Spread	13
5.2 Maximum Assessment Rates	14
5.3 Appeals	14
6. Assessment Diagram.....	15
7. Assessment Roll.....	16

1. ENGINEER'S LETTER

WHEREAS, in 1998 the City Council of the City of Milpitas (the "City"), State of California, under the Landscaping and Lighting Act of 1972 (the "Act"), created the City of Milpitas Landscaping and Lighting Maintenance Assessment District No. 98-1 (the "District") to provide for the continued maintenance, operation, and administration of various improvements within the boundaries of the District; and

WHEREAS, the City Council has directed NBS to prepare and file a report for Fiscal Year 2023/24 in accordance with Chapter 1, Article 4 of the Act presenting plans and specifications describing the general nature, location and extent of the improvements to be maintained; an estimate of the costs to maintain, operate, and service the improvements for the District for the referenced fiscal year; a diagram for the District showing the area and properties to be assessed; and an assessment of the estimated costs to maintain and service the improvements, stating the net amount to be assessed upon all assessable lots or parcels within the District in proportion to the special benefit received.

NOW THEREFORE, the following assessments have been calculated in accordance with the assessment methodology adopted and approved by the City Council at the time of District formation, and are made to cover the portion of the estimated costs of maintenance, operation, and servicing of the improvements, to be paid by the assessable real property within the District in proportion to the special benefit received:

District	Parcels	2023/24 Maximum Assessment Rate per Lot ⁽¹⁾	2023/24 Actual Assessment Rate per Lot	2023/24 Net Amount to be Assessed ⁽²⁾⁽³⁾
LLMAD 98-1	98	\$560.54	\$516.44	\$50,612.00

⁽¹⁾ The April 1, 2023 CPI was not available at the time of writing of this report. The Fiscal Year 2023/24 CPI increase was estimated using the February 2023/24 CPI.

⁽²⁾ Amounts placed on the tax roll include the 1% Santa Clara County Collection Fee.

⁽³⁾ This amount is only an estimate and does not reflect the final billed amount with rounding adjustments. Refer to Section 7 for the rounded figure.

I identified all parcels which will have a special benefit conferred upon them from the improvements described in District's Plans and Specifications section of this Engineer's Report (the "Benefited Parcels"). For particulars as to the identification of said parcels, reference is made to the Assessment Diagram, a copy is on file in the office of the City Clerk.

I have assessed the costs and expenses of the improvements upon the Benefited Parcels. In making such assessment:

- The proportionate special benefit derived by each Benefited Parcel from the improvements was determined in relationship to the entirety of the maintenance costs of the improvements;
- No assessment has been imposed on any Benefited Parcel which exceeds the reasonable cost of the proportional special benefit conferred on such parcel from the improvements; and
- Any general benefits from the improvements have been separated from the special benefits and only special benefits have been assessed.

I, the undersigned, respectfully submit the enclosed Engineer's Report and, to the best of my knowledge, information and belief, the Engineer's Report, Assessments, and the Assessment Diagrams herein have been prepared and computed in accordance with the order of the City Council of the City of Milpitas, the Act, and Article XIIID.

Roberto Alonzo, PE
Principal Civil Engineer

2. PLANS AND SPECIFICATIONS

The District provides for the continued administration, maintenance, operation, and servicing of various improvements located within the public right-of-way and dedicated easements within the boundaries of the District.

2.1 Location of Improvements

The District is located in the City of Milpitas, bounded on the east by Sinclair Frontage Road, on the west by Berryessa Creek, and on the north by Los Coches Street. The improvements maintained include public landscaping and irrigation improvements, including jogging paths, planter walls, grass berms, and ornamental planting, which are primarily situated within the public rights-of-way and dedicated public by easements within the District.

2.2 Landscaping Improvements

The landscaping and irrigation improvements were installed within the District in order to enhance the overall visual appearance for adjacent parcels. The improvements consist of the maintenance and operation of any or all public landscaping and irrigation improvements adjacent to curbs, including asphalt concrete jogging paths, planter walls, grass berms, and appurtenant irrigation systems; ornamental planting including lawns, shrubs, and trees, including necessary repairs, replacements, water, electric current, spraying, care, supervision, debris removal and all other items of work necessary and incidental for proper maintenance and operation thereof. The landscaping and irrigation improvements are collectively referred to as “landscaping improvements.” All such work will be performed in the following areas:

2.2.1 BERRYESSA CREEK

Due to the widening of the creek, improvements in Berryessa Creek were removed. Any improvements maintained in this reach (asphalt concrete jogging path, exercise equipment, planting, and irrigation) will no longer be maintained or improved.

2.2.2 LOS COCHES CREEK

1. A strip of land 812 feet long, 14 feet in width along the south bank of Los Coches Creek adjacent to Tract 9018. The improvements include an asphalt concrete jogging path, exercise equipment, planting, and irrigation.
2. A strip of land 5.5 feet wide within the Los Coches Street right-of-way between the back of sidewalk and the right-of-way along the south side of Los Coches Street between Berryessa Creek and Sinclair Frontage Road. The improvements include planting and irrigation.

2.3 Capital Improvements

In Fiscal Year 2021/22, the City initiated the design and construction of landscape and irrigation renovation along portions of Los Coches Street and Sinclair Frontage Road. Design and construction is anticipated to continue through Fiscal Year 2023/24. Capital Improvements are scheduled to be complete by June 30, 2027.

2.4 Overhead

In addition to the hard costs of maintaining the improvements mentioned above, the City will incur costs for staff time and expenses related to the management and maintenance of the improvements within the District. Staff time includes oversight and coordination of both City and contractor provided services, annual tax roll preparation, and addressing property owner questions and concerns. These activities are directly related to the maintenance of the improvements, and without them the improvements could not be efficiently completed or properly maintained on an ongoing basis.

3. ESTIMATE OF COSTS

The estimated costs of maintenance and servicing of the improvements as described in the Plans and Specifications are summarized below.

3.1 District Budget

The Fiscal Year 2023/24 estimated cost budget for the maintenance and servicing of the improvements is as follows:

Description	Fiscal Year 2023/24 Budget
Maintenance Staff ⁽¹⁾	\$31,000
Capital Equipment	0
Supplies	2,800
Utilities (Water, Electricity)	11,000
Reserve Fund	0
<u>Capital Improvement Program</u>	<u>22,600</u>
Maintenance Costs	\$67,400
NBS	\$3,750
City Staff District Administration	400
<u>County Auditor-Controller Fee⁽²⁾</u>	<u>495</u>
District Specific Costs	\$4,645
Total District Costs	\$72,045
General Benefit Contribution ⁽³⁾	(21,433)
Operating Reserve Contribution	0
<u>Capital Improvement Fund Contribution</u>	<u>0</u>
Net Amount to be Assessed	\$50,612
Total District Lots	98
Rate per Lot⁽⁴⁾	\$516.44
Maximum Rate Per Lot – 2023/24⁽⁵⁾	\$560.54

⁽¹⁾ The City's Department of Public Works is the provider of Maintenance Services.

⁽²⁾ County Auditor-Controller Fee is currently 1% of the total levy submittal.

⁽³⁾ General Benefit Contribution is not applied to District Specific Costs as these are special benefits to the District.

⁽⁴⁾ The Rate per lot equals the Net Amount to be Assessed / Total District Lots. The Rate cannot exceed the maximum rate.

⁽⁵⁾ The April 1, 2023 CPI was not available at the time of writing of this report. The Fiscal Year 2023/24 CPI increase was estimated by using the February 2023/24 CPI.

3.1.1 OPERATING RESERVE

It is the intent of the City to maintain an operating reserve which shall not exceed the estimated costs of maintenance and servicing of the improvements prior to December 10 of the fiscal year, or when the City expects to receive its apportionment of special assessments from the County, whichever is later. The operating reserve balance information for the District is as follows:

Estimated Fiscal Year Ending 6/30/2023 Operating Reserve Cash Balance	\$52,174
Operating Reserve Collection for Fiscal Year 2023/24	0
Estimated Fiscal Year Ending 6/30/2024 Operating Reserve Cash Balance	\$52,174

3.1.2 CAPITAL IMPROVEMENT BUDGET

In Fiscal Year 2021/22, the City initiated the design and construction of landscape and irrigation renovation along portions of Los Coches Street and Sinclair Frontage Road. As of January 31, 2023, the balance available for the Capital Improvement Project was \$135,000. The City will utilize these funds, along with an annual collection of \$11,000 via the District from Fiscal Year 2022/23 to Fiscal Year 2026/27, to finance the project.

Capital Improvements are scheduled to be complete by June 30, 2027.

4. SPECIAL AND GENERAL BENEFIT

The improvements defined in Section 2 are expected to confer certain special benefits to parcels within the District. The special benefits are described in this section. Figures in this section are derived from a Special v. General Benefit Analysis performed in Fiscal Year 2014/15.

4.1 Introduction

Pursuant to Article XIID, all parcels that receive a special benefit conferred upon them as a result of the installation, implementation and maintenance of the improvements, services and activities shall be identified, and the proportionate special benefit derived by each identified parcel shall be determined in relationship to the entire costs of the installation, implementation and maintenance of the improvements, services and activities.

Article XIID, Section 4(a) of the California Constitution limits the amount of any assessment to the proportional special benefit conferred on the property. Proposition 218 requires that the City separate the general benefit from special benefit, so that only special benefit may be assessed to properties within the District. Furthermore, Article XIID also provides that publicly owned properties must be assessed unless there is clear and convincing evidence that those properties receive no special benefit from the assessment.

4.2 Special Benefits Identified

The improvements described in Section 2 are expected to confer certain special benefits to parcels within the District. The special benefits conferred to property within the District can be grouped into two primary benefit categories: aesthetic benefit and safety benefit. The two district benefit categories are further expanded upon below.

- **Improved Aesthetics:** The aesthetic benefit relates to the increase in the overall aesthetics as a result of the ongoing maintenance, servicing and operation of the improvements within the District. Street landscaping improvements improve the livability, commercial activity, appearance and desirability for properties within the District. Regular maintenance ensures that the improvements do not reach a state of deterioration or disrepair so as to be materially detrimental to properties adjacent to or in close proximity to the improvements. The overall appeal of the District is enhanced when improvements are in place and kept in a healthy and satisfactory condition. Conversely, appeal decreases when improvements are not well-maintained, unsafe, or destroyed by the elements or vandalism. Streetscapes have a significant effect on how people view and interact with their community¹. With streetscapes that are safe and inviting, people are more likely to walk, which can help reduce automobile traffic, improve public health, stimulate local economic activity and attract residents and visitors to the community².
- **Increased Safety:** Well maintained areas mitigate crime, especially vandalism, and enhance pedestrian safety. A recent study found that after landscape improvements were installed, there

¹ Victoria Transport Policy Institute. (2011). *Community Livability. Helping to Create Attractive, Safe, Cohesive Communities*. Retrieved from <http://www.vtpi.org/tm97.htm>.

² Ibid.

was a 46% decrease in crash rates across urban arterial and highway sites and a second study reviewed found a 5% to 20% reduction in mid-block crashes after trees and planters in urban arterial roads were put in place. In addition, there is less graffiti, vandalism, and littering in outdoor spaces with natural landscapes than in comparable plant-less spaces³. The Victoria Transport Policy Institute has found that streetscapes reduce traffic speeds and when combined with improved pedestrian crossing conditions can significantly reduce collisions⁴.

4.3 General Benefits Identified

Section 4 of Article XIID of the California Constitution provides that once a local agency which proposes to impose assessments on property has identified those parcels that will have special benefits conferred upon them and upon which an assessment will be imposed, the local agency must next “separate the general benefits from the special benefits conferred,” and only the special benefits can be included in the amount of the assessments imposed.

General benefit is an overall and similar benefit to the public at large resulting from the maintenance of the District’s improvements provided by the assessments levied. The improvements to be maintained by the District are located within the District boundaries only. There will be no District maintenance activities provided for improvements located outside of the District boundaries.

The ongoing maintenance of the District improvements will provide aesthetic and safety benefits to the property within the District. However, it is recognized that the ongoing District maintenance activities will also provide a level of benefit to some property within proximity to the District, as well as individuals passing through. Therefore, the general benefit created as a result of the District maintenance activities has been considered.

4.4 Quantification of Benefit

As a result of the maintenance and operation of the improvements, there will be a level of general benefit to people that do not live in or intend to conduct business within the District. In order for property within the District to be assessed only for that portion of special benefits received from the district’s maintenance activities, general benefits provided by the ongoing maintenance of the improvements needs to be quantified. The amount of general benefit that is provided from the District’s maintenance activities cannot be funded via property owners’ assessments.

The landscaping improvements are primarily located along Los Coches Street and Sinclair Frontage Road and within the subdivision along Los Coches Creek and Berryessa Creek. A portion of the maintained landscaping provides some general benefit to pass-thru traffic. Per the City, there is 52,912 square feet of landscaping being maintained.

Los Coches Creek and Berryessa Creek

As result of the District maintenance activities, there will be a level of general benefit to pedestrians and vehicular traffic that are not associated with property in the District. As expressed by the Court in *Beutz v.*

³ Wolf, Kathleen L. (2010). *Safe Streets – A Literature Review*. In: *Green Cities: Good Health* (www.greenhealth.washington.edu). College of the Environment, University of Washington.

⁴ Victoria Transport Policy Institute. (2011). *Community Livability. Helping to Create Attractive, Safe, Cohesive Communities*. Retrieved from <http://www.vtpi.org/tm/tm97.htm>.

County of Riverside (2010), "... courts of this state have long recognized that virtually all public improvement projects provide general benefits." A route beginning or ending with a parcel within the District does not include the "general public" for purposes of determining general benefit. The landscaping improvements along the south side of Los Coches Creek and Berryessa Creek are local in nature, however even though they are intended primarily for localized access, there is some portion of pedestrian traffic that may not be accessing the adjacent properties. The landscaping improvements are located adjacent to the backyard of homes, and access is only available by walking or bicycling. There is no vehicular access to these improvements.

The Summary of Travel Trends, 2009 National Household Travel Survey (NHTS) prepared by the U.S. Department of Transportation Federal Highway Administration analyzed the number of person trips by various modes of transportations such as private vehicle, transit, walking or some other means of transportation. According to the Pacific Division data extracted from the 2009 NHTS database, of the annual 181,703 (in millions) total person trips, 21,252 (in millions) or 11.70% of those person trips were made by using walking as their mode of transportation, and 2,066 (in millions) or 1.14% of those person trips were made by bicycling⁵.

According to the U.S. Census Bureau (2010), the average household size in the City is 3.34 persons⁶. Based on this average household size, and considering there are 98 residential units within the District, there are approximately 327 people residing within the District boundaries. There are an estimated 163 residential units in close proximity, but outside of the District boundaries. Based on the City's average household size, there are approximately 544 persons residing outside of the District boundaries, but have access to the landscaping improvements.

Community	Estimated Number of Residential Units	Estimated Number of Persons ⁽¹⁾
District	98	327
Sundrop Subdivision	83	277
Sinclair Renaissance Subdivision	80	267
Total Residential Population	261	871

⁽¹⁾ U.S. Census Bureau (2010) average household size in the City is 3.34 persons.⁷

In order to determine the estimated total number of persons who are within close proximity to the landscaping improvements, and would utilize walking or bicycling as their mode of transportation, we applied the 12.84% (11.70% walking, 1.14% bicycling) of person trips reported from the NHTS Pacific Division study, to the total nearby residential population (871). There are approximately 112 people within close proximity of the District that utilize walking or bicycling as their mode of transportation.

In order to determine the portion of the 112 persons that reside within the District, we applied the 2009 NHTS walking trip percentage (12.84%) to the District population (327). Approximately 42 people within the

⁵ U.S. Department of Transportation. Federal Highway Administration. (2011). Summary of Travel Trends: 2009 National Household Travel Survey. (Report No. FHWA-PL-11-022). Retrieved from <http://nhts.ornl.gov>

⁶ U.S. Census Bureau. (2010). Profile of General Population and Housing Characteristics: 2010, 2010 Demographic Profile Data. Milpitas, C.A. Retrieved March 23, 2015, <http://quickfacts.census.gov/qfd/states/06/0647766.html>

⁷ Ibid.

District boundaries use walking or bicycling as their primary mode of transportation. Therefore, the total surrounding neighborhood area population, located outside of the District boundaries, but in close proximity the landscaping improvements, that uses walking or bicycling as their primary mode of transportation is estimated to be 70 people.

Community	Estimated Number of Persons
District	42
Sundrop Subdivision	36
Sinclair Renaissance Subdivision	34
Walking or Bicycling Population	112

In order to obtain a better picture of the overall level of general benefit provided by the landscaping improvements, the pedestrian traffic that utilizes walking or bicycling as the mode of transportation that will seek out and use the District improvements, but live outside of the District, must be considered. The 2009 NHTS further details the purposes of the reported walking (21,252 in millions) and bicycling (2,066 in millions) trips; based on the property types people entering the District would most likely do so for social or recreational activities.

The following details the number of walking and bicycling trips, based on the 2009 NHTS study, for each of the activities that are the most likely reasons people outside of the District would use the landscaping improvements:

Trip Purpose	Number of Walking or Bicycling Trips (in millions)
Social/Recreational	6,442
Total	6,442

Of the total number of walking and bicycling trips reported, 6,442 (in millions) or 27.63% are for purposes that persons outside of the District may use the landscaping improvements. Applying this percentage (27.63%) to the number of people walking or bicycling as their mode of transportation and that reside outside of the District (70), there are approximately 19 people (general benefit) that may use the landscaping improvements, but do not reside within the District. Taking the 19 people that may walk or bicycle, but reside outside of the District, divided by total residential population with access to the landscaping improvements (871), the estimated percentage of persons, engaging in what is considered general benefit because they do not reside within the District, represents 2.21%.

Los Coches Street and Sinclair Frontage Road

The City does not have a study showing traffic volume along Los Coches Street and Sinclair Frontage Road along the District boundaries. The portion of the maintained landscaping that is located along Los Coches Street and Sinclair Frontage Road provides some general benefit to pass-through traffic. Before the determination and allocation of the percentage of special and general benefit for the District can be made, the estimated pass-through traffic must be computed. The pass-through trips are vehicles driving along the

maintained streets within the District for a portion of their trips, but not living or conducting business in the District and benefiting from the landscaping improvements in place.

The Sundrop and Sinclair Renaissance residential communities are located directly across the street and next to the District, and vehicles entering and/or exiting these communities in all likelihood are passing by a portion of the landscaping improvements for a portion of their trip. In lieu of having a study that identifies the pass-through traffic, the estimated number of trips generated for each community has been calculated based on the number of units and average number of trips per dwelling unit.

Community	Number of Residential Units ⁽¹⁾	Estimated Number of Daily Vehicle Trips ⁽²⁾	% of Total Daily Vehicle Trips ⁽³⁾
District	98	933.0	44.34%
Sundrop Subdivision	83	790.2	37.56%
Sinclair Renaissance Subdivision	80	380.8	18.10%
Total	261	2,104.0	100.00%

⁽¹⁾ Number of Residential Units is from the City's Approved Projects map.⁸

⁽²⁾ Per the ITE Trip Generation Report a single family residence generates an average of 9.52 trips per dwelling unit.⁹

⁽³⁾ Number of daily trips has been reduced by 50% to account for vehicles entering and exiting the community from the opposite direction on Sinclair Frontage Road, and not driving along the portion of Los Coches Street and Sinclair Frontage Road with landscaping improvements maintained by the District.

As detailed above, based on the average number of daily vehicle trips generated for the communities in close proximity to the District, 1,171 (55.66%) are generated by residential units located outside of the District (general benefit).

All Locations and Landscaping Improvements – Residential Pass-thru Benefit

The general benefit percentages determined in the previous sections for Los Coches Creek and Berryessa Creek (2.21%) and Los Coches Street and Sinclair Frontage Road (55.66%) were then applied to each corresponding location with landscaping improvements. The landscaping square footage being maintained by the District was provided by the City's Public Works Department. The general benefit percentage for each street type was multiplied by the total square footage being maintained for such street. The general benefit square footage was summed for all street segments and divided into the total square footage of all landscaping maintenance. The result is the combined general benefit percentage. The following table details this calculation.

Street Name	Total Square Footage	General Benefit Percentage	General Benefit Square Footage
Los Coches Creek	4,572	2.21%	101
Berryessa Creek	21,025	2.21%	465
Los Coches Street	24,747	55.66%	13,773
Sinclair Frontage	2,568	55.66%	1,429
Totals:	52,912		15,768
Landscaping General Benefit			29.80%

⁸ City of Milpitas. (2013). Approved Development Projects. Retrieved from http://www.ci.milpitas.ca.gov/government/planning/proj_approved.asp

⁹ Trip Generation, 9th Edition: An Informational Report of the Institute of Transportation Engineers. (2012). Washington, DC: Institute of Transportation Engineers.

Based on the above calculations, the general benefit portion of the improved aesthetics and increased safety resulting from the landscaping improvements is estimated to be 29.80%.

Public at Large General Benefit

Given the location and nature of the improvements, it is very unlikely the public at large would seek out or use the landscaping improvements within the District. In addition, there are more direct routes to access the industrial complexes/businesses located to the south of the District than the 2 lane Los Coches Street and Sinclair Frontage Road. Nevertheless, it is perceivable that members of the public at large may pass-thru a portion of the landscaping improvements, even if it's lost or leisure traffic. As such, general benefit of 2.00% has been assigned for the landscaping improvements to the public at large

4.4.1 COLLECTIVE DISTRICT-WIDE GENERAL BENEFIT

Since the District is comprised of improved aesthetics and increased safety benefits resulting from the collective landscaping improvements, the activity of both pedestrians and vehicles, and the public at large must be addressed in a collective form rather than independently. The sum of the calculated general benefits is the total general benefit related to all pass-thru traffic. This general benefit result is provided in the table below:

Residential Pass-thru General Benefit	29.80%
Public at Large General Benefit	2.00%
Total General Benefit	31.80%

The general benefit, which is the percentage of the total budget that must be funded through sources other than assessments, is 31.80%. The special benefit then, which is the percentage of the budget that may be funded by assessments, is 68.20%.

5. METHOD OF ASSESSMENT

5.1 Method of Assessment Spread

All parcels in the District on which residential dwellings will be constructed specially benefit from the improvements to an equivalent extent. These parcels are therefore assessed on a per lot basis for the maintenance and operation of the District, including incidentals and appurtenances, and will include all the costs of maintenance and/or operating the improvements. As outlined in Section 4, the total amount of general benefit from the improvements is determined to be 31.80%.

The preliminary maximum assessment rate for Fiscal Year 2023/24 is \$560.54. The actual assessment rate levied on each taxable parcel for Fiscal Year 2023/24 is \$516.45.

Each year the maximum assessment rate shall be increased by the percentage change from April 1st of the prior year to April 1st of the current year by the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Indexes, Pacific Cities and U.S. City Average, San Francisco-Oakland-Hayward. The April 1, 2023 CPI was not available at the time of writing of this report. For purposes of this report, the CPI increase was estimated by using the February 2023/24 CPI.

5.2 Maximum Assessment Rates

The following table provides the historical maximum assessment rates for Fiscal Year 2000/01 through the current fiscal year:

Fiscal Year	CPI	Percentage Increase ⁽¹⁾	Maximum Rate
2000/01	178.7	N/A	\$292.803
2001/02	189.1	5.82%	309.844
2002/03	193.0	2.06%	316.234
2003/04	197.3	2.23%	323.280
2004/05	198.3	0.51%	324.918
2005/06	202.5	2.12%	331.800
2006/07	208.9	3.16%	342.286
2007/08	215.842	3.32%	353.661
2008/09	222.074	2.89%	363.872
2009/10	223.854	0.80%	366.789
2010/11	227.697	1.72%	373.086
2011/12	234.121	2.82%	383.611
2012/13	238.985	2.08%	391.581
2013/14	244.675	2.38%	400.904
2014/15	251.495	2.79%	412.079
2015/16	257.622	2.44%	422.118
2016/17	264.565	2.70%	433.494
2017/18	274.589	3.79%	449.919
2018/19	283.422	3.22%	464.392
2019/20	294.801	4.01%	483.037
2020/21	298.074	1.11%	488.400
2021/22	309.419	3.81%	506.988
2022/23	324.878	5.00%	532.318
2023/24	337.173	5.30% ⁽²⁾	560.544

⁽¹⁾ Percentage increase from April 1 of the prior year to April 1 of the current year in the US Department of Labor, Bureau of Labor Statistics, Consumer Price Index, Pacific Cities and US City Average, San Francisco-Oakland-Hayward.

⁽²⁾ The April 1, 2023 CPI was not available at the time of writing of this report. The Fiscal Year 2023/24 CPI increase was estimated using the February 2023/24 CPI.

5.3 Appeals

Any property owner who feels that the amount of their assessment is in error as a result of incorrect information being used to apply the foregoing method of spread, may file an appeal with the Finance Director of the City. Any such appeal is limited to correction of an assessment during the current or, if before July 1, the upcoming fiscal year. Upon the filing of any such appeal, the Finance Director shall promptly review the information provided by the property owner and if he/she finds that the assessment should be modified, he/she shall have the authority to make the appropriate changes in the assessment roll. If any such changes are provided after the assessment roll has been filed with the County for collection, the Finance Director is authorized to refund to the property owner the amount of any approved reduction.

6. ASSESSMENT DIAGRAM

The following page provides a copy of the assessment diagram of the District.



PART F

ASSESSMENT DIAGRAM
LANDSCAPING AND LIGHTING
MAINTENANCE ASSESSMENT DIST
NO. 98-1

MILFILLAS

REFERENCES

Filed in the Office of the City Clerk of the City of Milpitas
County of Santa Clara, State of California this 20th day
of May 2014.

An assessment was levied by the City Council of the City of Milpitas, County of Santa Clara, State of California on the lots, pieces and parcels of land shown on this assessment diagram. Said assessment was levied on the 3rd day of June 2014, said assessment diagram and the assessment roll were recorded in the Office of the Superintendent

Recorded in the Office of the Superintendent of Streets of the
City of Milpitas, County of Santa Clara, State of California,
this 3rd day of June 2014.

the 3rd day of June 2014
assessment roll recorded in the
of Streets for the exact amount
(against each parcel) of land
against
Mary Lavell
City Clerk of the City of Milpitas

7. ASSESSMENT ROLL

Assessor's parcel identification, for each lot or parcel within the District, shall be based on the Santa Clara County Assessor's secured roll data for the applicable year in which this report is prepared and is incorporated herein by reference.

A listing of assessor's parcels assessed within the District for Fiscal Year 2023/24, along with the assessment amounts, is on file in the office of the City Clerk and incorporated herein by reference. Based on County Assessor's secured roll data, current assessor's parcels, including corrected and/or new assessor's parcels, will be submitted and/or resubmitted to the Santa Clara County Auditor/Controller. The annual assessment amount to be levied and collected for the resubmitted parcel(s) shall be determined in accordance with the method of apportionment and assessment rate approved in this report. Therefore, if a single assessor's parcel has a status change in development, other land use change, or subdivides into multiple assessor's parcels, the assessment amounts applied to each of the new assessor's parcels shall be recalculated and applied according to the approved method of apportionment and assessment rate rather than a proportionate share of the original assessment amount.

City of Milpitas
LLMAD No. 98-1
Final Billing Detail Report for Fiscal Year 2023/24

APN	Assessment ID	Situs Address	Fiscal Year 2023/24 Levy
086-48-001	1	872 CAMERON CIR	\$516.44
086-48-002	2	868 CAMERON CIR	516.44
086-48-003	3	864 CAMERON CIR	516.44
086-48-004	4	860 CAMERON CIR	516.44
086-48-005	5	856 CAMERON CIR	516.44
086-48-006	6	852 CAMERON CIR	516.44
086-48-007	7	848 CAMERON CIR	516.44
086-48-008	8	844 CAMERON CIR	516.44
086-48-009	9	840 CAMERON CIR	516.44
086-48-010	10	836 CAMERON CIR	516.44
086-48-011	11	832 CAMERON CIR	516.44
086-48-012	12	828 CAMERON CIR	516.44
086-48-013	13	824 CAMERON CIR	516.44
086-48-014	14	820 CAMERON CIR	516.44
086-48-015	15	816 CAMERON CIR	516.44
086-48-016	16	812 CAMERON CIR	516.44
086-48-017	17	808 CAMERON CIR	516.44
086-48-018	18	804 CAMERON CIR	516.44
086-48-019	19	800 CAMERON CIR	516.44
086-48-020	20	1004 CAMERON PL	516.44
086-48-021	21	1000 CAMERON PL	516.44
086-48-022	22	996 CAMERON PL	516.44
086-48-023	23	992 CAMERON CIR	516.44
086-48-024	24	988 CAMERON CIR	516.44
086-48-025	25	984 CAMERON CIR	516.44
086-48-026	26	980 CAMERON CIR	516.44
086-48-027	27	976 CAMERON CIR	516.44
086-48-028	28	972 CAMERON CIR	516.44
086-48-029	29	968 CAMERON CIR	516.44
086-48-030	30	964 CAMERON CIR	516.44
086-48-031	31	960 CAMERON CIR	516.44
086-48-032	32	956 CAMERON CIR	516.44
086-48-033	33	952 CAMERON CIR	516.44
086-48-034	34	948 CAMERON CIR	516.44
086-48-035	35	944 CAMERON CIR	516.44
086-48-036	36	940 CAMERON CIR	516.44
086-48-037	37	936 CAMERON CIR	516.44
086-48-038	38	932 CAMERON CIR	516.44
086-48-039	39	928 CAMERON CIR	516.44
086-48-040	40	924 CAMERON CIR	516.44
086-48-041	41	920 CAMERON CIR	516.44
086-48-042	42	916 CAMERON CIR	516.44

Slight variances may occur due to rounding

City of Milpitas
LLMAD No. 98-1
Final Billing Detail Report for Fiscal Year 2023/24

APN	Assessment ID	Situs Address	Fiscal Year 2023/24 Levy
086-48-043	43	912 CAMERON CIR	516.44
086-48-044	44	908 CAMERON CIR	516.44
086-48-045	45	904 CAMERON CIR	516.44
086-48-046	46	900 CAMERON CIR	516.44
086-48-047	47	896 CAMERON CIR	516.44
086-48-048	48	892 CAMERON CIR	516.44
086-48-049	49	888 CAMERON CIR	516.44
086-48-050	50	884 CAMERON CIR	516.44
086-48-051	51	880 CAMERON CIR	516.44
086-48-052	52	876 CAMERON CIR	516.44
086-48-053	53	899 CAMERON CIR	516.44
086-48-054	54	903 CAMERON CIR	516.44
086-48-055	55	907 CAMERON CIR	516.44
086-48-056	56	911 CAMERON CIR	516.44
086-48-057	57	915 CAMERON CIR	516.44
086-48-058	58	211 CAMERON CT	516.44
086-48-059	59	203 CAMERON CT	516.44
086-48-060	60	195 CAMERON CT	516.44
086-48-061	61	200 CAMERON CT	516.44
086-48-062	62	208 CAMERON CT	516.44
086-48-063	63	216 CAMERON CT	516.44
086-48-064	64	207 WHITE CT	516.44
086-48-065	65	199 WHITE CT	516.44
086-48-066	66	191 WHITE CT	516.44
086-48-067	67	183 ALLEN CT	516.44
086-48-068	68	175 ALLEN CT	516.44
086-48-069	69	180 ALLEN CT	516.44
086-48-070	70	188 ALLEN CT	516.44
086-48-071	71	196 WHITE CT	516.44
086-48-072	72	204 WHITE CT	516.44
086-48-073	73	212 WHITE CT	516.44
086-48-074	74	203 KING CT	516.44
086-48-075	75	195 KING CT	516.44
086-48-076	76	187 KING CT	516.44
086-48-077	77	179 BRANDT CT	516.44
086-48-078	78	171 BRANDT CT	516.44
086-48-079	79	176 BRANDT CT	516.44
086-48-080	80	184 BRANDT CT	516.44
086-48-081	81	192 KING CT	516.44
086-48-082	82	200 KING CT	516.44
086-48-083	83	208 KING CT	516.44
086-48-084	84	199 DOUGLAS CT	516.44

Slight variances may occur due to rounding

City of Milpitas
LLMAD No. 98-1
Final Billing Detail Report for Fiscal Year 2023/24

APN	Assessment ID	Situs Address	Fiscal Year 2023/24 Levy
086-48-085	85	191 DOUGLAS CT	516.44
086-48-086	86	183 DOUGLAS CT	516.44
086-48-087	87	175 HOBBS CT	516.44
086-48-088	88	167 HOBBS CT	516.44
086-48-089	89	174 HOBBS CT	516.44
086-48-090	90	182 HOBBS CT	516.44
086-48-091	91	190 DOUGLAS CT	516.44
086-48-092	92	198 DOUGLAS CT	516.44
086-48-093	93	206 DOUGLAS CT	516.44
086-48-094	94	991 CAMERON CIR	516.44
086-48-095	95	995 CAMERON CIR	516.44
086-48-096	96	811 CAMERON CIR	516.44
086-48-097	97	815 CAMERON CIR	516.44
086-48-098	98	831 CAMERON CIR	516.44
98 Accounts			\$50,611.12
98 Total Accounts			\$50,611.12

CITY OF MILPITAS
LANDSCAPING MAINTENANCE DISTRICT (LMD) 98-1
(N.T.S.)



2023-2024 FISCAL YEAR LANDSCAPE AREA FUNDED FOR MAINTENANCE

ST



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Granting Acceptance of Delano Manongs Park (Formerly Known as McCandless Park), Project No. 2005, 5102, 7076, Authorizing the City Engineer to File a Notice of Completion, and Authorizing the City to Issue a Notice of Final Acceptance after the One-Year Warranty (Staff Contact: Michael Silveira, Capital Improvement Program Manager, 408-586-3303)
Category:	Consent Calendar-Community Development
Meeting Date:	5/16/2023
	<u>Recommendation:</u> Adopt a resolution granting acceptance of Delano Manongs Park (formerly known as McCandless Park), Project No. 2005, 5102, 7076, authorizing the City Engineer to file a Notice of Completion, and authorizing the City Engineer to issue a Notice of Final Acceptance after the one-year warranty.

Background:

On April 20, 2021, the City Council awarded a construction contract to McGuire and Hester for the McCandless Park Phase 1, Project No's. 2005, 5102, and 7076 ("Project") in the amount of \$6,303,700. The project provides for the construction of a new 4-acre City park on McCandless Drive adjacent to the Mabel Mattos Elementary School. The new park is partially funded through a Santa Clara County All-Inclusive Playground grant and includes play areas for children, sports field, community garden, butterfly garden, picnic areas, dog play areas, pathways, site furnishings, and restrooms facilities. On April 18, 2023, the City Council approved the name of "Delano Manongs" for the park as recommended by the Ad Hoc City Council Naming Subcommittee.

The Park is scheduled to be constructed in three phases with this Project being the first phase including the installation of play areas, community garden, butterfly garden, picnic areas, small dog play areas, pathways, restrooms facilities, irrigation and landscaping, and potable water well and park utility infrastructure. The second phase is the construction of joint use sports field which City Council awarded a construction contract on June 7, 2022 after Milpitas Unified School District completed Phase 2 of Mabel Mattos Elementary School project. Phase 3 will construct the large dog play area after installation of the potable water well above ground facilities. The anticipated start date for construction of phase three is 2024.

Analysis:

The Project, phase 1 of the Park, was successfully completed on time and within budget and the soft opening occurred on May 10, 2023. Staff recommends that City Council adopt a Resolution (**Attachment 1**) granting acceptance of the Project and authorizing the City Engineer to file a Notice of Completion in accordance with the provisions of Section 9204 of the Civil Code. Staff also recommends the City Council authorize the City Engineer to issue a notice of final acceptance after the one-year warranty period without further City Council action, provided that all warranty work is completed to the satisfaction of the City Engineer.

Policy Alternative:

Alternative: Do not adopt Resolution and deny Project acceptance, deny filling a notice of completion and not begin the one-year warranty.

Pros: None

Cons: A denial would result in the City being unable to commence the one-year warranty, release the retention to the Contractor and release any funds remaining back into the Project budget.

Reason not Recommended: Denial would result in the City being unable to close out the Project and release any funds remaining back into the Project budget.

Fiscal Impact:

No additional funding is requested for Phase 1 of the Park as the project is now complete. Ongoing maintenance costs and future replacement costs will be incorporated into the Public Works operating budget for Council consideration.

California Environmental Quality Act:

In accordance with California Environmental Quality Act Guidelines Section 15164, an Addendum to the June 3, 2008 Transit Area Specific Plan Environmental Impact Report to address minor changes and additions was created and adopted by the City Council on February 4, 2020.

Recommendations:

Adopt a Resolution granting acceptance of Delano Manongs Park (formerly known as McCandless Park) Project No's. 2005, 5102, and 7076, authorizing the City Engineer to file a Notice of Completion, and authorizing the City Engineer to issue a Notice of Final Acceptance after the one-year warranty.

Attachments:

Attachment 1: Resolution

RESOLUTION NO. _____**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS GRANTING
ACCEPTANCE OF DELANO MANONGS PARK (FORMERLY KNOWN AS MCCANDLESS
PARK), PROJECT NO. 2005, 5102, 7076**

WHEREAS, the City of Milpitas has heretofore entered into a contract with McGuire and Hester, for Delano Manongs Park (Formerly known as McCandless Park), Project No. 2005, 5102, 7076, in the amount of \$6,303,700.00 ("Project"), and the City Engineer of the City of Milpitas has recommended acceptance of said improvements as completed in accordance with plans, specifications and approved change orders and correction lists, and in accordance with the final inspection of said City Engineer.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City of Milpitas does hereby accept said improvements as completed on this 16th day of May, 2023, and does hereby authorize and direct the City Engineer of the City of Milpitas to file a Notice of Completion in accordance with the provisions of Section 9204 of the Civil Code of the State of California, and does hereby authorize and direct the City Engineer to file a Certificate of Completion in accordance with the provisions of Section 4005 of the Government Code of the State of California, if said work was by day's labor or force account.
3. The City Council authorizes the City Engineer to issue the Notice of Final Acceptance after the one-year warranty period without further City Council action, provided all required warranty repairs are completed to the satisfaction of the City Engineer; and nothing herein contained shall in any way be deemed to be a waiver, release or relinquishment by City of any obligations imposed upon the contractor or its surety, or sureties, by law or by the above-referenced improvement contract, save and except those obligations specifically mentioned herein.

PASSED AND ADOPTED this _____ day of _____, 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Suzanne Guzzetta, City Clerk

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney

APPROVED:

Carmen Montano, Mayor

Recording Requested by and
When Recorded Mail to:

City of Milpitas
455 East Calaveras Boulevard
Milpitas, CA 95035
Attention: City Clerk

Record without fee under
Section 6103 - Government Code
State of California

CITY OF MILPITAS
NOTICE OF COMPLETION
(Civil Code Section 9204)

NOTICE IS HEREBY GIVEN:

1. On or about April 20, 2021, the City Council of the City of Milpitas, a municipal corporation of the State of California, whose address is City Hall, 455 East Calaveras Boulevard, Milpitas, California, 95035 (as owner) entered into a contract for work of: **McCandless Park, Project No. 2005, 5102, 7076.**
2. A description of the site of which the City is co-owner for said work of improvement is: **1650 McCandless Drive** in the City of Milpitas, Santa Clara County, California, more particularly described on the plans.
3. The name and address of the direct contractor is: **McGuire & Hester, 2810 Harbor Bay Parkway, Alameda, CA 94502.**
4. A general statement of the kind of work done or materials furnished to the City is as follows: **The Project provides for installation of a new 4-acre City park and corresponding site improvements.**
5. Said work of improvement was accepted by the Milpitas City Council as complete on May 16th, 2023.

I, the undersigned, declare that I am the **City Engineer** of the City of Milpitas and am authorized to execute the foregoing Notice of Completion and this Verification thereof. I have read the foregoing Notice of Completion. I declare under penalty of perjury that the foregoing Notice of Completion is true and correct. Executed on _____, 2023 at Milpitas, California.

Matt Cano, Deputy City Manager/Interim City
Engineer, City of Milpitas

NOTE: RECORD WITHIN 15 DAYS OF ACCEPTANCE WITH COUNTY RECORDER OF
SANTA CLARA COUNTY



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	FY 2022-23 3rd Quarter Financial Status Report for the Quarter Ended March 31, 2023 (Staff Contact: Lauren Lai, Finance Director, 408-586-3111)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	5/16/2023
	<u>Recommendation:</u> Review the FY 2022-23 Quarterly Financial Status Report for the quarter ended March 31, 2023.

BACKGROUND:

On June 7, 2022, the City Council approved the Fiscal Year (FY) 2022-23 Adopted Operating Budget in the amount of \$207.8 million and the General Fund Budget in the amount of \$117.6 million. After adoption of the budget, staff monitors revenues and expenditures for all funds with an emphasis on the General Fund and Enterprise Funds.

ANALYSIS:

This staff report provides a quarterly update on budget versus actual revenues and expenditures of the General, Water and Sewer Funds, the City's major operating funds. The summary information below as well as the attachments comprise the FY 2022-23 Quarterly Financial Status Report for the quarter ended March 31, 2023. Major revenue sources and expenditures for these funds are discussed below. The attachments provide a more detailed summary of budget versus actual revenues and expenditures for the third quarter of FY 2022-23 as well as prior year actual for comparison purposes.

General Fund

On June 7, 2022, the City Council approved the Fiscal Year (FY) 2022-23 Adopted Operating General Fund Budget in the amount of \$117.6 million. As of March 31, 2023, the City received \$75.9 million in revenues, or 61.7% of the FY22-23 amended revenue budget and incurred \$90.8 million in expenditures, or 73.4% of the FY22-23 amended operating budget. Revenues and expenditures are seasonal with cash flow fluctuations due to timing of revenue receipts and City services rendered.

Revenues

As mentioned above, the nine months ending March 31, 2023, the General Fund has received \$75.9 million, or 61.7% of the FY 2022-23 amended revenue budget of \$123.0 million. Overall, General Fund revenues are 12.0% greater than last year at the same time, mainly due to property tax, sales tax, hotel/motel tax and charge for services. The FY2022-23 Adopted Budget did assume a higher, recovering revenue, which is discussed further below by major categories.

General Fund Revenues by Categories	Amended Budget	Receipt 3/31/2023	Outstanding	% Receipt	FY22 Receipt 3/31/2022
Property Tax	\$44,041,044	\$25,216,439	\$18,824,605	57.3%	\$21,950,943
Sales and Use Tax	29,263,446	19,390,226	9,873,220	66.3%	16,996,188
Sales and Use Tax - Measure F	6,955,000	4,265,695	2,689,305	61.3%	3,487,826
Licenses, Permits & Fines	9,984,759	6,254,752	3,730,007	62.6%	8,213,498
Transient Occupancy Tax	10,475,622	7,630,617	2,845,005	72.8%	4,212,946
Operating Transfer In	7,168,627	3,217,190	3,951,438	44.9%	3,144,698
Charges for Services	6,424,587	4,852,930	1,571,658	75.5%	2,296,517
Franchise Fees	5,538,665	2,368,629	3,170,036	42.8%	3,625,046
Intergovernmental	1,427,514	1,049,891	377,623	73.5%	2,202,713
Other Taxes	1,067,452	764,427	303,026	71.6%	1,023,597
Other Revenues	349,657	551,936	(202,279)	157.9%	277,585
Interest Income	264,000	354,208	(90,208)	134.2%	378,235
Grand Total	\$122,960,374	\$75,916,940	\$47,043,434	61.7%	\$67,809,794

- Property Taxes and Redevelopment Property Tax Trust Fund: Most property tax revenue is received in December and April. The revenue forecast estimates \$44.0 million in total property tax revenue for the City of Milpitas based on the County of Santa Clara (County) projections. Compared to the County's most recent update on May 5, 2023, the County's property tax projections are net \$3.0 million higher than the amended budget of \$44.0 million. However, such variance primarily relates to ERAF allocation that is involved in current litigation and accordingly, the County continues to advise 30% be excluded from the budget and appropriation.
- Sales & Use Tax: Sales tax is usually collected one quarter in arrears. As of March 31, 2023, the City has received seven months of sales tax receipts. Revenues are 14.1% higher than last year at the same time primarily due to higher consumption and inflation. The City's sales tax experts estimate sales tax revenues at approximately \$1.9 million higher than the amended budget, which is primarily due to one-time collections from several large remitters.
- Sales & Use Tax – Measure F: The district tax became operative April 1, 2021 and sunsets in eight years. As of March 31, 2023, the City has received seven months of sales tax receipt for Measure F. Revenues are 22.3% higher than last year at the same time. HdL estimates Measure F revenue at approximately \$7.0 million.
- Franchise Fees: Franchise fees are typically received a month in arrears. Sanitation franchise fees attributed to March have not yet been received. Revenue is trending 3.1% higher when compared to last year as business operations are resuming at pre-pandemic levels.
- Hotel/Motel (TOT) Tax: TOT collected as of March 31, 2023 is 72.8% of the amended budget. Also, revenues are 81.1% higher than last year at the same time primarily due to the end of COVID-19 restrictions and mask mandates, which brought an increase to travel. TOT taxes are typically received a month in arrears. TOT revenues however, may not recover to pre-pandemic revenue levels as personal and business travel and lodging may be altered. Staff will continue to monitor this revenue.
- License and Permits: Revenues are 23.8% lower than last year at the same time. City projects' timelines vary on a case-by-case basis and seldom within City control.
- Charges for Services: Revenues are 33.9% higher than last year at the same time. There are few COVID-19 restrictions in place, allowing more Recreation programs, events, and classes to be held compared to prior year which suffered shelter-in-place restrictions. These higher charges for services revenue are anticipated in the amended budget.

- Use of Money and Property: Revenues are 27.6% higher than last year at the same time, as last year there was lower invested cash balance with the transfer of \$33.9 million of General Fund CalPERS reserve to establish Section 115 Pension Trust.

Expenditures

For the nine months ending March 31, 2023, the General Fund has utilized \$90.8 million, or 73.4%, of the FY 22-23 amended operating budget of \$123.7 million. The amended operating budget represents \$117.6 million of the adopted appropriation, \$1.9 million of carryover encumbrances as well as approximately \$4.1 million of net increased department appropriations as approved by Council during the past nine months of the fiscal year. As of March 31, 2023, expenditures are trending 8.1% higher than last year. Higher expenditures are primarily due to filling vacant positions in various departments, especially Police. Staff will continue to monitor expenditures relative to Council authorized appropriations.

Staff would like to highlight the following items that are anomalies and/or current trends.

- City Council - There are significant savings from temporary support, memberships and dues, and contractual services that are yet to be encumbered.
- Economic Development - There were lower expenditures in contractual services.
- Engineering Department - There were lower contractual service expenditures.
- Information Technology - Approximately two thirds of the savings come from vacancy savings and one third from repair and maintenance.
- Recreation & Community Services – There were lower expenditures in personnel and departmental supplies. This function has seasonal programs, and the expenditure levels vary throughout the year.
- “Transfers Out” represents budgeted transfers to the Information Technology Equipment Fund Lightning and Maintenance District Fund, and CIP Projects. These transfers are posted at the beginning of each fiscal year.

Departments	Amended Budget	Total YTD Expenditure Including Encumbrance	% of Amended Budget	FY22 YTD Expenditure Including Encumbrance
Building Safety & Housing	\$6,163,264.54	\$4,532,526.55	73.5%	\$3,709,917.80
City Attorney	983,925	734,736	74.7%	955,251
City Clerk	478,638	337,434	70.5%	367,511
City Council	540,761	274,082	50.7%	289,257
City Manager	2,302,682	1,681,278	73.0%	1,471,415
Economic Development	967,982	576,596	59.6%	663,775
Engineering	3,732,908	2,511,150	67.3%	2,598,648
Finance	4,504,247	3,547,574	78.8%	3,337,328
Fire	29,010,285	21,218,299	73.1%	21,912,280
Human Resources	2,001,814	1,437,654	71.8%	1,247,369
Information Technology	3,689,925	2,261,197	61.3%	2,592,817
Non-Departmental	10,340,612	7,789,674	75.3%	6,606,697
Planning	2,209,502	1,730,521	78.3%	1,351,710
Police	37,470,112	27,682,878	73.9%	25,615,862
Public Works	10,161,192	7,756,787	76.3%	7,256,447
Recreation & Community Services	6,762,233	4,481,509	66.3%	3,712,120
Transfers Out	2,391,866	2,241,866	93.7%	340,590
Grand Total	\$123,711,947	\$90,795,760	73.4%	\$84,028,994

Grants and Donations

In accordance with City Council approved Budget Guidelines, the City Manager has the authority to accept grants and donations up to \$100,000. Staff is reporting on acceptance of these grants and donations for this quarter.

1. 2023 Walmart Grant - \$3,000
2. Officer Wellness and Mental Health Grant - \$60,379
3. 2022 State Homeland Security Grant Program - \$23,050
4. Silicon Valley Clean Energy Decarbonization Grant - \$95,000
5. Home and Community Based Services Senior Nutrition Infrastructure Grant - \$72,683

Unanticipated Expenditure Reserve

In accordance with the City Council approved Budget Guidelines, as part of the quarterly financial status reports, Staff is reporting on the expenditures from the Unanticipated Expenditure Reserve for this quarter.

Unanticipated Expenditure Reserve Uses

Description	Amount
AG Witt, LLC - COVID 19 advisory services	\$1,935
Baker Tilly US, LLP (Community Development Services Study)	25,600
Bob Murray & Associates (Executive Recruitments)	34,040
George Bianchi (Emergency Sound Wall Repair)	20,000
Rod Gould - City strategic planning services	1,800
RJA Management Services	2,035
SCI Consulting Group	3,890
TOTAL for the Quarter Ending March 31, 2023	\$89,300

Water Maintenance & Operation (M&O) Fund Financial Status

Revenues: For the nine months ended March 31, 2023, \$23.9 million of charges for services, or 72.1%, of the \$33.1 million amended budget has been received. Total revenue received amounts to \$24.1 million, or 71.9%, of the \$33.5 million amended budget.

Expenditures: For the nine months ended March 31, 2023, \$29.0 million, or 91.3%, of the \$31.8 million amended budget has been spent and/or encumbered. The Santa Clara Valley Water District and San Francisco Water Department wholesale water purchase contract encumbrance was posted for the full year in Q1 of FY23.

Sewer Maintenance & Operation (M&O) Fund Financial Status

Revenues: For the nine months ended March 31, 2023, \$18.9 million of charges for services, or 77.3%, of the \$24.5 million amended budget has been received. Total revenue received amounts to \$19.1 million, or 77.1%, of the \$24.7 million amended budget.

Expenditures: For the nine months ended March 31, 2023, \$14.5 million, or 82.2%, of the \$17.7 million amended budget has been spent and/or encumbered. The City of San Jose wastewater treatment contract encumbrance was posted for the full year in Q1 of FY23.

POLICY ALTERNATIVE(S):

Not Applicable

FISCAL IMPACT:

This is an informational report intended to provide a financial update of the City's General, Water and Sewer funds for the quarter ended March 31, 2023. No budget amendment is recommended.

California Environmental Quality Act (CEQA):

This item is not a Project under CEQA exempt under CEQA Guideline 15378(b)(4) as it is a government fiscal activity that does not involve a commitment to any specific project which may result in a potentially significant physical impact on the environment.

RECOMMENDATION:

1. Review the FY 2022-23 Quarterly Financial Status Report for the Quarter Ended March 31, 2023

Attachment(s):

1. FY 2022-23 Revenue Report for Fiscal Year-To-Date March 31, 2023
2. FY 2022-23 General Fund Expenditures by Department March 31, 2023
3. FY 2022-23 Water and Sewer Funds Financial Status for Fiscal Year-To-Date March 31, 2023

CITY OF MILPITAS

General Fund Revenues

For Fiscal Year-To-Date March 31, 2023

	FY23	FY23	FY23	FY23	FY23	FY23	FY23	FY22	Percentage
	Adopted			Amended	Revenue	Revenue	Percentage	Revenue	Increase
	Budget	Budget	Grant	Budget	As of 3/31/23	Outstanding	of Amended	as of 3/31/22	(Decrease)
General Fund Revenues		Amendments	Carryover	as of		Favorable/ (Unfavorable)	Budget		FY23 / FY22
Property Tax	\$ 42,636,192	\$ 1,404,852		\$ 44,041,044	\$ 25,216,439	\$ (18,824,605)	57.3%	\$ 21,950,943	14.9%
Sales and Use Tax	27,418,416	1,845,030		29,263,446	19,390,226	\$ (9,873,220)	66.3%	16,996,188	14.1%
Sales and Use Tax - Measure F	6,409,019	545,981		6,955,000	4,265,695	\$ (2,689,305)	61.3%	3,487,826	22.3%
Licenses, Permits & Fines	11,484,759	-1,500,000		9,984,759	6,254,752	\$ (3,730,007)	62.6%	8,213,498	-23.8%
Hotel/Motel Tax	8,329,238	2,146,384		10,475,622	7,630,617	\$ (2,845,005)	72.8%	4,212,946	81.1%
Operating Transfer In	7,168,627			7,168,627	3,217,190	\$ (3,951,438)	44.9%	3,144,698	2.3%
Charges for Services	5,969,453	455,134		6,424,587	4,852,930	\$ (1,571,658)	75.5%	3,625,046	33.9%
Franchise Fees	5,448,428	90,237		5,538,665	2,368,629	\$ (3,170,036)	42.8%	2,296,517	3.1%
Intergovernmental	1,081,728	26,167	319,619	1,427,514	1,049,891	\$ (377,623)	73.5%	2,202,713	-52.3%
Other Taxes	1,067,452			1,067,452	764,427	\$ (303,026)	71.6%	1,023,597	-25.3%
Other Revenues	349,657			349,657	551,936	\$ 202,279	157.9%	378,235	45.9%
Interest Income	264,000			264,000	354,208	\$ 90,208	134.2%	277,585	27.6%
Total General Fund Revenue	\$ 117,626,970	\$ 5,013,785	\$ 319,619	\$ 122,960,374	\$ 75,916,940	\$ (47,043,434)	61.7%	\$ 67,809,794	12.0%

City of Milpitas
General Fund Expenditure By Department Financial Status
For Fiscal Year-To-Date March 31, 2023

Departments	Adopted Budget	Amendments	Grants C/O	Encumb. C/O	Amended Budget	Expenditure	Encumbrance	Total YTD Exp.	% of Amended Budget	FY22 Expenditure Including Encumbrance	% of Amended FY22 Budget
Building Safety & Housing	6,175,459	-98,998	0	86,804	6,163,265	4,331,956	200,571	4,532,527	73.5%	3,709,918	66.2%
City Attorney	1,198,946	-247,999	0	32,978	983,925	464,057	270,678	734,736	74.7%	955,251	92.8%
City Clerk	567,660	-89,022	0	0	478,638	314,364	23,070	337,434	70.5%	367,511	65.5%
City Council	557,729	-67,901	0	50,933	540,761	224,032	50,050	274,082	50.7%	289,257	52.0%
City Manager	2,149,366	3,485	0	149,830	2,302,682	1,499,422	181,855	1,681,278	73.0%	1,471,415	71.2%
Economic Development	965,847	1,385	0	750	967,982	575,846	750	576,596	59.6%	663,775	72.4%
Engineering	3,971,355	-281,379	0	42,932	3,732,908	2,444,318	66,832	2,511,150	67.3%	2,598,648	70.2%
Finance	4,384,364	48,058	0	71,825	4,504,247	3,023,210	524,364	3,547,574	78.8%	3,337,328	78.0%
Fire	28,188,870	657,347	0	164,068	29,010,285	20,754,971	463,328	21,218,299	73.1%	21,912,280	78.8%
Human Resources	1,937,584	2,533	0	61,696	2,001,814	1,249,160	188,495	1,437,654	71.8%	1,247,369	67.4%
Information Technology	4,091,945	-409,850	0	7,830	3,689,925	2,037,775	223,422	2,261,197	61.3%	2,592,817	71.9%
Non-Departmental	7,570,821	2,384,205	0	385,586	10,340,612	7,000,260	789,414	7,789,674	75.3%	6,606,697	59.3%
Planning	1,927,812	-47,098	23,774	305,014	2,209,502	1,492,068	238,453	1,730,521	78.3%	1,351,710	63.9%
Police	37,935,204	-591,196	17,819	108,284	37,470,112	27,387,658	295,220	27,682,878	73.9%	25,615,862	73.3%
Public Works	9,692,160	77,305	0	391,727	10,161,192	6,732,444	1,024,343	7,756,787	76.3%	7,256,447	79.3%
Recreation & Community Services	5,969,980	745,226	0	47,027	6,762,233	4,134,456	347,053	4,481,509	66.3%	3,712,120	71.1%
Transfers Out	341,866	2,050,000	0	0	2,391,866	2,241,866	0	2,241,866	93.7%	340,590	100.0%
Grand Total	117,626,969	4,136,101	41,593	1,907,284	123,711,947	85,907,863	4,887,898	90,795,760	73.4%	84,028,994	73.1%

City of Milpitas
Water and Sewer Financial Status
For Fiscal Year-To-Date March 31, 2023 (unaudited)

Water Fund

Revenue Categories	Adopted Budget	Amendments	Grants C/O	Amended Budget	Receipt	Outstanding	% Receipt	Receipt 3/31/2022	% Receipt 3/31/2022
Charges for Services	33,144,215	0	0	33,144,215	23,903,733	9,240,482	72.1%	22,965,769	73.7%
Intergovernmental	0	0	0	0	0	0	0.0%	588	
Licenses, Permits & Fines	0	0	0	0	(74,324)	74,324	0.0%	(78,725)	
Other Revenues	0	0	0	0	21,981	(21,981)	0.0%	4311.06	24.5%
Use of Money and Property	369,729	0	0	369,729	252,017	117,712	68.2%	203,351	54.7%
Grand Total	33,513,944	0	0	33,513,944	24,103,407	9,410,537	71.9%	23,095,293	73.2%

Expenditures by Department	Adopted Budget	Amendments	Grants C/O	Encumb. C/O	Amended Budget	Expenditure	Encumbrance	Total YTD Exp.	% of Amended Budget	Total YTD Exp. 3/31/2022	% of Amended Budget 3/31/2022
City Attorney	9,000	0	0	0	9,000	0	9,000	9,000	100.0%	12,071	170.7%
Engineering	0	0	0	0	0	0	0	0	0.0%	29,500	100.0%
Finance	1,111,223	2,147	0	18,537	1,131,907	682,038	84,734	766,772	67.7%	663,604	63.8%
Non-Departmental	23,073,631	10,334	0	408,556	23,492,521	13,649,261	9,143,976	22,793,237	97.0%	20,182,355	97.9%
Public Works	4,372,217	48,358	0	84,419	4,504,994	3,349,094	108,798	3,457,892	76.8%	3,227,016	75.0%
Transfers In/Out/Revenue	2,687,393	0	0	0	2,687,393	2,015,545	0	2,015,545	75.0%	1,928,555	75.0%
Grand Total	31,253,464	60,839	0	511,512	31,825,815	19,695,938	9,346,508	29,042,446	91.3%	26,043,101	91.1%

Sewer Fund

Revenue Categories	Adopted Budget	Amendments	Grants C/O	Amended Budget	Receipt	Outstanding	% Receipt	Receipt 3/31/2022	% Receipt 3/31/2022
Charges for Services	24,482,217	0	0	24,482,217	18,923,049	5,559,168	77.3%	15,986,817	77.4%
Intergovernmental	0	0	0	0	0	0	0.0%	588	
Licenses, Permits & Fines	0	0	0	0	(42,048)	42,048	0.0%	(54,075)	
Operating Transfer In	39,282	0	0	39,282	39,282	0	100.0%	10.76	100.0%
Use of Money and Property	205,863	0	0	205,863	153,363	52,500	74.5%	92,639	36.9%
Grand Total	24,727,362	0	0	24,727,362	19,073,647	5,653,715	77.1%	16,025,979	76.6%

Expenditures by Department	Adopted Budget	Amendments	Grants C/O	Encumb. C/O	Amended Budget	Expenditure	Encumbrance	Total YTD Exp.	% of Amended Budget	Total YTD Exp. 3/31/2022	% of Amended Budget 3/31/2022
City Manager	0	0	0	0	0	0	0	0	0.0%	0	
Engineering	0	0	0	0	0	0	0	0	0.0%	25,500	100.0%
Finance	711,305	1,248	0	18,537	731,090	458,010	84,734	542,744	74.2%	447,816	73.3%
Non-Departmental	10,437,767	10,333	0	27,145	10,475,245	6,687,914	2,826,037	9,513,951	90.8%	9,523,408	76.6%
Public Works	3,881,262	1,005,867	0	145,571	5,032,700	3,259,006	139,659	3,398,665	67.5%	1,960,175	57.3%
Transfers In/Out/Revenue	1,444,196	0	0	0	1,444,196	1,083,147	0	1,083,147	75.0%	1,112,225	75.0%
Grand Total	16,474,530	1,017,448	0	191,253	17,683,231	11,488,077	3,050,430	14,538,507	82.2%	13,069,123	72.7%



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Approving a Site Development Permit and Amending the Previously Approved Design Standards of an Existing Planned Unit Development (PUD No. 68, Countryside Estates) to Allow Development of a New One-Story Single-Family Residence on a Vacant 1.653-Acre Lot Located in the R1-H Single-Family Residential Zoning District and Hillside Combining District at 1311 Countryside Court (Staff Contact: Ned Thomas, Planning Director, 408-586-3273)
Category:	Consent Calendar-Community Development
Meeting Date:	5/16/2023
Recommendation:	<u>Recommendation:</u> Consider the exemption in accordance with CEQA and adopt a resolution approving Site Development Permit No. SD21-0010 and PUD Amendment Permit No. PA21-0003, subject to the attached Conditions of Approval.

BACKGROUND:

On November 17, 1992, the City Council approved a Planned Unit Development (PUD No. 68, Countryside Estates) to allow the development of six hillside residential home sites on a 24.5-acre parcel. Each home site would be reviewed separately under the provisions of an "S" Zone Application or Site Development Permit and subject to a precise building envelope established within the PUD. To date, only Lot 5 has been developed, and entitlements for Lots 1-4 are pending or approved.

On September 07, 2021, Viraj Mutha, of Livio Building Systems submitted an application for a Site Development Permit and PUD amendment to allow development of a new 5,234-square foot, one-story single-family residence and one detached accessory building on a vacant 1.653-acre lot located at 1311 Countryside Court (Countryside Estates, Lot 6). This property is zoned Single-Family Residential (R1) with a Hillside (-H) Combining District. Per Milpitas Municipal Code (MMC) Section XI-10-45.09-2, no building permit shall be issued for the construction or expansion of a single-family structure in the Hillside (-H) Combining District until such structure has received a site and architectural review approval by the Planning Commission and City Council. On April 26, 2023, the Planning Commission held a public hearing on the proposed project and voted unanimously (6-0) to adopt Resolution No. 23-009 recommending approval by the City Council.

ANALYSIS:

Planning staff recommends that the City Council review and approve a Resolution to allow the development of a single-family residence and detached accessory structure on a vacant lot located at 1311 Countryside Court. The project site is generally located on the northeastern edge of Milpitas, adjacent to properties with the same single-family hillside zoning designation. Unincorporated Santa Clara County is located further to the east.

The project is designed in a Modern Contemporary style, with a variety of exterior materials and finishes, a palette of earth-tone colors, and a flat TPO (thermoplastic polyolefin) roof. The front elevation features smooth-application stucco, horizontal bands of wooden finish composite panels, accent areas of stone finish composite panels, metal garage doors, and a decorative driveway. The detached ADU is designed with the same materials to complement the main residence. All exterior materials and finishes work together as a palette of earth tone colors creating harmony with the surroundings. The colors and materials are complementary to the neighboring residences and within an earth tone range.

In accordance with MMC Section XI-10-45.09-7, and as outlined in the attached resolution and staff report, the City Council shall consider the following guidelines in its review of the proposed project:

- (a) Avoid Unreasonable Interference with Views and Privacy. The height, elevations and placement on the site of the proposed main or accessory structure, when considered with reference to the nature and location of the residential structures on adjacent lots, will avoid unreasonable interference with views and privacy.
- (b) Preserve Natural Landscape. The natural landscape will be preserved insofar as practicable by designing structures to follow the natural contours of the site and minimizing tree and soil removal.
- (c) Minimize Perception of Excessive Bulk. The design of the proposed main and/or accessory structure(s) in relation to the immediate neighborhood should minimize the perception of excessive bulk.
- (d) Impairment of Light and Air. The proposed main or accessory structure(s) shall not unreasonably impair the light and air of adjacent properties nor unreasonably impair the ability of adjacent properties to utilize solar energy.
- (e) Grading. All grading shall be kept to an absolute minimum and shall comply with the grading ordinance criteria.

The project, including both the home and detached accessory building, features a creative design, with a minimal building footprint and substantial setbacks from neighboring property lines to alleviate unreasonable interference with views and privacy. A significant portion of the land around the residence and associated driveway will be preserved as natural landscape similar to nearby vacant properties and designated open space lots in the immediate area.

The perception of excessive bulk has been minimized by the incorporation of varying rooflines, a clear delineation of colors and materials, and the punctuation of walls along the front and side elevations. The proposed maximum height of the residence at 17 feet is within the 17-foot height limit, and all required building setbacks will substantially exceed the minimum standards to help mitigate potential impairment of light and air. In addition, the structure's foundation follows the natural slope of the hillside to ensure minimal grading which will result in 121 cubic yards of import for the construction of a new home and the required grade at the driveway for firetruck access. As noted earlier in the report, the Planning Commission recommended Council approval of the project based on the required findings for approval.

POLICY ALTERNATIVE(S):

Alternative 1: Direct staff to draft a resolution to deny the project.

Pros: The existing hillside lot is not developed and remains as open space, or a new or revised project could be proposed.

Cons: The applicant would need to either withdraw the application or resubmit revised plans for development of a new residence at this location.

Reason for Not Recommending: The proposed project meets the required findings for approval and is consistent with the City's goals of supporting the development of a new high-quality housing in all areas of the City, including appropriate hillside locations. Both staff and the Planning Commission are recommending approval of the proposed project.

FISCAL IMPACT:

If the proposed project is approved, the applicant will apply for building permits and pay associated fees. The new single-family home will increase the property value and tax revenues but will also increase the demand for City services, including public safety and utilities. The project is located within an existing residential subdivision with existing services nearby.

California Environmental Quality Act (CEQA):

The project is exempt from further environmental review under CEQA pursuant to Section 15303(a) for New Construction or Conversion of Small Structures including one single-family residence or a second dwelling unit in a residential zone. The Project proposes the new construction of a single-family residence and detached accessory structure within a residentially zoned area on a legally established parcel, and it can be seen with certainty that there is no possibility that these actions may have a significant effect on the environment. As

separate and independent basis, the project is exempt from further CEQA review pursuant to Section 15183 of the CEQA Guidelines for projects consistent with a community plan, general plan or zoning. The project is consistent with the General Plan and the applicable zoning, and there are no significant environmental impacts peculiar to the project or its site.

RECOMMENDATION:

Adopt a Resolution approving Site Development Permit SD21-00010 and PUD Amendment Permit No. PA21-0003, subject to the Conditions of Approval (attached to resolution), to allow development of a new single-family residence at 1311 Countryside Court (PUD No. 68, Countryside Estates, Lot 6).

Attachments:

1. City Council Resolution
2. Planning Commission Staff Report dated April 26, 2023
3. Planning Commission Resolution No. 23-009
4. Project Plans

RESOLUTION NO. XXXX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS
 APPROVING THE SITE DEVELOPMENT PERMIT NO. SD21-0010 AND PLANNED UNIT DEVELOPMENT
 AMENDMENT PA21-0003 TO DEVELOP A NEW HILLSIDE HOME LOCATED ON A VACANT 1.653-ACRE
 SITE AT 1311 COUNTRYSIDE CT (APN: 029-07-014) AND MAKING CEQA FINDINGS OF EXEMPTION**

WHEREAS, on September 07, 2021, an application was submitted by Viraj Mutha, of LIVIO BUILDING SYSTEMS (“Applicant”), for a development proposal to allow the development of a 5,234-square foot, one-story single-family residence and one detached accessory building (“Project”) on a vacant 1.653 acre site within Planned Unit Development No. 68 at 1311 Countryside Court (APN: 029-07-014). The Project site is zoned Single Family Residential - Hillside; and

WHEREAS, Planned Unit Development Amendment Permit No. PA21-0003 is also required to allow for an increase from total allowed square footage of 5,000-square-feet to 5,234-square feet and changes in the exterior finishes/design within this project and associated Planned Unit Development Area, known as PUD 68; and

WHEREAS, the Planning Division completed an environmental assessment for the Project in accordance with the California Environmental Quality Act (CEQA), which assessment determined that the Project is exempt from CEQA review pursuant to Section 15303 (New Construction and Conversion of Small Structures) of the CEQA Guidelines and, as a separate and independent basis, pursuant to Section 15183 of the CEQA Guidelines; and

WHEREAS, on April 26, 2023, the City of Milpitas Planning Commission held a duly-noticed public hearing on the subject application, at which time all those in attendance were given the opportunity to speak on the Project, and the Planning Commission unanimously (8-0) recommended approval of the Project to the City Council subject to Conditions of Approval per Planning Commission Resolution No. 23-009; and

NOW THEREFORE, the City Council of the City of Milpitas hereby finds, determines and resolves as follows:

SECTION 1: Recitals

The City Council has considered the full record before it, which may include, but is not limited to, such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and incorporated herein by reference.

SECTION 2: Record

The location and custodian of the documents or other material which constitute the record of proceedings upon which this decision is based is within the Planning Department, City of Milpitas, 455 East Calaveras Boulevard, Milpitas, California 95035

SECTION 3: California Environmental Quality Act (CEQA) Findings

The project is exempt from further environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 15303(a) for “New Construction or Conversion of Small Structures including one single-family residence, or a second dwelling unit in a residential zone,” because it can be seen with certainty that there is no possibility that these actions may have a significant effect on the environment. The Project’s proposed new construction of a single-family residence and its accessory structures are within a residentially zoned area on a legal parcel and none of the exceptions, as specified in Section 15300.2 of the CEQA Guidelines that would preclude applicability of this exemption are present. As a separate and independent basis, the Project is exempt from Section 15183 of the CEQA Guidelines as a project consistent with a community plan, general plan or zoning in that it is consistent with the development density established in the Milpitas General Plan and the applicable zoning and there are no project-specific significant effects which are peculiar to this project or its site.

SECTION 4: Site Development Permit Findings (Section XI-10-57.03(F)(1))

Item # C13.

The City Council makes the following findings based on the evidence in the public record in support of Site Development Permit No. SD21-001:

1. *The layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development.*

The architectural design and site planning for the proposed home are aesthetically compatible with the neighboring homes, emphasizing minimizing changes to the natural topography and minimizing visual impacts. The proposed home incorporates earth-tone colors and is sited in a manner as not to draw attention when viewed from the valley floor.

2. *The project is consistent with the Milpitas Zoning Ordinance.*

As described in Table 1 below, the proposed home meets the development standards in the R1-H Single-Family Residential Hillside Zoning District and PUD No. 68 (Countryside Estates) for setbacks, height requirements, and landscaping. is the project will require an amendment to the site design standards originally approved for PUD No. 68 to allow modifications to the total allowed square footage and exterior finishes.

Table 1:
Summary of Development Standards

Standards	Hillside & PUD 68 Requirements	Proposed	Complies
Front Setback	25 ft. minimum when avg. slope is <16%. Otherwise, a 40 ft. minimum	69' - 7 5/32"	Yes
Side Yard Setback	40 ft. minimum	87' - 0 7/8" (west side) 149' - 7 3/32" (east side)	Yes
Rear	40 ft. minimum	69' - 1 27/32"	Yes
Size of Main Residence	6,000 sq. ft. maximum (lots < 3 acres)	5,234 sq. ft.	Yes
Impervious Surfaces	8,000 sq. ft. maximum (lots < 3 acres) 30,000 sq. ft. maximum (lots > 3 acres)	7,922 sq. ft.	Yes
Building Height (Max.)	West of crestline – 17 ft.	1-story or 17'	Yes
Parking	Three spaces required	Six spaces (three inside garage & three outside)	Yes
Crestline Zone of Protection	Within three hundred (300) feet easterly of the crestline, structure heights shall be restricted so that	West of the crestline	Yes

Standards	Hillside & PUD 68 Requirements	Proposed	Complies
	no structure extends above the crestline site line.		

Due to the subject property's location, the project must also comply with the development standards in the City's Hillside Combining District. Per MMC Section XI-10-45.09-7 of the Zoning Ordinance, the Planning Commission and City Council shall consider the following guidelines in their review. Staff has determined the Project to be consistent with the Hillside Architectural Guidelines, as demonstrated in Table 2 below.

Table 2:
Hillside Zoning Ordinance Compliance

Site and Architectural Guidelines Section 45.09-7	Consistency Finding
<i>(a) Avoid unreasonable interference with Views and Privacy. The height, elevations and placement on the site of the proposed main or accessory structure, when considered with reference to the nature and location of residential structures on adjacent lots, will avoid unreasonable interference with views and privacy.</i>	Consistent. Due to the proposed location and minimal scale of the home in consideration of its maximum allowable size outlined in Table 3, the development will not substantially interfere with views and privacy to adjacent lots. The proposed exceeds all setback requirements, meets the maximum 17-foot, one-story height limit, and minimizes interference with views and privacy through substantial setbacks from adjacent residences to the north and south. The adjacent single-family residence located west of the subject property is entirely on a downslope elevation and will not have any immediate line of sight to the subject property. Additionally, PUD No. 68 dedicates most of the subject lot to the east as Common Space and will remain undeveloped.
<i>(b) Preserve Natural Landscape. The natural landscape will be preserved insofar as practicable by designing structures to follow the natural contours of the site and minimizing tree and soil removal.</i>	Consistent. The project site is vacant and undeveloped, with a few shrubs on the higher-sloped southern portions of the lot and existing trees. No existing trees will be removed by the proposed project. As proposed, the design of the house is carefully sited to be built on the flattest portions of the lot, following the existing contours of the site to limit the amount of imported soil. The applicant proposes to install minimal landscaping, including 16 mid-size trees and various flowering plants, ground cover, and shrubs.
<i>(c) Minimize Perception of Excessive Bulk. The design of the proposed main and /or accessory structure(s) in relation to the immediate neighborhood should minimize the perception of excessive bulk.</i>	Consistent. The proposed one-story design is predominantly horizontal and includes varying rooflines, a clear delineation of different colors and materials, and punctuation of certain front and side-facing elevations to minimize the

Site and Architectural Guidelines Section 45.09-7	Consistency Finding
	perception of bulk within the main structure and the detached ADU. Furthermore, as described above and shown in Table 3, the scale of the proposed main residence is similar to the immediate neighbors' residences built on similar lots of less than 3.0-acres in size. The combined building footprints of the main residence and the detached ADU are clustered on the 1.653-acre lot, leaving the remaining portions of the lot undeveloped.
<i>(d) Impairment of Light and Air. The proposed main or accessory structure(s) shall not unreasonably impair the light and air of adjacent properties nor unreasonably impair the ability of adjacent properties to utilize solar energy.</i>	Consistent. The proposed home will not exceed 17 feet in height as permitted for homes west of the crestline and exceeds all minimum setbacks as required by the Hillside development standards. The proposed home also has a combination of flat and minimally pitched roof systems that could be used to utilize future solar energy. Regarding adjacent properties, the lot to the east is reserved as Common Area, and the residences to the east are greater than 500 feet away. As such, the proposed main residence will not cause an impairment to the adjacent properties' access to light and air.
<i>(e) Grading. All grading shall be kept to an absolute minimum and shall comply with the grading ordinance criteria.</i>	Consistent. The proposed location of the main dwelling is where the existing lot is relatively flat, so grading is limited to a net increase of 121 cubic yards of import to the site. All graded soil will be repurposed as fill.

