



REGULAR MEETING OF THE MILPITAS CITY COUNCIL

AGENDA

TUESDAY, APRIL 4, 2023

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

5:30 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_r-bs6oVzSfi4z7tNswa3gg

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 (5:30 PM)

ADJOURN TO CLOSED SESSION

(a) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant Exposure to Litigation Pursuant to Government Code Section 54956.9(d)(2)
Facts and circumstances related to the expiration of a contract to which the City is a party
City as Defendant

(b) 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)

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 (Councilmember Lien)

INVOCATION (Councilmember Phan)

PRESENTATIONS (7:05 PM)

- Vietnamese American Heritage Month (Proclamation)
- National Public Safety Telecommunications Week (Proclamation)

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 April 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Receive City Council Calendar of Meetings for April 2023.

C2. Approve City Council City Council Regular Meeting Minutes of March 21, 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Approve City Council Regular Meeting minutes of March 21, 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 Recommendation for Removal of Commissioner (Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Approve the removal of Kenneth Truong from the Student – CHHS Student seat on the Arts Commission and direct the City Clerk to post the notice of unscheduled vacancy.

C6. Approve and Authorize City Manager to Execute Three-Year Agreement with the City of San Jose for Animal Control Services (Staff Contact: Bill Tott, Building Official, 408 586-3263)

Recommendation: Approve and authorize the City Manager to execute a three-year service contract agreement with the City of San Jose for Animal Services in the amount of \$1,655,696.64 for fiscal years 2023-2026 with two additional three-year options.

C7. Adopt a Resolution to Approve Project Plans and Specifications, Award Construction Contract to DeSilva Gates Construction for Street Resurfacing Project No. 4283, 4303, 4304; and Approve Budget Change Form (Staff Contact: Matt Cano, Deputy City Manager, 408-586-3012)

Recommendation: Postpone indefinitely.

C8. Adopt a Resolution Releasing Unclaimed Checks with a Value less than \$15 in the Aggregate Amount of \$655.27 (Staff Contact: Lauren Lai, Finance Director, 408-586-3111)

Recommendation: Adopt a resolution releasing unclaimed checks with a value less than \$15 and transfer a total of \$655.27 in unclaimed checks to the General Fund.

C9. Approve an Amendment to the Professional Services Agreement with WeHOPE for Mobile Shower and Laundry Services to Add Additional Funding in the Amount of \$10,000.00, with a Total Not to Exceed Contract Amount of \$96,552.00 (Staff Contact: Alex Andrade, Director of Economic Development, 408-586-3046; and Robert Musallam, Housing and Neighborhood Services Administrator, 408-586-3275)

Recommendation: Approve an amendment to the professional services agreement with WeHOPE for Mobile Shower and Laundry Services to add additional funding in the amount of \$10,000.00, with a total not to exceed contract amount of \$96,552.00.

C10. Receive the 2022 General Plan Annual Progress Report and Authorize Submittal of the Report to the Governor's Office of Planning and Research (OPR) (Staff Contact: Ned Thomas, Planning Director, 408-586-3273; and Jay Lee, Principal Planner, 408-586-3077)

Recommendation: Receive the 2022 General Plan Annual Progress Report and authorize the submittal of the report to the Governor's Office of Planning and Research (OPR).

- C11. Accept the FY 2023 Citizens' Option for Public Safety (COPS) Grant in the Amount of \$124,855.00 for Front-Line Law Enforcement Services and Approve the Appropriation of Funds in the Total Amount of \$124,855.00 to the Police Department's FY2022-23 Operating Budget for Front-Line Law Enforcement Services (Staff Contact: Jared Hernandez, Chief of Police, 408-586-2406)**

Recommendation: Accept the FY 2023 Citizens' Option for Public Safety (COPS) Grant in the amount of \$124,855.00 for front-line law enforcement services and approve the appropriation of funds in the total amount of \$124,855.00 to the Police Department's FY2022-23 Operating Budget for front-line law enforcement services.

- C12. Accept Additional FY 2022 Citizens' Option for Public Safety (COPS) Grant in the Amount of \$75,657.69 for Front-Line Law Enforcement Services to be spent in alignment with the City Council Approved FY 2022 Spending Plan; and Approve the Appropriation of Funds in the Total Amount of \$75,657.69 to the Police Department's FY2022-23 Operating Budget for Front-Line Law Enforcement Services (Staff Contact: Jared Hernandez, Chief of Police, 408-586-2406)**

Recommendation: Accept additional FY 2022 Citizens' Option for Public Safety (COPS) Grant in the amount of \$75,657.69 for Front-Line Law Enforcement Services; and Approve the appropriation of funds in the total amount of \$75,657.69 to the Police Department's FY2022-23 Operating Budget for Front-Line Law Enforcement Services.

- C13. Waive the Second Reading and Adopt Ordinance No. 120.50 to Amend Chapter 1 of Title VIII of the Milpitas Municipal Code Relating to Water Service Charges (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; and Lauren Lai, Director of Finance, 408-586-3111)**

Recommendation: (1) Waive the second reading of Ordinance No. 120.50; and (2) Adopt Ordinance No. 120.50 to amend Chapter 1 of Title VIII of the Milpitas Municipal Code relating to water service charges.

- C14. Waive the Second Reading and Adopt Ordinance No. 208.55 to Amend Chapter 2 of Title VIII of the Milpitas Municipal Code Relating to Sewer Service Charges (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; and Lauren Lai, Director of Finance, 408-586-3111)**

Recommendation: (1) Waive the second reading of Ordinance No. 208.55; and (2) Adopt Ordinance No. 208.55 to amend Chapter 2 of Title VIII of the Milpitas Municipal Code relating to sewer service charges.

- C15. Consider Two Fee Waiver Requests and One Donation Request from the Christian Worship Center, FAREPA, and Milpitas High School Aerotech Club (Staff Contact: Renee Lorentzen, Director of Recreation and Community Services, 408-586-3409)**

Recommendation: (1) Approve a fee waiver of \$1,500.00 for the Christian Worship Center's Annual Community Easter Egg Hunt at Gill Park on Sunday, April 8, 2023; (2) Approve a fee waiver of \$830.00 for FAREPA Silicon Valley, Inc. for their ADU Workshop at the Milpitas Community Center on May 13, 2023; and (3) Approve a donation of \$500.00 to the Milpitas Unified School District's Milpitas High School Aerotech Club to participate in the American Rocketry Competition on May 20, 2023.

- C16. Approve the addition of Names to City Naming Lists and Name a New City Park the Delano Manongs Park (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)**

Recommendation: (1) Approve adding Muwekma to the Influential People Naming List; (2) Approve adding Delano Manongs to the Influential People Naming List; and (3) Approve naming a new park in the Metro Area the "Delano Manongs Park."

PUBLIC HEARINGS (7:25 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.

- 17.** Adopt a Resolution Approving a Site Development Permit, Conditional Use Permit, Vesting Tentative Map, Density Bonus Permit, Tree Removal Permit, and Environmental Assessment to Allow the Development of 57 Townhome Condominiums and Associated Site Improvements on an Approximately 2.35-Acre Site Located in the Mixed-Use (MXD) Zoning District at 612 South Main Street (APNs 086-25-027, 028) Located within the Midtown Specific Plan Area and Submitted Under California Senate Bill 330 (Housing Crisis Act of 2019) (Staff Contact: Ned Thomas, Planning Director, 408-586-3273)

Recommendation: Adopt a resolution to approve Site Development Permit No. SD22-0007, Conditional Use Permit No. UP22-0003, Vesting Tentative Map No. MT22-0003, Density Bonus Permit No. DB22-0002, Tree Removal Permit No. TR22-0014, and Environmental Assessment No. EA22-0005, subject to the Conditions of Approval.

- 18.** Conduct a Public Hearing and Introduce an Ordinance Amending Title III "Business and Professions" of the Milpitas Municipal Code to add Chapter 9 "Permits for Retailers of Tobacco Products" (Staff Contact: Ned Thomas, Planning Director, 408-586-3273)

Recommendation: Table the discussion to a future meeting.

COMMUNITY DEVELOPMENT (8:00 PM)

- 19.** Receive Housing Report and Presentation (Staff Contact: Alex Andrade, Director of Economic Development, 408-586-3046; and Robert Musallam, Housing and Neighborhood Services Administrator, 408-586-3275)

Recommendation: Receive Housing Report and presentation.

PUBLIC SAFETY (9:00 PM)

- 20.** Receive Calendar Year 2022 Controlled Equipment Annual Report, Take Public Comment and Questions for the Purpose of Community Engagement, and Approve Proposed Acquisitions for Calendar Year 2023 (Staff Contact: Jared Hernandez, Chief of Police, 408-586-2406; and Frank Morales, Assistant Chief of Police, 408-586-2521)

Recommendation: Receive Calendar Year 2022 Controlled Equipment Annual Report, take public comment and questions for the purpose of community engagement, and approve proposed acquisitions for Calendar Year 2023.

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.

March 2023						
S	M	T	W	T	F	S
	5	6	7	1	2	3
12	13	14	15	8	9	10
19	20	21	22	16	17	18
26	27	28	29	23	24	25
				30	31	

Milpitas City Council Calendar

April 2023

May 2023						
S	M	T	W	Th	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

Item # C1.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3 7:00 PM -Parks, Recreation & Cultural Resources Commission (HL)	4 5:30 PM -Closed Session 7:00 PM -City Council	5 2:00 PM -Santa Clara VTA Monthly Briefing - Northeast Group (CM) 5:30 PM -Veterans Commission (CM) 7:00 PM -Community Advisory Commission (AP)	6 5:30 PM -Milpitas Chamber of Commerce Board (GB) 5:30 PM -Santa Clara VTA Board of Directors (CM) (San Jose) 6:00 PM -Community Townhall FY2023-2024 Budget (Committee Conference Room, City Hall)	7	8
9	10 4:30 PM -Economic Development and Trade Commission (CM)	11 4:00 PM -Milpitas HOPE Suicide Prevention Task Force	12 12:00 PM -Valley Water District Water Commission (CM) (San Jose) 4:30 PM -City Council Transportation Subcommittee (CM/EC) 7:00 PM -Silicon Valley Clean Energy Board of Directors (EC) (Cupertino) 7:00 PM -Planning Commission	13 4:00 PM -Treatment Plant Advisory Committee (CM) (San Jose) 4:00 PM -Santa Clara VTA Policy Advisory Committee (EC) (San Jose) 5:30 PM -Cities Assoc of SCC Legislative Action Committee (CM) (Los Altos Community Center) 6:00 PM -Youth Advisory Commission (HL) 7:00 PM -Cities Assoc of SCC (CM) (Los Altos Community Center)	14	15
16	17 7:00 PM -Science, Technology, and Innovation Commission (GB)	18 6:00 PM -Closed Session 7:00 PM -City Council	19 6:00 PM -Energy and Environmental Sustainability Commission (EC)	20 10:30 AM -South Bay Odor Stakeholders Group Meeting (CM)	21	22 10:00 AM - 12:00 PM Earth Day Event (Selwyn Park)
23	24 7:00 PM - Arts Commission (AP)	25 1:30 PM -Senior Advisory Commission (AP)	26 5:30 PM -Cities Assoc. of SCC - Recycling and Waste Reduction Commission (CM) 7:00 PM -Planning Commission	27 12:00 PM -SCC Library Joint Powers Authority Board Meeting (Campbell) (EC)	28	29
30						

**Finance Subcommittee will only meet as needed*



JOINT MEETING OF THE MILPITAS CITY COUNCIL AND HOUSING AUTHORITY

MINUTES
TUESDAY, MARCH 21, 2023

The City Council of the City of Milpitas convened in a Joint Meeting of the Milpitas City Council and Housing Authority on March 21, 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 6:00 PM. Roll Call was taken by City Clerk Guzzetta.

PRESENT: Mayor Montano, Vice Mayor Chua, Councilmembers Barbadillo, Lien, and Phan (6:01 PM).
ABSENT: None.

City Attorney Mutalipassi announced the closed session items.

Councilmember Barbadillo asked for clarification on how items may be added to the Closed Session agenda.

After discussion, Vice Mayor Chua made a motion: to remove Item (B) from the closed session agenda and reschedule to May. Mayor Montano seconded the motion. Upon a call for the question, the motion failed (2-3).

Motion/Second: Vice Mayor Chua / Mayor Montano

Motion failed with the following vote:

AYES: Vice Mayor Chua and Mayor Montano

NOES: Councilmembers Barbadillo, Lien, and Phan

The City Council adjourned to Closed Session at 6:19 PM.

ADJOURN TO CLOSED SESSION

(a) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant Exposure to Litigation Pursuant to Government Code Section 54956.9(d)(2)
Facts and circumstances related to the expiration of a contract to which the City is a party.
City as Defendant

(b) PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to California Government Code Section 54957
Position: City Attorney

The City Council reconvened in regular session at 7:54 PM

CLOSED SESSION ANNOUNCEMENT:

City Attorney Mutalipassi stated there was nothing to report out.

PLEDGE OF ALLEGIANCE

Mayor Montano led the Pledge of Allegiance.

INVOCATION

Councilmember Barbadillo presented the invocation.

PRESENTATIONS

Mayor Montano and City Councilmembers presented certificates to the Santa Clara Valley Science and Engineering Fair Association (SCVSEFA) Milpitas student STEM winners.

PUBLIC FORUM

There were the following public speakers:

1. Shalaka Kathapurkar
2. Rob Means
3. Jessie Keung
4. Diane Pham
5. Allysson McDonald
6. Voltaire Montemayor

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Motalipassi 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 Motalipassi 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

Mayor Montano read the Code of Conduct.

The City Council adjourned to Closed Session at 8:27 p.m.

The City Council reconvened at 8:54 p.m.

Mayor Montano reported that there was no action to report out.

APPROVAL OF AGENDA

Motion: to approve the March 21, 2023 Regular Meeting Agenda. Reschedule Item 17 to a date when the allocation of ARPA funds is determined and defer Item 18.

Motion/Second: Mayor Montano / Councilmember Phan

Motion carried by the following vote:

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

NOES: None

CONSENT CALENDAR

There were the following public speakers:

1. Lisa Reeve
2. Allysson McDonald
3. Loreto Dimaandal

Motion: to approve the Consent Calendar, pulling Items C6, C10, and C11, and deferring Item C9 to be discussed with the budget.

Motion/Second: Councilmember Lien / Vice Mayor Chua

Motion carried by the following vote:

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

NOES: None

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

Received City Council Calendar of Meetings for March and April 2023.

C2. Approve City Council City Council Special Meeting Minutes of February 28, 2023 and Regular Meeting Minutes of March 7, 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Approved City Council Special Meeting minutes of February 28, 2023 and Regular Meeting minutes of March 7, 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. Consider Recommendations from Mayor Montano for Removal from and Appointments to City Commissions (Contact: Mayor Montano, 408-586-3024)

Received Mayor Montano's recommendations, directed the City Clerk to post the notice of unscheduled vacancy, and took the following actions related to appointments to City Commissions:

Community Advisory Commission:

1. Removed Monica Rodriguez as commissioner from a seat with an unexpired term ending January 2024.
2. Appointed Elizabeth Ashley as a non-voting student member with a term ending January 2026.

Economic Development and Trade Commission:

1. Appointed Conrad Shapira as Alternate no. 1 with an unexpired term ending April 2024.
2. Appointed Michael Nguyen as Alternate no. 2 with an unexpired term ending April 2026.

Library and Education Advisory Commission:

1. Appointed Yunha Park as a non-voting student member with an unexpired term ending June 2026.

Parks, Recreation, and Cultural Resources Commission:

1. Appointed Jimmy Minh Duc Nguyen as a non-voting student member with a term ending June 2026.

Senior Advisory Commission:

1. Appointed Sai Anish as a non-voting student member with an unexpired term ending December 2025.

- C6. Adopt a Resolution to Approve Project Plans and Specifications, Award Construction Contract to DeSilva Gates Construction for Street Resurfacing Project No. 4283, 4303, 4304; and Approve Budget Change Form (Staff Contact: Steve Chan, Interim Engineering Director/City Engineer 408-586-3324)**

Item pulled from consent calendar.

- C7. Approve and Authorize the City Manager to Execute Amendment No. 1 with Plante & Moran, PLLC for Enterprise Resource Planning (ERP) System Consultation to Extend the Term by 12 Months and Increase the Existing Contract by \$88,450.00 for a Total Contract Amount of \$188,210.00 (Staff Contact: Lauren Lai, Finance Director, 408-586-3111)**

Approved and authorized the City Manager to execute Amendment No. 1 with Plante & Moran, PLLC for Enterprise Resource Planning (ERP) System Consultation to extend the term by 12 months and increase the existing contract by \$88,450.00 for a total contract amount of \$188,210.00.

- C8. Adopt a Universal Resolution Designating the City Manager as the Authorized Agent to Execute for, and on behalf of, the City of Milpitas for the Purpose of Obtaining Federal and State Financial Assistance (Staff Contact: Brian Stelling, Interim Fire Chief, 408-586-2811; and Toni Charlop, Emergency Services Coordinator, 408-586-2801)**

Adopted **Resolution No. 9227** designating the City Manager as the Authorized Agent to execute for, and on behalf, of the City of Milpitas for the purpose of obtaining Federal and State financial assistance.

- C9. Adopt a Resolution Amending Resolution No.1626, the Classification Plan, to Establish the Position and Classification of Public Works Manager – Utilities and Modify, Approve and Adopt the Salary Schedule Titled “All Job Classifications/Salary Table” to Include the Salary Range for this Classification (Staff Contact: Nick Raisch, Human Resources Director, 408-586-3086; and Christian Di Renzo, Public Works Director, 408-586-2602)**

Deferred to be heard with the budget.

- C10. Approve the addition of Names to City Naming Lists and Name a New City Park the Delano Manongs Park (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)**

Item pulled from consent calendar.

- C11. Approve and Authorize the City Manager to Execute a Three-Year Agreement with the City of San Jose for Animal Control Services (Staff Contact: Bill Tott, Building Official, 408 586-3263)**

Item pulled from consent calendar.

- C12. Receive the 2022 Housing Element Annual Progress Report and Housing Successor Agency Annual Report and Authorize the Submittal of Both Reports to California Department of Housing and Community Development (HCD) and Governor’s Office of Planning and Research (OPR) (Staff Contact: Alex Andrade, Economic Development Director, 408-586-3046 and Robert Musallam, Housing and Neighborhood Services Administrator, 408-586-3275)**

Received the 2022 Housing Element Annual Progress Report and Housing Successor Agency Annual Report and authorize the submittal of both reports to California Department of Housing and Community Development (HCD) and Governor’s Office of Planning and Research (OPR).

- C13. Adopt a Resolution Expressing Support for the City's 2022-2023 Priority Development Area Planning Grant Applications to the Metropolitan Transportation Commission to Prepare a Master Streetscape Plan for Main Street and a Conceptual Parks and Trails Plan for the Innovation District (Staff Contact: Ned Thomas, Planning Director, 408-586-3273; and Jay Lee, Principal Planner, 408-586-3077)**

Adopted **Resolution No. 9228** expressing support for the City's 2022-2023 Priority Development Area Planning Grant applications to the Metropolitan Transportation Commission to prepare a master streetscape plan for Main Street and a conceptual parks and trails plan for the Innovation District.

- C14. Accept Commissioner Resignation (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Accepted the resignation of Abhijit Pandey from the Science, Technology and Innovation Commission and directed the City Clerk to post the notice of unscheduled vacancy.

PUBLIC HEARINGS

- 15. Conduct a Public Hearing to Consider Protests Against Proposed Water and Recycled Water Rates for FY 2023-24 through FY2027-28 and Introduce Ordinance No. 120.50 (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)**

Public Works Director Di Renzo presented the report.

Mayor Montano opened the public hearing.

There were the following public speakers:

1. Voltaire Montemayor
2. Katherine Suezaki
3. Melissa
4. Allysson McDonald
5. Loreto Dimaandal

Mayor Montano closed the public hearing.

Public Works Director Di Renzo responded to questions from the City Council.

Councilmember Lien asked for staff to return with information on the impacts if the increase was lowered to 3.2% in the first two years. Assistant City Manager Kantak noted that if the City has to come back at a later date, it wouldn't be incorporated into the operating budget.

City Clerk Guzzetta announced that the City had received 33 valid protests out of a total 10,357 required for a majority protest.

City Attorney Mutalipassi read aloud the title of the ordinance.

Motion: to move to waive the first reading beyond the title and introduce **Ordinance No. 120.50** to approve updated water and recycled water rates for FY23/24 through FY27/28. Ordinance is entitled: "An Ordinance of the City of Milpitas Amending Chapter 1 of Title VIII of the Milpitas Municipal Code Relating to Water Service Charges."

Motion/Second: Mayor Montano / Councilmember Barbadillo

Motion carried by the following vote:

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

NOES: Phan

16. Conduct a Public Hearing to Consider Protests Against Proposed Sewer Rates for FY23/24 through FY27/28 and Introduce Ordinance No. 208.55 (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; and Lauren Lai, Director of Finance, 408-586-3111)

Public Works Director Di Renzo presented the report.

Mayor Montano opened the public hearing.

There were the following public speakers:

1. Rob Means
2. Voltaire Montemayor
3. Katherine Suezaki
4. Melissa

Mayor Montano closed the public hearing.

City Clerk Guzzetta announced that the City had received 33 valid protests out of a total 10,357 required for a majority protest.

Councilmember Lien suggested not raising both water and sewer rates at the same time.

Public Works Director Di Renzo, Assistant City Manager Kantak, and Recreation and Community Services Director Lorentzen responded to questions from the City Council.

City Attorney Mutalipassi read aloud the title of the ordinance.

Councilmember Lien moved to not raise the sewer rate for the next two years. Councilmember Phan seconded the motion. Upon a call for the question the motion failed (2-3).

Motion/Second: Councilmember Lien / Councilmember Phan

Motion failed with the following vote:

AYES: Councilmembers Lien and Phan.

NOES: Councilmember Barbadillo, Vice Mayor Chua, and Mayor Montano.

Mayor Montano then made a motion to move to waive the first reading beyond the title and introduce **Ordinance No. 208.55** to approve updated sewer rates for FY23/24 through FY27/28 entitled: "An Ordinance of the City of Milpitas Amending Chapter 2 of Title VIII of The Milpitas Municipal Code Relating to Sewer Service Charges" and approve the subsidy program for Mobile Home Park customer class.

Motion/Second: Mayor Montano / Vice Mayor Chua

Motion carried by the following:

AYES: Councilmember Barbadillo, Vice Mayor Chua, and Mayor Montano

NOES: Councilmembers Lien and Phan

COMMUNITY DEVELOPMENT

17. Housing Report and Proposed Funding for Emergency Motel Stays Program and WeHOPE for Mobile Showers and Laundry Services (Staff Contact: Alex Andrade, Director of Economic Development, 408-586-3046)

Deferred to a date when the allocation of ARPA funds is determined.

18. Receive a Report on the Homekey Project at 1000 Hillview Court (Staff Contact: Ashwini Kantak, Assistant City Manager, 408-586-3056)

Deferred.

City Attorney Mutalipassi announced that the City Council had reached their curfew.

Councilmember Phan made a motion to adjourn the meeting. Vice Mayor Chua seconded the motion. Upon a call for the question, it passed unanimously.

Motion/Second: Councilmember Phan / Vice Mayor Chua

Motion carried by the following:

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

NOES: None

Items C6, C10, and C11 pulled from the Consent Calendar were not heard.

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

This item was not heard.

ADJOURNMENT

Mayor Montano adjourned the meeting at 11:13 p.m.

Draft meeting minutes submitted by City Clerk, Suzanne Guzzetta

TENTATIVE CITY COUNCIL AGENDA ITEM LIST

Item # C3.

as of 3/29/2023

April 18, 2023 – Regular Meeting

CLOSED SESSION

- Labor Relations

INVOCATION (Councilmember Phan)

PRESENTATION

- Earth Day (April 22, 2023) (Proclamation)
- National Autism Acceptance Month (Proclamation)
- Affordable Housing and Building Safety Month (Proclamation)
- Parkinson's Awareness Month (Proclamation)

CONSENT CALENDAR

1. Receive City Council calendar for April and May 2023 (City Clerk)
2. Approve City Council Meeting minutes of April 4, 2023 (City Clerk)
3. Preview list of items for May 2, 2023 (City Clerk)
4. Councilmember Request List (City Clerk)
5. Commission Appointments (City Clerk)

COMMUNITY DEVELOPMENT

6. Project Homekey Report

COMMUNITY SERVICES

7. CFD 2008-1 Election No. 24 for 1752 & 1810 Houret Ct Project (Engineering)

PUBLIC HEARING

8. Public Hearing and Resolution Approving the 2024-2028 Capital Improvement Program (Engineering)
9. Master Fee Schedule Adoption (Finance)
10. CDBG Hearing on substantial amendment to the 2022-2025 Consolidated Plan and 2023-2024 Annual Action Plan (Housing)

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	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
2	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
3	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

ACTIVE ITEMS				
Request No.	Topic	Submitted by:	Date Requested	STATUS and/or DATE scheduled on City Council meeting agenda:
4	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.
5	Staff explore eliminating or waiving the fee for the gym at the Milpitas Senior Center	Chua	10/18/2022	Staff will evaluate this item consistent with the Recreation and Community Service Cost Recovery City Council Policy and bring it back to Council for consideration as part of approval of the FY 2023-24 Proposed Master Fee Schedule.
6	Schedule an additional ADU workshop	Chua	9/6/2022	Similar to last year, staff will support any webinar hosted by a community partner.
7	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.
8	Quarterly or Monthly crime statistics on Homekey Project	Chua	6/7/2022	PD will present quarterly reports starting on November 15, 2022.
9	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.

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

Item # C4.

Request No.	Topic	Submitted by:	Date Requested	STATUS and/or DATE scheduled on City Council meeting agenda:
10	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.
11	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
12	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.
13	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.
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
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.

Request No.	Topic	Submitted by:	Date Requested	STATUS and/or DATE scheduled on City Council meeting agenda:
16	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
17	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
18	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
19	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.
20	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.

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

Item # C4.

Request No.	Topic	Submitted by:	Date Requested	STATUS and/or DATE scheduled on City Council meeting agenda:
21	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
22	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
23	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.
24	Requested the City extend the outdoor dining options through March of next year	Phan	9/21/2021	Planning Director to provide information on current outdoor dining extension
25	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.
26	Look into opening up the Senior Center on Saturdays for half a day	Chua	8/5/2021	Funding for Senior Center hours will be incorporated in the FY23-24 budget This three-month pilot was kicked off on Saturday Sept. 10. Per the Information Memorandum issued on Nov. 22, 2022, due to the success of the Saturday Day hours, the pilot will be extended for the remainder of the current Fiscal Year.
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

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

Item # C4.

Request No.	Topic	Submitted by:	Date Requested	STATUS and/or DATE scheduled on City Council meeting agenda:
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.
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.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Consider Recommendation for Removal of Commissioner (Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	4/4/2023
	<u>Recommendation:</u> Approve the removal of Kenneth Truong from the Student – CHHS Student seat on the Arts 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.

Most City of Milpitas Commissions have one non-voting student member. In order to qualify to be appointed as a non-voting student commissioner, applicants must be a Milpitas resident enrolled in grades 9-12. There are two non-voting student commissioners appointed to the Arts Commission, each representing one of the high schools located in Milpitas.

Analysis:

Kenneth Truong was appointed as the non-voting student commissioner representing Calaveras Hills High School on the Arts Commission but now attends college. He no longer qualifies to sit on the Arts Commission as a non-voting student member.

By state law, a Notice of an Unscheduled Vacancy must be posted by the City Clerk to advertise the vacant Commission seat. Final appointment to the board, commission, or committee for the Unscheduled Vacancy shall not be made by the legislative body for at least ten working days after the posting of the notice in the Clerk's office. The notice of the unscheduled vacancy for the Arts Commission will be posted Wednesday, April 5, 2023.

Fiscal Impact:

There is no fiscal impact associated with this item.

Recommendation:

Approve the removal of Kenneth Truong from the Student – CHHS Student seat on the Arts Commission and direct the City Clerk to post the notice of unscheduled vacancy.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve and Authorize City Manager to Execute Three-Year Agreement with the City of San Jose for Animal Control Services (Bill Tott, Building Official, 408 586-3263)
Category:	Consent Calendar-Community Development
Meeting Date:	4/4/2023
	<u>Recommendation:</u> Approve and authorize the City Manager to execute a three-year service contract agreement with the City of San Jose for Animal Services in the amount of \$1,655,696.64 for fiscal years 2023-2026 with two additional three-year options.

BACKGROUND:

Since July 1, 2001, the City of San Jose has provided the City of Milpitas with Animal Control Services. These services include field services, sheltering, medical services, monthly reporting and animal licensing for Milpitas residents. The San Jose Animal Shelter Facility is located at 2750 Monterey Road, near the County Fairgrounds. The most recent contract went from July 1, 2018 to June 30, 2021 and was extended for one year terminating on June 30, 2022, and then for another one year terminating on June 30, 2023.

ANALYSIS:

City staff have reviewed data for the most recent seven years in which the City of San Jose has provided animal control services. During this time an average of 630 animals per year have benefited from their services. They provide licensing for approximately 1,500 cats and dogs per year which provides the City of Milpitas approximately \$45,000 a year in licensing revenues. The City of San Jose Animal Control Services respond to nearly 1,200 calls per year related to sick, dangerous, deceased, or injured animals.

Animal Control Services Provided by the City of San Jose:

- Field Services - Pick up dead and injured animals, confining stray animals, response to emergency calls, investigating complaints, respond to police assistance.
- Response Time Performance Standards - Priority 1, 2, 3 and 4 calls, and responding to after business hour calls;
- Sheltering Services - Sheltering abandon, impounded, lost or stray animals, quarantine of biting animals, rabies testing of suspect animals, provisions for surrender and claim animals of abandoned, lost or stray, euthanization and disposal of abandoned, lost or stray animals;
- Medical Services - Provisions for veterinarian services 24 hours per day to treat and provide veterinarian care to stray, injured or sick animals;
- Dead Animals Services - Pick up dead animals.

The City of San Jose provides the City of Milpitas with monthly reports regarding the number of calls for service, response time to the calls and the number of animals taken to the shelter. To date, the partnership with the City of San Jose Animal Control Services has worked effectively for the City.

To ensure that we continue to look for the most optimum and cost effective service delivery option, staff conducted extensive research on alternatives to provide animal control services for the City of Milpitas. Three options were considered - working with the Humane Society, working with Silicon Valley Animal Control Authority (SVACA), and providing the services in-house.

The Humane Society is local and a valuable part of the community but lacks the infrastructure to provide all the services the City of Milpitas needs. They are not able to provide field services to pick up or deliver stray, sick, injured, and deceased animals as they lack the staffing and vehicles to provide these services. They also lack

the staffing to be able to respond to emergency calls after hours, and they lack 24-hour veterinary services. Additionally, they lack the ability to hold and administer administrative hearings and to do animal licensing.

Silicon Valley Animal Control Authority (SVACA) is another great organization located in Santa Clara County, however, there are upfront costs required to join that makes it disadvantageous for the City of Milpitas to join SVACA at this time. It was determined that the City of Milpitas would have to contribute \$100,000 for data transfer and set-up costs, and for uniforms for employees to service Milpitas. Additionally, Milpitas would be required to purchase a vehicle for transferring and collecting animals which would have cost \$50,000. Due to supply chain issues and inflation these costs would be higher at this time. At the time staff conducted its' investigation, annual costs for SVACA would have been an additional \$20,000 over the costs to receive similar services from the City of San Jose for Animal Control services. An additional non-monetary challenge is that SVACA sets its rates every year, which presents a challenge for budgeting and long-term planning. Additionally, by joining SVACA the City of Milpitas would no longer receive fees from cat and dog licensing which helps offset the cost of animal services by approximately \$45,000 a year.

With regards to providing animal control services in-house, preliminary research by staff showed that the cost of providing animal control services in-house would be difficult to justify. Start-up capital costs would involve several million dollars to acquire a building, vehicles and equipment, as well as the staffing costs to operate a 24-hour facility with onsite veterinary staff and field staff. It is estimated that the cost of having a minimum of six staff to operate this program alone would cost more than the cost of partnering with the City of San Jose to provide the City of Milpitas with animal control services.

The City of San Jose recently did a cost study analysis and based off of this analysis it provided rates for the City of Milpitas as shown below. These rates are higher than the City of Milpitas had in the prior contract, and by agreeing to a longer contract than in the past the City can isolate itself better against larger rate increases and provide a continuum of care of animal services and animal licensing for its residents. Based on staff research it appears that longer contracts could save the City of Milpitas significantly over time, and this excludes the cost of staff time for both Milpitas and San Jose staff that is involved in negotiating and executing contracts on a repetitive short-term basis. In reviewing prior animal control services contracts, it was determined that the City could have saved approximately 3% per year by utilizing longer contracts for these services.

Based on staff's extensive research it is recommended that the City of Milpitas execute this contract with the City of San Jose as it provides an initial three years of stability for the City of Milpitas in terms of Animal Services, with two additional options of three-years each at the same per year maximum 4% increase as the initial term.

Additionally, the City of San Jose collects and gives to the City of Milpitas animal licensing fees which are approximately \$45,000 per year. During this three year contract with two three-year extensions, the City of Milpitas will receive approximately \$405,000 back from animal licensing fees, which offsets a small portion of these costs.

The Contract is composed of a three-year initial contract, and two additional three-year extensions. The cost breakdown is shown below.

The initial term of the proposed agreement is from July 1, 2023 through June 30, 2026 with compensation of \$530,400 in the first year. Thereafter, the annual contract amount will increase by four percent (4%) each following fiscal year. The initial terms including the four percent (4%) increase results in the following compensation for the City of San Jose:

Initial Term

July 1, 2023 through June 30, 2024: \$530,400
 July 1, 2024 through June 30, 2025: \$551,616
July 1, 2025 through June 30, 2026: \$573,680

Total Compensation: \$1,655,696
1st Option Term

July 1, 2026 through June 30, 2027: \$596,628
July 1, 2027 through June 30, 2028: \$620,493
July 1, 2028 through June 30, 2029: \$645,313
Total Compensation: \$1,862,434

2nd Option Term

July 1, 2029 through June 30, 2030: \$671,125
July 1, 2030 through June 31, 2031: \$697,970
July 1, 2031 through June 30, 2032: \$725,890
Total Compensation: \$2,094,985

Total Agreement Compensation is \$1,655,696 for the first term with a total price, including the options, of \$5,613,115.

The contract does not include the provisions of the Wage Theft Procurement Policy as the City of San Jose is itself a charter city organized under the California Constitution and the provisions of its charter with its own police powers. The City of Milpitas's police powers do not extend to the City of San Jose.

FISCAL IMPACT:

This contract will have a fiscal impact of \$1,655,696 during the first term and a total of \$5,613,115 if both options are exercised. It is a continuation of a service provided for the Milpitas community by the City of San Jose since 2001 and is not a new expenditure. The City of San Jose collects and gives to the City of Milpitas animal licensing fees which are approximately \$45,000 per year. During this threeyear contract the City of Milpitas will receive approximately \$135,000 back from animal licensing fees, which results in a net contract cost over the three year period of approximately \$1,520,696. Fiscal Year 2023-24 contract amount of \$530,400 is currently included in the proposed base budget, subject to Council adoption on June 6, 2023. Outyear contract amounts are subject to available annual appropriation.

CALIFORNIA ENVIRONMENTAL QUALITY ACT:

The action being considered has no potential for causing a significant effect on the environment and is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3).

RECOMMENDATION:

Approve and authorize the City Manager to execute a three-year service contract agreement with the City of San Jose for Animal Services in the amount of \$1,655,696.64 for fiscal years 2023-2026 with two additional three year options.

Attachment(s):

Agreement for Animal Services between the City of San Jose and the City of Milpitas

**AGREEMENT FOR ANIMAL SERVICES
BETWEEN THE CITY OF SAN JOSE
AND THE CITY OF MILPITAS**

This AGREEMENT is made and entered into this ____ day of _____, 20____, by and between the CITY OF SAN JOSE, a municipal corporation, (hereinafter “SAN JOSE”), and the CITY OF MILPITAS, a municipal corporation, (hereinafter “MILPITAS”). SAN JOSE and MILPITAS are sometimes referred to herein individually as “Party” and collectively as “Parties.”

THE PARTIES HEREBY AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES.

SAN JOSE shall perform those services specified in detail in EXHIBIT A, entitled “SCOPE OF SERVICES”, which is attached hereto and incorporated herein.

SECTION 2. TERM OF AGREEMENT.

A. Initial Term.

The initial term of this AGREEMENT shall be from July 1, 2023 (“Commencement Date”) through June 30, 2026, inclusive, subject to the provisions of SECTION 8 of this AGREEMENT (“Initial Term”). Regardless of the date of execution of this AGREEMENT, this AGREEMENT is effective as of the Commencement Date.

B. Options to Extend.

The Parties may extend the term of the AGREEMENT in two (2) additional three-year increments (“Option Terms”) through June 30, 2032, subject to the appropriation of funds and to any adjustments for compensation as set forth in EXHIBIT B. The Parties shall exercise any Option Terms by executing a Notice of Exercise of Option in the form set forth in EXHIBIT C no less than one hundred and eighty days (180) days prior to the expiration of the Initial Term or

the expiration of an Option Term, whichever is applicable. All terms and conditions of this AGREEMENT shall remain in full force and effect during any and all Option Terms.

C. Appropriation of Funds.

The Parties' funding of this AGREEMENT shall be on a fiscal year basis (July 1 to June 30) and is subject to annual appropriations by the City Councils of SAN JOSE and MILPITAS. Accordingly, the Parties agree that the exercise of any option to extend by the Parties is contingent upon the appropriation of funds.

SECTION 3. COMPENSATION.

The rate and schedule of payment to be paid to SAN JOSE is set out in EXHIBIT B, entitled "COMPENSATION," which is attached hereto and incorporated herein.

SECTION 4. INDEPENDENT CONTRACTOR RELATIONSHIP.

This AGREEMENT shall in no way be construed to constitute SAN JOSE as the partner, legal representative, or employee of MILPITAS or MILPITAS of SAN JOSE for any purpose whatsoever, or as the agent of MILPITAS or SAN JOSE, and neither Party shall act or attempt to act or represent itself directly or by implication as having such status or relationship. The Parties shall have the relationship of independent contractors, and except as specifically provided in this AGREEMENT, each Party shall be solely responsible for all obligations and liabilities pertaining to the business, activities, and facilities of that Party. As an independent contractor, the Parties shall obtain no rights to retirement benefits or other benefits, which accrue, to the Parties' respective employees, and the Parties hereby expressly waive any claim either of them may have to any such rights.

SECTION 5. ASSIGNABILITY.

SAN JOSE and MILPITAS acknowledge and agree that the expertise and experience of SAN JOSE are material considerations inducing MILPITAS to enter into this AGREEMENT. MILPITAS acknowledges and accepts that a portion of the services

provided under this AGREEMENT shall be provided by a handler of dead deer and livestock, wildlife services, and/or independent veterinary doctors. Neither Party shall assign or transfer any interest in this AGREEMENT, or the performance of any obligations hereunder, other than those services provided by the handler of dead deer and livestock, wildlife services, and/or independent veterinary doctors, without the prior written consent of the other, and any attempt by either of the Parties to assign this AGREEMENT or any rights, duties or obligations arising hereunder shall be void and of no effect.

SECTION 6. INDEMNIFICATION.

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the Parties pursuant to Government Code section 895.6, the Parties agree that all losses or liabilities incurred by a Party shall not be shared pro rata as defined in Government Code section 895.6, but instead SAN JOSE and MILPITAS agree that pursuant to Government Code section 895.4, each of the Parties hereto shall fully indemnify and hold each of the other Party, their officers, board members, employees and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code section 810.8) occurring by reason of and only to the extent of the negligent acts or omissions or willful misconduct of the indemnifying Party, its officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such Party under this AGREEMENT. No Party, nor any officer, board member, employee or agent thereof shall be responsible to the extent any damage or liability occurs by reason of the negligent acts or omissions or willful misconduct of other Parties hereto, their officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such other Parties under this AGREEMENT.

SECTION 7. NONDISCRIMINATION.

The Parties shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity,

disability, ethnicity, or national origin, in connection with or related to the performance of this AGREEMENT.

SECTION 8. TERM AND TERMINATION OF AGREEMENT

A. Termination

This AGREEMENT may be terminated earlier at any time:

1. Upon the written consent of both MILPITAS and SAN JOSE;
2. By either MILPITAS or SAN JOSE immediately upon notice to the other, if the other breaches any material obligation under this AGREEMENT and such breach remains unremedied for at least thirty (30) days following written notice thereof to the breaching Party;
3. Immediately upon written notice by MILPITAS to SAN JOSE if SAN JOSE has a receiver appointed for all or substantial part of its business or assets, if a bankruptcy proceeding is brought by or against SAN JOSE as a debtor, or if SAN JOSE ceases its business operations; or
4. Upon at least one hundred eighty (180) days prior written notice by MILPITAS to SAN JOSE or SAN JOSE to MILPITAS of that Party's desire to terminate this AGREEMENT. If MILPITAS does not appropriate the full amounts due to SAN JOSE under this AGREEMENT for FY 2023-2024 or on or before June 30 of the year directly preceding the fiscal year for which Animal Services, as defined in EXHIBIT A, are provided by SAN JOSE; then that action shall, as of the same June 30, constitute the start of the 180-day notice of termination of this AGREEMENT by MILPITAS pursuant to this SECTION.

B. Effects of Termination

Upon the effective date of any termination of this AGREEMENT, SAN JOSE's obligation to provide Animal Services to MILPITAS under this AGREEMENT shall cease, and MILPITAS' obligation to make payments hereunder for periods of time after the effective date of termination shall cease, provided that the Parties shall have any and all remedies available under law for any breach of this

AGREEMENT. The Parties may also elect to negotiate a new agreement for the provision of Animal Services upon the effective date of termination.

C. Termination Costs

In the event MILPITAS elects to terminate this AGREEMENT with SAN JOSE, MILPITAS shall pay SAN JOSE the Contract Amount in EXHIBIT B at a prorated daily rate up to the date of termination.

SECTION 9. GOVERNING LAW.

The Parties agree that the law governing this AGREEMENT shall be that of the State of California.

SECTION 10. COMPLIANCE WITH LAWS.

The Parties shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments.

SECTION 11. CONFIDENTIAL INFORMATION.

All data, documents, discussions or other information developed or received by or for the Parties in performance of this AGREEMENT are confidential and not to be disclosed to any person except as authorized by the Parties, or as required by law.

SECTION 12. WAIVER.

No delay or failure of either Party to exercise or enforce at any time any right or provision of this AGREEMENT shall be considered a waiver thereof or of such Party's right thereafter to exercise or enforce each and every right and provision of this AGREEMENT. The Parties agree that waiver of any breach or violation of any term or condition of this AGREEMENT shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition. The acceptance by MILPITAS of the performance

of any work or services by SAN JOSE shall not be deemed to be a waiver of any term or condition of this AGREEMENT.

SECTION 13. GIFTS.

- A. The Parties are familiar with the prohibition against the acceptance of any gift by an officer or designated employee of SAN JOSE or MILPITAS.
- B. SAN JOSE agrees not to offer any MILPITAS officer or designated employee any gift prohibited by MILPITAS. MILPITAS agrees not to offer any SAN JOSE officer or designated employee any gift prohibited by SAN JOSE.
- C. The offer or giving of any gift prohibited by SAN JOSE or MILPITAS shall constitute a material breach of the AGREEMENT. In addition to any other remedies the Parties may have in law or equity, the Parties may terminate this AGREEMENT for such breach as provided in SECTION 8 of this AGREEMENT.

SECTION 14. NOTICES.

Any notices or other communications required or permitted to be given under this AGREEMENT shall be in writing and shall be personally served or mailed, postage prepaid and return receipt requested, addressed to the respective Parties as follows:

To SAN JOSE: San José Animal Care and Services
2750 Monterey Rd
San José, CA 95111

To MILPITAS: City of Milpitas
Building Safety and Housing Department
455 E. Calaveras Blvd
Milpitas, CA 95035

Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the mail.

SECTION 15. VENUE

In the event that suit shall be brought by any Party to this AGREEMENT against another Party, the Parties agree that the venue shall be exclusively vested in the state courts of the State of California, County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Northern District of California, San José, California.

SECTION 16. PRIOR AGREEMENTS AND AMENDMENTS.

This AGREEMENT, including all Exhibits attached hereto, represents the entire understanding of the Parties as to those matters contained herein. In the event that the terms specified in any of the Exhibits attached hereto conflict with any of the terms specified in the body of this AGREEMENT, the terms specified in the body of this AGREEMENT shall control. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This AGREEMENT may be modified only by a written amendment duly executed by the Parties to this AGREEMENT.

SECTION 17. INTERPRETATIONS.

In construing or interpreting this AGREEMENT, the word “including” shall not be limiting. The Parties agree that this AGREEMENT shall be fairly interpreted in accordance with its terms without any strict construction in favor of or against either Party.

SECTION 18. INVALID PROVISIONS.

If any provision of this AGREEMENT shall be held illegal, invalid, or unenforceable, in full or in part, such provision shall be modified to the minimum extent necessary to make it legal, valid, and enforceable, and the other provisions of this AGREEMENT shall not be affected thereby.

SECTION 19. FURTHER DOCUMENTS.

The Parties agree, upon request, to sign and deliver such other documents as may be reasonably required to carry out the intent and provision of this AGREEMENT.

SECTION 20. COUNTERPART EXECUTION.

This AGREEMENT may be executed in any number of counterparts and by each Party in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute one and the same instrument.

SECTION 21. USE OF ELECTRONIC SIGNATURES.

Unless otherwise prohibited by law or SAN JOSE policy, the Parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term “electronic copy of a signed contract” refers to a writing as set forth in Evidence Code Section 1550. The term “electronically signed contract” means a contract that is executed by applying an electronic signature using technology approved by SAN JOSE.

WITNESS THE EXECUTION HEREOF on the day and year first hereinabove written.

APPROVED AS TO FORM:

CITY OF MILPITAS, a municipal
corporation

MICHAEL MUTALIPASSI
City Attorney

By _____
STEVEN G. MCHARRIS
City Manager

APPROVED AS TO FORM:

CITY OF SAN JOSE, a municipal
corporation

ARLENE SILVA
Senior Deputy City Attorney

By _____
SARAH ZARATE
Director, Office of the City Manager

EXHIBIT A
SCOPE OF SERVICES

For the consideration set forth herein, SAN JOSE shall provide to MILPITAS the Field Services, Shelter Services, and Dead Animal Services as described in this AGREEMENT. These three categories of service are sometimes collectively referred to herein as the “Animal Services,” and each category of services is sometimes hereinafter referred to as a “Program Unit.” Calls for animal-related services which are not provided by SAN JOSE shall be referred by SAN JOSE to the appropriate code enforcement agency of MILPITAS, either in writing or by electronic mail. The Animal Services shall be provided by SAN JOSE in accordance with all applicable federal, state and local laws and ordinances.

SECTION 1. DEFINITIONS

- A. “Aggressive Bite” means a bite which punctures the skin or tissue of a human or another animal.
- B. “Critically Sick or Injured Animals” means those animals that have life-threatening conditions.
- C. “Dangerous Animal” means any animal which, because of its size, disposition or other characteristics, would constitute a danger to humans or other domestic animals, and includes any dog classified as a Level 3, 4, or 5 dangerous or potentially dangerous dog as defined in the Milpitas Municipal Code Chapter 210, or, any dog that is the perpetrator of an unprovoked bite or attack on humans or other domestic animals as documented in an Incident Report by San José Animal Care and Services or the Milpitas Police Department.
- D. “Emergency Calls” means complaints of animal bites or attacks on humans or domestic animals that are in progress, or, where a bite or attack has occurred, where the animal remains an immediate threat to humans.
- E. “Holidays” are New Year’s Eve, New Year’s Day, Easter Sunday, Memorial Day, July 4, Labor Day, Thanksgiving, Christmas Day, and the day before and the day after Christmas Day.

- F. "Livestock" means large domesticated agricultural animals, such as a cow, bull, steer, horse, sheep, goat, pig or other large agricultural animals.
- G. "Physical Injury" means an injury suffered as the result of an attack by a dog, including, but not limited to falls, sprains, broken bones, blunt trauma, contusions, hematomas, or other injuries.
- H. "Serious Injury" means any physical injury to a human being that results in muscle tears or disfiguring lacerations, or requires multiple sutures or corrective or cosmetic surgery.

SECTION 2. FIELD SERVICES

A. Field Services

SAN JOSE shall provide vehicles, communications equipment, office supplies, field and administrative personnel, and any other personnel, supplies and equipment, reasonably required to perform the following services (the "Field Services") upon a request or complaint from MILPITAS or from a person within the boundaries of MILPITAS:

1. Pick up of stray dogs, and other small domestic animals, including rabbits, chickens, turkey, geese, and ducks, and excluding confined wildlife as defined in Section 711.2 of the California Fish and Game Code, such as opossums, raccoons, skunks, or squirrels, that have been confined by MILPITAS or by a person within the boundaries of MILPITAS;
2. Pick up of dead animals, including wildlife, in accordance with SECTION 4;
3. Pick up of injured stray dogs or cats and other small domestic animals, without regard to weight, excluding birds, and injured wildlife that weigh fifty pounds (50 lbs.) or less, that are located on public property or readily accessible on private property with the consent of the property owner or the property owner's authorized agent;
4. Response to Emergency Calls;
5. Investigate complaints of animal bites or attacks on humans or other domestic animals, including the preparation of a report, interviewing the parties involved, quarantining animals which have bitten humans, preparing and transporting

biting animals for rabies testing, and investigating alleged violations of a quarantine order. An incident report is to be provided to the designated appropriate MILPITAS Code Enforcement official within five (5) business days of the incident, including licensing information for the subject animal(s).

- a) SAN JOSE will meet and conduct a personal interview(s) with the owner in order to complete the investigation and quarantine the animal as necessary.
6. Investigate and refer complaints of Dangerous or Potentially Dangerous Dogs to the appropriate Code Enforcement official in MILPITAS for resolution. Investigations shall include preparation of a report and may include interviewing the parties involved, and collecting available historical data;
7. Investigate and refer complaints of Dangerous Animals to the appropriate Code Enforcement official in MILPITAS for resolution. Investigations shall include taking a report and may include interviewing the parties involved, and collecting available historical data;
8. Respond to complaints of dogs running at large, attempt to capture them, and provide follow-up patrol if appropriate and subject to the availability of SAN JOSE staff;
9. Respond to complaints in progress of domestic animals causing a nuisance, except domestic animals making noise, and provide follow-up patrol if appropriate and subject to the availability of SAN JOSE staff;
10. Respond to police assist calls on animal-related issues which may include taking control of an animal on the scene; and
11. Investigate and refer to the appropriate Code Enforcement official in MILPITAS for resolution of complaints regarding the lack of proper care, condition, or attention of domestic animals by their owners.

B. Response Time Performance Standards

1. SAN JOSE shall make all good faith efforts to respond to complaints and requests received by SAN JOSE at a performance standard level that is no less than the following:

- a) PRIORITY 1 – Response to Emergency, Police Assist, Dangerous Animal, and Critically Sick or Injured Animal calls for assistance.
 - 1.) Response shall be twenty-four (24) hours per day, seven (7) days per week. Eighty-five percent (85%) of responses on all PRIORITY 1 calls shall occur within one (1) hour or less from the time the call for service is received by SAN JOSE staff to the time SAN JOSE personnel arrive on the scene.
- b) PRIORITY 2 – Pick up animals that were running at large and that are now confined by MILPITAS or by a person within the boundaries of MILPITAS and calls regarding urgent, but not immediately life threatening animal-related requests for assistance.
 - 1.) Eighty percent (80%) of responses on all PRIORITY 2 calls received between 7:00 a.m. and 5:00 p.m. shall be within six (6) hours or less from the time the call for service is received by SAN JOSE staff to the time SAN JOSE personnel arrive on the scene.
 - 2.) Response to calls received between the hours of 5:00 p.m. and 7:00 a.m. shall be responded to no later than 7:00 p.m. the following day.
- c) PRIORITY 3 – Response to calls relating to non-emergency attacks, non-critically injured or sick animals, quarantine calls, animals running at large, animals causing a nuisance and pick up of dead animals.
 - 1.) Seventy-five percent (75%) of responses on all PRIORITY 3 calls received between 7:00 a.m. and 5:00 p.m. shall be within twelve (12) hours or less from the time the call for service is received by SAN JOSE staff to the time SAN JOSE personnel arrive on the scene.
 - 2.) Response to calls received between the hours of 5:00 p.m. and 7:00 a.m. shall be responded to no later than 11:00 p.m. the following day.
 - 3.) Response to these complaints will only be after PRIORITY 1 and 2 complaints are met for MILPITAS. Responding to these complaints may include taking a report, contacting parties and witnesses by telephone, or dispatching personnel to the scene.

C. Response After Business Hours

Between the hours of 5:00 p.m. and 7:00 a.m., SAN JOSE shall be required to respond to PRIORITY 1 calls only. The hours between 5:00 p.m. and 7:00 a.m. shall not be included in calculating the response time length for PRIORITY 2 and 3 calls when including these hours would result in a failure by SAN JOSE to meet the performance standards set forth above.

D. Operating Schedules

1. SAN JOSE shall be required to respond to all complaints and requests in accordance with SECTION 2.B. and SECTION 2.C., except SAN JOSE shall respond only to PRIORITY 1 calls on Sundays.
2. Except with respect to PRIORITY 1 calls, SAN JOSE shall have no obligation to respond on Holidays or outside of the regularly scheduled shift hours of SAN JOSE. SAN JOSE shall respond to PRIORITY 1 calls twenty-four (24) hours per day, every day, including all Holidays.

E. Excluded Services

While SAN JOSE may already perform some of the following services under other authority, the following services are not included in the services to be provided by SAN JOSE under this AGREEMENT:

1. Removal and disposal of dead marine animals;
2. Pick up and transportation of uninjured or healthy, living wildlife;
3. Pick up of alive or dead animals for surrender at an owner's request. SAN JOSE may provide these services and charge a fee therefore as a part of its operations separate and apart from this AGREEMENT;
4. Issuance of citations for violations in accordance with MILPITAS ordinances;
5. Investigation and resolution of activities that may be criminal in nature, such as neglect, cruelty, and animal fighting, including the preparation of documents for criminal prosecution by the District Attorney's office and testifying in court;
6. Permitting or inspection of events with animals; and
7. Investigation of complaints that only relate to domestic animals making noise.

SECTION 3. SHELTER SERVICES

A. Shelter Services

SAN JOSE shall provide or under contract provide shelter facilities, supplies, animal attendants, supervisors and administrative personnel, and any other personnel, supplies and equipment, reasonably required to perform the following services ("Shelter Services"):

1. Shelter of abandoned, impounded, lost or stray domestic animals brought to the shelter by MILPITAS, its residents, or SAN JOSE personnel;
2. Quarantine of biting animals;
3. Rabies testing of suspect animals;
4. Provision for reclaim of abandoned, lost or stray domestic animals during established business hours; and
5. Euthanization and disposal of abandoned, lost, impounded, or stray domestic animals that are unclaimed by their owners and fail to meet the written health and temperament standards of San José Animal Care and Services.

B. Medical Services

As part of the Shelter Services, SAN JOSE shall provide or under contract provide office facilities, supplies, and professional and trained personnel, employed or under contract, necessary to perform the following services ("Medical Services"):

1. Provision of veterinarian services twenty-four (24) hours per day to treat and provide veterinarian care to stray, injured, or sick dogs, cats, and other impounded animals;
2. Monitor quarantined animals;
3. For a fee conduct vaccination clinics and have available, free of charge to the public, rabies control information; and
4. For a fee at the same rate established for San José residents, provide access to the SAN JOSE low cost spay and neuter clinic, if such a clinic is made available to San Jose residents.

C. Operating Schedules

SAN JOSE shall provide or under contract shall provide Shelter Services for the animals twenty-four (24) hours a day, seven (7) days a week. SAN JOSE shall provide or under contract provide emergency veterinary services in accordance with Section 597 (f) of the California Penal Code.

SECTION 4. DEAD ANIMAL SERVICES

SAN JOSE shall provide or under contract provide vehicles, storage facilities, disposal mechanisms, field and administrative personnel, and any other personnel, supplies and equipment reasonably required to perform the following services ("Dead Animal Services"):

1. Pick up of dead animals, including wildlife and except livestock, from streets and public property within MILPITAS, or from private property within MILPITAS with the consent of the property owner, or the property owner's authorized agent in accordance with SECTION 2.B.1.(c);
2. Identification of and notification to the owner of the dead animal, whenever possible; and
3. Disposal of the body of the dead animal.

SECTION 5. RECORDS REGARDING ANIMAL SERVICES

A. Monthly Report

SAN JOSE shall deliver to MILPITAS during the term of this AGREEMENT, and within thirty (30) days of the end of each month, a monthly Animal Control and Impound Report summarizing monthly and year-to-date services provided by SAN JOSE for MILPITAS. This report shall include, but not be limited to, the following information:

1. The total number of calls for service provided by SAN JOSE under this AGREEMENT, separated by type of service call established by SAN JOSE, so long as the numbers for the different types of PRIORITY service calls are each shown separately and as a subgroup;
2. Field Services Calls

- a) Complaints relating to animal bites or attacks, including property address.
- b) Complaints relating to Dangerous or Potentially Dangerous Dogs, including property address.

B. Additional Reporting

SAN JOSE shall deliver to MILPITAS during the term of this AGREEMENT, and within thirty (30) days of the end of each quarter, a report summarizing monthly and quarterly response times provided by SAN JOSE for MILPITAS. This report shall include, but not be limited to, the following information:

1. Monthly Response Times:

- a) The average response time, the shortest and longest response times for calls in each of the following PRIORITIES. For PRIORITY 1, 2 and 3 calls, SAN JOSE shall report average response times, and shortest and longest response times by each type of call within that priority.
- b) Response times for PRIORITY 1 calls shall be in minutes, rounded off to the nearest minute. Response times for PRIORITY 2 calls shall be in hours and minutes, rounded off to the nearest minute. Response times for PRIORITY 3 calls shall be in hours, rounded off to the nearest hour.
- c) The percentage of calls grouped by PRIORITY 1, 2, and 3, that met the response time performance standards, along with the total number of responses in each priority category.

2. Other Reports, as determined by MILPITAS.

SECTION 6. OTHER RESPONSIBILITIES

A. Delivery of Animals to SAN JOSE

Animals to be impounded by SAN JOSE that are taken into custody by MILPITAS shall be promptly delivered to SAN JOSE's shelter or held in a humane way at a designated holding area until such animals can be picked up by SAN JOSE; provided however, that any such animal may be reclaimed as appropriate, from MILPITAS by its owner.

B. Responsibility for Administrative Hearings

SAN JOSE shall not be responsible for nor bear the costs of scheduling and conducting any required hearings regarding Dangerous or Potentially Dangerous Dogs. If needed or appropriate, SAN JOSE personnel shall appear at any such hearing at no additional cost to MILPITAS.

C. Licensing

SAN JOSE shall maintain a license database and administer license processing, issuance, and renewals on behalf of MILPITAS. Licensing information shall be included on all Incident Reports and, additionally, provided to MILPITAS on an as requested basis. SAN JOSE shall collect all associated license fees on behalf of MILPITAS, at the fee amounts set by MILPITAS. Any license fees or late fees collected from dog and cat owners in MILPITAS shall be remitted to MILPITAS on a monthly basis.