Site & Architectural Design

The project is designed in a Modern Contemporary style, with a variety of exterior materials and finishes, a palette of earth-tone colors, and a flat TPO (thermoplastic polyolefin) roof. The front elevation features smooth-application stucco, horizontal bands of wooden finish composite panels, accent areas of stone finish composite panels, metal garage doors, and a decorative driveway. The detached ADU is designed with the same materials to complement the main residence.

Grading and Landscaping

In an effort to limit the amount of ground to be removed, the applicant has proposed a site plan which locates the proposed home on the flattest portion of the site, which will result in 121 cubic yards of import for the construction of a new home and the required grade at the driveway for firetruck access. The proposed landscape plan includes a variety of flowers, shrubs, and trees. No existing trees will be removed.

Crestline Zone of Protection

To protect the quality of views of the hills from the valley floor, development standards related to the crestline have been incorporated into the Zoning Code. Per MMC Section XI-10-45.06, the purpose of the crestline zone of protection is to preserve the natural quality of the crestline and the slopes 100 feet immediately below when viewed from the valley floor. The proposed project is located approximately 500 feet west of the crestline and approximately 100 feet lower in elevation; the project is further restricted to a height of seventeen (17) feet and one (1) story (excluding basements) from the lowest finished grade to the highest ridgeline of the building. The project conforms to these development standards outlined in Table 1.

3. The project is consistent with the Milpitas General Plan.

The proposed project is consistent with the Milpitas General Plan, particularly with Policy CD 7-5, which states that new development in the Hillside Area should be limited to only Very Low Density Residential, open space, and park uses. The project site is a legal lot within an approved Planned Unit Development, which was planned and designed to cluster the housing and protect open space. The proposed home is designed to fit in with the natural topographic features of the hillside property and reduce the visual impact as viewed from the valley floor. As outlined in Table 3 below.

Table 3:
General Plan Consistency

Policy	Conformance
<i>CD 7-1 Maintain the visual character of hillsides, recognizing both the importance of the exposure of hillside development from off-site public views and the importance of providing panoramic public views from and of hillsides.</i>	Consistent. The proposed Project will not significantly impact the visual character of the hillside from the valley floor or other viewpoints as the project site is located over 500 feet west and approximately 100 lower than the crestline.
<i>CD 7-2 Minimize the alteration of existing landforms and maintain the natural topographic characteristics of the hillside areas, allowing only minimal disruption.</i>	Consistent. The proposed Project will be situated at the flattest portion of the lot to limit the disruption to the existing natural topography by limiting the volume of grading only to require a net increase of 121 cubic yards to be added to the site. This is designed to accommodate the home's footprint and meet the required grade at the proposed driveway.
<i>CD 7-3 Protect the natural character of hillside areas by means of contour grading to blend graded slopes and terraces with the natural topography.</i>	Consistent. Minimal contour grading will be required to construct the new residence due to its location on the flattest areas of the lot. All new contours will be designed to blend with the natural existing site contours as demonstrated in the civil drawings in the plan set.
<i>CD 7-4 Avoid mass graded pads within hillside areas. Smaller steps or grade changes should be used over single, large, slope banks to the greatest extent feasible.</i>	Consistent. The building pad is proposed at the flattest portion of the lot and will only necessitate minimal grading, including equal amounts of cut and fill. Grading has been substantially minimized in the Project because the work

Policy	Conformance
	follows the site's natural contours to preserve the natural terrain quality.
CD 7-5 <i>Ensure that any change in hillside land use is accompanied by appropriate safety measures and that the environmental constraints are adequately addressed especially with respect to runoff and erosion.</i>	Consistent. The change from undeveloped hillside land to a single-family home will be situated 50' west of an active fault trace line; the geotechnical report demonstrates that the design of the pier and grade beam foundation meets the necessary safety measures. The site has been designed with landscaping plants to prevent runoff and erosion best and to bond soil together for hillside planting. The irrigation is designed to minimize the amount of water needed to further prevent erosion from occurring.

As described above, the Project is compatible and consistent with the surrounding uses and has been found to conform to the intent of the Milpitas 2040 General Plan designation. The proposed home is designed to fit in with the natural topographic features of the property and reduces the visual impact as viewed from the valley floor.

SECTION 4: *Planned Unit Development (Section XI-10-54.07(B)(6) (a-c))*

The Planning Commission makes the following standard requirements based on the evidence in the public record in support of the Planned Unit Development Amendment. PA21-0003:

1. *The proposed development will result in an intensity of land utilization no higher than and standards of open spaces at least as high as permitted or specified otherwise for such development in the General Plan, Zoning Ordinance and Subdivision ordinance.*

The PUD amendment and project design will result in an intensity of land utilization no higher than and standards of open space at least as high as permitted, in that the PUD requirements mirror the Hillside development standards related to site and architectural design, land utilization, planting, irrigation, and open space. This standard has been met.

2. *The development will not create traffic congestion pursuant to the California Environment Quality Act (CEQA). However, if traffic congestion is created by the proposed development, the traffic impacts will be mitigated by traffic improvements proposed by the developer or by funding capital projects and by on-site provisions for traffic circulation and parking or, if it cannot be mitigated, the Planning Commission and City Council shall issue any necessary findings pursuant to CEQA.*

The proposed PUD amendment will result in the development of one single-family home and one ADU consistent with the development standards of the R1-H Zoning District. The project will not create traffic congestion that will significantly and negatively affect existing traffic operations in the area. This standard has been met.

3. *For residential development in the Valley Floor Planning Area, as defined in the Milpitas General Plan Land Use Element, the maximum dwelling unit density per gross acre shall be the upper limit of the corresponding General Plan density range within each zoning designation. In the case of the Valley Floor Planning Area residential developments proposed on land zoned "R3" (Multiple Family Residential) an overall density of up*

to forty (40) units per gross acre can be approved if the following criteria are found by the City Council

The proposed PUD amendment shall not have any effect on residential development density on the Valley Floor Planning Area. This standard has been met.

Furthermore, in order to grant a Planned Unit Development amendment, the following findings are hereby made pursuant to Milpitas Municipal Code Section XI-10-54.07(B)(6)(d):

1. *Development of the site under the provisions of the Planned Unit Development will result in public benefit not otherwise attainable by application of the regulations of general zoning districts.*

The PUD amendment, along with the project, will result in a public benefit by continuing to require the clustering of new development to protect open space and hillsides. The PUD amendment will allow a modest increase in overall square footage for the residential structure as well as modifications to the exterior architectural design consistent with contemporary development in the Bay Area. The proposed changes will not be detrimental to the light, air, or privacy of any other structure or use currently existing or anticipated.

2. *The proposed Planned Unit Development is consistent with the Milpitas General Plan.*

The PUD amendment, along with the project, is consistent with the Milpitas General Plan, as demonstrated and outlined in Table 3 above.

3. *The proposed development will be in harmony with the character of the surrounding neighborhood and will have no adverse effects upon the adjacent or surrounding development, such as shadows, view obstruction, or loss of privacy that are not mitigated to acceptable levels.*

The proposed home's architectural design and site planning are aesthetically compatible with the neighboring homes, emphasizing minimizing changes to the natural topography. The proposed home incorporates earth-tone colors and is located on the site to minimize potential visual impacts when viewed from the valley floor. Exterior materials and finishes feature a palette of earth tone colors that are complementary to the neighboring residences. Additionally, the proposed home is situated on a 1.653-acre parcel with a minimum of 40' set back from all property lines and a minimum of 200' between the closest neighboring home.

SECTION 4: City Council Approval

Based on the foregoing, the City Council hereby approves Site Development Permit No. SD21-0010 and Planned Unit Development Amendment PA21-0003 to allow the development of a new single-family residence in the R1-H Single-family Residential Zoning District with an H Hillside Combining District located at 1311 Countryside Ct, based on the above findings and subject to the Conditions of Approval attached hereto as Exhibit 1 and incorporated herein.

PASSED AND ADOPTED this ____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Item # C13.

Suzanne Guzzetta, Acting City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney

EXHIBIT 1

**CONDITIONS OF APPROVAL
1311 COUNTRYSIDE CT
SITE DEVELOPMENT PERMIT NO. P-SD21-0010 AND
PLANNED UNIT DEVELOPMENT AMENDMENT PA21-0003 (APN 029-07-014)**

General Conditions

1. General Compliance. The applicant and owner, including all successors in interest (collectively "Permittee") shall comply with each and every condition set forth in this Permit. **Site Development Permit No. SD21-0010 and Planned Unit Development Amendment PA21-0003 ("Permit")** shall have no force or effect and no building permit shall be issued unless and until all things required by the below-enumerated precedent conditions have been performed or caused to be performed and this Resolution has been recorded by the Permittee with the Santa Clara County's Recorder Office. **(P)**
2. Modifications to project. Any deviation from the approved site plan, floor plans, or other approved submittal shall require that, prior to the issuance of building permits, the Permittee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the Permittee shall be required to apply for review and obtain approval of the Planning Commission, in accordance with the Zoning Ordinance. **(P)**
3. Effective Date. Unless there is a timely appeal filed in accordance with the Milpitas Zoning Code, the date of approval of this Permit is the date on which the decision-making body approved this Permit. **(P)**
4. Acceptance of Permit. Should Permittee fail to file a timely appeal within twelve (12) calendar days of the date of approval of this Permit, inaction by Permittee shall be deemed to constitute each of the following:
 - a. Acceptance of this Permit by Permittee; and
 - b. Agreement by the Permittee to be bound by, comply with, and to do all things required of or by Permittee pursuant to all of the terms, obligations, and conditions of this Permit.
5. Permit Expiration. Pursuant to Section XI-10-64.06 of the Milpitas Zoning Code, this Permit shall become null and void if the activity permitted by this Permit is not commenced within two (2) years from the date of approval, or for a project submitted with a tentative map, within the time limits of the approved tentative map. Pursuant to Section XI-10-64.06(B) of the Milpitas Zoning Code, an activity permitted by this Permit shall be deemed to have commenced when the project:
 - a. Completes a foundation associated with the project; or
 - b. Dedicates any land or easement as required from the zoning action; or
 - c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.
6. Time Extension. Pursuant to Section XI-10-64.07 of the Milpitas Zoning Code, unless otherwise provided by State law, Permittee shall have the right to request a one-time extension of the Permit if the request is made in writing to the Planning Division prior to the expiration date of the approval. **(P)**
7. Project Job Account. If Permittee's project job account is at any time delinquent or below the required deposit amount, City will not continue to review or process the application until Permittee's private job account is paid in full and the required deposit has been made. Additionally, prior to the issuance of any building permit or occupancy permit, as applicable, Permittee shall pay in full the project account balance and establish a remaining balance of at least twenty-five percent (25%) of the required initial deposit. **(P)**

8. Notice. Pursuant to California Government Code Section 66020, any protest filed in court is subject to the imposition of fees, dedication, reservations, or other exactions to be imposed on the development project shall be filed within ninety (90) days after the date of the adoption of this Resolution. This provision serves as notice from the local agency to the Permittee that the ninety (90) day period in which the applicant may file a protest has begun under California Government Code Section 66020(d)(1). **(P)**
9. Cost and Approval. Permittee shall fully complete and satisfy each and every condition set forth in this Resolution and any other condition applicable to the project to the sole satisfaction of the City. Additionally, Permittee shall be solely responsible and liable for the cost to satisfy each and every condition. Permittee shall pay all required fees and charges to City at the rate in effect at time of building permit issuance, or, the rate in effect when the fees and charges are due and paid in full to City. There is no vesting of any fees or charges with the adoption of this Resolution. **(P)**
10. Conditions. Each and every condition set forth in this Exhibit shall apply to the project and continue to apply to the project so long as the Permittee is operating the project under the permits and approvals in this Resolution. **(P)**
11. Compliance with Laws. The construction, use, and all related activity authorized under this Permit shall comply with all applicable local, state, and federal laws, rules, regulations, guidelines, requirements, and policies. **(CA/P)**
12. Previous Approvals. Permittee shall abide and continue to comply with all previous City approvals, permits, or requirements relating to the subject property, unless explicitly superseded or revised by this Permit. **(P)**
13. Indemnification. To the fullest extent permitted by law, Permittee shall indemnify, defend with counsel of the City's choosing, and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to (i) City's approval of the project, including but not limited to, the approval of the discretionary permits, maps under the Subdivision Map Act, and/or the City's related determinations or actions under the California Environmental Quality Act, and (ii) Permittee's construction, operation, use, or related activity under this Permit. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. Permittee shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. Permittee shall pay to the City upon demand or, as applicable, to counsel of City's choosing, any amount owed pursuant to the indemnification requirements prescribed in this condition. **(CA)**
14. Revocation, Suspension, Modification. This Permit may be suspended, revoked, or modified in accordance with Section XI-10-63.06 of the Milpitas Zoning Code. **(P)**
15. Severability. If any term, provision, or condition of this Permit is held to be illegal or unenforceable by the Court, such term, provision, or condition shall be severed and shall be inoperative, and the remainder of this Permit shall remain operative, binding, and fully enforceable.
16. Permittee shall develop the approved project in conformance with the approved plans dated January 27, 2023 approved by the Planning Commission on April 26, 2023, in accordance with these Conditions of Approval. **(P)**

Any deviation from the approved site plan, elevations, materials, colors, landscape plan, or other approved submittal shall require that, prior to the issuance of building permits, the Permittee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the

Planning Director or Designee. If the Planning Director or designee determines that the de significant, Permittee shall be required to apply for review and obtain approval of the Planning Commission or City Council, as applicable, in accordance with the Milpitas Zoning Code. **(P)**

17. Response to Conditions of Approval. Permittee shall provide a written response to comments upon submittal for building permit application. The responses should clearly indicate how each condition of approval has been addressed in the plans and shall note the appropriate plan sheet. **(P)**
18. Prior to the issuance of a building permit, the owner or designee shall include within the four first pages of the working drawings for a plan check, a list of all conditions of approval imposed by the final approval of the project. **(P)**

PROJECT SPECIFIC CONDITIONS

Planning Department Conditions

19. Streets shall be designed to generally follow the contours and land form in order to minimize cut and fill. Exposed walls and facing roadways and retaining walls shall be no greater than six feet in height. Crib walls fencing roadways shall be no greater than 15 feet in height. **(P)**
20. Landscaping coverage and stabilization of graded slopes shall be selected and designed to be compatible with surrounding natural vegetation or to replace removed natural vegetation and should recognize climatic, soil, and ecologic characteristic of the region. Plan materials that require excessive water after becoming established should be avoided. **(P)**
21. Within six months, or such other period established by the Planning Commission, after the commencement of grading activities, all graded areas not covered by an impervious surface shall be stabilized in such manner as shall be approved by the Community Development Manager. **(P)**
22. Where two cut-or-fill slopes intersect, the intersection shall be horizontally rounded and blended. **(P)**
23. Where any cut-or-fill slopes intersect the natural grade, the intersection of each slope shall be vertically and/or horizontally rounded and blended. **(P)**

Fire Department

The plans approved by the Planning Department process are not building plans and have not been reviewed nor approved for conformance to the California Building Code (CBC), California Fire Code (CFC) and the Milpitas Municipal Code (MMC). Do not consider this set of plans as final building plans approved by the Fire Department. Building plans must be submitted for review and approval before construction is to commence. The following notes are a general list of the applicable code requirements (2019) and are provided to assist with the building permit process. Please note that these are not all inclusive. All applicable Building, Fire and Municipal Code requirements must be met in advance of any building permit approvals or related construction.

23. Electronic documents. The fire code official may require electronic base documents for all construction documents and operational permits. The fire code official shall designate the software base format for the electronic documents. CFC Section 105.4.2.2, added by MMC Section V-300-2.11, and CFC Section 102.9
24. Automatic Fire Sprinkler Requirements. An automatic sprinkler system shall be provided throughout the new dwellings (main and guest), inclusive of basements and garages. Milpitas Municipal Code Section V-300-2.62, CFC Section 903.2.8
25. Fire Department access. Sheets A0.0 and A0.1 shows an acceptable Fire Dept. apparatus access. Fire apparatus access roads shall be provided for every building hereafter constructed when any portion of an exterior wall of the first story is located more than 150 feet from fire apparatus access as measured by an approved route around the exterior of the building. Fire apparatus access shall meet the following:

- a. Fire apparatus access shall extend to within 150 feet of all portions of exterior walls of the building/structure per the California Fire Code Section 503.1.
- b. The proposed driveway shall be designed for fire apparatus access. Fire Access Dimensions, fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm). CFC Section 503.2.1

Exception:

Milpitas Municipal Code XI-45.11

45.11-1 Privately owned and maintained access from the public road to each single-family dwelling shall be a minimum of fourteen (14) feet in width. Turning radius shall be designed to meet the Fire Department's requirements.

45.11-2 Turnout space shall be provided on driveways over one hundred fifty (150) feet in length with a maximum spacing of one hundred fifty (150) feet if driveway is less than eighteen (18) feet wide.

45.11-3 Turnaround. All dwelling units shall provide an on-site area for vehicles to turn around if served by a driveway over one hundred fifty (150) feet in length to meet Fire Department's requirements.

45.11-4 Vertical Clearance. All privately owned and maintained roads and drives shall assure a minimum fourteen (14) foot vertical clearance.

- c. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather capabilities. Bearing capacity for the driveway and the entry drive court shall be designed to provide a minimum of 50,000 lbs. bearing capacity for the fire apparatus. CFC Section 503.2.3
- d. When there is a dead-end condition, means for fire apparatus turn-around shall be provided as per the CA Fire Code Section 503.2.5. The Fire Department reserves the right to request site design changes as needed to meet the requirements of the CFC, and/or make the request for additional fire protection measures in conformance with the CFC Section 102.9.
- e. The grade (maximum 15%) of the fire apparatus access road shall be within the limits established by the fire code official based on the fire department's apparatus. CFC Section 503.2.7
- f. Electric gates. Where provided, gates shall be listed in accordance with UL 325. Gates intended for automatic operation shall be designed, constructed and installed to comply with the requirements of ASTM F 2200. CA Fire Code Section 503.5

Electric gates shall also be provided with a Milpitas Fire Department approved "Knox" electronic switch in addition to the key pad. CA Fire Code Section 102.9

- 26. Premises identification. New and existing buildings shall have approved address numbers. Address numbers shall be illuminated and located where they are clearly visible from the street. CFC Section 505

27. Water supply requirements. The new fire hydrant as shown on sheets A-1 and C-2 will be required a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 400 feet (122 m) from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the fire code official. CFC Section 507.5.1

Exception:

For Group R-3 and Group U occupancies, equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3, the distance requirement shall be not more than 600 feet

28. Sprinkler system supervision and alarms, and monitoring. It is recommended that due to the location of the home (hillside) the automatic fire sprinkler system for this home be a system that has supervision and alarm, and monitoring system in conformance to the CA Fire Code Section 903.4.

Building Department

29. Compliance with California Code of Regulations. The Project shall comply with the requirements of the Building Safety and Housing Department and the California Code of Regulations Title 24 and the Milpitas Municipal Code as adopted by the City. Building permits shall be submitted to and approved by the Building Safety and Housing Department prior to start of construction. All California Code of Regulations Title 24 and Milpitas Municipal Code requirements applicable at the time of building permit application must be met in advance of any building permit approvals or related construction. Changes to the site plan and/or building plan require review and approval by the Building Safety and Housing Department **(B)**

Engineering Department

Land Development Engineering has reviewed this planning application and has determined that the Applicant has sufficiently addressed all previous comments. The revised building footprint is sufficiently distant from the building restriction zone outlined in the geotechnical report dated 1989 produced by William Jones Inc. to not require any additional seismic hazard investigations and reports for the project parcel. Land Development Engineering is approving this planning application with conditions

PRIOR TO CONSTRUCTION PLAN SUBMITTALS

*The following conditions shall be met **prior to** any detailed construction plan check submittals (Building or Engineering, except demolition and rough grade plans), unless otherwise approved by the Director of Engineering/City Engineer. City reserves the right to reject any plan check submittal if any of the following conditions are not met. **(E)***

30. Modifications: The Site Development Plan dated January 27, 2023 is subject to change during the plan check stage based upon City's previous comments and conditions stated herein.
31. Submittal Requirements: Permittee to ensure that all plan check submittals are in accordance with City's submittal check list for each permit type, including but not limited to, payment of permit fees and/or fee deposit at the time of the submittal.

PRIOR TO ENCROACHMENT PERMIT ISSUANCE

*The following conditions shall be addressed as part of the off-site improvement plan review and shall be met **prior to** encroachment permit issuance, unless otherwise approved by the Director of Engineering/City Engineer. **(E)***

32. Public Improvement Design Standards: All public improvements shall be designed and constructed in accordance with all applicable public improvement design standards, including but not limited to:

- a. Milpitas Design Guidelines: (<http://www.ci.milpitas.ca.gov/milpitas/departments/engineering/guidelines/>);
 - b. Standard details and specifications: (<http://www.ci.milpitas.ca.gov/milpitas/departments/engineering/standard-details-and-specifications/>);
 - c. Mid-town Specific Plan design guidelines: (http://www.ci.milpitas.ca.gov/pdfs/plan_plan_midtown.pdf); and
 - d. Americans with Disabilities Act (ADA) requirements, where applicable.
33. Specific Improvements: In addition to standard public improvements required under Milpitas Municipal Code (MMC) Title XI, Chapter 1, Section 7, Permittee shall install other specific improvements listed below including incidental improvements as required by the City as part of the encroachment permit.
- a. Installation of new water meter for the property. Water meters shall be radio-transmitted with a meter antenna and any repeaters or transmitters as needed with dedicated power supplies at no cost to the City at locations acceptable to the City to ensure accurate and timely reception of meter readings.
34. Water Service Agreement: Permittee shall complete a water service agreement to obtain water service.
35. Encroachment Permit: Prior to any work in the public right-of-way and/or public easement, obtain an encroachment permit with insurance requirements for all public improvements including a traffic control plan per the latest California Manual on Uniform Traffic Control Devices (MUTCD) standards to be reviewed and approved by the Engineering Department.

PRIOR TO BUILDING PERMIT ISSUANCE

*The following conditions shall be addressed during the building plan check process and shall be met **prior to** any building permit issuance (except demolition permit and rough grade permit), unless otherwise approved by the Director of Engineering/City Engineer. (E)*

36. Easements on the Building Permit Plans: Permittee shall depict all existing easements to remain based upon current preliminary title report and depict new easements on applicable building permit plans.
37. Water Supply and Force Majeure: The City reserves the right to suspend the issuance of building permits in case of an emergency declaration of water supply in the case of a major catastrophic event that restricts City's assurance to provide water supply.
38. Water Efficient Landscapes: Permittee shall comply with Milpitas Municipal Code Title VIII, Chapter 5 Water Efficient Landscapes for landscape design, including but not limited to, providing separate water meters for domestic water service and irrigation service and providing applicable landscape documentation package.
39. Development Fees: Permittee shall pay the following development fees. The information listed in items "a" through "h" are based upon current fee rates; however, those fee rates are subject to change. The exact fee amount shall be determined at the time of building permit fee payment.
- a) Storm water connection fee at \$3,594/unit for single-family residential parcels 1-4 acres.
 - b) Water connection fee at \$1,910/unit for single-family residential, based upon increased water usage.
 - c) Sewer connection fee at \$1,908/unit for single-family residential, based upon increased average wastewater flow.
 - d) Wastewater Treatment Plant fee per MMC VIII, Chapter 2, Section 7.04.
 - e) 3.8% of applicable fees in accordance with City Resolution No. 8969 as Permitting Automation Fee.

DURING CONSTRUCTION

*The following conditions shall be complied with at all times **during** the construction phase of the project, unless otherwise approved by the Director of Engineering/City Engineer. (E)*

40. Dewatering: If dewatering is needed during construction, Permittee shall obtain a Short-Term Industrial Wastewater Permit from the San Jose/Santa Clara Water Pollution Control Plant for discharging the groundwater to a sanitary sewer system.
41. Prohibition of Potable Water Usage: Permittee shall use recycled water for construction purposes, including dust control and compaction. Permittee shall comply with MMC VIII-6-5.00 and 6-6.00 where potable water usage is prohibited, unless otherwise approved by the City Council.
42. Construction Staging and Employee Parking: Permittee shall place all construction related materials, equipment, and arrange construction workers parking on-site and not located in the public right-of-ways or public easements.

PRIOR TO FIRST OCCUPANCY

*The following conditions shall be met **prior to** first building occupancy on either lot, unless otherwise approved the Director of Engineering/City Engineer.*

43. Completion of Public Improvements: Permittee shall complete all public improvements, including but not limited to frontage improvements and facilities along South Main Street, as shown on City approved plans.
44. Landscape Certificate of Completion: Permittee shall submit a Certificate of Substantial Completion that complies with the Milpitas Municipal Code Water Efficient Landscapes ordinance.
45. Minimum Water Demand for Private Street Hydrants: Permittee, in coordination with the developers and owners of other parcels within the Countryside Estates subdivision, shall construct any additional onsite facilities for the fire water lines that are necessary meet the minimum water demand of 1,500 gpm flow for all existing onsite fire hydrants along Countryside Court. These onsite facilities are to be private facilities to be privately maintained by the Countryside Estates' homeowners' association.

(P) = Planning

(B) = Building

(E) = Engineering

(F) = Fire Prevention

(CA) = City Attorney

NOTICE OF RIGHT TO PROTEST

The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), began on date of adoption of this resolution. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.



MILPITAS PLANNING COMMISSION STAFF REPORT

April 26, 2023

APPLICATION: **NEW HILLSIDE RESIDENCE - 1311 COUNTRYSIDE CT (LOT 6)** - Site Development Permit No. SD21-0010 and PUD Amendment No. PA21-0003: A request for an Amendment to the development standards for single-family homes within Planned Unit Development No. 68 (Countryside Estates) to deviate from the approved designs for single-family homes and a Site Development Permit to construct a new 5,234-square foot, one-story, single-family residence with an attached three-car garage, and a detached accessory structure on a 1.653-acre vacant site located in the R1-H Single-family Residential-Hillside Zoning District with a Site and Architectural (-S) Overlay at 1311 Countryside Court (Countryside Estates, Lot 2).

RECOMMENDATION: **Staff recommends that the Planning Commission adopt Resolution No. 23-009, recommending City Council approval of Site Development Permit SD21-0010 and Planned Unit Development Amendment PA21-0003, subject to the attached Conditions of Approval.**

LOCATION:

Address/APN: 1311 Countryside Court (APN: 029-07-014)
Area of City: Northeastern portion of the City of Milpitas in the hillside area

PEOPLE:

Project Applicant: Viraj Mutha of Livio Building Systems
Project Planner: Avery Stark, Acting Senior Planner

LAND USE:

General Plan Designation: Hillside Low-Density (HLD)
Zoning District: Single Family Residential-Hillside (R1-H)
Planned Unit Development: No. 68 (Countryside Estates)
Site Area: 1.653 - acres

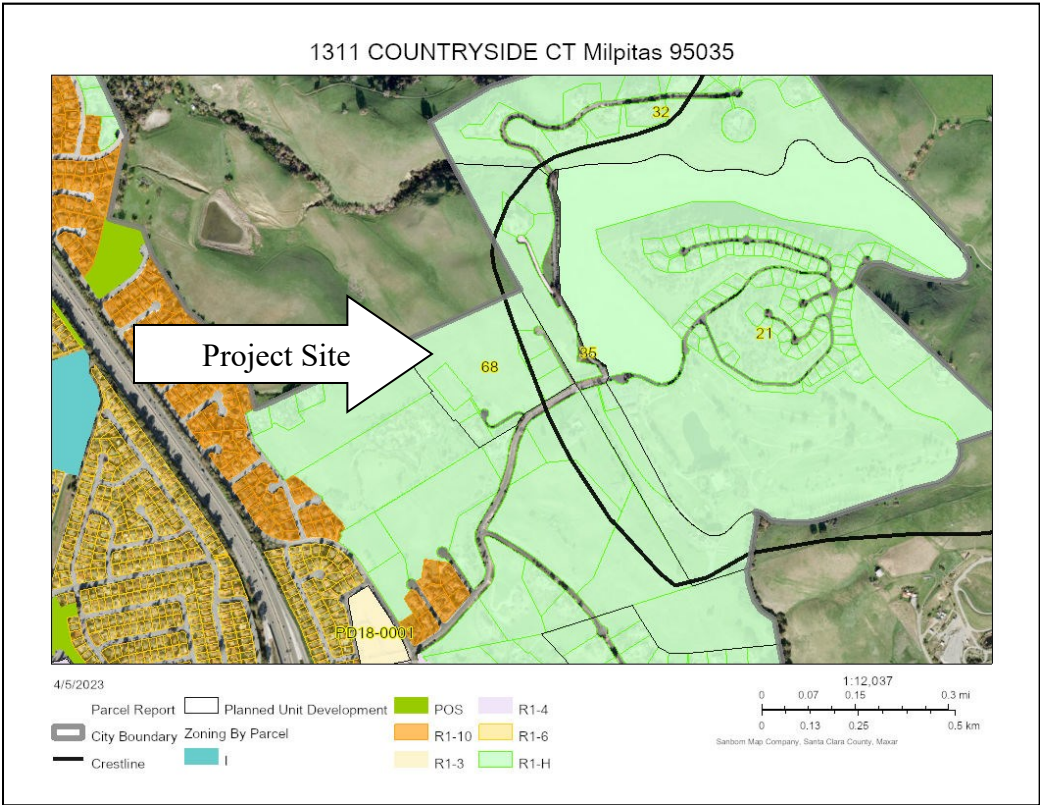
ENVIRONMENTAL:

Categorically exempt from environmental review under the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15303(a) (New Construction or Conversion of Small Structures) and Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning).

Map 1
3D Aerial Project Location



Map 2
Zoning Map



BACKGROUND

History

On November 17, 1992, the City Council approved Planned Unit Development (PUD) No. 68 (Countryside Estates) to allow the construction of six hillside residential home sites on a 24.5-acre parcel. Each home site would be reviewed separately under the provisions of an “S” Zone Application or Site Development Permit and subject to a precise building envelope established by the PUD. To date, one lot has been developed.

Overview

The applicant is requesting a Site Development Permit and a Planned Unit Development Amendment to construct a 5,234-square-foot, one-story single-family residence and one detached accessory building on a vacant 1.653-acre lot and an amendment to Planned Unit Development No. 68 to include the following changes:

1. Total allowed square footage to increase to 5,234 square feet (PUD standard requires a 5,000-square foot residence)
2. Changes to exterior finishes and design

Process

In addition to satisfying the substantive and procedural requirements typically applicable to a Site Development Permit and Planned Unit Development Amendment, because of the project’s location within the Hillside Combining District (“H”), the application must be considered by both the Planning Commission and the City Council (Milpitas Municipal Code (MMC) Section XI-10-45.09) for conformance with the Hillside Site and Architectural Guidelines.

PROJECT DESCRIPTION

Overview

The project site is an undeveloped 1.653-acre parcel located along Countryside Court within Planned Unit Development no. 68: Countryside Estates. The property and neighboring properties are zoned Single Family Residential – Hillside (R1-H). The project site is located on the west side of the hillside crest line. A vicinity map of the subject site location is shown on Map 1.

Location and Context

The project site is in the northeastern portion of the City of Milpitas in the hillside area. Map 2 on the previous page and Table 1 on the following table summarize the Zoning and Land Uses surrounding the site.

Table 1
Surrounding Zoning and Land Uses

	General Plan	Zoning	Existing Use
Subject Site	Hillside Low Density (HLD)	Single-Family Residential-Hillside (R1-H)	Vacant
North	Hillside Low Density (HLD)	Single-Family Residential-Hillside (R1-H)	Vacant
South	Hillside Low Density (HLD)	Single-Family Residential-Hillside (R1-H)	Single-family home
East	Hillside Low Density (HLD)	Single-Family Residential-Hillside (R1-H)	Single-family home
West	Hillside Low Density (HLD)	Single-Family Residential-Hillside (R1-H)	Vacant

PROJECT ANALYSIS

Milpitas General Plan 2040

The General Plan designation for the project site is Hillside Low Density (HLD). The General Plan details the City's Hillside Area's goals, objectives, and policies. It is characterized by gentle to steep slopes, grassy terrain with some chaparral and trees, wildlife, geologically unstable areas, the Ed R. Levin County Regional Park, and a feeling of remoteness from the more urban portions of the city. The Hillside Low-Density designation allows a maximum of one (1) housing unit per gross acre. The project is in conformance with the policies and standards in the City's General Plan policies, as outlined in the following table:

Table 2
General Plan Consistency

Policy	Conformance
<i>CD 7-1 Maintain the visual character of hillsides, recognizing both the importance of the exposure of hillside development from off-site public views and the importance of providing panoramic public views from and of hillsides.</i>	Consistent. The proposed Project will not significantly impact the visual character of the hillside from the valley floor or other viewpoints as the project site is located over 500 feet west and approximately 100 lower than the crestline.
<i>CD 7-2 Minimize the alteration of existing landforms and maintain the natural topographic characteristics of the hillside areas, allowing only minimal disruption.</i>	Consistent. The proposed Project will be situated at the flattest portion of the lot to limit the disruption to the existing natural topography by limiting the volume of grading only to require a net increase of 121 cubic yards to be added to the site. This is designed to accommodate the home's footprint and meet the required grade at the proposed driveway.

Policy	Conformance
CD 7-3 <i>Protect the natural character of hillside areas by means of contour grading to blend graded slopes and terraces with the natural topography.</i>	Consistent. Minimal contour grading will be required to construct the new residence due to its location on the flattest areas of the lot. All new contours will be designed to blend with the natural existing site contours as demonstrated in the civil drawings in the plan set.
CD 7-4 <i>Avoid mass graded pads within hillside areas. Smaller steps or grade changes should be used over single, large, slope banks to the greatest extent feasible.</i>	Consistent. The building pad is proposed at the flattest portion of the lot and will only necessitate minimal grading, including equal amounts of cut and fill. Grading has been substantially minimized in the Project because the work follows the site's natural contours to preserve the natural terrain quality.
CD 7-5 <i>Ensure that any change in hillside land use is accompanied by appropriate safety measures and that the environmental constraints are adequately addressed especially with respect to runoff and erosion.</i>	Consistent. The change from undeveloped hillside land to a single-family home will be situated 50' west of an active fault trace line; the geotechnical report demonstrates that the design of the pier and grade beam foundation meets the necessary safety measures. The site has been designed with landscaping plants to prevent runoff and erosion best and to bond soil together for hillside planting. The irrigation is designed to minimize the amount of water needed to further prevent erosion from occurring.

Development Standards

The site is located in the R1-H Single-Family Residential- "H" - Hillside Combining District and is designed to promote and encourage the orderly development of the hillside area of the City by the application of regulations and requirements established to meet the particular constraints associated with the development of hillside areas, including, but not limited to, geologic problems, slope, safe access, and visibility.

Per MMC Section XI-10-45.17-3, the subject parcel is less than 3.0-acres, which allows for the smallest maximum size for the main residence and the least amount of impervious surface coverage compared to parcels over this acre threshold. The project applicant chose to conform to development standards within its maximum limitations. Table 3 demonstrates the Project's consistency with the applicable development standards of the R1-H zone and PUD No. 68, and Image 1 demonstrates the site plan and building configuration.

Table 3
Summary of Development Standards

Standards	Hillside & PUD 68 Requirements	Proposed	Complies
Front Setback	25 ft. minimum when avg. slope is <16%. Otherwise, a 40 ft. minimum	69' - 7 5/32"	Yes
Side Yard Setback	40 ft. minimum	87' - 0 7/8" (west side) 149' - 7 3/32" (east side)	Yes
Rear	40 ft. minimum	69' - 1 27/32"	Yes
Size of Main Residence	6,000 sq. ft. maximum (lots < 3 acres)	5,234 sq. ft.	Yes
Impervious Surfaces	8,000 sq. ft. maximum (lots < 3 acres) 30,000 sq. ft. maximum (lots > 3 acres)	7,922 sq. ft.	Yes
Building Height (Max.)	West of crestline – 17 ft.	1-story or 17'	Yes
Parking	Three spaces required	Six spaces (three inside garage & three outside)	Yes
Crestline Zone of Protection	Within three hundred (300) feet easterly of the crestline, structure heights shall be restricted so that no structure extends above the crestline site line.	West of the crestline	Yes

Image 1
Site Plan

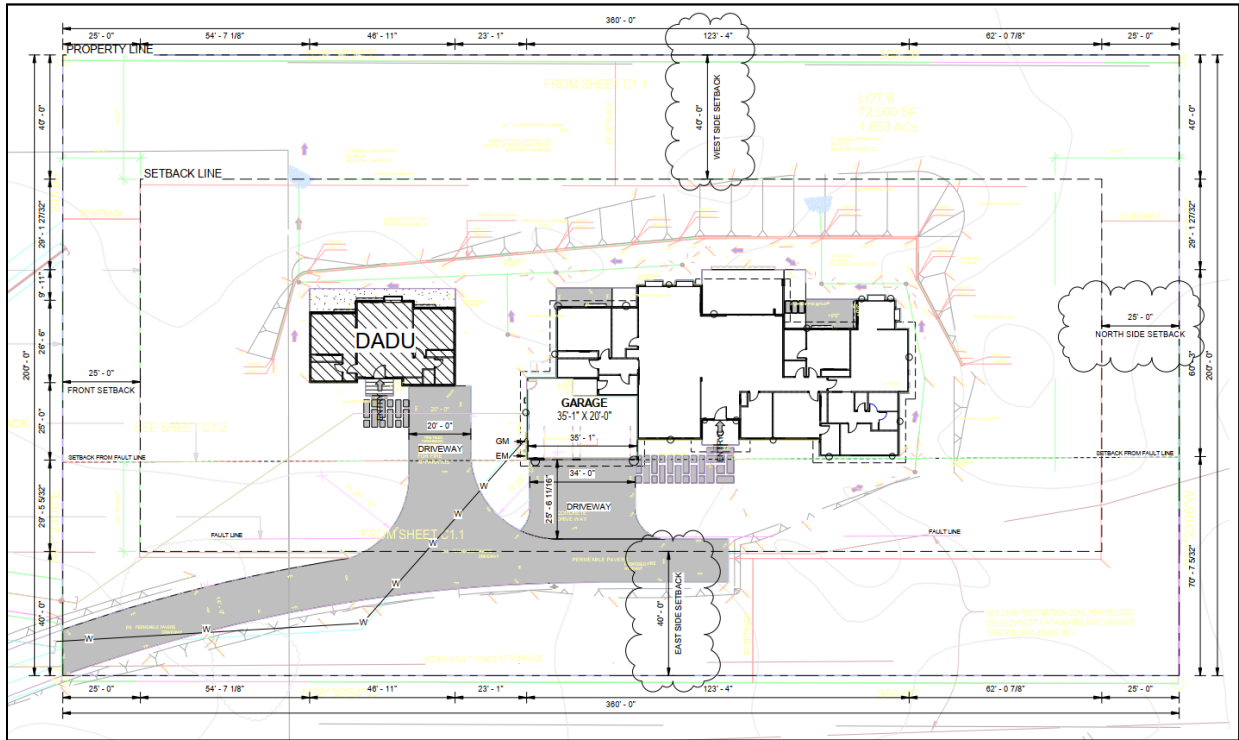
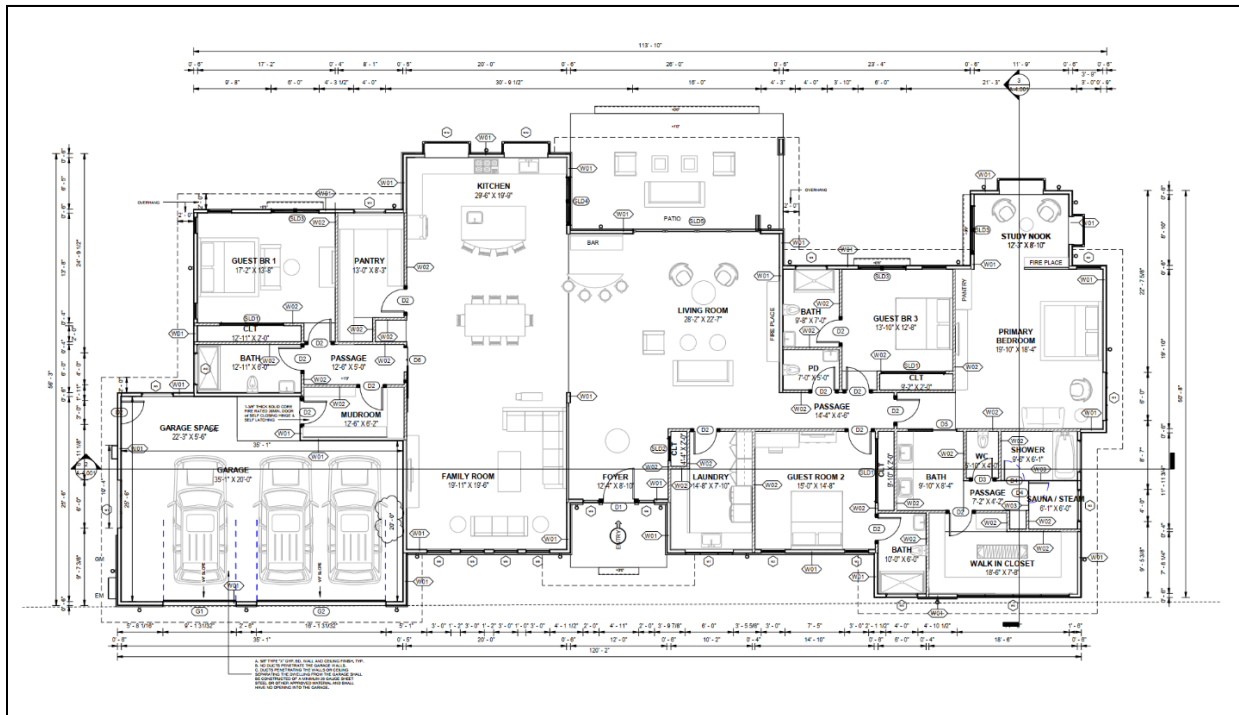


Image 2
Floor Plan



Due to the subject property's location, the project must also comply with the development standards in the City's Hillside Combining District. Per MMC Section XI-10-45.09-7 of the Zoning Ordinance, the Planning Commission and City Council shall consider the following guidelines in their review. Staff has determined the Project to be consistent with the Hillside Architectural Guidelines, as demonstrated in Table 4 below.

Table 4
Hillside Zoning Ordinance Compliance

Site and Architectural Guidelines <i>Section 45.09-7</i>	Consistency Finding
<i>(a) Avoid unreasonable interference with Views and Privacy. The height, elevations and placement on the site of the proposed main or accessory structure, when considered with reference to the nature and location of residential structures on adjacent lots, will avoid unreasonable interference with views and privacy.</i>	Consistent. Due to the proposed location and minimal scale of the home in consideration of its maximum allowable size outlined in Table 3, the development will not substantially interfere with views and privacy to adjacent lots. The proposed exceeds all setback requirements, meets the maximum 17-foot, one-story height limit, and minimizes interference with views and privacy through substantial setbacks from adjacent residences to the north and south. The adjacent single-family residence located west of the subject property is entirely on a downslope elevation and will not have any immediate line of sight to the subject property. Additionally, PUD No. 68 dedicates most of the subject lot to the east as Common Space and will remain undeveloped.
<i>(b) Preserve Natural Landscape. The natural landscape will be preserved insofar as practicable by designing structures to follow the natural contours of the site and minimizing tree and soil removal.</i>	Consistent. The project site is vacant and undeveloped, with a few shrubs on the higher-sloped southern portions of the lot and existing trees. No existing trees will be removed by the proposed project. As proposed, the design of the house is carefully sited to be built on the flattest portions of the lot, following the existing contours of the site to limit the amount of imported soil. The applicant proposes to install minimal landscaping, including 16 mid-size trees and various flowering plants, ground cover, and shrubs.
<i>(c) Minimize Perception of Excessive Bulk. The design of the proposed main and /or</i>	Consistent. The proposed one-story design is predominantly horizontal and includes

Site and Architectural Guidelines <i>Section 45.09-7</i>	Consistency Finding
<i>accessory structure(s) in relation to the immediate neighborhood should minimize the perception of excessive bulk.</i>	varying rooflines, a clear delineation of different colors and materials, and punctuation of certain front and side-facing elevations to minimize the perception of bulk within the main structure and the detached ADU. Furthermore, as described above and shown in Table 3, the scale of the proposed main residence is similar to the immediate neighbors' residences built on similar lots of less than 3.0-acres in size. The combined building footprints of the main residence and the detached ADU are clustered on the 1.653-acre lot, leaving the remaining portions of the lot undeveloped.
<i>(d) Impairment of Light and Air. The proposed main or accessory structure(s) shall not unreasonably impair the light and air of adjacent properties nor unreasonably impair the ability of adjacent properties to utilize solar energy.</i>	Consistent. The proposed home will not exceed 17 feet in height as permitted for homes west of the crestline and exceeds all minimum setbacks as required by the Hillside development standards. The proposed home also has a combination of flat and minimally pitched roof systems that could be used to utilize future solar energy. Regarding adjacent properties, the lot to the east is reserved as Common Area, and the residences to the east are greater than 500 feet away. As such, the proposed main residence will not cause an impairment to the adjacent properties' access to light and air.
<i>(e) Grading. All grading shall be kept to an absolute minimum and shall comply with the grading ordinance criteria.</i>	Consistent. The proposed location of the main dwelling is where the existing lot is relatively flat, so grading is limited to a net increase of 121 cubic yards of import to the site. All graded soil will be repurposed as fill.

Planned Unit Development Amendment

The project is also located within PUD No. 68, which establishes the total allowed square footage, total grading allowed, size of the garage, and exterior finish materials. Per PUD No. 68 (adopted November 1992), the lot shall have a three-car garage, a total allowable square footage of 4,000-5,000 square feet for the residential structure, and exterior finishes limited to those approved at the time.

Staff has determined that PUD No. 68, also known as Countryside Estates, which was established to regulate the design and development of six custom homes, is no longer reflective of contemporary architectural styles and development patterns of the Bay Area.

Staff recommends amending the PUD to allow a moderate increase in the allowable square footage of the primary residence from 5,000 square feet to 5,234 square feet and changes in exterior finishes. To approve such changes, the Planning Commission must make the finding that these changes will not be detrimental to the light, air, or privacy of any other structure or use currently existing or anticipated.

Site & Architectural Design

The project is designed in a Modern Contemporary style, with a variety of exterior materials and finishes, a palette of earth-tone colors, and a flat TPO (thermoplastic polyolefin) roof. The front elevation features smooth-application stucco, horizontal bands of wooden finish composite panels, accent areas of stone finish composite panels, metal garage doors, and a decorative driveway. The detached ADU is designed with the same materials to complement the main residence.

Image 3
3D Rendering and Exterior Materials



Grading and Landscaping

In an effort to limit the amount of ground to be removed, the applicant has proposed a site plan which locates the proposed home on the flattest portion of the site, which will result in 121 cubic yards of import for the construction of a new home and the required grade at the driveway for firetruck access. The proposed landscape plan includes a variety of flowers, shrubs, and trees. No existing trees will be removed. Attachment B (Project Plans L1.0) demonstrates that these plans are consistent with the grading/landscaping requirements within the Hillside Ordinance.

Crestline Zone of Protection

To protect the quality of views of the hills from the valley floor, development standards related to the crestline have been incorporated into the Zoning Code. Per MMC Section XI-10-45.06, the purpose of the crestline zone of protection is to preserve the natural quality of the crestline and the slopes 100 feet immediately below when viewed from the valley floor. The proposed project is located 500 feet west of the crestline and approximately 100 feet lower in elevation; the project is further restricted to a height of seventeen (17) feet and one (1) story (excluding basements) from the lowest finished grade to the highest ridgeline of the building. The project conforms to these development standards outlined in Table 3.

FINDINGS FOR APPROVAL (OR DENIAL)

A finding is a statement of fact relating to the information that the Planning Commission has considered in making a decision. Findings shall identify the rationale behind the decision to take a certain action. Based on substantial evidence in the public record, Staff has found that the proposed project is consistent with the General Plan, Zoning Ordinance, and all required Findings.

Site Development Permit Findings (Section XI-10-57-03-1(F))

1. *The layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development.*

The architectural design and site planning for the proposed home are aesthetically compatible with the neighboring homes, emphasizing minimizing changes to the natural topography and minimizing visual impacts. The proposed home incorporates earth-tone colors and is sited in a manner as not to draw attention when viewed from the valley floor.

2. *The project is consistent with the Milpitas Zoning Ordinance in that:*

As described within the staff report, the proposed home meets the development standards in the R1-H Single-Family Residential Hillside Zoning District and PUD No. 68 (Countryside Estates) for setbacks, height requirements, and landscaping. is the project will require an amendment to the site design standards originally approved for PUD No. 68 to allow modifications to the total allowed square footage and exterior finishes.

3. *The project is consistent with the Milpitas General Plan in that:*

The proposed project is consistent with the Milpitas General Plan, particularly with Policy CD 7-5, which states that new development in the Hillside Area should be limited to only Very Low Density Residential, open space, and park uses. The project site is a legal lot within an approved Planned Unit Development, which was planned and designed to cluster the housing and protect open space. The proposed home is designed to fit in with the natural topographic features of the hillside property and reduce the visual impact as viewed from the valley floor.

Planned Unit Development (Section XI-10-54.07(B)(6) (a-c))

1. *The proposed development will result in an intensity of land utilization no higher than and standards of open spaces at least as high as permitted or specified otherwise for such development in the General Plan, Zoning Ordinance and Subdivision ordinance.*

The PUD amendment and project design will result in an intensity of land utilization no higher than and standards of open space at least as high as permitted, in that the PUD requirements mirror the Hillside development standards related to site and architectural design, land utilization, planting, irrigation, and open space. This standard has been met.

2. *The development will not create traffic congestion pursuant to the California Environment Quality Act (CEQA). However, if traffic congestion is created by the proposed development, the traffic impacts will be mitigated by traffic improvements proposed by the developer or by funding capital projects and by on-site provisions for traffic circulation and parking or, if it cannot be mitigated, the Planning Commission and City Council shall issue any necessary findings pursuant to CEQA.*

The proposed PUD amendment will result in the development of one single-family home and one ADU consistent with the development standards of the R1-H Zoning District. The project will not create traffic congestion that will significantly and negatively affect existing traffic operations in the area. This standard has been met.

3. *For residential development in the Valley Floor Planning Area, as defined in the Milpitas General Plan Land Use Element, the maximum dwelling unit density per gross acre shall be the upper limit of the corresponding General Plan density range within each zoning designation. In the case of the Valley Floor Planning Area residential developments proposed on land zoned "R3" (Multiple Family Residential) an overall density of up to forty (40) units per gross acre can be approved if the following criteria are found by the City Council to be met.*

The proposed PUD amendment shall not have any effect on residential development density on the Valley Floor Planning Area. This standard has been met.

Furthermore, in order to grant a Planned Unit Development amendment, the following findings are hereby made pursuant to Milpitas Municipal Code Section XI-10-54.07(B)(6)(d):

- 1. Development of the site under the provisions of the Planned Unit Development will result in public benefit not otherwise attainable by application of the regulations of general zoning districts.*

The PUD amendment, along with the project, will result in a public benefit by continuing to require the clustering of new development to protect open space and hillsides. The PUD amendment will allow a modest increase in overall square footage for the residential structure as well as modifications to the exterior architectural design consistent with contemporary development in the Bay Area. The proposed changes will not be detrimental to the light, air, or privacy of any other structure or use currently existing or anticipated.

- 2. The proposed Planned Unit Development is consistent with the Milpitas General Plan.*

The PUD amendment, along with the project, is consistent with the Milpitas General Plan, as demonstrated and outlined in Table 2 above.

- 3. The proposed development will be in harmony with the character of the surrounding neighborhood and will have no adverse effects upon the adjacent or surrounding development, such as shadows, view obstruction, or loss of privacy that are not mitigated to acceptable levels.*

The proposed home's architectural design and site planning are aesthetically compatible with the neighboring homes, emphasizing minimizing changes to the natural topography. The proposed home incorporates earth-tone colors and is located on the site to minimize potential visual impacts when viewed from the valley floor. Exterior materials and finishes feature a palette of earth tone colors that are complementary to the neighboring residences. Additionally, the proposed home is situated on a 1.653-acre parcel with a minimum of 40' set back from all property lines and a minimum of 200' between the closest neighboring home.

ENVIRONMENTAL REVIEW

The proposed Project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15303(a) (New Construction or Conversion of Small Structures) and Section 15183 (Projects Consistent with a Community Plan, General Plan or Zoning).

PUBLIC COMMENT/OUTREACH

Staff provided public notice for the application in accordance with City and State public noticing requirements. At the time of writing this report, there have been no inquiries from the public. A notice was published in the Milpitas Post on April 14, 2023. In addition, six notices were sent to owners and occupants within 300 feet of the project site. A public notice was also posted on the project site, on the City's Website, www.ci.milpitas.ca.gov, and posted at City Hall.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission:

1. Open the Public Hearing to receive comments;
2. Close the Public Hearing; and
3. Adopt Resolution No. 23-009, recommending the City Council approve the Site Development Permit No. SD21-0010 and Planned Unit Development Amendment No. P-PA21-0003, to allow development of a single-family residence in the R1-H Single-Family Residential Hillside Zoning District, subject to the findings and attached Conditions of Approval.

ATTACHMENTS

- A: Resolution 23-009
- B: Project Plans
- C: Geotechnical Report

RESOLUTION NO. 23-009**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS
RECOMMENDING APPROVAL OF SITE DEVELOPMENT PERMIT NO. SD21-0010
AND PLANNED UNIT DEVELOPMENT AMENDMENT PA21-0003 TO THE
MILPITAS CITY COUNCIL TO CONSTRUCT A NEW HILLSIDE HOME LOCATED
ON A VACANT 1.653-ACRE SITE AT 1311 COUNTRYSIDE COURT (APN: 029-07-014)**

WHEREAS, on September 07, 2021, an application was submitted by Viraj Mutha, of LIVIO BUILDING SYSTEMS (“Applicant”), for a development proposal to allow the construction of a 5,234-square foot, one-story single-family residence and one detached accessory building (“Project”) on a vacant 1.653 acre site within Planned Unit Development No. 68 at 1311 Countryside Court (APN: 029-07-014). The Project site is zoned Single Family Residential - Hillside; and

WHEREAS, Planned Unit Development Amendment Permit No. PA21-0003 is also required to allow for an increase from total allowed square footage of 5,000-square-feet to 5,234-square feet and changes in the exterior finishes/design within this project and associated Planned Unit Development Area, known as PUD 68; and

WHEREAS, the Planning Division completed an environmental assessment for the Project in accordance with the California Environmental Quality Act (CEQA), which assessment determined that the Project is exempt from CEQA review pursuant to Section 15303 (New Construction and Conversion of Small Structures) of the CEQA Guidelines and, as a separate and independent basis, pursuant to Section 15183 of the CEQA Guidelines; and

WHEREAS, on April 26, 2023 the Planning Commission held a duly noticed public hearing on the subject application, at which all those in attendance were given the opportunity to speak on Project; and

WHEREAS, the Planning Commission has considered all of the written and oral testimony presented at the public hearing in making its decision; and

NOW THEREFORE, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

SECTION 1: Recitals.

The Planning Commission has considered the full record before it, which may include, but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and incorporated herein by reference.

SECTION 2: Record

The location and custodian of the documents or other material which constitute the record of proceedings upon which this decision is based is within the Planning Department, City of Milpitas, 455 East Calaveras Boulevard, Milpitas, California 95035

SECTION 3: CEQA Finding

The project is exempt from further environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 15303(a) for “New Construction or Conversion of Small Structures including one single-family residence, or a second dwelling unit in a residential zone,” because it can be seen with certainty that there is no possibility that these actions may have a significant effect on the environment. The Project’s proposed new construction of a single-family residence and its accessory structures are within a residentially zoned area on a legal parcel and none of the exceptions, as specified in Section 15300.2 of the CEQA Guidelines that would preclude applicability of this exemption are present. As a separate and independent basis, the Project is exempt from Section 15183 of the CEQA Guidelines as a project consistent with a community plan, general plan or zoning in that it is consistent with the development density established in the Milpitas General Plan and the applicable zoning and there are no project-specific significant effects which are peculiar to this project or its site.

SECTION 4: Site Development Permit (Section XI-10-57.03(F)(1))

The Planning Commission makes the following findings based on the evidence in the public record in approving Site Development Permit No. SD21-0010:

1. *The layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development.*

The architectural design and site planning for the proposed home are aesthetically compatible with the neighboring homes, emphasizing minimizing changes to the natural topography and minimizing visual impacts. The proposed home incorporates earth-tone colors and is sited in a manner as not to draw attention when viewed from the valley floor.

2. *The project is consistent with the Milpitas Zoning Ordinance.*

As described in Table 1 below, the proposed home meets the development standards in the R1-H Single-Family Residential Hillside Zoning District and PUD No. 68 (Countryside Estates) for setbacks, height requirements, and landscaping. is the project will require an amendment to the site design standards originally approved for PUD No. 68 to allow modifications to the total allowed square footage and exterior finishes.

Table 1:
Summary of Development Standards

Standards	Hillside & PUD 68 Requirements	Proposed	Complies
Front Setback	25 ft. minimum when avg. slope is <16%. Otherwise, a 40 ft. minimum	69' - 7 5/32"	Yes
Side Yard Setback	40 ft. minimum	87' - 0 7/8" (west side) 149' - 7 3/32" (east side)	Yes
Rear	40 ft. minimum	69' - 1 27/32"	Yes

RESO NO. 23-009

Item # C13.

Standards	Hillside & PUD 68 Requirements	Proposed	Complies
Size of Main Residence	6,000 sq. ft. maximum (lots < 3 acres)	5,234 sq. ft.	Yes
Impervious Surfaces	8,000 sq. ft. maximum (lots < 3 acres) 30,000 sq. ft. maximum (lots > 3 acres)	7,922 sq. ft.	Yes
Building Height (Max.)	West of crestline – 17 ft.	1-story or 17'	Yes
Parking	Three spaces required	Six spaces (three inside garage & three outside)	Yes
Crestline Zone of Protection	Within three hundred (300) feet easterly of the crestline, structure heights shall be restricted so that no structure extends above the crestline site line.	West of the crestline	Yes

Due to the subject property's location, the project must also comply with the development standards in the City's Hillside Combining District. Per MMC Section XI-10-45.09-7 of the Zoning Ordinance, the Planning Commission and City Council shall consider the following guidelines in their review. Staff has determined the Project to be consistent with the Hillside Architectural Guidelines, as demonstrated in Table 2 below.

Table 2:
Hillside Zoning Ordinance Compliance

Site and Architectural Guidelines <i>Section 45.09-7</i>	Consistency Finding
<i>(a) Avoid unreasonable interference with Views and Privacy. The height, elevations and placement on the site of the proposed main or accessory structure, when considered with reference to the nature and location of residential structures on adjacent lots, will avoid unreasonable interference with views and privacy.</i>	Consistent. Due to the proposed location and minimal scale of the home in consideration of its maximum allowable size outlined in Table 3, the development will not substantially interfere with views and privacy to adjacent lots. The proposed exceeds all setback requirements, meets the maximum 17-foot, one-story height limit, and minimizes interference with views and privacy through substantial setbacks from adjacent residences to the north and south. The adjacent single-

RESO NO. 23-009

Item # C13.

Site and Architectural Guidelines <i>Section 45.09-7</i>	Consistency Finding
	family residence located west of the subject property is entirely on a downslope elevation and will not have any immediate line of sight to the subject property. Additionally, PUD No. 68 dedicates most of the subject lot to the east as Common Space and will remain undeveloped.
<i>(b) Preserve Natural Landscape. The natural landscape will be preserved insofar as practicable by designing structures to follow the natural contours of the site and minimizing tree and soil removal.</i>	Consistent. The project site is vacant and undeveloped, with a few shrubs on the higher-sloped southern portions of the lot and existing trees. No existing trees will be removed by the proposed project. As proposed, the design of the house is carefully sited to be built on the flattest portions of the lot, following the existing contours of the site to limit the amount of imported soil. The applicant proposes to install minimal landscaping, including 16 mid-size trees and various flowering plants, ground cover, and shrubs.
<i>(c) Minimize Perception of Excessive Bulk. The design of the proposed main and /or accessory structure(s) in relation to the immediate neighborhood should minimize the perception of excessive bulk.</i>	Consistent. The proposed one-story design is predominantly horizontal and includes varying rooflines, a clear delineation of different colors and materials, and punctuation of certain front and side-facing elevations to minimize the perception of bulk within the main structure and the detached ADU. Furthermore, as described above and shown in Table 3, the scale of the proposed main residence is similar to the immediate neighbors' residences built on similar lots of less than 3.0-acres in size. The combined building footprints of the main residence and the detached ADU are clustered on the 1.653-acre lot, leaving the remaining portions of the lot undeveloped.
<i>(d) Impairment of Light and Air. The proposed main or accessory structure(s) shall not unreasonably impair the light and air of adjacent properties nor unreasonably impair the ability of adjacent properties to utilize solar energy.</i>	Consistent. The proposed home will not exceed 17 feet in height as permitted for homes west of the crestline and exceeds all minimum setbacks as required by the Hillside development standards. The proposed home also has a combination of flat and minimally pitched roof systems that could be used to utilize future solar energy. Regarding adjacent properties, the lot to the east is reserved as

RESO NO. 23-009

Item # C13.

Site and Architectural Guidelines <i>Section 45.09-7</i>	Consistency Finding
	Common Area, and the residences to the east are greater than 500 feet away. As such, the proposed main residence will not cause an impairment to the adjacent properties' access to light and air.
<i>(e) Grading. All grading shall be kept to an absolute minimum and shall comply with the grading ordinance criteria.</i>	Consistent. The proposed location of the main dwelling is where the existing lot is relatively flat, so grading is limited to a net increase of 121 cubic yards of import to the site. All graded soil will be repurposed as fill.

Site & Architectural Design

The project is designed in a Modern Contemporary style, with a variety of exterior materials and finishes, a palette of earth-tone colors, and a flat TPO (thermoplastic polyolefin) roof. The front elevation features smooth-application stucco, horizontal bands of wooden finish composite panels, accent areas of stone finish composite panels, metal garage doors, and a decorative driveway. The detached ADU is designed with the same materials to complement the main residence.

Grading and Landscaping

In an effort to limit the amount of ground to be removed, the applicant has proposed a site plan which locates the proposed home on the flattest portion of the site, which will result in 121 cubic yards of import for the construction of a new home and the required grade at the driveway for firetruck access. The proposed landscape plan includes a variety of flowers, shrubs, and trees. No existing trees will be removed.

Crestline Zone of Protection

To protect the quality of views of the hills from the valley floor, development standards related to the crestline have been incorporated into the Zoning Code. Per MMC Section XI-10-45.06, the purpose of the crestline zone of protection is to preserve the natural quality of the crestline and the slopes 100 feet immediately below when viewed from the valley floor. The proposed project is located approximately 500 feet west of the crestline and approximately 100 feet lower in elevation; the project is further restricted to a height of seventeen (17) feet and one (1) story (excluding basements) from the lowest finished grade to the highest ridgeline of the building. The project conforms to these development standards outlined in Table 1.

3. The project is consistent with the Milpitas General Plan.

The proposed project is consistent with the Milpitas General Plan, particularly with Policy CD 7-5, which states that new development in the Hillside Area should be limited to only Very Low Density Residential, open space, and park uses. The project site is a legal lot within an approved Planned Unit Development, which was planned and designed to cluster the housing and protect open space. The proposed home is designed to fit in with the natural topographic features of the

RESO NO. 23-009

Item # C13.

hillside property and reduce the visual impact as viewed from the valley floor. As outlined in Table 3 below.

Table 3:
General Plan Consistency

Policy	Conformance
<i>CD 7-1 Maintain the visual character of hillsides, recognizing both the importance of the exposure of hillside development from off-site public views and the importance of providing panoramic public views from and of hillsides.</i>	Consistent. The proposed Project will not significantly impact the visual character of the hillside from the valley floor or other viewpoints as the project site is located over 500 feet west and approximately 100 lower than the crestline.
<i>CD 7-2 Minimize the alteration of existing landforms and maintain the natural topographic characteristics of the hillside areas, allowing only minimal disruption.</i>	Consistent. The proposed Project will be situated at the flattest portion of the lot to limit the disruption to the existing natural topography by limiting the volume of grading only to require a net increase of 121 cubic yards to be added to the site. This is designed to accommodate the home's footprint and meet the required grade at the proposed driveway.
<i>CD 7-3 Protect the natural character of hillside areas by means of contour grading to blend graded slopes and terraces with the natural topography.</i>	Consistent. Minimal contour grading will be required to construct the new residence due to its location on the flattest areas of the lot. All new contours will be designed to blend with the natural existing site contours as demonstrated in the civil drawings in the plan set.
<i>CD 7-4 Avoid mass graded pads within hillside areas. Smaller steps or grade changes should be used over single, large, slope banks to the greatest extent feasible.</i>	Consistent. The building pad is proposed at the flattest portion of the lot and will only necessitate minimal grading, including equal amounts of cut and fill. Grading has been substantially minimized in the Project because the work follows the site's natural contours to preserve the natural terrain quality.
<i>CD 7-5 Ensure that any change in hillside land use is accompanied by appropriate safety measures and that the environmental constraints are adequately addressed especially with respect to runoff and erosion.</i>	Consistent. The change from undeveloped hillside land to a single-family home will be situated 50' west of an active fault trace line; the geotechnical report demonstrates that the design of the pier and grade beam foundation meets the necessary safety measures. The site has been designed with landscaping plants to prevent runoff and erosion best and to bond soil together

Policy	Conformance
	for hillside planting. The irrigation is designed to minimize the amount of water needed to further prevent erosion from occurring.

As described above, the Project is compatible and consistent with the surrounding uses and has been found to conform to the intent of the Milpitas 2040 General Plan designation. The proposed home is designed to fit in with the natural topographic features of the property and reduces the visual impact as viewed from the valley floor.

SECTION 4: *Planned Unit Development (Section XI-10-54.07(B)(6)(a-c))*

The Planning Commission makes the following standard requirements based on the evidence in the public record in support of the Planned Unit Development Amendment. PA21-0003:

1. *The proposed development will result in an intensity of land utilization no higher than and standards of open spaces at least as high as permitted or specified otherwise for such development in the General Plan, Zoning Ordinance and Subdivision ordinance.*

The PUD amendment and project design will result in an intensity of land utilization no higher than and standards of open space at least as high as permitted, in that the PUD requirements mirror the Hillside development standards related to site and architectural design, land utilization, planting, irrigation, and open space. This standard has been met.

2. *The development will not create traffic congestion pursuant to the California Environment Quality Act (CEQA). However, if traffic congestion is created by the proposed development, the traffic impacts will be mitigated by traffic improvements proposed by the developer or by funding capital projects and by on-site provisions for traffic circulation and parking or, if it cannot be mitigated, the Planning Commission and City Council shall issue any necessary findings pursuant to CEQA.*

The proposed PUD amendment will result in the development of one single-family home and one ADU consistent with the development standards of the R1-H Zoning District. The project will not create traffic congestion that will significantly and negatively affect existing traffic operations in the area. This standard has been met.

3. *For residential development in the Valley Floor Planning Area, as defined in the Milpitas General Plan Land Use Element, the maximum dwelling unit density per gross acre shall be the upper limit of the corresponding General Plan density range within each zoning designation. In the case of the Valley Floor Planning Area residential developments proposed on land zoned "R3" (Multiple Family Residential) an overall density of up to forty (40) units per gross acre can be approved if the following criteria are found by the City Council to be met*

RESO NO. 23-009

Item # C13.

The proposed PUD amendment shall not have any effect on residential development density on the Valley Floor Planning Area. This standard has been met.

Furthermore, in order to grant a Planned Unit Development amendment, the following findings are hereby made pursuant to Milpitas Municipal Code Section XI-10-54.07(B)(6)(d):

1. *Development of the site under the provisions of the Planned Unit Development will result in public benefit not otherwise attainable by application of the regulations of general zoning districts.*

The PUD amendment, along with the project, will result in a public benefit by continuing to require the clustering of new development to protect open space and hillsides. The PUD amendment will allow a modest increase in overall square footage for the residential structure as well as modifications to the exterior architectural design consistent with contemporary development in the Bay Area. The proposed changes will not be detrimental to the light, air, or privacy of any other structure or use currently existing or anticipated.

2. *The proposed Planned Unit Development is consistent with the Milpitas General Plan.*

The PUD amendment, along with the project, is consistent with the Milpitas General Plan, as demonstrated and outlined in Table 3 above.

3. *The proposed development will be in harmony with the character of the surrounding neighborhood and will have no adverse effects upon the adjacent or surrounding development, such as shadows, view obstruction, or loss of privacy that are not mitigated to acceptable levels.*

The proposed home's architectural design and site planning are aesthetically compatible with the neighboring homes, emphasizing minimizing changes to the natural topography. The proposed home incorporates earth-tone colors and is located on the site to minimize potential visual impacts when viewed from the valley floor. Exterior materials and finishes feature a palette of earth tone colors that are complementary to the neighboring residences. Additionally, the proposed home is situated on a 1.653-acre parcel with a minimum of 40' set back from all property lines and a minimum of 200' between the closest neighboring home.

SECTION 5: The Planning Commission of the City of Milpitas hereby recommends the City Council approve Site Development Permit No. SD21-0010 and Planned Unit Development Amendment PA21-0003 and adopt Resolution No. 23-009 to allow the construction of a single-family residence in the hillside district, based on the above findings and subject to the Conditions of Approval attached hereto as **Exhibit 1** incorporated herein.

RESO NO. 23-009

Item # C13.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on April 26, 2023

DocuSigned by:

 1CD00AF9E201461...

Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on April 26, 2023, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Bill Chuan	✓			
Larry Ciardella	✓			
Mercedes Albana	✓			
Alexander Galang			✓	
Dipak Awasthi	✓			
Zeya Mohsin	✓			
Sonia Medina-Ashby	✓			

EXHIBIT 1

**CONDITIONS OF APPROVAL
1311 COUNTYSIDE CT
SITE DEVELOPMENT PERMIT NO. P-SD21-0010 AND
PLANNED UNIT DEVELOPMENT AMENDMENT PA21-0003 (APN 029-07-014)**

General Conditions

1. General Compliance. The applicant and owner, including all successors in interest (collectively "Permittee") shall comply with each and every condition set forth in this Permit. **Site Development Permit No. SD21-0010 and Planned Unit Development Amendment PA21-0003** ("Permit") shall have no force or effect and no building permit shall be issued unless and until all things required by the below-enumerated precedent conditions have been performed or caused to be performed and this Resolution has been recorded by the Permittee with the Santa Clara County's Recorder Office. **(P)**
2. Modifications to project. Any deviation from the approved site plan, floor plans, or other approved submittal shall require that, prior to the issuance of building permits, the Permittee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the Permittee shall be required to apply for review and obtain approval of the Planning Commission, in accordance with the Zoning Ordinance. **(P)**
3. Effective Date. Unless there is a timely appeal filed in accordance with the Milpitas Zoning Code, the date of approval of this Permit is the date on which the decision-making body approved this Permit. **(P)**
4. Acceptance of Permit. Should Permittee fail to file a timely appeal within twelve (12) calendar days of the date of approval of this Permit, inaction by Permittee shall be deemed to constitute each of the following:
 - a. Acceptance of this Permit by Permittee; and
 - b. Agreement by the Permittee to be bound by, comply with, and to do all things required of or by Permittee pursuant to all of the terms, obligations, and conditions of this Permit.
5. Permit Expiration. Pursuant to Section XI-10-64.06 of the Milpitas Zoning Code, this Permit shall become null and void if the activity permitted by this Permit is not commenced within two (2) years from the date of approval, or for a project submitted with a tentative map, within the time limits of the approved tentative map. Pursuant to Section XI-10-64.06(B) of the Milpitas Zoning Code, an activity permitted by this Permit shall be deemed to have commenced when the project:
 - a. Completes a foundation associated with the project; or
 - b. Dedicates any land or easement as required from the zoning action; or
 - c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.
6. Time Extension. Pursuant to Section XI-10-64.07 of the Milpitas Zoning Code, unless otherwise provided by State law, Permittee shall have the right to request a one-time

RESO NO. 23-009

Item # C13.

extension of the Permit if the request is made in writing to the Planning Division prior to the expiration date of the approval. **(P)**

7. Project Job Account. If Permittee's project job account is at any time delinquent or below the required deposit amount, City will not continue to review or process the application until Permittee's private job account is paid in full and the required deposit has been made. Additionally, prior to the issuance of any building permit or occupancy permit, as applicable, Permittee shall pay in full the project account balance and establish a remaining balance of at least twenty-five percent (25%) of the required initial deposit. **(P)**
8. Notice. Pursuant to California Government Code Section 66020, any protest filed in court relating to the imposition of fees, dedication, reservations, or other exactions to be imposed on the development project shall be filed within ninety (90) days after the date of the adoption of this Resolution. This provision serves as notice from the local agency to the Permittee that the ninety (90) day period in which the applicant may file a protest has begun under California Government Code Section 66020(d)(1). **(P)**
9. Cost and Approval. Permittee shall fully complete and satisfy each and every condition set forth in this Resolution and any other condition applicable to the project to the sole satisfaction of the City. Additionally, Permittee shall be solely responsible and liable for the cost to satisfy each and every condition. Permittee shall pay all required fees and charges to City at the rate in effect at time of building permit issuance, or, the rate in effect when the fees and charges are due and paid in full to City. There is no vesting of any fees or charges with the adoption of this Resolution. **(P)**
10. Conditions. Each and every condition set forth in this Exhibit shall apply to the project and continue to apply to the project so long as the Permittee is operating the project under the permits and approvals in this Resolution. **(P)**
11. Compliance with Laws. The construction, use, and all related activity authorized under this Permit shall comply with all applicable local, state, and federal laws, rules, regulations, guidelines, requirements, and policies. **(CA/P)**
12. Previous Approvals. Permittee shall abide and continue to comply with all previous City approvals, permits, or requirements relating to the subject property, unless explicitly superseded or revised by this Permit. **(P)**
13. Indemnification. To the fullest extent permitted by law, Permittee shall indemnify, defend with counsel of the City's choosing, and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to (i) City's approval of the project, including but not limited to, the approval of the discretionary permits, maps under the Subdivision Map Act, and/or the City's related determinations or actions under the California Environmental Quality Act, and (ii) Permittee's construction, operation, use, or related activity under this Permit. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City,

RESO NO. 23-009

Item # C13.

and/or the parties initiating or bringing such proceeding. Permittee shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. Permittee shall pay to the City upon demand or, as applicable, to counsel of City's choosing, any amount owed pursuant to the indemnification requirements prescribed in this condition. **(CA)**

14. Revocation, Suspension, Modification. This Permit may be suspended, revoked, or modified in accordance with Section XI-10-63.06 of the Milpitas Zoning Code. **(P)**

15. Severability. If any term, provision, or condition of this Permit is held to be illegal or unenforceable by the Court, such term, provision, or condition shall be severed and shall be inoperative, and the remainder of this Permit shall remain operative, binding, and fully enforceable.

16. Permittee shall develop the approved project in conformance with the approved plans dated January 27, 2023 approved by the Planning Commission on April 26, 2023, in accordance with these Conditions of Approval. **(P)**

Any deviation from the approved site plan, elevations, materials, colors, landscape plan, or other approved submittal shall require that, prior to the issuance of building permits, the Permittee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, Permittee shall be required to apply for review and obtain approval of the Planning Commission or City Council, as applicable, in accordance with the Milpitas Zoning Code. **(P)**

17. Response to Conditions of Approval. Permittee shall provide a written response to comments upon submittal for building permit application. The responses should clearly indicate how each condition of approval has been addressed in the plans and shall note the appropriate plan sheet. **(P)**

18. Prior to the issuance of a building permit, the owner or designee shall include within the four first pages of the working drawings for a plan check, a list of all conditions of approval imposed by the final approval of the project. **(P)**

PROJECT SPECIFIC CONDITIONS**Planning Department Conditions**

19. Streets shall be designed to generally follow the contours and land form in order to minimize cut and fill. Exposed walls and facing roadways and retaining walls shall be no greater than six feet in height. Crib walls fencing roadways shall be no greater than 15 feet in height. **(P)**

20. Landscaping coverage and stabilization of graded slopes shall be selected and designed to be compatible with surrounding natural vegetation or to replace removed natural vegetation and should recognize climatic, soil, and ecologic characteristic of the region. Plan materials that require excessive water after becoming established should be avoided. **(P)**

21. Within six months, or such other period established by the Planning Commission, after the commencement of grading activities, all graded areas not covered by an impervious surface shall be stabilized in such manner as shall be approved by the Community Development Manager. **(P)**

RESO NO. 23-009

Item # C13.

22. Where two cut-or-fill slopes intersect, the intersection shall be horizontally rounded and blended. **(P)**
23. Where any cut-or-fill slopes intersect the natural grade, the intersection of each slope shall be vertically and/or horizontally rounded and blended. **(P)**

Fire Department

The plans approved by the Planning Department process are not building plans and have not been reviewed nor approved for conformance to the California Building Code (CBC), California Fire Code (CFC) and the Milpitas Municipal Code (MMC). Do not consider this set of plans as final building plans approved by the Fire Department. Building plans must be submitted for review and approval before construction is to commence. The following notes are a general list of the applicable code requirements (2019) and are provided to assist with the building permit process. Please note that these are not all inclusive. All applicable Building, Fire and Municipal Code requirements must be met in advance of any building permit approvals or related construction.

24. Electronic documents. The fire code official may require electronic base documents for all construction documents and operational permits. The fire code official shall designate the software base format for the electronic documents. CFC Section 105.4.2.2, added by MMC Section V-300-2.11, and CFC Section 102.9
25. Automatic Fire Sprinkler Requirements. An automatic sprinkler system shall be provided throughout the new dwellings (main and guest), inclusive of basements and garages. Milpitas Municipal Code Section V-300-2.62, CFC Section 903.2.8
26. Fire Department access. Sheets A0.0 and A0.1 shows an acceptable Fire Dept. apparatus access. Fire apparatus access roads shall be provided for every building hereafter constructed when any portion of an exterior wall of the first story is located more than 150 feet from fire apparatus access as measured by an approved route around the exterior of the building. Fire apparatus access shall meet the following:
- a. Fire apparatus access shall extend to within 150 feet of all portions of exterior walls of the building/structure per the California Fire Code Section 503.1.
 - b. The proposed driveway shall be designed for fire apparatus access. Fire Access Dimensions, fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm). CFC Section 503.2.1

Exception:

Milpitas Municipal Code XI-45.11

45.11-1 Privately owned and maintained access from the public road to each single-family dwelling shall be a minimum of fourteen (14) feet in width. Turning radius shall be designed to meet the Fire Department's requirements.

45.11-2 Turnout space shall be provided on driveways over one hundred fifty (150) feet in length with a maximum spacing of one hundred fifty (150) feet if driveway is less than eighteen (18) feet wide.

RESO NO. 23-009

Item # C13.

45.11-3 Turnaround. All dwelling units shall provide an on-site area for vehicles to turn around if served by a driveway over one hundred fifty (150) feet in length to meet Fire Department's requirements.

45.11-4 Vertical Clearance. All privately owned and maintained roads and drives shall assure a minimum fourteen (14) foot vertical clearance.

- c. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather capabilities. Bearing capacity for the driveway and the entry drive court shall be designed to provide a minimum of 50,000 lbs. bearing capacity for the fire apparatus. CFC Section 503.2.3
- d. When there is a dead-end condition, means for fire apparatus turn-around shall be provided as per the CA Fire Code Section 503.2.5. The Fire Department reserves the right to request site design changes as needed to meet the requirements of the CFC, and/or make the request for additional fire protection measures in conformance with the CFC Section 102.9.
- e. The grade (maximum 15%) of the fire apparatus access road shall be within the limits established by the fire code official based on the fire department's apparatus. CFC Section 503.2.7
- f. Electric gates. Where provided, gates shall be listed in accordance with UL 325. Gates intended for automatic operation shall be designed, constructed and installed to comply with the requirements of ASTM F 2200. CA Fire Code Section 503.5

Electric gates shall also be provided with a Milpitas Fire Department approved "Knox" electronic switch in addition to the key pad. CA Fire Code Section 102.9

27. Premises identification. New and existing buildings shall have approved address numbers. Address numbers shall be illuminated and located where they are clearly visible from the street. CFC Section 505

28. Water supply requirements. The new fire hydrant as shown on sheets A-1 and C-2 will be required. Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 400 feet (122 m) from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the fire code official. CFC Section 507.5.1

Exception:

For Group R-3 and Group U occupancies, equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3, the distance requirement shall be not more than 600 feet

RESO NO. 23-009

Item # C13.

29. Sprinkler system supervision and alarms, and monitoring. It is recommended that due to the location of the home (hillside) the automatic fire sprinkler system for this home be a system that has supervision and alarm, and monitoring system in conformance to the CA Fire Code Section 903.4.

Building Department

30. Compliance with California Code of Regulations. The Project shall comply with the requirements of the Building Safety and Housing Department and the California Code of Regulations Title 24 and the Milpitas Municipal Code as adopted by the City. Building permits shall be submitted to and approved by the Building Safety and Housing Department prior to start of construction. All California Code of Regulations Title 24 and Milpitas Municipal Code requirements applicable at the time of building permit application must be met in advance of any building permit approvals or related construction. Changes to the site plan and/or building plan require review and approval by the Building Safety and Housing Department **(B)**

Engineering Department

Land Development Engineering has reviewed this planning application and has determined that the Applicant has sufficiently addressed all previous comments. The revised building footprint is sufficiently distant from the building restriction zone outlined in the geotechnical report dated 1989 produced by William Jones Inc. to not require any additional seismic hazard investigations and reports for the project parcel. Land Development Engineering is approving this planning application with conditions

PRIOR TO CONSTRUCTION PLAN SUBMITTALS

*The following conditions shall be met **prior to** any detailed construction plan check submittals (Building or Engineering, except demolition and rough grade plans), unless otherwise approved by the Director of Engineering/City Engineer. City reserves the right to reject any plan check submittal if any of the following conditions are not met. **(E)***

31. Modifications: The Site Development Plan dated January 27, 2023 is subject to change during the plan check stage based upon City's previous comments and conditions stated herein.
32. Submittal Requirements: Permittee to ensure that all plan check submittals are in accordance with City's submittal check list for each permit type, including but not limited to, payment of permit fees and/or fee deposit at the time of the submittal.

PRIOR TO ENCROACHMENT PERMIT ISSUANCE

*The following conditions shall be addressed as part of the off-site improvement plan review and shall be met **prior to** encroachment permit issuance, unless otherwise approved by the Director of Engineering/City Engineer. **(E)***

33. Public Improvement Design Standards: All public improvements shall be designed and constructed in accordance with all applicable public improvement design standards, including but not limited to:

RESO NO. 23-009

Item # C13.

- a. Milpitas Design Guidelines:
(<http://www.ci.milpitas.ca.gov/milpitas/departments/engineering/design-guidelines/>);
 - b. Standard details and specifications:
(<http://www.ci.milpitas.ca.gov/milpitas/departments/engineering/standard-details-and-specifications/>);
 - c. Mid-town Specific Plan design guidelines:
(http://www.ci.milpitas.ca.gov/pdfs/plan_plan_midtown.pdf); and
 - d. Americans with Disabilities Act (ADA) requirements, where applicable.
34. Specific Improvements: In addition to standard public improvements required under Milpitas Municipal Code (MMC) Title XI, Chapter 1, Section 7, Permittee shall install other specific improvements listed below including incidental improvements as required by the City as part of the encroachment permit.
- a. Installation of new water meter for the property. Water meters shall be radio-transmitted with a meter antenna and any repeaters or transmitters as needed with dedicated power supplies at no cost to the City at locations acceptable to the City to ensure accurate and timely reception of meter readings.
35. Water Service Agreement: Permittee shall complete a water service agreement to obtain water service.
36. Encroachment Permit: Prior to any work in the public right-of-way and/or public easement, obtain an encroachment permit with insurance requirements for all public improvements including a traffic control plan per the latest California Manual on Uniform Traffic Control Devices (MUTCD) standards to be reviewed and approved by the Engineering Department.

PRIOR TO BUILDING PERMIT ISSUANCE

*The following conditions shall be addressed during the building plan check process and shall be met **prior to** any building permit issuance (except demolition permit and rough grade permit), unless otherwise approved by the Director of Engineering/City Engineer. (E)*

37. Easements on the Building Permit Plans: Permittee shall depict all existing easements to remain based upon current preliminary title report and depict new easements on applicable building permit plans.
38. Water Supply and Force Majeure: The City reserves the right to suspend the issuance of building permits in case of an emergency declaration of water supply in the case of a major catastrophic event that restricts City's assurance to provide water supply.
39. Water Efficient Landscapes: Permittee shall comply with Milpitas Municipal Code Title VIII, Chapter 5 Water Efficient Landscapes for landscape design, including but not limited to, providing separate water meters for domestic water service and irrigation service and providing applicable landscape documentation package.
40. Development Fees: Permittee shall pay the following development fees. The information listed in items "a" through "h" are based upon current fee rates; however, those fee rates are

RESO NO. 23-009

Item # C13.

subject to change. The exact fee amount shall be determined at the time of building permit fee payment.

- a) Storm water connection fee at \$3,594/unit for single-family residential parcels 1-4 acres.
- b) Water connection fee at \$1,910/unit for single-family residential, based upon increased water usage.
- c) Sewer connection fee at \$1,908/unit for single-family residential, based upon increased average wastewater flow.
- d) Wastewater Treatment Plant fee per MMC VIII, Chapter 2, Section 7.04.
- e) 3.8% of applicable fees in accordance with City Resolution No. 8969 as Permitting Automation Fee.

DURING CONSTRUCTION

*The following conditions shall be complied with at all times **during** the construction phase of the project, unless otherwise approved by the Director of Engineering/City Engineer. (E)*

- 41. Dewatering: If dewatering is needed during construction, Permittee shall obtain a Short-Term Industrial Wastewater Permit from the San Jose/Santa Clara Water Pollution Control Plant for discharging the groundwater to a sanitary sewer system.
- 42. Prohibition of Potable Water Usage: Permittee shall use recycled water for construction purposes, including dust control and compaction. Permittee shall comply with MMC VIII-6-5.00 and 6-6.00 where potable water usage is prohibited, unless otherwise approved by the City Council.
- 43. Construction Staging and Employee Parking: Permittee shall place all construction related materials, equipment, and arrange construction workers parking on-site and not located in the public right-of-ways or public easements.

PRIOR TO FIRST OCCUPANCY

*The following conditions shall be met **prior to** first building occupancy on either lot, unless otherwise approved the Director of Engineering/City Engineer.*

- 44. Completion of Public Improvements: Permittee shall complete all public improvements, including but not limited to frontage improvements and facilities along South Main Street, as shown on City approved plans.
- 45. Landscape Certificate of Completion: Permittee shall submit a Certificate of Substantial Completion that complies with the Milpitas Municipal Code Water Efficient Landscapes ordinance.
- 46. Minimum Water Demand for Private Street Hydrants: Permittee, in coordination with the developers and owners of other parcels within the Countryside Estates subdivision, shall construct any additional onsite facilities for the fire water lines that are necessary meet the minimum water demand of 1,500 gpm flow for all existing onsite fire hydrants along Countryside Court. These onsite facilities are to be private facilities to be privately maintained by the Countryside Estates' homeowners' association.

RESO NO. 23-009*Item # C13.*

(P) = Planning
(B) = Building
(E) = Engineering
(F) = Fire Prevention
(CA) = City Attorney

NOTICE OF RIGHT TO PROTEST

The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), began on date of adoption of this resolution. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

Certificate Of Completion

Envelope Id: EC576704938048BBADBCDF76A2E10431	Status: Completed
Subject: Complete with DocuSign: Attachment A Resolution 23-009 for DocuSign.pdf	
Source Envelope:	
Document Pages: 18	Signatures: 1
Certificate Pages: 5	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Liz Medina
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	455 E Calaveras Blvd
	Milpitas, CA 95035
	emedina@milpitas.gov
	IP Address: 50.59.22.2

Record Tracking

Status: Original	Holder: Liz Medina	Location: DocuSign
May 2, 2023 10:53	emedina@milpitas.gov	

Signer EventsSignatureTimestamp

Chair Bill Chuan	DocuSigned by: Chair Bill Chuan BC 1CD00AF9F201461...	Sent: May 2, 2023 10:55
bill_chuan@yahoo.com		Viewed: May 2, 2023 10:56
Security Level: Email, Account Authentication (None)		Signed: May 2, 2023 10:56
	Signature Adoption: Drawn on Device	
	Using IP Address: 67.188.2.13	
	Signed using mobile	

Electronic Record and Signature Disclosure:

Accepted: May 2, 2023 | 10:56

ID: 397505dc-8433-49d4-87b5-1942bd0df34f

In Person Signer EventsSignatureTimestamp

Editor Delivery EventsStatusTimestamp

Agent Delivery EventsStatusTimestamp

Intermediary Delivery EventsStatusTimestamp

Certified Delivery EventsStatusTimestamp

Carbon Copy EventsStatusTimestamp

Avery Stark	COPIED	Sent: May 2, 2023 10:56
astark@milpitas.gov		Viewed: May 2, 2023 10:58
Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure:		
Accepted: September 7, 2022 11:04		
ID: 0f1be86d-7131-481c-bc22-4ab9e5f4e036		

Liz Medina	COPIED	Sent: May 2, 2023 10:56
emedina@milpitas.gov		Resent: May 2, 2023 10:56
Administrative Assistant		
City of Milpitas		
Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure:		
Not Offered via DocuSign		

Witness EventsSignatureTimestamp

Notary Events	Signature	Timestamp	Item # C13.
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Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	May 2, 2023 10:55
Certified Delivered	Security Checked	May 2, 2023 10:56
Signing Complete	Security Checked	May 2, 2023 10:56
Completed	Security Checked	May 2, 2023 10:56

Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure
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ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Carahsoft OBO City of Milpitas (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Carahsoft OBO City of Milpitas:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: mluu@ci.milpitas.ca.gov

To advise Carahsoft OBO City of Milpitas of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at mluu@ci.milpitas.ca.gov and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from Carahsoft OBO City of Milpitas

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to mluu@ci.milpitas.ca.gov and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Carahsoft OBO City of Milpitas

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;

ii. send us an email to mluu@ci.milpitas.ca.gov and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

By selecting the check-box next to ‘I agree to use electronic records and signatures’, you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify Carahsoft OBO City of Milpitas as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by Carahsoft OBO City of Milpitas during the course of your relationship with Carahsoft OBO City of Milpitas.



DRAWING INDEX		
SHEET NUMBER	DRAWING NAME	ISSUE DATE
A-1.001	COVER SHEET	03-22-2023
A-1.003	SITE LAYOUT	03-22-2023
A-2.001	MAIN HOUSE PLAN	03-22-2023
A-2.002	ROOF PLAN	03-22-2023
A-3.001	FRONT AND LEFT ELEVATION	03-22-2023
A-3.002	REAR AND RIGHT ELEVATION	03-22-2023
A-4.001	SECTION A-A AND B-B	03-22-2023
A-5.001	DOOR & WINDOW SCHEDULE	03-22-2023
A-6.001	AREA CALCULATION	03-22-2023
A-7.001	TYPICAL DETAILS	03-22-2023
A-7.002	TYPICAL DETAILS	03-22-2023
A-7.003	MATERIAL BOARD	03-22-2023
A-7.004	LIGHTING LAYOUT	03-22-2023
C0	GRADING AND DRAINAGE COVER SHEET	03-22-2023
C1.1	GRADING AND DRAINAGE PLAN	03-22-2023
C1.2	GRADING AND DRAINAGE PLAN	03-22-2023
C2	CONSTRUCTION DRAWING	03-22-2023
C3	EROSION CONTROL	03-22-2023
C4	BMP SHEET	03-22-2023
L1.0	LANDSCAPE PLANTING PLAN	03-22-2023
L2.0	LANDSCAPE HYDROZONE PLAN	03-22-2023
L3.0	LANDSCAPE CONSTRUCTION DETAILS	03-22-2023
L3.1	LANDSCAPE CONSTRUCTION DETAILS	03-22-2023
L4.0	LANDSCAPE SPECIFICATIONS	03-22-2023
U-1	UTILITY PLAN	03-22-2023

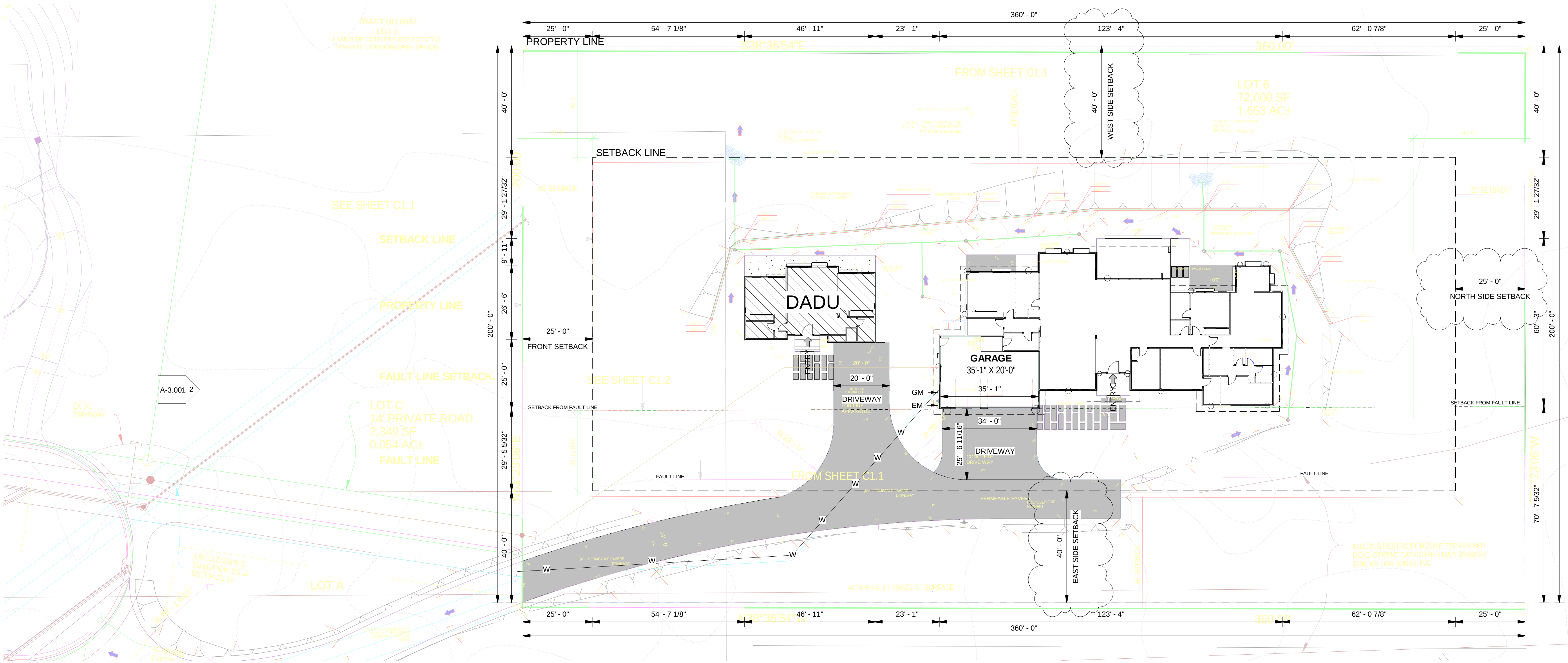
The figure consists of three vertically stacked maps illustrating the location of the site. The top map is an aerial photograph showing a residential area with a red rectangle highlighting the site. The middle map is a street map showing the site area highlighted in red, with surrounding streets labeled 'Country Club Dr' and 'Countryside Cr'. The bottom map is a detailed plat map showing the site area highlighted in red, with lot numbers 13, 14, and 15, and acreage information. The site is located within Lot 14, which is 1.653 AC. The surrounding area includes Lot 13 (1.023 AC) and Lot 15 (1.5 AC). The site is adjacent to a common area and a road labeled 'Country Club Dr'.

215

SITE DATA

Countryside Estates - Lot 6
Countryside Court.
APN: 029-07-014
AREA=72,004.68 S.F.

NOTE - ALL UTILITIES TO
BE INSTALLED
UNDERGROUND



1 SITE PLAN
1" = 20'-0"

REVISIONS :			
REV.	DESCRIPTION	DATE	REV BY

- NOTES:
- ALL DIMENSIONS ARE IN FEET AND INCHES.
 - DRAWING SHALL NOT BE SCALED AND ONLY WRITTEN DIMENSIONS SHALL BE FOLLOWED.
 - ALL CENTERLINES ARE FROM THE CENTER OF COLUMN/ WALL AND THE DIMENSIONS GIVEN ARE CENTERLINE DIMENSIONS- UNLESS OTHERWISE MENTIONED.
 - IN CASE OF ANY DISCREPANCY FOUND IN DRAWINGS AND DETAILS, IT SHALL BE BROUGHT TO THE NOTICE OF THE ARCHITECT, AND RECTIFIED, PRIOR TO ITS EXECUTION.
 - THIS DRAWING IS ISSUED STRICTLY WITH AN UNDERSTANDING THAT IT WILL BE USED ONLY FOR THE PURPOSE MENTIONED AND SHALL BE RETURNED AFTER COMPLETION.
 - LARGER SCALE DRAWINGS AND DETAILS SUPERCEDE THE SMALLER SCALE DRAWINGS AND DETAILS.
 - THIS DRAWING SHALL BE REFERRED ONLY FOR THE PURPOSE MENTIONED IN ITS TITLE (FLOORING PATTERN, FALSE CEILING, SHUTTERING PATTERN, ELECTRICAL, PLUMBING, ETC.)

SHEET CONTENT:

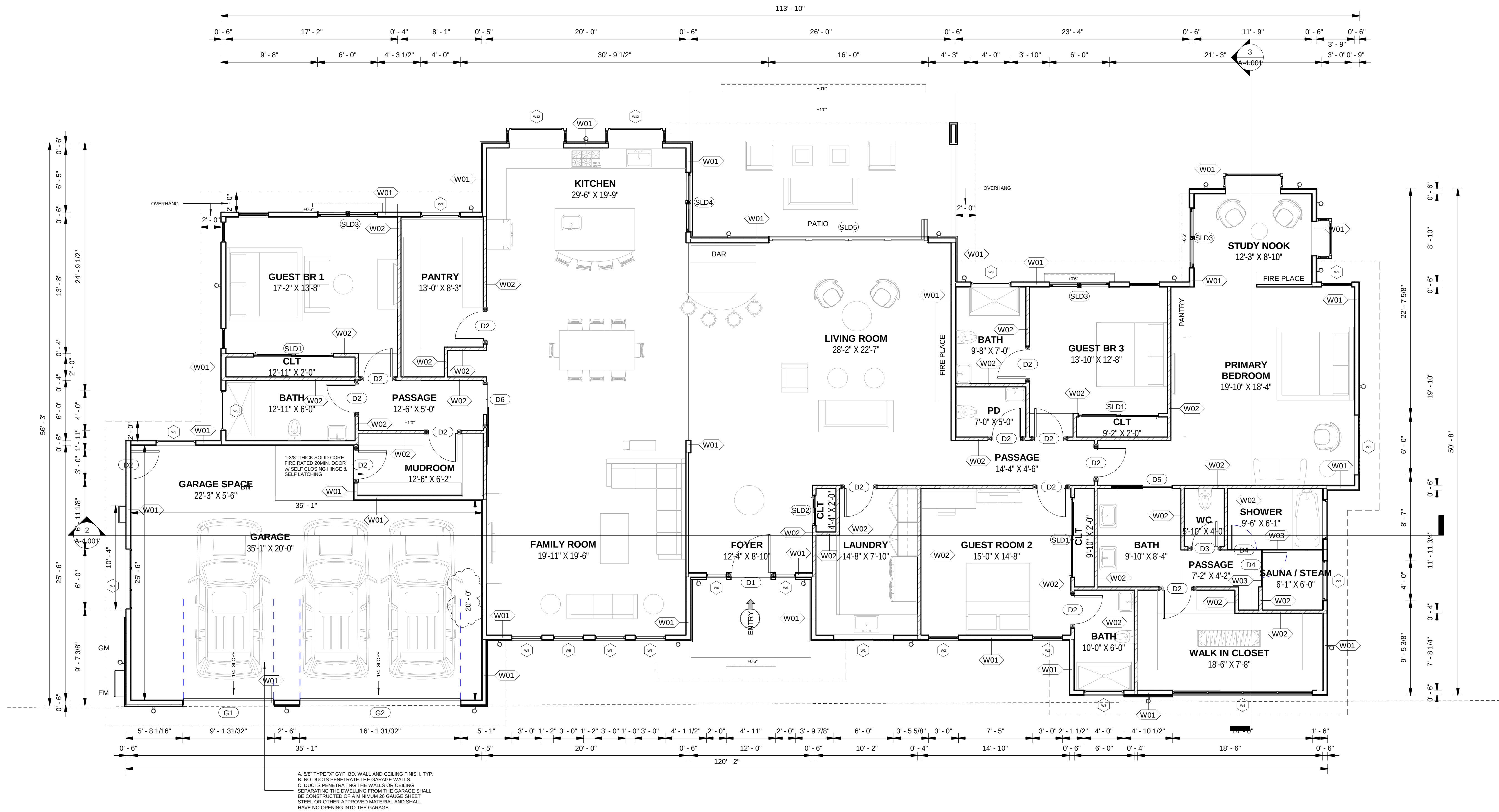
SITE LAYOUT

THIS DOCUMENT IS THE PROPERTY OF LIVIO BUILDING SYSTEMS AND SHALL NOT BE REFERRED, REPRODUCED, COPIED, ETC. WITHOUT EXPLICIT WRITTEN PERMISSION FROM LIVIO BUILDING SYSTEMS, LOS ALTOS, CA USA

PROJECT : 1311 COUNTRYSIDE CT

SITE LAYOUT	
DATE:	01-27-2023
DRAWN BY:	JUNED ITAGI
CHECKED BY:	SUBHENDU
SCALE:	1" = 20'-0"
SHEET NO:	ADDRESS : 329 S San Antonio Road Suite #4, Los Altos, CA 94022
A-1.003	CONTACT : 650-209-6500
	EMAIL : team@golivio.com





① LEVEL 1
3/16" = 1'-0"

REVISIONS :

REV.	DESCRIPTION	DATE	REV BY

NOTES:

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- ALL CENTERLINES ARE FROM THE CENTER OF COLUMN/ WALL AND THE DIMENSIONS GIVEN ARE CENTERLINE DIMENSIONS- UNLESS OTHERWISE MENTIONED.
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SHEET CONTENT:

MAIN HOUSE PLAN



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PROJECT : 1311 COUNTRYSIDE CT

MAIN HOUSE PLAN

DATE: 01-27-2023

DRAWN BY: SHRADHA

CHECKED BY: SUBHENDU

SCALE: 3/16" = 1'-0"

SHEET NO:

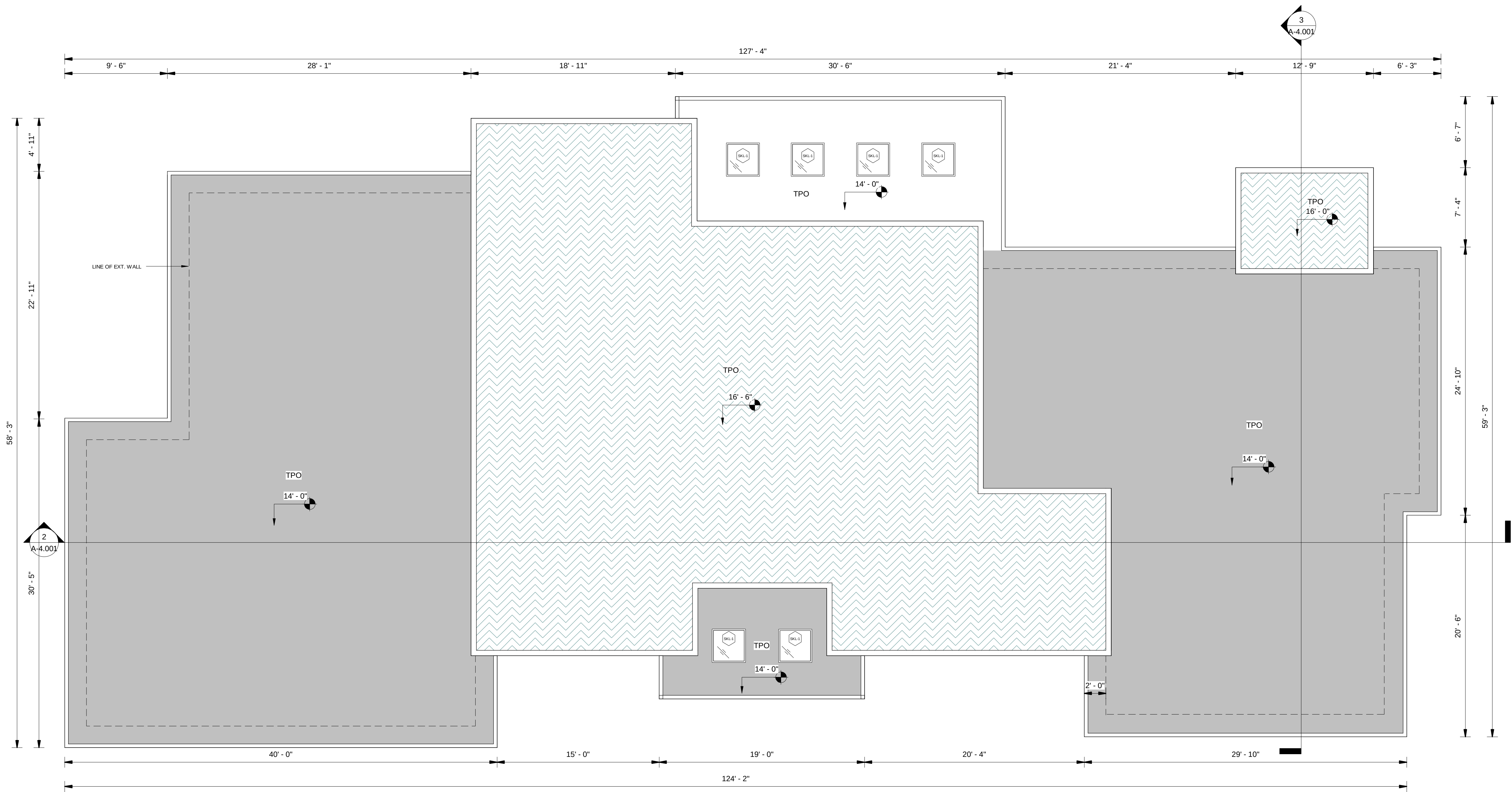
A-2.001

ADDRESS : 329 S San Antonio Road Suite #4, Los Altos, CA 94022

CONTACT : 650-209-6500

EMAIL : team@golivio.com





REVISIONS :

REV.	DESCRIPTION	DATE	REV BY

NOTES:

- ALL DIMENSIONS ARE IN FEET AND INCHES.
- DRAWING SHALL NOT BE SCALED AND ONLY WRITTEN DIMENSIONS SHALL BE FOLLOWED.
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SHEET CONTENT:

ROOF PLAN



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PROJECT : 1311 COUNTRYSIDE CT

ROOF PLAN

DATE: 01-27-2023

DRAWN BY: SAGAR

CHECKED BY: SUBHENDU

SCALE: 3/16" = 1'-0"

SHEET NO:

A-2.002

ADDRESS : 329 S San Antonio Road Suite #4, Los Altos, CA 94022

CONTACT : 650-209-6500

EMAIL : team@golivio.com



① EAST SIDE ELEVATION
3/16" = 1'-0"



② SOUTH SIDE ELEVATION
3/16" = 1'-0"

REVISIONS :

REV.	DESCRIPTION	DATE	REV BY

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SHEET CONTENT:

FRONT AND LEFT ELEVATION

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PROJECT : 1311 COUNTRYSIDE CT

FRONT AND LEFT ELEVATION

DATE: 01-27-2023

DRAWN BY: SAGAR

CHECKED BY: SUBHENDU

SCALE: 3/16" = 1'-0"

SHEET NO:

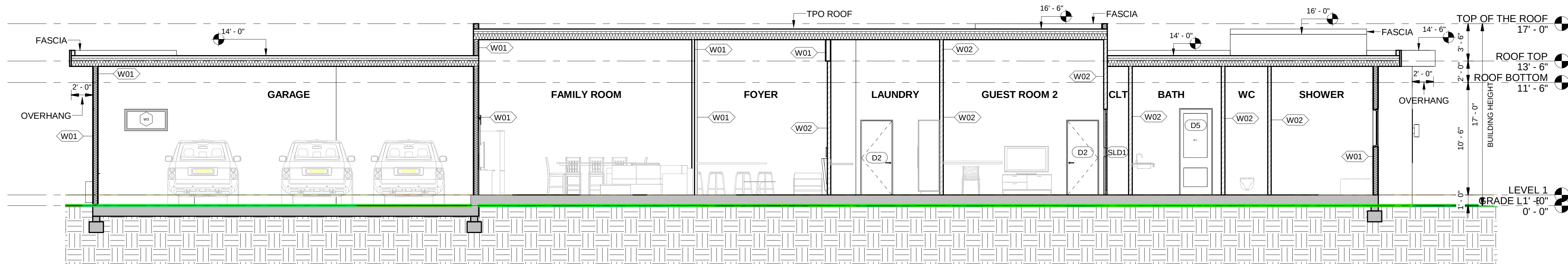
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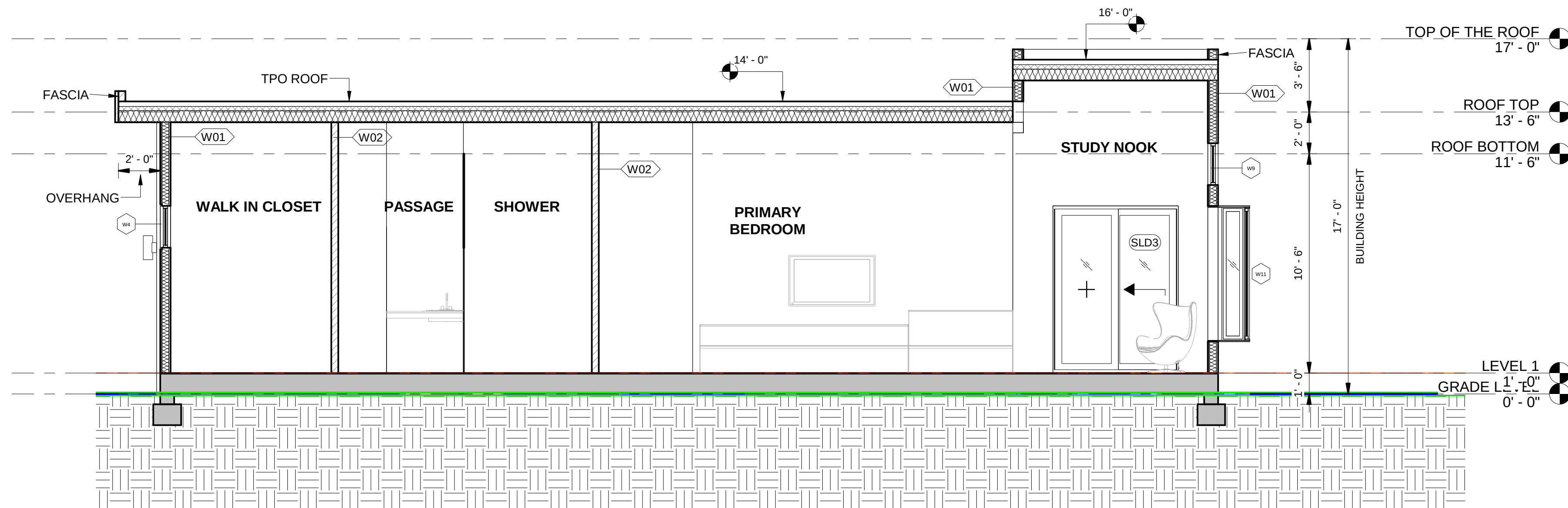
CONTACT : 650-209-6500

EMAIL : team@golivio.com





② Section 2
3/16" = 1'-0"



③ Section 3
1/4" = 1'-0"

REVISIONS :

REV.	DESCRIPTION	DATE	REV BY

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SHEET CONTENT:

SECTION A-A AND B-B

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PROJECT : 1311 COUNTRYSIDE CT

SECTION A-A AND B-B

DATE: 01-27-2023

DRAWN BY: Author

CHECKED BY: SUBHENDU

SCALE: As indicated

SHEET NO:

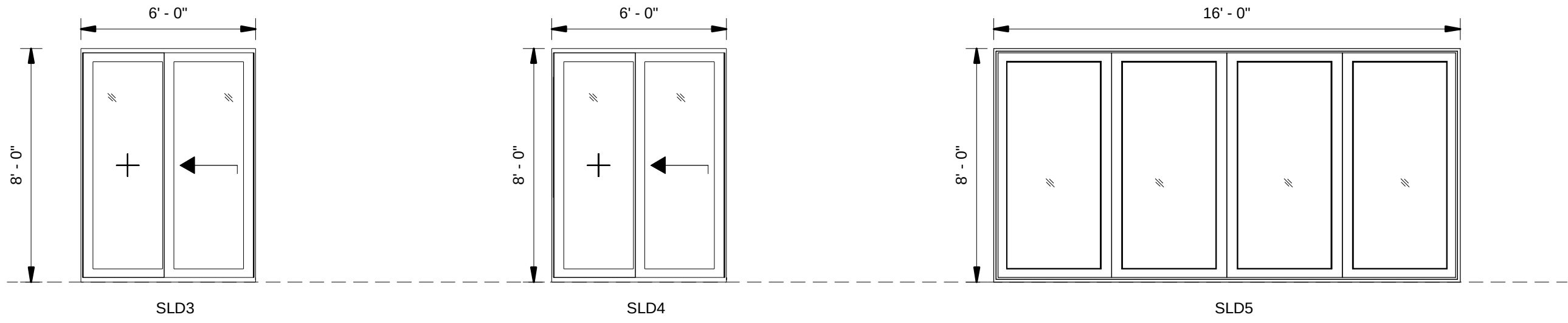
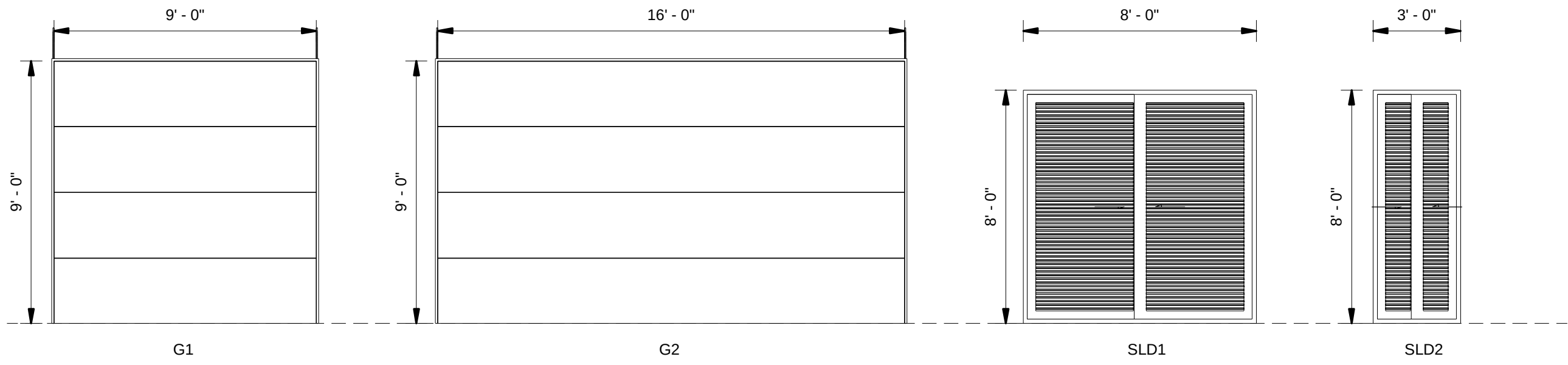
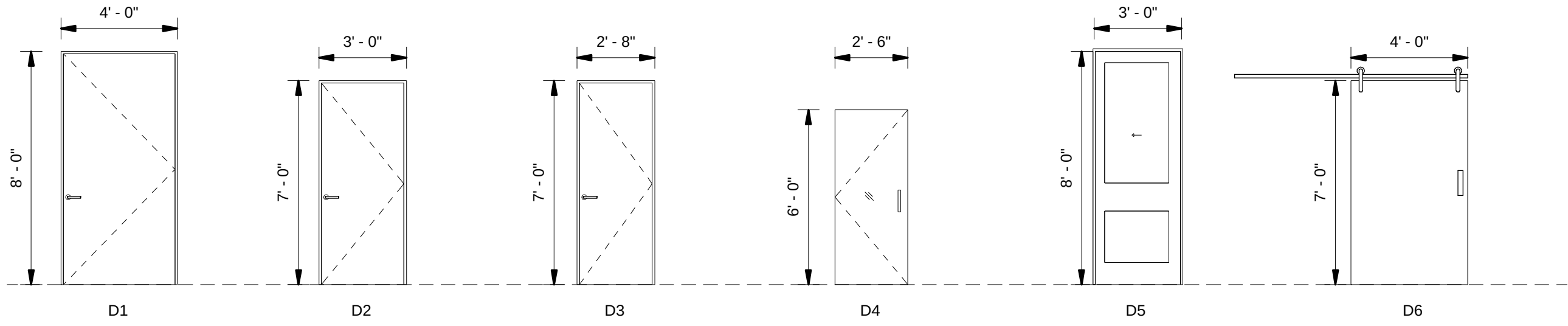
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ADDRESS : 329 S San Antonio Road Suite #4, Los Altos, CA 94022

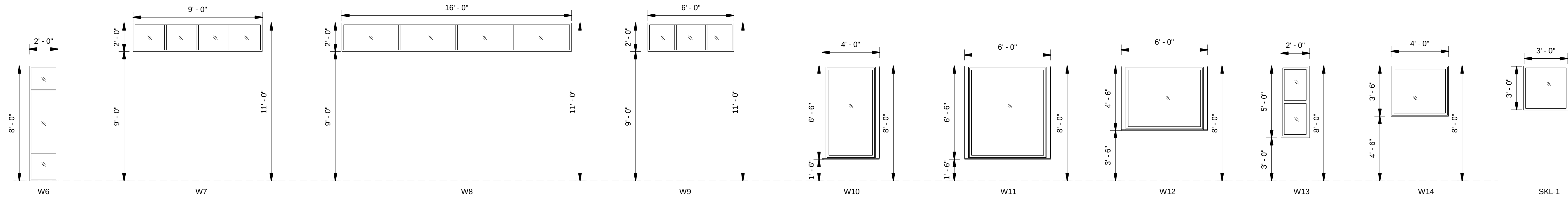
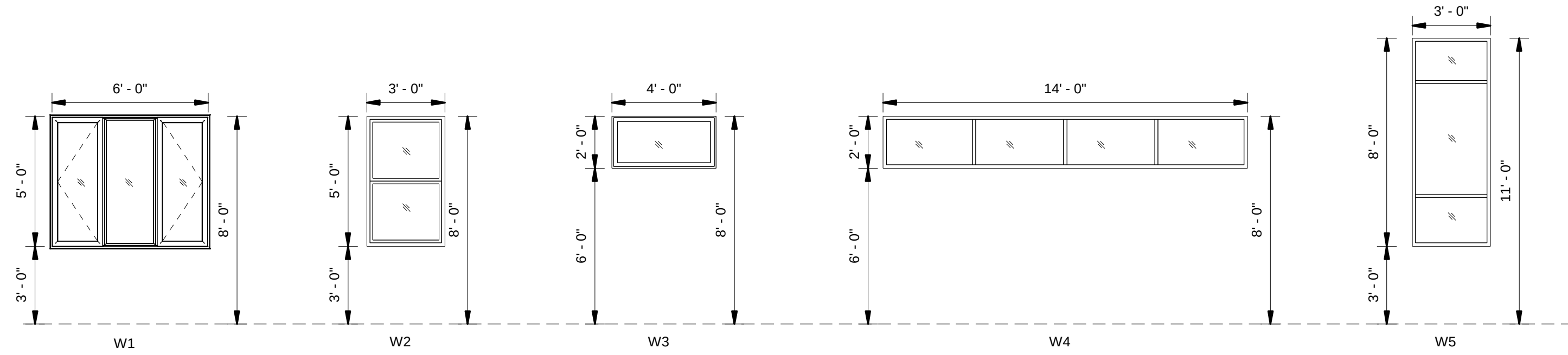
CONTACT : 650-209-6500

EMAIL : team@golivio.com





DOOR WINDOW
1/4" = 1'-0"



WINDOW SCHEDULE
1/4" = 1'-0"

DOOR SCHEDULE				
Mark	Count	Width	Height	Head Height
D1	2	4' - 0"	8' - 0"	8' - 0"
D2	16	3' - 0"	7' - 0"	7' - 0"
D3	3	2' - 8"	7' - 0"	7' - 0"
D4	2	2' - 6"	6' - 0"	6' - 0"
D5	1	3' - 0"	8' - 0"	8' - 0"
D6	1	4' - 0"	7' - 0"	7' - 0"
G1	1	9' - 0"	9' - 0"	8' - 0"
G2	1	16' - 0"	9' - 0"	8' - 0"
SLD1	5	8' - 0"	8' - 0"	8' - 0"
SLD2	1	3' - 0"	8' - 0"	8' - 0"
SLD3	6	6' - 0"	8' - 0"	8' - 0"
SLD4	1	6' - 0"	8' - 0"	8' - 0"
SLD5	1	16' - 0"	8' - 0"	8' - 0"

WINDOW SCHEDULE				
Mark	Count	Width	Height	Head Height
SKL-1	6	3' - 0"	3' - 0"	
W1	3	6' - 0"	5' - 0"	8' - 0"
W2	5	3' - 0"	5' - 0"	8' - 0"
W3	6	4' - 0"	2' - 0"	8' - 0"
W4	1	14' - 0"	2' - 0"	8' - 0"
W5	4	3' - 0"	8' - 0"	11' - 0"
W6	2	2' - 0"	8' - 0"	8' - 0"
W7	1	9' - 0"	2' - 0"	11' - 0"
W8	1	16' - 0"	2' - 0"	11' - 0"
W9	2	6' - 0"	2' - 0"	11' - 0"
W10	1	4' - 0"	6' - 6"	8' - 0"
W11	1	6' - 0"	6' - 6"	8' - 0"
W12	2	6' - 0"	4' - 6"	8' - 0"
W13	2	2' - 0"	5' - 0"	8' - 0"
W14	1	4' - 0"	3' - 6"	8' - 0"

REVISIONS :

REV.	DESCRIPTION	DATE	REV BY

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SHEET CONTENT:

DOOR & WINDOW SCHEDULE

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PROJECT : 1311 COUNTRYSIDE CT

DOOR & WINDOW SCHEDULE

DATE: 01-27-2023

DRAWN BY: SAGAR

CHECKED BY: SUBHENDU

SCALE: 1/4" = 1'-0"

SHEET NO:

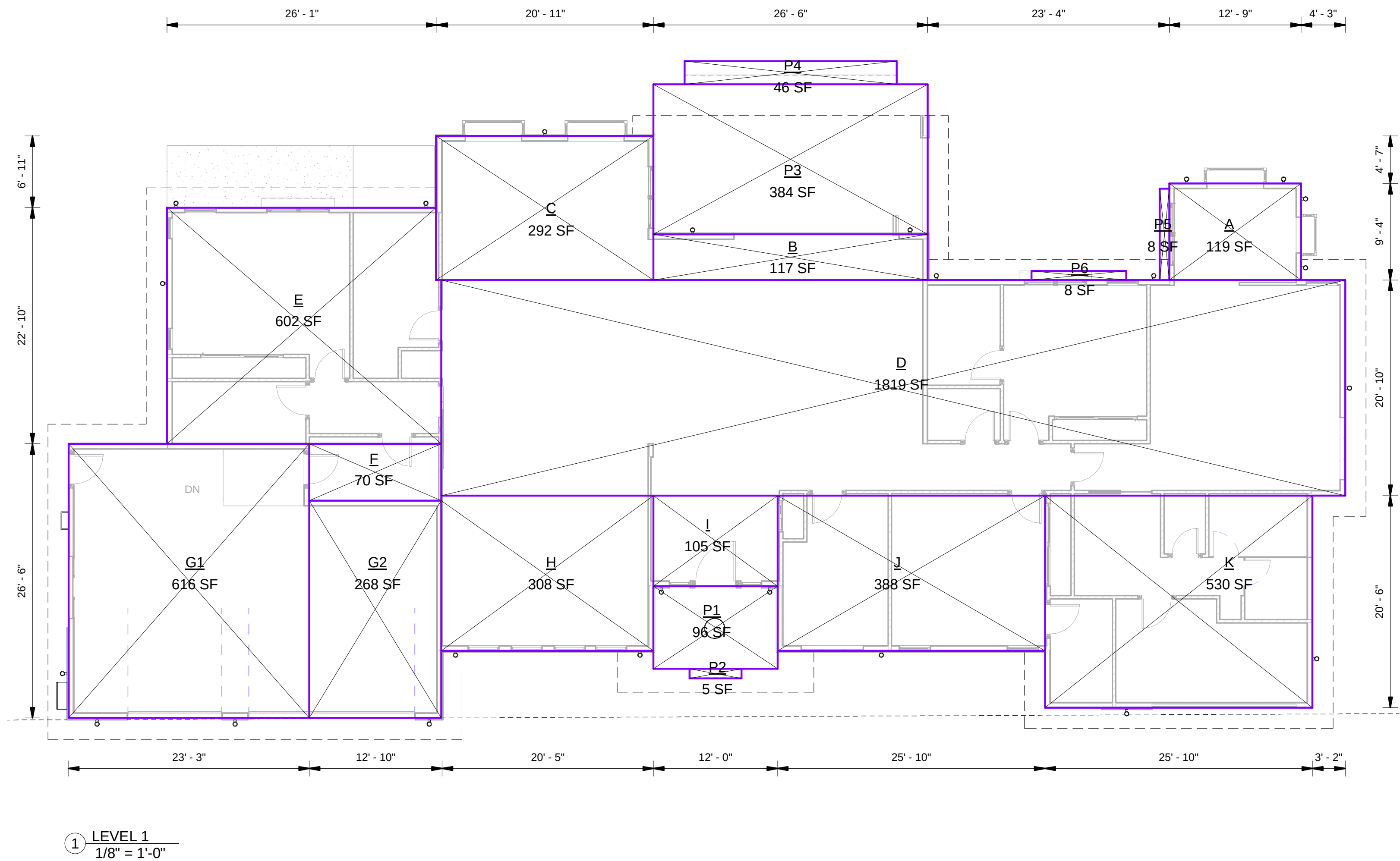
A-5.001

ADDRESS : 329 S San Antonio Road Suite #4, Los Altos, CA 94022

CONTACT : 650-209-6500

EMAIL : team@golivio.com





SCHEDULES

FIRST LEVEL AREA CALCULATION			
Name	AREA LENGTH	AREA WIDTH	Area
A	12' - 9"	9' - 4"	119 SF
B	26' - 6"	4' - 5"	117 SF
C	21' - 0"	13' - 11"	292 SF
D	87' - 4"	20' - 10"	1819 SF
E	27' - 3 7/16"	22' - 0 9/16"	602 SF
F	12' - 9"	5' - 6"	70 SF
G1	26' - 6"	23' - 3"	616 SF
G2	21' - 0"	12' - 9"	268 SF
H	20' - 6"	15' - 0"	308 SF
I	12' - 0"	8' - 9"	105 SF
J	25' - 10"	15' - 0"	388 SF
K	25' - 10"	20' - 6"	530 SF
Grand total: 12			5234 SF

COVERED PATIO & OVERHANG AREA CALCULATION			
Name	AREA LENGTH	AREA WIDTH	Area
P1	12' - 0"	8' - 0"	96 SF
P2	5' - 0"	0' - 11"	5 SF
P3	26' - 6"	14' - 6"	384 SF
P4	20' - 6"	2' - 3 1/16"	46 SF
P5	8' - 10"	0' - 11 1/8"	8 SF
P6	9' - 1 31/32"	0' - 10 7/16"	8 SF
P7	9' - 0"	5' - 7"	50 SF
P8	5' - 0"	0' - 11"	5 SF
P9	9' - 1 31/32"	0' - 11 5/32"	9 SF
P10	9' - 1 31/32"	0' - 11 1/8"	8 SF
P11	9' - 1 31/32"	0' - 11 1/8"	8 SF
Grand total: 11			627 SF

CALCULATIONS

TOTAL FLOOR AREA = FIRST LEVEL AREA + DADU

TOTAL FLOOR AREA = 5,234 + 1,150

TOTAL FLOOR AREA = 6,384 SF

ALLOWABLE FLOOR AREA (INC. DADU) = 7,200 SF

TOTAL LOT COVERAGE AREA = FIRST LEVEL AREA + PATIO

TOTAL FLOOR AREA = 5,234 + 627

TOTAL FLOOR AREA = 5,861 SF

ALLOWABLE FLOOR AREA (INC. DADU) = 8,000 SF

LOT AREA = 72004.68 SF

ALLOWED DADU = 1200 SF

ALLOWED FLOOR AREA (EX. DADU) = 6000 SF

ALLOWED TOTAL FLOOR AREA (INC. DADU) = 6000 + 1200 = 7200 SF

ALLOWED LOT COVERAGE = 8000 SF

NOTE: THE DETACHED ADU IS 1150SQFT WHICH WOULD BE A PART OF BUILD PERMIT.

REVISIONS :

REV.	DESCRIPTION	DATE	REV BY

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SHEET CONTENT:

AREA CALCULATION

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PROJECT : 1311 COUNTRYSIDE CT

AREA CALCULATION

DATE: 01-27-2023

DRAWN BY: SAGAR

CHECKED BY: SUBHENDU

SCALE: 1/8" = 1'-0"

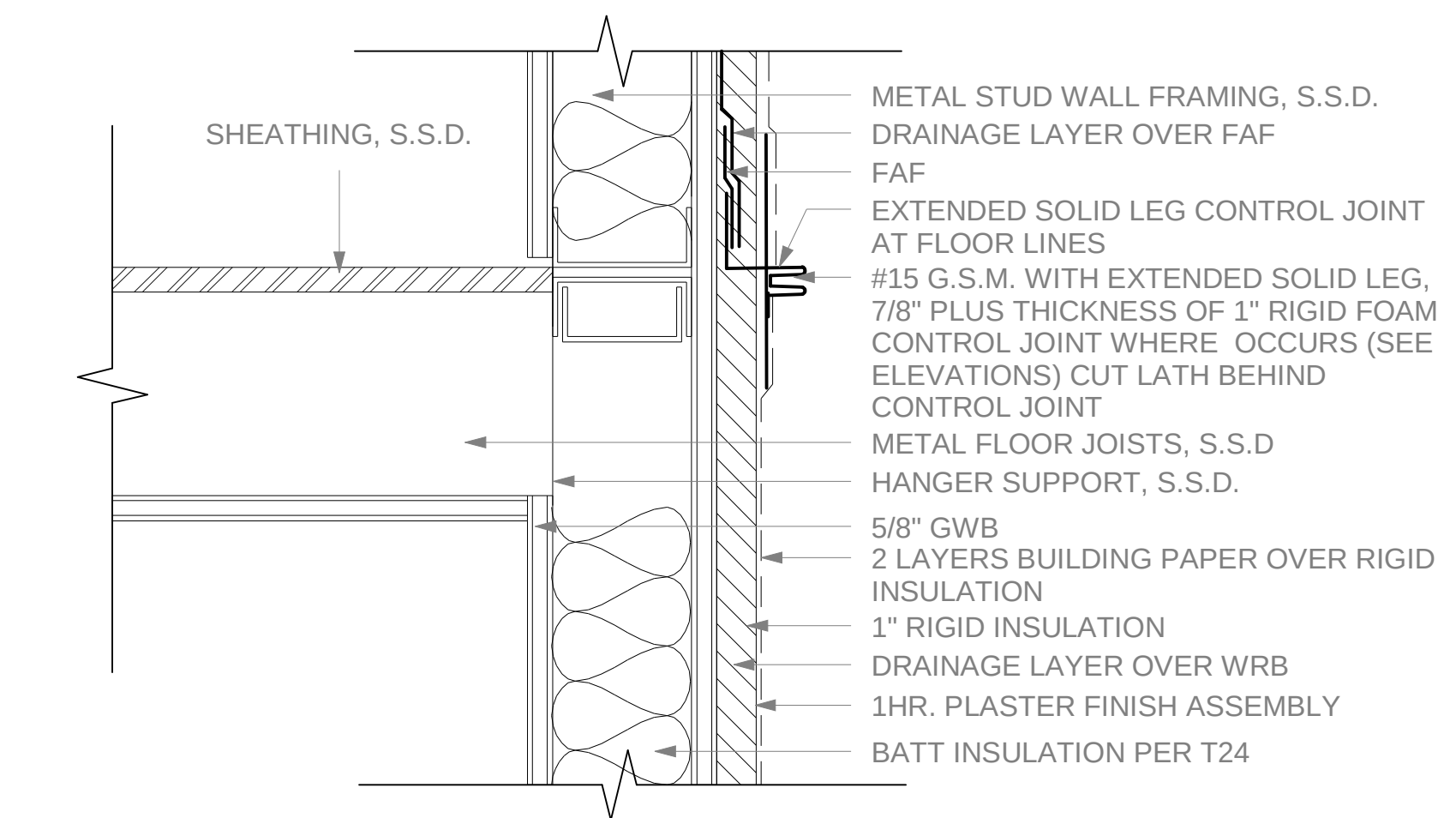
SHEET NO:

A-6.001

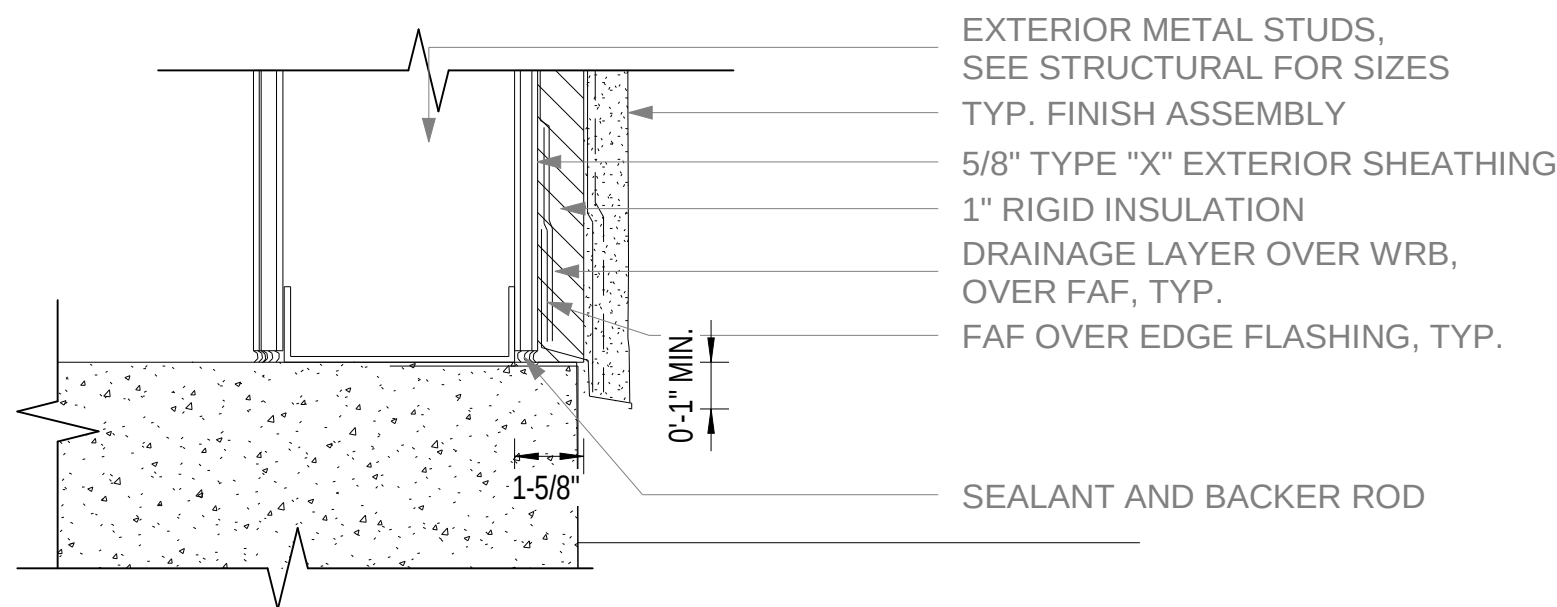
ADDRESS : 329 S San Antonio Road Suite #4, Los Altos, CA 94022

CONTACT : 650-209-6500

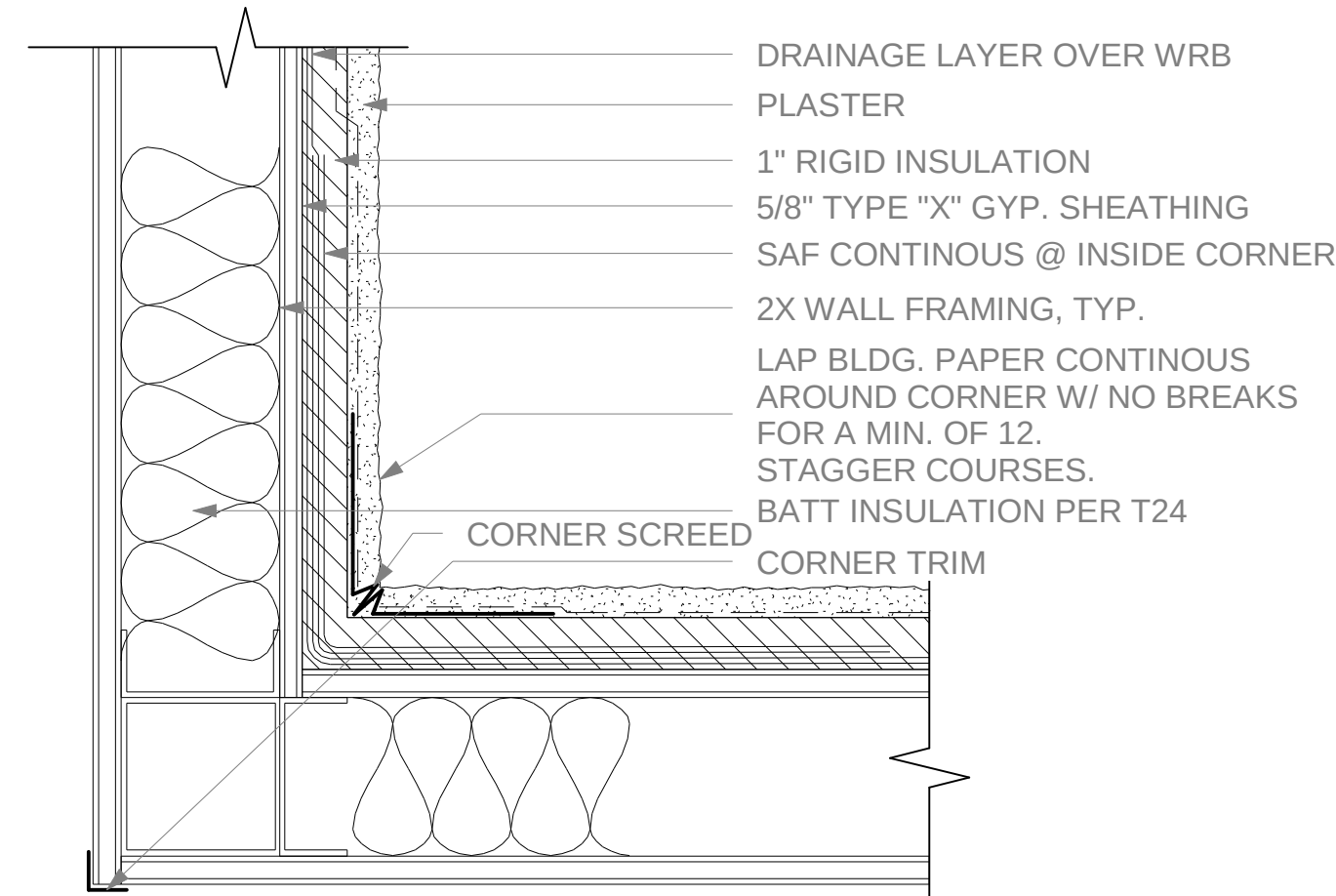
EMAIL : team@golivio.com



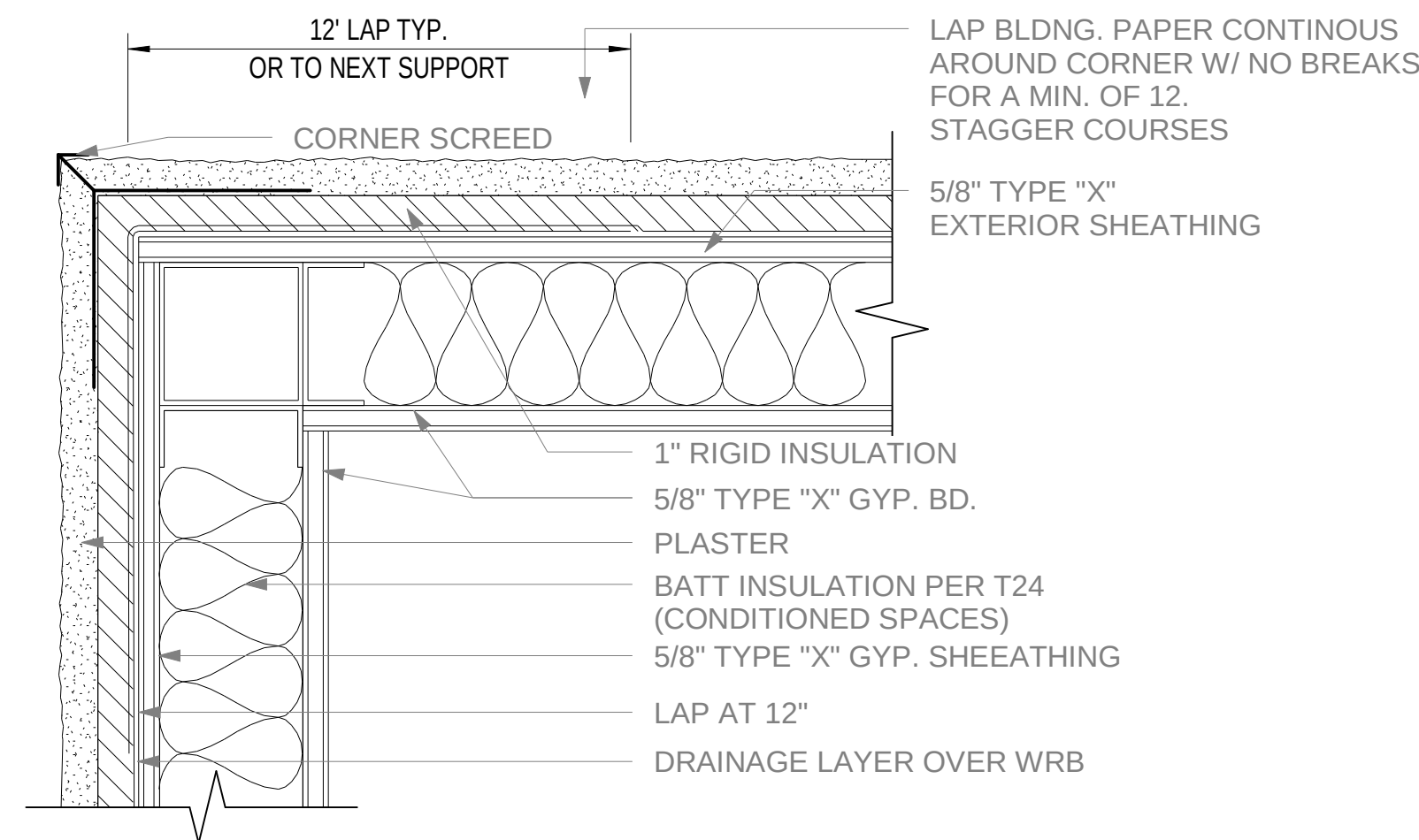
FLOOR ASSEMBLY AT EXTERIOR WALL
1/4" = 1'-0"



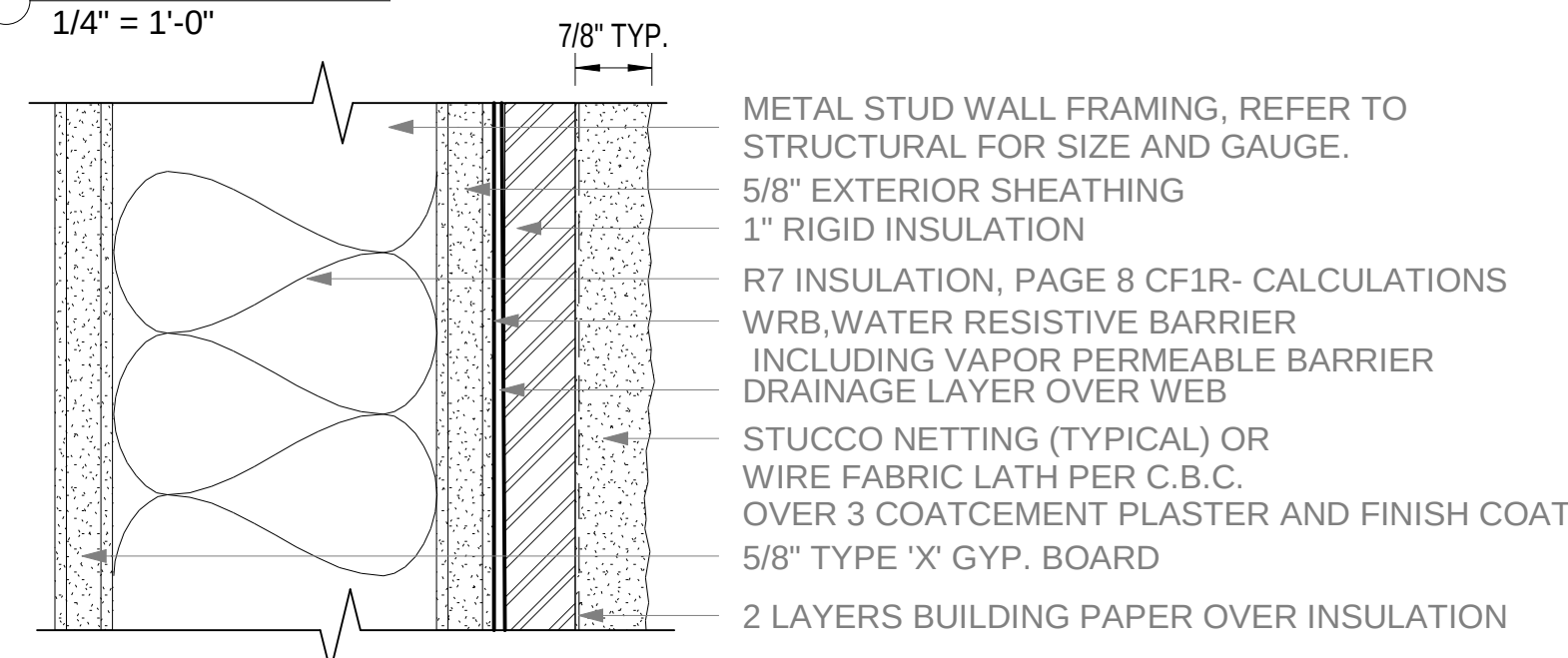
EXTERIOR WALL AT SLAB ON GRADE
1/4" = 1'-0"