EXHIBIT B
COMPENSATION

A. Payment Amounts

For all Animal Services to be provided by and for the performance of all other obligations of SAN JOSE to MILPITAS under this AGREEMENT, MILPITAS agrees to pay SAN JOSE after the execution of this AGREEMENT the sum of Five Hundred Thirty Thousand Four Hundred Dollars (\$530,400) for the period of July 1, 2023 through June 30, 2024 per the payment schedule below . Thereafter, the annual Contract Amount shall increase by four percent (4%) each fiscal year, subject to the appropriation of funds and the execution of a Notice of Exercise of Option to Extend Term in the form of Exhibit C, as follows:

INITIAL TERM	YEARLY COMPENSATION
July 1, 2023 through June 30, 2024	\$530,400.00
July 1, 2024 through June 30, 2025	\$551,616.00
July 1, 2025 through June 30, 2026	\$573,680.64

1ST OPTION TERM	YEARLY COMPENSATION
July 1, 2026 through June 30, 2027	\$596,627.86
July 1, 2027 through June 30, 2028	\$620,492.97
July 1, 2028 through June 30, 2029	\$645,312.68

2ND OPTION TERM	YEARLY COMPENSATION
July 1, 2029 through June 30, 2030	\$671,125.18
July 1, 2030 through June 30, 2031	\$697,970.18
July 1, 2031 through June 30, 2032	\$725,888.98

B. Payment Schedule

MILPITAS shall pay SAN JOSE the Contract Amount in twelve (12) monthly installments each fiscal year. All monthly installment payments by MILPITAS shall

be due and payable on the first day of the month and shall be delinquent on the tenth (10th) business day thereafter without demand or notice to MILPITAS. SAN JOSE will provide MILPITAS an invoice in advance at least fourteen (14) calendar days before the date that the payment is due.

EXHIBIT C**NOTICE OF EXERCISE OF OPTION TO EXTEND AGREEMENT**

AGREEMENT TITLE and DATE:	AGREEMENT FOR ANIMAL SERVICES BETWEEN THE CITY OF SAN JOSE AND THE CITY OF MILPITAS DATE: _____
PARTIES Name and Address:	CITY OF SAN JOSE ("SAN JOSE") San José Animal Care and Services ATTN: _____ 2750 Monterey Rd San José, CA 95111 CITY OF MILPITAS ("MILPITAS") Building Safety and Housing Department ATTN: _____ 455 E. Calaveras Blvd Milpitas, CA 95035
DATE OF OPTION:	

(date the notice is sent must be consistent with the time for exercise set forth in Agreement)

Pursuant to Section 2 of the Agreement referenced above, the Parties hereby exercise the option to extend the term under the following provisions:

OPTION NO. ____ of 2

NEW OPTION TERM

Begin date:	
End date:	

MAXIMUM COMPENSATION for New Option Term:	
TOTAL MAXIMUM COMPENSATION:	

For the option term exercised by this Notice, MILPITAS shall pay SAN JOSE an amount not to exceed the amount set forth above for SAN JOSE's services and reimbursable expenses, if any. The undersigned signing on behalf of MILPITAS hereby certifies that an unexpended appropriation is available for the term exercised by this Notice, and that funds are available as of the date of this signature.

CITY OF SAN JOSE, a municipal corporation By _____ Name: Title:	CITY OF MILPITAS, a municipal corporation By _____ Name: Title:
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CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Releasing Unclaimed Checks with a Value less than \$15 in the aggregate amount of \$655.27 (Staff Contact: Lauren Lai, Finance Director/Risk Manager, 408-586-3111)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	4/4/2023
	<u>Recommendation:</u> Adopt a resolution releasing Unclaimed Checks with a value less than \$15 and Transfer a total of \$655.27 in Unclaimed Checks to the General Fund.

BACKGROUND:

According to the City of Milpitas' Standard Operating Procedure (SOP) No. 26-1, which conforms with California Government Code Section 50055, unclaimed checks, and credits of less than \$15, or any amount if the depositor's name is unknown, which remain unclaimed for more than one year may be transferred to the General Fund by authorization of the City Council.

ANALYSIS:

The City has 26 unclaimed checks of less than \$15 in the aggregate amount of \$655.27 related to Refund of overpayment of Business License or Recreation Activity Fees on classes offered by Recreation Community Services Department. All the funds listed in Exhibit A of the attached resolution are older than February 2022 and remained unclaimed for more than one year. Consistent with SOP No. 26-1, staff recommends that Council adopt a resolution authorizing the transfer of the unclaimed checks amount to the General Fund.

POLICY ALTERNATIVE(S):

Alternative 1: Do not approve the proposed recommendation to release Unclaimed Checks.

Pros: None

Cons: Non-compliance with the City of Milpitas' Standard Operating Procedure (SOP) No. 26-1, which in turn conforms with California Government Code Section 50055.

Reason for Not Recommending: Considering the transfer to the General Fund of the Unclaimed Checks which remain unclaimed for more than one year is in accordance with the City of Milpitas' Standard Operating Procedure (SOP) No. 26-1, which conforms with California Government Code Section 50055.

FISCAL IMPACT:

The recommended action will increase the General Fund revenues by \$655.27 in FY22-23.

California Environmental Quality Act (CEQA):

The action being considered is exempt from environmental review pursuant to CEQA Guideline 15378(b)(4) as a governmental fiscal activity without a commitment to any project that would result in a potentially significant impact on the environment.

RECOMMENDATION:

Adopt a Resolution Releasing Unclaimed Checks with a Value less than \$15 and Transfer a total of \$655.27 in Unclaimed Checks to the General Fund.

Attachment(s):

Resolution; Exhibit A – Finance Operation Accounts Unclaimed Checks of less than \$15 and one year or older

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS
RELEASING UNCLAIMED CHECKS AND CREDITS**

WHEREAS, the checks and credits on the list attached hereto as **Exhibit A** have been outstanding and unclaimed for more than one year; and

WHEREAS, the amounts on the checks and credits on the list attached hereto as **Exhibit A** are each less than \$15, or are checks for which the depositor's name is unknown.

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 total amount of \$655.27 of the unclaimed checks on the list attached hereto as **Exhibit A** shall be transferred to the General Fund in FY22-23, in accordance with Section 50055 of the California Government Code.

PASSED AND ADOPTED this on _____ 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

Exhibit A

**FINANCE OPERATION ACCOUNTS
UNCLAIMED CHECKS**

- Amount Less Than \$15.00
- No Later than February 2022

CHECK NO.	DATE	AMOUNT	CHECK NO.	DATE	AMOUNT
1770	2/7/2019	\$ 7.76	401198	9/24/2021	\$ 13.00
1885	2/7/2019	\$ 7.76	401657	10/29/2021	\$ 10.00
1765	2/5/2019	\$ 7.76	401860	11/12/2021	\$ 9.77
1995	2/7/2019	\$ 7.76	403022	2/4/2022	\$ 4.00
1879	2/7/2019	\$ 7.76	403030	2/4/2022	\$ 7.26
1919	2/7/2019	\$ 7.76	403010	2/4/2022	\$ 8.77
1992	2/7/2019	\$ 7.76	403012	2/4/2022	\$ 9.37
1844	2/7/2019	\$ 7.76	403255	2/11/2022	\$ 4.00
1761	2/5/2019	\$ 7.76	403149	2/11/2022	\$ 10.00
1821	2/7/2019	\$ 7.76	403156	2/11/2022	\$ 10.00
1836	2/7/2019	\$ 7.76	403173	2/11/2022	\$ 10.00
1831	2/7/2019	\$ 7.76	403414	2/18/2022	\$ 5.50
1762	2/5/2019	\$ 7.76	403451	2/18/2022	\$ 6.92
1983	2/7/2019	\$ 7.76	403447	2/18/2022	\$ 7.50
1838	2/7/2019	\$ 7.76	403486	2/18/2022	\$ 8.00
1985	2/7/2019	\$ 7.76	403438	2/18/2022	\$ 8.59
1783	2/7/2019	\$ 7.76	403346	2/18/2022	\$ 8.64
1789	2/7/2019	\$ 7.76	403326	2/18/2022	\$ 10.00
1723	2/5/2019	\$ 7.76	403459	2/18/2022	\$ 11.50
1965	2/7/2019	\$ 7.76	403373	2/18/2022	\$ 12.00
1719	2/5/2019	\$ 7.76	403395	2/18/2022	\$ 12.27
1841	2/7/2019	\$ 7.76	403446	2/18/2022	\$ 12.27
1933	2/7/2019	\$ 7.76	403547	2/18/2022	\$ 12.27
1778	2/7/2019	\$ 7.76	403548	2/18/2022	\$ 12.27
1989	2/7/2019	\$ 7.76	403391	2/18/2022	\$ 13.07
1812	2/7/2019	\$ 7.76	403530	2/18/2022	\$ 14.77
1988	2/7/2019	\$ 7.76			
1803	2/7/2019	\$ 7.76			
1869	2/7/2019	\$ 7.76			
1848	2/7/2019	\$ 7.76			
1930	2/7/2019	\$ 7.76			
1957	2/7/2019	\$ 7.76			
1846	2/7/2019	\$ 7.76			
1932	2/7/2019	\$ 7.76			
1975	2/7/2019	\$ 7.76			
1922	2/7/2019	\$ 7.76			
1780	2/7/2019	\$ 7.76			
1774	2/7/2019	\$ 7.76			
1903	2/7/2019	\$ 7.76			
1986	2/7/2019	\$ 7.76			
1864	2/7/2019	\$ 7.76			
1826	2/7/2019	\$ 7.76			
1835	2/7/2019	\$ 7.76			
1976	2/7/2019	\$ 7.76			
1937	2/7/2019	\$ 7.76			
1767	2/5/2019	\$ 7.76			
1967	2/7/2019	\$ 7.76			
1924	2/7/2019	\$ 7.76			
1764	2/5/2019	\$ 7.76			
1901	2/7/2019	\$ 7.76			
1920	2/7/2019	\$ 7.76			
1842	2/7/2019	\$ 7.76			
		SUBTOTAL: \$ 403.53			
					SUBTOTAL: \$ 251.74
			GRAND TOTAL \$ 655.27		



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve an Amendment to the Professional Services Agreement with WeHOPE for Mobile Shower and Laundry Services to Add Additional Funding in the Amount of \$10,000.00, with a Total Not to Exceed Contract Amount of \$96,552.00 (Staff Contact: Alex Andrade, Director of Economic Development, 408-586-3046; and Robert Musallam, Housing and Neighborhood Services Administrator, 408-586-3275)
Category:	Consent Calendar-Community Development
Meeting Date:	4/4/2022
	<u>Recommendation:</u> Approve an amendment to the professional services agreement with WeHOPE for Mobile Shower and Laundry Services to add additional funding in the amount of \$10,000.00, with a total not to exceed contract amount of \$96,552.00.

BACKGROUND:

In fall 2020, in accordance with City Council direction, staff conducted extensive research and explored homeless outreach and basic needs services that may improve quality of life for Milpitas unhoused residents.

WeHOPE is a nonprofit agency based in Santa Clara County that offers various services to meet the needs of the unhoused. Dignity on Wheels is a program managed by WeHOPE. The Dignity on Wheels program provides a mobile trailer with shower, laundry, and restroom. Additionally, staff worked with the County's Homeless Engagement and Access Team to provide case management services to further connect clients with a countywide network of services. At each session, WeHOPE provides supplies that include towels, laundry pods, hair and body wash, and hygiene kits. Often there are clothing donations available as well.

On December 1, 2020, City Council directed staff to implement a six-month pilot program with the nonprofit service provider, WeHOPE, to provide weekly hot shower and laundry services for unhoused residents in Milpitas. The program cost was \$21,372 and was funded by the California Board of State and Community Corrections grant funding from the Milpitas Police Department (Attachment 1).

WeHOPE began providing mobile shower and laundry services from 11:00 AM – 3:30 PM every Sunday starting March 21, 2021, on the Winsor Street site, located immediately south of the Milpitas Library. Staff provided reports during the six-month pilot shower and laundry services program as part of the monthly report to City Council on unhoused services. On September 7, 2021, City Council amended the contract in the amount of \$50,180, to allow for fifty-two additional sessions of services and extended the term of the contract through September 25, 2022 (Attachment 2). On September 6, 2022, City Council issued a second amendment in the amount of \$15,000, with a total-not-to exceed amount of \$86,552. The current agreement has an expiration date of June 30, 2023 (Attachment 3).

ANALYSIS:

From March 2021 through December 2022, WeHOPE has provided 91 sessions to the unhoused community, serving over 754 clients, totaling 1,601 showers and 567 loads of laundry. Staff provides information on these outcomes to Council on a quarterly basis. In addition to shower and laundry, clients have benefited from services provided by WeHOPE including dispersing hygiene kits, clothing, snack bags, case management and/or supportive services, and assessments with the County's Homeless Engagement and Access Team.

During the Fiscal Year 2022-2023 budget discussions, additional funding was not added to the mobile shower and laundry services program. However, in March 2022, the City requested support of one-time funding as part of the Fiscal Year 2022-2023 State budget through Assemblymember Alex Lee's Office. As part of the request

the allocation seeks to support the continuation and expansion of the City's mobile shower and laundry services, for a period of 3 years (\$300,000).

In fall 2022, the City received notification of the award of state funding, through Assemblymember Lee's Office, in the amount of \$1.5 million for housing related programs and services, including \$300,000 for this program. This funding will be incorporated in the Proposed Fiscal Year 2023-2024 Budget. In the interim, additional funding in the amount of \$10,000 from the California Board of State and Community Corrections Grant will be used to bridge the funding need through the end of this fiscal year as there is \$14,000 of unused California Board of State and Community Corrections Grant funding. The total-not-to exceed amount of the contract would be \$96,552 (Attachment 4).

FISCAL IMPACT:

If Council approves the recommendation, \$10,000 would be allocated from the California Board of State and Community Corrections grant to fund the mobile shower and laundry services for the remainder of this fiscal year.

California Environmental Quality Act (CEQA):

The recommendations have no potential for causing a significant effect on the environment and are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3). Further, the recommendations are also exempt under CEQA Guideline 15301 if the City Council decides to continue Dignity on Wheels mobile shower and laundry services as the proposed services by WeHOPE it would likely be placed in an existing City facility, and/or CEQA Guideline 15311 as an accessory structure to an existing City facility. Each Guideline referenced above shall serve as an independent basis to determine the activity is exempt from CEQA.

RECOMMENDATION:

Approve an Amendment to the Professional Services Agreement with WeHOPE for Mobile Shower and Laundry Services to Add Additional Funding in the Amount of \$10,000, with a Total Not to Exceed Contract Amount of \$96,552

Attachment(s):

1. Professional Services Agreement with WeHOPE
2. Amendment No. 1 to Professional Services Agreement with WeHOPE
3. Amendment No. 2 to Professional Services Agreement with WeHOPE
4. Amendment No. 3 to Professional Services Agreement with WeHOPE

CITY OF MILPITAS PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into as of February 12, 2021 (“Effective Date”) by and between the City of Milpitas, a municipal corporation organized and operating under the laws of the State of California with its principal place of business at 455 E. Calaveras Boulevard, Milpitas, California 95035 (“City”), and WeHOPE Inc., a non-profit corporation with its principal place of business at 1854 Bay Road, East Palo Alto, CA 94303 (hereinafter referred to as “Consultant”). City and Consultant are sometimes individually referred to as “Party” and collectively as “Parties” in this Agreement.

RECITALS

A. City is a public agency of the State of California and is in need of professional services for the following project:

Mobile shower, laundry, and case management services for unhoused residents (hereinafter referred to as “the Project”).

B. Consultant is duly licensed and has the necessary qualifications to provide such services.

C. The Parties desire by this Agreement to establish the terms for City to retain Consultant to provide the services described herein.

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Services.

Consultant shall provide the City with the services described in the Scope of Services attached hereto as Exhibit A.

2. Compensation.

a. Subject to paragraph 2(b) below, the City shall pay for such services in accordance with the Schedule of Charges set forth in Exhibit B.

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement exceed the sum of **\$21,372**. This amount is to cover all printing and related costs, and the City will not pay any additional fees for printing expenses. Periodic payments shall be made within thirty (30) days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis.

3. Additional Work.

If changes in the work seem merited by Consultant or the City, and informal consultations with the other party indicate that a change is warranted, it shall be processed in the following manner: a letter outlining the changes shall be forwarded to the City by Consultant with a statement of estimated changes in fee or time schedule. An amendment to this Agreement shall be prepared by the City and executed by both Parties before performance of such services, or the City will not be required to pay for the changes in

the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

4. Maintenance of Records.

Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Consultant and made available at all reasonable times during the Agreement term and for four (4) years from the date of final payment under the Agreement for inspection by City.

5. Time of Performance.

The term of this Agreement shall begin on the **“Effective Date” and run until twenty-six sessions have been provided** unless terminated earlier as provided herein. The City reserves the right to review the Consultant’s performance after three months and cancel all or part of the Agreement. Specific milestones for performance are included in the “Activity Schedule” attached as Exhibit C.

6. Delays in Performance.

a. Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.

b. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

7. Compliance with Law.

a. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government, including Cal/OSHA requirements.

b. If required, Consultant shall assist the City, as requested, in obtaining and maintaining all permits required of Consultant by federal, state and local regulatory agencies.

c. If applicable, Consultant is responsible for all costs of clean up and/ or removal of hazardous and toxic substances spilled as a result of his or her services or operations performed under this Agreement.

8. Standard of Care

Consultant’s services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

9. Assignment and Subconsultant

Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the City, which may be withheld for any reason. Any attempt to

so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. Nothing contained herein shall prevent Consultant from employing independent associates, and subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

10. Independent Consultant

Consultant is retained as an independent contractor and is not an employee of City. No employee or agent of Consultant shall become an employee of City. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from City as herein provided.

11. Insurance. Consultant shall not commence work for the City until it has provided evidence satisfactory to the City it has secured all insurance required under Exhibit D (Insurance Requirements), attached hereto and incorporated herein by this reference. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required therein.

12. Indemnification.

a. To the fullest extent permitted by law, Consultant shall defend (with counsel of City's choosing), indemnify and hold the City, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services, the Project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the City, its officials, officers, employees, agents, or volunteers.

b. If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance of "design professional" services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

13. California Labor Code Requirements.

a. Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). If the services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is One Thousand Dollars and Zero Cents (\$1,000.00) or more, Consultant agrees to fully comply with such Prevailing Wage Laws. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code

Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

b. If the services are being performed as part of an applicable “public works” or “maintenance” project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

c. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant’s sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor that affect Consultant’s performance of services, including any delay, shall be Consultant’s sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the City. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor.

14. Verification of Employment Eligibility.

By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and sub-subconsultants to comply with the same.

15. City Material Requirements.

[RESERVED]

16. Laws and Venue.

This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of Santa Clara, State of California.

17 Termination or Abandonment

a. City has the right to terminate or abandon any portion or all of the work under this Agreement by giving ten (10) calendar days written notice to Consultant. In such event, City shall be immediately given title and possession to all original field notes, drawings and specifications, written reports and other documents produced or developed for that portion of the work completed and/or being abandoned. City shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for

which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by City and Consultant of the portion of such task completed but not paid prior to said termination. City shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services, and shall not be entitled to damages or compensation for termination of work.

b. Consultant may terminate its obligation to provide further services under this Agreement upon thirty (30) calendar days' written notice to City only in the event of substantial failure by City to perform in accordance with the terms of this Agreement through no fault of Consultant.

c. The Consultant understands and accepts that at all times; the Agreement is subject to appropriation of funds by the Milpitas City Council. The Agreement may terminate without penalty, liability or expense of any kind to the City at the end of Agreement term. The City has no obligation to make appropriations for the Agreement in lieu of appropriations for new or other contracts. City budget decisions are subject to the discretion of the Mayor and City Council. Consultant's assumption of risk of possible non-appropriation is a part of the consideration for the Agreement. This section controls against any and all other provisions of the Agreement.

18. Documents. Except as otherwise provided in "Termination or Abandonment," above, all original field notes, written reports, Drawings and Specifications and other documents, produced or developed for the Project shall, upon payment in full for the services described in this Agreement, be furnished to and become the property of the City.

19. Organization

Consultant shall assign Anita Blount as Project Manager. The Project Manager shall not be removed from the Project or reassigned without the prior written consent of the City.

20. Limitation of Agreement.

This Agreement is limited to and includes only the work included in the Project described above.

21. Notice

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

CITY:

City of Milpitas

455 E. Calaveras Boulevard

Milpitas, California 95035

Attn: Robert Musallam

CONSULTANT:

WeHOPE Inc.

1854 Bay Road

East Palo Alto, CA 94303

Attn: Thomas J. Clark, Jr.

and shall be effective upon receipt thereof.

22. Third Party Rights

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and the Consultant.

23. Equal Opportunity Employment.

Consultant represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

24. Entire Agreement

This Agreement, with its exhibits, represents the entire understanding of City and Consultant as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This Agreement may not be modified or altered except in writing signed by both Parties hereto. This is an integrated Agreement.

25. Severability

The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the provisions unenforceable, invalid or illegal.

26. Successors and Assigns

This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each party to this Agreement. However, Consultant shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of City. Any attempted assignment without such consent shall be invalid and void.

27. Non-Waiver

None of the provisions of this Agreement shall be considered waived by either party, unless such waiver is specifically specified in writing.

28. Time of Essence

Time is of the essence for each and every provision of this Agreement.

29. City's Right to Employ Other Consultants

City reserves its right to employ other consultants, including engineers, in connection with this Project or other projects.

30. Prohibited Interests

Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

31. Wage Theft Prevention

a. Consultant, and any subconsultant it employs to complete work under this Agreement, shall comply with all applicable federal, state and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act, the California Labor Code and the Milpitas Minimum Wage Ordinance.

b. BY SIGNING THIS AGREEMENT, CONSULTANT AFFIRMS THAT IT HAS DISCLOSED ANY FINAL JUDGMENTS, DECISIONS OR ORDERS FROM A COURT OR INVESTIGATORY GOVERNMENT AGENCY, FINDING IN THE FIVE (5) YEARS PRIOR TO EXECUTING THIS AGREEMENT THAT CONSULTANT OR ITS SUBCONSULTANTS HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. CONSULTANT FURTHER AFFIRMS THAT IT OR ITS SUBCONSULTANT(S) HAS EITHER FULLY SATISFIED EACH JUDGMENT, DECISION OR ORDER, OR, IF ANY JUDGMENT, DECISION OR ORDER HAS NOT BEEN FULLY SATISFIED, CONSULTANT AFFIRMS THAT IT OR ITS SUBCONSULTANT(S) IS CURRENTLY SATISFYING SAID JUDGMENT, DECISION OR ORDER THROUGH A PAYMENT OR ALTERNATIVE PLAN APPROVED BY THE APPLICABLE COURT/GOVERNMENT AGENCY AND THAT CONSULTANT OR ITS SUBCONSULTANT(S) ARE IN COMPLIANCE WITH SAID PLAN AS OF THE DATE OF EXECUTING THIS AGREEMENT.

c. If at any time during the term of this Agreement, a court or investigatory government agency issues a final judgment, decision or order finding that Consultant or a subconsultant it employs to perform work under this Agreement has violated any applicable wage and hour law, or Consultant learns of such a judgment, decision, or order that was not previously disclosed in its bid/proposal, Consultant shall inform the City no more than fifteen (15) calendar days after the judgment, decision or order becomes final or from the date of learning of the final judgment, decision or order. Consultant or its subconsultant(s) shall, within thirty (30) calendar days after notifying the City, either (i) fully satisfy any such judgment, decision, or order and provide the City with documentary evidence of satisfying said judgment, decision or order; or (ii) provide the City documentary evidence of a payment or other alternative plan approved by the court/government agency to satisfy the judgment, decision or order. If the Consultant or its subconsultant is subject to a payment or other alternative plan, the Consultant or its subconsultant shall continue to submit documentary evidence every thirty (30) calendar days during the term of the Agreement demonstrating continued compliance with the plan until the judgment, decision or order has been fully satisfied.

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

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

f. Notice provided to the City shall be addressed to: Attention: Finance Director, 455 E. Calaveras Blvd. Milpitas, CA 95035. The Notice provisions of this Section are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section.

[SIGNATURES ON FOLLOWING PAGE]

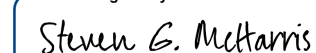
**SIGNATURE PAGE FOR PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF MILPITAS
AND WEHOPE INC.**

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

CITY OF MILPITAS

Approved By:

DocuSigned by:

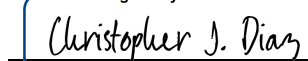

Steven G. McHarris, City Manager

Feb-16-2021

Date

Approved As To Form:

DocuSigned by:


Christopher J. Diaz, City Attorney

Approved:

DocuSigned by:


Walter C. Rossmann, Risk Manager/Director
of Finance

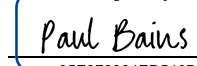
Approved As To Content:

DocuSigned by:


Sharon Goel, Director of Building Safety and
Housing

WeHOPE Inc.

DocuSigned by:


Signature

Paul Bains

Name

President

Title

Feb-10-2021

Date

DIR Registration Number (If Applicable)

EXHIBIT A

Scope of Services

Description of the Project:

WeHOPE Inc. will implement Dignity on Wheels to provide mobile shower, laundry, and case management services to homeless and unsheltered persons in Milpitas. Operating one day per week at a single site in Milpitas, WeHOPE Inc. will provide drop-in shower services for up to 42 clients and drop-in laundry services of up to 16 single loads of laundry per four-hour session. WeHOPE Inc. commits to provide twenty-six sessions under this agreement. Each session will consist of one six-hour session in either the morning or afternoon hours. Clients will be served for four hours during each session as there will be two hours dedicated for set-up and shut-down.

Clients requesting a shower will receive a provisional towel and bathmat, which must be returned after use. Shower clients will be offered hygiene kits, which may include socks, toothbrush, toothpaste, deodorant, lotion, mouthwash or other grooming items. Clients who are also requesting laundry service will be offered a pair of sweatpants and t-shirt as needed, which should be returned. Clients will have the opportunity to meet with WeHOPE staff to assess unmet needs and access community resources.

WeHOPE staff will manage the Dignity on Wheels service and oversee the following:

- a. Formulating goals and objectives,
- b. Establishing personnel policies,
- c. Overseeing the daily operation of each Dignity on Wheels' event, including without limiting, facility usage, and
- d. Respectfully directing all staff and volunteers working at a Dignity on Wheels event, including those staff and/or volunteers of the host site.

Activity #1: Provide shower services to homeless individuals

WeHOPE will provide access to hot water showers to homeless individuals. Clients are provided 15 minutes in the shower room, with seven minutes of shower time. Towels, hygiene kits, flip flops, and a change of clothes will be provided as needed.

Activity #2: Provide laundry services to homeless individuals

WeHOPE will provide laundry services to homeless individuals. WeHOPE will provide client with laundry bag, which clients fill and return to WeHOPE staff. Staff will launder the clothing and return it to the client. A change of clothes will be provided as needed.

Activity #3: Provide community resources and referrals to homeless individuals

WeHOPE will provide community resources and referrals to homeless individuals who desire to be connected to services and case management. WeHOPE will provide clients who are not already connected with individualized support to connect them with resources they need.

Program Support from City Staff:

CITY will identify an appropriate location, promote the program, coordinate the service with Santa Clara County unhoused outreach and assessment efforts, communicate regularly with WeHOPE Inc. staff, review reports provided by WeHOPE, process payments, and be on call during the session to ensure proper access to water, sewer, and electric utilities.

Cost Reimbursement:

CITY will provide a one-time payment at the start of the contract in the amount of \$10,686 to cover expenses for thirteen sessions (approximately three months). Within 15 days from the end of each month during the term of this AGREEMENT, WeHOPE will submit backup documentation for costs incurred in the prior month. Upon receipt of complete backup documentation, CITY will provide funds for the next month's expenditures. WeHOPE will report expenditures to the CITY, under provisions as set forth in Exhibit B.

Reporting:

Project objectives and outcomes will be measured on a quarterly basis as detailed in Exhibit C.

Additional Provisions:

WeHOPE will enter data into Homeless Management Information System (HMIS) only for clients working individually with WeHOPE staff (specifically providing clients with community resources and referrals).

EXHIBIT B**Schedule of Charges/Payments**

Consultant will invoice City on a monthly cycle. Consultant will include with each invoice a detailed progress report that indicates the amount of budget spent on each task. Consultant will inform City regarding any out-of-scope work being performed by Consultant. This is a time-and-materials Agreement.

EXHIBIT C

Activity Schedule

Project objectives and outcomes will be measured on a quarterly basis and should include, at a minimum, the following:

- Number of sessions provided per quarter.
- Number of showers provided each session.
- Number of laundry loads provided each session.
- Number of total unduplicated clients served to date.
- Number of clients who utilized DOW referral services.

Consultant will submit a Quarterly Performance Report for the following periods:

Report #1: 90 days after the first session

Report #2: Additional reports to follow quarterly

If the contract is extended, activities and outputs will be tracked and reported quarterly.

Quarterly Performance Reports are due by Consultant 10 business days at the conclusion of each quarter. If the contract is extended beyond the initial 6-month term, an annual performance report will be due at the end of one year or the end of the contract term, whichever comes first.

EXHIBIT “D”**INSURANCE REQUIREMENTS**

Please refer to the insurance requirements listed below. **Those that have an “X” indicated in the space before the requirement apply to Contractor’s or Consultant’s Agreement.**

Contractor or Consultant shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor or Consultant, its agents, representatives, employees or subcontractors.

Contractor or Consultant shall provide its insurance broker(s)/agent(s) with a copy of these requirements and request that they provide Certificates of Insurance complete with copies of all required endorsements.

Contractor or Consultant shall furnish City with copies of original endorsements affecting coverage required by this Exhibit D. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements and certificates are to be received and approved by City before work commences. City has the right to require Contractor’s or Consultant’s insurer to provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

Commercial General Liability (CGL):

___ Coverage at least as broad as Insurance Services Office (“ISO”) Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$2,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

X Coverage at least as broad as ISO Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$1,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

___ Coverage at least as broad as ISO Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$5,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

Automobile Liability:

___ Coverage at least as broad as ISO Form Number CA 0001 covering, Code 1 (any auto), of if Contractor or Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limits no less than \$1,000,000.00 combined single limit for bodily injury and property damage.