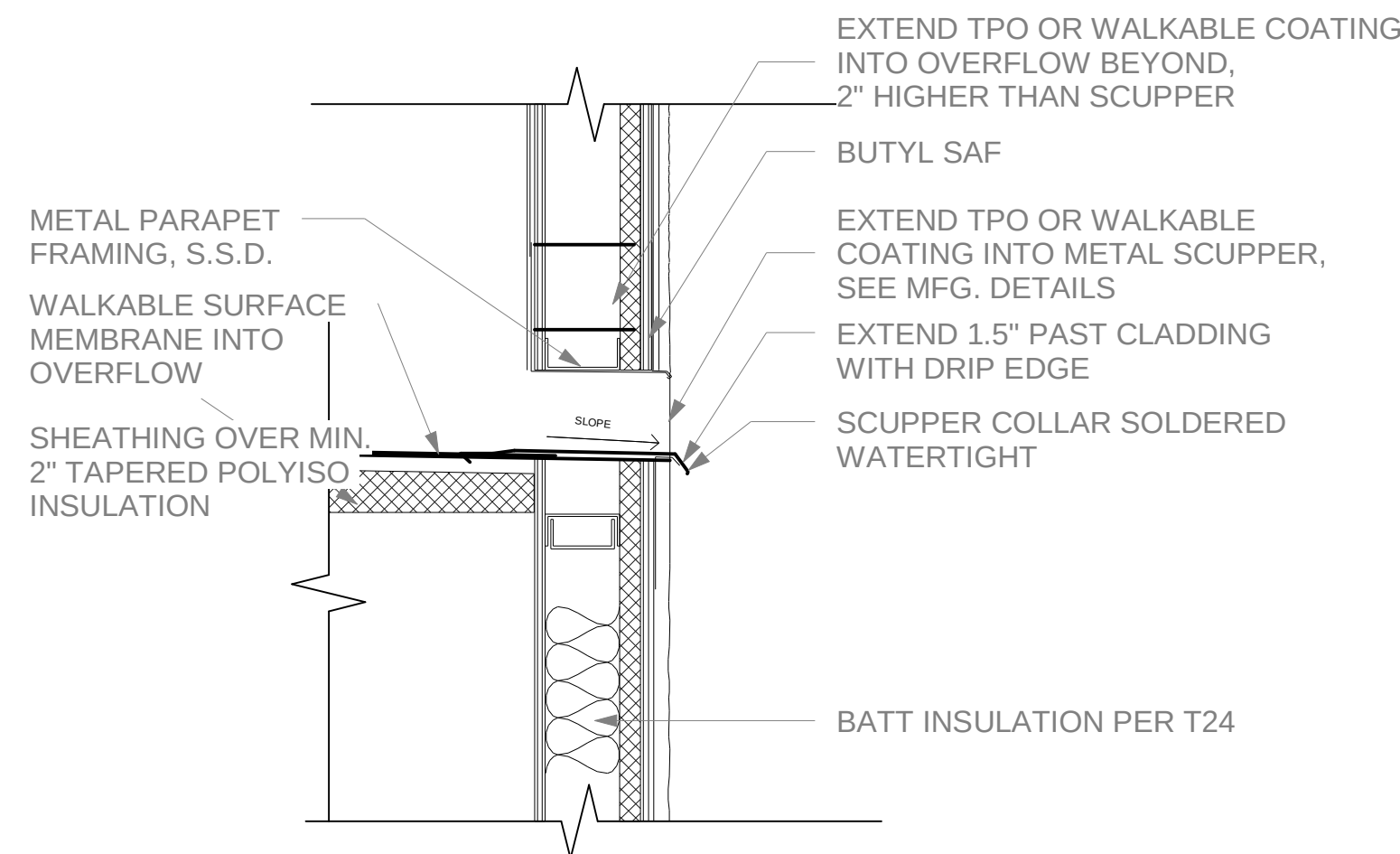
INNER CORNER
1/4" = 1'-0"



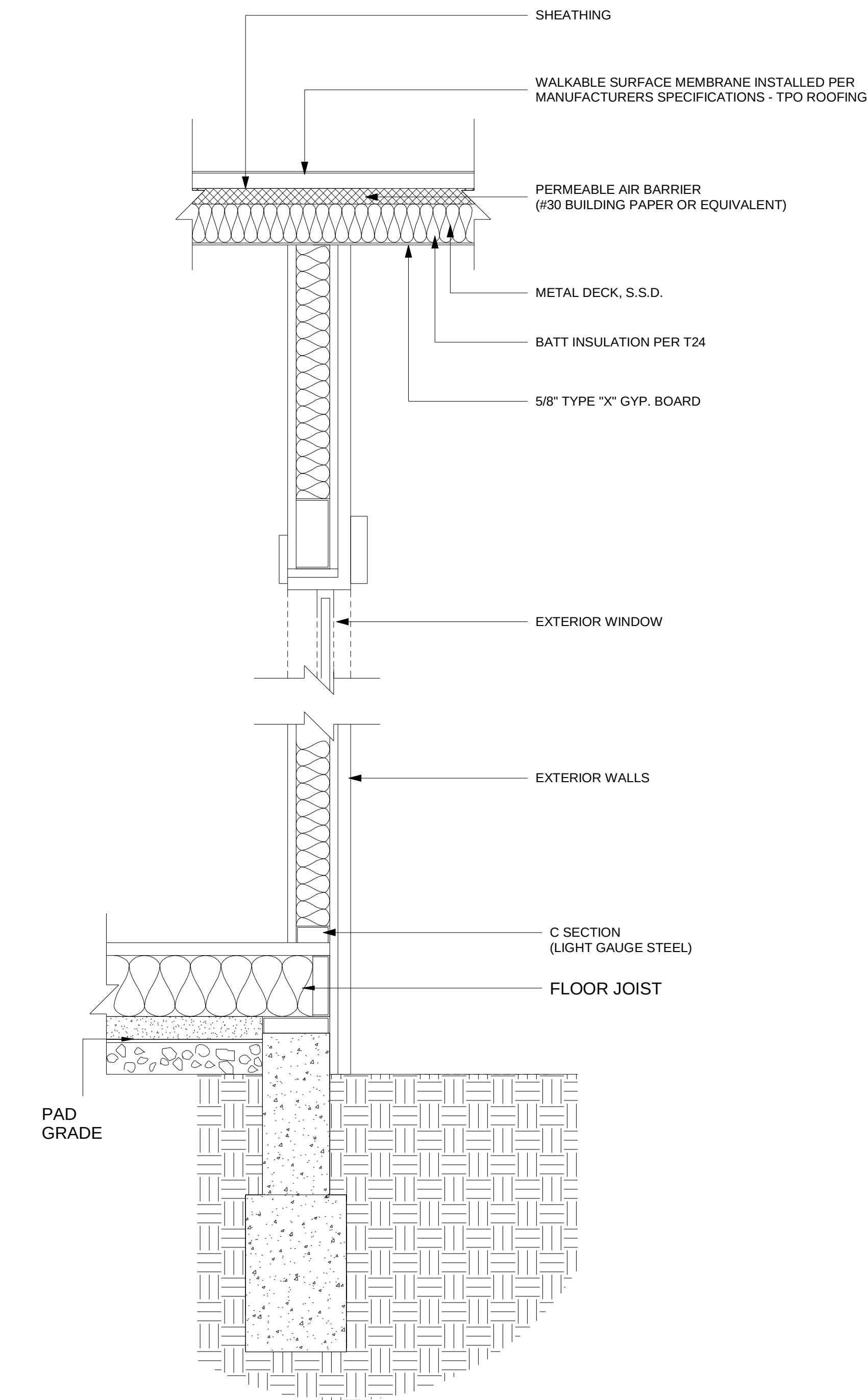
OUTER CORNER
1/4" = 1'-0"



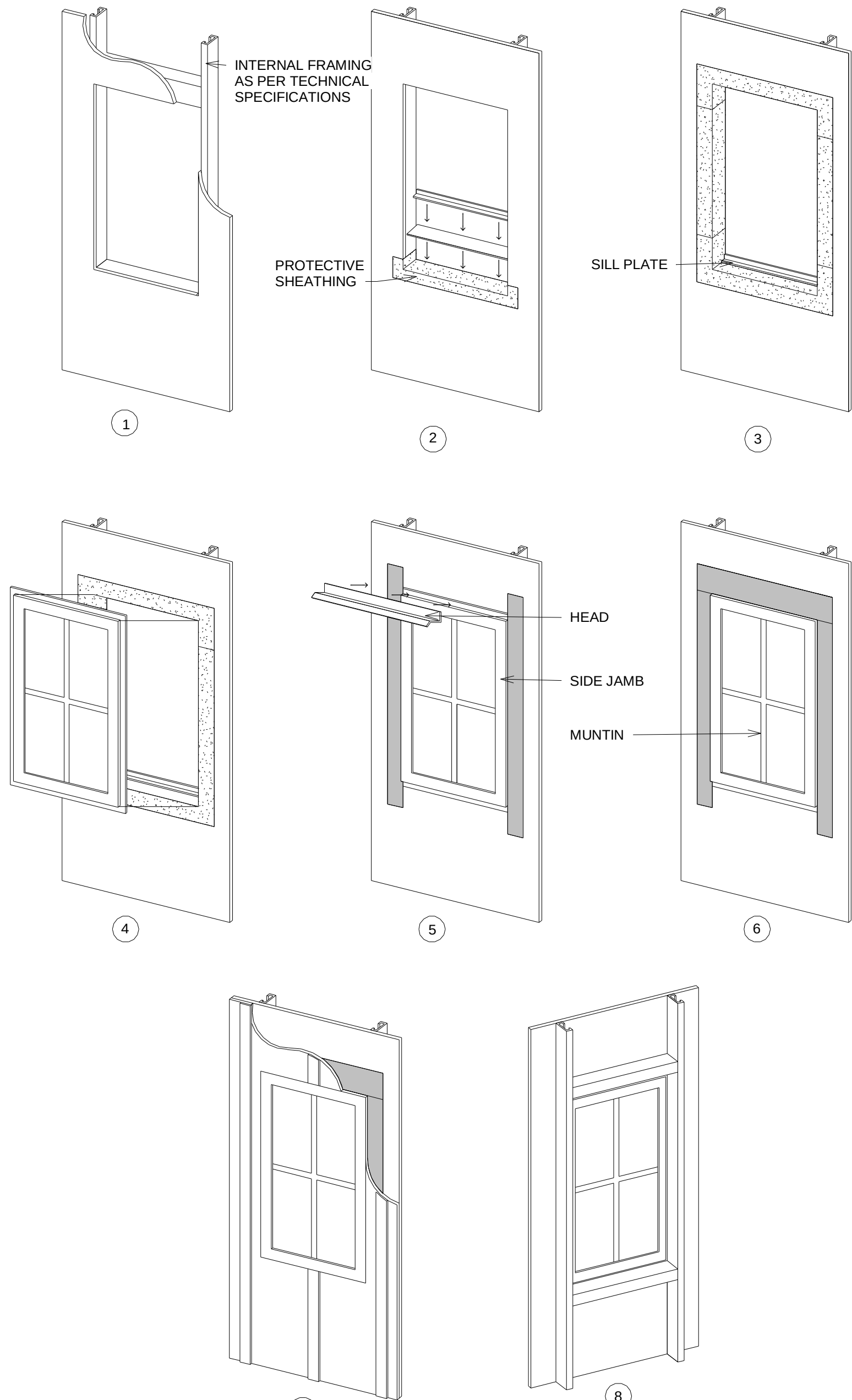
EXTERIOR STUCCI ASSEMBLY
1/4" = 1'-0"



SCUPPER SECTION
1/4" = 1'-0"



TYPICAL WALL FRAMING SECTION
3/4" = 1'-0"



WINDOW FLASHING DETAILS
1" = 20'-0"

REVISIONS :

REV.	DESCRIPTION	DATE	REV BY

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TYPICAL DETAILS

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PROJECT : 1311 COUNTRYSIDE CT

TYPICAL DETAILS

DATE: 01-27-2023

DRAWN BY: JUNED ITAGI

CHECKED BY: SUBHENDU

SCALE: As indicated

SHEET NO:

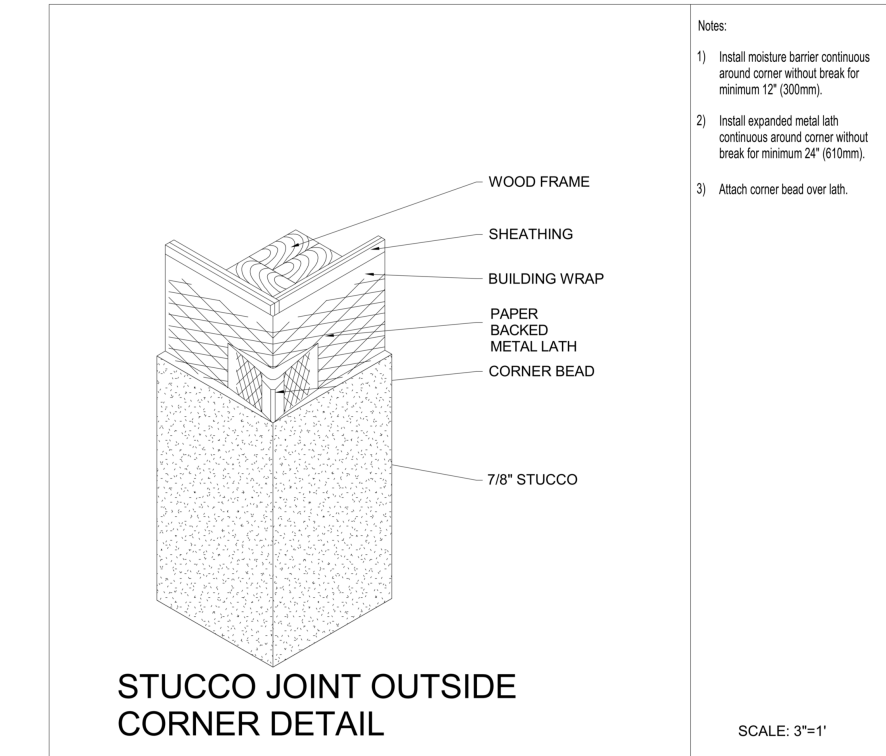
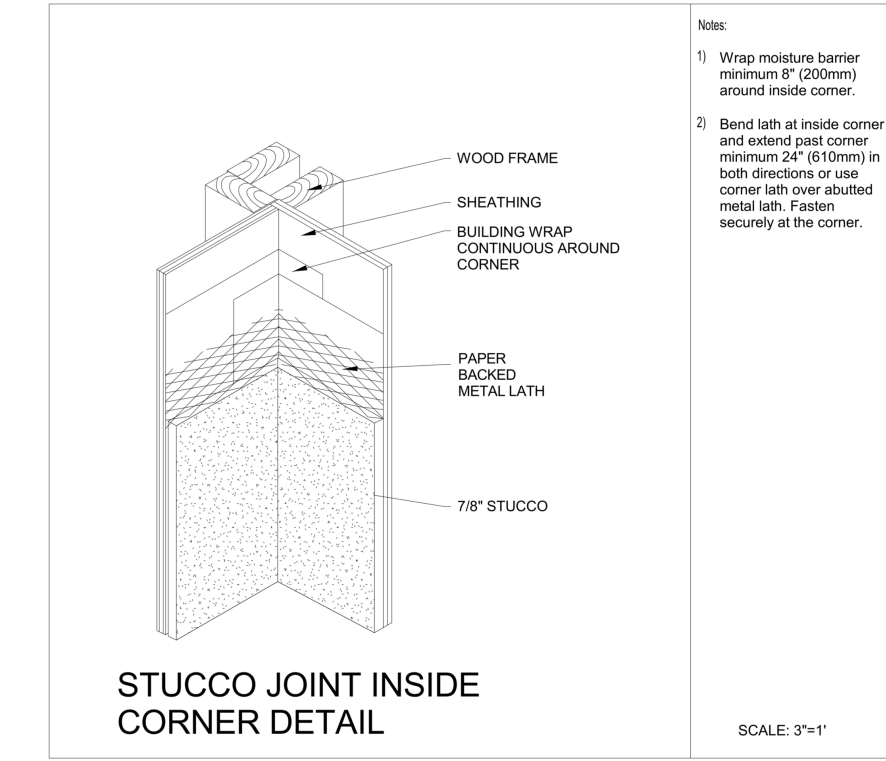
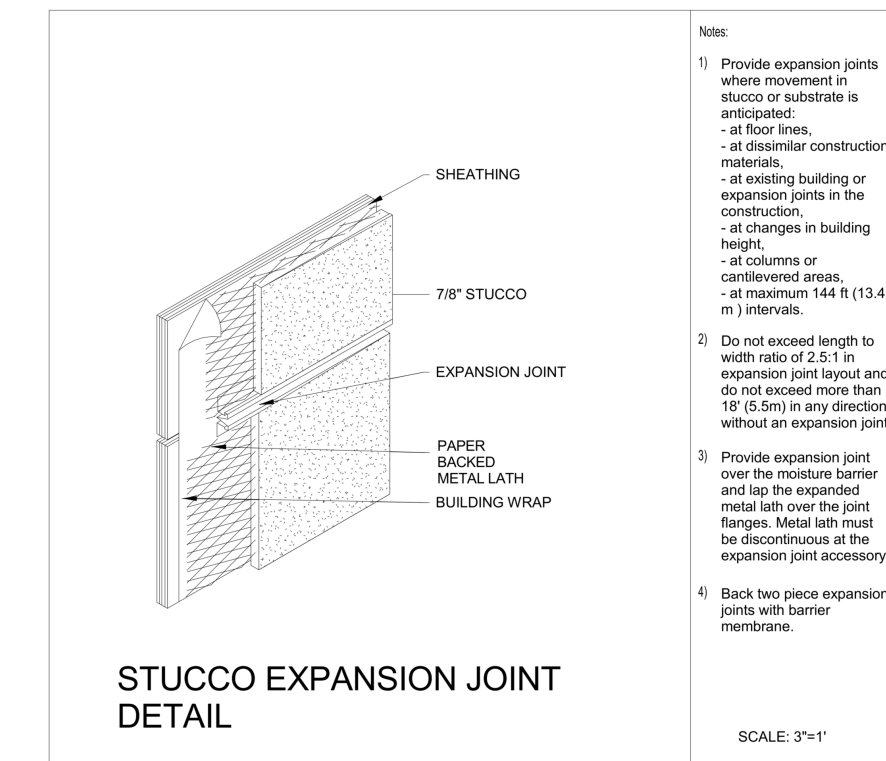
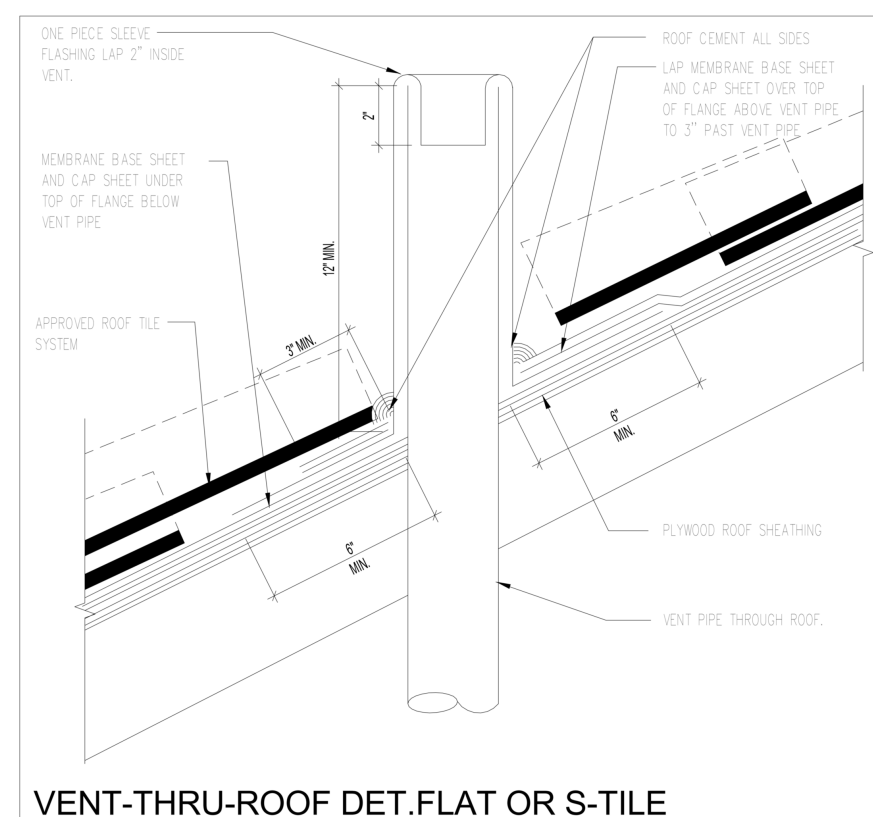
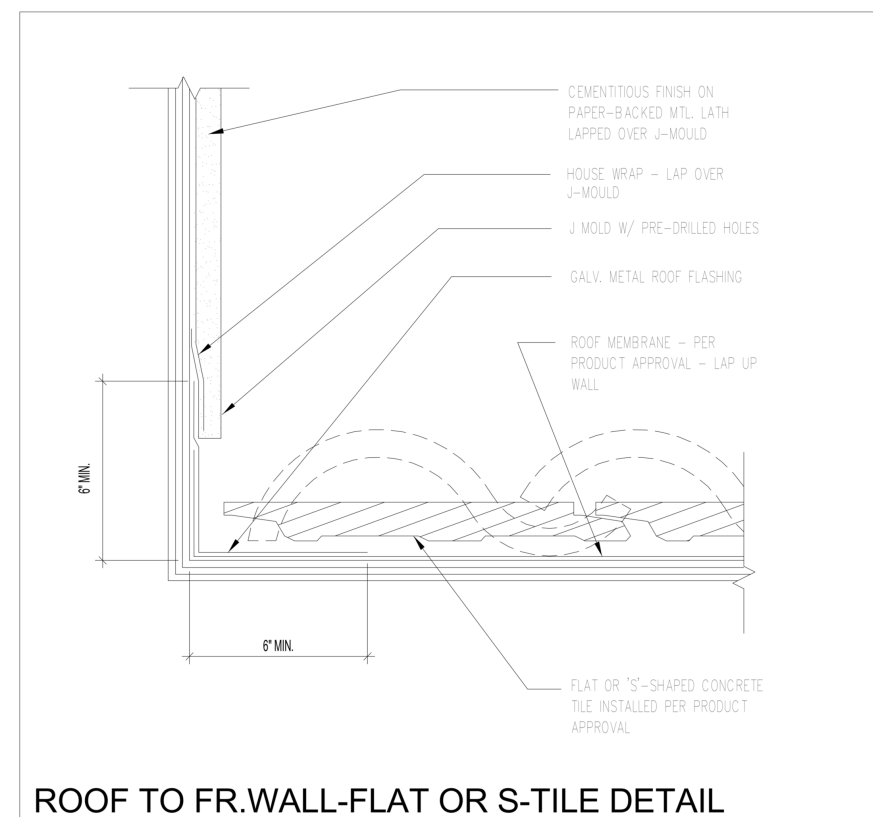
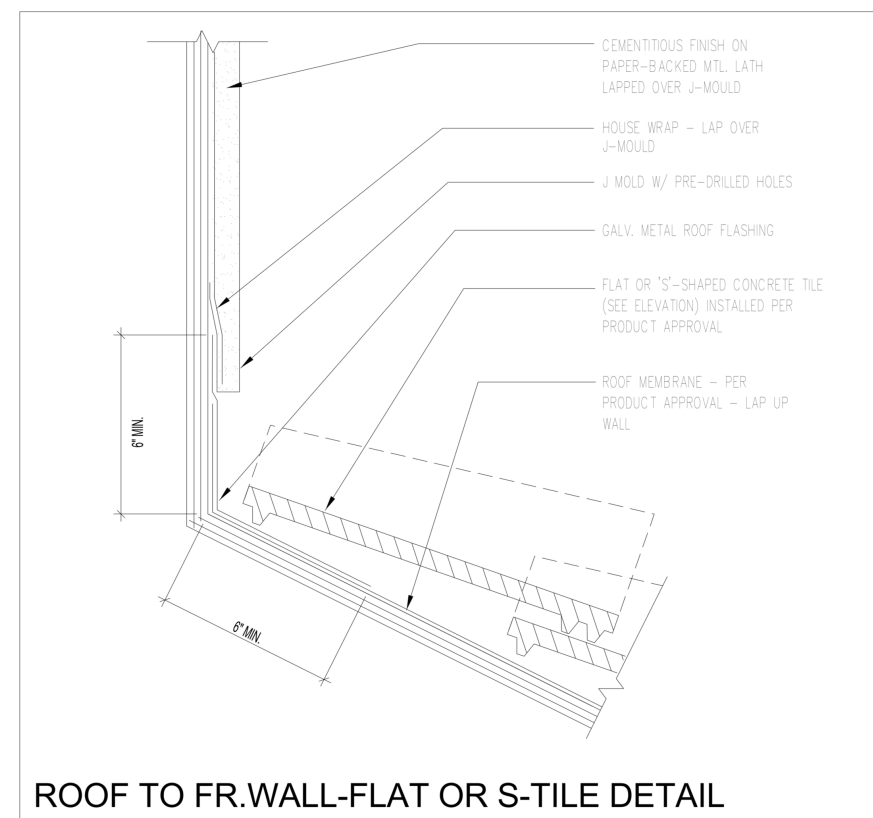
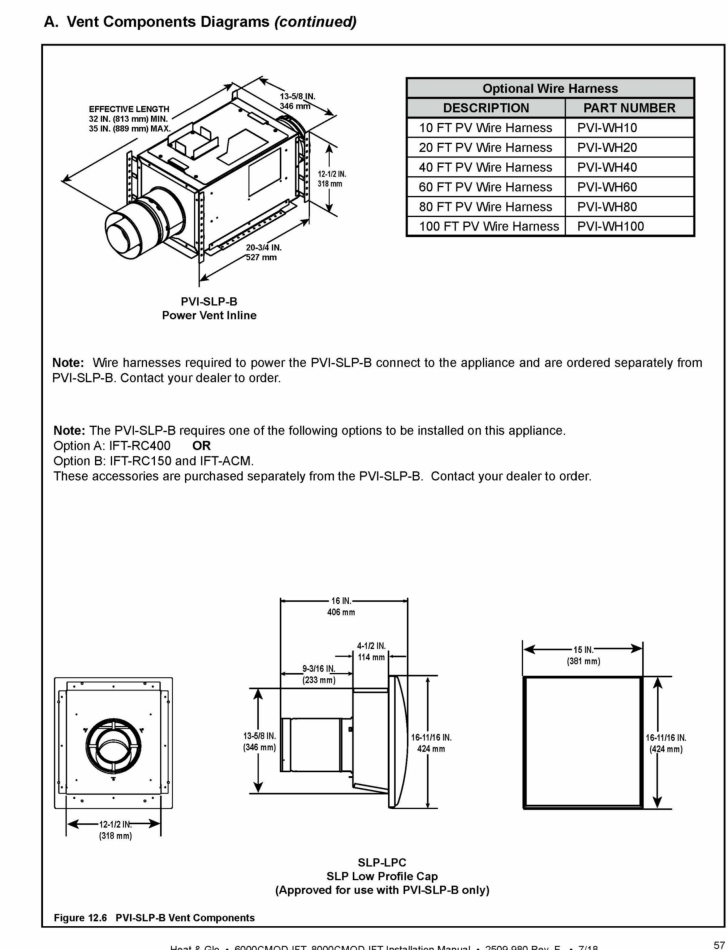
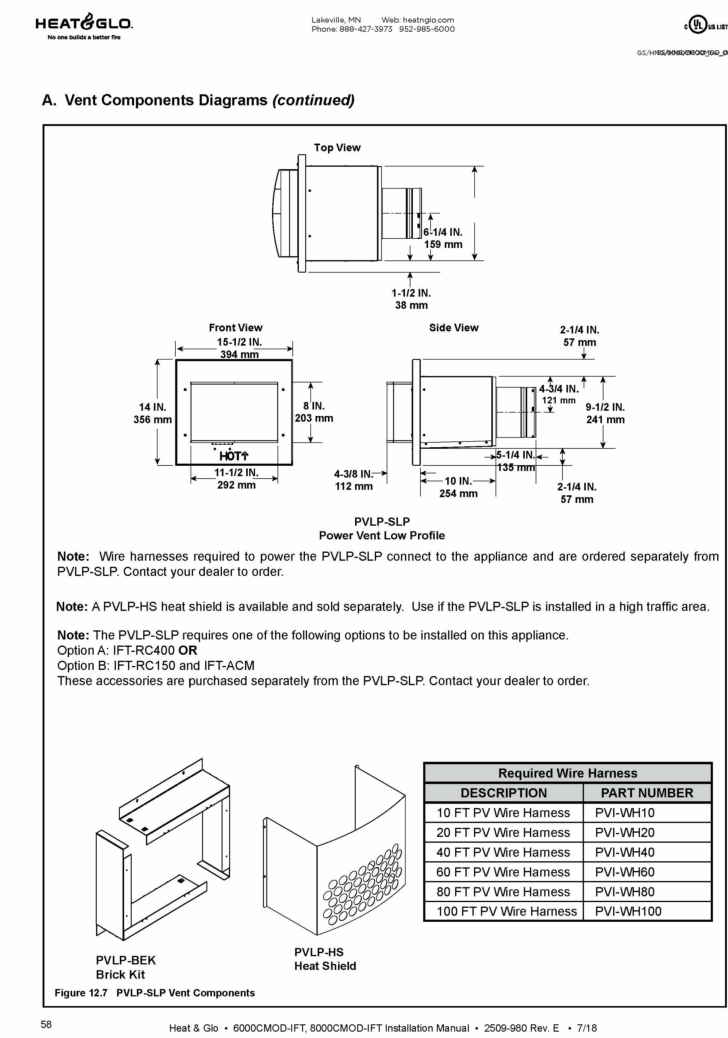
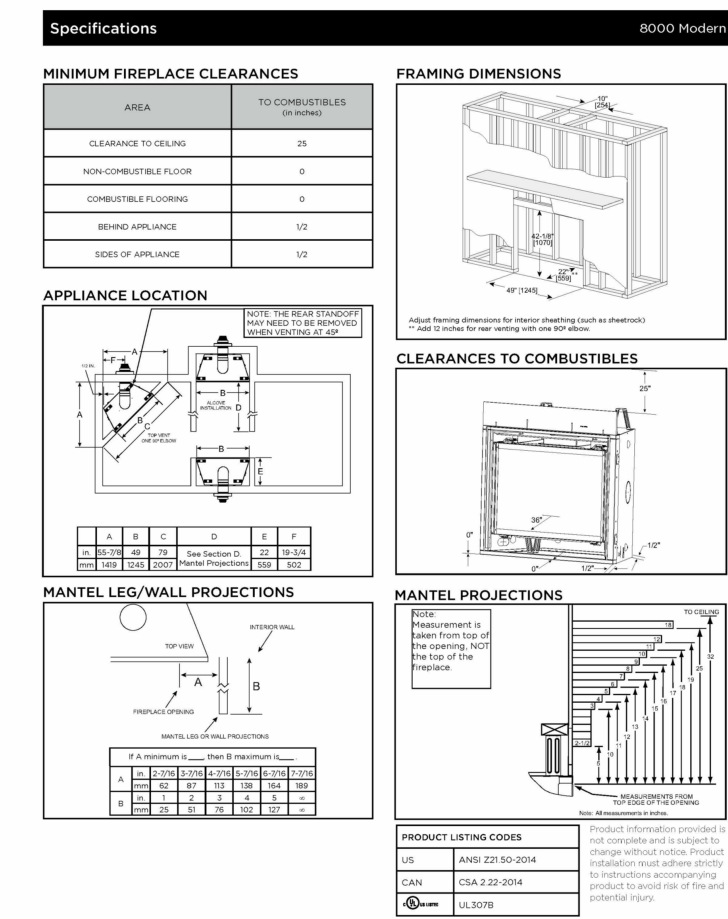
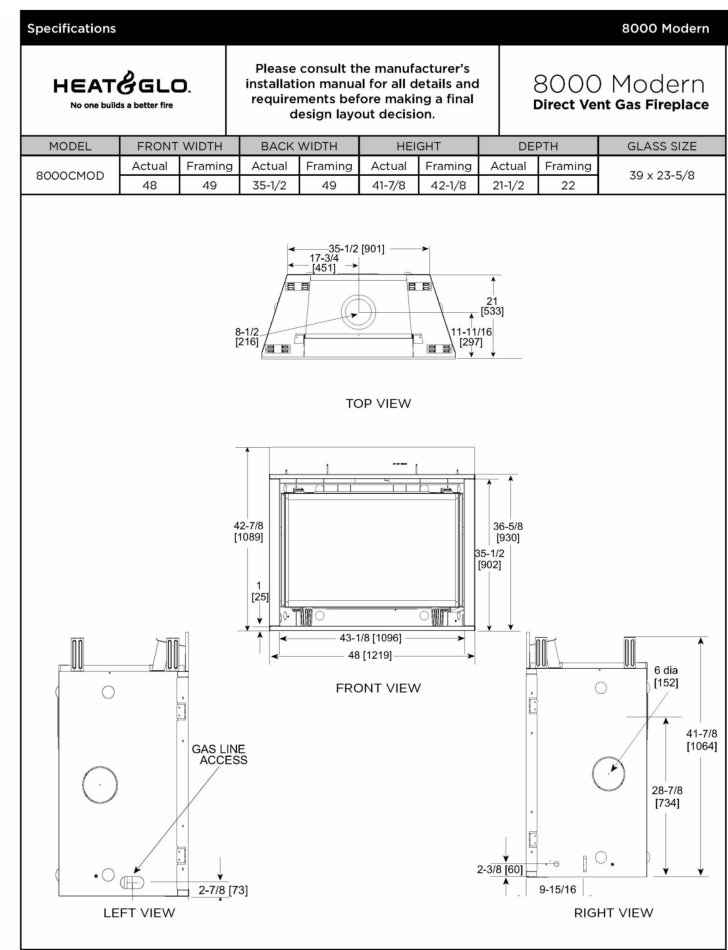
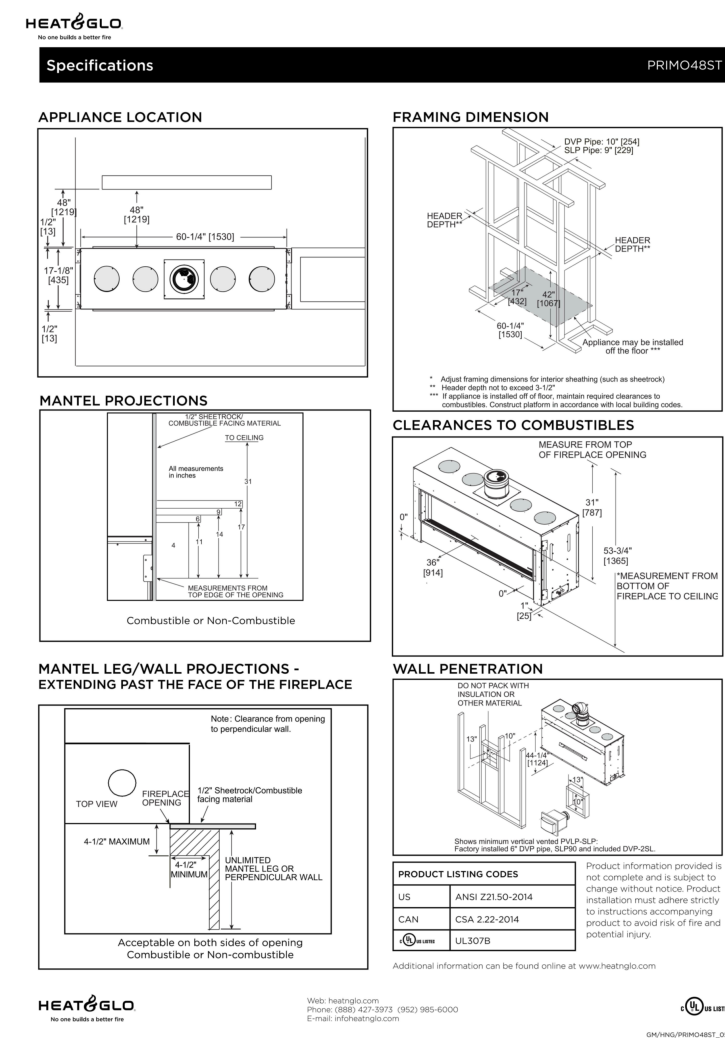
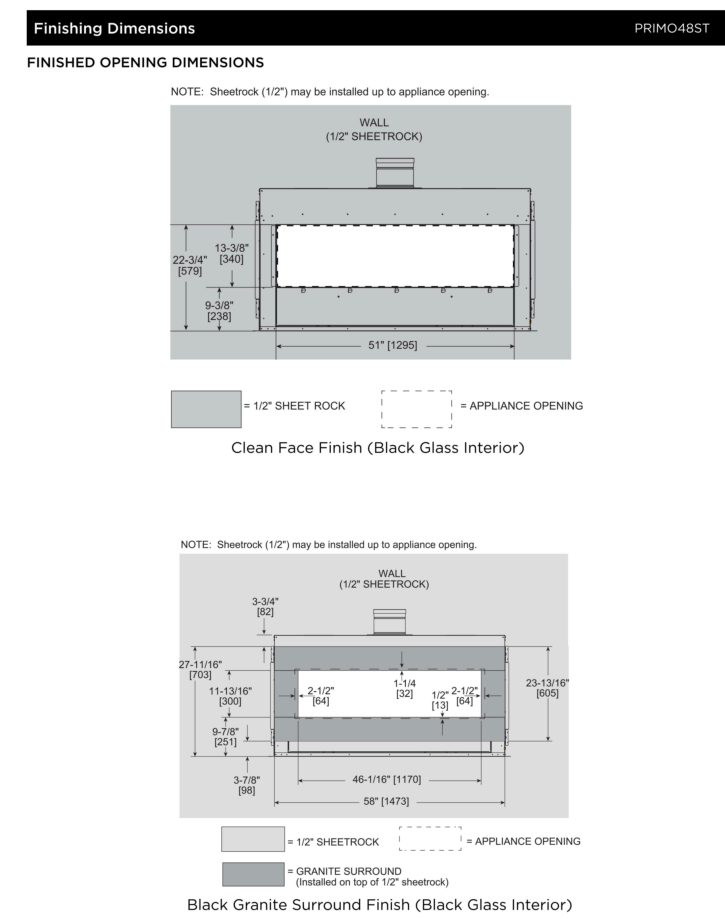
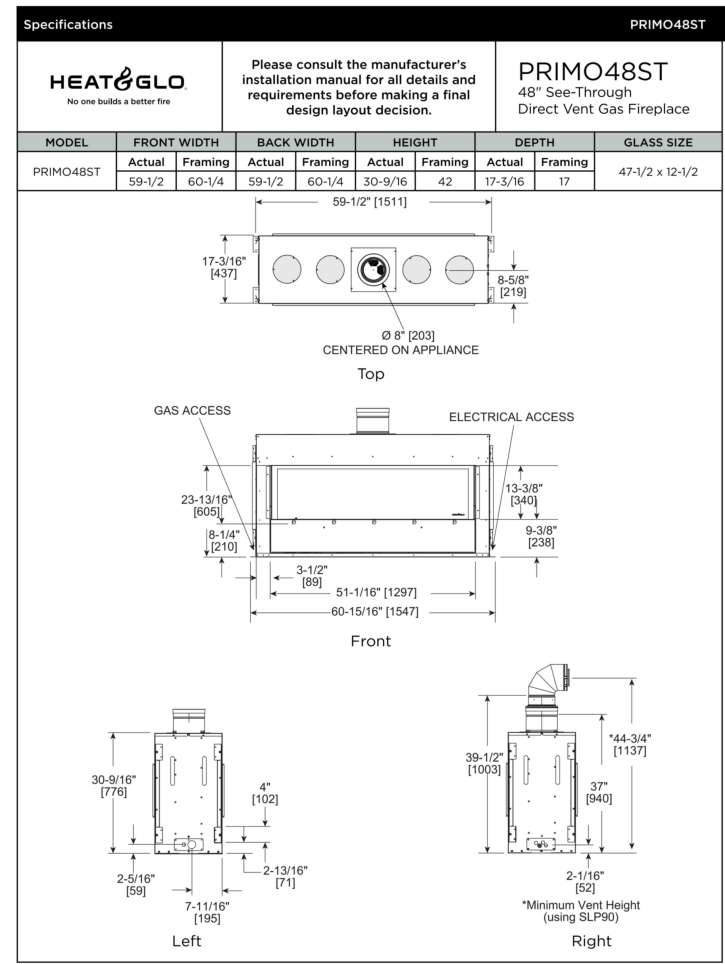
A-7.001

ADDRESS : 329 S San Antonio Road Suite #4, Los Altos, CA 94022

CONTACT : 650-209-6500

EMAIL : team@golivio.com





1 STUCCO JOINT DETAIL
3" = 1'-0"

2 ROOF DETAIL
3" = 1'-0"

REVISIONS :

REV.	DESCRIPTION	DATE	REV BY

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SHEET CONTENT:

TYPICAL DETAILS

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PROJECT : 1311 COUNTRYSIDE CT

TYPICAL DETAILS

DATE: 01-27-2023

DRAWN BY: SAGAR

CHECKED BY: SUBHENDU

SCALE:

SHEET NO:

A-7.002

ADDRESS : 329 S San Antonio Road Suite #4, Los Altos, CA 94022

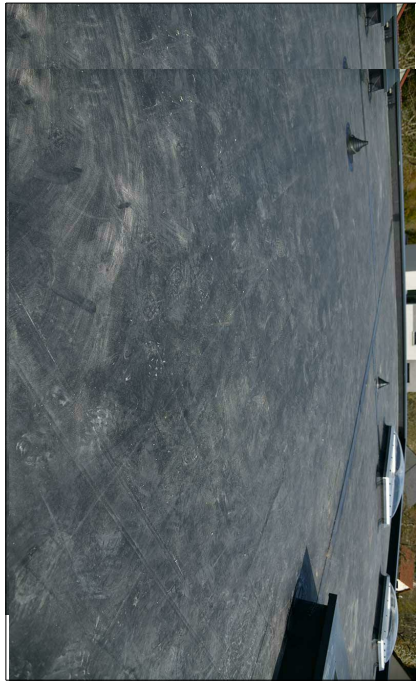
CONTACT : 650-209-6500

EMAIL : team@golivio.com

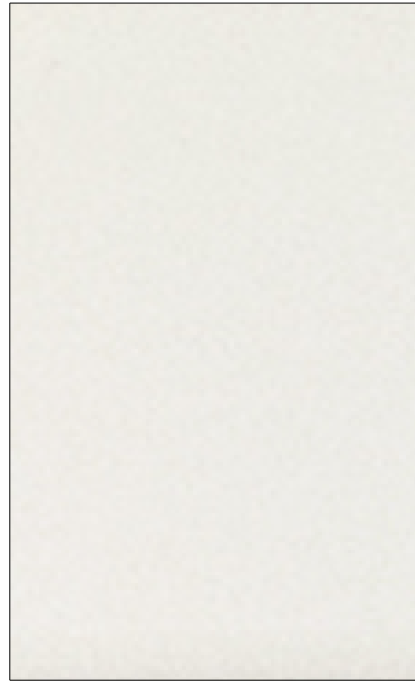




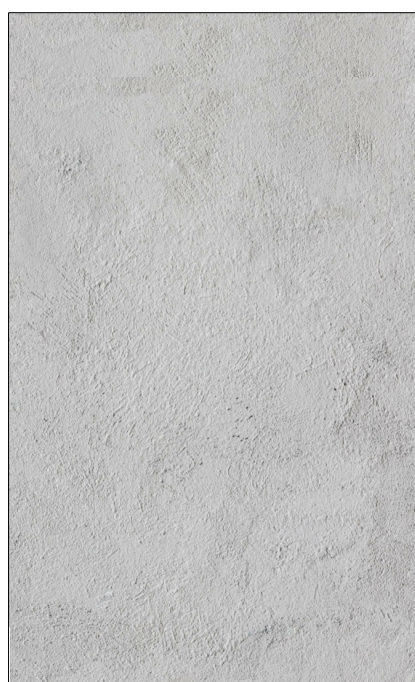
WOODEN ACP
MANUFACTURER - GAF OR EQ



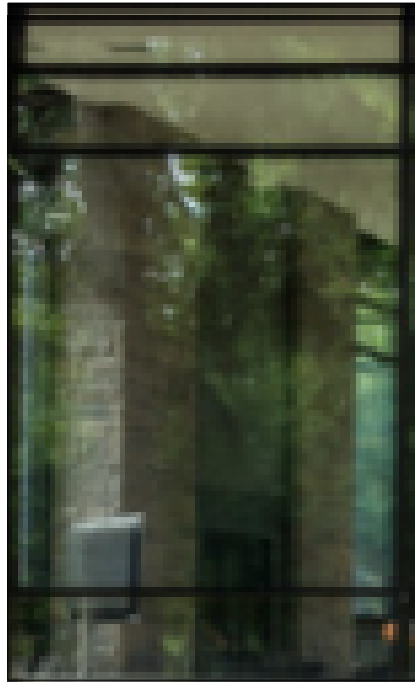
FLAT ROOF WITH TPO
ROOFING WITH GREY FINISH
MANUFACTURER - GAF OR EQ



STUCCO WITH BEIGE PAINT FINISH
MANUFACTURER - KELLY MOORE



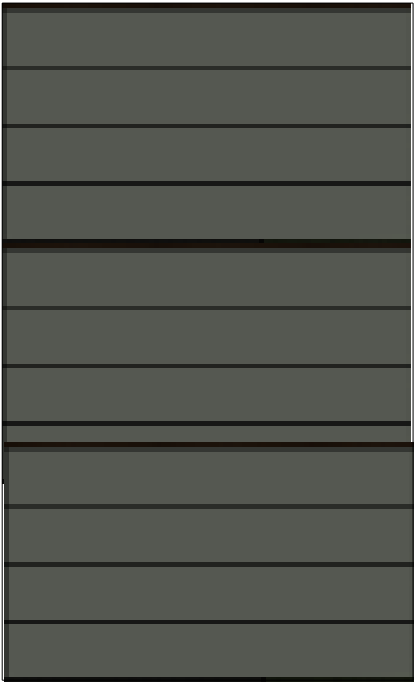
STUCCO DARK GREY
MANUFACTURER - KELLY MOORE



WINDOWS
MANUFACTURER - ANDERSON OR EQ



GLASS PANEL
MANUFACTURER - LA CANTINA OR EQ



GARAGE DOOR
MANUFACTURER - C.H.I OR EQ



STONE FINISH COMPOSITE PANEL
MANUFACTURER - GAF OR EQ

BEIGE COLOUR
STUCCO

WOODEN FINISH
FIBRE COMPOSITE
PANELS

STONE FINISH
COMPOSITE PANEL

METAL GARAGE
DOOR

ALUMINIUM
WINDOWS

TPO OVER FLAT
ROOF

DARK GREY
STUCCO



REVISIONS :

REV.	DESCRIPTION	DATE	REV BY

NOTES:

- ALL DIMENSIONS ARE IN FEET AND INCHES.
- DRAWING SHALL NOT BE SCALED AND ONLY WRITTEN DIMENSIONS SHALL BE FOLLOWED.
- ALL CENTERLINES ARE FROM THE CENTER OF COLUMN/ WALL AND THE DIMENSIONS GIVEN ARE CENTERLINE DIMENSIONS- -UNLESS OTHERWISE MENTIONED.
- IN CASE OF ANY DISCREPANCY FOUND IN DRAWINGS AND DETAILS, IT SHALL BE BROUGHT TO THE NOTICE OF THE ARCHITECT, AND RECTIFIED, PRIOR TO ITS EXECUTION.
- THIS DRAWING IS ISSUED STRICTLY WITH AN UNDERSTANDING THAT IT WILL BE USED ONLY FOR THE PURPOSE MENTIONED AND SHALL BE RETURNED AFTER COMPLETION.
- -LARGER SCALE DRAWINGS AND DETAILS SUPERCEDE THE SMALLER SCALE DRAWINGS AND DETAILS.
- THIS DRAWING SHALL BE REFERRED ONLY FOR THE PURPOSE MENTIONED IN ITS TITLE (FLOORING PATTERN, FALSE CEILING, SHUTTERING PATTERN, ELECTRICAL, PLUMBING, ETC.)

SHEET CONTENT:

MATERIAL BOARD

THIS DOCUMENT IS THE PROPERTY OF LIVIO BUILDING SYSTEMS AND SHALL NOT BE REFERRED, REPRODUCED, COPIED, ETC. WITHOUT EXPLICIT WRITTEN PERMISSION FROM LIVIO BUILDING SYSTEMS, LOS ALTOS, CA USA

PROJECT : 1311 COUNTRYSIDE CT

MATERIAL BOARD

DATE: 01-27-2023

DRAWN BY: JUNED ITAGI

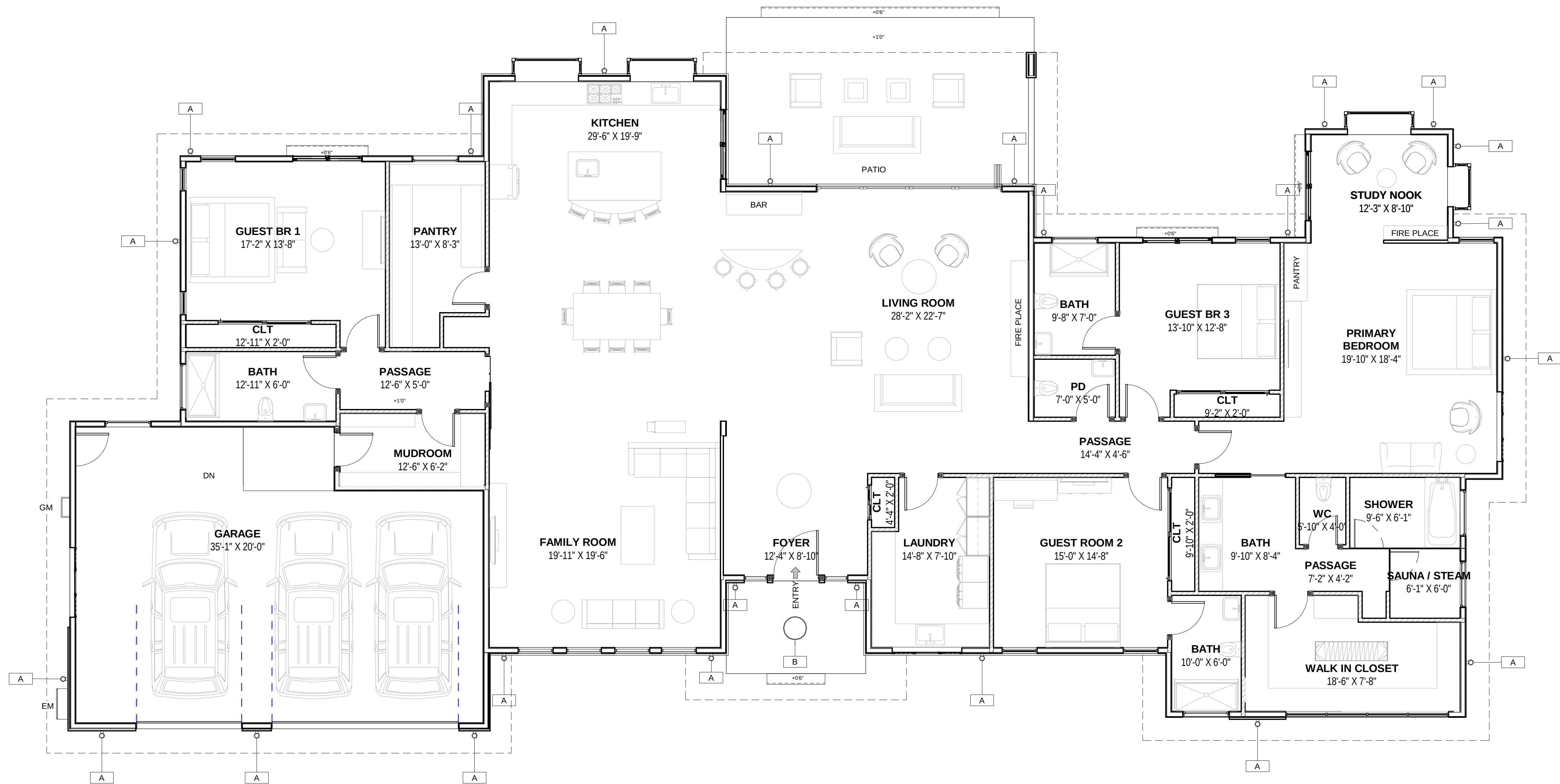
CHECKED BY: SUBHENDU

SCALE:

SHEET NO:
A-7.003

ADDRESS : 329 S San Antonio Road Suite #4, Los Altos, CA 94022
CONTACT : 650-209-6500
EMAIL : team@golivio.com





1 LIGHTING LAYOUT
3/16" = 1'-0"

LIGHTING FIXTURE DESCRIPTION

SR. NO.	SYMBOL	DESCRIPTION	LOCATION	LAMP TYPE	WATTAGE	VOLTAGE	MOUNTING HEIGHT	MANUFACTURER / MODEL	REMARK
A		EXTERIOR WALL LIGHT	EXTERIOR	LED	60 W	120 V	REFER AR DWG.	AS PER CLIENT OR APPROVED EQUAL	
B		EXTERIOR CEILING LIGHT	EXTERIOR	LED	60 W	120 V	REFER AR DWG.	AS PER CLIENT OR APPROVED EQUAL	

NOTES:

- CONFIRM LIGHT FIXTURES WITH OWNER/ARCHITECT PRIOR TO BID.
- COORDINATE ALL LOCATIONS WITH ARCHITECT.
- ALL LAMPS SHALL BE HIGH EFFICACY ACCORDING TO TITLE 24 REQUIREMENTS.
- FOR CEILING AREAS WITH INSULATION WHERE RECESSED LIGHT CANS ARE SHOWN, PROVIDE AT-RATED FIXTURES ONLY AND INSULATION CONTACT WITH IC-RATING.
- PERMANENTLY INSTALLED LUMINAIRES IN RESIDENTIAL KITCHENS, BATHROOM, GARAGES, LAUNDRY ROOMS, AND UTILITY ROOMS SHALL BE HIGH EFFICACY LUMINAIRES. (130(b), 150(k))
- ALL OTHER RESIDENTIAL LUMINAIRES SHALL BE HIGH EFFICACY TYPE UNLESS CONTROLLED BY CERTIFIED DIMMERS OR OCCUPANCY SENSORS. (150(k)(4))
- FOR EXTERIOR LIGHTING, SPECIFY LUMINAIRES TO BE HIGH EFFICACY AND SHALL MEET THE FOLLOWING REQUIREMENTS, AS APPLICABLE PER CENERGYC 150.0(K)(3):
 - CONTROLLED BY A MANUAL ON AND OFF SWITCH THAT DOES NOT OVERRIDE TO ON THE AUTOMATIC ACTIONS OF ITEMS B) OR C) BELOW; AND
 - CONTROLLED BY PHOTOCELL AND MOTION SENSOR. CONTROLS THAT OVERRIDE TO ON SHALL NOT BE ALLOWED UNLESS THE OVERRIDE AUTOMATICALLY REACTIVATES THE MOTION

REVISIONS :

REV.	DESCRIPTION	DATE	REV BY

NOTES:

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SHEET CONTENT:

LIGHTING LAYOUT

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PROJECT : 1311 COUNTRYSIDE CT

LIGHTING LAYOUT

DATE: 01-27-2023

DRAWN BY: JUNED ITAGI

CHECKED BY: SUBHENDU

SCALE: As indicated

SHEET NO:

A-7.004

ADDRESS : 329 S San Antonio Road Suite #4, Los Altos, CA 94022

CONTACT : 650-209-6500

EMAIL : team@golivio.com



GRADING & DRAINAGE NOTES:

NOTE: THIS DRAWING IS APPROVED SUBJECT TO:

- ALL GRADING IS SUBJECT TO OBSERVATION BY THE CITY. PERMITTEE OR REPRESENTATIVE SHALL NOTIFY THE CITY OF MILPITAS DEPARTMENT OF PUBLIC WORKS PROJECT INSPECTOR AT LEAST 48 HOURS BEFORE START OF ANY GRADING.
- APPROVAL OF THIS PLAN APPLIES ONLY TO (A) THE EXCAVATION, PLACEMENT, AND COMPACTION OF NATURAL EARTH MATERIALS, (B) THE INSTALLATION OF ON-SITE (I.E. PRIVATE PROPERTY) STORM WATER CONVEYANCE AND TREATMENT FACILITIES THAT ARE OUTSIDE OF THE 5-FOOT BUILDING ENVELOPE, AND (C) THE INSTALLATION OF RETAINING STRUCTURES. THIS APPROVAL DOES NOT CONFER ANY RIGHTS OF ENTRY TO EITHER PUBLIC PROPERTY OR THE PRIVATE PROPERTY OF OTHERS. APPROVAL OF THIS PLAN ALSO DOES NOT CONSTITUTE APPROVAL OF ANY IMPROVEMENTS WITH THE EXCEPTION OF THOSE LISTED ABOVE. PROPOSED IMPROVEMENTS, WITH THE EXCEPTION OF THOSE LISTED ABOVE, ARE SUBJECT TO REVIEW AND APPROVAL BY THE RESPONSIBLE AUTHORITIES AND ALL OTHER REQUIRED PERMITS SHALL BE OBTAINED.
- UNLESS OTHERWISE NOTED ON THE PLAN, ANY DEPICTION OF A RETAINING STRUCTURE ON THIS PLAN SHALL NOT CONSTITUTE APPROVAL FOR CONSTRUCTION OF THE RETAINING STRUCTURE UNLESS A SEPARATE STRUCTURAL REVIEW, BY THE DEPARTMENT OF PUBLIC WORKS IS COMPLETED AND APPROVED.
- IT SHALL BE THE RESPONSIBILITY OF THE PERMITTEE OR AGENT TO IDENTIFY, LOCATE AND PROTECT ALL UNDERGROUND FACILITIES.
- THE PERMITTEE OR AGENT SHALL MAINTAIN THE STREETS, SIDEWALKS AND ALL OTHER PUBLIC RIGHTS-OF-WAY IN A CLEAN, SAFE AND USABLE CONDITION. ALL SPILLS OF SOIL, ROCK OR CONSTRUCTION DEBRIS SHALL BE REMOVED FROM THE PUBLICLY OWNED PROPERTY DURING CONSTRUCTION AND UPON COMPLETION OF THE PROJECT. ALL ADJACENT PROPERTY, PRIVATE OR PUBLIC SHALL BE MAINTAINED IN A CLEAN, SAFE AND USABLE CONDITION.
- ALL GRADING SHALL BE PERFORMED IN SUCH A MANNER AS TO COMPLY WITH THE STANDARDS ESTABLISHED BY THE AIR QUALITY MANAGEMENT DISTRICT FOR AIRBORNE PARTICULATES.
- IN THE EVENT THAT HUMAN REMAINS AND/OR CULTURAL MATERIALS ARE FOUND, ALL PROJECT-RELATED CONSTRUCTION SHOULD CEASE WITHIN A 100-FOOT RADIUS. THE CONTRACTOR SHALL, PURSUANT TO SECTION 7050.5 OF THE HEALTH AND SAFETY CODE, AND SECTION 5097.94 OF THE PUBLIC RESOURCES CODE OF THE STATE OF CALIFORNIA, NOTIFY THE MARIN COUNTY CORONER IMMEDIATELY.
- THIS PLAN DOES NOT APPROVE THE REMOVAL OF TREES. APPROPRIATE TREE REMOVAL PERMITS AND METHODS OF TREE PRESERVATION SHOULD BE OBTAINED FROM THE CITY'S PLANNING DEPARTMENT AND THE CITY ARBORIST.
- FOR NON-RESIDENTIAL PROJECTS, ANY NON-HAZARDOUS EXPORT RESULTING FROM PROJECT RELATED EXCAVATION OR LAND CLEARING SHALL BE 100% REUSED AND RECYCLED PER CALIFORNIA GREEN BUILDING STANDARDS CODE SECTION 5.408.
- ALL GRADING WORK SHALL CONFORM TO THE RECOMMENDATIONS OF THE PROJECT GEOTECHNICAL REPORT AND/OR THE PROJECT SOIL ENGINEER. ALL GRADING WORK SHALL BE OBSERVED AND APPROVED BY THE SOIL ENGINEER. REPORT DATE:
REPORT NUMBER:
SOILS ENGINEERING COMPANY:
CONTACT INFORMATION:
- THE SOIL ENGINEER SHALL BE NOTIFIED AT LEAST 48 HOURS BEFORE BEGINNING ANY GRADING. UNOBSERVED AND/OR UNAPPROVED GRADING WORK SHALL BE REMOVED AND REPLACED UNDER OBSERVATION.
- PERIMETER BUILDING GRADES SHALL SLOPE AWAY FROM BUILDINGS AT LEAST 5% MINIMUM
- ALL DOWNSPOUTS SHALL HAVE SPLASH BOXES AS SHOWN ON THE GRADING AND DRAINAGE PLAN. DIRECTION OF THE FLOW SHALL BE AWAY FROM THE BUILDING.

• BENCH MARK

ALL TOPOGRAPHIC FEATURES AND ELEVATIONS HAD BEEN TAKEN FROM SURVEYS BY OTHERS, PROVIDED BY THE OWNER

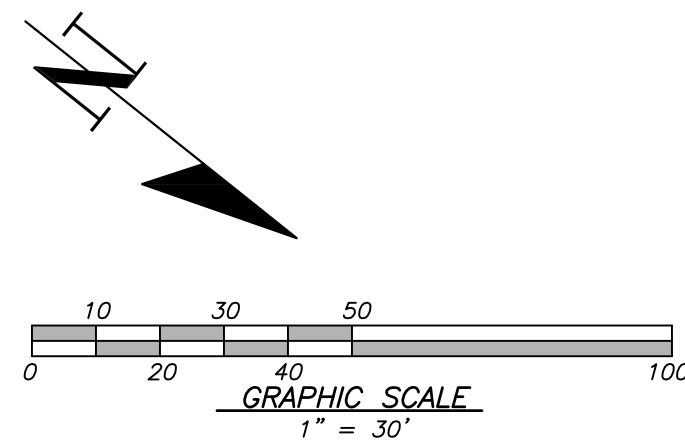
EARTH WORK QUANTITIES

CUT: 972 CY
FILL: 1093 CY
EXPORT: 0 CY
IMPORT: 121 CY

NOTE: EARTHWORK QUANTITIES SHOWN ARE APPROXIMATE. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO INDEPENDENTLY ESTIMATE QUANTITIES FOR HIS/HER OWN USE. THE PAD OF THE HOUSE IS NOT INCLUDED

ABBREVIATIONS

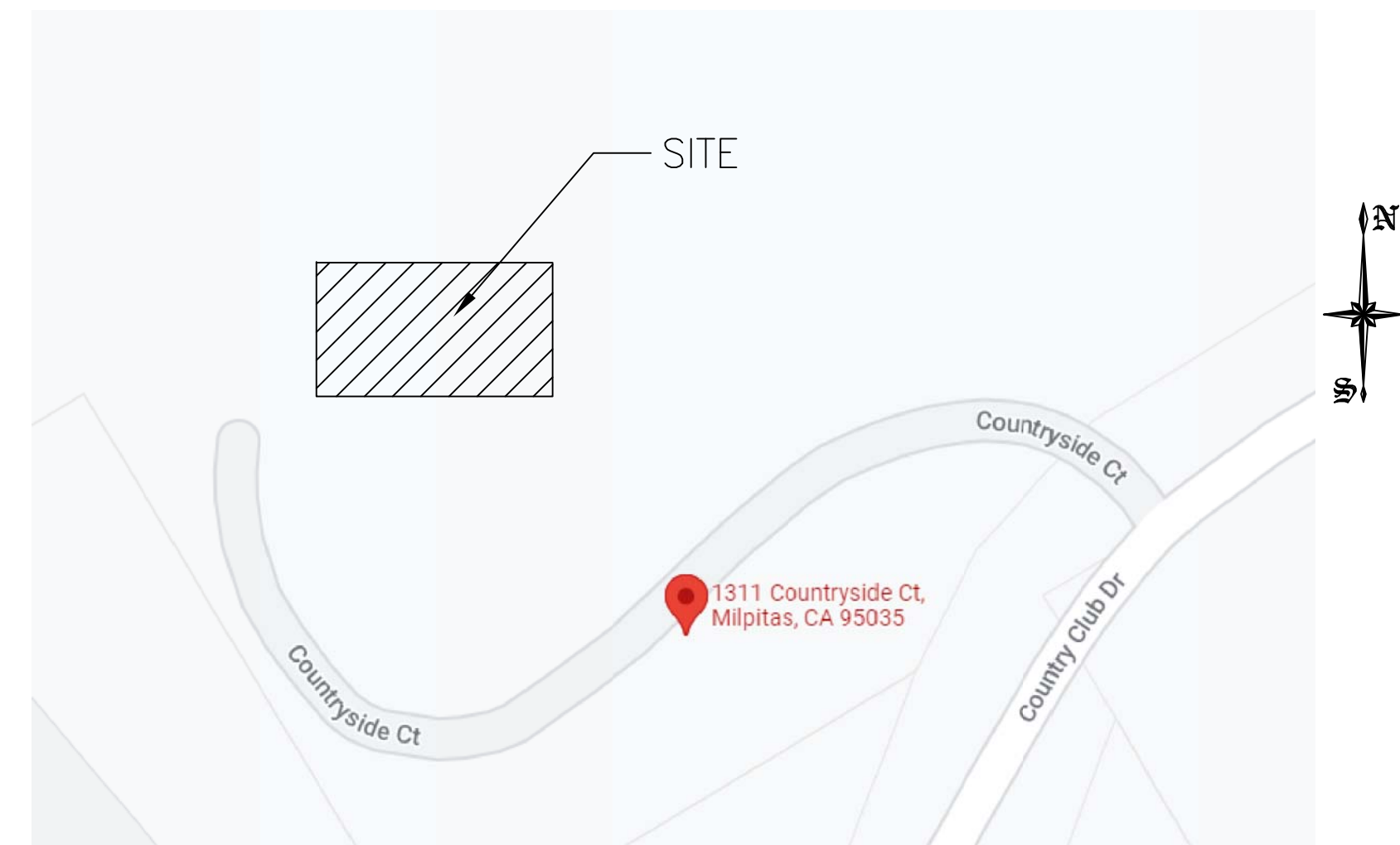
AC = ASPHALT CONCRETE	LP = LOW POINT
AD = AREA DRAIN	PAD = PAD ELEVATION
AG = ADJACENT GRADE AT FOUNDATION	PCC = PORTLAND CEMENT CONCRETE
BC = BEGIN CURVE	PL = PROPERTY LINE
BS = BOTTOM OF STAIR	PV = PAVEMENT GRADE
BU = BUBBLE UP	PVC = POLYVINYL CHLORIDE PIPE
CV = BEGIN VERTICAL CURVE	PVI = POINT OF VERTICAL INTERSECTION
BRW = BOTTOM OF RETAINED GRADE AT WALL	RCP = REINFORCED CONCRETE PIPE
CB = CATCH BASIN	ROW = RIGHT OF WAY
CL = CENTERLINE	S=0.04% SLOPE
CO = CLEANOUT	SD = STORM DRAIN
OS = DOWNSPOUT WITH SPLASH BOX	SDMH = STORM DRAIN MANHOLE
EC = END CURVE	SG = SUBGRADE ELEVATION
ELEV. = ELEVATION	SS = SANITARY SEWER
EVC = END VERTICAL CURVE	SSMH = SANITARY SEWER MANHOLE
EX. = EXISTING	STA = STATION
F/O = FACE OF CURB	TC = TOP OF CURB
FF = FINISHED FLOOR ELEVATION	TF = TOP OF FENCE
FH = FIRE HYDRANT	TRW = TOP OF RETAINED GRADE AT WALL
FL = FLOW LINE	TS = TOP OF STAIR
GB = GRADE BREAK	TW = TOP OF WALL
GFF = GARAGE FINISH FLOOR	VCP = VITRIFIED CLAY PIPE
HP = HIGH POINT	WM = WATER METER
HC = HANDICAP UNIT	WV = WATER VALVE
INV = INVERT	



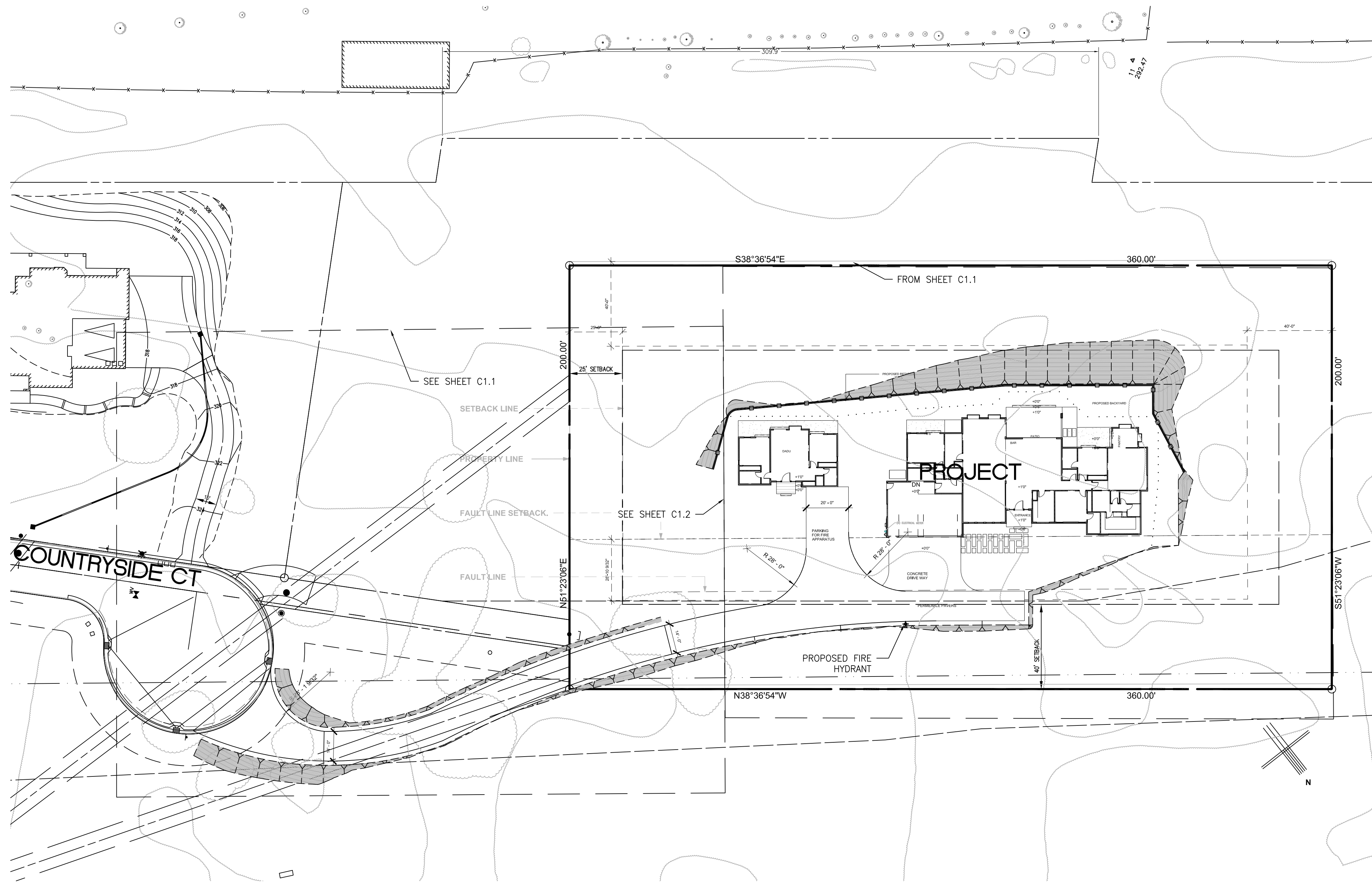
GRADING AND DRAINAGE PLAN

1311 Countryside Ct,
Milpitas, CA 95035

APN: 029-07-014



LOCATION MAP



LEGEND

DESCRIPTION	SYMBOL
BOUNDARY LINE	---
LOT LINE	---
EASEMENT LINE	---
SIDEWALK	---
WOOD FENCE	X X
CHAIN LINK FENCE	---
RETAINING WALL	---
DRIVEWAY DRAIN INLET	---
AREA DRAIN	---
DROP INLET	---
MONUMENT	---
FIRE HYDRANT	---
ELECTROLYTER	---
WATER METER	---
AC UNIT	---
SANITARY SEWER LATERAL	SD
STORM DRAIN	SS
SANITARY SEWER	SL
STREET LIGHT CONDUITS	W
WATER	JT
JOINT TRENCH	SVC
HOUSE SERVICE	---
SLOPE ARROW	---
EXISTING CONTOUR	---
PROPOSED CONTOUR	---
OVERLAND RELEASE	---
DIRECTION OF SURFACE DRAINAGE	---
5% SLOPE AWAY FROM BUILDING	---
GAS LINE	---
OVERHEAD ELECTRICAL LINE	OE
UNDERGROUND ELECTRICAL LINE	UE
DOWNSPOUTS W/SPLASH BOX	---
TREE TO BE REMOVED	---
ADJACENT GRADE	---
AGGREGATE BASE (AB)	---
ASPHALT PAVEMENT (AC)	---
EARTHEN SWALE	---

SHEET INDEX

COVER SHEET
GRADING AND DRAINAGE PLAN
GRADING AND DRAINAGE PLAN
CONSTRUCTION DETAILS
EROSION AND SEDIMENT CONTROL PLAN
BEST MANAGEMENT PRACTICES (BMP SHEET)

C0
C1
C2
C3
C4

GRADING & DRAINAGE PLAN
COVER SHEET
1311 COUNTRYSIDE CT

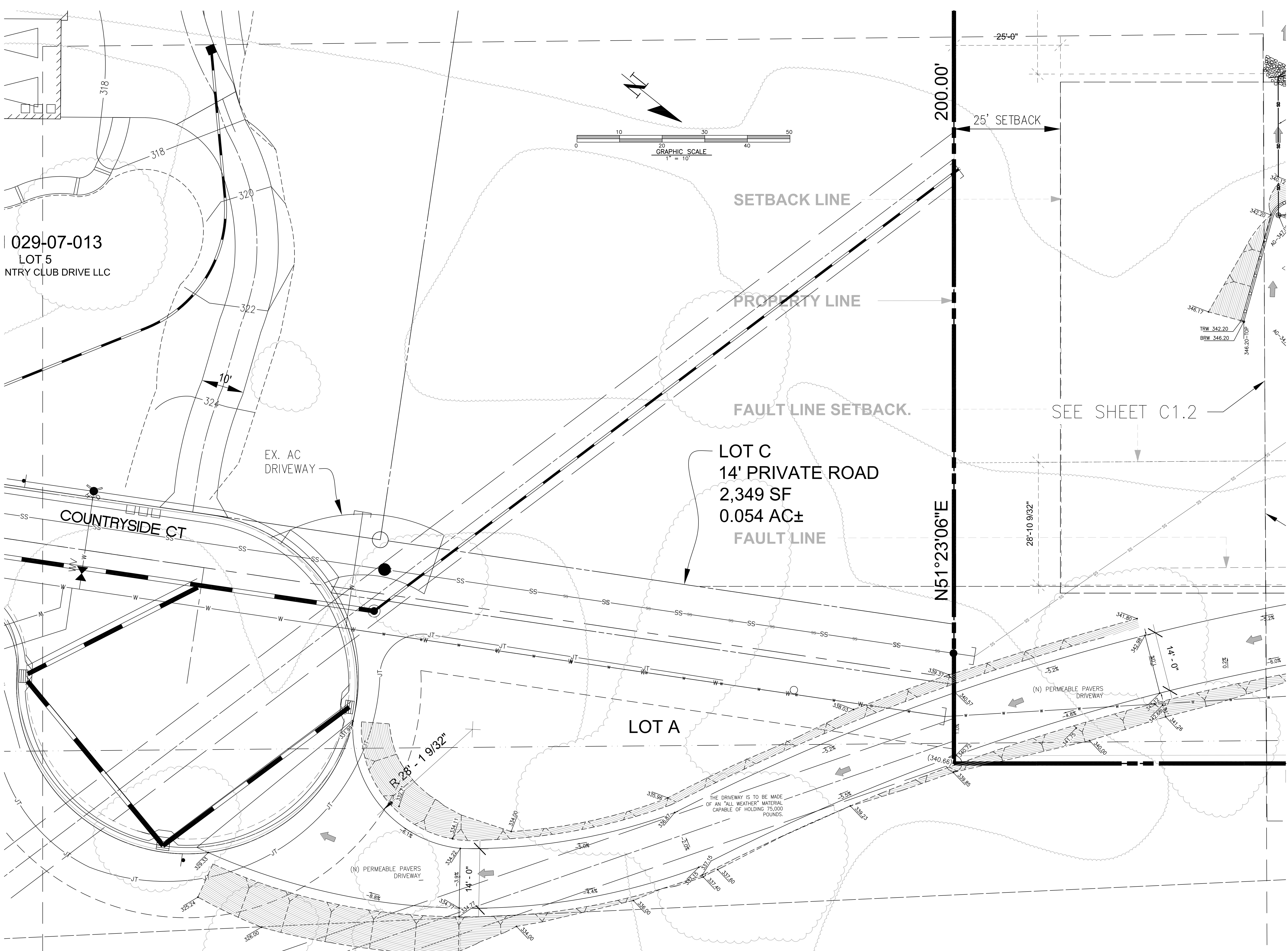
SHEET
C0
OF 6 SHEETS

OSUNA
ENGINEERING INC.
Planning Surveying Civil Engineering
CONSULTING CIVIL ENGINEERS & LAND SURVEYORS
6920 SANTA TERESA BLVD STE. 206
SAN JOSE, CA 95119
TEL. (408) 772-4381
Info@osunaengineering.com



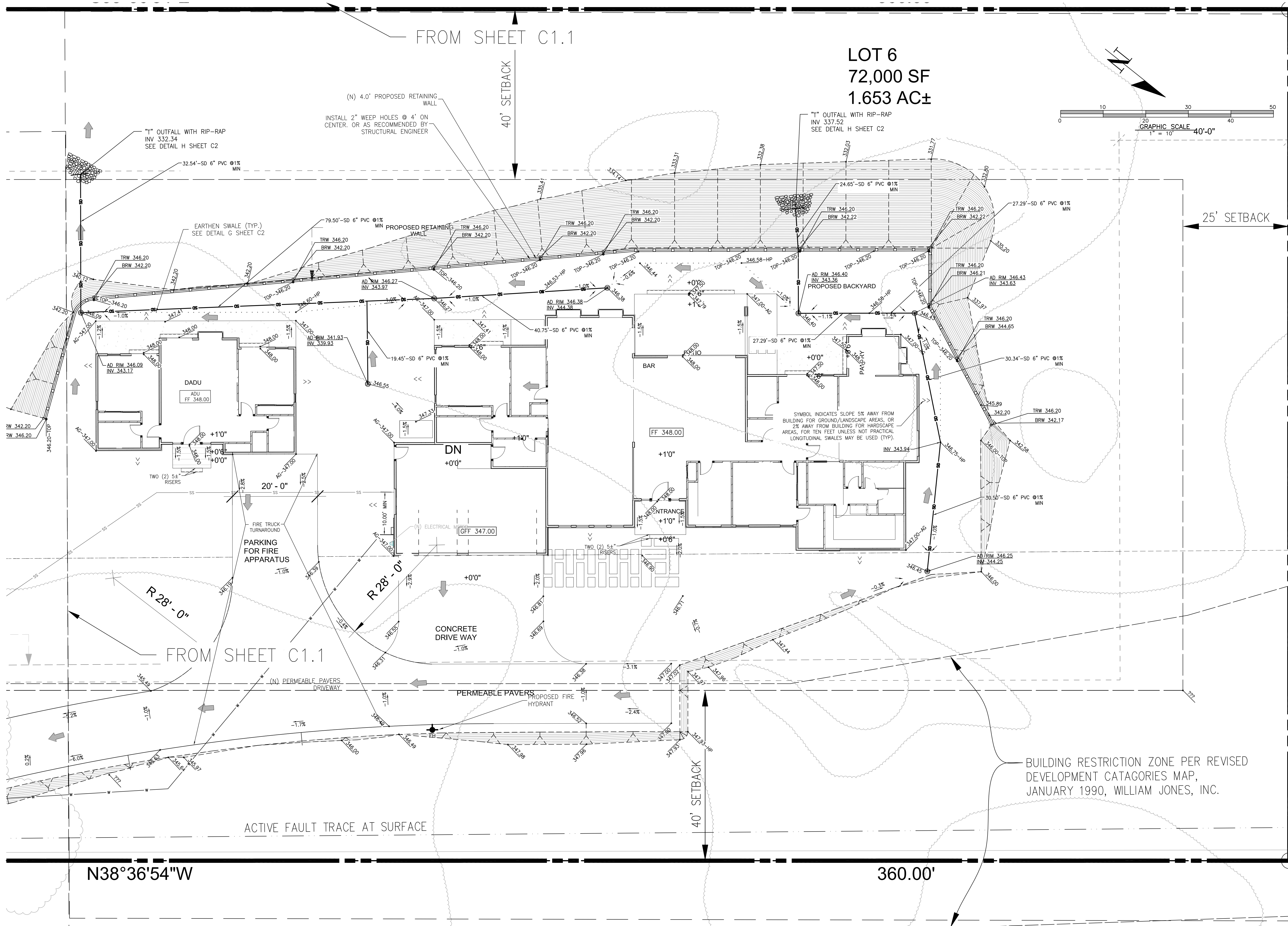
MILPITAS
Project No.: 2713
Designed: J.O.
Checked: J.O.
Date: 07/24/2023

REVISIONS
DATE
BY



 OSUNA ENGINEERING INC. Planning Surveying Civil Engineering CONSULTING CIVIL ENGINEERS & LAND SURVEYORS 6920 SANTA TERESA BLVD STE. 206 TEL (408) 772-4381 SAN JOSE, CA 95119 info@osunacivilengineering.com	GRADING & DRAINAGE PLAN		1311 COUNTRYSIDE CT		MILPITAS CALIFORNIA		Project No.: 2713 Designed: J.O. Checked: O.O. Date: 07/24/2023	
	SHEET		C1.1		OF 6 SHEETS			

CONTRACTOR AGREES THAT HE SHALL ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THIS PROJECT, INCLUDING THE SAFETY OF ALL PERSONS AND PROPERTY. THIS AGREEMENT SHALL BE LIMITED TO NORMAL WORKING HOURS AND THAT THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF SAN JOSE, CALIFORNIA, AND THE STATE OF CALIFORNIA, AND SHALL BE RESPONSIBLE FOR THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPTING FOR LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE ENGINEER.



REVISIONS		DATE	CITY	BY

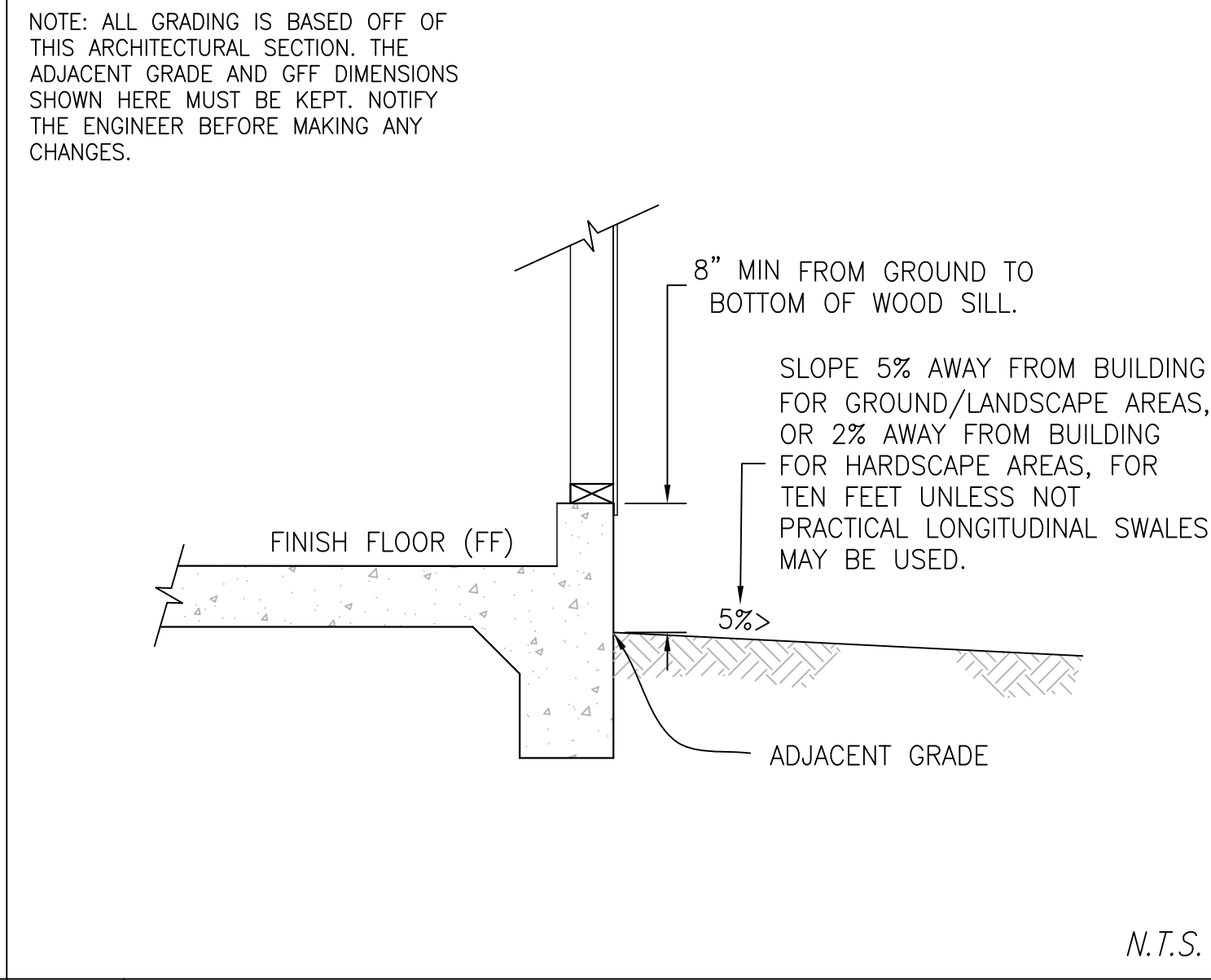
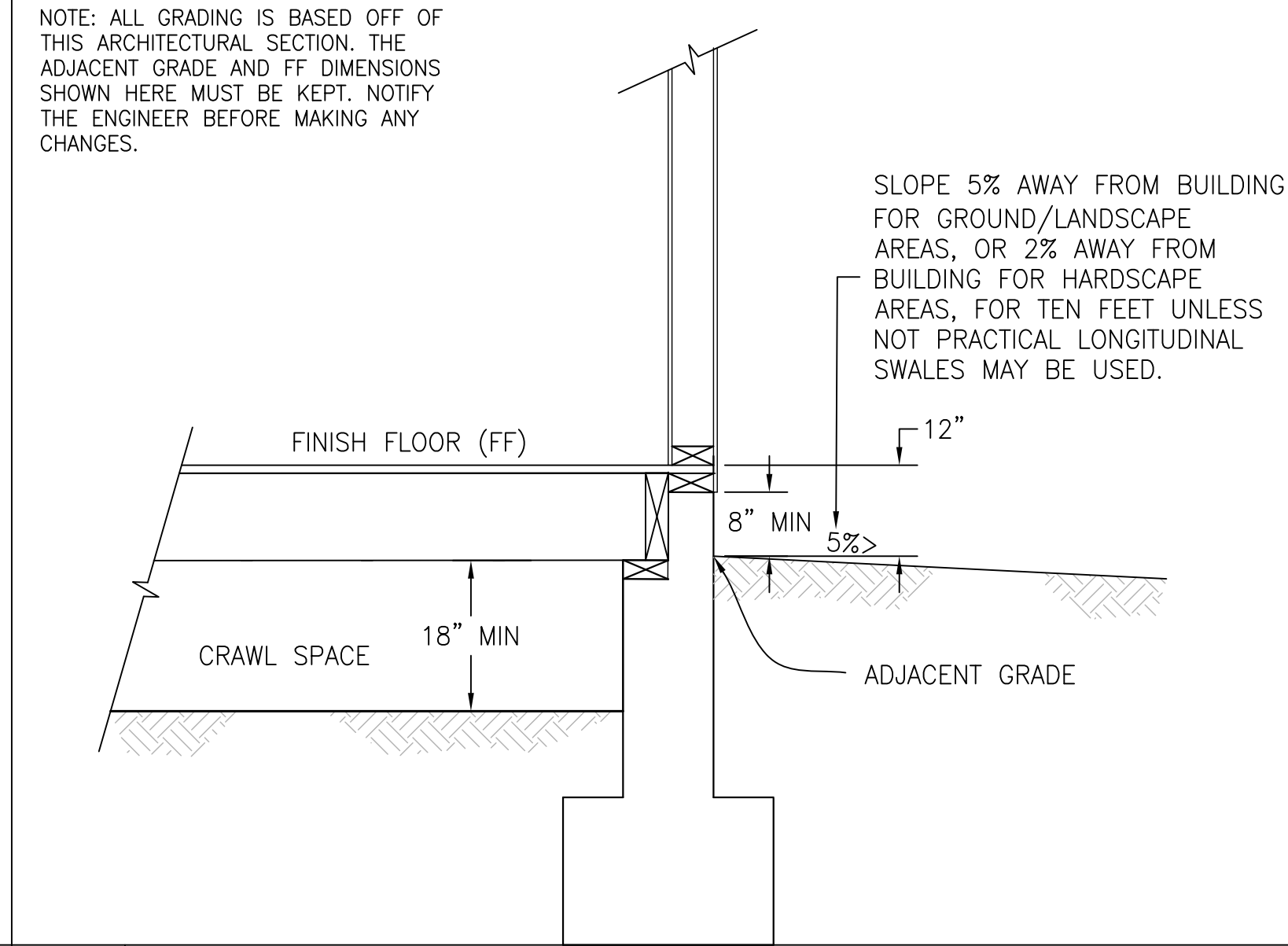
REGISTERED PROFESSIONAL ENGINEER
PORTFOLIO OSCAR OSUNA
No. 70829
Exp. 6-30-23
CIVIL
STATE OF CALIFORNIA

P. Oscar Osuna
PORTFOLIO OSCAR OSUNA
RCE 70829 EXP. 6-30-23

OSUNA
ENGINEERING INC.
Planning Surveying Civil Engineering
CONSULTING CIVIL ENGINEERS & LAND SURVEYORS
6920 SANTA TERESA BLVD STE. 206 TEL. (408) 772-4381
SAN JOSE, CA 95119 info@osunaengineering.com

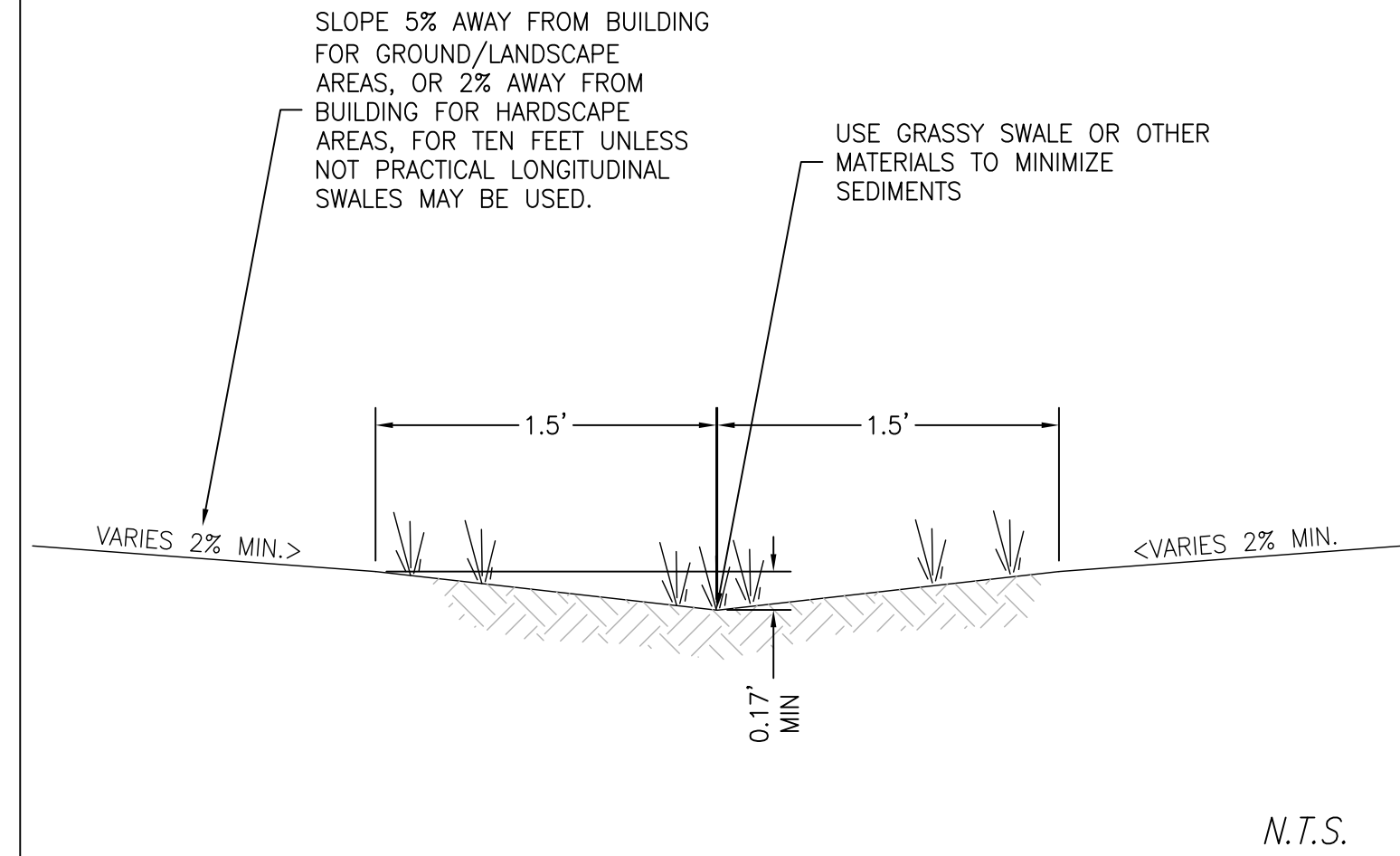
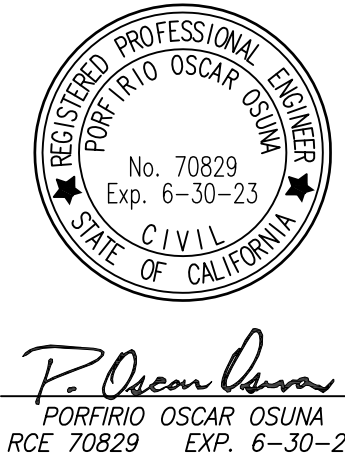
GRADING & DRAINAGE PLAN
1311 COUNTRYSIDE CT
MILPITAS CALIFORNIA
Project No.: 2713 Design: J.O. Check: O.O. Date: 01/24/2023

SHEET
C1.2
OF 6 SHEETS



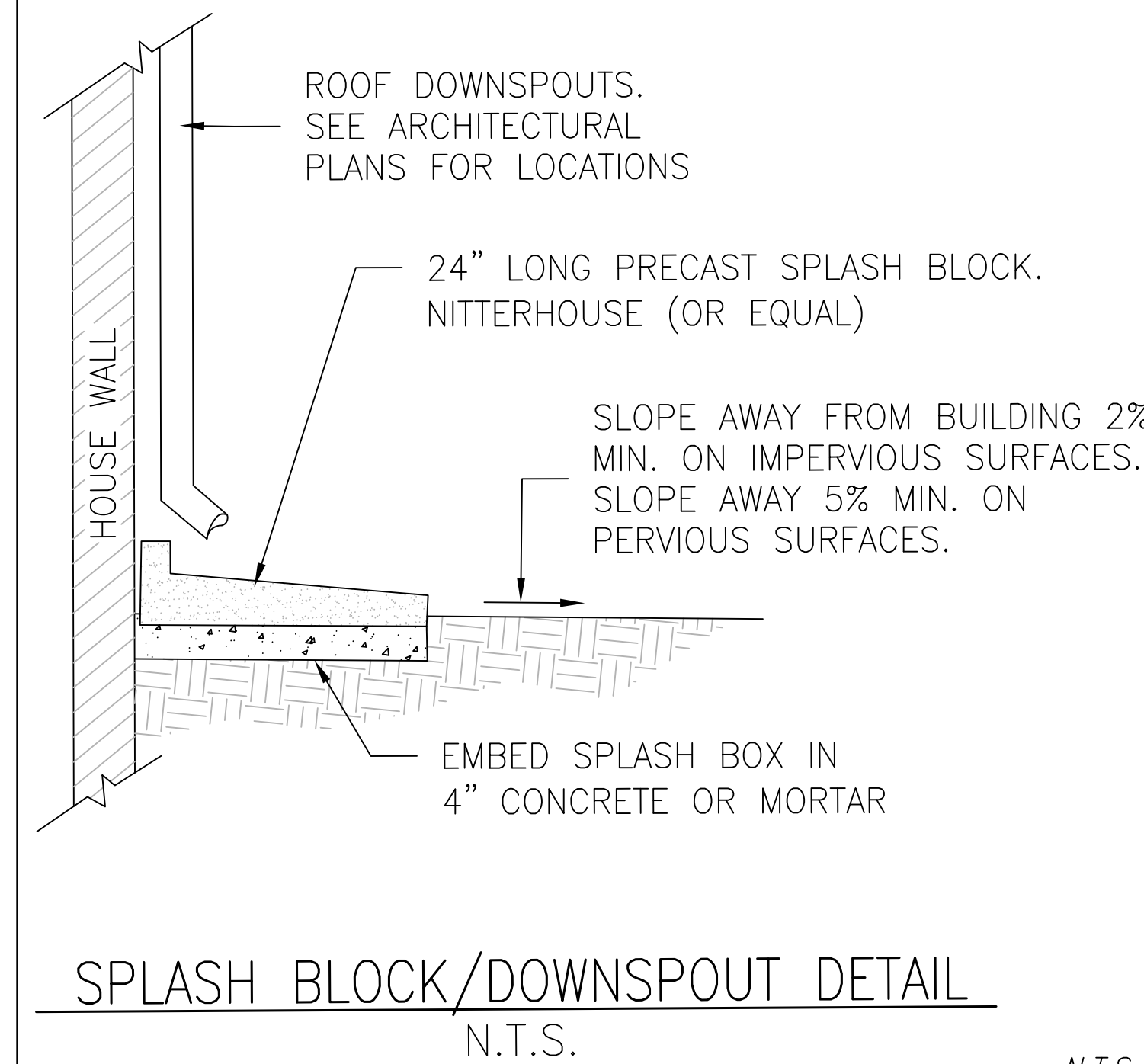
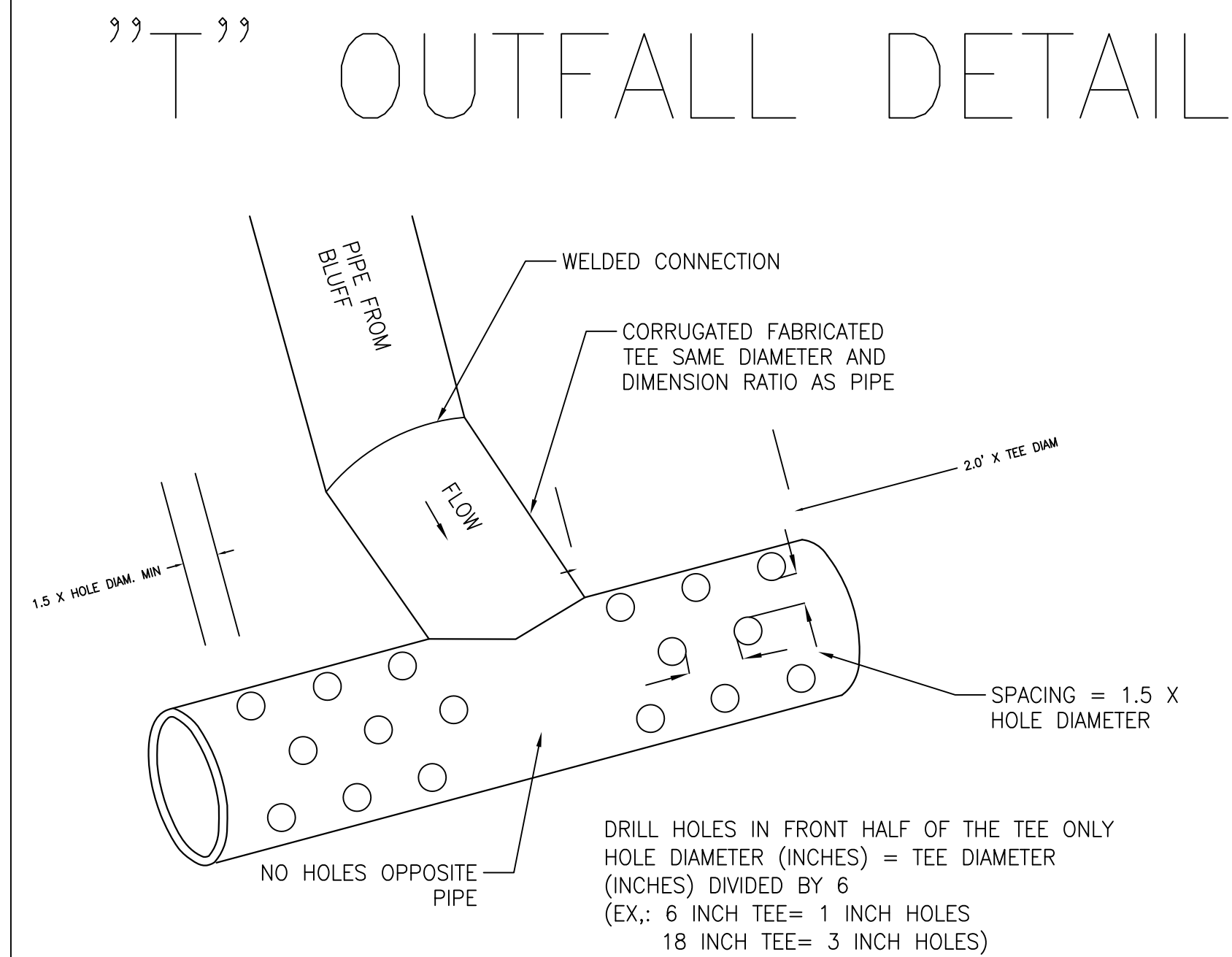
N.T.S.

D TYPICAL FOUNDATION/GFF/GROUND SECTION



N.T.S.

G	EARTHEN SWALE DETAIL
---	----------------------



N.T.S.

1 | SPLASH BLOCK/DOWNSPOUT DETAIL

SHEET
C2
OF 6 SHEETS

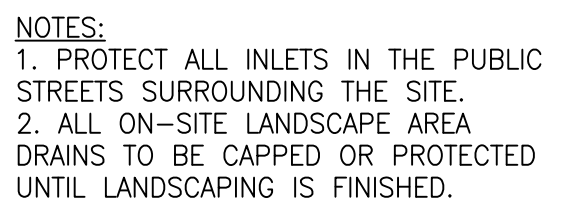


- SUPPLEMENTAL EROSION & SEDIMENT CONTROL NOTES

1. SEE STANDARD EROSION & SEDIMENT CONTROL NOTES ABOVE.
2. THE FACILITIES SHOWN ON THIS PLAN ARE DESIGNED TO CONTROL EROSION AND SEDIMENT DURING THE RAINY SEASON, OCTOBER 1 TO APRIL 30. FACILITIES ARE TO BE OPERABLE PRIOR TO OCTOBER 1 OF ANY YEAR. GRADING OPERATIONS DURING THE RAINY SEASON WHICH LEAVE DENUDED SLOPES SHALL BE PROTECTED WITH EROSION CONTROL MEASURES IMMEDIATELY FOLLOWING GRADING ON THE SLOPES.
3. CONSTRUCTION ENTRANCES SHALL BE INSTALLED PRIOR TO COMMENCEMENT OF GRADING. ALL CONSTRUCTION TRAFFIC ENTERING ONTO THE PAVED ROADS MUST CROSS THE STABILIZED CONSTRUCTION ENTRANCE WAYS.
4. CONTRACTOR SHALL MAINTAIN STABILIZED ENTRANCE AT EACH VEHICLE ACCESS POINT TO EXISTING PAVED STREETS. ANY MUD OR DEBRIS TRACKED ONTO PUBLIC STREETS SHALL BE REMOVED DAILY AND AS REQUIRED BY THE CITY.
5. INLET PROTECTION SHALL BE INSTALLED AT OPEN INLETS TO PREVENT SEDIMENT FROM ENTERING THE STORM DRAIN SYSTEM. INLETS NOT USED IN CONJUNCTION WITH EROSION CONTROL ARE TO BE BLOCKED TO PREVENT ENTRY OF SEDIMENT.
6. THIS EROSION AND SEDIMENT CONTROL PLAN MAY NOT COVER ALL THE SITUATIONS THAT MAY ARISE DURING CONSTRUCTION DUE TO UNANTICIPATED FIELD CONDITIONS. VARIATIONS AND ADDITIONS MAY BE MADE TO THIS PLAN IN THE FIELD. NOTIFY THE CITY REPRESENTATIVE OF ANY FIELD CHANGES.

PROPOSED

DESCRIPTION

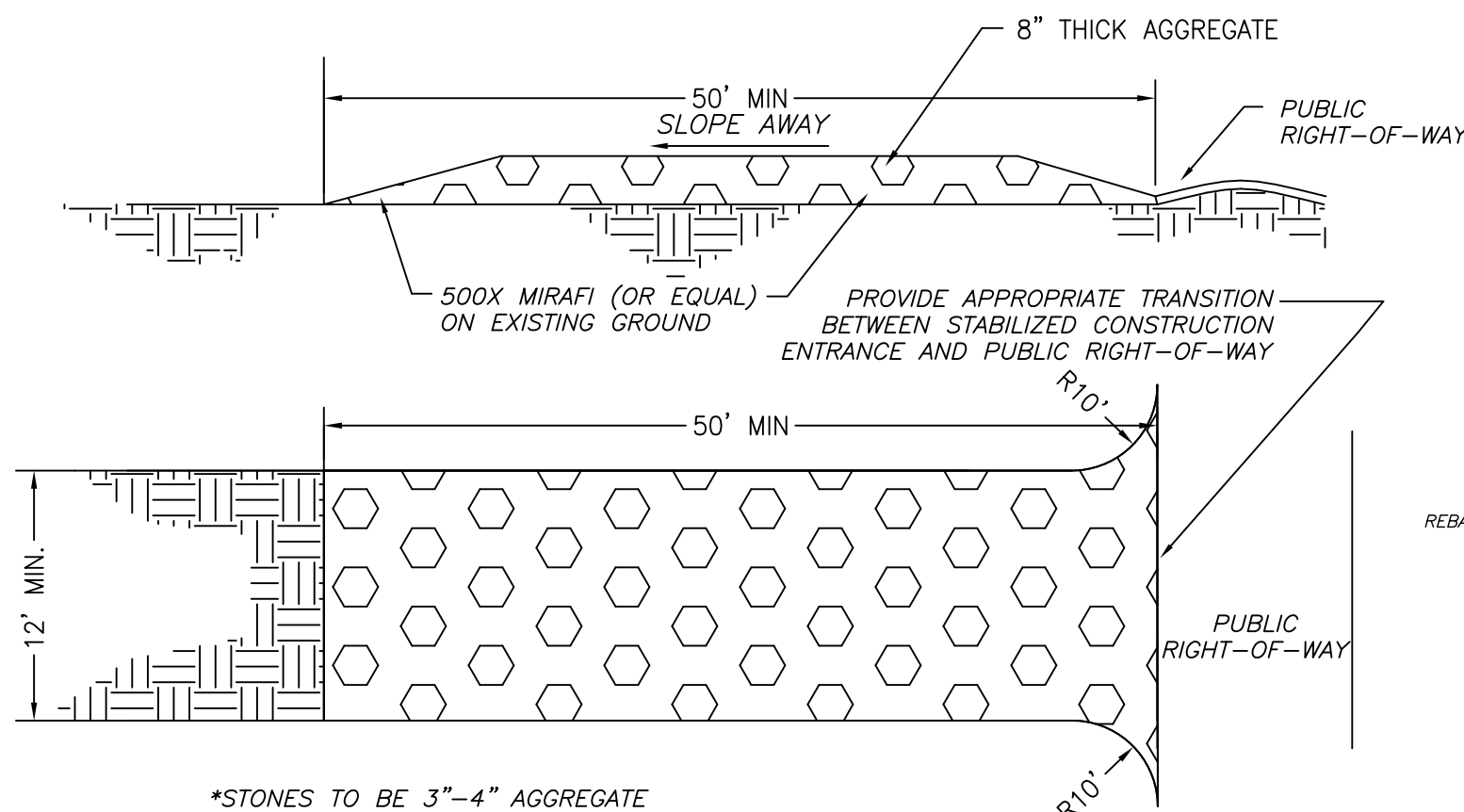


- NOTES:**
1. PROTECT ALL INLETS IN THE PUBLIC STREETS SURROUNDING THE SITE.
 2. ALL ON-SITE LANDSCAPE AREA DRAINS TO BE CAPPED OR PROTECTED UNTIL LANDSCAPING IS FINISHED.



MAINTENANCE NOTES

1. REPAIR DAMAGES CAUSED BY SOIL EROSION OR CONSTRUCTION AT THE END OF EACH WORKING DAY.
2. SWALES SHALL BE INSPECTED PERIODICALLY AND MAINTAINED AS NEEDED.
3. SEDIMENT TRAPS, BERMS, AND SWALES ARE TO BE INSPECTED AFTER EACH STORM AND REPAIRS MADE AS NEEDED.
4. SEDIMENT SHALL BE REMOVED AND SEDIMENT TRAP RESTORED TO ITS ORIGINAL DIMENSIONS WHEN SEDIMENT HAS ACCUMULATED TO A DEPTH OF 1 FOOT.
5. SEDIMENT REMOVED FROM TRAP SHALL BE DEPOSITED IN A SUITABLE AREA AND IN SUCH A MANNER THAT IT WILL NOT ERODE.
6. RILLS AND GULLIES MUST BE REPAIRED.



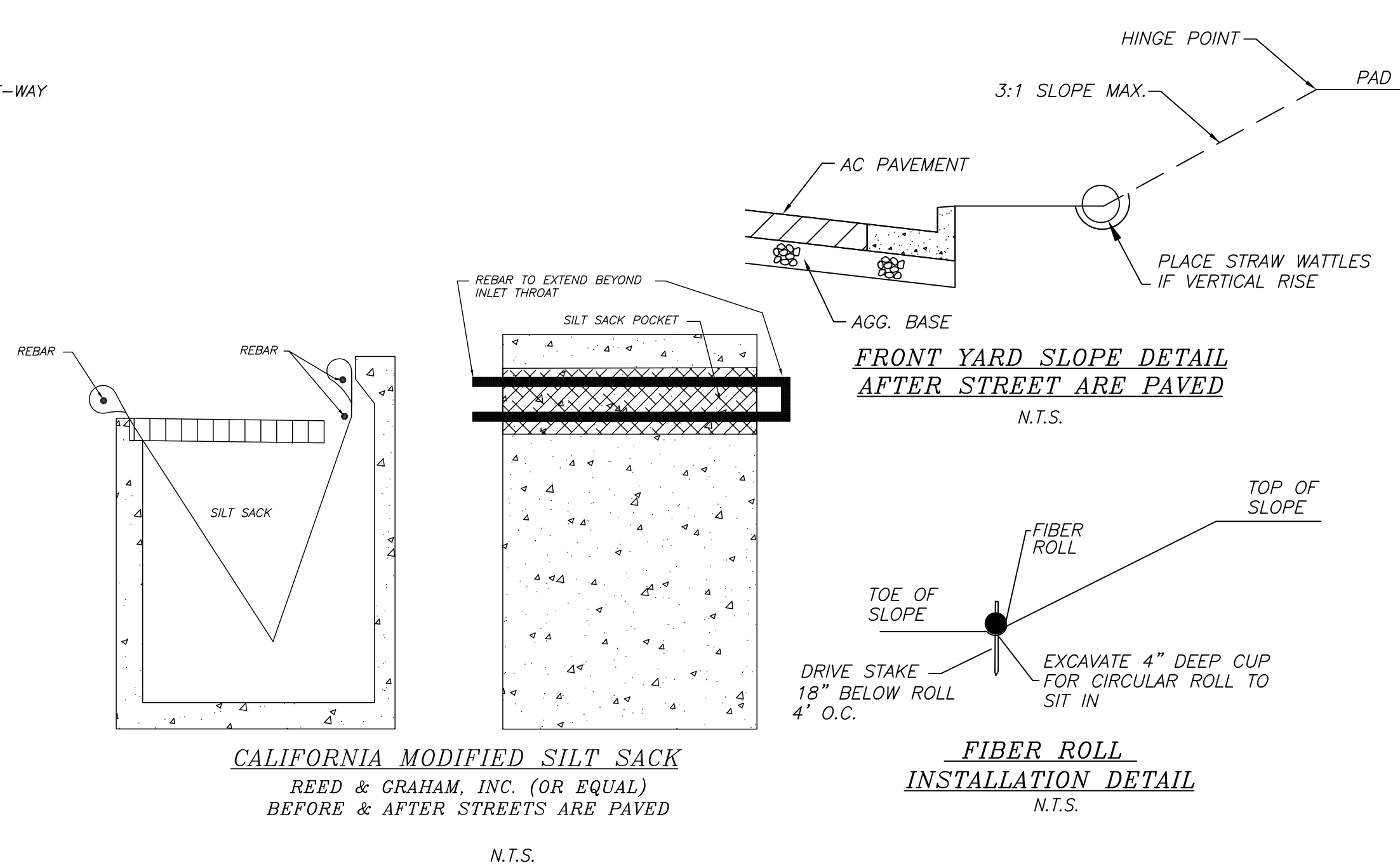
MAINTENANCE:

THE ENTRANCE SHALL BE MAINTAINED IN A CONDITION THAT WILL PREVENT TRACKING OR FLOWING SEDIMENT ONTO PUBLIC RIGHTS-OF-WAY. THIS MAY REQUIRE PERIODIC TOP DRESSING WITH ADDITIONAL STONE AS CONDITIONS DEMAND, AND REPAIR AND/OR CLEAN OUT ANY MEASURES USED TO TRAP SEDIMENT.

ALL SEDIMENT SPILLED, DROPPED, WASHED, OR TRACKED ONTO PUBLIC RIGHTS-OF-WAY SHALL BE REMOVED IMMEDIATELY.

WHEN NECESSARY, WHEELS SHALL BE CLEANED TO REMOVE SEDIMENT PRIOR TO ENTRANCE ONTO PUBLIC RIGHTS-OF-WAY. THIS SHALL BE DONE AT AN AREA STABILIZED WITH CRUSHED STONE, WHICH DRAINS INTO AN APPROVED SEDIMENT TRAP OR SEDIMENT BASIN.

STABILIZED
CONSTRUCTION ENTRANCE
N.T.S.



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GRADING & DRAINAGE PLAN
EROSION CONTROL
1311 COUNTRYSIDE CT

SHEET
C3
OF 6 SHEETS

	BY	CITY	DATE	REVISIONS
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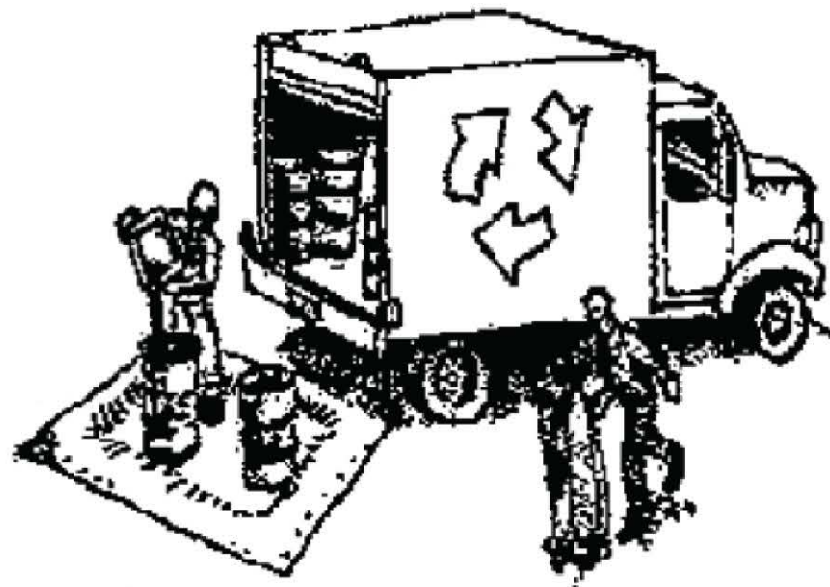
P. Oscar Osuna
PORFIRIO OSCAR OSUNA
RCE 70829 EXP. 6-30-

CONTRACTOR AGREES THAT HE SHALL ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THIS PROJECT, INCLUDING THE SAFETY OF ALL PERSONS AND PROPERTY. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND FOR OBTAINING ALL NECESSARY INSURANCE COVERAGE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND FOR OBTAINING ALL NECESSARY INSURANCE COVERAGE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND FOR OBTAINING ALL NECESSARY INSURANCE COVERAGE.

Construction Best Management Practices (BMPs)

Construction projects are required to implement year-round stormwater BMPs.

Materials & Waste Management



Non-Hazardous Materials

- ☐ Berm and cover stockpiles of sand, dirt or other construction material with tarps when rain is forecast or when they are not in use.
- ☐ Use (but don't overuse) reclaimed water for dust control.
- ☐ Ensure dust control water doesn't leave site or discharge to storm drains.

Hazardous Materials

- ☐ Label all hazardous materials and hazardous wastes (such as pesticides, paints, thinners, solvents, fuel, oil, and antifreeze) in accordance with City, County, State and Federal regulations.
- ☐ Store hazardous materials and wastes in water tight containers, store in appropriate secondary containment, and cover them at the end of every work day or during wet weather or when rain is forecast.
- ☐ Follow manufacturer's application instructions for hazardous materials and do not use more than necessary. Do not apply chemicals outdoors when rain is forecast within 24 hours.
- ☐ Arrange for appropriate disposal of all hazardous wastes.

Waste Management

- ☐ Cover and maintain dumpsters. Check frequently for leaks. Place dumpsters under roofs or cover with tarps or plastic sheeting secured around the outside of the dumpster. A plastic liner is recommended to prevent leaks. Never clean out a dumpster by hosing it down on the construction site.
- ☐ Place portable toilets away from storm drains. Make sure they are in good working order. Check frequently for leaks.
- ☐ Dispose of all wastes and demolition debris properly. Recycle materials and wastes that can be recycled, including solvents, water-based paints, vehicle fluids, broken asphalt and concrete, wood, and cleared vegetation.
- ☐ Dispose of liquid residues from paints, thinners, solvents, glues, and cleaning fluids as hazardous waste.
- ☐ Keep site free of litter (e.g. lunch items, cigarette butts).
- ☐ Prevent litter from uncovered loads by covering loads that are being transported to and from site.

Construction Entrances and Perimeter

- ☐ Establish and maintain effective perimeter controls and stabilize all construction entrances and exits to sufficiently control erosion and sediment discharges from site and tracking off site.
- ☐ Sweep or vacuum any street tracking immediately and secure sediment source to prevent further tracking. Never hose down streets to clean up tracking.

Equipment Management & Spill Control



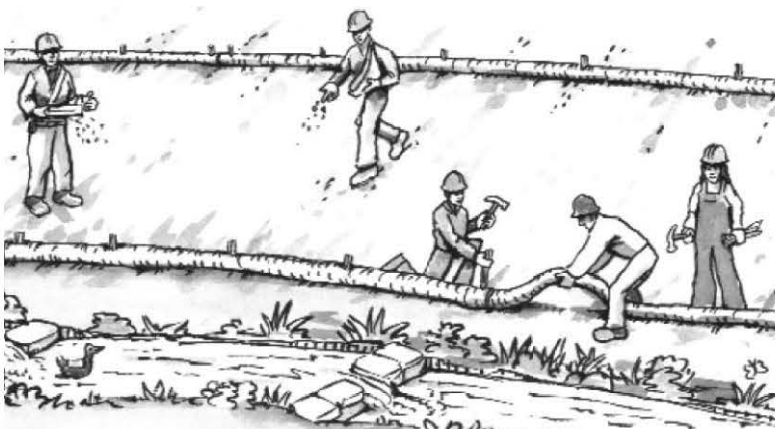
Maintenance and Parking

- ☐ Designate an area of the construction site, well away from streams or storm drain inlets and fitted with appropriate BMPs, for auto and equipment parking, and storage.
- ☐ Perform major maintenance, repair jobs, and vehicle and equipment washing off site.
- ☐ If refueling or vehicle maintenance must be done onsite, work in a bermed area away from storm drains and over a drip pan or drop cloths big enough to collect fluids. Recycle or dispose of fluids as hazardous waste.
- ☐ If vehicle or equipment cleaning must be done onsite, clean with water only in a bermed area that will not allow rinse water to run into gutters, streets, storm drains, or surface waters.
- ☐ Do not clean vehicle or equipment onsite using soaps, solvents, degreasers, or steam cleaning equipment, and do not use diesel oil to lubricate equipment or parts onsite.

Spill Prevention and Control

- ☐ Keep spill cleanup materials (e.g., rags, absorbents and cat litter) available at the construction site at all times.
- ☐ Maintain all vehicles and heavy equipment. Inspect frequently for and repair leaks. Use drip pans to catch leaks until repairs are made.
- ☐ Clean up leaks, drips and other spills immediately and dispose of cleanup materials properly.
- ☐ Use dry cleanup methods whenever possible (absorbent materials, cat litter and/or rags).
- ☐ Sweep up spilled dry materials immediately. Never attempt to "wash them away" with water, or bury them.
- ☐ Clean up spills on dirt areas by digging up and properly disposing of contaminated soil.
- ☐ Report significant spills to the appropriate local spill response agencies immediately. If the spill poses a significant hazard to human health and safety, property or the environment, you must report it to the State Office of Emergency Services. (800) 852-7550 (24 hours).

Earthmoving



Grading and Earthwork

- ☐ Schedule grading and excavation work during dry weather.
- ☐ Stabilize all denuded areas, install and maintain temporary erosion controls (such as erosion control fabric or bonded fiber matrix) until vegetation is established.
- ☐ Remove existing vegetation only when absolutely necessary, plant temporary vegetation for erosion control on slopes or where construction is not immediately planned.
- ☐ Prevent sediment from migrating offsite and protect storm drain inlets, drainage courses and streams by installing and maintaining appropriate BMPs (i.e. silt fences, gravel bags, fiber rolls, temporary swales, etc.).
- ☐ Keep excavated soil on site and transfer it to dump trucks on site, not in the streets.

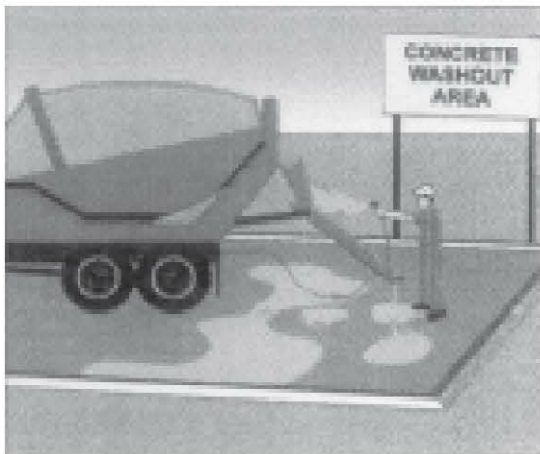
Contaminated Soils

- ☐ If any of the following conditions are observed, test for contamination and contact the Regional Water Quality Control Board:
 - Unusual soil conditions, discoloration, or odor.
 - Abandoned underground tanks.
 - Abandoned wells
 - Buried barrels, debris, or trash.
- ☐ If the above conditions are observed, document any signs of potential contamination and clearly mark them so they are not disturbed by construction activities.

Landscaping

- ☐ Protect stockpiled landscaping materials from wind and rain by storing them under tarps all year-round.
- ☐ Stack bagged material on pallets and under cover.
- ☐ Discontinue application of any erodible landscape material within 2 days before a forecast rain event or during wet weather.

Concrete Management and Dewatering



Concrete Management

- ☐ Store both dry and wet materials under cover, protected from rainfall and runoff and away from storm drains or waterways. Store materials off the ground, on pallets. Protect dry materials from wind.
- ☐ Wash down exposed aggregate concrete only when the wash water can (1) flow onto a dirt area; (2) drain onto a bermed surface from which it can be pumped and disposed of properly; or (3) block any storm drain inlets and vacuum washwater from the gutter. If possible, sweep first.
- ☐ Wash out concrete equipment/trucks offsite or in a designated washout area onsite, where the water will flow into a temporary waste pit, and make sure wash water does not leach into the underlying soil. (See CASQA Construction BMP Handbook for properly designed concrete washouts.)

Dewatering

- ☐ Discharges of groundwater or captured runoff from dewatering operations must be properly managed and disposed. When possible, send dewatering discharge to landscaped area or sanitary sewer. If discharging to the sanitary sewer, call your local wastewater treatment plant.
- ☐ Divert run-on water from offsite away from all disturbed areas.
- ☐ When dewatering, notify and obtain approval from the local municipality before discharging water to a street gutter or storm drain. Filtration or diversion through a basin, tank, or sediment trap may be required.
- ☐ In areas of known or suspected contamination, call your local agency to determine whether the ground water must be tested. Pumped groundwater may need to be collected and hauled off-site for treatment and proper disposal.

Paving/Asphalt Work



Paving

- ☐ Avoid paving and seal coating in wet weather or when rain is forecast, to prevent materials that have not cured from contacting stormwater runoff.
- ☐ Cover storm drain inlets and manholes when applying seal coat, slurry seal, fog seal, or similar materials.
- ☐ Collect and recycle or properly dispose of excess abrasive gravel or sand. Do NOT sweep or wash it into gutters.

Sawcutting & Asphalt/Concrete Removal

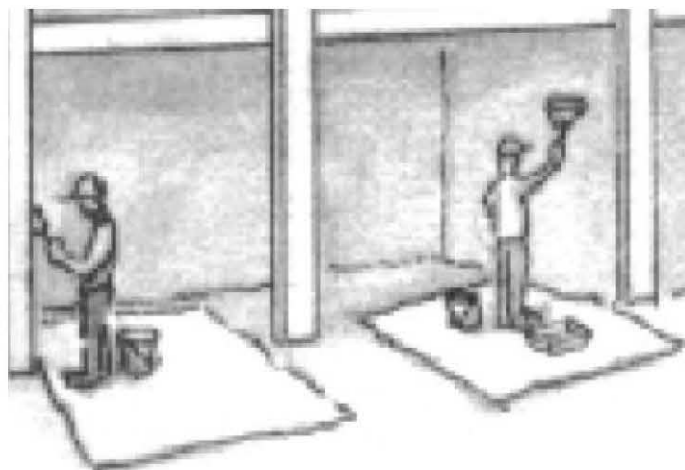
- ☐ Protect storm drain inlets during saw cutting.
- ☐ If saw cut slurry enters a catch basin, clean it up immediately.
- ☐ Shovel or vacuum saw cut slurry deposits and remove from the site. When making saw cuts, use as little water as possible. Sweep up, and properly dispose of all residues.



**Santa Clara Valley
Urban Runoff**

Pollution Prevention Program

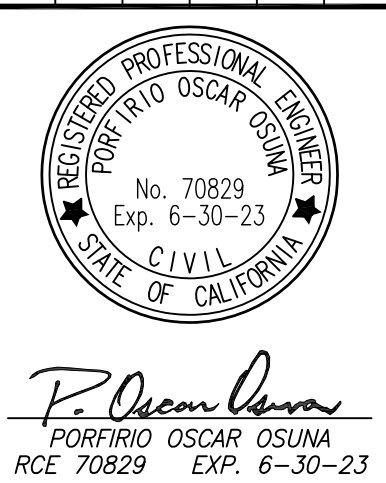
Painting & Paint Removal



Painting Cleanup and Removal

- ☐ Never clean brushes or rinse paint containers into a street, gutter, storm drain, or stream.
- ☐ For water-based paints, paint out brushes to the extent possible, and rinse into a drain that goes to the sanitary sewer. Never pour paint down a storm drain.
- ☐ For oil-based paints, paint out brushes to the extent possible and clean with thinner or solvent in a proper container. Filter and reuse thinners and solvents. Dispose of excess liquids as hazardous waste.
- ☐ Sweep up or collect paint chips and dust from non-hazardous dry stripping and sand blasting into plastic drop cloths and dispose of as trash.
- ☐ Chemical paint stripping residue and chips and dust from marine paints or paints containing lead, mercury, or tributyltin must be disposed of as hazardous waste. Lead based paint removal requires a state-certified contractor.

REVISIONS	DATE	CITY	BY



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SAN JOSE, CA 95119
TEL. (408) 772-4381
Info@osunaengineering.com

GRADING & DRAINAGE PLAN
BMP SHEET
1311 COUNTRYSIDE CT
MILPITAS CALIFORNIA
Project No.: 2713 | Designed: J.O. | Checked: O.O. | Dated: 07/24/2023

SHEET
C4
OF 6 SHEETS

Storm drain polluters may be liable for fines of up to \$10,000 per day!

TREE PROTECTION NOTES

PROTECT EXISTING TREES SHOWN ON PLAN TO REMAIN BY FOLLOWING THESE INSTRUCTIONS.

1. THE GRADE BETWEEN THE DRIPLINE AND ROOT CROWN OF THE TREES SHALL NOT BE CUT AND CAN BE FILLED BY ONLY 3 INCHES, EXCEPT WITHIN 5'-0" OF THE TRUNK WHERE THE GRADE SHALL NOT BE DISTURBED.
2. IRRIGATION AND RAIN WATER SHALL BE ABLE TO DRAIN AWAY FROM THE ROOT CROWN OF THE TREES.
3. DO NOT DRIVE OR PARK VEHICLES WITHIN THE DRIPLINE AREA OF THE TREES UNLESS NECESSARY TO DO PAVING CONSTRUCTION. IF THERE HAS BEEN ANY VEHICULAR TRAFFIC WITHIN THE DRIPLINE, THE GROUND SHALL BE SCARIFIED BY HAND TO A DEPTH OF 12 INCHES TO DE-COMPACT.
4. DO NOT ALLOW CONTRACTORS TO DUMP WASTE CONCRETE, PLASTER, ETC. UNDER DRIPLINE OF TREES. DO NOT ALLOW PAINTERS OR OTHER TO CLEAN EQUIPMENT UNDER DRIPLIN OR UPHILL OF EXISTING TREES WHERE NATURAL DRAINAGE WOULD CAUSE WASTE TO RUN WITHIN DRIPLINE. DO NOT ALLOW ANY WASTE TO BE DUMPED IN SOIL ON SITE.
5. EXISTING TREES SHALL NOT BE PRUNED/ROOT CUTS WITHOUT THE WRITTEN PERMISSION OF THE LANDSCAPE ARCHITECT OR ARBORIST.
6. IF IT IS NECESSARY TO PRUNE OR CUT ANY ROOTS LARGER THAN 1 INCH IN DIAMETER, THE ROOTS SHALL BE CUT CLEANLY AND ROOT SEALED. WHERE EXCAVATION IS REQUIRED AROUND TREES (FOR WALL, PAVING, ETC.) THE REPLACED SOIL SHALL BE 1/3 SOIL AMENDMENT AND 2/3 NATIVE SOIL.
7. NO IRRIGATION SHALL BE INSTALLED WITHIN 5'-0" OF THE TRUNK. NO SPRAY SHALL HIT THE TRUNKS OF TREES. ALL TRENCHING WITHIN THE DRIPLINE WILL BE DONE BY HAND. ALL PIPING SHALL RUN PERPENDICULAR TO THE TRUNK WITHIN THE DRIPLINE EXCEPT AT FACE OF CURB, PLANTER OR PAVING.

PLANT LIST:

KEY	BOTANICAL NAME	COMMON NAME	QTY.	SIZE	REMARKS	WUCOLS
TREES						
NATIVE T1	TRACHYCARPUS FORTUNEI	CHINESE WINDMILL PALM	2	24"BOX	10' BRN. TRUNK	LOW
NATIVE T2	QUERCUS AGRIFOLIA	COAST LIVE OAK	1	24"BOX	STANDARD	LOW
NATIVE T3	CERCIS OCCIDENTALIS	WESTERN REDBUD	2	24"BOX	STANDARD	LOW
NATIVE T4	DODONAEA V. 'PURPUREA'	PURPLE LEAFED HOP BUSH	12	15 GAL	NATURAL	LOW
NATIVE T5	CERCIDILUM X 'DESERT MUSEUM'	DESERT MUSEUM PALO VERDE	---	15 GAL	NATURAL	LOW
SHRUBS						
NATIVE S1	ARCTOSTAPHYLOS D. 'HOWARD MCMINN'	MCMINN MANZANITA	15	5 GAL		LOW
NATIVE S2	LIMNIMUM PEREZII	SEA LAVENDER	44	5 GAL		LOW
NATIVE S3	HEUCHERA 'SANTA ANA CARDINAL'	SANTA ANA CARDINAL CORAL BELLS	8	5 GAL		LOW
NATIVE S4	FENSTERON H. 'MARGARITA BO'	BLUE BEEDER	11	5 GAL		LOW
NATIVE S5	CEANOTHUS 'GONCHIA'	CALIFORNIA MOUNTAIN LILAC	23	5 GAL		LOW
NATIVE S6	ARTEMISIA 'POWIS CASTLE'	WORMWOOD POWIS CASTLE	13	5 GAL		LOW
NATIVE S7	MUHLENBERGIA RIGENS	DEER GRASS	22	5 GAL		LOW
NATIVE S8	SALVIA CLEVELANDII 'WINNIFRED GILMAN'	BLUE SAGE	5	5 GAL		LOW
NATIVE S9	RHAPTUNIS C. 'EYE CASE'	COFFEEBERRY	6	5 GAL		LOW
NATIVE S10	FRUNUS CAROLINIANA 'COMPACTA'	COMPACT CAROLINA CHERRY LAUREL	31	5 GAL		LOW
NATIVE S11	GARRYA ELLIPTICA 'EVIE'	EVIE SILKTASSEL	---	5 GAL		LOW
GROUND COVERS						
G1	ROSMARINUS O. 'HUNTINGTON CARPET'	HUNTINGTON CARPET ROSEMARY	---	1 GAL	36" O.C.	LOW
NATIVE G2	BERBERIS REPENS	CREeping BARBERRY	---	1 GAL	24" O.C.	LOW
NATIVE G3	CEANOTHUS G. H. 'YANKEE POINT'	YANKEE POINT CEANOTHUS	---	1 GAL	48" O.C.	LOW
NATIVE G4	ERIOGONUM G. V. RUBESCENS	SAN MIGUEL ISLAND BUCKWHEAT	---	1 GAL	24" O.C.	LOW
NATIVE G5	NATIVE WILDFLOWER SEED MIX		---			LOW
NATIVE G6	BACCHARIS P. 'TWIN PEAKS'	DWARF COYOTE BUSH	---	1 GAL	36" O.C.	LOW

PLANT NOTES:

1. THE CONTRACTOR SHALL VERIFY PLANT QUANTITIES FROM THE PLANTING PLAN. QUANTITIES SHOWN IN THE LEGEND ARE FOR CONVENIENCE ONLY.
2. NOTIFY THE LANDSCAPE ARCHITECT IMMEDIATELY IN THE EVENT OF ANY DISCREPANCIES BETWEEN ACTUAL SITE CONDITIONS AND THE PLANTING PLAN.
3. PLANT GROUNDCOVER IN SHRUB AREAS AS NOTED, USE TRIANGULAR SPACING.
4. SEE DETAIL AND SPECIFICATION SHEETS FOR ADDITIONAL INFORMATION.
5. THERE WILL BE NO MATERIALS OR PLANT MATERIALS SUBSTITUTIONS WITHOUT APPROVAL OF THE OWNER OR THE LANDSCAPE ARCHITECT.
6. PROVIDE POSITIVE DRAINAGE AWAY FROM ALL BUILDINGS (2% MIN)
7. IN THE EVENT OF ANY DISCREPANCIES BETWEEN THIS PLAN AND ACTUAL SITE CONDITIONS, THE LANDSCAPE ARCHITECT IS TO BE NOTIFIED IMMEDIATELY.
8. LANDSCAPE CONTRACTOR IS TO FINE GRADE ALL LANDSCAPE AREAS.
9. ALL SITE UTILITIES ARE TO BE PROTECTED DURING CONSTRUCTION. IN THE EVENT OF CONFLICT BETWEEN THE PLANS AND UTILITIES THE CONTRACTOR SHALL NOTIFY THE LANDSCAPE ARCHITECT. ANY DAMAGE TO UTILITIES, STRUCTURES, OR OTHER FEATURES TO REMAIN, AND CAUSED BY THE LANDSCAPE CONTRACTOR SHALL BE REPLACED OR REPAIRED BY THE CONTRACTOR AT NO EXPENSE TO THE OWNER.
10. THE WORK IN THESE DRAWINGS AND SPECIFICATIONS MY RUN CONCURRENTLY WITH WORK BY OTHERS. THE LANDSCAPE CONTRACTOR SHALL COORDINATE THE WORK WITH OTHER CONTRACTORS.
11. PRIOR TO ANY DIGGING OR TRENCHING, CALL UNDERGROUND SERVICE ALERT 1-800.227.2600
12. A MINIMUM OF 3" DEPTH LAYER OF MULCH IS REQUIRED ON ALL EXPOSED PLANTING SURFACES.

PLANT SYMBOLS

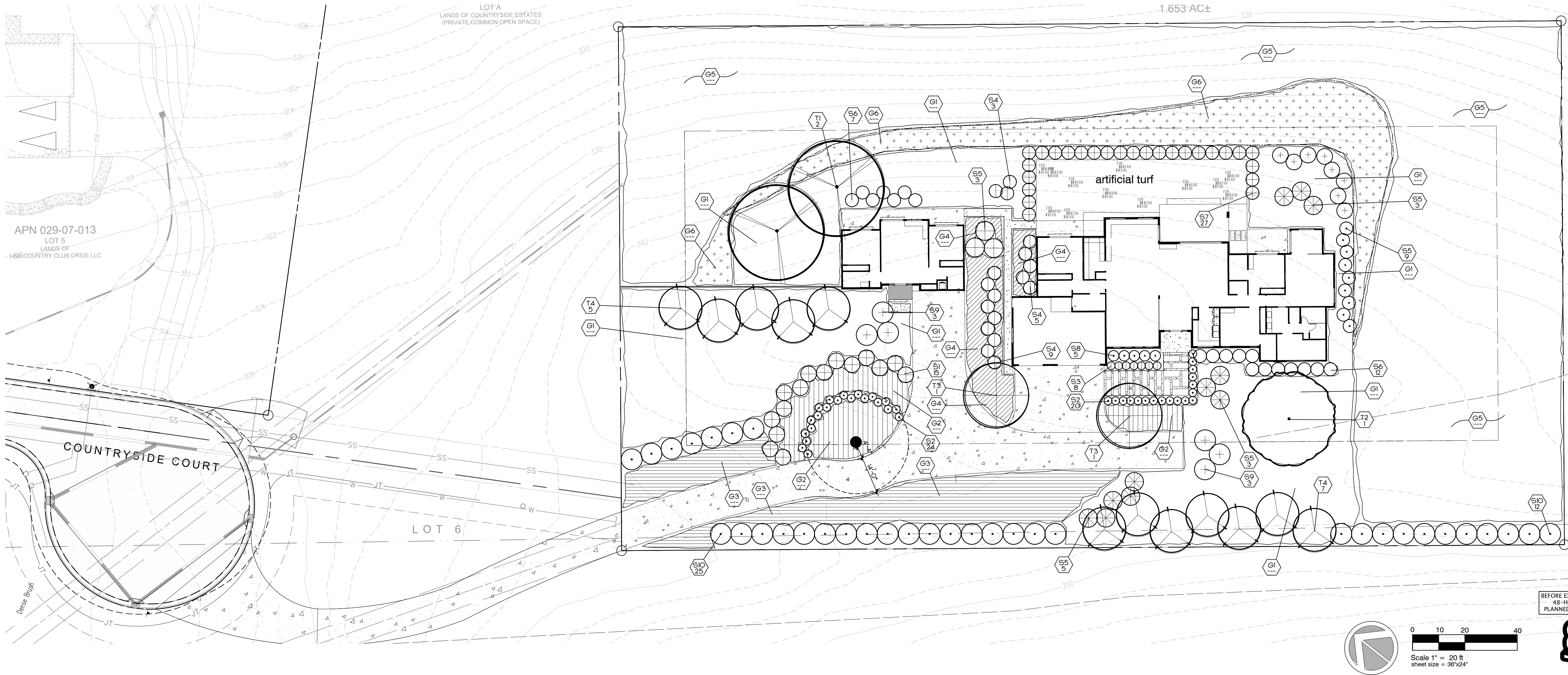
INDICATES PLANT KEY
INDICATES PLANT QUANTITY

EXISTING TREE TO REMAIN

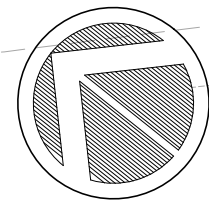
WILDFLOWER CONTROL SEED MIX NOTES

- EROSION CONTROL SEED MIX TO BE: (COMBINE BOTH MIXES)
11. CALIFORNIA NATIVE WILDFLOWER SEE MIX 20 LBS PER ACRE
 12. BASIC EROSION CONTROL SEED MIX 40 LBS PER ACRE

SEE MIX AVAILABLE FROM :
S & S SEEDS
INFO@SSSEEDS.COM
805-684-0436



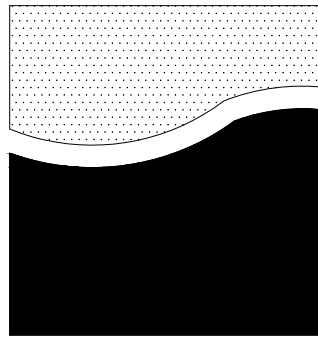
BEFORE EXCAVATING CALL 811
48-HOURS BEFORE ALL
PLANNED WORK OPERATIONS



0 10 20 40
Scale 1" = 20 ft
sheet size = 36"x24"



Know what's below.
Call before you dig.

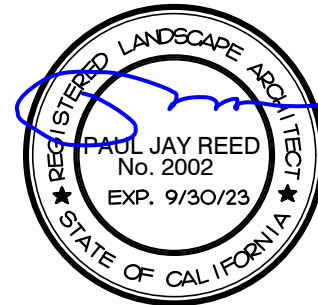


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Approved	prj	Reviewed	prj
Drawn	ds		
Project No.	---		
Scale	---	Issue Date	11/22/22

Landscape
Planting Plan

L1.0

IRRIGATION PIPE SIZING CHART

1. MINIMUM GALLON PER MINUTE OPERATION FLOW TO BE NO LESS THAN 6 GALLONS PER MINUTE.
2. MINIMUM IRRIGATION VELOCITY IN MAINLINE TO BE 0.6 FPS FOR PROPER OPERATION OF FLOW METER.
3. 25 GALLONS PER MINUTE MAXIMUM OPERATION FLOW FOR IRRIGATION SYSTEM.

SCHEDULE 40			CLASS 315		
● CONSTANT PRESSURE PIPING 1/2 INCHES AND SMALLER.			● CONSTANT PRESSURE PIPING 2 INCHES AND LARGER.		
1/2"	==	0-4 GPM	2"	==	31-48 GPM
3/4"	==	5-8 GPM	2-1/2"	==	49-65 GPM
1"	==	9-13 GPM	3"	==	66-100 GPM
1-1/4"	==	14-22 GPM			
1-1/2"	==	23-30 GPM			
2"	==	31-50 GPM			

DRIP IRRIGATION NOTES

1. REFER TO DRIP IRRIGATION DETAILS FOR THE LAYOUT AND EXACT DIMENSIONS FOR THE DRIP LINE. THE DRIP LINE SHALL BE A MAXIMUM OF 18" APART AND SHALL BE A MAXIMUM OF 4" FROM ALL WALKS, CURBS AND WALLS. THE NUMBER OF DRIP LINES SHOWN ON PLANS MAY NOT REFLECT THE ACTUAL NUMBER REQUIRED. THE SPACING GUIDE SHALL TAKE PRECEDENCE. DRIP EMITTER LINES SHALL BE ALIGNED TO HAVE A STAGGERED TRIANGULAR EMITTER LAYOUT PATTERN.
2. THE SUPPLY HEADER AND EXHAUST HEADER, WHEN PVC, SHALL BE BURIED AT A MINIMUM OF 12" BELOW GRADE.
3. INSTALL THE AUTOMATIC AIR RELIEF VALVE AT THE HIGHEST POINT ON EACH CIRCUIT OR AS DIRECTED BY THE PROJECT LANDSCAPE ARCHITECT.
4. OPERATING PRESSURE FOR DRIP EMITTER LINE - 20 PSI (MIN) TO 60 PSI (MAX). 20 PSI TO BE PROVIDED AT THE FARTHEST EMITTER FROM THE P.O.C. VERIFY PRIOR TO CONSTRUCTION.
5. ON SLOPES GREATER THAN 8'-0" ELEVATION CHANGE, IT MAY BE NECESSARY TO ADJUST THE SPACING BETWEEN THE DRIP LINES. THE DISTANCE BETWEEN THE DRIP LINES SHALL BE INCREASED TOWARDS THE BOTTOM OF THE SLOPE AND DECREASED TOWARDS THE TOP OF THE SLOPE. ADJUST IN FIELD TO PROVIDE PROPER COVERAGE WITHOUT WATER RUNOFF OR DRY SPOTS. IRRIGATION EMITTER LINE TO RUN HORIZONTAL TO SLOPE DIRECTION. IF 8'-0" OF ELEVATION CHANGE OCCUR IN DRIP LINE CIRCUIT, THEN INSTALL CHECK VALVE IN LATERAL LINE TO PREVENT LOW HEAD DRAINAGE.