___ Coverage at least as broad as ISO Form Number CA 0001 covering, Code 1 (any auto), with limits no less than \$5,000,000.00 combined single limit for bodily injury and property damage.

___ Garage keepers' extra liability endorsement to extend coverage to all vehicles in the care, custody and control of the Contractor or Consultant, regardless of where the vehicles are kept or driven.

Professional Liability (Errors and Omissions):

___ Insurance appropriate to the Contractor or Consultant's profession, with limit no less than \$1,000,000.00 per occurrence or claim, \$2,000,000.00 aggregate.

___ (If Design/Build), with limits no less than \$1,000,000.00 per occurrence or claim, and \$2,000,000.00 policy aggregate.

___ Insurance appropriate to the Contractor or Consultant's profession, with limit no less than _____ per occurrence or claim, _____ aggregate

Workers' Compensation Insurance:

X Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000.00 per accident for bodily injury or disease. *(Not required if Contractor or Consultant provides written verification it has no employees)*

The Employer's Liability policy shall be endorsed to waive any right of subrogation as respects the City, its elected and appointed officials, officers, attorneys, agents, and employees.

Builder's Risk (Course of Construction):

___ Insurance utilizing an "All Risk" (Special Perils) coverage form, with limits equal to the completed value of the project and no coinsurance penalty provisions. If the project does not involve new or major reconstruction, at the option of the City, an Installation Floater may be acceptable. For such projects, a Property Installation Floater shall be obtained that provides for the improvement, remodel, modification, alteration, conversion or adjustment to existing buildings, structures, processes, machinery and equipment. The Property Installation Floater shall provide property damage coverage for any building, structure, machinery or equipment damaged, impaired, broken, or destroyed during the performance of the Work, including during transit, installation, and testing at the City's site.

Contractor's or Consultant's Pollution Legal Liability:

___ Contractor's or Consultant's pollution legal liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) with limits no less than \$1,000,000.00 per occurrence or claim and \$2,000,000.00 policy aggregate.

If the Contractor or Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Contractor or Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

Cyber Liability Insurance

___ Cyber Liability Insurance with limits not less than \$1,000,000 per claim.

Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor or Consultant in this Agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion, and network security.

The policy shall provide coverage for breach response costs as well as regulatory fines and penalties, and credit monitoring expenses with limits sufficient to respond to these obligations.

Surety Bonds:

Contractor shall provide the following Surety Bonds:

____ Bid Bond
 ____ Performance Bond
 ____ Payment Bond

The Payment Bond and Performance Bond shall be in a sum equal to the contract price. Bonds shall be duly executed by a responsible corporate surety, authorized to issue such bonds in the State of California and secured through an authorized agent with an office in California.

Other Insurance Provisions:

The insurance policies are to contain, or be endorsed to contain the following provisions:

X **Additional Insured Status and Primary/Non-Contributory Language:**

Contractor's general liability and automobile liability policies shall be primary and shall not seek contribution from the City's coverage and be endorsed to add the City and its officers, officials, employees, and agents as additional insureds under such policies using Insurance Services Office form CG 20 10 (or equivalent) on the general liability policy. For construction projects, an endorsement providing completed operations coverage for the additional insured on the general liability policy, ISO form CG 20 37 (or equivalent), is also required.

The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City (if agreed to in a written contract or agreement) before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

Loss Payee Status – Builder's Risk/Course of Construction Insurance (applicable to Construction Contracts only)

Contractor or Consultant may submit evidence of Builder's Risk insurance in the form of Course of Construction coverage. Such coverage shall name the City as a loss payee as their interest may appear.

Notice of Cancellation, Suspension or Otherwise Voiding Policies:

Each insurance policy required above shall contain or be endorsed to contain that coverage shall not be suspended, voided, canceled or reduced in coverage or in limits except with thirty (30) days' prior written notice by certified mail, return receipt requested to the City.

___ **Waiver of Subrogation:**

Contractor or Consultant hereby grants to City a waiver of any right to subrogation which any insurer of said Contractor or Consultant may acquire against the City by virtue of the payment of any loss under such insurance. Contractor or Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer. The Workers' Compensation Policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by Contractor or Consultant, its employees, agents and subcontractors.

___ **Completed Operations**

For Construction Agreements, Contractor shall maintain insurance as required by this Agreement to the fullest amount allowed by law and shall maintain insurance for a minimum of five (5) years following the completion of this project. In the event Contractor fails to obtain or maintain completed operations coverage as required by this Agreement, the City at its sole discretion may purchase the coverage required and the cost will be paid by Contractor.

THE FOLLOWING PROVISIONS APPLY TO ALL AGREEMENTS

Deductibles and Self-Insured Retentions ("SIR"):

Any deductibles or self-insured retentions must be declared to and approved by City. The City may require the Contractor or Consultant to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. At the option of the City, either (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its elected and appointed officials, officers, attorneys, agents, and employees; or (2) the Contractor or Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

All SIRs must be disclosed to Risk Management for approval and shall not reduce the limits of liability.

Policies containing any SIR provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the City.

City reserves the right to obtain a full-certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Acceptability of Insurers:

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-:VII, unless otherwise acceptable to City.

Claims Made Policies: (note - should be applicable only to professional liability, see below)

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor or Consultant must purchase “extended reporting” coverage for a minimum of five (5) years after completion of work.
4. A copy of the claims reporting requirements must be submitted to the City for review.
5. If the services involve lead-based paint or asbestos identification/remediation, the Contractor’s Pollution Liability Policy shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification/remediation, the Contractors Pollution Liability Policy shall not contain a mold exclusion, and the definition of Pollution shall include microbial matter, including mold.

Subcontractors:

Contractor or Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City is an additional insured on insurance required from subcontractors.

Subcontractor agrees to be bound to Contractor and City in the same manner and to the same extent as Contractor is bound to City under this Agreement and any other contract documents. Subcontractor further agrees to include the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, with any sub-subcontractor to the extent they apply to the scope of the sub-subcontractor’s work. A copy of the City indemnity and insurance provisions will be furnished to the subcontractor upon request.

Verification of Coverage:

Contractor or Consultant shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor or Consultant’s obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Special Risks or Circumstances

City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage or other special circumstances.

Failure to Comply:

Each insurance policy required above shall contain or be endorsed to contain that any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its elected and appointed officials, officers, attorneys, agents, and employees.

Applicability of Coverage:

Each insurance policy required above shall contain or be endorsed to contain that the Contractor's or Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.



**AMENDMENT NO. 1
TO PROFESSIONAL SERVICES AGREEMENT
WITH
WEHOPE INC.
FOR
MOBILE SHOWER, LAUNDRY, AND CASE MANAGEMENT SERVICES FOR
UNHOUSED RESIDENTS**

This Amendment No. 1 is entered on September 24, 2021 (effective date), by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "City"), and **WeHOPE Inc.**, a non-profit corporation (hereafter referred to as "Consultant"). City and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Amendment No. 1.

RECITALS

WHEREAS, on February 12, 2021, the Parties entered into a Professional Services Agreement for Mobile Shower, Laundry, And Case Management Services For Unhoused Residents (the "Agreement") with a compensation amount not to exceed \$21,372.00, and a term period of February 12, 2021 to the completion of twenty-six sessions of services provided; and

WHEREAS, the Parties now desire to amend the Agreement by extending the term period expiration date to September 25, 2022 and increase the Agreement not-to-exceed amount by \$50,180.00 to allow for fifty-two additional sessions of services.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, the Parties agree to amend the Agreement as follows:

1. Section 2 Compensation paragraph "b" is hereby amended to read as follows:

"In no event shall the total amount paid for services rendered by Consultant under this Agreement exceed the sum of **Seventy-One Thousand Five-Hundred Fifty-Two Dollars and Zero Cents (\$71,552.00)**. This amount is to cover all printing and related costs, and the City will not pay any additional fees for printing expenses. Periodic payments shall be made within thirty (30) days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis

2. Section 5 Time of Performance is hereby amended to read as follows:

"The term of this Agreement shall be from **February 12, 2021 to September 25, 2022**, unless earlier terminated as provided herein. The City reserves the right to review the Contractor's performance at the end of each year and cancel all or part of the Agreement. Specific milestones for performance are included in the "Activity Schedule" attached as Exhibit C (Revised September 2021).

3. Exhibit A is hereby deleted and replaced in its entirety by Exhibit A – Scope of Services (Revised September 2021), attached hereto and incorporated herein by this reference.

4. Exhibit B is hereby deleted and replaced in its entirety by Exhibit B – Schedule of Charges/Payments (Revised September 2021), attached hereto and incorporated herein by this reference.
5. Exhibit C is hereby deleted and replaced in its entirety by Exhibit C – Activity (Revised September 2021), attached hereto and incorporated herein by this reference.
6. All other provisions of the Agreement not amended by this Amendment No. 1 shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Amendment No. 1 as of the date first written above.

**SIGNATURE PAGE TO AMENDMENT NO. 1
TO PROFESSIONAL SERVICES AGREEMENT
WITH
WEHOPE INC.
FOR
MOBILE SHOWER, LAUNDRY, AND CASE MANAGEMENT SERVICES FOR
UNHOUSED RESIDENTS**

CITY OF MILPITAS

Approved By:

DocuSigned by:

Ashwini Kantak

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Steven G. McHarris, City Manager

oct-04-2021

Date

Approved As To Form:

DocuSigned by:

Christopher J. Diaz

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Christopher J. Diaz, City Attorney

Approved:

DocuSigned by:

Lauren Lai

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Lauren Lai, CPA, MPA

Risk Manager/Director of Finance

Approved as to Content:

DocuSigned by:

Sharon Goel

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Sharon Goel

Director of Building Safety and Housing

WEHOPE INC.

DocuSigned by:

TJ Clark

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Signature

TJ Clark

Name

Director of Mobile Homeless Services

Title

Sep-23-2021

Date

EXHIBIT A**Scope of Services (Revised September 2021)**Description of the Project:

WeHOPE Inc. will implement Dignity on Wheels to provide mobile shower, laundry, and case management services to homeless and unsheltered persons in Milpitas. Operating one day per calendar week at a single site in Milpitas, WeHOPE Inc. will provide drop-in shower services for up to forty-two (42) clients and drop-in laundry services of up to sixteen (16) single loads of laundry per four-hour session. Each session will consist of one six-hour session in either the morning or afternoon hours. Clients will be served for four hours during each session as there will be two hours dedicated for set-up and shutdown.

Clients requesting a shower will receive a provisional towel and bathmat, which must be returned after use. Shower clients will be offered hygiene kits, which may include socks, toothbrush, toothpaste, deodorant, lotion, mouthwash or other grooming items. Clients who are also requesting laundry service will be offered a pair of sweatpants and t-shirt as needed, which should be returned. Clients will have the opportunity to meet with WeHOPE staff to assess unmet needs and access community resources.

WeHOPE staff will manage the Dignity on Wheels service and oversee the following:

- a. Formulating goals and objectives,
- b. Establishing personnel policies,
- c. Overseeing the daily operation of each Dignity on Wheels' event, including without limiting, facility usage, and
- d. Respectfully directing all staff and volunteers working at a Dignity on Wheels event, including those staff and/or volunteers of the host site.

Activity #1: Provide shower services to homeless individuals

WeHOPE will provide access to hot water showers to homeless individuals. Clients are provided 15 minutes in the shower room, with seven minutes of shower time. Towels, hygiene kits, flip flops, and a change of clothes will be provided as needed.

Activity #2: Provide laundry services to homeless individuals

WeHOPE will provide laundry services to homeless individuals. WeHOPE will provide client with laundry bag, which clients fill and return to WeHOPE staff. Staff will launder the clothing and return it to the client. A change of clothes will be provided as needed.

Activity #3: Provide community resources and referrals to homeless individuals

WeHOPE will provide community resources and referrals to homeless individuals who desire to be connected to services and case management. WeHOPE will provide clients who are not already connected with individualized support to connect them with resources they need.

Program Support from City Staff:

CITY will identify an appropriate location, promote the program, coordinate the service with Santa Clara County unhoused outreach and assessment efforts, communicate regularly with WeHOPE Inc. staff, review reports provided by WeHOPE, process payments, and be on call during the session to ensure proper access to water, sewer, and electric utilities.

Reporting:

Project objectives and outcomes will be measured on a quarterly basis as detailed in Exhibit C.

Additional Provisions:

WeHOPE will enter data into Homeless Management Information System (HMIS) only for clients working individually with WeHOPE staff (specifically providing clients with community resources and referrals).

EXHIBIT B**Schedule of Charges/Payments (Revised September 2021)**

Consultant will invoice City on a monthly cycle. Consultant will include with each invoice a detailed progress report that indicates the amount of budget spent on each task. Consultant will inform City regarding any out-of-scope work being performed by Consultant.

CITY will provide a one-time payment at the start of the agreement in the amount of Ten Thousand Six Hundred Eighty-Six Dollars and Zero Cents (\$10,686.00) to cover expenses for thirteen (13) sessions (approximately three months). Within fifteen (15) days from the end of each month during the term of this AGREEMENT, WeHOPE will submit backup documentation for costs incurred in the prior month. Upon receipt of complete backup documentation, CITY will provide funds for the next month's expenditures. WeHOPE will report expenditures to the CITY as part of its quarterly and annual reports outlined in Exhibit C.

EXHIBIT C**Activity Schedule (Revised September 2021)**

Project objectives and outcomes will be measured on a quarterly basis and should include, at a minimum, the following:

- Number of sessions provided per quarter.
- Number of showers provided each session.
- Number of laundry loads provided each session.
- Number of total unduplicated clients served to date.
- Number of clients who utilized DOW referral services.

Consultant will submit a Quarterly Performance Report for the following periods:

Report No. 1: Ninety (90) days after the first session

Report No. 2: Additional reports to follow quarterly

Activities and outputs will be tracked and reported quarterly to the City's Project Manager. Quarterly Performance Reports are due by Consultant ten (10) business days at the conclusion of each quarter. An annual performance report will be due at the end of one year or the completion of fifty-two (52) sessions (whichever comes first) and upon the end of the Agreement term.



**AGREEMENT FOR CONTINUATION OF PROFESSIONAL
SERVICES AGREEMENT BETWEEN THE CITY OF MILPITAS
AND WEHOPE INC**

This Agreement is entered into as of Jan-20-2023, (Effective Date) by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "City") and **WeHope, Inc.**, a non-profit corporation (hereafter referred to as "Contractor"). City and Contractor are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

RECITALS

WHEREAS, on February 12, 2021, the Parties entered into a Professional Services Agreement for Mobile Shower, Laundry, and Case Management services (the "Original Agreement") allowing for a maximum compensation amount of \$21,372.00, and for a term period of February 12, 2021, until twenty-six sessions have been provided. A true and correct copy of Original Agreement is attached to this Agreement as Exhibit 1 and incorporated by therein reference.

WHEREAS, on September 24, 2021, the Parties entered into Amendment No. 1 (the "First Amendment") to the Original Agreement extending the contract term to September 25, 2022, and increasing the not-to-exceed amount by \$50,180.00, and replacing Exhibits A, B and C while leaving all other provisions of the Original Agreement in full force and effect. A true and correct copy of the First Amendment is attached to this Agreement as Exhibit 2 and is incorporated therein by reference; and

WHEREAS, on September 25, 2022 the Original Agreement as amended expired; and

WHEREAS, the Parties now wish to continue their contractual relationship on the same terms and conditions as set forth in the Original Agreement as amended by the First Amendment with the exception of the term of the agreement, which the parties wish to be from February 12, 2021 to June 30, 2023 and an increase in compensation of \$15,000.00.

NOW THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties agree to amend the Agreement as follows:

1. The Parties hereby enter into an agreement on the same terms and conditions as those previously negotiated in the Original Agreement (collectively with amendments, the "Amended Agreement") as amended by the subsequent amendments with the exceptions stated herein.
2. Section 2 Compensation paragraph "b" is hereby amended to read as follows:

"In no event shall the total amount paid for services rendered by Consultant under this Agreement exceed the sum of **Eighty-Six Thousand Five Hundred Fifty-Two Dollars and Zero Cents (\$86,552.00)**. This amount is to cover all printing and related costs, and the City will not

pay any additional fees for printing expenses. Periodic payments shall be made within thirty days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis.

Section 5. Term of Performance is hereby amended to read as follows: "Consultant shall perform its service in prompt and timely manner and shall commence performance upon the effective date. Consultant shall complete the services required hereunder by June 30, 2023"

3. The Parties hereby affirm that work complete between September 26, 2022 and Effective Date (the "Interim Period") as work performed under this Agreement. All terms of conditions of this Agreement shall apply to work done in the Interim Period, including, but not limited to payment provisions, indemnity provisions, and warranties.
4. All other provisions of the Amended Agreement shall be put in full force and effect upon the execution of this Agreement.

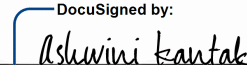
**SIGNATURE PAGE FOR AGREEMENT FOR CONTINUATION
BETWEEN THE CITY OF MILPITAS
AND WEHOPE INC**

APPROVED BY:

CITY OF MILPITAS

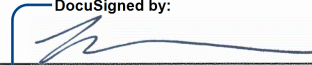
WEHOPE INC

Approved By:

DocuSigned by:

Steven G. McHarris, City Manager

Jan-20-2023
Effective Date

Approved As To Form:

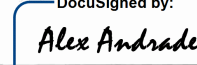
DocuSigned by:

Michael Mitalipassi, City Attorney

Approved As To Scope:

DocuSigned by:

Lauren Lai, CPA, MPA
Finance Director / Risk Manager

Approved As To Content:

DocuSigned by:

Alex Andrade, Director of Economic
Development


Signature


Name


Title


Date

EXHIBIT 1

[Original Agreement on Following Page]

**CITY OF MILPITAS
PROFESSIONAL SERVICES AGREEMENT**

This Agreement is made and entered into as of February 12, 2021 ("Effective Date") by and between the City of Milpitas, a municipal corporation organized and operating under the laws of the State of California with its principal place of business at 455 E. Calaveras Boulevard, Milpitas, California 95035 ("City"), and WeHOPE Inc., a non-profit corporation with its principal place of business at 1854 Bay Road, East Palo Alto, CA 94303 (hereinafter referred to as "Consultant"). City and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

RECITALS

A. City is a public agency of the State of California and is in need of professional services for the following project:

Mobile shower, laundry, and case management services for unhoused residents (hereinafter referred to as "the Project").

B. Consultant is duly licensed and has the necessary qualifications to provide such services.

C. The Parties desire by this Agreement to establish the terms for City to retain Consultant to provide the services described herein.

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Services.

Consultant shall provide the City with the services described in the Scope of Services attached hereto as Exhibit A.

2. Compensation.

a. Subject to paragraph 2(b) below, the City shall pay for such services in accordance with the Schedule of Charges set forth in Exhibit B.

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement exceed the sum of **\$21,372**. This amount is to cover all printing and related costs, and the City will not pay any additional fees for printing expenses. Periodic payments shall be made within thirty (30) days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis.

3. Additional Work.

If changes in the work seem merited by Consultant or the City, and informal consultations with the other party indicate that a change is warranted, it shall be processed in the following manner: a letter outlining the changes shall be forwarded to the City by Consultant with a statement of estimated changes in fee or time schedule. An amendment to this Agreement shall be prepared by the City and executed by both Parties before performance of such services, or the City will not be required to pay for the changes in

the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

4. Maintenance of Records.

Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Consultant and made available at all reasonable times during the Agreement term and for four (4) years from the date of final payment under the Agreement for inspection by City.

5. Time of Performance.

The term of this Agreement shall begin on the **“Effective Date”** and **run until twenty-six sessions have been provided** unless terminated earlier as provided herein. The City reserves the right to review the Consultant’s performance after three months and cancel all or part of the Agreement. Specific milestones for performance are included in the “Activity Schedule” attached as Exhibit C.

6. Delays in Performance.

a. Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.

b. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

7. Compliance with Law.

a. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government, including Cal/OSHA requirements.

b. If required, Consultant shall assist the City, as requested, in obtaining and maintaining all permits required of Consultant by federal, state and local regulatory agencies.

c. If applicable, Consultant is responsible for all costs of clean up and/ or removal of hazardous and toxic substances spilled as a result of his or her services or operations performed under this Agreement.

8. Standard of Care

Consultant’s services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

9. Assignment and Subconsultant

Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the City, which may be withheld for any reason. Any attempt to

so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. Nothing contained herein shall prevent Consultant from employing independent associates, and subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

10. Independent Consultant

Consultant is retained as an independent contractor and is not an employee of City. No employee or agent of Consultant shall become an employee of City. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from City as herein provided.

11. Insurance. Consultant shall not commence work for the City until it has provided evidence satisfactory to the City it has secured all insurance required under Exhibit D (Insurance Requirements), attached hereto and incorporated herein by this reference. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required therein.

12. Indemnification.

a. To the fullest extent permitted by law, Consultant shall defend (with counsel of City's choosing), indemnify and hold the City, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services, the Project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the City, its officials, officers, employees, agents, or volunteers.

b. If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance of "design professional" services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

13. California Labor Code Requirements.

a. Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). If the services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is One Thousand Dollars and Zero Cents (\$1,000.00) or more, Consultant agrees to fully comply with such Prevailing Wage Laws. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code

Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

b. If the services are being performed as part of an applicable “public works” or “maintenance” project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

c. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant’s sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor that affect Consultant’s performance of services, including any delay, shall be Consultant’s sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the City. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor.

14. Verification of Employment Eligibility.

By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and sub-subconsultants to comply with the same.

15. City Material Requirements.

[RESERVED]

16. Laws and Venue.

This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of Santa Clara, State of California.

17 Termination or Abandonment

a. City has the right to terminate or abandon any portion or all of the work under this Agreement by giving ten (10) calendar days written notice to Consultant. In such event, City shall be immediately given title and possession to all original field notes, drawings and specifications, written reports and other documents produced or developed for that portion of the work completed and/or being abandoned. City shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for

which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by City and Consultant of the portion of such task completed but not paid prior to said termination. City shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services, and shall not be entitled to damages or compensation for termination of work.

b. Consultant may terminate its obligation to provide further services under this Agreement upon thirty (30) calendar days' written notice to City only in the event of substantial failure by City to perform in accordance with the terms of this Agreement through no fault of Consultant.

c. The Consultant understands and accepts that at all times; the Agreement is subject to appropriation of funds by the Milpitas City Council. The Agreement may terminate without penalty, liability or expense of any kind to the City at the end of Agreement term. The City has no obligation to make appropriations for the Agreement in lieu of appropriations for new or other contracts. City budget decisions are subject to the discretion of the Mayor and City Council. Consultant's assumption of risk of possible non-appropriation is a part of the consideration for the Agreement. This section controls against any and all other provisions of the Agreement.

18. Documents. Except as otherwise provided in "Termination or Abandonment," above, all original field notes, written reports, Drawings and Specifications and other documents, produced or developed for the Project shall, upon payment in full for the services described in this Agreement, be furnished to and become the property of the City.

19. Organization

Consultant shall assign Anita Blount as Project Manager. The Project Manager shall not be removed from the Project or reassigned without the prior written consent of the City.

20. Limitation of Agreement.

This Agreement is limited to and includes only the work included in the Project described above.

21. Notice

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

CITY:

City of Milpitas

455 E. Calaveras Boulevard

Milpitas, California 95035

Attn: Robert Musallam

CONSULTANT:

WeHOPE Inc.

1854 Bay Road

East Palo Alto, CA 94303

Attn: Thomas J. Clark, Jr.

and shall be effective upon receipt thereof.

22. Third Party Rights

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and the Consultant.

23. Equal Opportunity Employment.

Consultant represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

24. Entire Agreement

This Agreement, with its exhibits, represents the entire understanding of City and Consultant as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This Agreement may not be modified or altered except in writing signed by both Parties hereto. This is an integrated Agreement.

25. Severability

The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the provisions unenforceable, invalid or illegal.

26. Successors and Assigns

This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each party to this Agreement. However, Consultant shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of City. Any attempted assignment without such consent shall be invalid and void.

27. Non-Waiver

None of the provisions of this Agreement shall be considered waived by either party, unless such waiver is specifically specified in writing.

28. Time of Essence

Time is of the essence for each and every provision of this Agreement.

29. City's Right to Employ Other Consultants

City reserves its right to employ other consultants, including engineers, in connection with this Project or other projects.

30. Prohibited Interests

Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

31. Wage Theft Prevention

a. Consultant, and any subconsultant it employs to complete work under this Agreement, shall comply with all applicable federal, state and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act, the California Labor Code and the Milpitas Minimum Wage Ordinance.

b. BY SIGNING THIS AGREEMENT, CONSULTANT AFFIRMS THAT IT HAS DISCLOSED ANY FINAL JUDGMENTS, DECISIONS OR ORDERS FROM A COURT OR INVESTIGATORY GOVERNMENT AGENCY, FINDING IN THE FIVE (5) YEARS PRIOR TO EXECUTING THIS AGREEMENT THAT CONSULTANT OR ITS SUBCONSULTANTS HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. CONSULTANT FURTHER AFFIRMS THAT IT OR ITS SUBCONSULTANT(S) HAS EITHER FULLY SATISFIED EACH JUDGMENT, DECISION OR ORDER, OR, IF ANY JUDGMENT, DECISION OR ORDER HAS NOT BEEN FULLY SATISFIED, CONSULTANT AFFIRMS THAT IT OR ITS SUBCONSULTANT(S) IS CURRENTLY SATISFYING SAID JUDGMENT, DECISION OR ORDER THROUGH A PAYMENT OR ALTERNATIVE PLAN APPROVED BY THE APPLICABLE COURT/GOVERNMENT AGENCY AND THAT CONSULTANT OR ITS SUBCONSULTANT(S) ARE IN COMPLIANCE WITH SAID PLAN AS OF THE DATE OF EXECUTING THIS AGREEMENT.

c. If at any time during the term of this Agreement, a court or investigatory government agency issues a final judgment, decision or order finding that Consultant or a subconsultant it employs to perform work under this Agreement has violated any applicable wage and hour law, or Consultant learns of such a judgment, decision, or order that was not previously disclosed in its bid/proposal, Consultant shall inform the City no more than fifteen (15) calendar days after the judgment, decision or order becomes final or from the date of learning of the final judgment, decision or order. Consultant or its subconsultant(s) shall, within thirty (30) calendar days after notifying the City, either (i) fully satisfy any such judgment, decision, or order and provide the City with documentary evidence of satisfying said judgment, decision or order; or (ii) provide the City documentary evidence of a payment or other alternative plan approved by the court/government agency to satisfy the judgment, decision or order. If the Consultant or its subconsultant is subject to a payment or other alternative plan, the Consultant or its subconsultant shall continue to submit documentary evidence every thirty (30) calendar days during the term of the Agreement demonstrating continued compliance with the plan until the judgment, decision or order has been fully satisfied.

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

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

f. Notice provided to the City shall be addressed to: Attention: Finance Director, 455 E. Calaveras Blvd. Milpitas, CA 95035. The Notice provisions of this Section are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section.

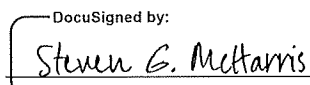
[SIGNATURES ON FOLLOWING PAGE]

**SIGNATURE PAGE FOR PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF MILPITAS
AND WEHOPE INC.**

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

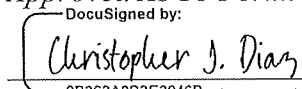
CITY OF MILPITAS

Approved By:

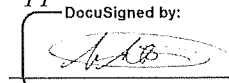
DocuSigned by:

Steven G. McHarris, City Manager
Feb-16-2021

Date

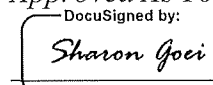
Approved As To Form:

DocuSigned by:

Christopher J. Diaz, City Attorney

Approved:

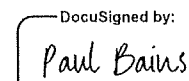
DocuSigned by:

Walter C. Rossmann, Risk Manager/Director
of Finance

Approved As To Content:

DocuSigned by:

C0141B45B9414BE...

Sharon Goei, Director of Building Safety and
Housing

WeHOPE Inc.

DocuSigned by:

Signature
Paul Bains

Name

President

Title

Feb-10-2021

Date

DIR Registration Number (If Applicable)

EXHIBIT A**Scope of Services**Description of the Project:

WeHOPE Inc. will implement Dignity on Wheels to provide mobile shower, laundry, and case management services to homeless and unsheltered persons in Milpitas. Operating one day per week at a single site in Milpitas, WeHOPE Inc. will provide drop-in shower services for up to 42 clients and drop-in laundry services of up to 16 single loads of laundry per four-hour session. WeHOPE Inc. commits to provide twenty-six sessions under this agreement. Each session will consist of one six-hour session in either the morning or afternoon hours. Clients will be served for four hours during each session as there will be two hours dedicated for set-up and shut-down.

Clients requesting a shower will receive a provisional towel and bathmat, which must be returned after use. Shower clients will be offered hygiene kits, which may include socks, toothbrush, toothpaste, deodorant, lotion, mouthwash or other grooming items. Clients who are also requesting laundry service will be offered a pair of sweatpants and t-shirt as needed, which should be returned. Clients will have the opportunity to meet with WeHOPE staff to assess unmet needs and access community resources.

WeHOPE staff will manage the Dignity on Wheels service and oversee the following:

- a. Formulating goals and objectives,
- b. Establishing personnel policies,
- c. Overseeing the daily operation of each Dignity on Wheels' event, including without limiting, facility usage, and
- d. Respectfully directing all staff and volunteers working at a Dignity on Wheels event, including those staff and/or volunteers of the host site.

Activity #1: Provide shower services to homeless individuals

WeHOPE will provide access to hot water showers to homeless individuals. Clients are provided 15 minutes in the shower room, with seven minutes of shower time. Towels, hygiene kits, flip flops, and a change of clothes will be provided as needed.