IRRIGATION NOTES LEGEND



EXISTING TREE TO REMAIN

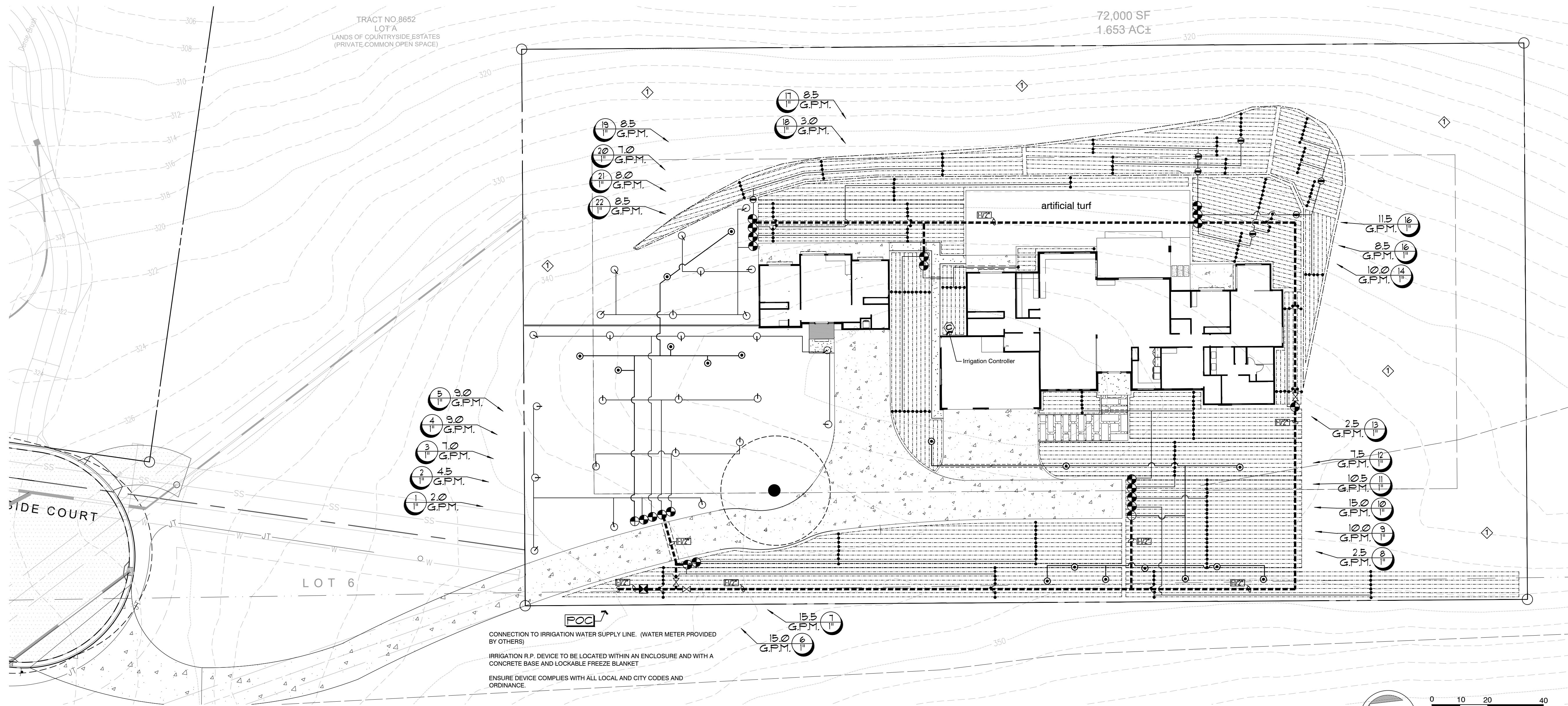
NON-IRRIGATION AREA - WILD SEED MIX AREA NOT TO RECEIVE IRRIGATION

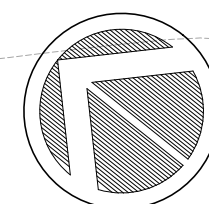
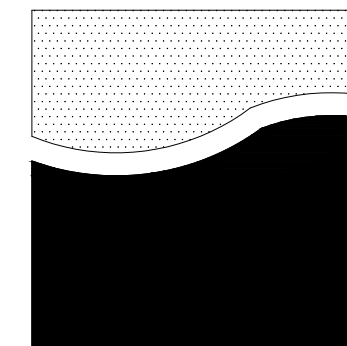
IRRIGATION NOTES

1. SEE SPECIFICATION AND DETAIL SHEETS FOR ADDITIONAL INFORMATION.
2. NOTIFY THE LANDSCAPE ARCHITECT IMMEDIATELY IN THE EVENT OF ANY DISCREPANCIES BETWEEN THE ACTUAL SITE CONDITIONS AND THIS PLAN.
3. THIS SYSTEM IS DESIGNED TO OPERATE WITH A STATIC WATER PRESSURE OF 60 PSI. VERIFY WATER PRESSURE PRIOR TO THE START OF CONSTRUCTION.
4. THIS PLAN IS DIAGRAMMATIC AND DOES NOT NECESSARILY INDICATE ALL OFFSETS AND FITTINGS REQUIRED FOR A COMPLETE IRRIGATION SYSTEM.
5. LOCATE ALL PIPING IN PLANTING AREAS WHERE EVER POSSIBLE.
6. ADJUST ALL IRRIGATION HEADS TO INSURE PROPER COVERAGE AND AVOID EXCESSIVE OVER-SPRAY.
7. COORDINATE AUTOMATIC CONTROLLER ELECTRICAL HOOK-UP WITH PROJECT ELECTRICIAN.
8. VERIFY TYPE AND LOCATION OF BACK-FLOW PREVENTION ASSEMBLY WITH ALL LOCAL JURISDICTIONS, PRIOR TO INSTALLATION.
9. INSTALL CHECK VALVES AS REQUIRED TO PREVENT LOW-HEAD DRAINAGE.
10. DETECTOR TAPE SHOULD BE INSTALLED WITH ANY PRESSURE LINES NOT BURIED IN THE SAME TRENCH WITH CONTROL WIRES AND WITH ANY LINES OF ANY KIND UNDER PAVING NOT IN A TRENCH WITH CONTROL WIRES.
11. INSTALL TWO SPARE CONTROL WIRES ALONG THE ENTIRE MAIN LINE. SPARE WIRES SHALL BE THE SAME COLOR (ONE WITH A WHITE STRIPE) AND OF A DIFFERENT COLOR THAN OTHER CONTROL WIRES. LOOP 36 INCH EXCESS WIRE INTO EACH SINGLE VALVE BOX AND INTO ONE VALVE BOX IN EACH GROUP OF VALVES.
12. ALL VALVE BOXES SHALL BE NO MORE THAN 2 INCHES ABOVE FINISH GRADE.
13. EXISTING TREES ROOTS SHALL NOT BE CUT WITHOUT THE WRITTEN PERMISSION OF THE LANDSCAPE ARCHITECT OR ARBORIST.

IRRIGATION LEGEND

KEY	DESCRIPTION	
	POINT OF CONNECTION (CONNECT TO WATER SERVICE LINE) ENSURE CONNECTION COMPLIES WITH ALL LOCAL LAWS AND ORDINANCES PRIOR TO INSTALLATION.	
-----	SCHEDULE 40 - or - CLASS 315 PVC PRESSURE MAINLINE (SIZE AS NOTED)	
-----	SCHEDULE 40 PVC NON-PRESSURE SLEEVE UNDER PAVEMENT (2X SIZE/SIDE PIPE)	
-----	SCHEDULE 40 PVC NON-PRESSURE LATERAL LINE (SIZE AS NOTED)	
	INDICATES CONTROLLER STATION NO.	
	INDICATES VALVE SIZE	
	'HYDROPOINT' (WeatherTRAK LC) CLOUD BASED IRRIGATION CONTROLLER INCLUDES 1 YEAR WEATHERTRAK CENTRAL (WPL-C-24 - PL -) PLASTIC ENCLOSURE R5500 "IRRITROL" RAIN SENSOR WIRED	
	'IRRITROL' 1000 SERIES "ULTRA-FLOW" - ELECTRIC VALVE - (SIZE AS NOTED) (SEE DRIP IRRIGATION DETAILS FOR CONTROL VALVES ON DRIP LINE CIRCUITS)	
	'IRRITROL' 1000 SERIES "ULTRA-FLOW" - ELECTRIC VALVE - (SIZE AS NOTED). TREE BUBBLERS ONLY (SEE DRIP IRRIGATION DETAILS FOR CONTROL VALVES ON DRIP LINE CIRCUITS)	
	HUNTER HCV INLINE CHECK VALVE (HC-30F-30F 1/2") (HC-50F-18M 3/4")	
	'LO-TORQUE' PVC ISOLATION BALL VALVE BY KBI. SIZE AS MAINLINE. LOCATE IN VALVE BOX.	
KEY	DESCRIPTION	
	RAINBIRD 1401 (0.25gpm)	FLOOD BUBBLER ON FLEX TUBE - 30PSI
	RAINBIRD XFD-09-18-500 (SURFACE DRIP) XACZ-100-PRF XCF-10-18-100 OPERIND	0.9 GPH DRIFLINE AT 18" SPACING CONTROL ZONE/FILTER KIT - 1" (MAX. FLOW OF 15 GPM) OF DRIFLINE HEADER 1" DIA. AT 18" SPACING INSTALL ONE OPERATION INDICATOR FOR EACH CIRCUIT (SEE IRRIGATION DETAILS FOR ADDITIONAL INFORMATION INSTALL PER MANUFACTURER'S SPECIFICATIONS)
	RAINBIRD RD-12-S-P30-RIT-24Q (21R-0.15gpm)	1/2" SHURB POP-UP - ROTARY NOZZLE - 30PSI
	RAINBIRD RD-12-S-P30-RIT-24H (21R-1.5gpm)	1/2" SHURB POP-UP - ROTARY NOZZLE - 30PSI
	RAINBIRD RD-12-S-P30-RIT-24F (21R-3.0gpm)	1/2" SHURB POP-UP - ROTARY NOZZLE - 30PSI

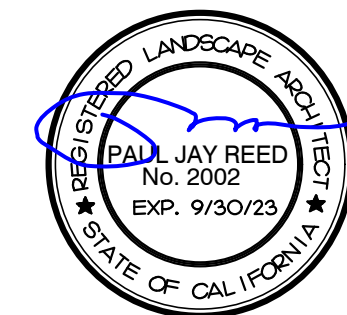

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 Call before you dig.

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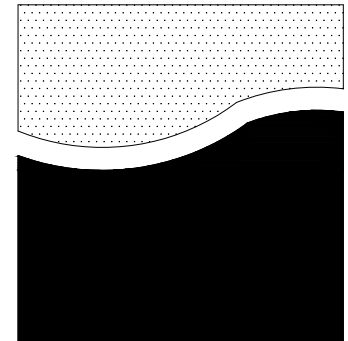
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 Project No. ---
 Scale --- Issue Date 11/22/22
Landscape
Irrigation Plan

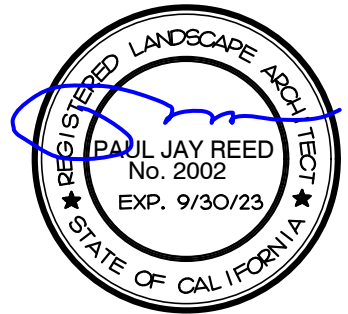
L2.1



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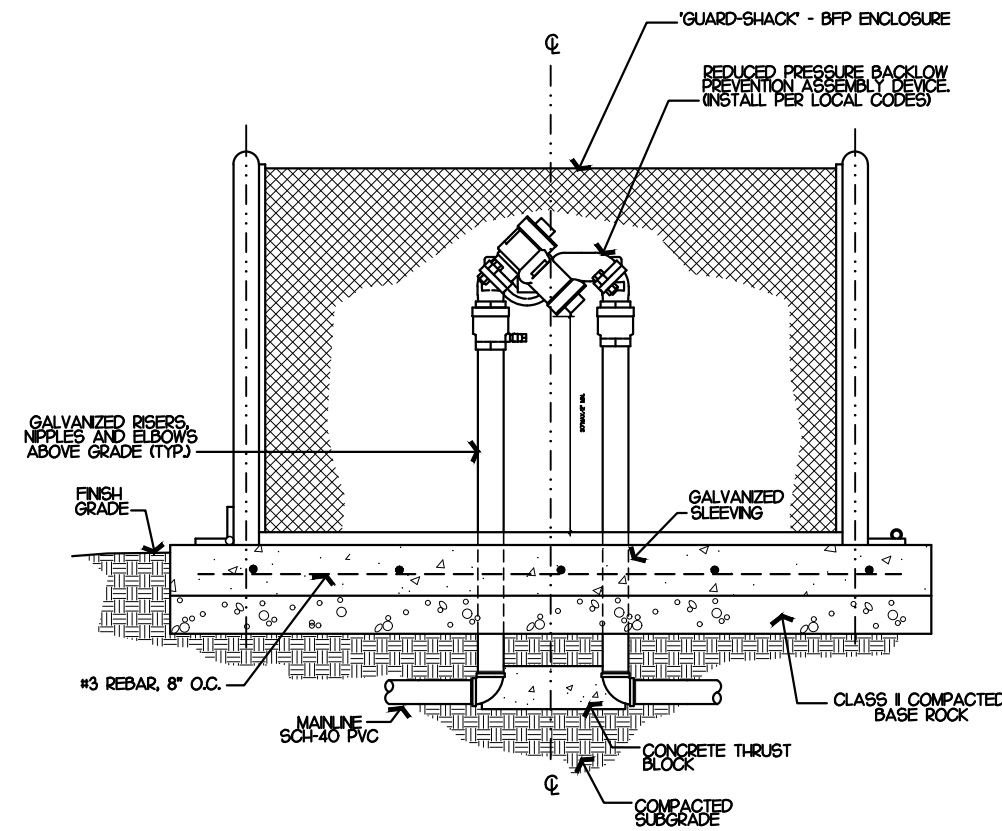


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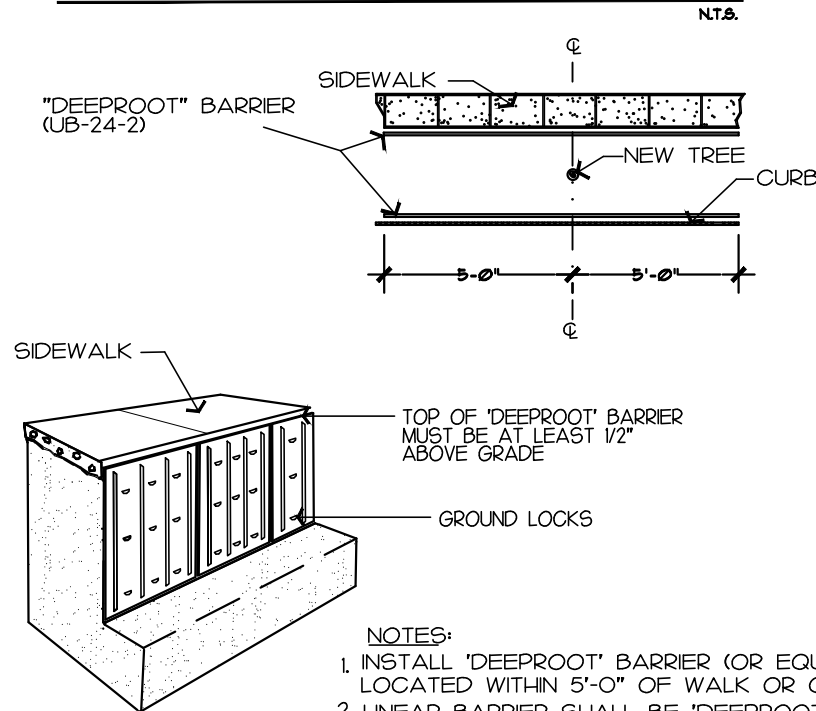
L3.0



- NOTES:
1. ASSEMBLY TO BE 3'-0" (MIN) FROM PAVED AREAS.
 2. SEAL ALL THREADED CONNECTIONS WITH 'PERMATEX' 541 PIPE JOINT COMPOUND OR EQUAL.
 3. USE BACKFLOW PREVENTER ENCLOSURE - 'GUARD SHACK' - SIZE ENCLOSURE AS REQUIRED. B.P.D.I. INC. (650) 788-5441.
 4. INSTALL FREEZE PROTECTION BLANKET.

4 BACKFLOW PREVENTER DETAIL

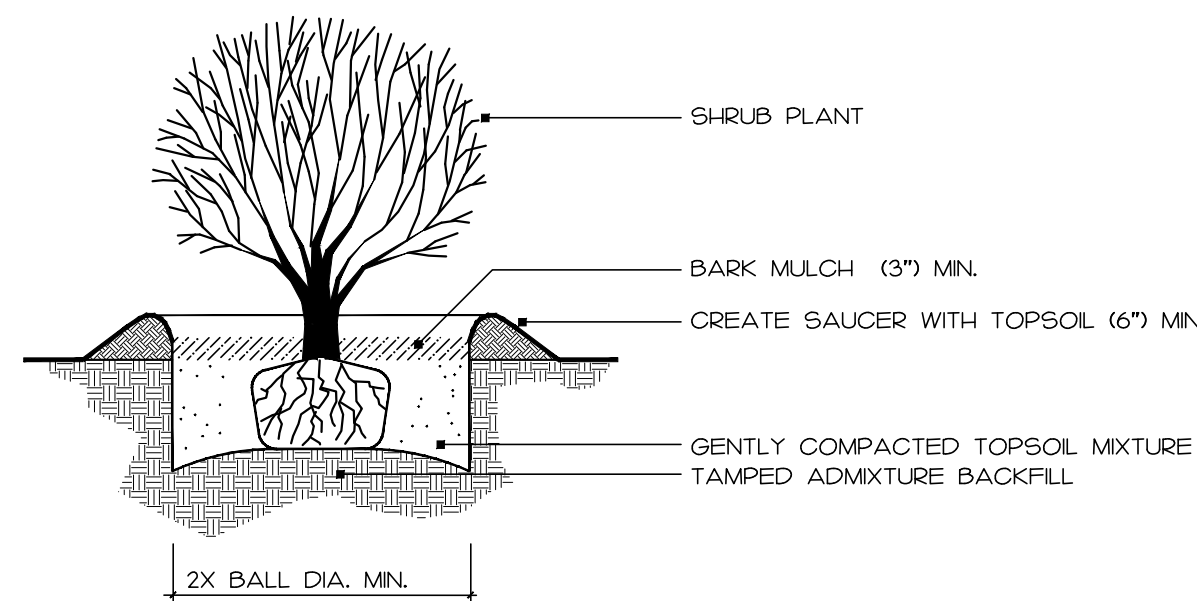
'DEEPROOT' BARRIER



- NOTES:
1. INSTALL 'DEEPROOT' BARRIER (OR EQUAL) WHERE EDGE OF TREE IS LOCATED WITHIN 5'-0" OF WALK OR CURB.
 2. LINE#2 BARRIER SHALL BE 'DEEPROOT BARRIER' (UB-24-2) OR EQUAL.
 3. DEEP ROOT PARTNERS, L.P. 230 WASHINGTON ST. SAN FRANCISCO, CA 94111 (415) 781-9700
 4. CENTER ROOT BARRIER ON TREE AND PROVIDE PROTECTION FOR A MINIMUM OF 10'-0" LINEAR FEET.

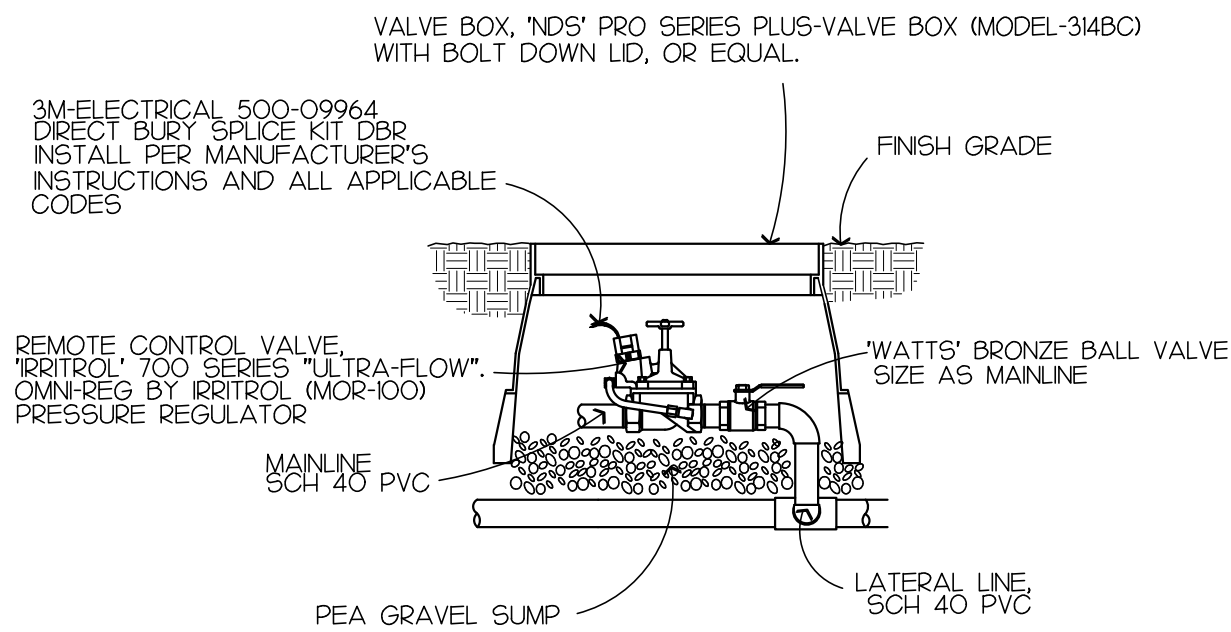
7 TREE ROOT BARRIER DETAIL

8 SHRUB PLANTING DETAIL



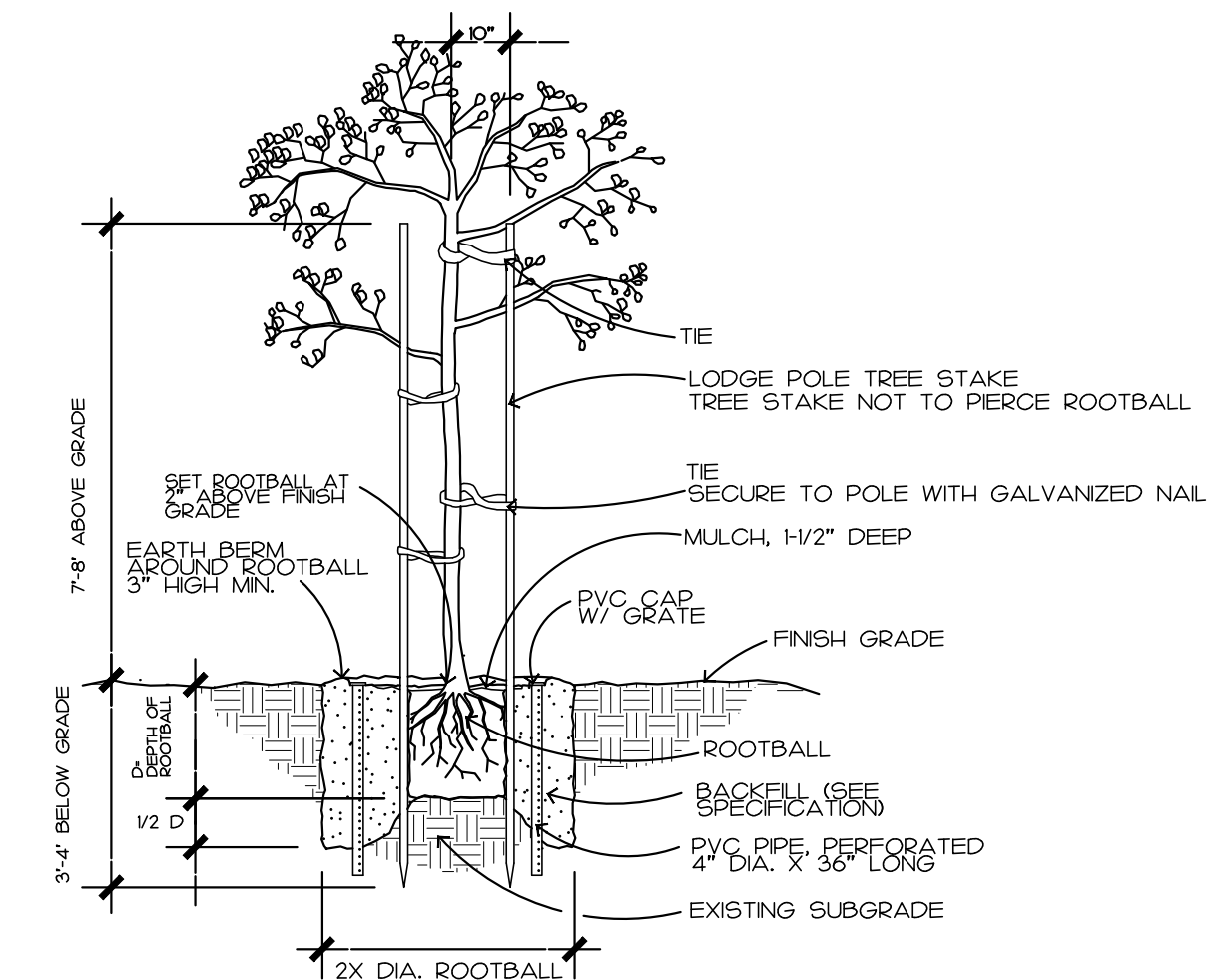
GENERAL NOTES

1. THIS PLANTING DETAIL DOES NOT PERTAIN TO SWALE OR BIORETENTION AREAS.
2. ALL PLANTING LOCATED INSIDE BIORETENTION OR STORMWATER DETENTION AREAS, NOT TO HAVE TOPSOIL BERMING/SAUCER.

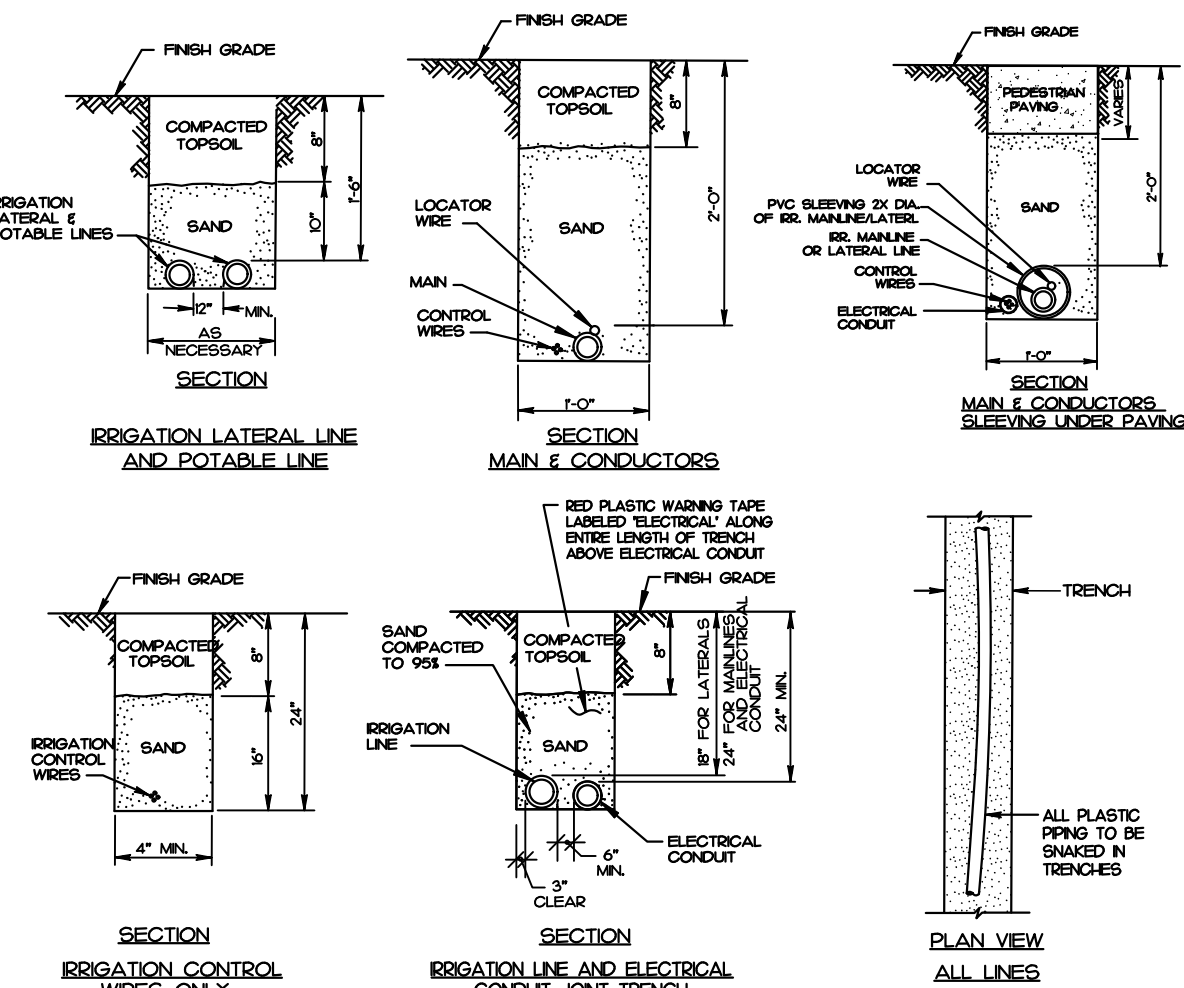


SEE 'DRIP LINE CONTROL ZONE KIT' DETAIL FOR
FOR CONTROL VALVES FOR DRIP IRRIGATION

2 IRRIGATION CONTROL VALVE DETAIL

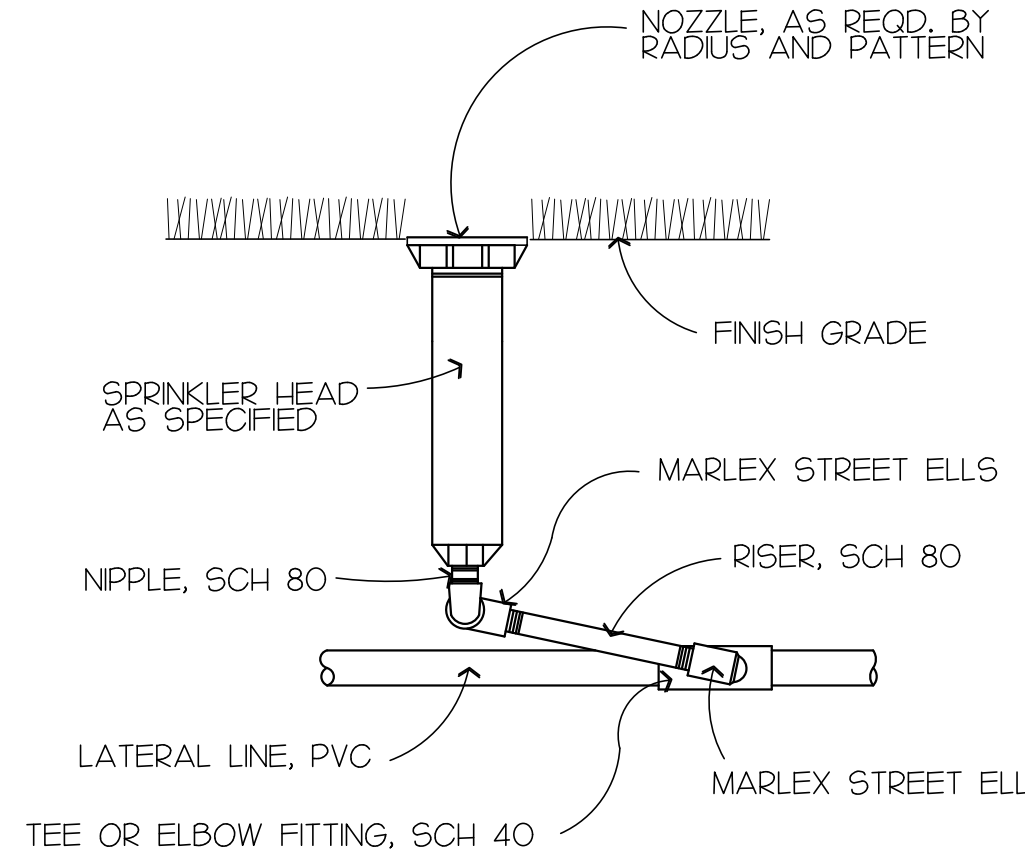


6 TREE PLANTING DETAIL

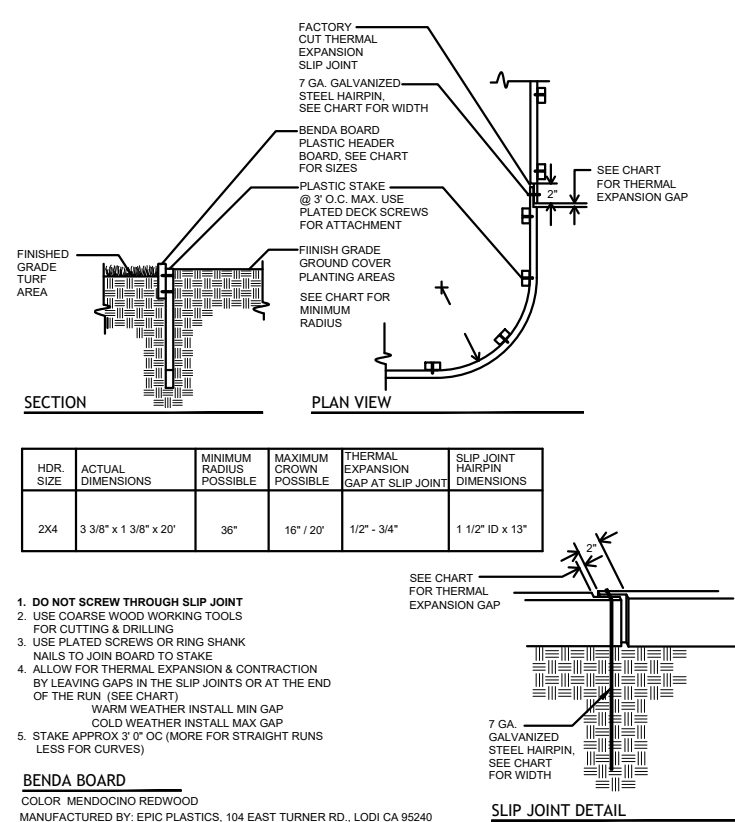


- NOTES:
1. TARE AND BUNDLE WIRES AT TEN FOOT INTERVALS.
 2. COMPACT TOPSOIL TO 8\"/>
 3. SAND BEDDING REQUIRED IN TRENCHES WITH ROCKY TERRAIN. TYPICAL ALL SITUATIONS LAY PIPE ON 2\"/>
 4. UNDER PAVED AREAS INSTALL ALL IRRIGATION LINES AND CONTROL WIRES IN SLEEVING FOR SPECIFICATIONS.
 5. SEE DETAIL BELOW FOR TRENCH RESTORATION DETAIL UNDER A.C. STREET PAVING.

10 IRRIGATION TRENCH DETAIL

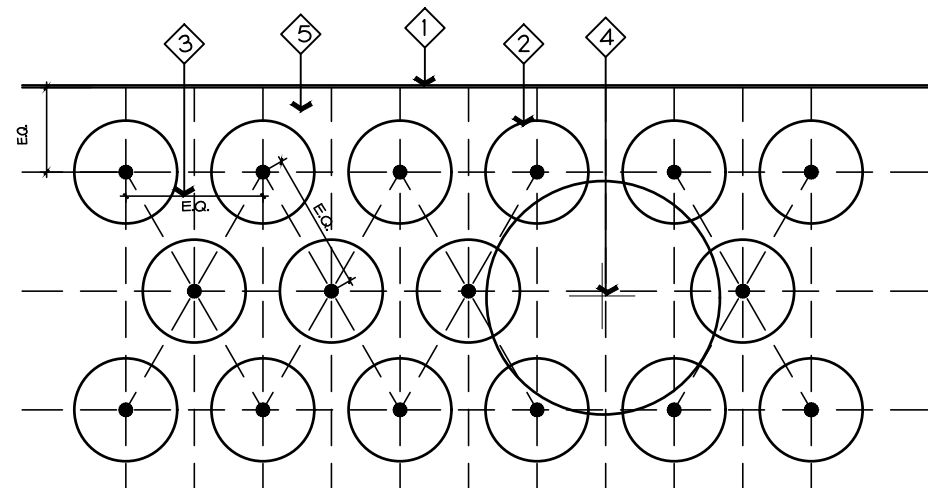


1 IRRIGATION HEAD DETAIL



BENDABOARD PLASTIC HEADER BOARD DETAIL #110
SCALE: NTS

5 'BENDABOARD' LAWN HEADER (OR EQUAL) DETAIL



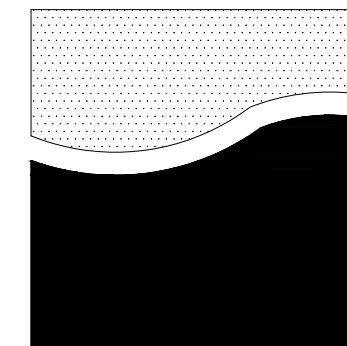
LEGEND

- 1 BUILDING, PAVEMENT EDGE OR LAWN HEADER
- 2 GROUND COVER OR SHRUB PLANTING
- 3 E.G. = EQUAL DISTANCE. SEE PLANT LIST FOR DIMENSION
- 4 SHRUB/TREE PLANTING
- 5 ALL PLANTED AREAS, EXCEPT TURF, SHALL RECEIVE A TOP DRESSING OF MULCH CONSISTING OF RECYCLED, NON-DYED WOOD CHIPS OR FIR CHIPS WITH A MEDIAN GRIND 3/8 TO 3/4 INCH DIA. SHREDDED BARK IS UNACCEPTABLE.

GENERAL NOTES

1. GROUND COVER TO BE PLANTED IN ALL SHRUB/TREE PLANTING AREAS UNLESS NOTED ON PLANTING PLAN.

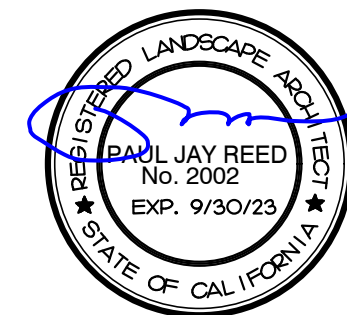
9 GROUND COVER SPACING



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408-481-8000 Office / 408-568-1519 Cell
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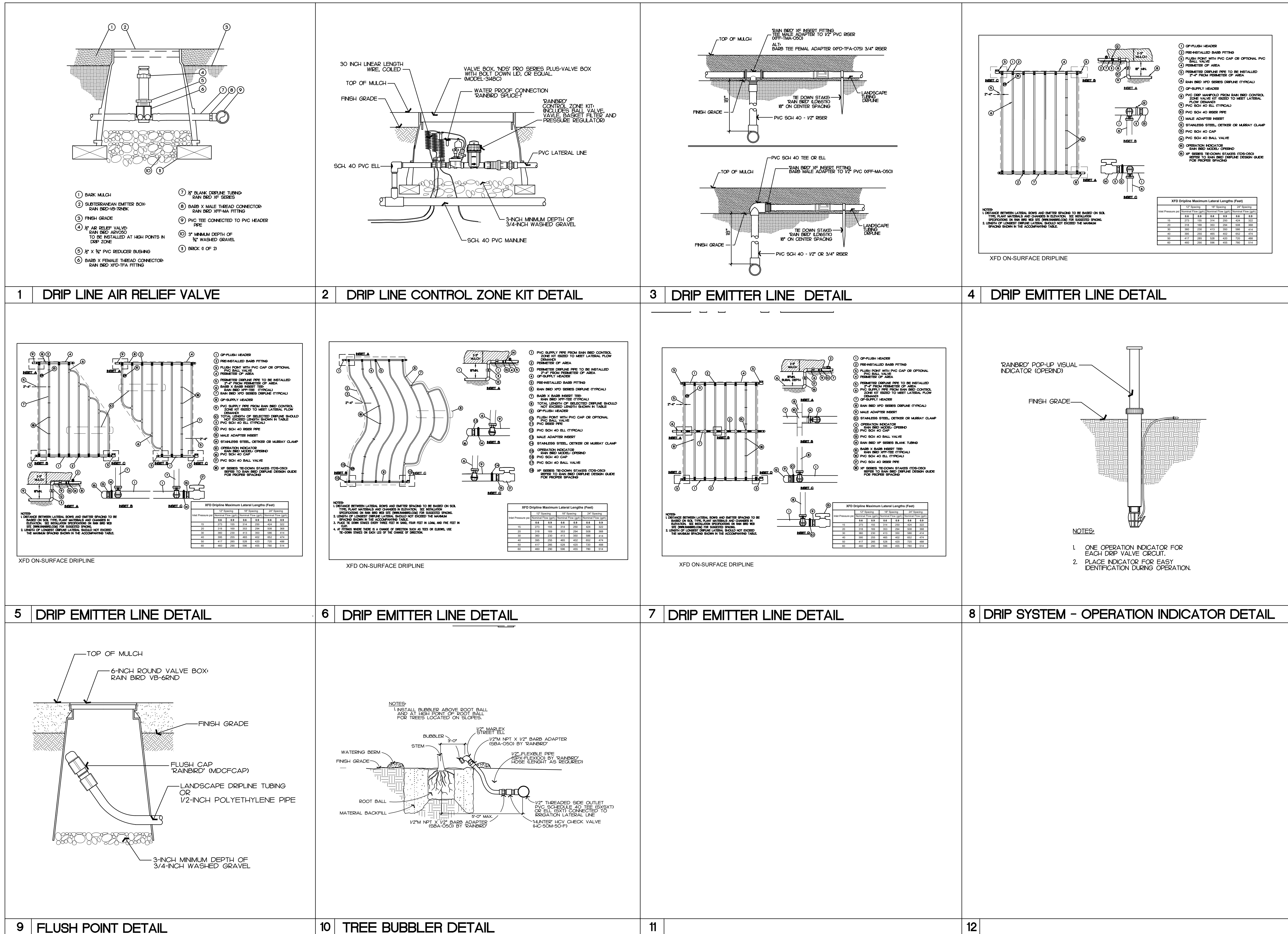


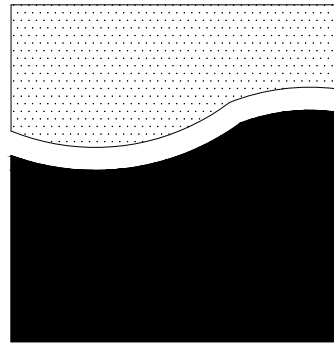
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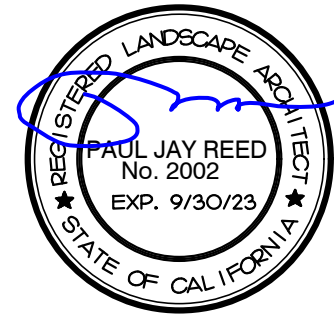


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Project No.	<u>---</u>		
Scale	<u>NTS</u>	Issue Date	<u>11/22/22</u>

Landscape Specifications

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LANDSCAPE SPECIFICATIONS

IRRIGATION SPRINKLER SYSTEM AND LANDSCAPE PLANTING

1.0 GENERAL

- THE WORK INCLUDES LABOR, MATERIALS, AND EQUIPMENT REQUIRED TO COMPLETE WORK INDICATED IN DRAWINGS AND DESCRIBED IN SPECIFICATIONS.
 - PERFORM WORK IN ACCORDANCE WITH BEST STANDARDS OF PRACTICE RELATING TO VARIOUS TRADES, AND UNDER CONTINUOUS SUPERVISION OF A COMPONENT FOREMAN CAPABLE OF INTERPRETING DRAWINGS AND SPECIFICATIONS.
- PRIOR TO CONSTRUCTION, VERIFY THAT CONTRACT DOCUMENTS REFLECT LATEST REVISIONS, INCLUDING PLAN CHECK REQUIREMENTS.
- CONSTRUCT IRRIGATION SYSTEM USING MATERIAL AND METHODS CONFORMING TO APPLICABLE PROVISIONS OF UNIFORM PLUMBING CODE, PUBLISHED BY WESTERN PLUMBING OFFICIALS ASSOCIATION, NATIONAL ELECTRICAL CODE, AND OTHER CODES PROPERLY GOVERNING THESE ACTIVITIES AT THE LOCATION OF THE WORK.
 - VERIFY LOCATIONS OF EXISTING UTILITIES WHETHER OR NOT SHOWN IN DRAWINGS. ASSUME RESPONSIBILITY FOR THEIR PROTECTION.
- THE CONTRACT DOCUMENTS ARE NOT INTENDED TO CONFLICT WITH REQUIREMENTS OF GOVERNING ORDINANCES. WHEN DRAWINGS AND SPECIFICATIONS DESCRIBE MATERIALS, SPECIFICATIONS, AND ACTUAL CONDITIONS, COMMENCE WORK IN AREAS OF DISCREPANCY ONLY AFTER RECEIVING INSTRUCTIONS FROM LANDSCAPE ARCHITECT.
- OBTAIN AND PAY FOR PERMITS AND INSPECTIONS REQUIRED FOR THE WORK.
- BEFORE PROCEEDING WITH THE WORK, VERIFY DIMENSIONS AND QUANTITIES. IMMEDIATELY INFORM LANDSCAPE ARCHITECT OF DISCREPANCY BETWEEN DRAWINGS, SPECIFICATIONS, AND ACTUAL CONDITIONS. COMMENCE WORK IN AREAS OF DISCREPANCY ONLY AFTER RECEIVING INSTRUCTIONS FROM LANDSCAPE ARCHITECT.
- DIMENSIONS INDICATED IN DRAWINGS ARE APPROXIMATE. PROVIDE OFFSETS, FITTINGS, SLEEVES, ETC., REQUIRED TO COMPLETE THE PROJECT. PERFORM SIMILAR OPERATIONS FOR LIKE CONDITIONS WITHOUT ADDITIONAL COST TO OWNER.

1.1 SUBSTITUTIONS

- FURNISH MATERIALS IN QUANTITIES, SIZE, AND MANUFACTURE INDICATED IN DRAWINGS AND SPECIFICATIONS.
- FOR A PERIOD OF 30 DAYS AFTER EXECUTION OF CONTRACT, LANDSCAPE ARCHITECT WILL CONSIDER FORMAL REQUESTS FROM CONTRACTOR FOR SUBSTITUTION OF PRODUCTS IN PLACE OF THOSE SPECIFIED ONLY UNDER THESE CONDITIONS.
 - WHEN SPECIFIED PRODUCTS ARE NOT AVAILABLE THROUGH NO FAULT OF SUB-CONTRACTOR.
 - WHEN IT IS CLEARLY SEEN, IN THE JUDGMENT OF OWNER, THAT A SUBSTITUTION WILL BE TO OWNER'S BEST INTERESTS IN TERMS OF TIME, COST, OR OTHER CONSIDERATIONS.
- SUBMIT A SEPARATE REQUEST FOR EACH SUBSTITUTION. PROVIDE COMPLETE DATA SUBSTANTIATING COMPLIANCE OF PROPOSED SUBSTITUTION, INCLUDING PRODUCT IDENTIFICATION, MANUFACTURER'S NAME AND ADDRESS, MANUFACTURER'S LITERATURE, AND SAMPLES AS APPLICABLE.
- MANUFACTURER'S WARRANTIES WILL NOT RELIEVE SUB-CONTRACTOR OF HIS LIABILITY UNDER THE GUARANTEE, ONLY SUPPLEMENT THE GUARANTEE.

1.2 RECORD DRAWINGS

- FURNISH OWNER WITH A SET OF RECORD DRAWINGS (REPRODUCIBLE VELLUMS) OF IRRIGATION SPRINKLER SYSTEM AT CONCLUSION OF THE INSTALLATION.
 - OBTAIN VELLUMS FROM LANDSCAPE ARCHITECT AT COST OF REPRODUCTION PLUS 25 PERCENT.

1.3 EXTRA MATERIALS

- FURNISH OWNER WITH 2 EACH OF THE FOLLOWING MATERIALS FOR EACH TYPE OF VALVE AND SPRINKLER HEAD INSTALLED IN THE SYSTEM:
 - VALVE KEYS.
 - SERVICE WRENCHES.
 - QUICK COUPLER VALVE KEYS.
 - HOSE SWIVELS COMPATIBLE WITH QUICK COUPLER VALVES.
 - KEYS TO OPEN AUTOMATIC CONTROL CABINET.

1.4 WARRANTY

- FURNISH OWNER WITH GUARANTEE THAT IRRIGATION SPRINKLER SYSTEM IS FREE FROM DEFECTS IN MATERIALS AND WORKMANSHIP AND THE WORK HAS BEEN COMPLETED IN ACCORDANCE WITH DRAWINGS AND SPECIFICATIONS, ORDINARY WEAR AND TEAR, UNUSUAL ABUSE, OR NEGLIGENCE ACCEPTED.
- PROVIDE GUARANTEE FOR REPAIR OR REPLACEMENT OF DEFECTS IN MATERIAL OR WORKMANSHIP, SETTLING OF BACKFILLED TRENCHES, AND TO REPAIR OR REPLACE DAMAGE RESULTING FROM THE REPAIRS OR REPLACEMENTS OF DEFECTS WITHOUT ADDITIONAL COST TO OWNER.
- MAKE REPAIRS OR REPLACEMENTS, INCLUDING COMPLETE RESTORATION OF DAMAGED, PLANTING, PAVING, OR OTHER IMPROVEMENTS OF ANY KIND, WITHIN A REASONABLE TIME AS DETERMINED BY OWNER, AFTER RECEIPT OF WRITTEN NOTICE.
- IN THE EVENT OF FAILURE BY CONTRACTOR TO MAKE REPAIRS OR REPLACEMENTS WITHIN A TEN DAYS AFTER RECEIPT OF WRITTEN NOTICE, REPAIRS OR REPLACEMENTS WILL BE MADE BY OTHERS AT THE EXPENSE OF SUB-CONTRACTOR.
- WARRANTY PERIOD FOR IRRIGATION SPRINKLER SYSTEM, 1 YEAR FROM DATE OF ACCEPTANCE BY OWNER.

1.5 LANDSCAPE MAINTENANCE AND GUARANTEE

- PROVIDE MAINTENANCE FOR PLANTING AND IRRIGATION FOR 60 CALENDAR DAYS AFTER STAGE ACCEPTANCE.
 - WORK INCLUDES, BUT IS NOT LIMITED TO, WATERING, WEEDING, MOWING, FERTILIZING, CULTIVATING, SPRAYING, CUTTING, AND PRUNING NECESSARY TO KEEP PLANTS IN A HEALTHY GROWING CONDITION AND TO KEEP PLANTED AREAS NEAT AND ATTRACTIVE IN APPEARANCE THROUGHOUT MAINTENANCE PERIOD.
 - IMMEDIATELY REPLACE DAMAGED, UNHEALTHY, OR DEAD TREES, SHRUBS, AND GROUND COVERS WITH SIZE AND KIND INDICATED IN DRAWINGS.
 - PRIOR TO END OF MAINTENANCE PERIOD, APPLY FERTILIZED "D" (15-2-6) AT THE RATE OF 4 POUNDS PER 1,000 SQUARE FEET UNIFORMLY OVER ALL PLANTING AREAS.
 - UPON COMPLETION OF INITIAL 60 DAY MAINTENANCE PERIOD, NOTIFY LANDSCAPE ARCHITECT 48 HOURS PRIOR TO DATE OF INITIAL INSPECTION.
- GUARANTEE THAT PLANTS AND PLANTING AREAS ARE IN HEALTHY, THRIVING CONDITION FOR AN ADDITIONAL 60 DAYS AFTER INITIAL ACCEPTANCE OF PROJECT BY LANDSCAPE ARCHITECT.
 - FINAL ACCEPTANCE MAY BE GRANTED AT THIS TIME AS DETERMINED BY LANDSCAPE ARCHITECT.

2.0 PRODUCTS

2.1 IRRIGATION SPRINKLER MATERIALS

A. PVC PLASTIC PIPE AND FITTINGS

- MAIN LINE (PRESSURE) PIPING, TYPE 1120-1220 SCHEDULE 40, NSF APPROVED, LASCO, JOHNS MANVILLE, OR APPROVED EQUAL.
 - MAIN LINE PVC PIPE FITTINGS, TYPE 1-11 SCHEDULE 40, NSF APPROVED.
- LATERAL (NON-PRESSURE) LINE PIPING, TYPE 1120-1220 SCHEDULE 40, CLASS 200, NSF APPROVED, LASCO, JOHNS MANVILLE, OR APPROVED EQUAL.
 - LATERAL PVC PIPE FITTINGS, TYPE 1-11 SCHEDULE 40, NSF APPROVED, LASCO, SLOANS, OR APPROVED EQUAL.
- SOLVENT, TYPE APPROVED BY MANUFACTURER OF PIPE AND FITTINGS. USE SCHEDULE 80 PVC THREADED NIPPLES IN RISER ASSEMBLIES.
- USE ONLY PVC PLASTIC PIPE FREE FROM BUSTERS, INTERNAL STRATIONS, DENTS, WRINKLES, CRACKS, HOLES, FOREIGN MATERIALS, SMOOTH INTERIOR WALL WITH A GLASS-LIKE APPEARANCE.
 - CONTINUOUSLY AND PERMANENTLY MARK EACH PIPE WITH MANUFACTURER'S NAME, KIND OF PIPE, MATERIAL, SIZE SCHEDULE OR TYPE, AND MANUFACTURER'S QUALITY CONTROL IDENTIFICATION.

B. GALVANIZED PIPE AND FITTINGS

- WHERE INDICATED IN DRAWINGS, USE ASA SCHEDULE 40 MILD STEEL SCREWED PIPE, GALVANIZED, WITH MEDIUM GALVANIZED SCREWED BEADED MALLEABLE IRON FITTINGS.
 - GALVANIZED COUPLINGS MAY BE MERCHANT COUPLING.

C. CUT PIPE CUT STRAIGHT AND TRUE.

- AFTER CUTTING, REAM OUT ENDS TO THE FULL INSIDE DIAMETER OF THE PIPE.
- IN CHANGING PIPE DEPTHS, USE 45Ø ELBOWS.

F. SPRINKLER HEADS

- INSTALL TURF HEADS, WHERE ADJACENT TO FIXED OBJECTS SUCH AS HEADERBOARDS, CURBS, OR DRIVEWAYS, SO POWERED EDGING TOOLS CAN PASS BETWEEN TURF HEAD AND FIXED OBJECT WITHOUT DIFFICULTY.
- LOCATE SHRUB HEADS MINIMUM 12 INCHES FROM BACK OF CURBS AND EDGE OF WALKWAYS WHEN SHRUB HEAD IS MOUNTED ABOVE GRADE ON A RISER.

G. CONTROL VALVES

- INSTALL ELECTRIC, NORMALLY CLOSED ANGLE CONTROL VALVES AS INDICATED IN DRAWINGS AND AS SPECIFIED BY MANUFACTURER.
- SET VALVES IN VERTICAL POSITION, HOUSED IN AMETEK OR EQUAL VALVE BOX WITH REMOVABLE COVER, FLUSH WITH FINISHED GRADE. WHEREVER POSSIBLE, INSTALL IN A SHRUB AREA.

H. ELECTRICAL WORK

- PERFORM ELECTRICAL WORK IN ACCORDANCE WITH THE NATIONAL ELECTRICAL CODE, THE STATE OF CALIFORNIA ELECTRICAL SAFETY ORDERS, OTHER APPLICABLE STATE AND LOCAL CODES AND REGULATIONS.
- ASSUME RESPONSIBILITY FOR THE COORDINATION OF ALL ELECTRICAL SERVICE CONNECTIONS TO THE CONTROLLER.

I. FIELD QUALITY CONTROL

- FLUSH PIPES BY REMOVING HEADS AND OPERATING THE SYSTEM AT FULL PRESSURE UNTIL ALL RUST, SCALE, SAND, ETC., IS REMOVED.
 - DIVERT FLUSHING WATER TO PREVENT PONDING OR SOIL EROSION.
- TEST PIPING UNDER FULL PRESSURE, WITH RISERS CAPPED FOR A PERIOD OF TWO HOURS.
- INSPECT PIPE FOR LEAKS.
 - CORRECT ANY LEAKAGE DISCOVERED DURING TESTS.
- REPEAT TESTS UNTIL SATISFACTORY.
- TEST SPRINKLER HEADS:
 - TO DETERMINE THAT THEY FUNCTION ACCORDING TO MANUFACTURER'S DATA, AND
 - TO DETERMINE THAT THE INSTALLATION WILL PROVIDE DESIGN COVERAGE.
- ALLOW OR CAUSE WORK TO BE COVERED UP OR ENCLOSED ONLY AFTER IT HAS BEEN INSPECTED, TESTED, AND APPROVED BY LANDSCAPE ARCHITECT.
 - SHOULD ANY WORK BE CLOSED OR COVERED UP BEFORE INSPECTION AND TESTS ARE SATISFACTORILY COMPLETED, UNCOVER THE WORK, AND AFTER IT HAS BEEN INSPECTED, TESTED, AND APPROVED, MAKE ALL REPAIRS WITH MATERIALS AS MAY BE NECESSARY TO RESTORE DISTURBED WORK TO ITS ORIGINAL AND PROPER CONDITION WITHOUT ADDITIONAL COST TO OWNER.

3.2 LANDSCAPE PLANTING PROCEDURES

A. CLEARING & GRUBBING

- PRESERVE EXISTING TREES IN AN UNDISTURBED CONDITION.
- ROUGH GRADE EARTHEN MOUNDS TO CONTOURS INDICATED IN DRAWINGS.
- CONSTRUCT MOUNDS WITH ENOUGH EXCESS MATERIAL TO ALLOW FOR FUTURE SETTLEMENT.
 - FINAL LOCATION OF MOUNDS SHALL NOT CONFLICT WITH EXISTING UTILITIES, UTILITY BOXES, VALVE BOXES, ETC.
- NO COMPACTION WILL BE ALLOWED, EXCEPT FOR NORMAL GRADING AND SHAPING OPERATIONS.
- UPON COMPLETION OF GRADING OPERATIONS, SPREAD EXCESS MATERIAL IN AREAS DIRECTED BY LANDSCAPE ARCHITECT.

B. SOIL CONDITIONS

- CULTIVATE PLANTED AREAS TO A LIGHT AND FRIABLE CONSISTENCY. UNIFORMLY TILL THE

C. CONTROL WIRE

- DIRECT BURIAL REMOTE CONTROL WIRES, U.L. APPROVED TYPE U.F. MINIMUM OF 1/64 INCH VINYL INSULATION. CONSULT VALVE MANUFACTURER'S CURRENT WIRE SIZING CHART FOR REQUIRED WIRE SIZES.
- COMMON RETURN WIRE = WHITE, PILOT WIRE = RED, ORANGE, OR BLACK.
- MAKE SPLICES WITH "SCOTCH LOK" NO. 3577 CONNECTOR SEALING PACKS, OR APPROVED EQUAL.

D. SPRINKLER HEADS, REMOTE CONTROL VALVES, AUTOMATIC CONTROLLER, QUICK COUPLER

- TYPE, SIZE, AND LOCATION INDICATED IN DRAWINGS.
- LOCATE REMOTE CONTROL VALVES AND QUICK COUPLERS A MAXIMUM OF 12 INCHES FROM CURB, WALK, OR HEADERBOARD.

E. BACKFLOW PREVENTION

- BACKFLOW PREVENTERS AS INDICATED IN DRAWINGS OR AS APPROVED BY LOCAL GOVERNING BODY.
- DO NOT LOCATE IN LAWN AREAS.
- SCREEN UNIT WITH PLANT MATERIAL SHOWN ON PLANTING PLAN IN LOCATION OF BACKFLOW PREVENTER OR ELSEWHERE ON SITE WHEN DIRECTED BY LANDSCAPE ARCHITECT.
- AVOID USING PVC PIPING IN BACKFLOW PREVENTER ASSEMBLIES.

F. VALVE BOXES

- CONTROL VALVE BOXES, AMETEK NO. 10-70-00 WITH GREEN COVER LID NO. 10-173-00A, OR EQUAL. PROVIDE EXTENSIONS IF REQUIRED.

2.2 LANDSCAPE PLANTING MATERIALS

A. SOIL

- EXISTING SURFACE SOIL, UNLESS OTHERWISE INDICATED IN DRAWINGS, FREE FROM SUBSOIL, REFUSE, ROOTS, HEAVY OR STIFF CLAY, ROCKS, STICKS, BRUSH OR OTHER DELETERIOUS MATERIALS.
- NATIVE SOIL, MATERIAL EXCAVATED FROM PLANTING HOLES, FREE FROM ROCK OVER 1/2 INCH IN DIAMETER.
- IMPORTED SOIL, IF REQUIRED, SANDY LOAM TEXTURE.

- SUBMIT SOIL SAMPLES AND ANALYSIS OF IMPORTED SOIL TO LANDSCAPE ARCHITECT FOR APPROVAL PRIOR TO DELIVERY TO PROJECT SITE.

- SHOULD LANDSCAPE ARCHITECT REJECT ANY PORTION OF DELIVERED SOIL, FOR ANY REASON, SELECT SOIL MATERIAL FROM A DIFFERENT SOURCE AND RESUBMIT TO LANDSCAPE ARCHITECT FOR APPROVAL WITHOUT ADDITIONAL COST TO OWNER.

B. ORGANIC FERTILIZERS AND SOIL AMENDMENTS

- COMMERCIAL GRADE ORGANIC FERTILIZERS AND SOIL AMENDMENTS, UNIFORM IN COMPOSITION, DRY AND FREE-FLOWING, DELIVERED TO SITE IN ORIGINAL, UNOPENED CONTAINERS, EACH BEARING THE MANUFACTURER'S GUARANTEED ANALYSIS.
- MATERIAL WHICH BECOMES CAKED OR OTHERWISE DAMAGED, MAKING IT UNSUITABLE FOR USE, WILL BE REJECTED.
 - FERTILIZER 'A': ORGANIC FERTILIZER FOR GENERAL SOIL FERTILITY IMPROVEMENT IN ALL TURF AND PLANTING AREAS SHALL BE GRANULATED/PELLETIZED TYPE HAVING A N6-P20-K20 FORMULA.
 - FERTILIZER 'B': ORGANIC FERTILIZER TO BE APPLIED TO LAWN AREAS PRIOR TO SEEDING OR SODDING SHALL BE GRANULATED/PELLETIZED TYPE HAVING N6-P2-K0 (WITH 1% IRON).
 - FERTILIZER 'C': ORGANIC FERTILIZER TO BE INCORPORATED IN EACH PLANT PIT SHALL BE A PLANT TAB WITH FORMULA N20-P10-K5, SUCH AS GRO-POWER.
 - FERTILIZER 'D': ORGANIC FERTILIZER TO BE APPLIED TO LAWN AREAS AFTER TURF IS ESTABLISHED AND AROUND INSTALLED CONTAINER PLANTS DURING THE MAINTENANCE PERIOD SHALL BE PELLETED TYPE COMBINATION CHEMICAL ORGANIC FORMULA N15-P2-K6.
- SOIL AMENDMENT: IMPORT TOPSOIL TO MEET ORGANIC MATTER CONTENT OF A MIN. OF 3.5% BY DRY WEIGHT OR 1 INCH OF COMPOST.
 - "OPTION 1" - REQUIRE IMPORT TOPSOIL TO MEET ORGANIC MATTER CONTENT OF A MIN. OF 3.5% BY DRY WEIGHT.
 - "OPTION 2" - SUBMIT SOILS REPORT THAT IDENTIFIES EXISTING TOPSOIL MEETS ORGANIC MATTER OF CONTENT OF 3.5% BY DRY WEIGHT OR GREATER. RECYCLED COMPOST MATERIAL FROM A PROCESSOR THAT PARTICIPATES IN THE U.S. COMPOSTING COUNCIL'S STANDARD TESTING ASSURANCE PROGRAM

FOLLOWING MATERIAL, PER 1,000 SQUARE FEET, INTO THE TOP 6 INCHES OF SOIL, USING A ROTOTILLER OR SIMILAR MACHINE, THEN THOROUGHLY WATER.

6 CU. YDS. - RECYCLED COMPOST MATERIAL (SOIL AMENDMENT)
25 LBS. - ORGANIC FERTILIZER 'A'
15 LBS. - SOIL SULPHUR

- CULTIVATE EXISTING PLANTING AREAS WITH HAND TOOLS.

- PREPARED SOIL MIX FOR BACKFILL IN PITS FOR TREES, VINES, AND SHRUBS, CONSISTING OF THE FOLLOWING:

1/3 YD. - RECYCLED COMPOST MATERIAL (SOIL AMENDMENT)
2/3 YD. - NATIVE SOIL
1 LB. - IRON SULPHATE

AND ORGANIC FERTILIZER 'C' AS FOLLOWS (GRO-POWER TABS OR EQUAL)

1 GAL: 1-TAB
5 GAL: 2-TABS
15 GAL: 4-TABS
6-8 TABS FOR BOXED MATERIAL

- CONDUCT SOIL PREPARATION AND PLANTING OPERATIONS ONLY UNDER FAVORABLE WEATHER CONDITIONS. SOIL SHALL NOT BE WORKED WHEN EXCESSIVELY DRY OR WET.

- LANDSCAPE ARCHITECT RESERVES THE RIGHT TO STOP WORK TAKING PLACE DURING A PERIOD WHEN CONDITIONS ARE CONSIDERED DETRIMENTAL TO SOIL STRUCTURE OR PLANT GROWTH.

C. PLANTING TREES, SHRUBS, & VINES

- DIG PITS FOR PLANTS SQUARE PER DETAIL IN DRAWINGS.

- LEVEL SIZE OF PITS SHALL BE 2 TIMES DIAMETER OF ROOT BALL, AND ONE-HALF AGAIN AS DEEP AS THE DEPTH OF ROOT BALL.
 - SOIL AT SIDES AND BOTTOMS SHALL BE LOOSENEED BY SCARIFYING TO ENSURE ROOT PENETRATION. AVOID SMOOTH CIRCULAR SIDES.
- BACKFILL PITS WITH "PREPARED SOIL" TO THE BOTTOM OF THE ROOT BALL. THEN SET THE PLANT IN AN UPRIGHT POSITION IN CENTER OF HOLE. BACKFILL SPACE AROUND IT WITH PLANTING MIX.
 - WHEN THE BACKFILL AROUND THE PLANT IS APPROXIMATELY TWO-THIRDS COMPLETED, THOROUGHLY WATER. BACKFILL COMPLETE TO THE GRADE OF THE SURROUNDING AREA.
 - THE CROWN OF THE PLANT SHALL BE 1-1/2 INCHES ABOVE (MINIMUM) FINISHED GRADE.
- PREPARE A SOIL RING AT LEAST 3 INCHES HIGH AND AS WIDE AS ROOT BALL AROUND EACH PLANT (NOT IN A TURF AREA) TO RETAIN WATER.
 - WATER THOROUGHLY TO ELIMINATE AIR POCKETS.
 - REMOVE TURF IN A 24 INCH DIAMETER RING AROUND EACH TREE BASE IN TURF AREAS.

D. PLANTING GROUND COVERS

- PLANTING SHALL TAKE PLACE IN THE EXISTING PREPARED MOIST AND FRIABLE SOIL, NEVER DRY OR WET AND SOGGY.
 - THE MOIST CONDITION SHALL EXTEND TO THE FULL DEPTH OF CULTIVATION.
- SPACE GROUND COVER PLANTS AS INDICATED IN DRAWINGS AND IN THE PLANT LIST.
- PLANT IN EVENLY SPACED ROWS WITH STAGGERED TRIANGULAR SPACING AND AROUND SHRUBS AND TREES TO WITHIN ONE FOOT.
- NO GROUND COVER SHALL BE PLANTED LESS THAN ONE-HALF OF THE SPECIFIED SPACING FROM ANY CURB OR WALKWAY.

E. OPEN

- IRON SULFATE: STANDARD COMMERCIAL BRAND.

C. WOOD CHIP MULCH

- ALL PLANTED AREAS, EXCEPT TURF, SHALL RECEIVE A TOP DRESSING OF MULCH CONSISTING OF RECYCLED, NON-DYED WOOD CHIPS OR FIR CHIPS, MEDIAN GRIND 3/8 TO 3/4" DIAMETER AT 3 INCH DEPTH. SHREDED BARK IS UNACCEPTABLE.

D. PLANT MATERIAL

- CONFORM PLANT MATERIAL, INDICATED IN DRAWINGS BY THE LISTED NAMES, TO "STANDARD PLANT NAMES", SECOND EDITION. EXCEPT FOR NAMES NOT INCLUDED, FOLLOW THE ESTABLISHED CUSTOMS OF THE NURSERY TRADE.
- ALL PLANTS SHALL BE TRUE TO NAME. TAG ONE OF EACH BUNDLE OR LOT WITH THE NAME AND SIZE OF THE PLANT, IN ACCORDANCE WITH STANDARDS OF PRACTICE RECOMMENDED BY AMERICAN ASSOCIATION OF NURSEYMEN.
- ALL PLANT MATERIALS SHALL MEET THE SPECIFICATIONS OF FEDERAL, STATE, AND COUNTY LAWS, REQUIRING INSPECTION FOR PLANT DISEASES AND INSECT INFESTATIONS.
- PLANTS SHALL BE SYMMETRICAL, TYPICAL FOR VARIETY AND SPECIES, SOUND, HEALTHY, VIGOROUS, FREE FROM PLANT DISEASES, INSECT PESTS, OR OTHER EGGS, WITH HEALTHY, NORMAL ROOT SYSTEMS, WELL FILLING THEIR CONTAINERS, BUT NOT TO THE POINT OF BEING ROOT BOUND.
- USE ONLY PLANT MATERIALS THAT ARE FIRST CLASS REPRESENTATIVE OF THE SPECIES AND CULTIVARS SPECIFIED AND THAT CONFORM TO ALL STATE AND LOCAL LAWS GOVERNING THE SALE, TRANSPORTATION, AND INSPECTION OF PLANT MATERIALS.
- PROVIDE ONLY PLANTS WITH STRAIGHT, SINGLE TRUNKS, UNLESS OTHERWISE INDICATED IN DRAWINGS.
- THOSE SPECIFIED TO BE MULTI-TRUNK SHALL HAVE AT LEAST THREE MAIN LEADERS FROM THE BASE.
- PLANTS THAT HAVE ENCIRCLING ROOTS, NOT ROOT BOUND, SHALL HAVE ROOTBALLS LIGHTLY SLASHED ON A MINIMUM OF 3 SIDES TO STOP ENCIRCLING ROOT GROWTH.
- THE HEIGHT AND SPREAD OF PLANT MATERIALS SHALL BE MEASURED WITH BRANCHES IN THEIR NORMAL POSITION. MEASURE SIZES OF PLANTS ON THE PLANT LIST.
 - 5 AND 15 GALLON CAN CONTAINER STOCK SHALL HAVE BEEN GROWN IN THAT CONTAINER NOT LESS THAN SIX (6) MONTHS, BUT SHALL NOT HAVE BEEN OVERGROWN IN THE CONTAINERS SO AS TO HAVE BECOME ROOT BOUND.
 - 15 GALLON CAN CONTAINER STOCK SHALL HAVE A PLANTED HEIGHT OF 6 FEET WITH 1 INCH CALIPER TRUNK.

2.3 SOURCE QUALITY CONTROL

- PERFORM INSPECTIONS OF CONSTRUCTION FOR THE FOLLOWING PARTS OF THE WORK:

- INSPECTION UPON COMPLETION OF PRELIMINARY FINISH GRADING AND IRRIGATION SPRINKLER SYSTEM.
- INSPECTION OF PLANTS PRIOR TO LAYOUT.
- LAYOUT INSPECTION OF SPOTTED PLANTS.
- INITIAL INSPECTION UPON COMPLETION OF PLANTING AND TREE STAKING, PRIOR TO COMMENCEMENT OF MAINTENANCE PERIOD.
- FINAL INSPECTION AT CONCLUSION OF ADDITIONAL 60 DAY LANDSCAPE MAINTENANCE PERIOD.

- LISTED INSPECTIONS WILL BE MADE BY LANDSCAPE ARCHITECT OR AN AUTHORIZED REPRESENTATIVE.

- REQUEST INSPECTION BY LANDSCAPE ARCHITECT AT LEAST 48 HOURS IN ADVANCE OF TIME INSPECTION IS REQUIRED.

3.0 EXECUTION

3.1 IRRIGATION SPRINKLER SYSTEM

A. PREPARATION

- COORDINATE INSTALLATION OF SPRINKLER MATERIALS, INCLUDING PIPE, TO ELIMINATE INTERFERENCE WITH, OR DIFFICULTY IN PLANTING SHRUBS, TREES, GROUND COVER, EXISTING OR PROPOSED UTILITIES, AND OTHER CONSTRUCTION. RESTORE TO ORIGINAL CONTOURS AND ESTABLISHED GRADES CHANGED DURING COURSE OF THE WORK.

8

F. WEED CONTROL, PEST CONTROL, & MULCHING

- WEED CONTROL MATERIAL SHALL BE A PRE-EMERGENT HERBICIDE, TRIFLURLOLIN (TREFLAN) OR DIPHENAMID (DYVID OR ENIDE) OR APPROVED EQUAL, APPLIED ON PLANTED AREAS. DON'T APPLY TO TURF DEVELOPED AREAS. NOTE: IN CITIES AND FOR PROJECTS THAT DO NOT ALLOW FOR SYNTHETIC PRE-EMERGENTS USE A CORN GLUTEN MEAL PRODUCT.
- CONSIDER IT PART OF CONTRACTOR'S WORK TO CONTROL ON-SITE OR NEARBY PESTS THAT ARE DISTURBING THE CONDITION OF LANDSCAPE IMPROVEMENTS.
- CONTROL OF PESTS INCLUDES, BUT IS NOT LIMITED TO RODENTS, RABBITS, INSECTS, DEER, ETC.
- REPAIR DAMAGE THAT OCCURS TO THE ORIGINAL CONDITION OF IMPROVEMENTS, INCLUDING REPLACEMENT OF PLANT MATERIAL WHEN REQUIRED, WITHOUT ADDITIONAL COST TO OWNER.
- SPREAD BARK CHIP MULCH EVENLY OVER ENTIRE PLANTED AREA, EXCEPT TURF DEVELOPED AREAS, TO A MINIMUM DEPTH OF 3".

G. PRELIMINARY INSPECTION AND STAGE ACCEPTANCE

- UPON COMPLETION OF PLANTING WORK, NOTIFY LANDSCAPE ARCHITECT THAT PROJECT IS READY FOR INSPECTION.
- UPON INSPECTION, IF LANDSCAPE ARCHITECT FINDS ENTIRE PROJECT COMPLETE AND IN COMPLIANCE WITH DRAWINGS AND SPECIFICATIONS, STAGE ACCEPTANCE WILL BE GRANTED.
- IF ASPECTS OF PROJECT ARE INCOMPLETE OR IMPROPERLY INSTALLED, CONTRACTOR WILL BE NOTIFIED AND HAVE 5 WORKING DAYS IN WHICH TO CORRECT OR COMPLETE THE WORK.
- STAGE ACCEPTANCE WILL BE GIVEN ONLY WHEN ALL WORK IS CORRECT AND COMPLETE.
- THE STAGE ACCEPTANCE BY LANDSCAPE ARCHITECT OF LANDSCAPE PROJECT WILL ESTABLISH THE BEGINNING OF PLANT MAINTENANCE PERIOD.

3.3 CLEANING

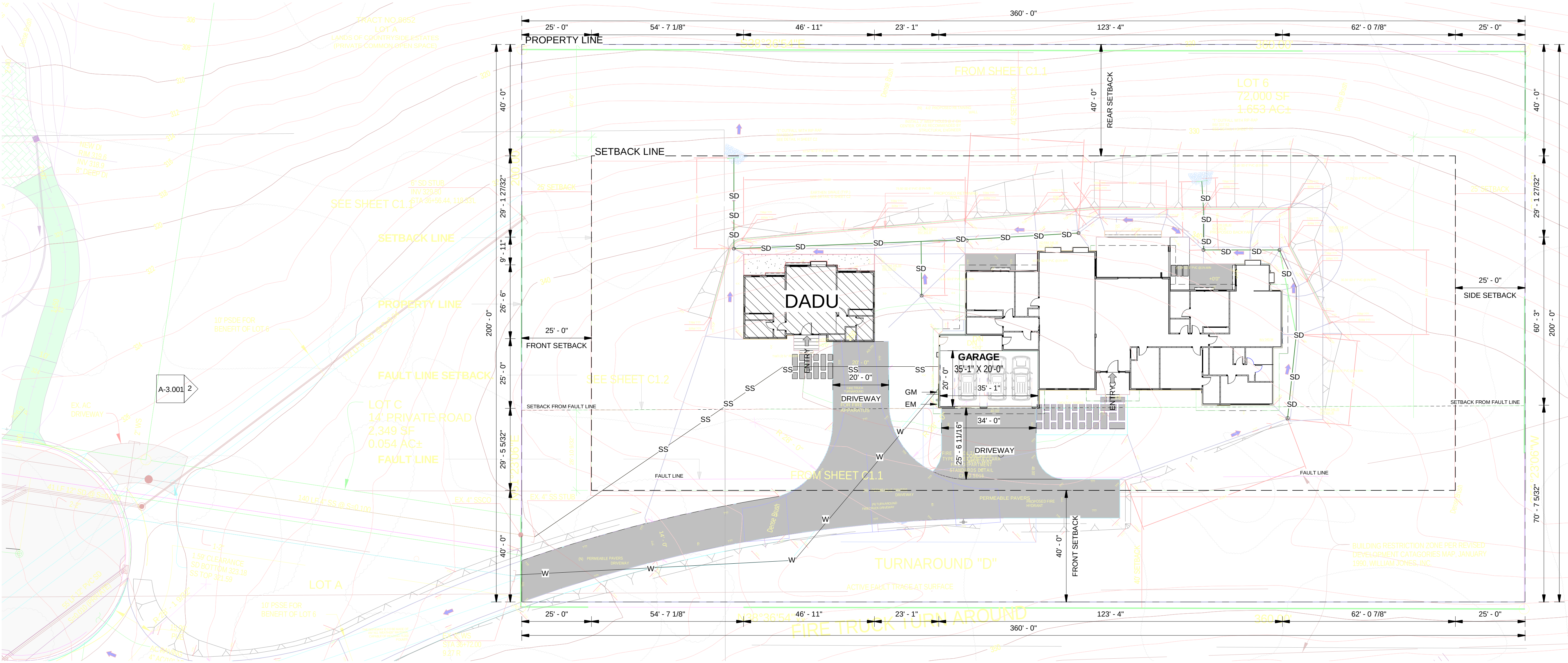
- UPON COMPLETION OF WORK, REMOVE EXCESS MATERIALS, RUBBISH, DEBRIS, AND SUB-CONTRACTOR'S CONSTRUCTION AND INSTALLATION EQUIPMENT FROM THE PREMISES.
- FINAL INSPECTION OF THE WORK WILL BE MADE BY LANDSCAPE ARCHITECT IN THE PRESENCE OF THE SUB-CONTRACTOR WHEN WORK IS COMPLETED. INSPECTION SHALL BE MADE BY THE CONTRACTOR 48 HOURS IN ADVANCE OF SUCH INSPECTION.

SITE DATA

Countryside Estates - Lot 6
Countryside Court.
APN: 029-07-014
AREA=72,004.68 S.F.

NOTE - ALL UTILITIES TO
BE INSTALLED
UNDERGROUND

1 SITE PLAN UTILITY
1" = 20'-0"



REVISIONS :			
REV.	DESCRIPTION	DATE	REV BY

- NOTES:
- ALL DIMENSIONS ARE IN FEET AND INCHES.
 - DRAWING SHALL NOT BE SCALED AND ONLY WRITTEN DIMENSIONS SHALL BE FOLLOWED.
 - ALL CENTERLINES ARE FROM THE CENTER OF COLUMN/ WALL AND THE DIMENSIONS GIVEN ARE CENTERLINE DIMENSIONS- UNLESS OTHERWISE MENTIONED.
 - IN CASE OF ANY DISCREPANCY FOUND IN DRAWINGS AND DETAILS, IT SHALL BE BROUGHT TO THE NOTICE OF THE ARCHITECT, AND RECTIFIED, PRIOR TO ITS EXECUTION.
 - THIS DRAWING IS ISSUED STRICTLY WITH AN UNDERSTANDING THAT IT WILL BE USED ONLY FOR THE PURPOSE MENTIONED AND SHALL BE RETURNED AFTER COMPLETION.
 - LARGER SCALE DRAWINGS AND DETAILS SUPERCEDE THE SMALLER SCALE DRAWINGS AND DETAILS.
 - THIS DRAWING SHALL BE REFERRED ONLY FOR THE PURPOSE MENTIONED IN ITS TITLE (FLOORING PATTERN, FALSE CEILING, SHUTTERING PATTERN, ELECTRICAL, PLUMBING, ETC.)

SHEET CONTENT:

UTILITY PLAN

THIS DOCUMENT IS THE PROPERTY OF LIVIO BUILDING SYSTEMS AND SHALL NOT BE REFERRED, REPRODUCED, COPIED, ETC. WITHOUT EXPLICIT WRITTEN PERMISSION FROM LIVIO BUILDING SYSTEMS, LOS ALTOS, CA USA

PROJECT : 1311 COUNTRYSIDE CT	
UTILITY PLAN	
DATE:	01-27-2023
DRAWN BY:	JUNED ITAGI
CHECKED BY:	SUBHENDU
SCALE:	1" = 20'-0"
SHEET NO: U-1	ADDRESS : 329 S San Antonio Road Suite #4, Los Altos, CA 94022 CONTACT : 650-209-6500 EMAIL : team@golivio.com





CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution to Terminate the Water Shortage Level 2 Drought Emergency (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; and Elaine Marshall, Deputy Public Works Director, 408-586-2603)
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	5/16/2022
	<u>Recommendation:</u> Adopt a resolution terminating the City's Level 2 Water Shortage Emergency.

BACKGROUND:

Prior to this winter, California had experienced three dry years in a row, which prompted state and local water regulators to call for water conservation measures. However, California's water and snowpack conditions have vastly improved due to significant rainfall and storms between December 2022 to March 2023. The improved water supply has motivated the State and many local water regulators and agencies to ease existing drought restrictions.

On June 9, 2021, the Santa Clara Valley Water District (Valley Water) Board of Directors declared a water shortage emergency in Santa Clara County and adopted a resolution calling for mandatory 15% water use reductions.

On June 15, 2021, the Milpitas City Council adopted the 2020 Urban Water Management Plan (UWMP) and [2020 Water Shortage Contingency Plan](#) (WSCP). The City also adopted Ordinance No. 240.7 and declared a Water Shortage Level 2 Drought Emergency.

On July 8, 2021, Governor Newsom issued Executive Order N-10-21, directing Californians to voluntarily reduce their water use by 15% compared to their water use in 2020.

On November 23, 2021, the San Francisco Public Utilities Commission (SFPUC) declared a water shortage emergency and called for a voluntary 11% water use reduction.

On January 4, 2022, in response to the Governor's directive, the State Water Resources Control Board adopted new emergency regulations, which prohibits certain wasteful water use practices, such as the use of potable water in decorative water fountains, using irrigation systems during and within 48 hours of rain, and using water to clean sidewalks and driveways, among others. The State Water Resources Control Board readopted these emergency regulations on December 7, 2022.

On May 24, 2022, the State Water Resources Control Board adopted emergency regulations implementing Executive Order N-7-22, which requires urban water retailers to implement Level 2 Water Shortage Contingency Plan actions and to prohibit the watering of "non-functional turf" (that is, turf that is strictly ornamental and does not serve human recreational purposes) using potable water, except to ensure the health of trees and perennial non-turf plantings, effective on June 10, 2022.

On March 24, 2023, Governor Newsom issued Executive Order N-5-23, which terminated the state's 15% voluntary water conservation goal and the requirement that local agencies implement Water Shortage Level 2 actions, while maintaining the requirement to enforce the prohibition of wasteful water use practices and retaining the state of emergency to allow for the continuation of drought response activities and support for regions still experiencing drought and water shortage conditions.

On April 11, 2023, the San Francisco Public Utilities Commission (SFPUC) voted to rescind its November 2021 water shortage emergency declaration, while keeping its 11% voluntary water conservation target to remain consistent with the State Water Resources Control Board's demand reduction regulation, which is set to expire on June 30, 2023. With this action, the SFPUC terminated its drought surcharge on retail customers and waiver of the minimum purchase requirement on certain wholesale customers including Milpitas. As a wholesale customer, Milpitas was not subject to SFPUC's drought surcharge.

On April 12, 2023, Valley Water's Board of Directors voted to rescind its water shortage emergency declaration and the mandatory call of 15% water use reduction, while maintaining the ban on wasteful water use practices and switching to a voluntary 15% water conservation goal. The Board of Directors directed Valley Water staff to provide recommendations for additional actions to continue promoting water conservation as a way of life. Valley Water did not impose a drought surcharge.

As further illustration of California's current water abundant conditions, the Department of Water Resources announced in April they would be boosting State Water Project 2023 allocations from 75% to 100%, meeting 100% of all water requests for the first time since 2006.

ANALYSIS:

Governor Newsom has terminated the State's 15% voluntary water conservation goal and the requirement that local agencies implement Level 2 Water Shortage actions on March 24, 2023. Both of the City's wholesale water providers, the SFPUC and Valley Water, have also rescinded their water shortage emergency declarations. The SFPUC has kept a voluntary 11% water conservation target, while Valley Water has switched to a voluntary 15% water conservation goal. In addition, the State Water Resources Control Board has indicated they will allow their regulation that requires urban water agencies to implement Level 2 Water Shortage Contingency Plan actions to expire on June 30, 2023.

As required by California Water Code Section 10632(a)(2), the City conducts its Annual Water Supply and Demand Assessment by July 1st to determine the water shortage level anticipated for the upcoming year and notifies the Department of Water Resources of the assessment results. If an anticipated water shortage is identified through the annual assessment, City staff brings forward recommendations to City Council to adopt a resolution and enact appropriate shortage level actions as outlined in the City's [WSCP](#).

The WSCP provides the City with guidance for determining water shortage conditions and employing actions to respond to and manage such conditions. The WSCP defines six standard water shortage levels, ranging from 0% to greater than 50% reductions and establishes demand reduction actions and procedures for managing water shortages. The Milpitas City Council is authorized to require or impose restrictions on or reductions in the use of water if such reductions are necessary to comply with Water Supply Shortage conditions.

City staff will conduct the 2023 Annual Water Supply and Demand Assessment by July 1, per California Water Code Section 10632(a)(2), pending final water supply and allocation numbers are provided by the City's water wholesalers. If the annual assessment indicates no water shortage, the assessment will be administratively provided to the State and no City Council action is needed. If the annual assessment indicates an anticipated water shortage in the upcoming year, City staff will provide the results to the State, provide City Council with recommendations, and plan to implement the WSCP's associated Shortage Level actions.

Given current water conditions and guidance from the State and the City's water wholesalers, City staff anticipates the 2023 annual assessment will indicate no water shortage is anticipated for the City in the upcoming year. The City Council should rescind the City's Water Shortage Level 2 Drought Emergency and associated water use restrictions with the termination or expiration of the State's emergency drought regulations, as this aligns with the findings and recent actions by the State and the City's wholesale water providers. Such action would revert the City to a Water Shortage Level 0 (no shortage), which includes permanent water waste restrictions that promote "Water conservation as a Milpitas way of life". These permanent restrictions include but are not limited to prohibitions on: water use that results in flooding or runoff onto paved surfaces, irrigating landscapes during and within 48 hours of measurable rainfall, and use of a pressure washer or hand-held hose not equipped with a positive shutoff device. The City's permanent water

use restrictions are consistent with the water use prohibitions that Valley Water is considering adopting on a countywide level in June.

The City will also continue to enforce the State's restriction on watering non-functional turf areas at commercial, industrial, and institutional sites. The City plans to add the non-functional turf watering ban to the City's WSCP as a permanent water use restriction at its next update in 2025.

Ongoing Water Conservation Education and Incentive Programs

During the recent drought, the City expanded several existing water conservation programs to promote "Water conservation as a Milpitas way of life." In 2021, the City entered a cost-sharing agreement with Valley Water to provide additional funding and double the rebates for specific categories of Valley Water's landscape rebate program, such as landscape conversion projects, rainwater capture systems, and laundry-to-landscape graywater systems. The City also launched the Lawn Bust Milpitas Pilot Program, in partnership with Our City Forest, to offer direct installation services to residents interested in converting turf to drought tolerant landscapes.

The City also began its Smart Water Meter Upgrade Project to replace existing water meters with new advanced metering infrastructure (AMI) water meters, to increase reading accuracy and frequency. In 2022, the City launched the WaterSmart Customer Portal, which connects to customers' AMI water meters and provides residents with detailed water use reports, water use notifications, and conservation tips.

Despite the improving water conditions, the City plans to continue offering and promoting these programs and education on the importance of water conservation as a way of life and permanent water restrictions to prepare for the next drought. The City will continue to provide educational resources and outreach materials to encourage water conservation as a way of life.

POLICY ALTERNATIVE(S):

Alternative 1: City Council does not adopt the resolution to terminate Water Shortage Level 2 and the City continues to enforce Water Shortage Level 2 restrictions.

Pros: None.

Cons: Maintaining Level 2 Water Shortage emergency will confuse residents and community members as continuing an emergency drought narrative when all news and observations are that the State water supply for the upcoming year is plentiful. Furthermore, our community may be experiencing drought message fatigue and continuing to promote such messaging may reduce the community's response to future droughts.

Reason for Not Recommending: Termination of the Level 2 Water Shortage Emergency aligns with the declarations from the State and the City's water wholesalers (the SFPUC and Valley Water) and allows the City's water use restrictions to remain consistent with countywide and statewide restrictions.

FISCAL IMPACT:

There are no fiscal impacts related to this recommendation. On April 11, 2023 the SFPUC took action to rescind its November 2021 water shortage emergency declaration and terminated its drought surcharge on retail customers and the waiver of the minimum purchase requirement on certain wholesale customers including Milpitas. As a wholesale customer, Milpitas was not subject to SFPUC's drought surcharge and is not impacted by the termination of the drought surcharge.

California Environmental Quality Act (CEQA):

The action is not considered a project under CEQA as there will be no direct, or reasonably foreseeable indirect physical change in the environment

RECOMMENDATION:

Adopt a resolution terminating the City's Level 2 Water Shortage Emergency.

Attachment(s):

1. Resolution terminating the Level 2 Water Shortage of the City's Water Shortage Contingency Plan.

RESOLUTION NO. [REDACTED]**A RESOLUTION TO THE CITY COUNCIL OF THE CITY OF MILPITAS RELATING TO THE TERMINATED WATER SHORTAGE EMERGENCY AND EASED SUPPLEMENTAL WATER USE RESTRICTIONS**

WHEREAS, pursuant to California Water Code section 375, the City of Milpitas is authorized to adopt and enforce a water conservation program to reduce the quantity of water used by persons within its jurisdiction for the purpose of conserving the water supplies of the City; and

WHEREAS, pursuant to California Water Code section 376, a water conservation program adopted pursuant to California Water Code section 375 may be adopted by a resolution or an ordinance, and such resolution or ordinance is effective upon its adoption; and

WHEREAS, the California Legislature modified the Urban Water Management Planning Act in 2018 to include additional water shortage planning requirements. California Water Code has significant updates specifically to Code Section 10632 that now mandates new elements to Urban Water Management Plans and Water Shortage Contingency Plans, including an annual drought risk assessment, standard water shortage levels and statewide water use prohibitions; and

WHEREAS, on June 9, 2021, the Santa Clara Valley Water District (Valley Water) Board of Directors adopted a resolution calling for mandatory water use reductions; and

WHEREAS, on June 15, 2021, the Milpitas City Council adopted Resolution No. 9086, “A resolution adopting the 2020 Urban Water Management Plan” (‘UWMP’),” which includes water conservation as a necessary and effective component of the City’s programs to provide a reliable supply of water to meet the needs of its customers; and

WHEREAS, on June 15, 2021, the Milpitas City Council adopted Resolution No. 9087, “A resolution adopting the 2020 Water Shortage Contingency Plan (‘WSCP’),” which establishes standards and procedures to enable implementation and enforcement of local water shortage contingency measures and water shortage levels. These measures align with the California Water Code Section 353 and 375; and

WHEREAS, the City shall conduct an Annual Water Supply and Demand Assessment pursuant to California Water Code 10632 and, on or before July 1 of each year, beginning in 2022, submit an annual water shortage assessment report to the California Department of Water Resources with information for anticipated shortage, triggered shortage response actions, compliance and enforcement actions, and communication actions consistent with the City’s WSCP; and

WHEREAS, on July 8, 2021, Governor Newsom issued Executive Order N-10-21, directing Californians to voluntarily reduce their water use by 15% compared to their water use in 2020, and directing the State Water Resource Control Board to track and report the state’s progress toward the 15% conservation goal; and

WHEREAS, on October 19, 2021, Governor Newsom issued a proclamation for a statewide drought emergency and directed the State Water Resource Control Board to adopt emergency regulations to prohibit certain wasteful uses of water; and

WHEREAS, on November 23, 2021, the San Francisco Public Utilities Commission declared a water shortage emergency and called for a voluntary 10% water use reduction; and

WHEREAS, on January 4, 2022, in response to the Governor’s directive, the State Water Resources Control Board adopted new emergency regulations, which prohibits certain wasteful water use practices, such as the use of decorate water fountains, using irrigation systems during and within 48 hours of rain, and using water to clean sidewalks and driveways, among others; and

WHEREAS, on March 28, 2022, Governor Newsom issued Executive Order N-7-22, directing the State Water Resources Control Board to adopt regulations requiring urban water retail suppliers that have submitted a water shortage contingency plan to implement, at a minimum, shortage response actions for Level 2 Water Shortage. The Executive Order also directs the State Water Board to adopt regulations that prohibit the irrigation of strictly ornamental turf areas for the commercial, industrial, and institutional sectors; and

WHEREAS, on May 24, 2022, the State Water Resources Control Board adopted an emergency regulation that requires urban water retailers to implement Level 2 Water Shortage Contingency Plan actions and to prohibit the watering of “non-functional turf” (that is, turf that is strictly ornamental and does not serve human recreational purposes) using potable water, except to ensure the health of trees and perennial non-turf plantings, effective on June 10, 2022; and

WHEREAS, on December 7, 2022, the State Water Resources Control Board readopted the emergency drought regulations from January 4, 2022, which prohibit wasteful uses of water; and

WHEREAS, on March 24, 2023, Governor Newsom issued Executive Order N-5-23, which terminated the state’s 15% voluntary water conservation goal and the requirement that local agencies implement Level 2 Water Shortage actions, while maintaining the requirement to enforce the prohibition of wasteful water use practices and retaining the state of emergency to allow for the continuation of drought response activities and support for regions still experiencing drought and water shortage conditions; and

WHEREAS, on April 11, 2023, the San Francisco Public Utilities Commission voted to rescind its November 2021 water shortage emergency declaration, while keeping its 11% voluntary water conservation target to remain consistent with the State Water Resource Control Board’s regulation requiring urban water agencies to implement Level 2 Water Shortage Contingency Plan actions; and

WHEREAS, on April 12, 2023, Valley Water’s Board of Directors voted to rescind its water shortage emergency declaration and the mandatory call of 15% water use reduction, while maintaining the ban on wasteful water use practices and switching to a voluntary 15% water conservation goal. The Board of Directors directed Valley Water to provide recommendations for additional actions to continue promoting water conservation as a way of life;

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

2. The City Council declares that the Level 2 Water Shortage of the City's Water Shortage Contingency Plan is hereby terminated with the end of State Water Resources Control Board's emergency drought regulations.

PASSED AND ADOPTED this _____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Receive an Update on the Emergency Repairs to the HVAC System and Equipment at City Hall and at the Public Works/Information Technology/Police Department Buildings and Determine that the Condition Continues to Constitute an Emergency (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	5/16/2023
	<u>Recommendation:</u> (1) Receive an update on the emergency repairs to the HVAC system and equipment at City Hall and at the Public Works/Information Technology/Police Department Buildings; and (2) Determine by a four-fifths vote that the condition continues to constitute an emergency.

Background:

Pursuant to Public Contract Code section 22050 and the attached [Council Resolution No. 9134](#), the Director of Public Works, in the case of emergency, may authorize a repair of a public facility and procure the work without giving notice for bids. An emergency is defined as “a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.” Additionally, State law requires the Public Works Director, as the City official with delegated authority to take emergency action, to report any emergency authorization and the reason(s) for the authorization to the City Council not later than seven days after the action, or at its next regularly scheduled meeting if that meeting will occur not later than 14 days after the action. Further, the Public Works Director is required to report why the emergency would not permit a delay resulting from a competitive solicitation for bids and the City Council is required to review the emergency action at every regularly scheduled meeting thereafter until the emergency repair is completed. The City Council shall continue to review the emergency action at every regularly scheduled meeting thereafter until the action is terminated. At each review, the City Council shall determine, by a four-fifths vote, whether there is a need to continue the action.

Analysis:

Consistent with applicable State law and Council Resolution, on April 27, 2023, the Public Works Director declared an emergency and authorized the City to contract with its existing HVAC maintenance contractor, Environmental Systems Inc. (ESI), for the emergency repairs to the HVAC system at City Hall and the Public Works, Information Technology and Police Department buildings. Further, within the required time frame the Public Works Director informed the City Council via the attached [Information Memorandum](#) on April 27 regarding the emergency authorization, the reasons for the authorization, and the cost for repair in the amount of \$899,300.

Staff is currently working with the contractor to finalize repair timeline based on part and equipment availability.

Fiscal Impact:

Funding for these repairs is available in the City's Capital Improvement Program (CIP) budget. CIP Project 3499 - HVAC Systems Repairs will fund \$620,000 for the upgrades to the Building Management System (BMS) and Variable Air Flow (VAV) boxes at both buildings. The remaining repairs will be funded by CIP Project 3406 – City Building Improvements in the amount of \$279,300.

California Environmental Quality Act:

The emergency repair work is exempt from CEQA, per CEQA Guidelines Section 15301, Existing Facilities and 15302, Replacement or Reconstruction.

Recommendations:

1. Receive an update on the emergency repairs to the HVAC system and equipment for City Hall and the Public Works, Information Technology and Police Department buildings.
2. Determine by a four-fifths vote that the condition continues to constitute an emergency.

Attachment:

None



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve Parks and Recreation and Community Services Programs Donation for a Memorial Bench in Honor of Dale Flunoy (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	5/16/2023
	<u>Recommendation:</u> Approve the Parks and Recreation Donation for a Memorial Bench for Dale Flunoy.

BACKGROUND:

Milpitas City Council adopted revisions to the Donation for City Park and Recreation and Community Services Programs City Council Policy (Policy) on October 4, 2022. The policy establishes the guidelines, criteria, and processes for donations for City parks and Recreation and Community Services Department programs, including memorials to City-owned parks and recreation areas throughout the City of Milpitas. This Policy is consistent with the Council approved Budget Guidelines to provide process and procedure on the acceptance of financial donations.

On March 7, 2022, the Parks, Recreation and Cultural Resources Commission (PRCRC) voted to recommend City Council approval of the Parks and Recreation Donation Application submitted by Rosana Cacao and Elias Peralta for the installation of a Memorial Bench at the Milpitas Community Center for Dale Flunoy, retired City employee.

ANALYSIS:

The Policy outlines ways for businesses, community groups, or individuals to donate through:

- 1) Monetary Donations
- 2) Memorial Donations
- 3) Anonymous Donations
- 4) Non-Financial Donations

Donations that require ongoing maintenance and/or future replacement costs are first reviewed by the PRCRC for review and recommendation to the Milpitas City Council for final consideration.

PRCRC reviewed the submitted donation application at their March 7, 2022, meeting. As described in the application, Dale Flunoy, recently retired Recreation Supervisor, passed away unexpectedly last year. After working over four decades with the City of Milpitas, Dale retired in March of 2021 and passed away just four (4) months later. He was extremely proud of his time and work with the City of Milpitas as he grew up in Milpitas in the Sunnyhills neighborhood and knew the town and people well. Dale began his work as a public servant as a young man as a teacher's assistant at Weller elementary. Dale was a mainstay in the City's Summer Camps and watched after and mentored thousands of Milpitas children. He started many of the fun and exciting programs and events in Milpitas like Milk and Cookies with Santa, and the Stay and Play Afterschool Program (now After the Bell). He planned numerous facilities and park ribbon cuttings, drove the van for the Milpitas Senior Center, served as the staff Liaison for the Veterans Commission and the Youth Advisory Commission. He approached every program or task he was assigned with humor, excitement, and attention to detail.

As outlined in the Policy "Memorial Donations" sections 2.6.3.1 and 2.6.3.4 respectively:

- Memorial Donations allow for individuals to contribute funds "in memory of" a family member who has passed away or retired and moved out of the area.

- Donation in memory of an individual must be appropriate and relevant to the Milpitas community, (i.e., past resident, business-person or other person having contributed to the good of the Milpitas community).

The PRCRC unanimously voted in favor of recommending the City Council's final approval of the memorial bench donation.

POLICY ALTERNATIVE(S):

Alternative 1: Not approve the donation of a Memorial Bench in Honor of Dale Flunoy

Pros: City Staff will not have to work on the Memorial Bench Donation and will continue to work on currently assigned tasks.

Cons: The proposed memorial donation meets the Policy requirements.

Reason for Not Recommending: The proposed memorial donation meets the City Council Donation for City Parks and Recreation and Community Services Programs

FISCAL IMPACT:

Per the Donations to Parks and Recreation Programs Policy the Flunoy-Peralta family accepts all financial responsibility of the donation which includes the bench and plaque procurement and installation. Ongoing maintenance costs and future replacement costs will be incorporated into a future Public Works operating budget.

California Environmental Quality Act (CEQA):

By the definition provided in the California Environmental Quality Act (CEQA) Guidelines Section 15378, this action does not qualify as a "project" for the purpose of CEQA.

RECOMMENDATION:

Approve the Parks and Recreation Donation Application for a Memorial Bench for Dale Flunoy at the Milpitas Community Center.

Attachment(s):

1. Donation for City Parks and Recreation and Community Services Programs Policy
2. Parks, Recreation and Cultural Resources Financial Donation Form
3. PRCRC Minutes, March 7, 2022



CITY OF MILPITAS

Item # C16.

Revision	Date
Original	03/19/2013
Revised	10/4/2022

CITY COUNCIL POLICY

Policy No: Click or tap here to enter text.	DONATIONS FOR CITY PARKS AND RECREATION AND COMMUNITY SERVICES PROGRAMS	Effective Date: 10/4/2022
Revision No: 1	Policy Administrator: Recreation and Community Services	Next Review Due: As needed
Related Policies and Procedures: Incorporates and replaces Original	Approved by: Click or tap here to enter text. Council meeting date, agenda item #, and vote	Date Approved: 10/4/2022

1. PURPOSE

- 1.1. This Policy establishes the guidelines, criteria, and processes for donations for City parks and Recreation and Community Services Department programs.
- 1.2. This Policy is consistent with the Council approved Budget Guidelines which state in part that the City Manager is authorized to accept grants or donations up to and including \$100,000, increase department revenues and appropriations accordingly, and execute related agreements as long as no matching funds are required, and departments do not require additional funding for ongoing maintenance costs or future replacement costs

2. POLICY

- 2.1. The City shall have the sole authority and the City Council shall have the final authority to approve donations except for monetary donations up to and including \$100,000 that do not require any matching funds, additional funding for ongoing maintenance costs or future replacement costs.
- 2.2. The City reserves the right to recognize donors, or, for memorial gifts, the named individual, in any other manner the City so chooses. No outside donor shall have the right to apply, control, or dictate the City's manner of recognition.
- 2.3. In the event the City chooses to recognize a donor, or for memorial gifts, the named individual, the manner of recognition shall be construed as the City's own speech under the government speech doctrine and no open forum shall be created by the City's exercise of its sole decision to recognize a donor or named individual at a certain location or in a certain manner.
- 2.4. Final review and action to accept or decline a donation, and recognition of the donor for accepted donations on behalf of the City of Milpitas is determined by the Milpitas City Council except for monetary donations up to and including \$100,000 that do not require any matching funds, additional funding for ongoing maintenance costs or future replacement costs. For these monetary donations, the final review and action rests with the City Manager.
- 2.5. The Parks, Recreation and Cultural Resources Commission (PRCRC) shall evaluate appropriate donations to City Parks or Recreation and Community Services programs and shall make recommendations to the City Council.
- 2.6. Financial Donations
 - 2.6.1. Donors may earmark monies for the purchase of specific materials, supplies, equipment, furnishings, and other items to the extent practical.



Revision	Date
Original	03/19/2013

DONATION FOR CITY PARKS AND RECREATION AND COMMUNITY SERVICES PROGRAMS/ POLICY

- 2.6.2. City staff will apply the funds as requested by the donor. Should additional or alternate uses for the funds be identified, staff will consult with the donor and receive written permission to apply funds differently.
- 2.6.3. Memorial Donations
 - 2.6.3.1 Memorial Donations allow for individuals to contribute funds “in memory of” a family member who has passed away or retired and moved out of the area.
 - 2.6.3.2 Memorial donations may not be contributed in memory of pets, or livestock.
 - 2.6.3.3 Individuals may name the City of Milpitas or Recreation and Community Services as a beneficiary in their wills, trusts, or other estate planning document. The will might stipulate that the funds (or interest from part of an estate) be used to purchase particular items or materials in certain service areas or support certain programs.
 - 2.6.3.4 Donation in memory of an individual must be appropriate and relevant to the Milpitas community, (i.e., past resident, business-person or other person having contributed to the good of the Milpitas community).
- 2.6.4. Anonymous Donations
 - 2.6.4.1 Donations with the request to remain anonymous will not be acknowledged in any donor listings.
- 2.6.5. Non-financial Donations
 - 2.6.5.1 In the event a donor desires to give materials, personal property, real property, fixtures and other things, non-monetary in nature, to the City, the proposed gift shall be presented to the Director of Recreation and Community Services in writing.
 - 2.6.5.2 All such non-monetary donations shall be subject to the City Manager or designee’s determination of probable value and viability for acceptance and placement.
 - 2.6.5.3 If determined by staff to be a viable donation, the Parks, Recreation and Cultural Resources Commission shall make a recommendation to the City Council for a final decision, except for monetary donations up to and including \$100,000, in which the final review and action rests with the City Manager.

3. PROCEDURE

- 3.1. Accepting Monetary Donation Requests
 - 3.1.1. All inquiries about monetary donations shall be directed to the Recreation and Community Services Director.
 - 3.1.2. If deemed a viable donation, potential donors shall be provided a copy of the Parks, Recreation and Cultural Resources Donation Form.
 - 3.1.3. Upon receipt of this completed form by the Director, the proposed donation shall be placed on the next appropriate PRCRC agenda.
 - 3.1.4. For monetary donations up to and including \$100,000 that do not require any matching funds, additional funding for ongoing maintenance costs or future replacement costs, staff will provide an informational item to the PRCRC for information purposes only. The donation will be accepted administratively. The



Revision	Date
Original	03/19/2013

**DONATION FOR CITY PARKS AND RECREATION AND COMMUNITY SERVICES
PROGRAMS/ POLICY #**

Director of Finance will report quarterly the acceptance of any grants and donations as part of the quarterly financial status report.

- 3.1.5. For any monetary donation, that requires any matching funds, additional funding for ongoing maintenance costs, future replacement costs, or any monetary donation over \$100,000, the PRCRC shall review the proposed donations and provide a recommendation for either accepting or declining the donation to the Milpitas City Council.
- 3.2. Accepting Non-financial Donation Requests
 - 3.2.1. All inquiries about non-financial donations shall be directed to the Recreation and Community Services Director.
 - 3.2.2. Recreation and Community Services Director will coordinate the review of any non-financial donations with other City Departments affected by the donation, including but not limited to the Office of the City Attorney, Finance and Public Works.
 - 3.2.3. If deemed a viable donation, potential donors shall be provided a copy of the Parks, Recreation and Cultural Resources Donation Form.
 - 3.2.4. Upon receipt of this completed form by the Director, the proposed donation shall be accepted by the City Manager or their designee if there are no ongoing maintenance or future replacement costs. Otherwise, the donation shall come to the PRCRC for approval with an estimated value of up to and including \$25,000 and to the PRCRC for recommendation for City Council approval with an estimated value greater than \$25,000.
 - 3.2.5. The PRCRC shall receive a quarterly report on received non-financial donations received for up to and including \$25,000 at a regularly scheduled meeting.

CITY OF MILPITAS

DONATION POLICY AND PROCEDURES FOR THE CITY OF MILPITAS PARKS AND RECREATION PROGRAMS

Adopted by the Milpitas City Council: March 19, 2013

The City of Milpitas Parks and Recreation welcomes financial contributions. Financial contributions may be made to the City of Milpitas, a non-profit municipal corporation.

This policy is established in order to make certain that the decisions on acceptance of a financial gift are made in a timely and consistent manner and are appropriate in terms of the nature, facilities and purposes of the parks and recreation areas throughout the City of Milpitas.

All financial donations to the Milpitas Parks and Recreation shall be in compliance with the City of Milpitas Standard Operating Procedure #26-2, Grants, Sponsorship and Donations.

The Milpitas City Council reserves the right to accept or decline acceptance of any financial donation. Once a donation is accepted, it becomes the sole property of the City of Milpitas. The Milpitas City Council reserves the right to decide upon the final disposition of all financial donations received.

Financial Donations:

1. Monetary donations to the City of Milpitas Parks and Recreation programs are appreciated and welcomed. Donors may earmark monies for the purchase of specific materials, supplies, equipments, furnishings, and other items and to the extent practical, City staff will apply the funds as earmarked, but final determination of use shall be based upon the needs of the City as determined by and within the discretion of the City Manager. Donors may also request that the Milpitas City Council select the appropriate use of a monetary donation. To determine an appropriate use for such undesignated funds, the Parks and Recreation and Cultural Resources Commission (PRCRC) shall prepare a report detailing a proposed use of the funds for consideration by the City Council.
2. All financial donations shall be used towards purchases and events or other applications directly supporting the City of Milpitas Parks and/or Recreation programs.
3. Ways for businesses, civic groups or foundations to contribute funds to benefit the City of Milpitas Parks and Recreation programs:
 - a. *Memorial Donations* – This type of donation allows for individuals to contribute funds “in memory of.” For example, a family member who has passed away or retired and moved out of the area. Memorial donations do not include pets. In addition, individuals may name the City of Milpitas as a beneficiary in their wills. The will might stipulate that the funds (or interest from part of an estate) be used to purchase particular items or materials in certain subject areas, subject to the policy set forth above in Section 1. In all cases, if possible materials purchased with donated funds shall be selected in accordance with the parks development policy.

Donation in memory of an individual should be appropriate and relevant to the Milpitas community, (i.e., past resident, business person or other person having contributed to the good of the community).

- b. *Specified use* – An individual or organization may request donations be used for the purchase of materials or items for use in certain subject areas, to provide support for a specific event or the display or installation of artwork at a specific park, the planting of a tree or installation of a flowerbed, or for equipment subject to the policy set forth above in Section 1.

Such materials, support of special events and other items shall be in accordance with the subject area within the parks and the cultural and historical interests of the Milpitas community, and/or ongoing furnishings and equipment needs of the parks.

- c. *Anonymous gifts* – Donation with the request to remain anonymous shall be considered and honored in the same manner as undesignated gifts. The contributor shall be advised that anonymous gifts shall not be acknowledged in the donor listings.

Non-Financial Donations:

In the event a donor desires to give materials, property, fixtures and other things non-monetary in nature to the City, the proposed gift shall be presented to City staff in writing. All such non-monetary donations shall be subject to staff determination of probable value. Additional information regarding the items to be donated may be required. With regard to all non-monetary donations, consideration of whether to accept the donation shall first be made by the PRCRC, which shall make a recommendation to the City Council for a final decision.

Recognition Program:

Donors, or for memorial gifts the named individual, shall be acknowledged by the Milpitas City Council in a yearly publication on the City website. All financial donations made to the City of Milpitas for Parks and Recreation programs should be acknowledged by a letter of appreciation signed by the Mayor. Receipts for all contributions shall be provided upon receipt of the donation.

Procedures and Guidelines:

All inquiries about donations shall be directed to the PRCRC staff liaison. For all proposed donations, presentation shall be made to the PRCRC for review and recommendation to the Milpitas City Council. The PRCRC, through City staff, shall provide a copy of the **Parks, Recreation and Cultural Resources Financial Donation Form** to potential donors. Upon receipt of this completed form by the staff liaison, the proposed donation shall be placed on the next PRCRC agenda.

The PRCRC shall review all Parks, Recreation and Cultural Resources Financial Donation Forms and provide a recommendation for either accepting or declining the donation to the Milpitas City Council. Each recommendation to accept a donation shall include a description of how the donation would benefit Parks and Recreation programs by either installation of a bench, artwork or equipment, promoting cultural or historical interests of the Milpitas community, increasing awareness of activities or equipment available to the community, or other enrichment of City Parks and Recreation programs.

Final review and action to accept or decline a donation on behalf of the City of Milpitas is determined by the Milpitas City Council. Donations accepted by the Milpitas City Council shall be tracked in a separate account. The City Finance Department shall provide reporting of expenditures and fund balance upon request of the PRCRC.

DONATION POLICY TO PARKS AND RECREATION PROGRAMS

Item # C16.

CITY OF MILPITAS

Parks, Recreation and Cultural Resources Financial Donation Form

Donor information: *(please type or print clearly)*

Name: Rosana Cacao / Elias Peralta

Address: 421 Martil Way City: Milpitas State: CA Zip: 95035

Day phone: 408-221-3847 Evening phone: _____

E-mail address: Rosana_rcac@yahoo.com

Monetary Gift Amount and Purpose

Enclosed is my gift of \$_____ to support the Milpitas Parks and Recreation programs.

I would like to direct my gift to:

- ❖ Where the need is greatest
- ❖ Programs for Parks and Recreation
- ❖ Park equipment
- ❖ Specific use: _____

❖ Other: _____

Memorials and Tributes

Enclosed is my gift of \$TBD to support the Milpitas Parks and Recreation programs.

❖ In Memory of: Memorial Bench in Memory
of Dale Flunoy

❖ In Honor of: _____

Please send an acknowledgement to the next of kin, donor or honoree listed below:

Name: _____

Address: _____

City: _____

State: _____ Zip: _____

Day phone: _____

Evening phone: _____

Gift Payment

Make checks payable to The City of Milpitas. All donations are tax deductible.

Other Information

- This gift will be matched by my employer: _____.
- Please keep my gift anonymous. ☐ I understand I will not be included in donor listings.

Non-Monetary Donations

I propose to donate the following equipment, materials or other things for Milpitas Parks and Recreation programs:

A Memorial Bench to Honor Dale Flunoy

I would like to direct my gift for the following specific use:

I would ask that the City determine the best Milpitas Parks and Recreation program use for my gift

Other comment: See Below

Dale Flunoy, recently retired Recreation Supervisor, passed away unexpectedly last year. After working over four decades with the City, Dale retired in March of 2021 and passed away just 4 months later. He was extremely proud of his time and work with the City as he grew up in Milpitas in the Sunnyhills neighborhood and knew the town and people well.

Dale began his work as a public servant as a young man as a teachers Assistant at Weller elementary. He was a mainstay in the City's Summer Camps and watched after and mentored thousands of Milpitas children. He started many of the fun and exciting program and events in Milpitas like, Milk and Cookies with Santa, and the Stay and Play Afterschool Program (now After the Bell). He planned many facility and park ribbon cuttings, drove the van for the Milpitas Senior Center, served as the staff Liaison for the Veterans Commission – the list goes on and on. He approached every program or task he was assigned with humor, excitement, and an attention to detail that the Recreation and Community Services Department is known for. He is survived by his loving husband Elias, fur babies, sister, niece and nephews. He is and will always be greatly missed.

**CITY OF MILPITAS
M I N U T E S**

Item # C16.

PARKS, RECREATION AND CULTURAL RESOURCES COMMISSION

- Minutes:** Parks, Recreation and Cultural Resources Commission.
- Date of Meeting:** March 7, 2022
- Place of Meeting:** Via Teleconference (Virtual Meeting).
- I. Call to Order:** Chair Davis called the meeting to order at 7:00pm
- II. Flag Salute:** Chair Davis led the Pledge of Allegiance.
- III. Roll Call:** Commissioners Present: Davis, Ehardt, Strauss, Jackson, Current, Montemayor and Gill
- Commissioners Absent: Thomas and Caidoy
- City Staff Present: Renee Lorentzen – Recreation and Community Services Director
Josh Clevenger – Recreation and Community Services Supervisor
Justin Yount – Public Services Assistant
- IV. Seating of Alternates:** Jackson
- V. Approval of Agenda:** **MOTION** to approve the agenda for March 7, 2022 as submitted.
- M/S: Strauss/Jackson Ayes: All
- VI. Approval of Minutes:** **MOTION** to approve the minutes from February 7, 2022 as submitted.
- M/S: Current/Ehardt Ayes: Davis, Ehardt, Strauss, Jackson, Current
Abstain: Montemayor and Gill
- VII. Public Forum:** None
- VIII. Announcements and Correspondence**
- None
- IX. Business Items**
- a. Proposed 2023-2027 Capital Improvement Program (CIP) – Park Projects Priority – City Staff**
City Engineering staff, Michael Silveira and Steve Erickson presented the Parks Projects in the proposed 2023-2027 Capital Improvement Program to the Commission. Presentation outlined various park project accomplishments, projects to be completed and started in FY 22-23, park project priorities and challenges, and the proposed 5-year CIP park projects. Staff suggested that all Commissioners review projects in CIP. Presentation was received by Commission with brief discussion afterwards regarding the various sources in funding these projects.

Motion to receive presentation and recommend to City Council for approval.

M/S: Montemayor/Ehardt

Ayes: All

b. Update on Historical Society Historical Tour – Commissioner Ehardt

Commissioner Ehardt, who is also a current Historical Society member, provided an update on the Board meeting discussion and informed Commissioners of a change in direction regarding originally planned bus tour. It has been suggested to allow for three tours based on Historical events – Historical Series Tour, which would take place in June, August and October. This would help increase participation and target various audiences. Suggested tour ideas included Serra Way/Main St., the Grammar School/Library, Alviso Adobe, Weller Ranch and the Ford Plant. Staff Lorentzen encouraged Commission to obtain ideas for tours from the community. Other ideas included audio/visual presentations at the Main Library on historical information as well as Story Walks through Main St. with QR codes for quick information access. Commission is tasked with assisting with advertising through community outreach. Suggested advertising also included Facebook, City and Newspaper posting.

c. Dale Flunoy Memorial Bench Donation

The Commission voted unanimously to recommend final City Council approval of the Park and Recreation Donation Application submitted by Rosana Cacao and Elias Peralta for the installation of a Memorial Bench at the Milpitas Community Center for Dale Flunoy, retired City employee, to City Council for final consideration and approval. Dale passed away unexpectedly last year. After working over four decades with the City, Dale retired in March of 2021 and passed away just 4 months later. The family has requested that a memorial bench for Dale Flunoy be placed on the Milpitas Community Center grounds. Per the Donations to Parks and Recreation Programs Policy the Flunoy-Peralta family accepts all financial responsibility of the donation which includes the bench and plaque procurement and installation.

Motion to recommend item to City Council for approval.

M/S: Davis/Current

Ayes: All

d. Discussion on Work Plan Goal, Bicycle and Pedestrian Trails – City Staff and Ad Hoc

Ad Hoc group met (Commissioners Davis, Strauss and Thomas) regarding two possible routes for upcoming Bike Event. Commissioner Davis presented a slideshow of information compiled from the group. First route would be the Coyote Creek North trail with second option as the Coyote Creek South trail. With further discussion, it was agreed upon to hold event on the South trail. Given this trail runs through McCarthy Ranch, staff suggested the idea of possible donations or grab bags for participants with coupons for restaurants/food places in the surrounding area. Also, Due to various challenges with dates proposed by Ad Hoc group, it was agreed upon to hold event on 8/20 to hopefully increase participation. Event start time is set for 9:30am. Ad Hoc will continue to work with staff on event specifics as well as advertising and will report to Commission at future meeting.

Motion to hold bike event on 8/20/22 at 9:30am.

M/S: Jackson/Current

Ayes: All

e. Discussion on June Park Tour Discussion – City Staff

Annually, this Commission will visit a site, City park and/or facility as part of their Work Plan. The location can be a renovated park, area of concern or a specific section of the City. Commissioner Davis has expressed an interest in previewing the Alviso Adobe once renovation is completed but an alternate location will need to be selected as well as a backup. Other Commissioners are also interested in seeing recently renovated parks. Staff received feedback and will compile a list of possible park locations for viewing. As far as the viewing, staff presented two options: Commission can take tour on night of actual meeting with an earlier start time or cancel regularly scheduled meeting in June and schedule a Special Meeting on a Saturday morning. Commission has agreed to meet earlier on night of actual meeting with a 5pm start time. Staff will finalize details and have on agenda for next month as a Special Meeting.

X. Staff Liaison Reports

Newly appointed Commissioner Baljit Gill was introduced and staff provided updates on Recreation and Community Services programs, services, and events.

XI. Council Liaison Reports

Vice Mayor Montano provided updates on City Council items.

XII. Future Agenda Items

City Garden Update

XIII. Adjournment:

With there being no further business, the meeting was adjourned at 8:54pm to the next scheduled meeting on April 4, 2022.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve Amendment No.1 to the Memorandum of Understanding with the MUSD for Expansion of After the Bell for the Extended Learning Opportunities Program (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	5/16/2023
	<u>Recommendation:</u> Authorize the Acting City Manager to approve Amendment No.1 to the Memorandum of Understanding with the MUSD for expansion of After the Bell for the Extended Learning Opportunities Program.

BACKGROUND:

The City of Milpitas' Recreation and Community Services Department provides the After the Bell (ATB) program at seven (7) elementary school sites, serving over 400 Milpitas youth annually, grades 1 – 6, from bell dismissal to 6:00 p.m. every day school is in session.

As part of the adoption of the California State Budget, the State provided over \$1.75 billion for the Expanded Learning Opportunities Program (ELOP) in funding for afterschool and summer school enrichment programs with a focus on Local Educational Agencies (LEA) with the highest concentration of targeted disadvantaged students. The Milpitas Unified School District (MUSD) approached Recreation and Community Services staff to expand the existing After the Bell (ATB) program for the 2022-23 school year and serve additional at-risk youth as identified by the MUSD, after school at eight (8) elementary school sites, for MUSD enrolled students, grades K - 6.

To further support, and in the spirit of collaboration, City staff drafted a Memorandum of Understanding for the Expansion of ATB for ELOP between the City of Milpitas and the MUSD for school year programs which was approved by both the Milpitas Unifies School District Board of Trustees and the Milpitas City Council on June 21, 2022.

The MUSD has requested that Recreation and Community Services Department provide ELOP for the MUSD 2023 Summer School Program (Summer Program), thus requiring an amendment to the Memorandum of Understanding to extend and expand the agreement terms.

ANALYSIS:

Due to available State grant funding for ELOP, the MUSD is able to cover costs to extend the ATB ELOP through to July 14, 2023, for the ELOP Summer School program (Summer Program). Per the amended MOU, Summer Program would operate at two (2) elementary school sites for grades TK-6th at Randall and Rose Elementary schools from bell dismissal to 6:00 p.m., when summer school is in session. The MOU Amendment is drafted to reflect the additional responsibilities of both agencies (see attached). Key terms in the agreement are:

City Terms

Per the MOU the City will:

- Staff the Summer Program and conduct Program operations
- Manage the Summer Program enrollment of eligible, interested Program participants through Recreation and Community Services software, including but not limited to all applicable waivers and emergency contact forms.

- Maintain safe Summer Program child:leader ratios.
- Establish and create Summer Program materials and conduct all communication including but not limited to Summer Program protocols, code of conduct, program calendars, and parent directives.
- Invoice the MUSD on June 30, 2023, for the full Summer Program enrollment costs.

MUSD Terms

Per the MOU the MUSD will:

- Identify the students qualified for the Summer Program by school site and communicate to parents of eligible students how to sign up for ELOP Summer Program through the City's enrollment platform
- Provide access to classrooms, multi-use room, restrooms, etc., as well as onsite storage for Summer Program equipment for all Summer Program participants
- Pay the City, 100% of Program costs for enrolled students at the program amount of \$16 per day, per student.

The Milpitas Unified School District Board of Trustees approved Amendment No. 1 to the Memorandum of Understanding with the MUSD for Expansion of After the Bell for the Extended Learning Opportunities Program at their May 9, 2023, meeting.

The final number of ELOP participants will be determined at the beginning of summer. Once final enrollment numbers are known, staff will bring forward to City Council an amendment to the City's Fiscal Year 2023-24 budget for program expenditures fully offset with new revenues.

POLICY ALTERNATIVE(S):

Alternative 1: Do not authorize the Acting City Manager to Enter into a Memorandum of Understanding with the MUSD for Expansion of After the Bell for the Extended Learning Opportunities Program

Pros: Staff can stop work on the expansion and focus on other projects and tasks

Cons: Should ATB not provide services for ELOP Summer Program, another care provider will be contracted reducing department and City revenue streams.

Reason for Not Recommending: Should ATB not provide services for ELOP Summer Program, another care provider will be contracted for this service, reducing department and City revenue streams.

FISCAL IMPACT:

Fiscal impact at this time is unknown, however any program expenditures will be fully offset by revenues. The final number of ELOP participants will be determined at the beginning of summer. Once final enrollment numbers are known, staff will bring forward to City Council an amendment to the City's FY2023-24 budget for program expenditures fully offset with new revenues. This budget amendment may be addressed in the FY2023-24 mid-year budget report or sooner.

RECOMMENDATION:

Authorize the Acting City Manager to enter into agreement Amendment No.1 to the Memorandum of Understanding with the MUSD for Expansion of After the Bell for the Extended Learning Opportunities Program.

Attachment(s):

1. Memorandum of Understanding with MUSD for Expanded After the Bell Program for the Expanded Learning Opportunities Program
2. Draft Amendment No. 1 to the Memorandum of Understanding with MUSD

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran
 NOES: None

CONSENT CALENDAR

Vice Mayor Montano asked to remove item C21.

Motion: to approve the consent calendar with the removal of item C21.

Motion/Second: Mayor Tran / Councilmember Chua

Motion carried by the following:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

C1. Receive the City Council Calendar of Meetings for June and July 2022 (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)

Received the City Council Calendar of Meetings for June and July 2022.

C2. Approve the Regular and Special Meeting Minutes of June 7, 2022 (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)

Approved the Regular and Special Meeting Minutes of June 7, 2022.

C3. Receive the Preview List of Anticipated Items for the Next Regular City Council Meeting (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)

Received the list of anticipated agenda items for the next regular City Council meeting.

C4. Receive and Review the List of Agenda Items Requested by City Councilmembers (Contact: Mayor and City Councilmembers, 408-586-3000)

Reviewed the list of items that have been requested by City Councilmembers.

C5. Authorize the City Manager to Accept CalRecycle Grant of \$107,661 and Approve Related Budget Amendment (Elaine Marshall, Deputy Public Works Director, 408-586-2603)

Authorized the City Manager to accept grant funding from CalRecycle's one-time Senate Bill 1383 local assistance grant and approved a related budget amendment for revenues in the amount of \$107,661 for the Solid Waste Fund (Fund 280) for FY 2021-22.

C6. Approve and Authorize the City Manager to Execute a Stormwater Management Facilities Operation and Maintenance Agreement for Milpitas Town Center 2008 LP for the Chick-fil-A project at 755 East Calaveras Boulevard. (Staff Contact: Steve Erickson, 408-586-3301)

Approved and authorized the City Manager to execute a Stormwater Management Facilities Operation and Maintenance Agreement for Milpitas Town Center 2008 LP for the Chick-fil-A project at 755 East Calaveras Boulevard.

C7. Authorize City Manager to Enter into a Memorandum of Understanding with the MUSD for the Expansion of After the Bell for the Extended Learning Opportunities Program (Staff Contact: Renee Lorentzen, Director of Recreation and Community Services, 408-586-3409)

Authorized City Manager to enter into a Memorandum of Understanding with the MUSD for expansion of After the Bell for the Extended Learning Opportunities Program.

August 23, 2022 Board Meeting

MOU with City of Milpitas for After the Bell

Quick Summary/Abstract:

As presented to the MUSD Board of Education on June 14, 2022, MUSD will partner with the City of Milpitas and the recreation division of After the Bell to provide after-school care access for our unduplicated elementary students.

BACKGROUND:

It is the intent of the Legislature, with Assembly Bill 130, that Expanded Learning programs are pupil-centered, results driven, include community partners, and complement, but do not replicate, learning activities in the regular school day and school year.

All local educational agencies offer all unduplicated pupils in classroom-based instructional programs access to comprehensive after-school and intersessional expanded learning opportunities.

Recommended Motion:

It is recommended that the Board of Education approve of the Memorandum of Understanding between the City of Milpitas, After the Bell and Milpitas Unified School District.

**MEMORANDUM OF AGREEMENT
BETWEEN THE CITY OF MILPITAS AND MILPITAS UNIFIED SCHOOL DISTRICT
FOR THE PROVISION OF EXPANDED AFTER THE BELL (ATB) PROGRAM FOR THE EXPANDED
LEARNING OPPORTUNITIES PROGRAM TO SUPPORT YOUTH**

This Memorandum of Agreement ("Agreement") is made and entered into this Aug-26-2022 day of Aug-26-2022, 2022 ("Effective Date"), by and between the City of Milpitas, a municipal corporation of the State of California ("City") and the Milpitas Unified School District, a California public school district ("District"). City and District are sometimes referred to individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, the City has offered an afterschool program called "After the Bell" ("ATB") in cooperation with the District on District sites for various decades; and

WHEREAS, After The Bell currently serves students grades 1 – 6 at seven (7) elementary District sites; and

WHEREAS, the State of California approved the Expanded Learning Opportunities Program (ELOP) funding as part of the approval of the FY 2021-22 Adopted Budget; and

WHEREAS, the ELOP funding distributed to school districts is provided to support unduplicated students that are eligible for free or reduced meals, English learner, or foster youth/McKinney Vento to participate in after school programs; and

WHEREAS, the District has requested a partnership to provide support to its students in need of afterschool care in accordance with State required provision of ELOP; and

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein, the Parties agree as follows:

TERMS OF AGREEMENT

The Term of this Agreement shall be for school year 2022-23, starting August 10, 2022 and will be in effect from the Effective Date to June 2, 2023 until revoked, in writing, with a 30 day notice, by either party.

1. City Responsibilities:

- a. City is responsible for staffing the **ELOP/ATB Program (Program)** and conducting Program operations at eight (8) elementary school sites for grades K-6th as follows: Burnett, Curtner, Mattos, Pomeroy, Sinnott, Spangler, Weller, and Zanker schools, from bell dismissal to 6:00 p.m., when a school site is in session.
- b. City will manage the Program enrollment of eligible, interested Program participants through Recreation and Community Services software, including but not limited to all applicable waivers and emergency contact forms.
- c. City will maintain safe Program child:leader ratios. Site enrollment minimums and related Program monthly payments must cover total cost of at least two (2) site leader staff for Program participants. Enrollment minimums will be set through discussion by City and District by July 15.

d. City will establish and create Program materials and conduct all communication including but not limited to Program protocols, code of conduct, program calendars, and parent directives.

e. By August 4, the City will invoice District for a deposit of one month of Program enrollment fees based on the number of children enrolled by August 1. Thereafter, the City will invoice the District on the 4th of every month for the full Program enrollment costs for the past month's Program cost. For the last month of enrollment in the school year, the City will reconcile the deposit with the last month's program costs and either invoice the District for the shortfall or pay any surplus to the District in accordance with that reconciliation.

d. City will invoice the District on the 4th of every month for the total cost for two (2) Senior Program Leads, for the prior month's Program hours worked, which the District will have 30 days to pay.

2. District Responsibilities:

a. District will identify the students qualified for the Program by school site and communicate to parents of eligible students how to sign up for ATB through the City's enrollment platform.

b. District will provide Program students and leaders access to areas of the campus such as classrooms, multi-use room, restrooms, etc. during Program hours for both ATB and Program enrollees, as well as onsite storage for Program equipment.

c. District will pay City 100% of Program costs for enrolled students at the annual amount of \$1,980 per student. District will be billed monthly by City and will pay City within 30 days of receipt of invoice.

d. Site enrollment minimum at the Sinnott Elementary school site must be maintained to cover total cost of two (2) site leader staff. Should enrollment fall below required minimum, District will cover the difference between enrollment fee revenue and site leader staff total cost.

e. District will pay City, 100% of the total cost for two (2) Program Leads, in an amount not to exceed \$52,000. District will be billed monthly by City and will pay City within 30 days of receipt of invoice.

3. General Provisions:

Applicable Law. The laws of the State of California shall govern the interpretation and enforcement of this MOU. Any action, suit or proceeding related to or arising from this MOU shall be filed in the Santa Clara County Superior Court.

No Third-Party Beneficiaries. This MOU is made and entered into for the sole benefit of the parties hereto. No other person shall have any right of action based upon any provision of this MOU.

Joint Preparation. This MOU shall be deemed to have been prepared jointly and equally by the parties, and none of its terms shall be construed against any party on the ground that the party prepared the MOU or caused it to be prepared.

Entire Agreement. This MOU constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes all prior agreements and

understandings, both written and oral. This MOU may not be modified or amended except in a writing signed by all parties hereto.

Authority to Execute. The persons executing this MOU on behalf of each of the parties warrant and represent that they have the authority to execute this MOU on behalf of the party for whom they execute and have the authority to bind the party to the obligations hereunder.

Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

District:

Milpitas Unified School District
1331 E. Calaveras Boulevard
Milpitas, California 95035
Attn: Cheryl Jordan, Superintendent

City:

City of Milpitas
455 E. Calaveras Boulevard
Milpitas, California 95035
Attn: Steven McHarris, City Manager

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

SIGNATURES PAGE

City of Milpitas

City Manager:

DocuSigned by:
Signature: Walter C. Rossmann
D3F6DFDCB8214C1...

Name: Walter C. RossmannTitle: Deputy City ManagerDate: Aug-26-2022

DocuSigned by:
Signature: Michael Mutalipassi
74850D37D7764FB...

Name: Michael MutalipassiTitle: City AttorneyDate: Aug-26-2022

Milpitas Unified School District

Superintendent:

Signature: [Signature]

Name: Cheryl D. [Signature]Title: SuperintendentDate: 8/24/22

Certificate Of Completion

Envelope Id: 69DDE38C728446C983F0D99425B84FE5	Status: Completed
Subject: Please DocuSign: MOU_MUSD_Milpitas_ATB Program_062122.pdf	
Source Envelope:	
Document Pages: 6	Signatures: 2
Certificate Pages: 5	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelope Stamping: Enabled	Rachelle Currie
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	455 E Calaveras Blvd
	Milpitas, CA 95035
	rcurrie@milpitas.gov
	IP Address: 50.59.22.2

Record Tracking

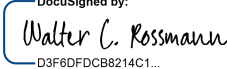
Status: Original	Holder: Rachelle Currie	Location: DocuSign
August 26, 2022 13:47	rcurrie@milpitas.gov	

Signer Events	Signature	Timestamp
Michael Mutalipassi mmutalipassi@milpitas.gov City Attorney Security Level: Email, Account Authentication (None)	DocuSigned by:  71850D37D7764FB... Signature Adoption: Uploaded Signature Image Using IP Address: 24.130.49.125	Sent: August 26, 2022 13:54 Viewed: August 26, 2022 14:33 Signed: August 26, 2022 14:33

Electronic Record and Signature Disclosure:

Accepted: May 4, 2022 | 15:07

ID: 5479bffb-8348-4d99-9882-192408734601

Walter C. Rossmann wrossmann@ci.milpitas.ca.gov Deputy City Manager Security Level: Email, Account Authentication (None)	DocuSigned by:  D3F6DFDCB8214C1... Signature Adoption: Pre-selected Style Using IP Address: 73.158.176.31	Sent: August 26, 2022 14:33 Viewed: August 26, 2022 17:07 Signed: August 26, 2022 17:07
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Electronic Record and Signature Disclosure:

Accepted: August 26, 2022 | 17:07

ID: 5ae73540-308c-4dcc-959d-c2981c2b4ccc

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp

Cheryl Jordan cjordan@musd.org Superintendent Milpitas Unified School District Security Level: Email, Account Authentication (None)	COPIED	Sent: August 26, 2022 17:07
Electronic Record and Signature Disclosure:		
Accepted: October 26, 2020 17:58		
ID: a7af2ff8-f030-4518-860c-05c842f7563e		

Carbon Copy Events**Status****Timestamp***Item # C17.*

Kelly Ng
kng@musd.org
Security Level: Email, Account Authentication
(None)

COPIED

Sent: August 26, 2022 | 17:07
Viewed: August 26, 2022 | 17:09

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Renee Lorentzen
rlorentzen@milpitas.gov
City of Milpitas
Security Level: Email, Account Authentication
(None)

COPIED

Sent: August 26, 2022 | 17:07
Viewed: August 26, 2022 | 17:10

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Witness Events**Signature****Timestamp****Notary Events****Signature****Timestamp****Envelope Summary Events****Status****Timestamps**

Envelope Sent	Hashed/Encrypted	August 26, 2022 13:54
Certified Delivered	Security Checked	August 26, 2022 17:07
Signing Complete	Security Checked	August 26, 2022 17:07
Completed	Security Checked	August 26, 2022 17:07

Payment Events**Status****Timestamps****Electronic Record and Signature Disclosure**

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Carahsoft OBO City of Milpitas (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Carahsoft OBO City of Milpitas:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: mluu@ci.milpitas.ca.gov

To advise Carahsoft OBO City of Milpitas of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at mluu@ci.milpitas.ca.gov and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from Carahsoft OBO City of Milpitas

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to mluu@ci.milpitas.ca.gov and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Carahsoft OBO City of Milpitas

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;

ii. send us an email to mluu@ci.milpitas.ca.gov and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

By selecting the check-box next to ‘I agree to use electronic records and signatures’, you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify Carahsoft OBO City of Milpitas as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by Carahsoft OBO City of Milpitas during the course of your relationship with Carahsoft OBO City of Milpitas.

**AMENDMENT NO. 1 TO
MEMORANDUM OF UNDERSTANDING BETWEEN
MILPITAS UNIFIED SCHOOL DISTRICT AND
CITY OF MILPITAS**

This Amendment No. 1 to Memorandum of Understanding (“Amendment No. 1”) is entered into between the Milpitas Unified School District, a public school district organized and existing under the laws of the State of California (“District”), and the City of Milpitas, a municipal corporation of the State of California (hereinafter “CITY”) as of the date of the last signature set forth below (the “Effective Date”). The District and City may be referred to individually as a “Party” and collectively as the “Parties.”

The District and City hereby agree as follows:

1. The Memorandum of Understanding entered into between the Parties dated August 26, 2022 (“Agreement”), which relates to the provision of the Expanded Learning Opportunities Program (ELOP) is hereby amended as follows:
 - a. Language in TERMS OF AGREEMENT is hereby removed and replaced with the following:
 - The Term of this Agreement shall be for the school year 2022-23 starting August 10, 2022 and will be in effect from the Effective Date to July 14, 2023 until revoked in writing, with a 30 day notice by either party.
 - b. New Sections 1.g – 1.k is hereby added as follows:
 - g. City is responsible for staffing the ELOP Summer School Program (Summer Program) and conducting Summer Program operations at Randall Elementary and Rose Elementary for grades TK-6th, from Summer Program dismissal to 6:00 p.m., when Summer Program is in session.
 - h. City will manage the Summer Program enrollment of eligible, interested Summer Program participants through Recreation and Community Services software, including but not limited to all applicable waivers and emergency contact forms.
 - i. City will maintain safe Summer Program child:leader ratios. Site enrollment minimums and related Summer Program payments must cover total cost of at least two (2) site leader staff for Program participants and one (1) Program Lead. Enrollment minimums will be set through discussion by City and District by May 30, 2023.
 - j. City will establish and create Summer Program materials and conduct all communication including but not limited to Summer Program protocols, code of conduct, Summer Program calendars, and parent directives.

- k. The City will invoice the District on June 30, 2023 for the full Summer Program enrollment costs.
- c. New Section 2.f – 2.4 is hereby added as follows:
 - f. District will identify the students qualified for the Summer Program by school site and communicate to parents of eligible students how to sign up for Summer Program through the City’s enrollment platform.
 - g. District will provide Summer Program students and leaders access to areas of the campus such as classrooms, multi-use room, restrooms, etc. during Summer Program hours for Summer Program enrollees, as well as onsite storage for Summer Program equipment.
 - h. District will pay City, 100% of Program costs for enrolled students at the program amount of \$16 per day, per student. District will be billed by City and will pay City within 30 days of receipt of invoice.

11.5 Notices. Any notice required or permitted under this Joint Use Agreement shall be in writing, delivered to the Party at the address set forth below, and shall be deemed effectively delivered upon (i) personal delivery or electronic delivery, (ii) one day after deposit for overnight delivery by Federal Express or a comparable national express courier, (iii) two days after deposit in the United States mail, by first-class mail, postage prepaid, or (iv) receipt via facsimile or electronic mail. A Party may designate another address for notice purposes upon written notice pursuant to the provisions of this paragraph. The Parties shall provide each other after-hours emergency contact phone numbers of appropriate supervisory staff, which shall be periodically updated.

DISTRICT

Milpitas Unified School District
 Attn: Superintendent
 1331 East Calaveras Blvd.
 Milpitas, CA 95035
 Phone: (408) 635-2600
 Fax: (408) 635-2616
 Email: cjordan@musd.org

CITY

City of Milpitas
 Attn: Acting City Manager
 455 East Calaveras Blvd., 3rd Floor
 Milpitas, CA 95035
 Phone: (408) 586-3050
 Email: Akantak@milpitas.gov

With a copy to:

City of Milpitas
Attn: City Attorney
455 East Calaveras Blvd.
Milpitas, CA 95035
Phone: (408) 586-3040
Email: mmutalipassi@milpitas.gov

- a. All other provisions of the Agreement not amended by this Amendment No. 1 shall remain in full force and effect.

[Signatures on following pages]

Signature Page
for

AMENDMENT NO.1 TO JOINT USE AGREEMENT

IN WITNESS WHEREOF, this Joint Use Agreement is executed by the City of Milpitas, acting by and through its City Council that has authorized the City Manager to execute, and by the Milpitas Unified School District, acting by and through its Board of Education that has authorized the superintendent or his designee to execute.

CITY OF MILPITAS

MILPITAS UNIFIED SCHOOL DISTRICT

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM

By: _____

Name: _____

Title: CITY ATTORNEY

Date: _____



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Consider One Fee Waiver Request and One Donation Request from Show Up and Love and Contemporary Asian Theatre Scene (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	5/16/2023
	<u>Recommendation:</u> 1) Approve a Fee Waiver of \$700.00 for the Show Up & Love 1st Annual Fundraiser Cook off for Love at the Barbara Lee Senior Center Community Room on Sunday, July 16, 2023; 2) Approve a donation of \$500.00 to the Contemporary Asian Theatre Scene to help pay for the cost of renting one theatre from Century Theatres on Tuesday, May 30, 2023.

BACKGROUND:

On April 12, 2023, staff received a Donation and Fee Waiver/Reduction Policy request Show Up and Love in Milpitas for their Show Up & Love 1st Annual Fundraiser Cook off for Love scheduled for Sunday, July 16, 2023, at the Barbara Lee Senior Center Community Room. The request is for a \$700 fee waiver for the Community Room rental costs.

On May 1, 2023, staff received a Donation and Fee Waiver/Reduction Policy request from the Contemporary Asian Theatre Scene's Special Screening of "Dealing with Dad" at Milpitas Century Theatres at the Great Mall on May 30, 2023. The film screening is meant to help the AAPI community address mental health issues. The request is for a \$500 donation to help pay for the cost of renting one theatre from Century Theatres.

ANALYSIS:

Two Donation and Fee Waiver/Reduction Policy request applications were received by the Recreation and Community Services Department. Applications included one (1) request for fee waiver and one (1) request for a donation.

Fee Waiver Requests

Show Up and Love submitted the required applications and documentation for the Show Up & Love 1st Annual Fundraiser Cook off for Love:

- Indoor Space Rental Application for Milpitas Community Center Auditorium
- City Council Donation and Fee Waiver/Reduction Policy request
- Non-profit status letter

Show Up and Love is requesting that City Council waive eligible fees for the Facility Rental hourly rate for the Barbara Lee Senior Center Community Room in the amount of \$700. Fees ineligible for waiver include the rental application fee of \$31 and refundable security/damage deposit of \$500. Refundable security/damage deposits are refunded within 30 days of the rental.

Donation Request

The Contemporary Asian Theatre Scene submitted the required application and documentation for the Special Screening of "Dealing with Dad" which includes:

- City Council Donation and Fee Waiver/Reduction Policy request
- Non-profit status letter

The Contemporary Asian Theatre Scene is requesting that City Council make a donation to go towards their rental of a theatre at the Century Theatre at the Great Mall in the amount of \$500.

The Milpitas City Council adopted an updated "City Council Donation and Fee Waiver/Reduction Policy" on June 21, 2022. Per the policy, eligible organizations can request City fees to be waived up to \$1,500 or a donation amount up to \$500 to be granted upon request. Eligible organizations are defined as "a non-profit organization as described by the Internal Revenue Section such as 501(c)(3) or an intergovernmental agency; Non-discriminatory, and non-political in nature." Fee Waiver or Donation requests for events must provide a community benefit within the City of Milpitas proper. Applying organizations must provide proof of non-profit status from the federal Internal Revenue Service or the State Franchise Tax Board.

As required, Show Up and Love and the Contemporary Asian Theatre Scene have provided copies of their respective determination letters from the Internal Revenue Service stating they are tax-exempt organizations. All applicants meet the requirements as outlined in the Council adopted Donation and Fee Waiver/Reduction Policy.

POLICY ALTERNATIVE(S):

Alternative: Do not approve any one or combination of received fee waivers and donation applications as requested.

Pros: The City's General Fund will not incur the costs of the fees waived.

Con: Denial of the request may not allow the non-profit organization to hold their events.

Reason not recommended: This request is consistent with the Council approved Policy.

FISCAL IMPACT:

\$25,000 was approved and included in the FY 2022-23 City budget for City Council's Unallocated Community Promotions with a current balance of \$18,907. If these requests are approved by City Council, then \$17,707 would remain in that line item of the current year's budget.

RECOMMENDATION:

1) Approve a Fee Waiver of \$700 for the Show Up & Love 1st Annual Fundraiser Cook off for Love at the Barbara Lee Senior Center Community Room on Sunday, July 16, 2023;

2) Approve a donation of \$500 to the Contemporary Asian Theatre Scene to help pay for the cost of renting one theatre from Century Theatres on Tuesday, May 30, 2023.

Attachment(s):

1. Show Up and Love Center Application
2. Show Up and Love Center Internal Revenue Service (IRS) non-profit letter
3. Contemporary Asian Theatre Scene Application
4. Contemporary Asian Theatre Scene Internal Revenue Service (IRS) non-profit letter
5. City Council Donation and Fee Waiver/Reduction Policy
6. Fee Waiver and Donation Tracking List

#7

Name of Organization	Show Up & Love
Is there a Milpitas Branch or Affiliation?	- Yes
Organization Address (as listed on your 501 (c) 3)	142 N. Milpitas Blvd. Unit 444 Milpitas, CA 95035 United States
Organization Web Site	https://www.showupandlove.com/
Organization Contact Name	Lorraine Patterson
Organization Contact Phone	[REDACTED]
Organization Contact Email	lorrinepatterson@showupandlove.com
Request Type	- Fee Waiver (up to \$1,500)
Requested Amount (request types cannot be combined or exceed maximum listed amounts)	\$700
Description of Use of Funds/Fees to be Waived	1st Annual Nonprofit Fundraiser Event space rental fee at Barbara Lee Center Auditorium
Event Name	Show Up & Love 1st Annual Fundraiser Cook off for Love
Event Date(s)	Jul 16, 2023
Event Location (Facility Name and Address)	Barbara Lee Center- 40 N. Milpitas Blvd, Milpitas
Is your Event Open to the Public	Yes

What is the purpose of the Event?

The purpose of this event is to raise funds for our nonprofit operational costs, supplies for our workshops, teen group support, program and promoting mission.

How will the Milpitas Community Benefit from this Event?

This event is open to the public, but mainly focused on the community with the city of Milpitas. We currently have our "SHOW UP" (Self Positivity Helps Others With Understanding Purpose) Workshop at Calhills High School. Speaking inspiration to the students at CalHills for Self Positivity topics and poetry inspiration. Teen Group Support at the Milpitas Teen Center and our 5 Ways to Love Yourself Summer Workshop that is in the Summer Activity guide in August for City of Milpitas. The community will be able to experience happiness, joy and love at this fundraiser because our mission is to dedicated to encourage, support, empower and be a guiding light for people to understand self-love and find happiness.

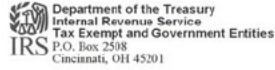
What is you anticipated Event attendance? 100-150

What percentage of your event fundraising proceeds will benefit the Milpitas Community? 60% or more

How will the City's contribution (if approved) be recognized in event media and publicity?

We have been promoting the City of Milpitas supporting our event as we already confirmed the Milpitas Police Officers Association who is participating in our event as part of a pitmaster competition and we confirmed Mayor Carmen Montano's attendance as a judge for the competition. We are waiting on confirmation from Milpitas Fire who we asked to be participants in the pitmaster competition. We will also be promoting on our social media.

Upload your Entity Status Letter (Entity Name listed on this application must match the Entity Status Letter Name)



SHOW UP & LOVE
142 MILPITAS BLVD UNIT 444
MILPITAS, CA 95035

Date: 02/05/2022
Employer ID number: 85-3711148
Person to contact: Name: Customer Service
ID number: 31954
Telephone: 877-829-5500
Accounting period ending: December 31
Public charity status: 170(b)(1)(A)(vi)
Form 990 / 990-EZ / 990-N required: Yes
Effective date of exemption: June 30, 2021
Contribution deductibility: Yes
Addendum applies: No
DLN: 28253653004361

Dear Applicant:

We're pleased to tell you we determined you're exempt from federal income tax under Internal Revenue Code (IRC) Section 501(c)(3). Donors can deduct contributions they make to you under IRC Section 170. You're also qualified to receive tax deductible bequests, devises, transfers or gifts under Section 2055, 2106, or 2522. This letter could help resolve questions on your exempt status. Please keep it for your records.

Organizations exempt under IRC Section 501(c)(3) are further classified as either public charities or private foundations. We determined you're a public charity under the IRC Section listed at the top of this letter.

If we indicated at the top of this letter that you're required to file Form 990/990-EZ/990-N, our records show you're required to file an annual information return (Form 990 or Form 990-EZ) or electronic notice (Form 990-N, the e-Postcard). If you don't file a required return or notice for three consecutive years, your exempt status will be automatically revoked.

If we indicated at the top of this letter that an addendum applies, the enclosed addendum is an integral part of this letter.

For important information about your responsibilities as a tax-exempt organization, go to www.irs.gov/charities. Enter "4221-PC" in the search bar to view Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, which describes your recordkeeping, reporting, and disclosure requirements.

Sincerely,

Stephen A. Martin
Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Letter 947 (Rev. 2-2020)
Catalog Number 35152P

[IRS letter 501\(c\)3.jpeg](#)

Within 60 days after completion of the event for which a donation was received or a fee waiver was granted by the City of Milpitas, your organization will provide a report to the Director of Recreation and Community Services to include at minimum: number of participants, copies of all publicity of the event, any benefit to the community, amount of funds raised and an accounting of how the proceeds of the event will be dispersed.

Failure to abide by the rules and procedures set forth in the City Council Donation/Fee Waiver Policy will result in the organization being denied for funding and/or fee waiver in the future. Draw your signature into the box below.