Activity #2: Provide laundry services to homeless individuals

WeHOPE will provide laundry services to homeless individuals. WeHOPE will provide client with laundry bag, which clients fill and return to WeHOPE staff. Staff will launder the clothing and return it to the client. A change of clothes will be provided as needed.

Activity #3: Provide community resources and referrals to homeless individuals

WeHOPE will provide community resources and referrals to homeless individuals who desire to be connected to services and case management. WeHOPE will provide clients who are not already connected with individualized support to connect them with resources they need.

Program Support from City Staff:

CITY will identify an appropriate location, promote the program, coordinate the service with Santa Clara County unhoused outreach and assessment efforts, communicate regularly with WeHOPE Inc. staff, review reports provided by WeHOPE, process payments, and be on call during the session to ensure proper access to water, sewer, and electric utilities.

Cost Reimbursement:

CITY will provide a one-time payment at the start of the contract in the amount of \$10,686 to cover expenses for thirteen sessions (approximately three months). Within 15 days from the end of each month during the term of this AGREEMENT, WeHOPE will submit backup documentation for costs incurred in the prior month. Upon receipt of complete backup documentation, CITY will provide funds for the next month's expenditures. WeHOPE will report expenditures to the CITY, under provisions as set forth in Exhibit B.

Reporting:

Project objectives and outcomes will be measured on a quarterly basis as detailed in Exhibit C.

Additional Provisions:

WeHOPE will enter data into Homeless Management Information System (HMIS) only for clients working individually with WeHOPE staff (specifically providing clients with community resources and referrals).

EXHIBIT B

Schedule of Charges/Payments

Consultant will invoice City on a monthly cycle. Consultant will include with each invoice a detailed progress report that indicates the amount of budget spent on each task. Consultant will inform City regarding any out-of-scope work being performed by Consultant. This is a time-and-materials Agreement.

EXHIBIT C

Activity Schedule

Project objectives and outcomes will be measured on a quarterly basis and should include, at a minimum, the following:

- Number of sessions provided per quarter.
- Number of showers provided each session.
- Number of laundry loads provided each session.
- Number of total unduplicated clients served to date.
- Number of clients who utilized DOW referral services.

Consultant will submit a Quarterly Performance Report for the following periods:

Report #1: 90 days after the first session

Report #2: Additional reports to follow quarterly

If the contract is extended, activities and outputs will be tracked and reported quarterly.

Quarterly Performance Reports are due by Consultant 10 business days at the conclusion of each quarter. If the contract is extended beyond the initial 6-month term, an annual performance report will be due at the end of one year or the end of the contract term, whichever comes first.

EXHIBIT "D"

INSURANCE REQUIREMENTS

Please refer to the insurance requirements listed below. **Those that have an "X" indicated in the space before the requirement apply to Contractor's or Consultant's Agreement.**

Contractor or Consultant shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor or Consultant, its agents, representatives, employees or subcontractors.

Contractor or Consultant shall provide its insurance broker(s)/agent(s) with a copy of these requirements and request that they provide Certificates of Insurance complete with copies of all required endorsements.

Contractor or Consultant shall furnish City with copies of original endorsements affecting coverage required by this Exhibit D. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements and certificates are to be received and approved by City before work commences. City has the right to require Contractor's or Consultant's insurer to provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

Commercial General Liability (CGL):

____ Coverage at least as broad as Insurance Services Office ("ISO") Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$2,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

X Coverage at least as broad as ISO Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$1,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

____ Coverage at least as broad as ISO Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$5,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

Automobile Liability:

____ Coverage at least as broad as ISO Form Number CA 0001 covering, Code 1 (any auto), of if Contractor or Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limits no less than \$1,000,000.00 combined single limit for bodily injury and property damage.

____ Coverage at least as broad as ISO Form Number CA 0001 covering, Code 1 (any auto), with limits no less than \$5,000,000.00 combined single limit for bodily injury and property damage.

____ Garage keepers' extra liability endorsement to extend coverage to all vehicles in the care, custody and control of the Contractor or Consultant, regardless of where the vehicles are kept or driven.

Professional Liability (Errors and Omissions):

____ Insurance appropriates to the Contractor or Consultant's profession, with limit no less than \$1,000,000.00 per occurrence or claim, \$2,000,000.00 aggregate.

____ (If Design/Build), with limits no less than \$1,000,000.00 per occurrence or claim, and \$2,000,000.00 policy aggregate.

____ Insurance appropriates to the Contractor or Consultant's profession, with limit no less than _____ per occurrence or claim, _____ aggregate

Workers' Compensation Insurance:

X Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000.00 per accident for bodily injury or disease. *(Not required if Contractor or Consultant provides written verification it has no employees)*

The Employer's Liability policy shall be endorsed to waive any right of subrogation as respects the City, its elected and appointed officials, officers, attorneys, agents, and employees.

Builder's Risk (Course of Construction):

____ Insurance utilizing an "All Risk" (Special Perils) coverage form, with limits equal to the completed value of the project and no coinsurance penalty provisions. If the project does not involve new or major reconstruction, at the option of the City, an Installation Floater may be acceptable. For such projects, a Property Installation Floater shall be obtained that provides for the improvement, remodel, modification, alteration, conversion or adjustment to existing buildings, structures, processes, machinery and equipment. The Property Installation Floater shall provide property damage coverage for any building, structure, machinery or equipment damaged, impaired, broken, or destroyed during the performance of the Work, including during transit, installation, and testing at the City's site.

Contractor's or Consultant's Pollution Legal Liability:

____ Contractor's or Consultant's pollution legal liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) with limits no less than \$1,000,000.00 per occurrence or claim and \$2,000,000.00 policy aggregate.

If the Contractor or Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Contractor or Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

Cyber Liability Insurance

____ Cyber Liability Insurance with limits not less than \$1,000,000 per claim.

Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor or Consultant in this Agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion, and network security.

The policy shall provide coverage for breach response costs as well as regulatory fines and penalties, and credit monitoring expenses with limits sufficient to respond to these obligations.

Surety Bonds:

Contractor shall provide the following Surety Bonds:

_____ Bid Bond
_____ Performance Bond
_____ Payment Bond

The Payment Bond and Performance Bond shall be in a sum equal to the contract price. Bonds shall be duly executed by a responsible corporate surety, authorized to issue such bonds in the State of California and secured through an authorized agent with an office in California.

Other Insurance Provisions:

The insurance policies are to contain, or be endorsed to contain the following provisions:

 X **Additional Insured Status and Primary/Non-Contributory Language:**

Contractor's general liability and automobile liability policies shall be primary and shall not seek contribution from the City's coverage and be endorsed to add the City and its officers, officials, employees, and agents as additional insureds under such policies using Insurance Services Office form CG 20 10 (or equivalent) on the general liability policy. For construction projects, an endorsement providing completed operations coverage for the additional insured on the general liability policy, ISO form CG 20 37 (or equivalent), is also required.

The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City (if agreed to in a written contract or agreement) before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

_____ **Loss Payee Status – Builder's Risk/Course of Construction Insurance (applicable to Construction Contracts only)**

Contractor or Consultant may submit evidence of Builder's Risk insurance in the form of Course of Construction coverage. Such coverage shall name the City as a loss payee as their interest may appear.

_____ **Notice of Cancellation, Suspension or Otherwise Voiding Policies:**

Each insurance policy required above shall contain or be endorsed to contain that coverage shall not be suspended, voided, canceled or reduced in coverage or in limits except with thirty (30) days' prior written notice by certified mail, return receipt requested to the City.

_____ **Waiver of Subrogation:**

Contractor or Consultant hereby grants to City a waiver of any right to subrogation which any insurer of said Contractor or Consultant may acquire against the City by virtue of the payment of any loss under such insurance. Contractor or Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer. The Workers' Compensation Policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by Contractor or Consultant, its employees, agents and subcontractors.

_____ **Completed Operations**

For Construction Agreements, Contractor shall maintain insurance as required by this Agreement to the fullest amount allowed by law and shall maintain insurance for a minimum of five (5) years following the completion of this project. In the event Contractor fails to obtain or maintain completed operations coverage as required by this Agreement, the City at its sole discretion may purchase the coverage required and the cost will be paid by Contractor.

THE FOLLOWING PROVISIONS APPLY TO ALL AGREEMENTS

Deductibles and Self-Insured Retentions ("SIR"):

Any deductibles or self-insured retentions must be declared to and approved by City. The City may require the Contractor or Consultant to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. At the option of the City, either (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its elected and appointed officials, officers, attorneys, agents, and employees; or (2) the Contractor or Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

All SIRs must be disclosed to Risk Management for approval and shall not reduce the limits of liability.

Policies containing any SIR provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the City.

City reserves the right to obtain a full-certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Acceptability of Insurers:

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-:VII, unless otherwise acceptable to City.

Claims Made Policies: (note - should be applicable only to professional liability, see below)

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor or Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.
4. A copy of the claims reporting requirements must be submitted to the City for review.
5. If the services involve lead-based paint or asbestos identification/remediation, the Contractor's Pollution Liability Policy shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification/remediation, the Contractors Pollution Liability Policy shall not contain a mold exclusion, and the definition of Pollution shall include microbial matter, including mold.

Subcontractors:

Contractor or Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City is an additional insured on insurance required from subcontractors.

Subcontractor agrees to be bound to Contractor and City in the same manner and to the same extent as Contractor is bound to City under this Agreement and any other contract documents. Subcontractor further agrees to include the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, with any sub-subcontractor to the extent they apply to the scope of the sub-subcontractor's work. A copy of the City indemnity and insurance provisions will be furnished to the subcontractor upon request.

Verification of Coverage:

Contractor or Consultant shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor or Consultant's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Special Risks or Circumstances

City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage or other special circumstances.

Failure to Comply:

Each insurance policy required above shall contain or be endorsed to contain that any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its elected and appointed officials, officers, attorneys, agents, and employees.

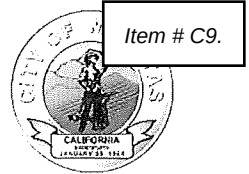
Applicability of Coverage:

Each insurance policy required above shall contain or be endorsed to contain that the Contractor's or Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

EXHIBIT 2

Item # C9.

[Amendment No. 1 on Following Page]



**AMENDMENT NO. 1
TO PROFESSIONAL SERVICES AGREEMENT
WITH
WEHOPE INC.
FOR**

**MOBILE SHOWER, LAUNDRY, AND CASE MANAGEMENT SERVICES FOR
UNHOUSED RESIDENTS**

This Amendment No. 1 is entered on September 24, 2021 (effective date), by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "City"), and **WeHOPE Inc.**, a non-profit corporation (hereafter referred to as "Consultant"). City and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Amendment No. 1.

RECITALS

WHEREAS, on February 12, 2021, the Parties entered into a Professional Services Agreement for Mobile Shower, Laundry, And Case Management Services For Unhoused Residents (the "Agreement") with a compensation amount not to exceed \$21,372.00, and a term period of February 12, 2021 to the completion of twenty-six sessions of services provided; and

WHEREAS, the Parties now desire to amend the Agreement by extending the term period expiration date to September 25, 2022 and increase the Agreement not-to-exceed amount by \$50,180.00 to allow for fifty-two additional sessions of services.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, the Parties agree to amend the Agreement as follows:

1. Section 2 Compensation paragraph "b" is hereby amended to read as follows:

"In no event shall the total amount paid for services rendered by Consultant under this Agreement exceed the sum of **Seventy- One Thousand Five- Hundred Fifty- Two Dollars and Zero Cents (\$71,552.00)**. This amount is to cover all printing and related costs, and the City will not pay any additional fees for printing expenses. Periodic payments shall be made within thirty (30) days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis

2. Section 5 Time of Performance is hereby amended to read as follows:

"The term of this Agreement shall be from **February 12, 2021 to September 25, 2022**, unless earlier terminated as provided herein. The City reserves the right to review the Contractor's performance at the end of each year and cancel all or part of the Agreement. Specific milestones for performance are included in the "Activity Schedule" attached as Exhibit C (Revised September 2021).

3. Exhibit A is hereby deleted and replaced in its entirety by Exhibit A – Scope of Services (Revised September 2021), attached hereto and incorporated herein by this reference.

4. Exhibit B is hereby deleted and replaced in its entirety by Exhibit B – Schedule of Charges/Payments (Revised September 2021), attached hereto and incorporated herein by this reference.
5. Exhibit C is hereby deleted and replaced in its entirety by Exhibit C – Activity (Revised September 2021), attached hereto and incorporated herein by this reference.
6. All other provisions of the Agreement not amended by this Amendment No. 1 shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Amendment No. 1 as of the date first written above.

**SIGNATURE PAGE TO AMENDMENT NO. 1
TO PROFESSIONAL SERVICES AGREEMENT
WITH
WEHOPE INC.
FOR**

**MOBILE SHOWER, LAUNDRY, AND CASE MANAGEMENT SERVICES FOR
UNHOUSED RESIDENTS**

CITY OF MILPITAS

Approved By:

Ashwini Kantak

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Steven G. McHarris, City Manager

oct-04-2021

Date

Approved As To Form:

DocuSigned by:

Christopher J. Diaz

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Christopher J. Diaz, City Attorney

Approved:

DocuSigned by:

Lauren Lai

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Lauren Lai, CPA, MPA

Risk Manager/Director of Finance

Approved as to Content:

DocuSigned by:

Sharon Goer

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Sharon Goer

Director of Building Safety and Housing

WEHOPE INC.

DocuSigned by:

TJ Clark

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Signature

TJ Clark

Name

Director of Mobile Homeless Services

Title

Sep-23-2021

Date

EXHIBIT A**Scope of Services (Revised September 2021)**Description of the Project:

WeHOPE Inc. will implement Dignity on Wheels to provide mobile shower, laundry, and case management services to homeless and unsheltered persons in Milpitas. Operating one day per calendar week at a single site in Milpitas, WeHOPE Inc. will provide drop-in shower services for up to forty-two (42) clients and drop-in laundry services of up to sixteen (16) single loads of laundry per four-hour session. Each session will consist of one six-hour session in either the morning or afternoon hours. Clients will be served for four hours during each session as there will be two hours dedicated for set-up and shutdown.

Clients requesting a shower will receive a provisional towel and bathmat, which must be returned after use. Shower clients will be offered hygiene kits, which may include socks, toothbrush, toothpaste, deodorant, lotion, mouthwash or other grooming items. Clients who are also requesting laundry service will be offered a pair of sweatpants and t-shirt as needed, which should be returned. Clients will have the opportunity to meet with WeHOPE staff to assess unmet needs and access community resources.

WeHOPE staff will manage the Dignity on Wheels service and oversee the following:

- a. Formulating goals and objectives,
- b. Establishing personnel policies,
- c. Overseeing the daily operation of each Dignity on Wheels' event, including without limiting, facility usage, and
- d. Respectfully directing all staff and volunteers working at a Dignity on Wheels event, including those staff and/or volunteers of the host site.

Activity #1: Provide shower services to homeless individuals

WeHOPE will provide access to hot water showers to homeless individuals. Clients are provided 15 minutes in the shower room, with seven minutes of shower time. Towels, hygiene kits, flip flops, and a change of clothes will be provided as needed.

Activity #2: Provide laundry services to homeless individuals

WeHOPE will provide laundry services to homeless individuals. WeHOPE will provide client with laundry bag, which clients fill and return to WeHOPE staff. Staff will launder the clothing and return it to the client. A change of clothes will be provided as needed.

Activity #3: Provide community resources and referrals to homeless individuals

WeHOPE will provide community resources and referrals to homeless individuals who desire to be connected to services and case management. WeHOPE will provide clients who are not already connected with individualized support to connect them with resources they need.

Program Support from City Staff:

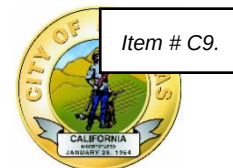
CITY will identify an appropriate location, promote the program, coordinate the service with Santa Clara County unhoused outreach and assessment efforts, communicate regularly with WeHOPE Inc. staff, review reports provided by WeHOPE, process payments, and be on call during the session to ensure proper access to water, sewer, and electric utilities.

Reporting:

Project objectives and outcomes will be measured on a quarterly basis as detailed in Exhibit C.

Additional Provisions:

WeHOPE will enter data into Homeless Management Information System (HMIS) only for clients working individually with WeHOPE staff (specifically providing clients with community resources and referrals).



**AMENDMENT NO. 3
TO PROFESSIONAL SERVICES AGREEMENT
WITH
WEHOPE INC.
FOR
MOBILE SHOWER, LAUNDRY, AND CASE MANAGEMENT SERVICES FOR
UNHOUSED RESIDENTS**

This Amendment No. 3 is entered on April 1, 2023 (effective date), by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "City"), and **WeHOPE Inc.**, a non-profit corporation (hereafter referred to as "Consultant"). City and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Amendment No. 3.

RECITALS

WHEREAS, on February 12, 2021, the Parties entered into a Professional Services Agreement for Mobile Shower, Laundry, And Case Management Services for Unhoused Residents (the "Agreement") with a compensation amount not to exceed \$21,372.00, and a term period of February 12, 2021 to the completion of twenty-six sessions of services provided; and

WHEREAS, on September 24, 2021, the Parties amended the Agreement by extending the term period expiration date to September 25, 2022 and increased the Agreement not-to-exceed amount by \$50,180.00 to allow for fifty-two additional sessions of services; and

WHEREAS, on September 26, 2022, the Parties amended the Agreement by extending the term period expiration date to June 30, 2023 and increased the Agreement not-to-exceed amount by \$15,000.00 of which \$4,072 is to allow for five additional sessions of services and \$10,928 is to allow for contingencies and any potential changes to the location of services; and

WHEREAS, the Parties now desire to amend the Agreement by increasing the not-to-exceed amount by \$10,000 of which \$5,993 is to allow for eight additional sessions and \$4,007 is to allow for contingencies and any potential changes to the location of services.

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, the Parties agree to amend the Agreement as follows:

1. Section 2 Compensation paragraph "b" is hereby amended to read as follows:

"In no event shall the total amount paid for services rendered by Consultant under this Agreement exceed the sum of **Ninety-Six Thousand Five-Hundred Fifty-Two Dollars and Zero Cents (\$96,552.00)**. This amount is to cover all printing and related costs, and the City will not pay any additional fees for printing expenses. Periodic payments shall be made within thirty (30) days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis

2. All other provisions of the Agreement, Amendment No. 1, and Amendment No. 2 not amended by this Amendment No. 3 shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Amendment No. 3 as of the date first written above.

**SIGNATURE PAGE TO AMENDMENT NO. 3
TO PROFESSIONAL SERVICES AGREEMENT
WITH
WEHOPE INC.
FOR
MOBILE SHOWER, LAUNDRY, AND CASE MANAGEMENT SERVICES FOR
UNHOUSED RESIDENTS**

CITY OF MILPITAS*Approved By:*_____
Steven G. McHarris, City Manager_____
Date*Approved As To Form:*_____
Michael Mutalipassi, City Attorney*Approved:*_____
Lauren Lai, CPA, MPA
Risk Manager/Director of Finance*Approved as to Content:*_____
Alex Andrade
Economic Development Director**WEHOPE INC.**_____
Signature_____
Name_____
Title_____
Date



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Receive the 2022 General Plan Annual Progress Report and Authorize Submittal of the Report to the Governor's Office of Planning and Research (OPR) (Staff Contact: Ned Thomas, Planning Director, 408-586-3273; and Jay Lee, Principal Planner, 408-586-3077)
Category:	Consent Calendar-Community Development
Meeting Date:	4/4/2023
	<u>Recommendation:</u> Receive the 2022 General Plan Annual Progress Report and authorize the submittal of the report to the Governor's Office of Planning and Research (OPR).

Background:

California Government Code Section 65400 mandates that all cities and counties submit an annual report on the status and progress on implementation of their General Plan, including the Housing Element, to their legislative bodies, the Governor's Office of Planning and Research (OPR), and the Housing and Community Development (HCD) by April 1 of each year. The intent of this statute is to ensure that the General Plan directs land use decisions and remains an effective guide for the long-term physical development of a community. It also provides local jurisdictions a tool to assess its effectiveness in implementing its General Plan.

Staff requests that the City Council receive the 2022 General Plan Annual Progress Report (Attachment A) and authorize the submittal of the report to OPR.

Analysis:

The following information provides a brief summary of the 2040 General Plan and the City's General Plan implementation highlights for calendar year 2022.

2040 General Plan

City Council adopted the 2040 General Plan on February 23, 2021. The 2040 General Plan, which establishes a new planning horizon of 2040, provides updated goals, policies, and implementation actions and addresses new planning issues such as air quality and energy, community design, and economic and fiscal sustainability. Future development projects consistent with the General Plan Update will be eligible for California Environmental Quality Act (CEQA) streamlining through the Programmatic Environmental Impact Report (EIR). The General Plan Update also includes a detailed implementation plan, which provides the responsible department, priority, and timing for all implementation actions. The City will review implementation of the General Plan on an annual basis, amend the General Plan as necessary, and update the City's Zoning Ordinance and planning documents to ensure consistency with the General Plan.

The 2022 General Plan Annual Progress Report (APR) highlights the City's progress toward implementation of the 2040 General Plan.

General Plan Implementation Highlights

The 2022 General Plan APR (Attachment A) provides the General Plan implementation highlights by element. The City's key efforts to implement the goals and policies of the General Plan include but are not limited to comprehensive master plan updates and capital improvement projects.

The City completed, initiated, or continued updates to the following policies and comprehensive master plans:

- Milpitas Metro Specific Plan (formerly the Transit Area Specific Plan) – Adopted February 2023
- 2023-2031 Housing Element – Adopted January 2023

- Objective Design Standards for Residential and Mixed-Use Developments – Adopted November 2022
- Climate Action Plan (CAP) Update – Adopted August 2022
- Sewer Master Plan Update – Adopted August 2022
- Water Master Plan Update – Adopted August 2022
- Build Business by Symbium – Launched June 2022
- Trail, Pedestrian, and Bicycle Master Plan – Adopted May 2022
- Comprehensive Zoning Ordinance Update – In progress
- Gateway/Main St. Specific Plan (formerly the Midtown Specific Plan) – In progress
- Housing Opportunity Zones – In progress
- Retail Tobacco Licensing Program – In progress

The City also designed or constructed capital improvements to transportation infrastructure, public utility systems, and public facilities. Refer to the 2022 General Plan APR (Attachment A) for a detailed description of each implementation activity.

Policy Alternative:

Alternative 1: Do not authorize the submittal of the General Plan APR to OPR.

Pros: None.

Cons: The City would not be in compliance with Government Code Section 65400, which mandates all cities to submit an annual report on the status and progress on implementation of their General Plan to OPR each year.

Reasons not recommended: The General Plan APR assists OPR in identifying statewide trends in land use decision-making and informs modifications to OPR's *General Plan Guidelines*. Failure to submit the General Plan APR to OPR would limit OPR's ability to consider local planning and development activities in refining statewide planning goals and policies.

Fiscal Impact:

Preparation of the General Plan Annual Progress Report and submittal of the report to HCD will result in no fiscal impact to the City.

Environmental Review:

The action being considered is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

Recommendation:

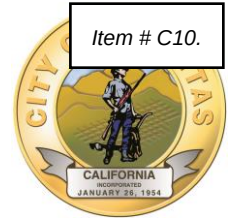
Receive the 2022 General Plan Annual Progress Report and authorize submittal of the report to the Governor's Office of Planning and Research (OPR).

Attachment:

A. 2022 General Plan Annual Progress Report

MEMORANDUM

Planning Department



DATE: April 1, 2023

TO: Governor's Office of Planning and Research

THROUGH: Steven G. McHarris, City Manager

FROM: Jay Lee, Principal Planner

SUBJECT: 2022 General Plan Annual Progress Report

Background

The City of Milpitas completed a comprehensive update of its General Plan, which was adopted by the Milpitas City Council on February 23, 2021. The General Plan Update, which establishes a new planning horizon of 2040, provides updated goals, policies, and implementation actions and addresses new planning issues such as air quality and energy, community design, and economic and fiscal sustainability.

Future development projects consistent with the General Plan Update will be eligible for CEQA streamlining through the Programmatic EIR. The General Plan Update also includes a detailed implementation plan, which provides the responsible department, priority, and timing for all implementation actions. The City will review implementation of the General Plan on an annual basis, amend the General Plan as necessary, and update the City's Zoning Ordinance and planning documents to ensure consistency with the General Plan.

Government Code Section 65400 mandates that all cities and counties submit an annual report on the status of the General Plan and progress in its implementation to their legislative bodies, the Governor's Office of Planning and Research (OPR), and the Housing and Community Development (HCD) by April 1 of each year. The intent of this statute is to ensure that the General Plan directs land use decisions and remains an effective guide for the long-term physical development of a community. It also provides local jurisdictions a tool to assess their effectiveness in implementing the Plan's long-term vision.

This report highlights the City's progress toward implementation of the 2040 General Plan. On March 21, 2023, staff shared this report to City Council, which authorized the submittal of the report to HCD.

Implementation Highlights by General Plan Element

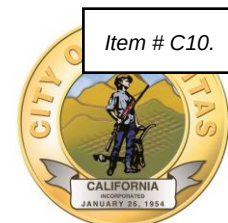
Below is the City's annual progress toward implementation of the previous General Plan by element.

Land Use Element

- **Metro Specific Plan:** The City adopted the Milpitas Metro Specific Plan, which is a comprehensive update of the Transit Area Specific Plan (TASP), on February 7, 2023. The TASP was renamed the "Milpitas Metro Specific Plan" (Metro Plan) to reflect new boundaries and focused attention on strategic redevelopment sites, circulation, and access. The Metro Plan area is concentrated around the new Milpitas Transit Center, which includes Bay Area Rapid Transit (BART) and Santa Clara Valley Transportation Agency (VTA) Light Rail and bus stations. The area has enjoyed significant residential development in the recovery from the Great Recession of 2008. Of the 7,109 potential dwelling units approved in the original 2008 Plan, over 6,900 units have been entitled, constructed, occupied, or are currently within the entitlement process. However, only a small amount of the proposed commercial space is entitled or under construction to date, and there are nearly 170 acres within the area that have not been redeveloped. The Metro Plan leverages these development opportunities to reinforce the

MEMORANDUM

Planning Department



2008 TASP's vision for a high-density urban neighborhood with a mix of land uses around the Transit Center. The Metro Plan also enhances pedestrian and bicycle access throughout the MMSP area to complement these high-density mixed-use neighborhoods. **Policy LU 2-1 and Action LU-2a**

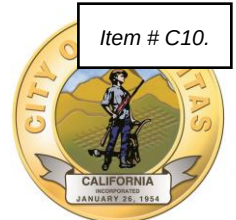
- **Gateway/Main Street Specific Plan:** The City is currently updating the Midtown Specific Plan, which was adopted by the City Council in March 2002 and amended in November 2010. The Midtown Specific Plan will be renamed the "Milpitas Gateway/Main St. Specific Plan" (Gateway Plan) to reflect new boundaries and a new strategic focus on key redevelopment areas. The Gateway Plan area, which contains the original commercial and industrial core of the City, has undergone significant changes related to its growing role as a housing and employment center. Development activity over the past several years has included approval or construction of 1,200 multi-family residential units, reinvestment and upgrades to the Great Mall, and extension of VTA's Tasman East Light Rail Transit (LRT) line. However, several vacant and underutilized sites remain within the Gateway Plan area and there is significant potential for development and redevelopment. The Gateway Plan will provide policies and guidelines and identify improvements to streetscapes, infrastructure, and public open spaces to facilitate this area's transition into an attractive and economically vital district with a compatible mixture of residential, retail, office, and service-oriented commercial uses served by a viable multi-model transportation network. **Policy LU 2-1 and Action LU-2a**
- **Comprehensive Zoning Ordinance Update:** The City's Zoning Ordinance is one of the primary implementation tools for the Land Use Element goals and policies. A Zoning Map, consistent with the General Plan Land Use Map, is also part of the Zoning Ordinance. Together, the Zoning Ordinance and Zoning Map are used to identify the specific types of use, intensity, and development standards applicable to given parcels or areas of land. However, the current Zoning Ordinance was originally adopted in 1955 and last updated in 2008. Therefore, the City initiated the Comprehensive Zoning Ordinance Update in early 2023 to modernize the Zoning Ordinance, ensure consistency with the recently adopted 2040 General Plan, and implement land use changes from the City's specific plan updates. **Policies LU 5-1, 5-2, 5-3, 5-4, 5-5, 5-6, and 5-7 and Actions LU-1d, LU-5a, LU-5b, and LU-5c**

Circulation Element

- **Trail, Pedestrian, and Bicycle Master Plan:** The City adopted the Trail, Pedestrian, and Bicycle Master Plan, which is an update of the Trails and Bikeway Master Plans, on May 17, 2023. The Trails and Bikeway Master Plans were originally adopted by City Council in June 1997 and June 2009 respectively. The Trail, Pedestrian, and Bicycle Master Plan identifies gaps in the trail, pedestrian, and bicycle networks and provides recommendations to expand existing networks, increase safety and accessibility for all users, support economic development, and enhance the quality of life for area residents. The Trail, Pedestrian, and Bicycle Master Plan also evaluates bicycle/scooter share programs, identifies priorities, and recommends improvements. **Policies CIR 2-1, 4-1, 4-2, 4-3, 4-4, 4-5, 4-6, 4-7, 4-8, 4-9, and 4-10 and Actions CIR-4a, CIR-4b, CIR-4c, CIR-4g, CIR-4h, and CIR-4i**
- **Development Review and Traffic Impact Fees:** As part of its development review process, the City requires private development projects to implement traffic mitigation measures to address potential impacts and deficiencies created by the project and identified in the transportation impact analysis. Required mitigation measures include improvements to transportation infrastructure and transportation demand management (TDM) programs. Additionally, the City collects both citywide and area-specific traffic impact fees to fund and construct transportation improvements. Furthermore, the VTA serves as the Congestion Management Agency for Santa Clara County and maintains the County's Congestion

MEMORANDUM

Planning Department



Management Program (CMP), which includes several intersections within Milpitas. Although traffic congestion is no longer considered a potentially significant impact under the California Environmental Quality Act (CEQA) in accordance with Senate Bill (S.B.) 743, the City will continue to utilize level-of-service (LOS) analysis to address local traffic congestion while transitioning to vehicle miles traveled (VMT) as the new metric for assessing transportation impacts under CEQA. **Policies CIR 1-9, 1-10, and 1-11 and Actions CIR-1l, CIR-1m, CIR-1n, CIR-1o, CIR-4k, CIR-4l, and CIR-7b**

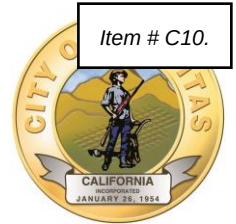
- **Citywide VMT Policy:** The City adopted a citywide VMT policy to implement Senate Bill 743 and establish the methodology for analyzing transportation impacts under CEQA. The policy facilitates the buildout of the General Plan and supports new development in suitable areas near transit and mixed-use neighborhoods. City staff continues to implement the new policy through the development review process. Over time, the policy will help the City move away from auto-dependency and prioritize multimodal improvements to create a balanced and accessible transportation network that meets the needs of all users. **Policies CIR 1-2 and 1-8 and Action CIR-1c**
- **Capital Improvement Program (CIP):** Consistent with the Circulation Element goals and policies, the City also made significant investment in transportation infrastructure and safety improvements through its CIP, which is updated every year. The significant transportation-related projects are discussed below.
 - Enhanced Crosswalk Striping & Beacons: This project provides high visibility crosswalk striping and pedestrian actuated flashing beacons to facilitate safer pedestrian crossings at high vehicle and pedestrian volume intersections along school and bike routes and in residential areas. 16 beacons were installed at various locations throughout the City in 2021 and a traffic safety assessment to identify future locations is underway.
 - Street Resurfacing Program: This annual program provides for roadway pavement repair, rehabilitation, and/or reconstruction. The program includes replacement and upgrade of curb, gutter, driveway, and sidewalk. The program also includes implementation of bike facilities as described in the City's Trail, Pedestrian, and Bicycle Master Plan.
 - ADA Curb Ramp Transition Program: This annual program involves citywide replacement or upgrade of existing curb ramps to current standard Americans with Disabilities Act (ADA) compliant ramps. The program also includes construction of segments of new sidewalk to close gaps and allow the City to be eligible for future Federal transportation aid funds.
 - S. Milpitas Blvd. Vehicle Bridge at Penitencia Creek: Design of the project and the associated CEQA analysis is complete and construction is anticipated to start between 2025 and 2027. The project will provide a vehicular bridge over Penitencia Creek at the end of the new S. Milpitas Blvd. Extension. The vehicular bridge is part of the TASP circulation infrastructure improvement to provide safe and convenient pedestrian connectivity within the TASP area.
 - Montague Pedestrian Overcrossings: These projects will provide a pedestrian overcrossing over Montague Expressway at Piper Drive and the east levee of Penitencia Creek. The overcrossing at Piper Drive is complete. The design and associated CEQA analysis for the overcrossing at the east levee is complete and construction is anticipated to start between 2025 and 2027. These projects are part of the TASP circulation infrastructure improvements to provide safe and convenient pedestrian connectivity within the TASP area.

Policies CIR 1-8, 2-1, and 2-2 and Actions CIR-7c

Community Design

MEMORANDUM

Planning Department



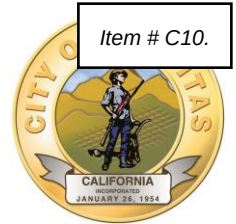
- **Residential and Mixed-Use Objective Design Standards:** On November 1, 2022, the City adopted the Milpitas Residential and Mixed-Use Objective Design Standards (MODS), which provides clear and implementable design criteria for all new residential and mixed-use developments throughout the City. The Objective Design Standards streamlines housing approvals, complies with recent State legislation requiring objective and quantifiable design guidelines, and ensures that new residential development protects and improves the character of existing neighborhoods. City staff continues to implement the MODS through the development review process. **Policies CD 1-1, 1-2, 1-6, 2-1, 2-2, 2-4, 2-5, 2-7, 3-3, 3-5, 3-8, 3-9, 3-10. 5-1, 5-2, 5-3, 5-4, 5-5, and 5-8 and Actions CD-2b, CD-2c, CD-2d, CD-5a, and CD-5b**
- **Hillside Ordinance:** The City's Hillside Ordinance established the Hillside Combining District (Municipal Code Section XI-10-45.09), which promotes and encourages the orderly development of the hillside area of the City. The Hillside Ordinance provides regulations to ensure that development is in keeping with the natural character of the hillside, minimize grading of and alterations to hillsides, and address constraints associated with hillside development including geologic issues, slopes, access, and visibility. New developments in the Hillside Combining District are subject to these regulations and require review by the Planning Commission and approval by the City Council for compliance with the Hillside Site and Architectural Guidelines. **Policies CD 7-1, 7-2, 7-3, 7-4, 7-5, and 7-6 and Action CD-7a**
- **Development Review:** As part of the development review process, City staff reviews new development projects to ensure that new developments include excellent project design, high-quality architecture, public improvements to reinforce a sense of place, and preserve and enhance the community character. The City also requires private development projects to either install public art component that meets the requirements of Municipal Code Section XI-10-14 and is approved by the Arts Commission or pay an in-lieu fee to fund public art improvements throughout Milpitas. **Policies CD 1-1, 1-2, 1-6, 2-1, 2-2, 2-4, 2-5, 2-7, 3-3, 3-5, 3-8, 3-9, 3-10. 5-1, 5-2, 5-3, 5-4, 5-5, and 5-8 and Actions CD-2b, CD-2c, CD-2d, CD-5a, and CD-5b**

Economic Development

- **Economic Development Strategy:** In May 2020, the City adopted a new Economic Development Strategy (EDS) that will guide the City's efforts over the next five years to grow the local economy and foster local economic health, diversity, and vibrancy. The City completed an Innovation District Action Plan, which provides specific actions to implement policies in the EDS related to the creation of an Innovation District. City staff also included tasks in the Gateway/Main St. Specific Plan scope of work to implement several EDS policies including a retail audit of the zoning code, retail strategies memo, property-based business improvement district, strategic property acquisition revenue fund, and economic/scenario feasibility testing. **Policies ED 1-1, 3-2, 3-3, and 4-2 and Actions ED-1c, ED-1d, ED-1j, ED-2a, ED-2c, ED-3c, ED-3f, ED-3h, and ED3i**
- **Build Business by Symbium:** In June 2022, the City implemented Build Business by Symbium, which is a geographic information system (GIS) software program that allows the public to quickly and accurately determine where each type of business is allowed in Milpitas, if a business is allowed at a specific location, and what types of permits are required. Build Business improves customer service, staff efficiency, and streamlines the permitting process to facilitate business retention, relocation, and attraction. **Policies ED 1-5 and Actions ED-1l and ED-1m**

MEMORANDUM

Planning Department



Conservation & Sustainability Element

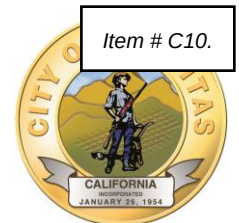
- **Climate Action Plan (CAP) Update:** In compliance with Assembly Bill (A.B.) 32 and S.B. 375, on August 9, 2022, the City adopted an update to its CAP with new programs to meet the State's new mid- and long-term statewide emissions targets (40 percent reduction below 1990 levels by 2030 and 80 percent reduction below 1990 levels by 2050). The CAP is designed to streamline environmental review of future development projects in the City, consistent with CEQA Guidelines Section 15183.5(b). The CAP identifies an overall strategy, baseline emissions and forecasts, reduction measures, and implementation strategies to achieve the State-recommended greenhouse gas (GHG) emissions reduction targets. **Policies CON 1-3, 1-6, 1-7, 1-8, 1-10, 1-11, 1-13, and 7-13 and Actions CON-1a, CON-1g, and CON-1h**
- **Cultural & Historic Preservation:** The City continues to carry out its Cultural Resources Preservation Program as outlined in Chapter 4, Title XI of the Milpitas Municipal Code to identify and protect existing cultural and historic resources. City staff reviews requests to alter or demolish an existing cultural or historic resource for compliance with local, state, and federal historic preservation standards and forwards applications to the Parks, Recreation and Cultural Resources Commission for a decision on whether the request meets the intent of the Cultural Resources Preservation Program. Additionally, projects subject to CEQA are analyzed for archaeological and paleontological impacts and mitigation measures are required as necessary. **Policies CON 4-1, 4-2, 4-3, 4-4, and 5-1 and Actions CON-4a and CON-4b**
- **Energy Use:** On January 17, 2023, the City adopted the 2022 California Energy Code and the 2022 California Green Building Standards Code pertaining to the all-electric requirement for newly constructed buildings, and electric vehicle (EV) charging for new residential and non-residential construction. These local amendments, referred to as reach codes, exceed the requirements in the 2022 state codes. As part of its development review process, the City requires new buildings to comply with these requirements and offers expedited building permit processing for residential projects achieving Build It Green's GreenPoint Rated standard and for commercial and industrial projects achieving the Leadership in Energy and Environmental Design (LEED) Silver rating. Furthermore, in 2017, the City joined Silicon Valley Clean Energy (SVCE), which is a community-owned agency serving Santa Clara County communities by acquiring and offering clean, carbon-free electricity. **Policy CON 1-1, 1-2, and 1-3 and Actions CON-1e and CON-1f**

Utilities & Community Services

- **Public Facilities and Utilities:** The City maintains its public facilities and utilities to ensure that vital public services are available to its citizens. As part of its development review process, the City confirms that the development will be adequately served by public facilities and utilities by requiring public improvements when necessary and collecting development impact fees to defray all or a portion of the cost of public facilities and improvements necessary to serve the new development. A detailed discussion of the various public facilities and utilities is provided below. Several relevant topics including fire safety, parks and recreation, and stormwater are discussed in the implementation highlights for other General Plan elements, which provide more detailed policies regarding these topics.
 - **Water Services:** The City's Urban Water Management Plan (UWMP) provides a framework for long term water planning to ensure adequate water supplies through the year 2040 and establishes a water use target that aids in meeting the State's goal of reducing water use by 20 percent by 2020. On August 9, 2022, the City adopted an update to its Water Master Plan,

MEMORANDUM

Planning Department



which will guide the City's decisions on water infrastructure investments over the next 20 years and incorporate the water needs associated with the TASP and Midtown Specific Plan updates. Following a Water Supply Augmentation Feasibility Report completed in 2015, the City has concentrated its CIP efforts in utilizing groundwater wells, expanding the existing recycled water supply delivery and treatment infrastructure, and continued conservation efforts.

- Wastewater: On August 9, 2022, the City adopted an update to its Sewer Master Plan, which includes a summary of the City's wastewater collection system, flow projections, an analysis of the system's capacity, and a summary of the capacity improvements that are needed. The update also incorporates the sewer needs associated with the TASP and Midtown Specific Plan updates. The City's Sewer System Management Plan (SSMP) provides a plan to properly operate and maintain the sanitary sewer collection system. The SSMP aims to prevent sewer outflow, provide adequate capacity to convey peak flows. The City experiences very few sewer system overflows and the required system improvements have been incorporated into the CIP.
- Police Protection: The City contains one police station with a Communications Center that coordinates information from 9-1-1 callers to responders in the field. The City is currently meeting its goal for response times to emergency calls of 3 minute or less. The adequacy of police services is also evaluated for any projects subject to CEQA.
- Schools: Mabel Mattos Elementary School opened its doors to K-4 students with the start of the new school year in August 2018. With the completion of Phases II and III in 2021 and 2022 respectively, the school now serves grades K-6 and accommodates up to approximately 700 students.

Policies UCS 1-1, 1-4, 2-1, 2-3, 2-5, 2-6, 2-7, 3-1, 3-2, 8-1, and 8-15 and Actions UCS-1a, UCS-2a, UCS-c, and UCS-3a

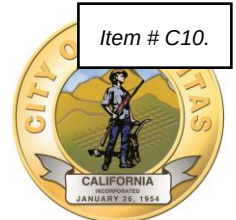
- **Stormwater & Drainage**: The City participates in the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP). The SCVURPPP and member agencies implement programs aimed at reducing pollutants in stormwater runoff and protecting water quality of the San Francisco Bay and Santa Clara Valley creeks and rivers. The City also requires post-construction stormwater controls on development projects as part of its obligations under Provision C.3 of the Bay Area Municipal Regional Stormwater Permit (MRP). Furthermore, the City's Storm Drain Master Plan identifies the capital improvements needed to maintain recommended levels of protection against stormwater runoff, which have been incorporated into the CIP. **Policies UCS-4-1, 4-2, 4-3, 4-4, 4-5, 4-6, and 4-14 and Actions UCS-4a, UCS-4b, UCS-4c, UCS-4e, and UCS-4f**
- **Urban Growth Boundary**: The City passed Measure I in November 2016 to continue the City's urban growth boundary established by Measure Z in 1998, which was set to expire in 2018. The urban growth boundary, which limits development in Milpitas to the valley floor and the base of the foothills by prohibiting the City from providing services to new land use developments in the hillside area, will now continue through December 31, 2038. The City's Urban Service Area boundary established by the Santa Clara County Local Agency Formation Commission (LAFCO) is coterminous with the City's urban growth boundary. **Policy UCS 1-6**

Safety Element

- **Development Review Process**: One of the ways the City strives to minimize risk from geologic, fire, and flood hazards is through its development review process as discussed below.

MEMORANDUM

Planning Department



- **Seismic and Geologic Hazards:** The City requires development projects in hillsides or fault zones to submit a geotechnical report, reviews the findings of the report, and conditions projects to adhere to the report's recommendations. Projects subject to CEQA are also analyzed for potential geotechnical impacts and mitigation measures are required as necessary.
- **Fire Hazards:** The Milpitas Fire Department reviews and inspects projects during the development review process to ensure that all new developments comply with the Uniform Fire Code and other local fire safety regulations.
- **Flood Management:** The City coordinates with the Santa Clara Valley Water District while reviewing development projects to ensure that buildings and structures are located, designed, and constructed in a manner that minimizes flood risks and complies with the City's floodplain management regulations, which provide standards for any construction or other development within any area of special flood hazard.

Policies SA 1-1, 1-2, 1-4, 1-5, 1-6, 1-7, 1-8, 2-3, 2-4, and 2-5 and Actions SA-1a, SA-1b, SA-1d, SA-1e, SA-2a, and SA-2c

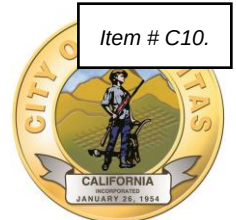
- **Fire Safety:** The Fire Department operates four fire stations within its service area. The average response time in 2022 was 4 minutes, 47 seconds, which is slightly over the City's response goal of 4 minutes. The City maintains its fire stations through regularly scheduled minor improvements. However, construction of the new Fire Station No. 2 was completed and occupied in October 2022. The Fire Department also performs routine fire inspections of existing buildings, structures, and properties in the City with the exception of single and multi-family dwellings in which the owner of the property resides. **Policy SA 4-9 and Actions SA-3d, SA-3e, SA-4b, and SA-4c**
- **Emergency Preparedness:** The Milpitas Fire Department Office of Emergency Services (OES) coordinates the City's preparedness efforts to mitigate against, plan for, respond to, and recover from natural disasters. The OES maintains the City's Emergency Operations Plan (EOP), which provides a blueprint for emergency management within the City and requires the development of departmental Standard Operating Procedures (SOPs). The City also partnered with Santa Clara County and other local jurisdictions to prepare the Santa Clara Operational Area Hazard Mitigation Plan, which is an updated multi-jurisdictional hazard mitigation plan that assesses local hazard risks and recommends a tailored and coordinated mitigation strategy to improve the resiliency of the County. The OES actively implements the recommendations of these emergency plans by keeping the Emergency Operation Center in a state of readiness and training citizens in basic disaster response through the Community Emergency Response Team (CERT). **Policies SA 3-4 and 3-5 and Actions SA-3a and SA-3b**

Noise Element

- **Development Review Process and Enforcement:** As part of its development review process, the City conditions development projects to comply with the City's noise regulations the Milpitas Municipal Code and noise compatibility standards in the Noise Element of the General Plan. Additionally, projects subject to CEQA are required to analyze potential noise impacts resulting from the project and mitigation measures are required to mitigate any significant noise impacts. The City's Neighborhood Services Division and the Milpitas Police Department jointly enforce the City's noise regulations, project conditions of approval, and CEQA mitigation measures to ensure compliance throughout the City. **Policies N 1-2, 1-4, 1-5, 1-6, and N 1-8 and Actions N-1a, N-1b, N-1c, and N-1d**
- **Specific Plan Updates:** As part of both specific plan updates, the City is analyzing and considering the noise compatibility of existing and new land uses as it updates the zoning for these plan areas. The

MEMORANDUM

Planning Department



new land use plans will incorporate appropriate buffers and transitions between incompatible land uses to minimize noise impacts. **Policies N 1-1 and N 1-7**

Parks, Recreation, & Open Space Element

- **Parks & Recreation Master Plan Update:** The City updated the Parks and Recreation Master Plan, which was originally adopted in 2008, to include City recreational facilities and parks in the TASP and Midtown areas. The update includes an existing conditions assessment of all parks and recreation facilities, public engagement and outreach, a strategic plan to provide high-quality accessible parks and recreation facilities, and a programming and growth assessment. The City continues to implement the Parks and Recreation Master Plan through the development review process and updating its Capital Improvement Program. **Policies PROS 1-1, 1-2, and 1-3 and Action PROS-1c**
- **Park Dedication or In-Lieu Fee:** As part of its development review process, the City requires private development projects to either dedicate land or pay a park in-lieu fee (based on project square footage) to fund improvements to parks and recreation facilities to meet the additional demand for such facilities resulting from new developments and achieve the goals and policies of the Recreation Master Plan. **Policies PROS 1-4 and 1-5 and Action PROS-1b**
- **Parks & Recreation Facilities Improvements:** Consistent with the Open Space & Environmental Conservation Element goals and policies, the City also made significant investment in parks and recreation facilities through its CIP. The significant projects are discussed below.
 - Citywide Park Rehabilitation: The City assessed and rehabilitated citywide park playgrounds needing minor improvements. Minor improvements were completed for Hillcrest Park, Peter Gill Memorial Park, Hall Memorial Park, and Ed Levin Park in 2022.
 - Minor Sports Courts Rehabilitation: The program provides for the rehabilitation of several sports courts annually. Minor improvements were completed for Hall Memorial Park, Peter Gill Memorial Park, Tom Evatt Park, and Peter Gill Memorial Park in 2022.
 - Sports Fields Turf Rehabilitation Program: The program is ongoing and provides for turf rehabilitation at City sports fields. Work includes re-sodding, re-seeding, irrigation repairs, and other minor rehabilitations.
 - Park Renovations: The City completed the design for the renovation of one neighborhood park (Sandalwood Park) and will begin construction in 2025. Improvements include a new picnic and playground area, ADA access and path improvements, a new restroom, and upgraded irrigation and landscaping.
 - New Parks: The City constructed one new park (Trade Zone/Montague Park – North) and construction of another new park (McCandless Park) is underway. Phase 1 (Park Core) of McCandless Park was completed in early 2023 and Phase 2 (Sports Field) is expected to be completed in Winter 2023. These new parks will add approximately 9.5 acres of new parkland.

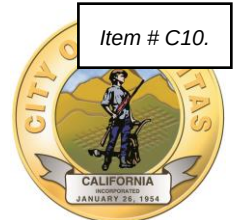
Policies PROS 1-8 and 1-9 and Action PROS-1a

Community Health & Wellness

- **Smoke-Free Ordinance:** The City adopted a Smoke-Free Ordinance to expand the smoke-free areas within Milpitas and protect Milpitas' most vulnerable populations. The Ordinance prohibits smoking in outdoor dining areas, parks and trails, multi-unit housing and associated common areas, near

MEMORANDUM

Planning Department



entryways to buildings where smoking is prohibited, service areas, and at public events. City staff continues to enforce the Ordinance and provide resources such as no-smoking signage to encourage compliance. **Policy CHW 7-2**

- **Retail Tobacco Licensing Program:** The City is currently developing a Retail Tobacco Licensing Program to require licenses for tobacco retailers in Milpitas. The program will allow the City to enforce local regulations and ensure that retailers are not selling tobacco products to the youth. New retailers will also be required to locate a minimum distance from existing retailers and sensitive land uses such as schools and parks to minimize the undue concentration of retailers and protect the youth. **Policy CHW 7-3 and Action CHW-7b**

Housing Element

- **Annual Progress Report (APR):** On March 21, 2023, staff presented the 2022 APR for the Housing Element and 2022 Housing Successor Agency Annual Report to City Council, which authorized the submittal of both reports to HCD.
- **2023-2031 Housing Element:** On January 24, 2023, the City adopted the Housing Element Update for the sixth housing element cycle (2023-2031) to accommodate the City's Regional Housing Needs Allocation (RHNA) adopted by the Association of Bay Area Governments (ABAG). The City is awaiting certification of the 2023-2031 Housing Element from HCD.
- **Housing Opportunity Zones (HOZ) Overlay District:** The City is implementing a HOZ Overlay District to provide zoning and financial incentives for affordable housing development in key opportunity areas throughout Milpitas. The goal of the HOZ Overlay District is to facilitate affordable and supportive housing for all and help address the ongoing housing crisis through innovative and effective incentive-based zoning.

Conclusion

This report documents the City's recent progress in implementing the General Plan. The information contained herein will be forwarded in the form of a letter to OPR to serve as the City of Milpitas's General Plan Progress Report for 2022.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Accept the FY 2023 Citizens' Option for Public Safety (COPS) Grant in the Amount of \$124,855.00 for Font-Line Law Enforcement Services and Approve the Appropriation of Funds in the Total Amount of \$124,855.00 to the Police Department's FY2022-23 Operating Budget for Front-Line Law Enforcement Services (Staff Contact: Jared Hernandez, Chief of Police, 408-586-2406)
Category:	Consent Calendar-Public Safety
Meeting Date:	4/4/2023
	<u>Recommendation:</u> Accept the FY 2023 Citizens' Option for Public Safety (COPS) Grant in the Amount of \$124,855.00 for Font-Line Law Enforcement Services and Approve the Appropriation of Funds in the Total Amount of \$124,855.00 to the Police Department's FY2022-23 Operating Budget for Front-Line Law Enforcement Services.

BACKGROUND:

The Citizens' Option for Public Safety (COPS) program was originally adopted in Assembly Bill 3229 (Brulte) 1996 with funding from the state general fund. The COPS grant program provides funding for front-line law enforcement (municipal police, county sheriffs, and police protection districts); county jails; district attorneys for prosecution; and local juvenile justice programs (since FY 2001).

In FY 2001, the law was amended to provide a minimum frontline law enforcement allocation of \$100,000 to any local agency receiving funding under the program. These moneys must supplement existing services and may not be used to supplant any existing funding for law enforcement services.

The City of Milpitas' FY 2023 COPS Grant award is \$124,855. The Police Department has proposed a grant funding spending plan, as outlined below.

ANALYSIS:

The City of Milpitas is not required to provide matching funds. California Government Code section 30062 specifies that these funds must be used exclusively for front line law enforcement services. These funds shall be appropriated pursuant to a written request from the Chief of Police. The Milpitas Police Department recommends the following front-line municipal police services to be purchased with the FY 2023 COPS Grant:

1. Community Safety and Emergency Response Equipment
2. Training and Equipment
3. Unmanned Aerial Vehicle (UAS) Equipment
4. Employee Identification Card System Replacement
5. Logistics and Technological Equipment

POLICY ALTERNATIVE(S):

Alternative 1: Refuse the FY 2023 Citizen's Option for Public Safety (COPS) grant award.

Pros: There are no identified benefits to this alternative.

Cons: The Police Department would not be able to purchase the needed equipment, or the purchase of the equipment would be delayed.

Reason for Not Recommending: The FY 2023 COPS grant award does not require matching funds nor are there any requirements that result in a negative impact.

FISCAL IMPACT:

The grant does not require any matching funds. A budget appropriation of \$124,855 is recommended to add to the Police Department's FY 2022-23 operating budget for the purchase of the equipment and services within the scope of the spending plan. Per the Council approved Budget Guidelines, any unused funds related to this grant will be carried over to the next fiscal year.

California Environmental Quality Act (CEQA):

The City Council's acceptance of the COPS grant is not an activity that is defined as a "project" under the California Environmental Quality Act (CEQA) as it is a government fiscal activity without a commitment to any specific project that may result in a potentially significant physical impact on the environment. Although the COPS grant funding may be used for a variety of projects, to analyze the impacts of those potential projects would be speculative at this time and future CEQA analysis will be conducted if and when those potential projects are considered.

RECOMMENDATION:

Accept the FY 2023 Citizens' Option for Public Safety (COPS) Grant in the Amount of \$124,855.00 for Front-Line Law Enforcement Services and Approve the Appropriation of Funds in the Total Amount of \$124,855.00 to the Police Department's FY2022-23 Operating Budget for Front-Line Law Enforcement Services

Attachment(s):

1. COPS 2023 Spending Plan
2. Budget Change Form



MEMORANDUM

Milpitas Police Department

DATE: April 4, 2023

TO: Honorable Mayor and City Council

THROUGH: Steven McHarris, City Manager

FROM: Jared Hernandez, Chief of Police

SUBJECT: FY 2023 Citizen Options for Public Safety (COPS) Grant

The City of Milpitas anticipates receiving FY 2023 Citizens Option for Public Safety (COPS) funds from the state pursuant to Government Code 30061-30063, in the amount of \$124,855. These funds must be used to support front-line law enforcement services and must supplement and not supplant existing funding for front-line law enforcement services. No City matching funds are required.

These funds shall be appropriated pursuant to written request from the Chief of Police of the law enforcement agency that provides police services for the city. The request shall specify the front-line law enforcement needs of the requesting entity including the personnel, equipment, and programs that are necessary to meet those needs.

Below are the recommended approximate expenditures for COPS grant monies for fiscal year 2023:

1.	Community Safety and Emergency Response Equipment	\$53,300
2.	Training and Equipment	\$14,155
3.	Unmanned Aircraft System (UAS) Equipment	\$30,000
4.	Employee Identification Card System Replacement	\$19,200
5.	Logistics and Technological Equipment	\$8,200
	Total:	\$124,855

Details on these spending areas are as follows:

1. Community Safety and Emergency Response Equipment

The purchase of safety equipment, such as RADAR message sign boards and navigation devices to improve response times, will protect officers and citizens during critical incidents. In addition, the message sign boards specifically will enhance traffic safety, as such equipment can display crisis communication, weather alerts, and other warnings to the community. This equipment will ensure officers are properly equipped to maintain low response times to calls for service, preserve life, and protect public safety.

2. Training and Equipment

Continuous employee training is critical to the success of the Police Department. The purchase of a training software system with the ability to utilize unlimited, custom simulated call taking scenarios will improve and enhance the communications dispatcher training program. The purchase of training safety equipment such as safety mats will enable the department to maintain a dedicated and more permanent, safe training space for physical training scenarios such as de-escalation, ACT, less lethal, force alternatives, etc. In addition, such training and equipment will enable the department to continue to meet state mandates.

3. Unmanned Aircraft System (UAS) Equipment

The purchase of an additional remote aircraft and related accessories for the department's fleet will ensure the UAS team is properly equipped with reliable tools leveraging the latest proven technology, such as weather-resistant features. In addition, this supplement to the department's current inventory will extend the life and reduce wear and tear of current equipment by providing backup relief and more available total battery life overall.

4. Employee Identification Card System Replacement

The Police Department's current employee identification system is antiquated and uses obsolete technology. The current system is no longer supported by the manufacturer, making repairs to the aging system very difficult. The purchase of a new system with identification and access control features (RFID) will offer additional and enhanced security features.

5. Logistics and Technological Equipment

The Police Department routinely responds to various critical, emergency operations and investigates in-depth cases that require pertinent information be shared among detectives and department staff. The purchase of smart technology equipment such as an advanced digital whiteboard will ensure department staff are properly equipped with reliable tools to collect, share, and preserve sensitive information effectively, efficiently, and securely.

RECOMMENDATION:

Allocate the 2023 COPS grant funds (\$124,855) to the above program areas.

City of Milpitas, California

BUDGET CHANGE FORM

Type of Change	From		To	
	Account	Amount	Account	Amount
Check one:	261-3567	\$124,855	261-7214223	\$53,300
☐ Budget Appropriation			261-7214223	\$14,155
☐ Budget Transfer			261-7214223	\$30,000
			261-7214223	\$19,200
			261-7214223	\$8,200

Accept the FY 2023 Citizens' Option for Public Safety (COPS) Grant in the Amount of \$124,855.00 for Front-Line Law Enforcement Services and Approve the Appropriation of Funds in the Total Amount of \$124,855.00 to the Police Department's FY2022-23 Operating Budget for Front-Line Law Enforcement Services.

BACKGROUND:

The Citizens' Option for Public Safety (COPS) program was originally adopted in Assembly Bill 3229 (Brulte) 1996 with funding from the state general fund. The COPS grant program provides funding for front-line law enforcement (municipal police, county sheriffs, and police protection districts); county jails; district attorneys for prosecution; and local juvenile justice programs (since FY 2001).

In FY 2001, the law was amended to provide a minimum frontline law enforcement allocation of \$100,000 to any local agency receiving funding under the program. These moneys must supplement existing services and may not be used to supplant any existing funding for law enforcement services.

The City of Milpitas' FY 2023 COPS Grant award is \$124,855. The Police Department has proposed a grant funding spending plan, as outlined below.

ANALYSIS:

The City of Milpitas is not required to provide matching funds. California Government Code section 30062 specifies that these funds must be used exclusively for front line law enforcement services. These funds shall be appropriated pursuant to a written request from the Chief of Police. The Milpitas Police Department recommends the following front-line municipal police services to be purchased with the FY 2023 COPS Grant:

1. Community Safety and Emergency Response Equipment
2. Training and Equipment
3. Unmanned Aerial Vehicle (UAS) Equipment
4. Employee Identification Card System Replacement
5. Logistics and Technological Equipment

POLICY ALTERNATIVE(S):

Alternative 1: Refuse the FY 2023 Citizen's Option for Public Safety (COPS) grant award.