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
P.O. Box 2508
Cincinnati, OH 45201

SHOW UP & LOVE
142 MILPITAS BLVD UNIT 444
MILPITAS, CA 95035

Date:
02/08/2022
Employer ID number:
86-3711148
Person to contact:
Name: Customer Service
ID number: 31954
Telephone: 877-829-5500
Accounting period ending:
December 31
Public charity status:
170(b)(1)(A)(vi)
Form 990 / 990-EZ / 990-N required:
Yes
Effective date of exemption:
June 30, 2021
Contribution deductibility:
Yes
Addendum applies:
No
DLN:
26053653004361

Dear Applicant:

We're pleased to tell you we determined you're exempt from federal income tax under Internal Revenue Code (IRC) Section 501(c)(3). Donors can deduct contributions they make to you under IRC Section 170. You're also qualified to receive tax deductible bequests, devises, transfers or gifts under Section 2055, 2106, or 2522. This letter could help resolve questions on your exempt status. Please keep it for your records.

Organizations exempt under IRC Section 501(c)(3) are further classified as either public charities or private foundations. We determined you're a public charity under the IRC Section listed at the top of this letter.

If we indicated at the top of this letter that you're required to file Form 990/990-EZ/990-N, our records show you're required to file an annual information return (Form 990 or Form 990-EZ) or electronic notice (Form 990-N, the e-Postcard). If you don't file a required return or notice for three consecutive years, your exempt status will be automatically revoked.

If we indicated at the top of this letter that an addendum applies, the enclosed addendum is an integral part of this letter.

For important information about your responsibilities as a tax-exempt organization, go to www.irs.gov/charities. Enter "4221-PC" in the search bar to view Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, which describes your recordkeeping, reporting, and disclosure requirements.

Sincerely,

Stephen A. Martin

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Letter 947 (Rev. 2-2020)
Catalog Number 35152P

City of Milpitas City Council Non-Profit Donation/Fee Waiver Requ... #8

Name of Organization	Contemporary Asian Theatre Scene
Is there a Milpitas Branch or Affiliation?	☒ Yes
Organization Address (as listed on your 501 (c) 3)	565 N 5th St San Jose, CA 95112 United States
Organization Web Site	http://catsasiantheaterscene.org
Organization Contact Name	Cindy Toy
Organization Contact Phone	[REDACTED]
Organization Contact Email	cindy@catsasiantheaterscene.org
Request Type	☒ Donation (up to \$500)
Requested Amount (request types cannot be combined or exceed maximum listed amounts)	\$500
Description of Use of Funds/Fees to be Waived	To help with the cost of renting one theatre from Century Theatres @ The Great Mall
Event Name	Special Screening: Dealing with Dad
Event Date(s)	May 30, 2023
Event Location (Facility Name and Address)	Century Theatres @ The Great Mall
Is your Event Open to the Public	Yes
What is the purpose of the Event?	
Honoring AAPI Heritage and Mental Awareness Month.	
This will be a two evening event May, 30-31.	
How will the Milpitas Community Benefit from this Event?	
The film city is located in the city of "Milpitas" and explores the ups and downs of an AAPI Family coping with a dad with depression. Having an AAPI film that has a city named Milpitas will bring recognition to the diversity of our City.	
Both the President and Vice President of Contemporary Asian Theatre Scene have been living in Milpitas for over 30 years. They wanted to bring this entertaining film for their friends, families, and neighbors to see. It addresses AAPI mental health in a comedic and empathetic way.	
What is you anticipated Event attendance?	About 60-70 a day
What percentage of your event fundraising proceeds will benefit the Milpitas Community?	None, this is not a fundraiser
How will the City's contribution (if approved) be recognized in event media and publicity?	
This is not a fundraiser. We are providing the film to help the AAPI community address the mental health issues with this film.	
All sponsors will have their logo on our website, social media, and email blasts. During the Q&A we will thank the sponsors for contributing to this event.	
Upload your Entity Status Letter (Entity Name listed on this application must match the Entity	CATS_501c3 (1).pdf

Within 60 days after completion of the event for which a donation was received or a fee waiver was granted by the City of Milpitas, your organization will provide a report to the Director of Recreation and Community Services to include at minimum: number of participants, copies of all publicity of the event, any benefit to the community, amount of funds raised and an accounting of how the proceeds of the event will be dispersed. Failure to abide by the rules and procedures set forth in the City Council Donation/Fee Waiver Policy will result in the organization being denied for funding and/or fee waiver in the future. Draw your signature into the box below.

Cindy Toy

Entry Info

Date Created	1 May 2023 - 11:10:36 AM
Date Updated	
IP Address	96.45.34.121

Contemporary Asian Theatre Scene

EIN: 77-0402633 | San Jose, California, United States

Publication 78 Data

Organizations eligible to receive tax-deductible charitable contributions. Users may rely on this list in determining deductibility of their contributions.

On Publication 78 Data List: Yes

Deductibility Code: PC [?](#)



CITY OF MILPITAS

Item # C18.

Revision	Date
Original	04/16/2013
	6/21/2022

CITY COUNCIL POLICY

Policy No: Click or tap here to enter text.	DONATION AND FEE WAIVER/ REDUCTION POLICY	Effective Date: 6/21/2022
Revision No: 1	Policy Administrator: Recreation and Community Services	Next Review Due: As needed
Related Policies and Procedures: Click or tap here to enter text.	Approved by: Click or tap here to enter text. Council meeting date, agenda item #, and vote	Date Approved: 6/21/2022

1. PURPOSE

- 1.1. The City recognizes the value of partnership with other agencies and organizations in providing services that benefit the community and its residents.
- 1.2. The City may provide a donation or grant a reduction and/or waiver of fees to intergovernmental agencies or non-profit organizations that provide Milpitas community benefit.

2. POLICY

- 2.1. The City shall have the sole authority and the City Council shall have the final authority to approve Donations and Fee Waiver/Reduction requests.
- 2.2. The City Council shall evaluate donation and fee waiver/reduction requests at a scheduled City Council meeting.
- 2.3. Any requests for donation or fee waiver/reduction must be submitted in writing using the provided application form by the Recreation and Community Services Department.
- 2.4. In order for an organization to be eligible for a donation or fee waiver / reduction, the following criteria have to be met:
 - 2.4.1. The applying organization must be:
 - 2.4.1.1 A non-profit organization as described by the Internal Revenue Section such as 501(c)(3) or an intergovernmental agency;
 - 2.4.1.2 Non-discriminatory, and non-political in nature;
 - 2.4.2. Events must provide a community benefit within the City of Milpitas proper.
- 2.5. If the event requested for fee waiver is a fundraiser, the organization must demonstrate that at least 60% of fund raised will be of general benefit to the Milpitas community.
- 2.6. If the request for donation or fee waiver/reduction is for a community event, the event must be advertised, open to the public and no entrance fee shall be charged for the event.
- 2.7. Fee waivers/reductions only apply to services provided by the City during its regular course of business. Such fees may include rental fees for the City's facilities or equipment, building permit fees or fire permit fees. Any deposits and/or City staff overtime costs required due to the event cannot be waived.
- 2.8. The City Council may grant donation or fee waiver/reduction to each organization once annually, regardless of how many branches or affiliations it may have.



Revision	Date
Original	04/21/2006
	6/21/2022

CITY COUNCIL DONATION AND FEE WAIVER/REDUCTION POLICY / POLICY

- 2.9. The fee waiver/reduction amount is subject to \$1,500 maximum per fiscal year and the donation amount is subject to \$500 maximum annually for each organization. A fee waiver/reduction request cannot be combined with a donation request.
- 2.10. To the extent possible, the City's contribution should be recognized in the event fliers and/or advertising with the following statement, "This event made possible, in part, by the City of Milpitas."
- 2.11. Within 60 days after completion of the event in which a donation was received or a fee waiver/reduction was granted by the City, the organization will provide a written report to the Director of Recreation and Community Services to include at minimum: number of participants, copies of all publicity of the event, any benefit to the community, amount of funds raised and an accounting of how the proceeds of the event will be dispersed.
- 2.12. Failure to abide by the rules and procedures as set forth in this document will result in the organization being denied for funding and/or fee waiver/reduction in the future.

3. PROCEDURE

- 3.1. The Recreation and Community Services Department shall maintain an application for Donation and Fee Waiver/Reduction Requests.
- 3.2. Upon receipt of an application, the Recreation and Community Services Department shall determine eligibility for a Donation and/or Fee Waiver/Reduction consistent with this Policy and inform the applicant of its determination in writing.
- 3.3. If eligibility is determined, the Director of Recreation and Community Services shall bring requests for donation or fee waiver/reductions to Council for approval at any regular or special meeting.
- 3.4. If ineligibility is determined, the applicant can appeal the Director of Recreation and Community Services' determination to the City Manager. A request for appeal must be made, in writing, and delivered to the City Manager's Office within seven (7) days of the applicant's receipt of the determination of ineligibility. The request for appeal must state, in writing, the basis for the appeal and must contain all written documentation supporting each basis for appeal. The City Manager shall issue a decision, in writing, without hearing based on the documents presented.
- 3.5. Donation and Fee Waiver Budget
 - 3.5.1. With each budget cycle, the City Council will establish an annual budget amount for donations or fee waivers/ reductions for unspecified community events. Except for extraordinary circumstances, donations and or fee waivers/reductions will not be granted once the budgeted amount has been allocated.

City Council Fee Waiver/Donations
Fiscal Year 2022-23

Organization Name	Event Type	Fee Waiver/Donation	City Council Approval Date	Event Date	Amount Awarded
Boy Scouts Troop 92	Eagle Scout Honor Ceremony	Fee Waiver	8/9/2022	8/13/2022	-\$546.00
Christian Worship Center	Easter Egg Hunt	Fee Waiver	4/4/2023	4/8/2023	-\$1,500.00
FAREPA	ADU Workshop	Fee Waiver	4/4/2023	5/13/2023	-\$830.00
Kiwanis	Crab Feed	Fee Waiver	1/17/2023	2/3/2023	-\$900.00
Korean Language and Culture Foundation	Korean Alphabet Celebration	Donation	9/20/2022	10/2/2022	-\$500.00
MUSD Aerotech Club	Rocketeering Event	Donation	4/4/2023	5/20/2023	-\$500.00
Sunnyhills Neighborhood Association	Halloween Event	Fee Waiver	9/20/2022	10/29/2022	<u>-\$1,317.00</u>
Total Awarded:					-\$6,093.00
Starting Balance					\$25,000.00
Remaining Balance					\$18,907.00



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution to Supersede Resolution No. 9145 to Update City Event Celebration Flags and/or other Commemorative Flags at Cesar Chavez Plaza (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	5/16/2023
	<u>Recommendation:</u> Adopt a resolution to supersede Resolution No. 9145 updating City Event Celebration Flags and/or other Commemorative Flags at Cesar Chavez Plaza.

BACKGROUND:

Pursuant to Milpitas Municipal Code Section I-600-2.30(3), the City Council may, by resolution, direct City staff to display Commemorative Flags as an expression of the City's official sentiments by any of the following means: (i) display in lieu of the MIA/POW flag on one of the four City Hall Display Flag Poles located at the rear of City Hall adjacent to the pond, (ii) display in lieu of the flag of the State of California on one of the three flag poles located at Cesar Chavez Plaza, or (iii) display through ground level ceremonies at any of the following locations at the Civic Center complex or the City of Milpitas Community Center:

- (1) City Hall Rotunda
- (2) Area adjacent to pond at City Hall
- (3) Cesar Chavez Plaza
- (4) City Council Chambers

On September 7, 2021, May 3, 2022 and June 21, 2022 the City Council adopted Resolutions directing staff to annually fly the City Event Celebration Flags and/or other Commemorative Flags for various upcoming Recreation and Community Services events in connection with and during periods (up to 30 days) of recognition for the following commemorative events:

Flag Raising	Dates flag flown	Council Approval Date
Black History Month	February 1 to 28	September 7, 2021
Cesar Chavez Birthday	March 31 st	September 7, 2021
Vietnamese Heritage Day	April 30	September 7, 2021
Public Safety Appreciation Day	May 15	September 7, 2021
Eritrea Independence Day	May 24	September 7, 2021
LGBTQ Pride Celebration	June 1 – June 30	September 7, 2021
Philippine Independence Day	June 12	September 7, 2021
Juneteenth	June 19	September 7, 2021
India Independence Day	August 15	June 21, 2022
Hispanic Heritage	September 15- October 15	September 7, 2021
Mexican Independence Day	September 16	May 3, 2022
Filipino American History Month	October 1- October 31	September 7, 2021
Native American Heritage and Culture Month	November 1- November 30	September 7, 2021

ANALYSIS:

The City of Milpitas flies City Event Celebration Flags and/or other Commemorative Flags for various upcoming Recreation and Community Services events in connection with and during periods (up to 30 days) in the Cesar Chavez Plaza. Additionally, due to a clerical oversight, Asian American and Pacific Islander Heritage month is not in the current resolution. Staff is bringing forward for Council consideration an amendment to the Resolution directing staff to fly the Commemorative Flag of Asian American and Pacific Islander Heritage Month on May 1 – May 31, establishing flag dates.

Staff is recommending updating the flag schedule as follows. Additionally, the below table provides a summary of which flag raisings have community organized events associated with them in the current fiscal year:

Flag Raising	Dates flag flown	Council Approval Date	Community Organized Events in FY 2022-2023
Black History Month	February 1 to 28	September 7, 2021	
Cesar Chavez Birthday	March 31 st	September 7, 2021	
Vietnamese Heritage Day	April 30	September 7, 2021	
Asian American and Pacific Islander Heritage Month (new)	May 1 to May 31	Pending approval	
Public Safety Appreciation Day	May 15	September 7, 2021	
Eritrea Independence Day	May 24	September 7, 2021	X
LGBTQ Pride Celebration	June 1 – June 30	September 7, 2021	
Philippine Independence Day	June 12	September 7, 2021	X
Juneteenth	June 19	September 7, 2021	
India Independence Day	August 15	June 21, 2022	X
Hispanic Heritage	September 15- October 15	September 7, 2021	
Mexican Independence Day	September 16	May 3, 2022	X
Filipino American History Month	October 1- October 31	September 7, 2021	X
Native American Heritage and Culture Month	November 1- November 30	September 7, 2021	X

Per a community organizer request for the 2023 Philippine Independence Day Flag Raising ceremony, staff is seeking approval to fly the Philippine Independence Day Flag one additional day, June 24, to allow for a public ceremony. In accordance with the Municipal Code, a Commemorative Flag will be displayed for a period that is reasonable or customary for the subject that is to be commemorated, but no longer than 30 continuous days.

In order to provide more flexibility for community groups organizing flag raising ceremony events, staff is recommending that City Council approve to amend the resolution to allow the City Manager or their designee, to approve an additional or alternate date to fly an approved flag, if that date is requested by organizers of events for the particular flag raising and does not conflict with another Council approved flag raising. In accordance with the Municipal Code, a Commemorative Flag will be displayed for a period that is reasonable or customary for the subject that is to be commemorated, but no longer than 30 continuous days.

FISCAL IMPACT:

None.

California Environmental Quality Act (CEQA):

By the definition provided in the California Environmental Quality Act (CEQA) Guidelines Section 15378, this action does not qualify as a “project” for the purpose of CEQA.

RECOMMENDATION:

Adopt a resolution to supersede Resolution No. 9145 updating City Event Celebration Flags and/or other Commemorative Flags at Cesar Chavez Plaza.

Attachment(s):

Draft Resolution

RESOLUTION NO.**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS DIRECTING
STAFF TO FLY COMMEMORATIVE FLAGS AT CESAR CHAVEZ PLAZA FOR
CITY-SPONSORED EVENTS**

WHEREAS, on December 18, 2018, the City Council (the “City Council”) of the City of Milpitas Adopted Ordinance No. 260.2 relating to the display of flags on City-owned property; and

WHEREAS, on May 3, 2022, the City Council (the “City Council”) of the City of Milpitas Adopted Resolution No. 9145 relating to the display of flags on City-owned property; and

WHEREAS, the City Council (the “City Council”) of the City of Milpitas intends this resolution to supersede Resolution No. 9145 relating to the display of flags on City-owned property; and

WHEREAS, pursuant to Milpitas Municipal Code Section I-600-2.30(3), the City Council may, by resolution, direct City staff to display Commemorative Flags as an expression of the City’s official sentiments by any of the following means: (i) display in lieu of the MIA/POW flag on one of the four City Hall Display Flag Poles located at the rear of City Hall adjacent to the pond, (ii) display in lieu of the flag of the State of California on one of the three flag poles located at Cesar Chavez Plaza, or (iii) display through ground level ceremonies at any of the following locations at the Civic Center complex or the City of Milpitas Community Center:

- (1) City Hall Rotunda
- (2) Area adjacent to pond at City Hall
- (3) Cesar Chavez Plaza
- (4) City Council Chambers; and

WHEREAS, the City of Milpitas sponsors commemorative events, ceremonies and holidays annually in Cesar Chavez Plaza; and

WHEREAS, the City intends to fly certain Commemorative Flags in Cesar Chavez Plaza as part of the sponsored events, ceremonies and holidays, for certain periods; and

WHEREAS, in accordance with the Milpitas Municipal Code, the Commemorative Flags shall be displayed for a period that is reasonable or customary for the subject that is to be commemorated, but no longer than 30 days; and

WHEREAS, the periods of Commemorative Flags as approved by this Resolution may occur concurrently; and

WHEREAS, during such instance, multiple Commemorative Flags, but no more than three flags, may be raised on a flagpole from the top to the bottom in chronological descending order for the period approved in this Resolution.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

2. Pursuant to Milpitas Municipal Code Section I-600-2.30(3), the City Council hereby directs staff to fly the following Commemorative Flags in lieu of the flag of the State of California at Cesar Chavez Plaza on the following dates and date ranges, after which staff shall resume flying the flag of the State of California unless the City Council directs otherwise by further resolution:
 - Black History Month – February 1 - 28,
 - Cesar Chavez Birthday– March 31,
 - Vietnamese Heritage Day – April 30,
 - Asian and Pacific Islander Heritage Month – May 1 – 31,
 - Public Safety Appreciation Day – May 15,
 - Eritrea Independence Day – May 24,
 - LGBTQ Pride Celebration – June 1 – 30,
 - Philippine Independence Day – June 12,
 - Juneteenth – June 19,
 - Hispanic Heritage – September 15 – October 15,
 - Mexican Independence Day – September 16,
 - Filipino American History Month – October 1 – October 31,
 - Native American Heritage and Culture Month – November 1 – 30.

3. During any instance where multiple Commemorative Flags are directed to be flown during the same time period, no more than three flags may be raised on a flagpole from the top to the bottom in chronological descending order for the period approved in this Resolution.

4. The City Manager or their designee, may approve an additional or alternate date to fly an approved flag, if that date is requested by organizers of events for a previously City Council approved flag raising and does not conflict with another Council approved flag raising. In accordance with the Municipal Code, a Commemorative Flag will be displayed for a period that is reasonable or customary for the subject that is to be commemorated, but no longer than 30 continuous days.

PASSED AND ADOPTED this _____ day of _____ 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Hear Administrative Appeal of Hearing Officer's Decision Upholding the Police Chief's Denial of a Massage Establishment Permit (Staff Contact: Michael Mutalipassi, City Attorney, 408-586-3041, Christopher Creech, Assistant City Attorney, 408-586-3049)
Category:	Public Hearings-Public Safety
Meeting Date:	5/16/2023
	<u>Recommendation:</u> (1) Open a public hearing; (2) Take evidence in accordance with MMC I-20-3.02; and (3) vote to (i) uphold the previous decision, or (ii) reverse and remand the decision for further consideration, or (iii) reverse the decision (without remand) and reach an opposite decision, or (iv) modify the previous decision, or (v) add new or additional conditions to the permit with additional notice, or (vi) continue the matter for further discussion for a meeting no later than 60 days from the date of the close of evidence.

BACKGROUND:

The Council is called upon to determine whether the denial of a massage establishment permit application should be upheld given violations of various state and local laws, including solicitation for prostitution.

On February 7, 2023, the Police Chief denied the application of Trang Thi Minh Nguyen ("Trang Nguyen") for an annual renewal of the Massage Establishment Permit for Uyen Nhi Day Spa (122 W. Calaveras Bl.). In accordance with the Municipal Code, Trang Nguyen appealed that decision to the City Manager's designated Hearing Officer, City Clerk Suzanne Guzzetta. After hearing evidence on April 13, 2023, the duly designated hearing officer affirmed that permit denial on April 26, 2023. Trang Nguyen now appeals that decision to the City Council.

The original denial letter, hearing officer decision, and declarations from investigating officers are attached and detail the violations, including solicitations for sexual acts, that led to the permit denial.

The Council's role is to conduct an appeal hearing in accordance with the procedures and time limits set by MMC section I-20-3.02 and Chapter IV and Section K of the City Council Procedures and Protocols Handbook. The Council may hear and consider evidence presented at the earlier hearing, the hearing officer's decision, and the reasons therefore, and may also hear and consider new evidence. (MMC I-20-5.08.) The Mayor, as the presiding Councilmember, shall be Hearing Officer for the purpose of the appeal. (MMC I-20-3.03.) She shall be responsible for opening the hearing, determining when each party should present its evidence, and maintaining the order of the hearing. (MMC I-20-3.03 and 3.04.) The Mayor's responsibility with regard to keeping order includes the duty to recognize individuals who wish to speak at the hearing. (MMC I-20-3.06.) Documentary evidence, including reports, maps, charts, photographs, letters, and petitions, that are presented at the hearing or used by a witness shall be introduced into evidence and shall be deemed to be a part of hearing record. (MMC I-20-3.07.) A reasonable opportunity shall be afforded to any interested party to ask questions of any witness so long as the questions are asked through the hearing officer for resubmission to the witness. (MMC I-20-3.08-1.) The questions must be relevant to the issue under consideration and must not be improperly argumentative, unintelligible, insulting, compound, or speeches in the guise of questions. (MMC I-20-3.08-3.) The Mayor shall be the judge of the relevancy and materiality of all evidence offered. (MMC I-20-3.09.) Prior to closing the hearing, both sides shall have a reasonable opportunity to set forth their positions on the matter under consideration and their opinion on the evidence submitted. (MMC I-20-3.10.)

At the close of evidence, the City Council, by majority vote, may vote to (i) uphold the decision previous decision, (ii) reverse and remand the decision for further consideration, (iii) reverse the decision (without remand) and reach an opposite decision, (iv) modify the previous decision, or (v) add new or additional conditions to the permit with additional notice. (MMC I-20-6.02.) Should the majority of the Council wish to take additional time to consider the evidence, the Council may vote to close the hearing and set the matter for discussion and final vote at a future meeting, so long as that meeting takes place within 60 days of the date of the close of evidence. (MMC I-20-3.17.) The Council is not required to state the reasons for its decision. (MMC I-20-3.16.)

The burden of proof in the appeal hearing is on the applicant. (MMC I-6-18 (c).) This means that if the Applicant cannot prove that its evidence is more likely true than not, the City Council must find in favor of the Police Chief's denial of the massage permit. (MMC I-6-18 (c).)

SUMMARY OF FACTS:

On July 13, 2021, a concerned citizen called the Police Department. They had just visited Uyen Nhi Day Spa for the first time. While seeking out a massage, they were propositioned by the business' staff for sexual services. The reporting party became uncomfortable and left but remained concerned prostitution or trafficking was occurring.

Given this tip and Trang Nguyen's 2022 permit renewal application, Detective Daniel Sevilla, who administers the Massage Permit Program, investigated to determine whether issuance of a massage establishment permit would be consistent with the business' operation in a lawful and professional manner. This investigation included a walkthrough inspection on September 8, 2022, during which Detective Sevilla observed that none of the working masseuses were wearing proper identification or dressed in professional, unrevealing attire as required by the Milpitas Municipal Code (the "MMC") and state guidelines set by the California Massage Therapy Council (the "CMTTC"). After he identified himself as an officer, Detective Sevilla saw one masseuse furtively discard soiled tissues in a manner that suggested to him that sexual acts might be occurring on the premises. Detective Sevilla coordinated resources for an operation to further investigate. He monitored the business during the intervening period.

On January 19, 2023, Detective Clint Jackman entered Uyen Nhi Day Spa posed as a customer and paid for a massage. When he asked the masseuse if she performed sexual acts, she initially refused before indicating her willingness to perform a negotiated sexual act. She then accepted payment and began to perform the negotiated act before uniformed officers entered the building and arrested her for solicitation for prostitution. During this arrest, a customer stated that a receptionist had been performing unlicensed massage upon him. Officers also observed employees of the business several times locking the entrance after customers entered, which is prohibited by both the MMC and state guidelines set by the CMTTC.

Officers reported the result of these investigations to the CMTTC, who subsequently revoked Trang Nguyen's state massage certificate as well as the certificates of several masseuses.

ANALYSIS:

In this appeal, it is Trang Nguyen who has the burden to show that the hearing officer's decision to uphold the permit denial was erroneous. (MMC III-6-18(c).) If she fails to carry this burden, then the hearing officer's decision should be upheld.

In the exercise of discretion, the Chief of Police may deny a massage establishment permit application if, among other things, applicant or business owner has had any massage establishment permit revoked or suspended or otherwise been subject to qualifying discipline within the last five years by any other state or local agency. (MMC III-6-6(f)(6).) Trang Nguyen's state massage certification is currently suspended by the California Massage Therapy Council.

The Chief of Police may also deny a massage establishment permit application that would not comply with all applicable laws, including the MMC and specifically the massage operating standards set therein. (MMC III-

6(f)(8).) The City's massage operating standards, in turn, prohibit the following conduct detected at Uyen Nhi Day Spa:

- Failure of the permittee to ensure that all massage technicians do not engage in any form of sexual activity on the premises of a massage establishment on at least January 19, 2023 and potentially September 8, 2022. (MMC III-6-7(m).)
- Failure of the permittee to ensure that all massage technicians do not engage in any form of sexual activity while performing massage services for compensation on at least January 19, 2023 and potentially September 8, 2022 and July 13, 2021. (MMC III-6-7(m).)
- Failure of the permittee to ensure that all massage technicians do not engage massage of the genitals on at least January 19, 2023 and potentially September 8, 2022. (MMC III-6-7(m).)
- Providing massage when a patron's genitals are not fully covered on at least January 19, 2023. (MMC III-6-7(l).)
- Uncertified practice of massage by the receptionist on at least January 19, 2023. (MMC III-6-7(b).)
- Failure for massage technicians to carry their identification cards in their possession on at least September 8, 2022. (MMC III-6-7(d).)
- Providing or offering services outside of those described in a conspicuously posted display on the premises on at least January 19, 2023 and July 13, 2021. (MMC III-6-7(f).)
- Failure of the permittee to ensure that all massage technicians are not wearing transparent, see-through, or other garments that substantially expose their undergarments on at least September 8, 2022. (MMC III-6-7(h).)
- Failure of the permittee to ensure that all massage technicians are not wearing attire that expose their breasts or buttocks on at least September 8, 2022. (MMC III-6-7(h).)
- Failure of the permittee to ensure that all massage technicians comply with the professional dress code promulgated by state and local law as well as the California Massage Therapy Council guidelines on at least September 8, 2022. (MMC III-6-7(h).)
- Locking the only available entrance door during business hours on at least January 19, 2023. (MMC III-6-8(k).)
- Failure to comply with all state and federal laws on at least September 8, 2022 and January 19, 2023, and potentially July 13, 2021. (MMC III-6-7(n).)

Additionally, the Chief of Police may revoke or suspend a massage establishment permit for, among other things, any of the following violations detected at Uyen Nhi Day Spa:

- Failure of a permittee, managing employee, or other employee to comply with any of the requirements, regulations, standards, or conditions in the City's Massage Ordinance on at least September 8, 2022 and January 19, 2023, and potentially July 13, 2021. (MMC III-6-17(a)(2).)
- Uncertified practice of massage by the receptionist on at least January 19, 2023. (MMC III-6-17(a)(3).)
- Occurrence, "with or without [the permittee's] knowledge," of criminal activity at a massage establishment on at least January 19, 2023 and potentially July 13, 2021 and September 8, 2022. (MMC III-6-17(a)(4).)
- "[W]hether or not any criminal prosecution has been pursued or conviction obtained," the occurrence of one or more acts at a massage establishment prohibited by, among other things, Penal Code sections 314 (assisting lewd acts), 647(a) (solicitation for lewd or dissolute conduct) and 647(b) (solicitation for prostitution) on at least July 13, 2021 and January 19, 2023 and potentially September 8, 2022. (MMC III-6-17(a)(5).)

In the matter before the Council, Trang Nguyen and employees of the Uyen Nhi Day Spa violated the sections of the municipal code set forth above. The facts pertaining to those violations are set forth in the attached declarations of Detective Daniel Sevilla and Detective Clint Jackman. These declarations are made under penalty of perjury. It is requested that the declarations be admitted into evidence and considered by the Council in support of the factual basis for revoking Trang Nguyen and the Uyen Nhi Day Spa's massage establishment permit.

In her separately submitted Brief of Appeal, Trang Nguyen does not submit any information to contradict the report of solicitation on July 13, 2021 or Detective Sevilla's observations on September 9, 2022 or any other day. As to Detective Jackman's plain clothes operation on January 19, 2023, Trang Nguyen concedes that the masseuse's "statement coincides with Detective Jackman's statement." The masseuse, however, believed that the payment she accepted was an over 40% tip on an uncompleted massage and that she did not initiate her subsequent physical contact with Detective Jackman.

Most significantly, neither Trang Nguyen nor the masseuse dispute that after initially refusing to do "extra," the masseuse then told Detective Jackman that he could "do it yourself," i.e., perform a sexual act in her presence during the massage. Trang Nguyen does not dispute that the masseuse immediately thereafter accepted money from Detective Jackman and then allowed the negotiated sexual act to occur. Detective Jackman explains that after offering to help, the masseuse then touched his genitals sexually before he stopped her and signaled for her arrest.

Other suggestions made by Trang Nguyen in her Brief of Appeal are directly contrary to the City's Massage Ordinance.

For instance, Trang Nguyen asserts that her business' employees were not convicted for any crime. Under the City's Ordinance, a qualifying criminal occurrence is grounds for revocation or suspension of a massage establishment permit "whether or not any criminal prosecution has been pursued or conviction obtained." (MMC III-6-17(a)(5).)

Trang Nguyen also asserts that she had no knowledge of the violations and did not encourage these violations. Under the City's Ordinance, "with or without knowledge" criminal activity at a massage establishment is imputed to the permittee (MMC III-6-17(a)(4)) and "[a]ny act or omission of any massage technician providing massage at or through the permittee's business, including rent-space therapists, which constitutes a violation of [the City's Massage Ordinance] *shall be deemed a violation of the permittee*" (MMC III-6-17(b) (emphasis added)). Qualifying criminal acts are grounds for revocation "whether or not they occurred with or without the actual knowledge of the permittee." (MMC III-6-17(a)(5).)

Trang Nguyen also asserts that she was not given a fair administrative hearing because she was given fifteen minutes to present her case. That time limit is set by the City's Massage Ordinance. (MMC III-6-18(a)(3).) Trang Nguyen does not explain in her Brief of Appeal why that was not sufficient time or why the additional questions she would have posed were not adequately already answered by the prior testimony (or indeed the City's Massage Ordinance itself). Notably, this was the only ground for appeal identified in Trang Nguyen's notice of appeal. An appeal is normally limited to the grounds stated in the notice of appeal. (See, e.g., MMC I-20-5.04, III-6-18.)

Similarly, Trang Nguyen asserts that she was not cited *by the City* for these massage practice violations detected at the premises. To the contrary, those violations were appropriately referred to the California Massage Therapy Council, who suspended her certification as well as the certification of various masseuses employed at Uyen Nhi Day Spa.

Finally, Trang Nguyen asserts that masseuse who solicited Detective Jackman was properly dressed. That fails to respond to Detective Sevilla's observation, which concerned the attire of all the employees on September 8, 2022.

If the Council does not find that Trang Nguyen has carried her burden as the appellant to show error, then the hearing officer's decision should be upheld.

If the Council reaches an opposite decision and does not remand to the hearing officer for further consideration, then Trang Nguyen must carry her burden in showing that all the requisite grounds for permit issuance stated in Section III-6-6 of the Municipal Code are true.

If the Council upholds the suspension, Trang Nguyen may still reapply for a permit after a 1-year suspension. (MMC III-6-17(d).)

Within sixty days of the close of the hearing on appeal, the Council by majority vote must decide whether to:

- (i) Sustain the decision (i.e., uphold the denial of the permit);
- (ii) Reverse and remand the decision for further consideration (i.e., direct the hearing officer to reconsider the matter);
- (iii) Reverse the decision (without remand) and reach an opposite decision (i.e., reverse the permit denial); or
- (iv) Modify the decision. (MMC I-20-5.09, I-20-6.02.)

FISCAL IMPACT:

The fiscal impact of suspending a massage permit license will be *de minimus*, resulting in a slight loss of business license fees. .

California Environmental Quality Act (CEQA):

Under Section 15321 of the CEQA Guidelines, enforcement actions categorically do not have a significant effect on the environment and therefore are exempt from the provisions of CEQA.

RECOMMENDATION:

- (1) Open a public hearing;
- (2) Take evidence in accordance with MMC I-20-3.02; and
- (3) vote to (i) uphold the decision previous decision, or (ii) reverse and remand the decision for further consideration, or (iii) reverse the decision (without remand) and reach an opposite decision, or (iv) modify the previous decision, or (v) add new or additional conditions to the permit with additional notice, or (vi) continue the matter for further discussion for a meeting no later than 60 days from the date of the close of evidence.

Attachment(s):

- 1. Declaration of Detective Daniel Sevilla
- 2. Declaration of Detective Clint Jackman
- 3. Notice of Massage Establishment Permit Application Denial Letter Dated February 7, 2023
- 4. Notice of Findings and Upholding Denial of Massage Establishment Permit Dated April 26, 2023
- 5. Appellant's Brief in Support of Application for Establishment Permit and Attached Declarations Received April 11, 2023
- 6. Notice of Appeal Dated May 2, 2023
- 7. Appellant's Brief of Appeal Before the City Council Dated May 9, 2023

Declaration of Detective Daniel Sevilla

I, DANIEL SEVILLA, submit the following declaration and hereby declare as follows:

1. I have personal knowledge of each fact stated in this declaration and, if called upon as a witness, I can competently testify thereto.

2. I am a sworn peace officer employed by the Milpitas Police Department. I am currently assigned to the Special Investigations Unit as a detective. My duties include, but are not limited to, investigating all manner of crimes against persons, gangs, narcotics, auto theft, vice, prostitution, and human trafficking. By and within the scope of my duties, I am also the duly designated administer the City's Massage Permit Program on behalf of the Chief of Police.

3. In 2022, Trang Thi Minh Nguyen ("Trang Nguyen") applied for an annual renewal of the massage permit previously issued by the City for Uyen Nhi Day Spa, which is located at 122 West Calaveras Boulevard. In response to that application, I investigated to determine whether issuance of a massage permit would be consistent with the business' operation in a lawful and professional manner that complied with the terms and conditions of relevant laws and professional guidelines, including those contained in state law, the Milpitas Municipal Code ("MMC"), and promulgated by the California Massage Therapy Council.

4. As part of that investigation, I reviewed Police Department records, which showed that on July 13, 2021, the Police Department received a prostitution complaint against Uyen Nhi Day Spa. The reporting party stated that they had just attempted to receive a massage at the business for the first time and had been propositioned for additional sexual services by the masseuse. They became uncomfortable and left before calling police. The reporting party said they remained concerned prostitution or trafficking was occurring.

5. As part of my investigation, on September 9, 2022, I conducted a walkthrough of the business and spoke to employees there as well as the owner, Trang Nguyen. None of the employees who identified themselves as masseuses were wearing proper identification, which is required by state law, the MMC, and state guidelines set by the California Massage Therapy Council. Moreover, none of the working masseuses were dressed in professional, unrevealing attire

1 as required by state law, the MMC, and state guidelines set by the California Massage Therapy
2 Council. For instance, one masseuse was wearing a sheer, form fitting white dress that exposed her
3 breasts. The fabric was so thin that I could clearly see her nipples and underclothing (a black thong
4 without any bra). Another masseuse had a dress hiked up around her upper thigh area. She had to
5 repeatedly pull down her dress to cover herself as I spoke with her. Another employee who
6 identified herself as a receptionist was wearing a form fitting dress that exposed her breasts. None
7 of the employees were wearing a uniform.

8 6. When I walked into the business, I was not dressed in my uniform and was wearing
9 plain clothes such that I was not immediately identifiable as a police officer. After I had identified
10 myself as an officer and indicated the reason for the visit, I observed a female exit a closed back
11 room where a customer was. She looked at me and then immediately re-entered the room. She then
12 came out of the room holding what appeared to be damp tissues. She then quickly entered an
13 adjacent bathroom and disposed of the tissues there. When I looked in a trashcan in the bathroom, I
14 found approximately ten styrofoam cups that contained moist tissues. I examined the tissues
15 individually. They appeared to contain a clear, bodily, mucus type liquid. Based upon my training
16 and experience, including investigating various sexual crimes and acts of prostitution, this liquid
17 appeared to be semen. When I asked the woman about the tissues she had discarded when I saw
18 her, she stated she was a masseuse and claimed the tissues were from customers blowing their
19 noses or hand sanitizer from her washing her hands. She could not provide a further explanation
20 about the volume of soiled tissues I located.

21 7. Based upon my observations and the prior citizen report, I became concerned that
22 lewd or sexual activities, potentially including prostitution, were occurring on the premises during
23 business hours. I therefore coordinated resources for a plain clothes operation to further investigate.
24 I also forwarded the results of my walkthrough to the California Massage Therapy Council.

25 8. I also returned to the business repeatedly thereafter to perform spot checks, about
26 once a week. I observed the business from the outside for about an hour to an hour and a half each
27 time. I observed predominantly male customers enter the business and remain inside for about
28

1 fifteen minutes to a half hour. Massage businesses are required to prominently display the services
2 they offer on the premises and are prohibited from providing undisplayed services by state law, the
3 MCC, and state guidelines set by the California Massage Therapy Council. I did not observe on the
4 board displayed at Uyen Nhi Day Spa any service with an indicated time length of less than a half
5 hour.

6 9. On January 19, 2023, I had Detective Clint Jackman, an undercover detective, walk
7 into the business and pose as a normal customer in plain clothes to see if he would be solicited by
8 employees at the business for a sexual act. I was positioned outside of the business while Detective
9 Jackman went inside. While I waited, I observed that on multiple occasions, male customers
10 entered the business and employees locked the front doors. I saw multiple other individuals attempt
11 to enter the business without success because the building was locked. Locking the entrance to a
12 massage business is prohibited by state law, the MMC, and state guidelines set by the California
13 Massage Therapy Council.

14 10. After I received a signal indicating that Detective Jackman had been propositioned
15 by an employee for paid sexual services, I directed officers to enter the building. We identified
16 ourselves and announced our presence and ultimately arrested the masseuse who had propositioned
17 Detective Jackman for a violation of Penal Code section 647 (solicitation for prostitution or other
18 lewd or dissolute conduct).

19 11. While inside, I discovered the receptionist who I had previously spoken to alone in a
20 back room with a male customer. The customer indicated that the receptionist had been performing
21 massage upon him when we entered. The receptionist admitted she does not have a massage license
22 but denied that she had performed massage on the customer. The unlicensed performance of
23 massage is prohibited by state law, the MMC, and state guidelines set by the California Massage
24 Therapy Council.

25 12. I left community solutions resources for the massage therapists on scene before I
26 left. I also later met with the Trang Nguyen and explained to her what had occurred. I forwarded
27
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1 the results of the operation to the California Massage Therapy Council and Santa Clara County
2 District Attorney's Office.

3 13. On April 14, 2023, I received notification from the California Massage Therapy
4 Council that effective March 29, 2023, and April 6, 2023, the California Massage Therapy Council
5 had suspended the massage certificates for Trang Nguyen as well as numerous masseuses.

6 I declare under penalty of perjury under the laws of the State of California that the
7 foregoing is true and correct to the best of my understanding, knowledge, and ability.

8 Executed this 11 day of May, 2023 at Milpitas, California.

9
10 By: Daniel Sevilla
11 DET. DANIEL SEVILLA
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Declaration of Detective Clint Jackman

I, CLINT JACKMAN, submit the following declaration and hereby declare as follows:

1. I have personal knowledge of each fact stated in this declaration and, if called upon as a witness, I can competently testify thereto.

2. I am a sworn peace officer employed by the Milpitas Police Department. I am currently assigned as a detective. My duties include, but are not limited to, investigating all manner of crimes against persons, gangs, narcotics, auto theft, vice, prostitution, and human trafficking. I have investigated and assisted in the investigation of prostitution activity and lewd acts on multiple occasions, including interviews of prostitutes who use various means of contacting clients.

3. On January 19, 2023, I participated in an investigation of a massage establishment known as Uyen Nhi Day Spa, which is located at 122 West Calaveras Boulevard. I had not previously visited this establishment or received a massage there.

4. I entered the building in plain clothes in the capacity of an undercover officer and posed as a customer. Using pre-recorded bills, I paid seventy dollars for a one-hour massage. I was instructed to enter one of several back rooms off a hallway. I undressed completely and covered myself with a towel.

5. After about fifteen minutes, a woman entered the room and closed the door. She instructed me to lay face-down on the massage table, and I complied. She then began massaging my back, shoulders, arms, and buttocks.

6. Approximately twenty minutes into the massage, I turned onto my side and allowed the towel to slide away, exposing my nude buttocks. I did this as a recognized signal to see if the masseuse would make a solicitation. The masseuse initially repositioned my towel and directed me lay face down.

7. Later, but still well before the one-hour massage I paid for had ended, I turned onto my side for a second time, again exposing my nude buttocks. As the masseuse readjusted my towel and stated, "I'm not finished," I responded, "I was hoping you could do something extra."

8. After initially stating something similar to, "No extra here," the masseuse resumed the massage. But she then directed me to roll over and lay on my back. I complied. As she began massaging my legs and forehead, and without any further comment or action by me, she then told me, "If you want to do it yourself, I will help you." I understood the masseuse to be offering to perform a sexual act for pay by assisting me in manual stimulation of my genitals.

9. I asked her, "How much?" She repeated, "Do it yourself, and I will help you." The masseuse then began to touch my nude genitals instead of continuing the massage.

10. I reached over to my clothing to retrieve a pre-recorded twenty-dollar bill and a ten-dollar bill I had received in change when I initially paid for a massage. To establish cost, I held up both bills. Instead of choosing one bill, the masseuse took both and said, "For me? Thank you." She then took the thirty dollars from me and placed it in the pocket of her smock. She then began to touch my genitals again and applied oil directly to my genitals. I signaled officers outside that I had been solicited for prostitution or another lewd act in violation of Penal Code section 647. Rather than proceed with the negotiated act, I distracted the masseuse while officers made entry. I then exited the building with the other customers. I later identified the masseuse to the arresting officers. The masseuse was then arrested.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my understanding, knowledge, and ability.

Executed this 10 day of May, 2023 at Montebello, California.

By: 
DET. CLINT JACKMAN

MILPITAS POLICE DEPARTMENT



Jared Hernandez
Chief of Police

February 7, 2023

Trang Thi Minh Nguyen,
122 West Calaveras Boulevard,
Milpitas, California 95035

Dear Trang Thi Minh Nguyen:

On March 25th, 2022, you applied for a Massage Establishment Permit for Uyen Nhi Day Spa at 122 West Calaveras Boulevard in Milpitas.

There have been several incidents at the business since your management of the business, including suspicious activity, an arrest for soliciting prostitution and numerous other California Massage Therapy Council, and Milpitas Municipal Code Violations pertaining to massage establishments and practices.

Based on the information, your application for a Massage Establishment Permit is denied effective February 7, 2023 per Milpitas Municipal Code III-6-17 (a). As a result of this denial of your application, you may not open a Massage Establishment in the City of Milpitas.

Should you wish to appeal this decision, you may do so no later than 15 calendar days after service of this denial letter by filing a written statement of such appeal with the City Clerk, including grounds for the appeal and the asserted errors in the decision.

If no written appeal is timely submitted in accordance with section III-6-17(c), then the Police Chief's decision is final.

If you have any questions regarding this matter, please feel free to contact Det. Sevilla at the Milpitas Police Department.

Sincerely,

A handwritten signature in black ink, appearing to be "Jared Hernandez", with a date "2/7/23" written to the right of the signature.

Jared Hernandez
Chief of Police



City of Milpitas

City Manager's Office

455 E. Calaveras Boulevard, Milpitas CA 95035

Item # 20.

April 26, 2023

SENT VIA ELECTRONIC MAIL AND CERTIFIED POST

TRANG NGUYEN
UYEN NHI DAYS SPA
122 WEST CALAVERAS BOULEVARD
MILPITAS, CA 95035
Riolo16180@gmail.com

**Subject: NOTICE OF FINDINGS AND UPHOLDING DENIAL OF MASSAGE
ESTABLISHMENT PERMIT**

Dear TRANG NGUYEN:

Thank you for attending the Administrative Hearing that took place on April 13, 2023 at 10:00 a.m. at the Milpitas City Hall Building Conference Room to hear an appeal of the Denial of Massage Establishment Permit for Uyen Nhi Days Spa located at 122 West Calaveras Boulevard, Milpitas, CA 95035.

The notice of the Administrative Hearing was sent on March 22, 2023, and scheduled after Chief of Police Jared Hernandez issued the Denial of Massage Establishment Permit on February 7, 2023 pursuant to Milpitas Municipal Code III-6-17(a), and an appeal of the decision was received in the Milpitas City Clerk's Office on February 21, 2023.

Suzanne Guzzetta, City Clerk, and City Manager designated Administrative Hearing Officer, conducted the hearing to determine if the Denial of the Massage Establishment Permit should be upheld.

Summary of Testimony

During the hearing, Milpitas Police Detective Daniel Sevilla testified that he reviews and administers the Massage Permit program on behalf of the Chief of Police. He described a solicitation complaint received about the business and subsequent walkthrough in response to receiving their application to renew the Massage Establishment Permit. He detailed his observations including violations of California Massage Therapy Council (CMTA) guidelines such as employee dress for multiple employees wearing form-fitting, revealing clothing and dresses, violations of Milpitas Municipal Code, and suspicious activities by a masseuse when he identified himself as a police officer that led to the plain clothes operation several months later.

Detective Clint Jackman testified that he participated in the operation in a plain clothes capacity. He detailed the events of January 19, 2023, when he entered the business to receive a massage and ensuing activities. He received a massage from Thao Nguyen and towards the end of the massage asked for "something extra." Despite her response of "no extra," at the end of the massage she stated, "if you want to do it yourself then I will help you." The detective provided

her with \$30.00 in return and she was subsequently detained in violation of California Penal Code 647(b).

Detective Sevilla concluded that with the earlier observations of violations and the results of the plain clothes operation, he determined the massage permit renewal should be denied.

On behalf of the applicant/permittee, Thao Nguyen responded to questions from Attorney Duyen H. Nguyen, denying the assertions from the testimony of the detective and described the events of the massage including responding no to the detective asking for extra, and her belief that the payment at the end of the massage was a tip.

Trang Nguyen, the applicant/permittee, testified, detailing her understanding of the complaint lodged with the Milpitas Police Department regarding the alleged solicitation and her response to the customer she believes filed the complaint. She provided details on the length of time her business had operated.

Nhi Ly provided a statement in support of the business. Attorney Duyen H. Nguyen provided closing comments.

Administrative Hearing Officer Suzanne Guzzetta closed the hearing, explained that written findings would be provided within 15 days, and took the matter under submission.

Relevant Authority

Pursuant to Section III-6-18(c) "Appeal Procedures" of the Milpitas Municipal Code, the burden of proof for appealing the Denial of the Massage Establishment Permit is on the applicant/permittee. "The parties must persuade [the hearing officer], by the evidence presented . . . , that what they are required to prove is more likely to be true than not true. This is referred to as 'the burden of proof.' After weighing all of the evidence, if [the hearing officer] cannot decide that something is more likely to be true than not true, [the hearing officer] must conclude that the party did not prove it. [The hearing officer will] consider all the evidence, no matter which party produced the evidence." (*Judicial Council of California Civil Jury Instructions* (2023), No. 200. Obligation to Prove—More Likely True Than Not True.)

Findings

Suzanne Guzzetta, City Clerk and City Manager designated Administrative Hearing Officer, conducted the hearing and makes the following findings using the preponderance standard:

1. Although both sides offered persuasive testimony, the burden of proof set forth in Milpitas Municipal Code Section III-6-18(c) was not met by the applicant/permittee; and
2. The Denial of Massage Establishment Permit issued by Chief of Police Jared Hernandez is upheld.

Order:

The applicant/permittee is hereby ordered to comply with the Denial of Massage Establishment Permit issued by Chief of Police Jared Hernandez on February 7, 2023.

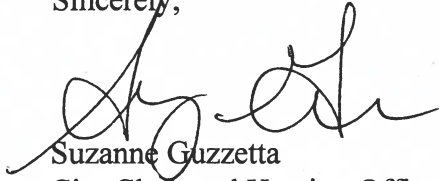
Appeal of this Decision:

The permittee or applicant may appeal the decision of the City Manager or designee to the City Council in accordance with the provisions of the Milpitas Municipal Code Title I, Chapter 20 (enclosed). Any person aggrieved by this final decision may appeal the decision to the City Council by filing written notice of the appeal with the City Clerk within twelve (12) calendar

days of the date of said decision and paying the required fee. This time limit shall be strictly enforced. (Milpitas Municipal Code § I-20-5.02.)

Item # 20.

Sincerely,

A handwritten signature in black ink, appearing to read 'Suzanne Guzzetta', written over the printed name.

Suzanne Guzzetta
City Clerk and Hearing Officer, City of Milpitas

Attachments

CC: City Attorney's Office
City Manager's Office
Chief of Police
Duyen Nguyen

Law Offices of Duyen H. Nguyen

A Professional Corporation

1569 Lexann Avenue, Suite 132 • San Jose, CA 95121 • Tel 408-528-7668 • Fax 408-528-7671

April 10, 2023

Ms. Suzanne Guzzetta

City Clerk and Administrative Hearing Officer

City of Milpitas

455 E. Calaveras Boulevard

Milpitas, CA 95035

Re: UYEN NHI DAYS SPA

Time and Date of Hearing: 10 am, Thursday, April 13, 2023

Dear Ms. Guzzetta,

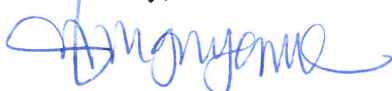
Our office is retained by Ms. Trang Nguyen to assist her in the administrative hearing captioned above.

Attached please find:

1. Supporting brief.
2. Declaration by TRANG NGUYEN
3. Declaration by UYEN NHI LY.

If you have any questions about this submission, please contact our office.

Sincerely,



Trinh Nguyen

Cc: Chief of Police
City Manager
City Council

City Clerk's Office

APR 11 2023

RECEIVED

**BRIEF IN SUPPORT OF
APPLICATION FOR MASSAGE ESTABLISHMENT PERMIT**

APPLICANT: TRANG NGUYEN
ESTABLISHMENT: UYEN NHI DAYS SPA
 122 West Calaveras Boulevard
 Milpitas, CA 95035

Applicant TRANG NGUYEN (“TRANG”), through counsel, submits this brief in support of her application for the Massage Establishment Permit at the UYEN NHI DAYS SPA captioned above.

I. STATEMENT OF FACTS

To avoid redundancy, Applicant TRANG is attaching the Declaration of Officer CLINT JACKMAN and incorporates it by reference into this statement of facts.

TRANG has been working in the massage therapy business under the government of California Massage Therapy Council (“CAMTC”) since about September 2014. For over eight years in the business, TRANG has never violated any sexually related violation relating to her massage therapy or any other activity or business.

When hiring employees, TRANG always informed them to respect and abide by all the laws established by CAMCT and local authorities. TRANG has established and been operating UYEN NHI DAYS SPA in Milpitas since June 2015 without any incident or violation of the city’s laws.

On January 19, 2023, Officer CLINT JACKMAN visited UYEN NHI DAYS SPA located at 122 West Calaveras Boulevard for a massage session. An incident happened between officer JACKMAN and THAO NGUYEN with all the details described in the attached declaration. Based on officer JACKMAN’s declaration, the City of Milpitas issued a Denial of Massage Establishment Permit. A hearing has been scheduled on Thursday April 13, 2023 at 10 am.

TRANG is submitting this brief in support of her application.

II. ARGUMENTS

A. OFFICER JACKMAN’S DECLARATION SHOWS NO SOLICITATION OF PROSTITUTION

In Officer Jackman’s declaration, the following interaction has occurred:

- Twenty minutes into the massage session on January 19, 2023, Mr. Jackman turned onto his side and the covering towel slid away; the employee THAO NGUYEN readjusted the towel.

- Forty-five minutes into the massage, Mr. Jackman turned onto his side a second time. THAO NGUYEN readjusted the towel again and said “I’m not finished”
- Mr. Jackman started soliciting for something more, saying “I was hoping you could do something extra.” THAO NGUYEN responded “No extra here” and resumed the massage.
- Minutes later, THAO NGUYEN (*allegedly*) said “If you want to do it yourself, I will help you.”
- Mr. Jackson interpreted it as an offer to help and asked “How much?” THAO NGUYEN repeated “Do it yourself, and I will help you”
- Per Mr. Jackson, THAO NGUYEN began to touch his genitals.
- Mr. Jackson then gave THAO NGUYEN thirty dollars; THAO NGUYEN said, “For me? Thank you”

Mr. Jackson’s allegation, even considered in the light least favorable to THAO NGUYEN, fails to show any intent of solicitation for prostitution.

In over 45 minutes, Mr. Jackson let the towel slid twice, all THAO NGUYEN did was to readjust it to continue her work.

When Mr. Jackson asked for something “extra”, THAO NGUYEN unequivocally rejected the solicitation by responding “No extra here”

When Mr. Jackson induced her to a solicitation by asking her “how much?”, THAO NGUYEN never asked for money.

A reasonable interpretation for THAO NGUYEN’s saying “Do it yourself, and I will help you” was that THAO NGUYEN did not want to upset a customer rather than soliciting for prostitution. Even when Mr. Jackson gave her money, she said “For me? Thank you.” She must have taken it that the money offered to her was a tip from a generous customer.

In his declaration, Mr. Jackson did not mention whether THAO NGUYEN was served with a notice to appear in court. Had THAO NGUYEN involved in an unlawful solicitation for prostitution, she would have been criminally charged.

The facts as stated in Mr. Jackson’s declaration failed to established unlawful act and unlawful intent of solicitation for prostitution.

B. THE OWNER OF UYEN NHI DAYS SPA NEVER CONDONED UNLAWFUL SOLICITATION FOR PROSTITUTION ON THE PREMISES

TRANG, the owner of UYEN NHI DAYS SPA, has been operating therapeutic massage parlors for over eight years. She has never had any violation involving sex activities or solicitation for prostitution on the establishments of her business. TRANG always informed her employees that sex activities and prostitution are strictly prohibited.

The interaction described in Mr. Jackson's declaration supports a finding that the employees at UYEN NHI DAYS SPA have been informed and clearly understood that sex activities or solicitation for prostitution are not allowed on the premises.

III. CONCLUSION

Based on the foregoing facts and arguments, TRANG NGUYEN respectfully requests that the City of Milpitas grant her application for a Massage Establishment Permit.

Respectfully submitted,

Dated: 04/10/2023



DUYEN NGUYEN – Attorney for Applicant

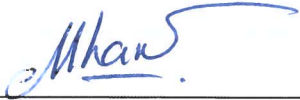
DECLARATION BY TRANG NGUYEN
IN SUPPORT OF APPLICATION FOR MASSAGE ESTABLISHMENT PERMIT

I, TRANG NGUYEN, declares:

1. I am over 18 years old. I have personal knowledge of the facts stated herein. If called as a witness, I am competent to testify to these facts.
2. I have been working in the therapeutic massage since September 2014.
3. Since 2015, I started operating massage parlors at different location.
4. I was never received any warning or citation for sex activities or solicitation for prostitution from any jurisdiction.
5. When hiring employees, I always informed them about the laws prohibiting such activities on the premises.
6. I have no reasons to believe that my employees did not understand the information and requirements in abiding by the local laws and regulations.
7. I was not present at the premises on January 19, 2023, and I did not have any knowledge of the incident until after it happened.
8. Based on the above, I respectfully request that the city of Milpitas grant my application for a Massage Establishment Permit.

I declare under the penalty of perjury according to the laws of the State of California that the above is true and correct.

Dated: 04-10-2023



TRANG NGUYEN

DECLARATION BY UYEN NHI LY
IN SUPPORT OF APPLICATION FOR MASSAGE ESTABLISHMENT PERMIT

I, UYEN NHI LY, declares:

1. I am over 18 years old. I have personal knowledge of the facts stated herein. If called as a witness, I am competent to testify to these facts.
2. I am the daughter and the only child of my mother TRANG NGUYEN. I have graduated from San Jose State University in May 2022 with a BA degree in biology. I am pursuing my continued education in marine biology.
3. Since my childhood, I learned from my mom about good moral character as well as upholding the family's honor and values.
4. My father is now working at Tesla, and my mom is operating her own business in therapeutic massage.
5. Our family has been a law-abiding family, which honors familial values and moral character.
6. Since my mom's business is a crucial part of our family's livelihood, I respectfully request that my mom's application for a massage establishment permit be granted.

I declare under the penalty of perjury according to the laws of the State of California that the above is true and correct.

Dated: 04-10-2023



UYEN NHI LY

DECLARATION BY THAO NGUYEN**IN SUPPORT OF APPLICATION FOR MASSAGE ESTABLISHMENT PERMIT**

I, THAO NGUYEN, declares:

1. I am over 18 years old. I have personal knowledge of the facts stated herein. If called as a witness, I am competent to testify to these facts.
2. I am an employee working at UYEN NHI DAYS SPA since about March 2021. At the beginning of my employment at UYEN NHI DAYS SPA, I was informed about the rules and regulations against sex activities and prostitution in my workplace.
3. On January 19, 2023, a customer came in for massage service.
4. During my service, he asked for "something extra", I repeatedly denied his request. My English is limited, I just only repeatedly said "no".
5. When he asked again, I said: "If you want, you take care yourself"
6. He said "if I do myself, what you do for me?" I said: "I do massage only"
7. He started doing it by himself. He then took \$30 and gave to me.
8. I asked him "was this for me?", assuming that that was a tip directed to me. I then put the money in my pocket.
9. He then continued doing it himself for about 1 minute, and moved in a way to let his private part to touch my hand.
10. I was afraid and moved toward his head to do a head massage.
11. He said something I did not understand. At that time, I was done with my job and I left the room.

I declare under the penalty of perjury according to the laws of the State of California that the above is true and correct.

Dated: 4-12-2023



THAO NGUYEN



City of Milpitas

City Manager's Office

455 E. Calaveras Boulevard, Milpitas CA 95035

May 5, 2023

SENT VIA ELECTRONIC MAIL & CERTIFIED POST

TRANG NGUYEN
UYEN NHI DAYS SPA
122 WEST CALAVERAS BOULEVARD
MILPITAS, CA 95035
Riolo16180@gmail.com

**Subject: NOTICE OF CITY COUNCIL HEARING FOR APPEAL OF DENIAL OF
MASSAGE ESTABLISHMENT PERMIT**
For Uyen Nhi Days Spa, 122 West Calaveras Boulevard, Milpitas, CA 95035

Time and Date of Hearing: 7:00 p.m., May 16, 2023

Location of Hearing: Milpitas Council Chamber located on the second floor of Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035

Dear TRANG NGUYEN:

This is a notice of hearing before the Milpitas City Council, to hear an appeal of the Denial of Massage Establishment Permit issued by Milpitas Police Chief Jared Hernandez on February 7, 2023 pursuant to Milpitas Municipal Code III-6-17(a) and upheld by Suzanne Guzzetta, City Clerk and Administrative Hearing Officer, City of Milpitas in Findings dated April 26, 2023. The hearing shall take place on **May 16, 2023 at 7:00 p.m.** in the Milpitas Council Chamber located on the second floor of Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035. If the denial is upheld, the decision of the City Council shall be considered final upon service of a written decision.

Grounds for Denial of Massage Establishment Permit

Incidents at the business include suspicious activity, an arrest for soliciting prostitution and numerous other California Massage Therapy Council, and Milpitas Municipal Code Violations pertaining to massage establishments and practices.

Appeal Hearing Procedure

- (1) The hearing shall be conducted pursuant to Milpitas Municipal Code Title I, Chapter 20.
- (2) The City Council may hear and consider evidence presented at the hearing below and may also hear and consider new evidence.
- (3) The Council shall render its decision by majority vote within sixty days of the close of the hearing on appeal. Their decision shall be final.

Those persons having an interest in said matters may attend the hearing and their testimony and evidence will be taken at the above referenced hearing.

Suzanne Guzzetta, Milpitas City Clerk

**BRIEF OF APPEAL BEFORE
THE MILPITAS CITY COUNCIL**

APPELLANT: TRANG NGUYEN
ESTABLISHMENT: UYEN NHI DAYS SPA
122 West Calaveras Boulevard
Milpitas, CA 95035

Appellant TRANG NGUYEN (“TRANG” or “Appellant”), through counsel, submits this brief in support of her appeal before The Milpitas City Council (the “Council”) following the decision of the City Clerk upholding the denial of Massage Establishment Permit at the UYEN NHI DAYS SPA (the “Day Spa”) captioned above.

I. STATEMENT OF THE CASE

The timeline leading to this appeal is as follows:

- February 7, 2023: Chief of Police Jared Hernandez issued the Denial of Massage Establishment Permit. TRANG filed an appeal to the City Clerk.
- April 13, 2023: the City Clerk conducted the hearing following TRANG’s appeal.
- April 26, 2023: the City Clerk issued the decision upholding the Denial by the Chief of Police.

II. STATEMENT OF FACTS

To avoid redundancy, TRANG is attaching the documents submitted to the City Clerk for the hearing on April 13, 2023. TRANG also incorporates the arguments stated in the brief submitted in the said hearing.

At the April 13, 2023 hearing, each side was allowed 15 minutes to present its case. No questions were allowed to clarify any statement during the hearing. Following are the notable statements:

Statements by Detective Daniel Sevilla at April 13 hearing:

- July 13, 2021: A complaint was filed against the Day Spa. The name of the complainant and the nature of the complaint were not provided to Day Spa. No action was taken on that complaint. Nor was any warning issued against Day Spa.
- September 9, 2022: Milpitas Police conducted a walkthrough at Day Spa’s premises. It found **no violation** other than some of Day Spa’s employees wearing provocative attire. Accordingly, **no citation was issued**.

Detective Clint Jackman's Statement at April 13 hearing:

Detective Jackman recited what he wrote in his written declaration attached. Detective confirmed in his statement that *the room was well lit*. However, since Appellant was not given the opportunity to question or cross examine Detective Jackman during the hearing, one can reasonably be assumed that Detective Jackman was referring to the massage room where his interaction with Day Spa's employee Thao Nguyen occurred.

THAO NGUYEN's Statement at April 13 hearing:

THAO NGUYEN ("THAO"), the employee who interacted with Detective Jackman on January 19, 2023, appeared at the April 13, 2023 hearing. Her statement coincides with Detective Jackman's statement. In addition, THAO stated the following notable facts:

- Her English proficiency is very limited. When asked about 'extra' services, she was adamantly stated "no extra here" and reiterated more than once during her interaction with Detective Jackman. When Detective Jackman asked for "extra" services, THAO affirmatively responded "I only do massage".
- THAO is very conscious in her work outfit. She *always* wears professional and appropriate attire when performing her services. Attached hereto is a copy of THAO's photo in her work attire.
- When Detective Jackman gave THAO \$30, THAO asked "is this for me?", assuming the \$30 was a tip for the "massage".
- When Detective Jackman turned, he moved his body and caused his genital to touch THAO's hand. THAO was scared and immediately moved toward his head to perform head massage and concluded the massage session.

TRANG NGUYEN's Statement at April 13 hearing:

In addition to the written statement submitted, TRANG added the following notable statements at the hearing:

- From July 2021 until September 2022, there was no warning by Milpitas authorities against her business.
- She never condones any improper acts by the workers.

III. ARGUMENT

TRANG reiterates and incorporates her arguments established in her brief for the hearing on April 13, 2023. Supplemental arguments are submitted in support of this appeal before the Council.

A. DETECTIVE JACKMAN'S DECLARATION CONFIRMS NO SOLICITATION OF PROSTITUTION HAD OCCURRED AT DAY SPA

Detective Jackman's Declaration further confirms no illegal activities, much less solicitation for prostitution had occurred at the Day Spa. In fact, Detective Jackman stated "Approximately twenty minutes into the massage, I turned onto my side and the towel slid away, completely exposing my nude buttocks. THAO NGUYEN readjusted

the towel, then motioned for me to lay face-down again. Approximately forty-five minutes into the massage, I turned onto my side a second time. THAO NGUYEN readjusted the towel again and told me, "I'm not finished". I told her, 'I was hoping you could do something extra.' THAO NGUYEN responded "**No extra here**" and **resumed the massage.**' (emphasis added).

Here, Detective Jackman, by his own declaration further confirmed no violation occurred a that: 1) Detective Jackman entered the premises with the predisposition that Day Spa conducted illegal activities; 2) when twice, exposed himself in an effort to solicit "extra" services, THAO, twice, readjusted the towel to cover his private area AND affirmatively stated "**No extra here.**" THAO's statement to Detective Jackman was unequivocal that no illegal activities were solicited, much less occurred at Day Spa.

The \$30 given by Detective Jackman to THAO was taken as a **tip** to THAO after the massage was concluded. Anyone who receives \$30 after a massage is performed would consider said *minimal* value a gratuity rather than for solicitation of prostitution. At no time did the \$30 was ever taken as a quid pro quo for the alleged illegal activities. Indeed, when given \$30, THAO even asked "For me? Thank you" as a gesture to thank Detective for the "tip." THAO never solicited for prostitution, much less get paid \$30 for the illegal activities. Had Detective Jackman given THAO an amount that is significant in value (e.g. \$200) and she accepted the monies, we would not be here today to contend the decision.

Note: *At the April 13 hearing, THAO recalled that because of her limited English proficiency, said 'I only do massage' when asked by Detective Jackman's for "extra" services.*

In his Declaration, Detective Jackman did **not** state there was any violation, much less solicitation for prostitution at the Day Spa. Nor was THAO cited or arrested for any violation of the ordinance. Had THAO solicited for any illegal activities or violated any ordinance (which she did not), she would have been prosecuted by People of California. Since Detective Jackman's Declaration failed to even remotely establish any unlawful activities at the Day Spa, Appellant's application for the permit should be approved.

B. DAY SPA NEVER CONDONED NOR ENCOURAGED UNLAWFUL ACTIVITIES OR SOLICITATION FOR PROSTITUTION ON THE PREMISES

TRANG, the owner of UYEN NHI DAY SPA, has been operating therapeutic massage parlors in the bay area for over eight years. She was never cited or investigated for any violation involving any illegal activities or solicitation for prostitution on the establishments of her business until the complaint was submitted anonymously without supporting evidence. TRANG has a zero-tolerance policy at all of her parlors that any unlawful activities is strictly prohibited. Any employee who violates Day Spa's policy will be terminated immediately without warnings.

The interaction described in Detective Jackman's Declaration further confirms a finding that THAO has been informed of the company's policy and abide by the rules and regulations by rejecting **not once**, but twice, when Detective Jackman's solicited for "something extra".

C. DAY SPA'S EMPLOYEES ARE PROVIDED WITH PROPER UNIFORM DURING WORK PERFORMANCE

Day Spa's employees are provided with uniform to wear during work performance. The uniform is professional and conservative to avoid any insinuation of illegal activities on the premises.

On the date of the incident, THAO wore Day Spa's uniform. Attached hereto is a true and correct copy of the photo of THAO in her uniform on the day she interacted with Detective Jackman as Exhibit "A".

Were there any illegal activities or even remotely solicitation for prostitution, employees would be allowed or even encouraged to wear provocative or revealing clothes to entice customers. That is not the case here! Day Spa's employees are provided with proper uniform to wear during work performance. In fact, Detective Jackman's Declaration confirms that THAO was in her work uniform during his interaction with THAO.

Therefore, no employees of Day Spa ever solicited for prostitution nor even entice customers for "something extra" other than professional massage.

D. NO EVIDENCE OF ILLEGAL ACTIVITIES EVER OCCURRED AT THE DAY SPA

Milpitas Police conducted a thorough search of the premises after Detective Jackman's interaction with THAO and did **not** find a shred of evidence of illegal activities. Had there been any illegal activities that occurred at the Day Spa, TRANG would have been cited or arrested for said conduct for the very simple reasons – no evidence of illegal activities has ever occurred at the Day Spa; hence no citation was issued, nor arrest was made by Milpitas Police. Accordingly, the decision to deny Appellant's application for the permit is arbitrary without justification.

E. THE APPELLANT WAS DENIED A FAIR OPPORTUNITY TO BE HEARD AT THE HEARING APRIL 13, 2023

At the hearing April 13, 2023, Appellant bears the burden of proof to support the reversal of the Chief of Police's decision. However, Appellant was denied a fair opportunity as Appellant was given only fifteen minutes to present her case. Thus, it is impossible for Appellant to meet the burden to present her case. Appellant was not allowed to ask simple factual questions such as:

- Why did Milpitas Police Department issue absolutely no warnings, took absolutely no actions against Day Spa after the *first and only* - anonymous complaint for more than one year during the periods from July 13, 2021 to September 9, 2022? Why waited over a year to act capriciously on an anonymous complaint?

- Why no citations were issued or arrest was made if Milpitas Police Department found evidence of illegal activities at the Day Spa?
- When THAO affirmatively responded 'I do massage only' to Detective Jackman's solicitation for "something extra", was THAO's response affirmed no illegal activities were allowed nor condoned?
- Why did Detective Jackman intentionally move in a way to let his private part touch THAO's hand as an entrapment?
- Did Detective Jackman visit the Day Spa with a predisposition that he would receive "something extra" other than massage on January 19, 2023?
- Did Detective Jackman receive an affirmative or negative response for his solicitation for "something extra"?

In sum, no suspicious, much less, illegal activities had occurred at the Day Spa. The Declaration of Detective Jackman, THAO's rejection to his solicitation for "something extra", coupled with Milpitas Department's search of the premises resulted in no evidence of illegal activities warrant a reversal of the City of Milpitas' decision upholding the denial of Appellant's application for the permit. Furthermore, Appellant was not given the fair opportunity to ask questions at the April 13, 2013 hearing. In essence, the hearing was held as a checkbox only to comply with the requirements of the municipal code but the decision had already been predetermined without taking into consideration all of the evidence.

IV. CONCLUSION

Based on the foregoing, TRANG respectfully requests that the Council reverse the City Clerk's decision upholding the Police Chief's denial, and grant Appellant's Application for the Massage Establishment Permit.

Respectfully submitted,

LAW OFFICE OF JOHN T.
NGUYEN



JOHN T. NGUYEN
Attorney for Appellant TRANG
NGUYEN

Dated: May 9, 2023

Exhibit “A”





CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Receive Presentation from Staff on Exploratory Storm Drain System Funding Options (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)
Category:	Community Services and Sustainable Infrastructure
Meeting Date:	5/16/2023
	<u>Recommendation:</u> Receive an informational presentation on the Preliminary Stormwater Funding Options Analysis and provide feedback to staff.

BACKGROUND:

The City of Milpitas owns and maintains an extensive storm drain system network (System), consisting over 100 miles of pipeline ranging from 12-inches to 36-inches, approximately 1,400 manholes, 260 trash capture devices and 3,500 storm drain inlets. The System collects surface stormwater runoff and conveys the water to 13 pump stations. An essential element of competently operating the System is short-term and long-term asset management and planning, which includes on-going maintenance and systematic replacement of infrastructure.

On August 9, 2022, the City Council adopted the Storm Drain Master Plan (Plan). The adopted Plan prioritized rehabilitation and replacement capital improvement projects (CIP) in order to avoid catastrophic System failures and to increase conveyance capacity. Projects include, but are not limited to:

- Complete pump station replacement. Estimated cost: \$25 million
- Approximately five miles of pipe replacement and upsizing to alleviate stresses on the storm drain infrastructure and mitigate the likelihood of flooding. Estimated cost: \$15 million.
- On-going renewal and replacement of pump station equipment. Estimated cost \$13 million

Excluding low priority CIPs, the total CIP cost for the System, through 2050, is approximately \$53 million (2020 dollars). Additionally, to effectively meet all future System demands, staff estimates a minimum of approximately \$2.5 million is needed annually for O&M and regulatory compliance. Unlike the water and sewer utilities, the stormwater utility (Utility) does not have a dedicated funding source. The General Fund is currently the primary source of funding for expenditure incurred by the System, including operation and maintenance (O&M) expenses. The General Fund contribution to the Utility is \$500,000 annually, however this is a target and actual funding will depend upon the General Fund available resources and other priorities during the annual budget development. As part of the recommended actions authorized by City Council in the August 9, 2022 meeting, staff was to return to Council with various funding options.

ANALYSIS:

Consistent with the direction provided by City Council, on November 12, 2022, the City entered into a Professional Services Agreement with SCI Consulting Group for Storm Drain Fee Analysis Services.

SCI has performed a preliminary analysis exploring various revenue stream options to fund the City's System needs. The analysis incorporates the City's high priority CIP projects, as identified in the Plan, preliminary O&M program costs and costs associated with regulatory compliance.

SCI and staff are presenting to Council the project overview and preliminary findings of the analysis. This presentation is intended to be informational only and intended to solicit Council engagement and feedback. Following this Council session, SCI will continue to work with Staff to finalize revenue requirements and develop revenue stream recommendations. The table below is a preliminary schedule of anticipated next steps.

Date	Meeting
August – September 2023	City Council - Staff to present revenue requirements analysis
December 2023 to January 2024	City Council – Staff to present findings of community survey
February – March 2024	City Council – Staff to present draft fee report
March - April 2024	City Council – Staff to present final fee report for City Council consideration of proceeding with fee implementation options such as a ballot measure.

POLICY ALTERNATIVE(S):

This item is presented for City Council information and discussion only. No policy action is recommended at this time.

FISCAL IMPACT:

There is no fiscal impact at this time.

California Environmental Quality Act (CEQA):

The proposed action, to hold a study session, does not itself constitute a “project” under CEQA because it would not itself affect the environment in any way. Even if the proposed project were a project under CEQA, the proposed action would be statutorily exempt under 14 Cal. Code Regs. § 15262 (exempting feasibility and planning studies).

RECOMMENDATION:

Receive an informational presentation on the Preliminary Stormwater Funding Options Analysis and provide feedback to staff.

Attachment(s):

None