Pros: There are no identified benefits to this alternative.

Cons: The Police Department would not be able to purchase the needed equipment, or the purchase of the equipment would be delayed.

Reason for Not Recommending: The FY 2023 COPS grant award does not require matching funds nor are there any requirements that result in a negative impact.

FISCAL IMPACT:

The grant does not require any matching funds. A budget appropriation of \$124,855 is recommended to add to the Police Department's FY 2022-23 operating budget for the purchase of the equipment and services within the scope of the spending plan. Per the Council approved Budget Guidelines, any unused funds related to this grant will be carried over to the next fiscal year.

California Environmental Quality Act (CEQA):

The City Council's acceptance of the COPS grant is not an activity that is defined as a "project" under the California Environmental Quality Act (CEQA) as it is a government fiscal activity without a commitment to any specific project that may result in a potentially significant physical impact on the environment. Although the COPS grant funding may be used for a variety of projects, to analyze the impacts of those potential projects would be speculative at this time and future CEQA analysis will be conducted if and when those potential projects are considered.

RECOMMENDATION:

Accept the FY 2023 Citizens' Option for Public Safety (COPS) Grant in the Amount of \$124,855.00 for Front-Line Law Enforcement Services and Approve the Appropriation of Funds in the Total Amount of \$124,855.00 to the Police Department's FY2022-23 Operating Budget for Front-Line Law Enforcement Services

Attachment(s):

1. COPS 2023 Spending Plan
2. Budget Change Form

☐ Check if City Council Approval required.

Meeting: April 4, 2023

Itemization of funds, if needed:		Amount
Requested by:	Division Head:	Date:

	Department Head:	Date:
Reviewed by:	Finance Director:	Date:
Approved by:	City Manager:	Date:
Date approved by City Council, if required:		
Confirmed by:		

FI/24786/V

Form 30-222 (Rev. 1/92)



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Accept Additional FY 2022 Citizens' Option for Public Safety (COPS) Grant in the Amount of \$75,657.69 for Front-Line Law Enforcement Services to be Spent in Alignment with the City Council Approved FY 2022 Spending Plan; and Approve the Appropriation of Funds in the Total Amount of \$75,657.69 to the Police Department's FY2022-23 Operating Budget for Front-Line Law Enforcement Services (Staff Contact: Jared Hernandez, Chief of Police, 408-586-2406)
Category:	Consent Calendar-Public Safety
Meeting Date:	4/4/2023
	<u>Recommendation:</u> Accept additional FY 2022 Citizens' Option for Public Safety (COPS) Grant in the amount of \$75,657.69 for Front-Line Law Enforcement Services; and Approve the appropriation of funds in the total amount of \$75,657.69 to the Police Department's FY2022-23 Operating Budget for Front-Line Law Enforcement Services.

BACKGROUND:

In September of 2021, the California State Legislature, through the Citizens' Option for Public Safety (COPS) grant program, awarded the City of Milpitas \$115,913. On May 3, 2022, the City Council approved the Chief of Police's spending plan (Attachment 1) as follows:

1. Safety Equipment
2. Interview Room Recording Equipment
3. Firearms Equipment
4. Community Engagement and Safety

In October of 2022, the City of Milpitas received an additional \$75,657.69 for the FY 2022 COPS grant. Government Code section 30062 specifies that these funds must be used exclusively for front-line law enforcement services.

ANALYSIS:

California Government Code section 30061 specifies that the City Council shall appropriate these funds exclusively for front line law enforcement services and in accordance with written requests submitted by the Chief of Police. The City of Milpitas is not required to provide matching funds. The Milpitas Police Department Has identified additional training and equipment that can be purchased with this additional funding. The Milpitas Police Department will utilize the additional funding within the scope of the previously approved spending plan categories of *Safety Equipment* and *Community Engagement and Safety* (Attachment 1).

POLICY ALTERNATIVE(S):

Alternative 1: Refuse the additional funding and modified spending plan for the 2022 Citizens' Option for Public Safety (COPS) grant.

Pros: There are no identified benefits to this alternative.

Cons: The Police Department would not be able to purchase the needed equipment, or the purchase of the equipment would be delayed.

Reason for Not Recommending: The additional FY 2022 COPS award does not require matching funds nor are there any requirements that result in a negative impact.

FISCAL IMPACT:

The grant does not require any matching funds. A budget appropriation of \$75,657.69 is recommended to add to the Police Department's FY 2022-23 operating budget for the purchase of safety equipment and community engagement & safety equipment/supplies. Per the Council approved Budget Guidelines, any unused funds related to this grant will be carried over to the next fiscal year.

California Environmental Quality Act (CEQA):

The City Council's acceptance of the COPS grant is not an activity that is defined as a "project" under the California Environmental Quality Act (CEQA) as it is a government fiscal activity without a commitment to any specific project that may result in a potentially significant physical impact on the environment. Although the COPS grant funding may be used for a variety of projects, to analyze the impacts of those potential projects would be speculative at this time and future CEQA analysis will be conducted if and when those potential projects are considered.

RECOMMENDATION:

Accept Additional FY 2022 Citizens' Option for Public Safety (COPS) Grant in the Amount of \$75,657.69 for Front-Line Law Enforcement Services; and Approve the Appropriation of Funds in the Total Amount of \$75,657.69 to the Police Department's FY2022-23 Operating Budget for Front-Line Law Enforcement Services.

Attachment(s):

1. 2022 COPS Spending Plan
2. Budget Change Form



MEMORANDUM

Milpitas Police Department

DATE: May 3, 2022

TO: Honorable Mayor and City Council

THROUGH: Steven McHarris, City Manager

FROM: Jared Hernandez, Chief of Police

SUBJECT: **FY 2022 Citizen Options for Public Safety (COPS) Grant**

The City of Milpitas anticipates receiving FY 2022 Citizens Option for Public Safety (COPS) funds from the state pursuant to Government Code 30061-30063, in the amount of \$115,913. These funds must be used to support front-line law enforcement services and must supplement and not supplant existing funding for front-line law enforcement services. No City matching funds are required.

These funds shall be appropriated pursuant to written request from the Chief of Police of the law enforcement agency that provides police services for the city. The request shall specify the front-line law enforcement needs of the requesting entity including the personnel, equipment, and programs that are necessary to meet those needs.

Below are the recommended approximate expenditures for COPS grant monies for fiscal year 2022:

1.	Safety Equipment	\$18,355
2.	Interview Room Recording Equipment	\$60,893
3.	Firearms Equipment	\$21,069
4.	Community Engagement and Safety	\$15,596
Total:		\$115,913

Details on these spending areas are as follows:

1. Safety Equipment

The purchase of safety equipment designed for rapid deployment in the field will protect officers and citizens during critical incidents. Safety equipment, such as breaching equipment and communication headsets will ensure officers are properly equipped to deescalate situations, preserve life, and protect public safety.

2. Interview Room Recording Equipment

Interview rooms within the police department and Great Mall substation are equipped to record (audio and video) interviews of suspects, victims, and witnesses during criminal investigations. Recordings are archived on a secure internal server. The current equipment is antiquated technology and has reached the end of its useful life. The purchase of a new recording system and relative maintenance plans will enable staff to conduct interviews more efficiently, provide secure reliable storage of archived digital recordings of interviews, and preserve critical evidence for criminal investigations.

3. Firearms Equipment

The purchase of rifles, accessories, and training equipment is necessary to maintain department inventory and ensure officers are properly trained in the use of the equipment and de-escalation techniques. The additional equipment will help ensure all personnel in the Field Services Division and specialty assignments, such as the Special Weapons and Tactics (SWAT) Team, and the Investigations Unit, are properly equipped and trained with reliable tools leveraging the latest proven technology.

4. Community Engagement and Safety

The Police Department currently hosts and participates in a variety of community events throughout the year to consistently build and maintain positive relationships with our community. The purchase of additional supplies, services, and equipment is needed to continue to fulfill the department's community engagement efforts. The Police Department conducts crime prevention presentations, produces crime prevention media, and also deploys equipment and technology to deter and prevent criminal activity. The purchase of specialized equipment is necessary to prevent crime and enhance public safety efforts.

RECOMMENDATION:

Allocate the 2022 COPS grant funds (\$115,913) to the above program areas.

City of Milpitas, California

BUDGET CHANGE FORM

Type of Change	From		To	
	Account	Amount	Account	Amount
Check one:				
☐ Budget Appropriation	261-3567	\$75,657.69	261-7144223	\$75,657.69
☐ Budget Transfer				

Explain the reason for the budget change:

Accept Additional FY 2022 Citizens' Option for Public Safety (COPS) Grant in the Amount of \$75,657.69 for Font-Line Law Enforcement Services; and Approve the Appropriation of Funds in the Total Amount of \$75,657.69 to the Police Department's FY2022-23 Operating Budget for Front-Line Law Enforcement Services (Staff Contact: Jared Hernandez, Chief of Police, 408-586-2406)

BACKGROUND:

In September of 2021, the California State Legislature, through the Citizens' Option for Public Safety (COPS) grant program, awarded the City of Milpitas \$115,913. On May 3, 2022, the City Council approved the Chief of Police's spending plan as follows:

1. Safety Equipment
2. Interview Room Recording Equipment
3. Firearms Equipment
4. Community Engagement and Safety

In October of 2022, the City of Milpitas received an additional \$75,657.69 for the FY 2022 COPS grant. Government Code section 30062 specifies that these funds must be used exclusively for front-line law enforcement services.

ANALYSIS:

California Government Code section 30061 specifies that the City Council shall appropriate these funds exclusively for front line law enforcement services and in accordance with written requests submitted by the Chief of Police. The City of Milpitas is not required to provide matching funds. The Milpitas Police Department has identified additional training and equipment that can be purchased with this additional funding. The Milpitas Police Department will utilize the additional funding within the scope of the previously approved spending plan categories of *Safety Equipment* and *Community Engagement and Safety*.

POLICY ALTERNATIVE(S):

Alternative 1: Refuse the additional funding and modified spending plan for the 2022 Citizens' Option for Public Safety (COPS) grant.

Pros: There are no identified benefits to this alternative.

Cons: The Police Department would not be able to purchase the needed equipment, or the purchase of the equipment would be delayed.

Reason for Not Recommending: The additional FY 2022 COPS award does not require matching funds nor are there any requirements that result in a negative impact.

FISCAL IMPACT:

The grant does not require any matching funds. A budget appropriation of \$75,657.69 is recommended to add to the Police Department's FY 2022-23 operating budget for the purchase of safety equipment and community engagement & safety equipment/supplies. Per the Council approved Budget Guidelines, any unused funds related to this grant will be carried over to the next fiscal year.

California Environmental Quality Act (CEQA):

The City Council's acceptance of the COPS grant is not an activity that is defined as a "project" under the California Environmental Quality Act (CEQA) as it is a government fiscal activity without a commitment to any specific project that may result in a potentially significant physical impact on the environment. Although the COPS grant funding may be used for a variety of projects, to analyze the impacts of those potential projects would be speculative at this time and future CEQA analysis will be conducted if and when those potential projects are considered.

RECOMMENDATION:

Accept Additional FY 2022 Citizens' Option for Public Safety (COPS) Grant in the Amount of \$75,657.69 for Font-Line Law Enforcement Services; and Approve the Appropriation of Funds in the Total Amount of \$75,657.69 to the Police Department's FY2022-23 Operating Budget for Front-Line Law Enforcement Services

Attachment(s):

1. Budget Change Form
2. 2022 COPS Spending Plan

☐ Check if City Council Approval required.

Meeting: April 4, 2023

Itemization of funds, if needed:		Amount
Requested by:	Division Head:	Date:
	Department Head:	Date:
Reviewed by:	Finance Director:	Date:
Approved by:	City Manager:	Date:
Date approved by City Council, if required:		Confirmed by:



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Waive the Second Reading and Adopt Ordinance No. 120.50 to Amend Chapter 1 of Title VIII of the Milpitas Municipal Code Relating to Water Service Charges.” (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; and Lauren Lai, Director of Finance, 408-586-3111)
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	4/4/2022
	<u>Recommendation:</u> (1) Waive the second reading of Ordinance No. 120.50; and (2) Adopt Ordinance No. 120.50 to amend Chapter 1 of Title VIII of the Milpitas Municipal Code relating to water service charges.

BACKGROUND:

On March 21, 2023, the City Council introduced Ordinance No. 120.50 to amend Chapter 1 of Title VIII of the Milpitas Municipal Code to establish water and recycled water rates. This ordinance would establish water and recycled water rates for FY23/24 through FY 27/28. In accordance with State Regulations and Title 4, Chapter 3, Section 4.00 of the Milpitas Municipal Code, setting rates is necessary to ensure revenues cover all system operation and maintenance (O&M) costs and all capital improvement program (CIP) costs. No changes were made to the ordinance introduced on March 21, 2023. Ordinance No. 120.50 is ready for adoption.

ANALYSIS:

Ordinance No. 120.50 would allow the City to establish water rates necessary to recover current projected costs for O&M and CIP, cost increases in wholesale water purchases and to maintain target reserve funds, per City policy and in accordance with Milpitas Municipal Code. For the five-year period (FY23/24 to FY27/28) water purchases are estimated to total \$137 million. Operating costs are estimated to total \$54.6 million and capital costs are estimated to total \$32.6million. The rates and charges recommended will ensure the Water System meets or exceeds customer requirements for reliable service, avoids operational deficits and the depletion of reserves and maintains favorable credit ratings to minimize potential future debt services costs.

POLICY ALTERNATIVE(S):

Alternative 1: Do Not Adopt Ordinance 120.50

Pros: The existing water rates would remain in place.

Cons: The water fund would be in violation of the Municipal Code, which requires the water fund be operated as a self-supporting enterprise. The City would not have enough funds to pay for wholesale water and continue to operate and maintain the system, which in turn can jeopardize the City’s ability to meet mandated water quality standards. A delay in adjusting water rates also impacts the City’s ability to fund critical capital improvement projects needed to maintain system reliability and replace/rehabilitate the pipeline infrastructure.

Reason for not Recommending: Financially, no-action to increase water rates and charges will result in revenues falling below what is needed. This would result in the delay of construction of priority capital improvement projects and an increased risk of customer requirements for water quality and quantity not being met. By FY25/26, operating reserves would fall further below policy targets and the Water System will not

generate sufficient revenues to pay for its wholesale water purchases and debt services obligations without impact to the General Fund. All reserves would be depleted by FY26/27 and future credit ratings would be impacted.

FISCAL IMPACT:

If Ordinance No. 120.50 is adopted, the water rate adjustments are adopted as presented, the new water rate and charges would generate enough revenues for the next five years to meet or exceed customer requirements for water quality and quantity, avoid operational deficits, depletion of reserves and maintains favorable credit ratings to minimize potential future debt services costs.

California Environmental Quality Act:

Adopting Ordinance No. 120.50 is not an activity defined as a “project” under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines 15061(b)(3) and 15378(b)(4) either because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment and/or because the action is financial and/or administrative and does not directly impact the environment.

RECOMMENDATION:

1. Waive the second reading of Ordinance No. 120.50.
2. Adopt Ordinance No. 120.50 to amend Chapter 1 of Title VIII of the Milpitas Municipal Code relating to water service charges.”

Attachments:

1. Ordinance No. 120.50 (2nd Reading)

REGULAR

Item # C13.

NUMBER: 120.50

TITLE: AN ORDINANCE OF THE CITY OF MILPITAS AMENDING SECTION 6 OF CHAPTER 1, TITLE VIII OF THE MILPITAS MUNICIPAL CODE RELATING TO WATER SERVICE CHARGES

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of _____, upon motion by _____ and was adopted (second reading) by the City Council at its meeting of _____, upon motion by _____. Said Ordinance was duly passed and ordered published in accordance with law 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

RECITALS AND FINDINGS:

Item # C13.

WHEREAS, the provision of potable and recycled water services by the City of Milpitas (“City”) require the City to incur capital, operating, maintenance, replacement, and other costs related to the provision of such services; and

WHEREAS, the City engaged Raftelis to prepare a cost of service analysis and water rate study (the “Rate Study”); and

WHEREAS, as a result of the Rate Study, the City Council has determined that increases in the rates for its water service charges are in the best interests of the City and in keeping with sound business and financial management of the water enterprises; and

WHEREAS, the City Council hereby finds and determines the following with regard to the proposed rate increases to the water service charges:

1. The rate structure for the water service charges has three components: (a) a Water Meter Charge, which is a fixed bimonthly charge determined on the basis of the size of the water meter (in inches) serving a customer’s property and calculated to recover a portion of the City’s fixed costs in providing water service; (b) a Volumetric Charge, which is a uniform rate determined based on customer class, imposed on the basis of the amount of water delivered to a customer in hundreds of cubic feet (“HCF”) and calculated to recover a portion of the City’s fixed and variable costs of providing water service; and (c) a Capital Surcharge imposed on the basis of the amount of water delivered to a customer in HCF and calculated to recover capital costs of the water system; and
2. The rate structure also has a Fire Meter Charge which is: (a) imposed on certain properties requiring a large private fire suppression system, and upon the request of the customer or property owner for the delivery of water to the property for the purpose of fire service protection; and (b) established on the basis of the size of the fire service line (in inches) and calculated to recover the cost of providing water to such properties for private fire service protection; and

WHEREAS, the City hereby finds and determines that in accordance with the provisions of California Constitution Article XIII D, Section 6 (“Article XIII D”):

1. The City identified the parcels upon which the water service charges are proposed to be imposed, and calculated the amount of the water service charges proposed to be imposed on each parcel; and
2. The City caused a written notice to be mailed to the record owners of property upon which the proposed water service charges will be imposed and the customers of each parcel upon which the proposed increases to the water service charges are proposed for imposition, which explained: (a) the amount of the water service charges; (b) the basis on which they were calculated; (c) the reason for the increases; and (d) the date, time, and location of the public hearing on the proposed increases; and
3. On March 21, 2023 (more than 45 days after mailing the notice), the City conducted a public hearing and considered all written protests against the proposed increases to the rates for the water service charges; and
4. At the conclusion of the public hearing, written protests against the proposed increases to the rates for the water service charges were not presented by a majority of property owners of record and customers subject to the proposed water service charges; and

WHEREAS, the adoption of the proposed increases to water service charges are statutorily exempt from the requirements of the California Environmental Quality Act under California Resources Code Section 21080(b)(8).

NOW THEREFORE, the City Council of the City of Milpitas does ordain as follows:

SECTION 1. RECORD AND BASIS FOR ACTION

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

SECTION 2. AMENDMENT OF MILPITAS MUNICIPAL CODE VIII-1-6.13 THROUGH VIII-1-6.16

Sections VIII-1-6.13, VIII-1-6.14, VIII-1-6.15 and VIII-6.16 of the Milpitas Municipal Code are hereby amended to read as follows:

VIII-1-6.13 - Quantity Charges

The quantity charges include a volumetric charge and a capital surcharge. The uniform rates for the quantity charges are billed bimonthly and imposed per hundred cubic feet ("HCF") for metered water service. The rates and effective dates for the quantity charges shall be those set forth below.

RATES AND EFFECTIVE DATES FOR QUANTITY CHARGES (\$/HCF)						
	7/1/2022	7/1/2023	7/1/2024	7/1/2025	7/1/2026	7/1/2027
Potable	\$6.70	\$7.17	\$7.64	\$8.14	\$8.67	\$9.24
Recycled	\$4.51	\$5.41	\$5.77	\$6.15	\$6.55	\$6.98
Capital	\$1.08	\$1.14	\$1.20	\$1.26	\$1.33	\$1.40

FY = Fiscal Year

1 HCF = One Hundred Cubic Feet = 748 Gallons

VIII-1-6.14 - Bimonthly Water Meter Charges

(a) Water Meter Charges: The rates and the effective dates for the bimonthly water meter charges, determined on the basis of the size of the water meter, shall be as follows:

BIMONTHLY WATER METER RATES AND EFFECTIVE DATES FOR POTABLE WATER SERVICE CHARGE (\$/SIZE OF WATER METER)						
Meter Size (Inches)	7/1/2022	7/1/2023	7/1/2024	7/1/2025	7/1/2026	7/1/2027
5/8	\$34.10	\$35.87	\$38.21	\$40.70	\$43.35	\$46.17
3/4	\$51.14	\$47.03	\$50.09	\$53.35	\$56.82	\$60.52
1	\$85.24	\$69.34	\$73.85	\$78.66	\$83.78	\$89.23
1-1/2	\$170.48	\$125.14	\$133.28	\$141.95	\$151.18	\$161.01

2	\$272.76	\$192.10	\$204.59	\$217.89	\$232.06	\$247.15
3	\$511.43	\$404.13	\$430.40	\$458.38	\$488.18	\$519.92
4	\$852.38	\$716.60	\$763.18	\$812.79	\$865.63	\$921.90
6	\$1,704.76	\$1,464.29	\$1,559.47	\$1,660.84	\$1,768.80	\$1,883.78
8	\$1,704.76	\$3,138.22	\$3,342.21	\$3,559.46	\$3,790.83	\$4,037.24
10	\$1,704.76	\$4,700.56	\$5,006.10	\$5,331.50	\$5,678.05	\$6,047.13

**BIMONTHLY WATER METER RATES AND EFFECTIVE DATES FOR RECYCLED WATER SERVICE
CHARGE
(\$/SIZE OF WATER METER)**

Meter Size (Inches)	7/1/2022	7/1/2023	7/1/2024	7/1/2025	7/1/2026	7/1/2027
5/8	\$34.10	\$13.54	\$14.43	\$15.37	\$16.37	\$17.44
3/4	\$51.14	\$13.54	\$14.43	\$15.37	\$16.37	\$17.44
1	\$85.24	\$13.54	\$14.43	\$15.37	\$16.37	\$17.44
1-1/2	\$170.48	\$13.54	\$14.43	\$15.37	\$16.37	\$17.44
2	\$272.76	\$13.54	\$14.43	\$15.37	\$16.37	\$17.44
3	\$511.43	\$13.54	\$14.43	\$15.37	\$16.37	\$17.44
4	\$852.38	\$13.54	\$14.43	\$15.37	\$16.37	\$17.44
6	\$1,704.76	\$13.54	\$14.43	\$15.37	\$16.37	\$17.44
8	\$1,704.76	\$13.54	\$14.43	\$15.37	\$16.37	\$17.44
10	\$1,704.76	\$13.54	\$14.43	\$15.37	\$16.37	\$17.44

(b) For Temporary Construction Meter Customers, the bimonthly water meter charges shall be equal to the bimonthly water meter charges for three-inch water meters set forth in Section 6.14(a).

No adjustments shall be granted to any water account holder due to variation in the days of service for any bimonthly billing period. Acceptable days of service range from 50 to 69 days per bimonthly billing period.

VIII-1-6.15 - Fire Service Charges

The rates and effective dates for the bimonthly fire service charges, determined on the basis of the size of the fire service, shall be as follows:

RATES AND EFFECTIVE DATES FOR FIRE SERVICE CHARGE (\$/SIZE OF FIRE SERVICE LINE)						
Line Size (Inches)	7/1/2022	7/1/2023	7/1/2024	7/1/2025	7/1/2026	7/1/2027
2	\$54.55	\$54.55	\$54.55	\$54.55	\$54.55	\$54.55
3	\$102.29	\$102.29	\$102.29	\$102.29	\$102.29	\$102.29
4	\$170.48	\$170.48	\$170.48	\$170.48	\$170.48	\$170.48
6	\$340.95	\$340.95	\$340.95	\$340.95	\$340.95	\$340.95
8	\$340.95	\$340.95	\$340.95	\$340.95	\$340.95	\$340.95
10	\$340.95	\$340.95	\$340.95	\$340.95	\$340.95	\$340.95

Water flowing through fire suppression systems shall be used solely for the purpose of fire protection and testing of such fire protection systems. In the event that water service provided through fire suppression systems is used for purposes other than for fire protection or the testing of such fire protection systems, the quantity charges equal to the quantity charge rates (per HCF) for Commercial/Industrial/Institutional customers shall be imposed.

VIII-1-6.16 - Billing and Effective Dates of Water Rates and Charges

Billing. After the Ordinance adopting the charges set forth in this Section goes into effect, customers shall be subject to the water service charges at the rates and on the effective dates set forth in 6.13 (Quantity Charges), 6.14 (Bimonthly Water Meter Charges), and 6.15 (Fire Service Charges), for services provided on or after July 1, 2023, July 1, 2024, July 1, 2025, July 1, 2026, and July 1, 2027 respectively. In the absence of amendment of the rates set forth herein or adoption of a new rate ordinance, the rates in effect on July 1, 2027, and set forth herein shall remain in effect until amended or repealed.

SECTION 3. SEVERABILITY

If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional, provided, however, that if any decision of a court of competent jurisdiction invalidates the increase of the water service charges set forth in this Ordinance, then the water service charges in effect on the date of adoption shall continue in existence.

SECTION 4. ORDINANCE PREVAILS

To the extent that any other provision of local law relating to the establishment of water charges is inconsistent with this Ordinance, the provisions of this Ordinance shall prevail. This Ordinance shall supersede all other previous City Council resolutions and ordinances that may conflict with, or be contrary to, this Ordinance.

SECTION 5. EFFECTIVE DATE AND POSTING

This Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Waive the Second Reading and Adopt Ordinance No. 208.55 to Amend Chapter 2 of Title VIII of the Milpitas Municipal Code Relating to Sewer Service Charges.” (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; and Lauren Lai, Director of Finance, 408-586-3111)
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	4/4/2022
	<u>Recommendation:</u> (1) Waive the second reading of Ordinance No. 208.55; and (2) Adopt Ordinance No. 208.55 to amend Chapter 2 of Title VIII of the Milpitas Municipal Code relating to sewer service charges.

BACKGROUND:

On March 21, 2023, the City Council introduced Ordinance No. 208.55 to amend Chapter 2 of Title VIII of the Milpitas Municipal Code to establish sewer rates. This ordinance would establish sewer rates for FY23/24 through FY 27/28. In accordance with State Regulations and Title 4, Chapter 3, Section 4.00 of the Milpitas Municipal Code, setting rates is necessary to ensure revenues cover all system operation and maintenance (O&M) costs and all capital improvement program (CIP) costs. No changes were made to the ordinance introduced on March 21, 2023. Ordinance No. 208.55 is ready for adoption.

ANALYSIS:

Ordinance No. 208.55 would allow the City to establish sewer rates necessary to recover current and projected costs for O&M, CIP, the City's share of the San Jose/Santa Clara Regional Wastewater Facility (RWF) operation and maintenance expenses and to maintain target reserve funds, per City policy and in accordance with Milpitas Municipal Code. For the five-year period (FY23/24 to FY27/28), City capital costs are estimated to total \$34.6 million. The City's share of capital costs for the RWF estimated by and passed through from City of San Jose for the same five-year period amounts to \$30.1 million. The City's operating costs are estimated to total \$40.5 million and the City of San Jose total RWF treatment costs amount to \$39.4 million. The rates and charges recommended will ensure the Sewer System meets or exceeds customer requirements for reliable service, avoids operational deficits and the depletion of reserves and maintains favorable credit ratings to minimize potential future debt services costs.

POLICY ALTERNATIVE(S):

Alternative 1: Do Not Adopt Ordinance 208.55

Pros: The existing sewer rates would remain in place.

Cons: The sewer fund would be in violation of the Municipal Code, which requires the sewer fund be operated as a self-supporting enterprise. This in turn will adversely impact future credit ratings for external financing needed to fund the City's share of the capital program at the RWF, due in July 2023. A delay in adjusting sewer rates also impacts the City's ability to fund critical capital improvement projects needed to maintain system reliability and replace/rehabilitate the pipeline infrastructure.

Reason for not Recommending: Financially, no-action to increase sewer rates and charges will result in revenues falling below what is needed. This would result in the delay of construction of priority capital improvement projects, such as FMA. Delaying FMA would further extend its risk for failure. Additionally, customer requirements for reliable service would not be met. By FY25/26, operating reserves would fall below

policy level and the Sewer System will not generate sufficient revenues after the City pays RWF obligations, without impact to the General Fund. Subsidy of mobile homes would not be recommended. All reserves would be depleted by FY26/27 and future credit ratings would be impacted.

FISCAL IMPACT:

If Ordinance No. 208.55 is adopted, the new sewer rate and charges would generate enough revenues for the next five years to meet or exceed customer requirements for reliable service, avoid operational deficits, depletion of reserves and maintains favorable credit ratings to minimize potential future debt services costs. A total late fee (Fund 109) utility subsidy in the approximate amount of \$109,481 will be needed to supplement mobile home customers from FY23/24 to FY 26/27.

California Environmental Quality Act:

Adopting Ordinance No. 208.55 is not an activity defined as a “project” under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines 15061(b)(3) and 15378(b)(4) either because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment and/or because the action is financial and/or administrative and does not directly impact the environment.

RECOMMENDATION:

1. Waive the second reading of Ordinance No. 208.55.
2. Adopt Ordinance No. 208.55 to amend Chapter 2 of Title VIII of the Milpitas Municipal Code relating to sewer service charges.”

Attachments:

1. Ordinance No. 208.55 (2nd Reading)

REGULAR

Item # C14.

NUMBER: 208.55

TITLE: AN ORDINANCE OF THE CITY OF MILPITAS AMENDING SECTION 6 OF CHAPTER 2, TITLE VIII OF THE MILPITAS MUNICIPAL CODE RELATING TO SEWER SERVICE CHARGES

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of _____, upon motion by _____ and was adopted (second reading) by the City Council at its meeting of _____, upon motion by _____. Said Ordinance was duly passed and ordered published in accordance with law 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

RECITALS AND FINDINGS:

Item # C14.

WHEREAS, the sewage collection and treatment services of the City of Milpitas (“City”) require the City to incur capital, operating, maintenance, replacement, treatment, and other costs related to providing such services; and

WHEREAS, the City engaged Raftelis to prepare a cost of service analysis and sewer rate study (the “Rate Study”); and

WHEREAS, as a result of the Rate Study, the City Council has determined that increases in the rates for its sewer service charges are in the best interests of the City and in keeping with sound business and financial management of the sewer enterprises do not exceed the cost of providing such services; and

WHEREAS, the proposed rates are determined based on customer class, including residential, commercial, monitored sites, non-monitored sites, and institutional customers, which classes are determined based on common sewage characteristics, including flow and strength of sewage and patterns and levels of demands placed on the sewer system, and

WHEREAS, the proposed rates for residential customers include a flat rate, determined based on the number of dwelling units, and the proposed rates for non-residential customers include both a uniform fixed flat fee, and a variable charge measured by hundred cubic feet (HCF) of metered water consumption, which varies based on the particular property type; and

WHEREAS, as a result of the Rate Study, the City Council has determined that a subsidy of the sewer service charge is necessary for Mobile home parks, in order to offset some of the sewer service charge resulting from realigning the flow for the mobile home parks with the flow values recommended in San Jose’s 2015 Residential Flow Study, and such subsidy shall be paid by the City’s general fund from legal available funds; and

WHEREAS, the City hereby finds and determines that in accordance with the provisions of California Constitution article XIII D, section 6 (“Article XIII D”):

1. The City identified the parcels upon which the sewer service charges are proposed to be imposed, and calculated the amount of the sewer service charges proposed to be imposed on each parcel; and
2. The City caused a written notice to be mailed to the record owners of property upon which the proposed sewer service charges will be imposed and the customers of each parcel upon which the proposed increases to the sewer service charges are proposed for imposition, which explained: (a) the amount of the sewer service charges; (b) the basis on which they were calculated; (c) the reason for the increases; and (d) the date, time, and location of the public hearing on the proposed increases; and
3. On March 21, 2023 (more than 45 days after mailing the notice), the City conducted a public hearing and considered all written protests against the proposed increases to the rates for the sewer service charges; and
4. At the conclusion of the public hearing, written protests against the proposed increases to the rates for the sewer service charges were not presented by a majority of property owners of record and customers subject to the proposed water service charges; and

WHEREAS, the adoption of the proposed increases to sewer service charges is statutorily exempt from the requirements of the California Environmental Quality Act under California Resources Code Section 21080 (b)(8).

NOW THEREFORE, the City Council of the City of Milpitas does ordain as follows:

SECTION 1. RECORD AND BASIS FOR ACTION

Item # C14.

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

SECTION 2. AMENDMENT OF MILPITAS MUNICIPAL CODE VIII-2-6.01

Section VIII-2-6.01 of the Milpitas Municipal Code is hereby amended to read as follows:

VIII-2-6.01 - Sewer Service Charges

The charges for sewer service shall be as set forth below and are limited to the actual cost of providing sewer service. The rates and effective dates for the sewer charges shall be those set forth below.

The following amounts shall be assessed upon each premise maintaining a sewer connection with the City's sewage system.

- (a) Residential - Bimonthly for Each Dwelling Unit.

Category	Sewer Charge 7/1/2022	Sewer Charge 7/1/2023	Sewer Charge 7/1/2024	Sewer Charge 7/1/2025	Sewer Charge 7/1/2026	Sewer Charge 7/1/2027
Single Family	\$124.14	\$128.44	\$133.58	\$138.93	\$144.49	\$150.27
Multi-Family	\$95.34	\$97.96	\$101.88	\$105.96	\$110.20	\$114.61
Mobile Home	\$78.28	\$84.42	\$91.05	\$98.20	\$105.91	\$114.22

- (b) Commercial, Industrial and Miscellaneous Premises.

(1) Flat Rate: For non-residential accounts, there shall be a flat rate assessed every billing cycle during which normal billing takes place, regardless of the amount of sewage discharged. The Flat Rates and effective dates for the sewer charges shall be those set forth below to defray billing and sewer system administration costs.

	7/1/2022	7/1/2023	7/1/2024	7/1/2025	7/1/2026	7/1/2027
Flat Rate	\$27.35	\$29.25	\$30.43	\$31.65	\$32.92	\$34.24

(2) Quantity and Strength Charges: For each commercial, industrial, or miscellaneous premises, a charge for each 100 cubic feet of water used per billing cycle shall be charged as follows:

Category	7/1/2023 Rate	7/1/2023 Rate	7/1/2024 Rate	7/1/2025 Rate	7/1/2026 Rate	7/1/2027 Rate
Schools/Colleges	\$9.99	\$11.58	\$12.04	\$12.53	\$13.04	\$13.57

Motels/Hotels	\$5.75	\$5.64	\$5.88	\$6.12	\$6.37	Item # C14. \$6.65
General Office	\$6.84	\$6.92	\$7.20	\$7.49	\$7.79	\$8.11
City of Milpitas	\$5.80	\$5.59	\$5.82	\$6.06	\$6.31	\$6.57
Service Stations	\$5.70	\$5.61	\$5.84	\$6.08	\$6.33	\$6.59
Eat/Drink Establishments	\$9.06	\$10.88	\$11.32	\$11.78	\$12.26	\$12.76
Convalescent Hosp/Daycare	\$5.60	\$5.45	\$5.67	\$5.90	\$6.14	\$6.39
Personal Services, Laundries	\$5.31	\$4.97	\$5.17	\$5.38	\$5.60	\$5.83
Electrical/Electronic	\$6.72	\$6.82	\$7.10	\$7.39	\$7.69	\$8.00
Machinery Manufacture	\$8.43	\$9.92	\$10.32	\$10.74	\$11.17	\$11.62
Rocktenn (Jefferson Smurfit*)	\$10.46	\$10.79	\$11.23	\$11.68	\$12.15	\$12.64
T. Marzetti Co. *	\$12.09	\$11.17	\$11.62	\$12.09	\$12.58	\$13.09
Prudential Overall Supply	\$8.42	\$9.88	\$10.28	\$10.70	\$11.13	\$11.58
Evoqua Water Technologies	\$7.06	\$6.40	\$6.66	\$6.93	\$7.21	\$7.50
Elmwood Rehabilitation	\$6.69	\$7.78	\$8.09	\$8.42	\$8.76	\$9.12
Linear Technology	\$6.88	\$6.62	\$6.89	\$7.17	\$7.46	\$7.76
DS Waters of America	\$6.04	\$5.38	\$5.61	\$5.84	\$6.08	\$6.33
Magic Tech & Headway Tech	\$7.32	\$7.73	\$8.04	\$8.37	\$8.71	\$9.06
Lucky Pure Water*	\$5.29	\$4.95	\$5.15	\$5.36	\$5.58	\$5.81
Milpitas Materials*	\$5.29	\$4.95	\$5.15	\$5.36	\$5.58	\$5.81
Union Pacific Railroad	\$7.35	\$7.85	\$8.17	\$8.50	\$8.84	\$9.20
Cisco*	\$6.72	\$6.82	\$7.10	\$7.39	\$7.69	\$8.00

*These industrial customers are subject to sewer charge adjustments based on their sewer volumes, as indicated in their sewer flow adjustment agreements.

(3) City of San Jose for properties known as North McCarthy Properties: \$555.00 bimonthly for any discharge up to 75,000 gallons per day (maximum flow). Excess flow charge of \$100.00 for each 1,000 gallons per day in excess of the maximum flow or part thereof.

(c) Purpose of Charge. The purpose of the sewer service charges stated herein is to defray the City's cost for operation and maintenance of the City's facilities, capital improvement costs, the City's proportionate share of costs at the San Jose-Santa Clara Water Pollution Control Plant and the debt service related thereto, and other costs related to the provision of sewage collection and treatment.

(d) Billing. After the ordinance adopting the charges set forth herein goes into effect, customers shall be subject to the sewer service charges set forth in 6.01, for services provided on or after July 1, 2023, July 1, 2024, July 1, 2025, July 1, 2026, and July 1, 2027 respectively. In the absence of amendment of the rates set

forth herein or adoption of a new rate ordinance, the rates in effect on July 1, 2027, and set forth herein shall remain in effect until amended or repealed.

Item # C14.

SECTION 3. SEVERABILITY

The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

SECTION 4. ORDINANCE PREVAILS

To the extent that any other provision of local law relating to the establishment of sewer service charges is inconsistent with this Ordinance, the provisions of this Ordinance shall prevail. This Ordinance shall supersede all other previous City Council resolutions and ordinances that may conflict with, or be contrary to, this Ordinance.

SECTION 5. EFFECTIVE DATE AND POSTING

This Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Consider Two Fee Waiver Requests and One Donation Request from the Christian Worship Center, FAREPA, and Milpitas High School Aerotech Club (Staff Contact: Renee Lorentzen, Director of Recreation and Community Services, 408-586-3409)
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	4/4/2023
	<u>Recommendation:</u> 1) Approve a Fee Waiver of \$1,500 for the Christian Worship Center's Annual Community Easter Egg Hunt at Gill Park on Sunday, April 8, 2023; 2) Approve a Fee Waiver of \$830 for FAREPA Silicon Valley, Inc. for their ADU Workshop at the Milpitas Community Center on May 13, 2023; 3) Approve a Donation of \$500 to the Milpitas Unified School District's Milpitas High School Aerotech Club to participate in the American Rocketry Competition on May 20, 2023.

BACKGROUND:

On January 10, 2023, staff received a Donation and Fee Waiver/Reduction Policy request from the Christian Worship Center in Milpitas for their annual Community Easter Egg Hunt event scheduled for April 8, 2023, at Peter Gill Memorial Park. The request is for a \$1,500 fee waiver for the Special Event Permit and Open Space rental costs.

On March 20, 2023, staff received a Donation and Fee Waiver/Reduction Policy request from the Milpitas Unified School District's Milpitas High School Aerotech Club for the American Rocketry Competition on May 20, 2023, in The Plains, Virginia. The request is for a \$500 donation for the Aerotech Club to participate in the competition.

On March 24, 2023, staff received a Donation and Fee Waiver/Reduction Policy request from Filipino American Real Estate Professionals Association (FAREPA) Silicon Valley, Inc. for their annual ADU Workshop on May 13, 2023, at the Milpitas Community Center. The request is for a \$830 fee waiver for the event space rental costs.

ANALYSIS:

Three Donation and Fee Waiver/Reduction Policy request applications were received by the Recreation and Community Services Department. Applications included two (2) requests for fee waivers and one (1) request for a donation.

Fee Waiver Requests

The Christian Worship Center of Milpitas submitted the required applications and documentation for the Community Easter Egg Hunt event which includes:

- Indoor Space Rental Application for Milpitas Community Center Auditorium
- Special Event Permit
- City Council Donation and Fee Waiver/Reduction Policy request
- Non-profit status letter

Christian Worship Center is requesting that City Council waive eligible fees for the Open Space Rental and Special Event Permit in the amount of \$1,500. Fees ineligible for waiver include the rental application fee of \$31, Special Event Permit automation fee of \$37.47 and credit card fee of \$24.56, and refundable security/damage deposit of \$1,000. Refundable security/damage deposits are refunded within 30 days of the rental.

FAREPA Silicon Valley, Inc. submitted the required applications and documentation for the ADU Workshop event which includes:

- Indoor Space Rental Application for Milpitas Community Center Auditorium
- City Council Donation and Fee Waiver/Reduction Policy request
- Non-profit status letter

FAREPA is requesting that City Council waive eligible fees for the rental fees in the amount of \$830. 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 Milpitas High School Aerotech Club submitted the required application and documentation for the American Rocketry Competition which includes:

- City Council Donation and Fee Waiver/Reduction Policy request
- Non-profit status letter

The Aerotech Club is requesting that City Council make a Donation to the club for their students' participation in the competition in the amount of \$500.

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, the Christian Worship Center, FAREPA, and Milpitas High School Aerotech Club 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 \$18,966. If these requests are approved by City Council, then \$16,136 would remain in that line item of the current year's budget.

RECOMMENDATION:

- 1) Approve a Fee Waiver of \$1,500 for the Christian Worship Center's Annual Community Easter Egg Hunt at Gill Park on April 8, 2023;
- 2) Approve a Fee Waiver of \$830 for FAREPA Silicon Valley, Inc. for their ADU Workshop at the Milpitas Community Center on May 13, 2023;
- 3) Approve a Donation of \$500 to the Milpitas Unified School District's Milpitas High School Aerotech Club to participate in the American Rocketry Competition on May 20, 2023.

Attachment(s):

1. Christian Worship Center Application and Internal Revenue Service (IRS) non-profit letter
2. FAREPA Application and Internal Revenue Service (IRS) non-profit letter
3. Milpitas High School Application and Internal Revenue Service (IRS) non-profit letter
4. City Council Donation and Fee Waiver/Reduction Policy

City of Milpitas City Council Non-Profit Donation/Fee Waiver Requ... #2

Name of Organization	Christian Worship Center Bay Area
Is there a Milpitas Branch or Affiliation?	☒ Yes
Organization Address (as listed on your 501 (c) 3)	241 S MAIN ST MILPITAS, CA 95035-5314 United States
Organization Web Site	https://www.cwcbayarea.com/
Organization Contact Name	Steven Hinojosa
Organization Contact Phone	(408) 263-0406
Organization Contact Email	psteven@cwcsj.org
Request Type	☒ Fee Waiver (up to \$1,500)
Requested Amount (request types cannot be combined or exceed maximum listed amounts)	1500
Description of Use of Funds/Fees to be Waived	Funds will be used to pay vendors, purchase easter eggs as well as cover any remaining fees we may acquire due to the size of the event.
Event Name	Community Easter Egg Hunt
Event Date(s)	Apr 08, 2023
Event Location (Facility Name and Address)	Paseo Reugio, Milpitas, CA 95035
Is your Event Open to the Public	Yes
What is the purpose of the Event?	This year's Egg Hunt is to give people in our local community something fun to do with their families. We value community at CWC Bay Area, and we love to give back to the community. This is why everything we do at this event is completely free (Food, snacks, activities, egg hunts).
How will the Milpitas Community Benefit from this Event?	Our society has struggled to get back to normalcy since the lockdowns of the pandemic, and these kinds of community events, give people opportunities for connection with one another, as well as connect with people they may otherwise never encounter. We also use our Egg Hunt as an opportunity for the community to know that we are a resource for the community.
What is you anticipated Event attendance?	500
What percentage of your event fundraising	None, this is not a fundraiser

proceeds will benefit the
Milpitas Community?

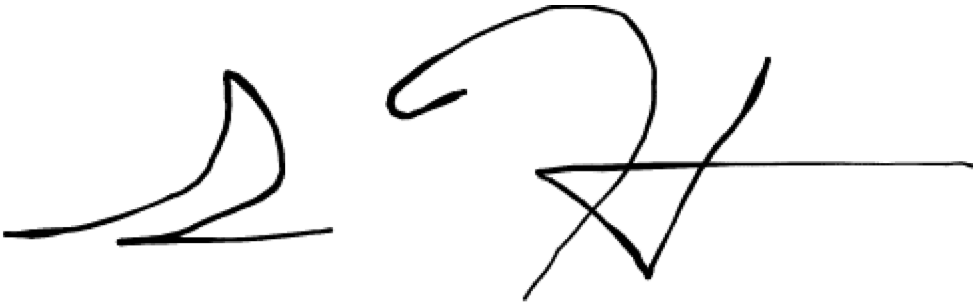
How will the City's contribution (if approved) be recognized in event media and publicity?

We will post a thank you slide at the end of our promotional and recap videos, as well as on our social media platforms.

Upload your Entity
Status Letter (Entity
Name listed on this
application must match
the Entity Status Letter
Name)

501 C3.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.



Entry Info

Date Created10 Jan 2023 - 01:37:53 PM

Date Updated

IP Address12.227.61.186

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date **DEC 02 2006**

CHRISTIAN WORSHIP CENTER OF SAN
JOSE INC
C/O H DOUGLAS DUNCAN
PO BOX 2388
LODI, CA 95241-0000

Employer Identification Number:
34-2060285
DLN:
17053293009036
Contact Person:
JOHN J KOESTER ID# 31364
Contact Telephone Number:
(877) 829-5500
Accounting Period Ending:
December 31
Public Charity Status:
170(b)(1)(A)(i)
Form 990 Required:
No
Effective Date of Exemption:
January 4, 2006
Contribution Deductibility:
Yes

Dear Applicant:

We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code. Contributions to you are deductible under section 170 of the Code. You are also qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Code. Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.

Organizations exempt under section 501(c)(3) of the Code are further classified as either public charities or private foundations. We determined that you are a public charity under the Code section(s) listed in the heading of this letter.

Please see enclosed Information for Exempt Organizations Under Section 501(c)(3) for some helpful information about your responsibilities as an exempt organization.

If you distribute funds to other organizations, your records must show whether they are exempt under section 501(c)(3). In cases where the recipient organization is not exempt under section 501(c)(3), you must have evidence the funds will be used for section 501(c)(3) purposes.

If you distribute funds to individuals, you should keep case histories showing the recipient's name and address; the purpose of the award; the manner of selection; and the relationship of the recipient to any of your officers, directors, trustees, members, or major contributors.

Letter 947 (DO/CG)

City of Milpitas City Council Non-Profit Donation/Fee Waiver Requ... #5

Name of Organization	AeroTech Milpitas High School
Is there a Milpitas Branch or Affiliation?	☒ Yes
Organization Address (as listed on your 501 (c) 3)	1331 East Calaveras Boulevard Milpitas, CA 95035 United States
Organization Web Site	https://www.instagram.com/aerotech.mhs/
Organization Contact Name	michelle Jones
Organization Contact Phone	(408) 204-9789
Organization Contact Email	shelly@rainier66.com
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	Help AeroTech compete in the American Rocketry Competition (TARC)
Event Name	American Rocketry Competition (TARC)
Event Date(s)	May 20, 2023
Event Location (Facility Name and Address)	Great Meadow in the The Plains, Va. 5089 Old Tavern Road The Plains, VA 20198
Is your Event Open to the Public	Yes

What is the purpose of the Event?

The American Rocketry Challenge is the world's largest rocket contest with nearly 5,000 students nationwide competing each year. The contest gives middle and high school students the opportunity to design, build and launch model rockets and hands-on experience solving engineering problems.

How will the Milpitas Community Benefit from this Event?

AeroTech MHS was founded in the summer of 2022 by MHS students who want to explore aeronautics and astronautics. The club has 31 members. Students have poured hundreds of hours into learning the fundamentals of aerospace engineering together in classes, bringing in special speakers from aerospace companies and in organizing all aspects of AeroTech.

Donating to AeroTech will make it possible for MHS students to pursue their STEM dreams and get practical experience solving engineering problems. We also hope to introduce middle school and elementary school students to aerospace engineering and model rocketry.

**What is you anticipated
Event attendance?**

25 - the two competition teams

**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?

The city's donation will be recognized on AeroTech's websites and also by the school district publications.

**Upload your Entity
Status Letter (Entity
Name listed on this
application must match
the Entity Status Letter
Name)**

W9 signed 7-2021.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.**

A handwritten signature in black ink, appearing to read "M. J. [unclear]", written on a white background.

Entry Info

Date Created

20 Mar 2023 - 11:35:48 PM

Date Updated



Entity Status Letter

Date: 3/30/2023

ESL ID: 6283310194

Why You Received This Letter

According to our records, the following entity information is true and accurate as of the date of this letter.

Entity ID: 8019531

Entity Name: MILPITAS UNIFIED

- ☒ 1. The entity is in good standing with the Franchise Tax Board.
- ☐ 2. The entity is **not** in good standing with the Franchise Tax Board.
- ☒ 3. The entity is currently exempt from tax under Revenue and Taxation Code (R&TC) Section 23701 d.
- ☐ 4. We do not have current information about the entity.
- ☐ 5. The entity was administratively dissolved/cancelled on _____ through the Franchise Tax Board Administrative Dissolution process.

Important Information

- This information does not necessarily reflect the entity's current legal or administrative status with any other agency of the state of California or other governmental agency or body.
- If the entity's powers, rights, and privileges were suspended or forfeited at any time in the past, or if the entity did business in California at a time when it was not qualified or not registered to do business in California, this information does not reflect the status or voidability of contracts made by the entity in California during the period the entity was suspended or forfeited (R&TC Sections 23304.1, 23304.5, 23305a, 23305.1).
- The entity certificate of revivor may have a time limitation or may limit the functions the revived entity can perform, or both (R&TC Section 23305b).

Connect With Us

Web: **ftb.ca.gov**
Phone: 800-852-5711 from 7 a.m. to 5 p.m. weekdays, except state holidays
916-845-6500 from outside the United States

California

Relay Service: 711 or 800-735-2929 (For persons with hearing or speech impairments)

City of Milpitas City Council Non-Profit Donation/Fee Waiver Requ... #6

Name of Organization	FAREPA SILICON VALLEY INC
Is there a Milpitas Branch or Affiliation?	☒ Yes
Organization Address (as listed on your 501 (c) 3)	2211 Moorpark Ave Ste 140 San Jose, CA 95128 United States
Organization Web Site	https://www.farepa.org/
Organization Contact Name	Tigran Bakchagyan
Organization Contact Phone	(408) 887-4963
Organization Contact Email	tigranbakchagyan@kw.com
Request Type	☒ Fee Waiver (up to \$1,500)
Requested Amount (request types cannot be combined or exceed maximum listed amounts)	830
Description of Use of Funds/Fees to be Waived	Venue cost fee waiver for community education
Event Name	ADU Workshop
Event Date(s)	May 13, 2023
Event Location (Facility Name and Address)	Milpitas Community Center
Is your Event Open to the Public	Yes
What is the purpose of the Event?	The purpose of the event is to educate the community about the many programs available for building ADUs and the process of building an ADU. We want to educate the community about the benefits of having an ADU.
How will the Milpitas Community Benefit from this Event?	We are using this event to educate the Milpitas community about the benefits of building an ADU in their home. We are looking to promote housing options and availability in the Milpitas community.
What is you anticipated Event attendance?	50
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?

Item # C15.

We will be promoting Milpitas and its contributions to flier mailers and social media posts, as well as promotion on our website.

**Upload your Entity
Status Letter (Entity
Name listed on this
application must match
the Entity Status Letter
Name)**

Entity Status Letter.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.



Entry Info

Date Created	24 Mar 2023 - 12:06:49 PM
Date Updated	
IP Address	134.238.199.129



Entity Status Letter

Date: 3/24/2023

ESL ID: 8722686688

Why You Received This Letter

According to our records, the following entity information is true and accurate as of the date of this letter.

Entity ID: 4016245

Entity Name: FAREPA SILICON VALLEY INC

- ☒ 1. The entity is in good standing with the Franchise Tax Board.
- ☐ 2. The entity is **not** in good standing with the Franchise Tax Board.
- ☒ 3. The entity is currently exempt from tax under Revenue and Taxation Code (R&TC) Section 23701 e.
- ☐ 4. We do not have current information about the entity.
- ☐ 5. The entity was administratively dissolved/cancelled on _____ through the Franchise Tax Board Administrative Dissolution process.

Important Information

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- The entity certificate of revivor may have a time limitation or may limit the functions the revived entity can perform, or both (R&TC Section 23305b).

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916-845-6500 from outside the United States

California

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CITY OF MILPITAS

Item # C15.

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 OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve the addition of Names to City Naming Lists and Name a New City Park the Delano Manongs Park (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	4/4/2023
	Recommendation: 1) Approve adding Muwekma to the Influential People Naming List 2) Approve adding Delano Manongs to the Influential People Naming List 3) Approve naming a new park in the Metro Area the "Delano Manongs Park"

BACKGROUND:

On June 21, 2022, the City Council approved the City Streets, Parks and Facilities Naming Policy (Policy). Per the updated Policy, the City Council is to form an Ad Hoc City Council Naming Subcommittee (Subcommittee) to make recommendations to City Council on the naming of City streets, parks and facilities. On January 10, 2023, the Ad Hoc Naming Subcommittee was formed to review and recommend the naming of City streets, parks and facilities for final City Council approval.

On March 2, 2023 the Subcommittee reviewed and recommended two (2) new names for the "Influential People" Naming List and one (1) Park name for final City Council approval.

ANALYSIS:

Naming Lists

On March 2, 2023, the Subcommittee recommended adding "Muwekma" to the Influential People Naming List. Per the City Streets, Parks and Facilities Naming Policy, the name qualifies under the following Policy sections:

- 2.7.3. Historical or cultural significance: the name of a historical figure can be considered, if the figure had a significant and extraordinary historical influence on the area, state, national, or international level;
- 2.7.7. A name should represent community values and consider future generations and ethnic diversity;

The aboriginal homeland of the Muwekma Ohlone Tribe includes Milpitas. Comprehensive genealogical analysis of the Mission Baptism, Death and Marriage Records from the three Bay Area Missions traces the surviving Muwekma lineages of the late 19th century through today back to their aboriginal villages. The present-day tribally enrolled Muwekma lineages are represented by the Armija/Thompson, the Santos-piños-Juarez/Colos/Armija, the Guzman/Nonessa, and the Marine-Guzman-Peralta, Marine-Alvarez/Galvan, Marine-Sanchez, Marine-Munoz, Munoz-Guzman, Marine-Arellano, and Marine-Elston/Thompson/Ruano descended families. The City of Milpitas collaborates with Muwekma Tribal leadership on City Cultural Flag raisings and the recent project, "If These Walls Could Talk," history tours at the Alviso Adobe, where the Muwekma are featured and give a land acknowledgment for each historical tour.

The Subcommittee recommended adding "Delano Manongs" to the Influential People Naming List. Per the City Streets, Parks and Facilities Naming Policy, the name qualifies under the following Policy sections:

- 2.7.3. Historical or cultural significance: the name of a historical figure can be considered, if the figure had a significant and extraordinary historical influence on the area, state, national, or international level

- 2.7.7. A name should represent community values and consider future generations and ethnic diversity;

In 1965, the Filipino laborer leader, Larry Itliong, led California grape pickers on a strike that resulted in a modern farmworker movement. Filipino farmworkers were the first to walk out of central valley vineyards, prompting the Delano Grape Strike. They would join forces with Mexican laborers led by Cesar Chavez to form the United Farm Workers. The strike was nationally notable and received support because of its boycotts, marches, and nonviolent resistance. “Manong” is a term of respect and is best translated as “older brother” or “uncle.” The term is often used for the wave of Filipino immigrants who came to the United States in the 1920s and 1930s. “Delano Manongs” has become synonymous with the movement.

Park Name

The Subcommittee has recommended a new City park in the Metro Area on McCandless Drive be named “Delano Manongs.” Per the Subcommittee, the park name would show respect and give appreciation to the Filipino American farmworkers and the Mexican American farmworkers who contributed to the worker’s rights movement, thusly honoring the importance of laborers to the County and to Milpitas.

POLICY ALTERNATIVE(S):

Alternative 1: Not Approve the addition of names to the Influential People Naming List

Pros: None

Cons: Both proposed names, Muwekma and Delano Manongs, qualify under the Policy and represent Milpitas residents of Native American, Filipino and Mexican heritage.

Reason for Not Recommending: Both proposed names, Muwekma and Delano Manongs, qualify under the Policy and represent Milpitas residents of Native American, Filipino and Mexican heritage.

Alternative: Not Approve the naming of a new City park as Delano Manongs Park

Pros: By not approving the Naming Subcommittee recommendation, another qualifying name on the City’s Naming Lists could be recommended for this new City park.

Cons: Names on the Influential People Naming List are eligible for Street, Park and Facility Naming. Delano Manongs qualifies under the Policy to be on the Influential People Naming List and represents Milpitas residents of Filipino and Mexican heritage.

Reason for Not Recommending: Names on the Influential People Naming List are eligible for Street, Park and Facility Naming. Delano Manongs qualifies under the Policy to be on the Influential People Naming List and represents Milpitas residents of Filipino and Mexican heritage.

FISCAL IMPACT:

There is no fiscal impact associated with adding the names Muwekma and Delano Manongs to the Influential People Naming List. Naming the new City park in the Metro Area on McCandless Drive for Delano Manongs will result in the ordering of a new park sign and park dedication plaque, for approximately \$15,000. Park signage and dedication plaques are standard in new City parks and funding for this signage is included in the existing capital project, CP5102, for these planned park fixtures.

California Environmental Quality Act:

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:

1) Approve adding “Muwekma” to the Influential People Naming List

- 2) Approve adding “Delano Manongs” to the Influential People Naming List
- 3) Approve naming a new park in the Metro Area the “Delano Manongs Park”

Attachment(s):

City Streets, Parks, and Facilities Naming Policy
Influential People Naming List



CITY OF MILPITAS

Item # C16.

Revision	Date
Original	04/21/2006
	6/21/2022

CITY COUNCIL POLICY

Policy No: Click or tap here to enter text.	CITY STREETS, PARKS AND FACILITIES NAMING POLICY	Effective Date: 6/21/2022
Revision No: 1	Policy Administrator: Recreation and Community Services	Next Review Due: As needed
Related Policies and Procedures: Incorporates and replaces SOP 1.3	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. This Policy establishes the guidelines, criteria, and processes for naming City streets, parks, and other facilities.
- 1.2. This Policy is consistent with Milpitas [Municipal Code, Title XI-1000](#) and [Government Code Section 34093](#).

2. POLICY

- 2.1. The City shall have the sole authority and the City Council shall have the final authority to approve names of City Streets, Parks, and other Facilities.
- 2.2. The City Council Ad Hoc Naming Subcommittee shall evaluate names of City streets, parks and facilities, and shall make recommendations to the City Council.
- 2.3. Although the City will have full control and final decision-making authority on any names selected, public input will be received, and other names may be raised and requested to be considered by the City Council.
- 2.4. From time to time, the City Council shall approve names to be added to a list(s) of names suitable for streets, parks, and facilities.
- 2.5. No duplication of names within an asset type (i.e., park, facility, plaza) will be approved.
- 2.6. A deliberative process by City staff will be conducted to ensure that renaming of a street, park, and facility will not diminish the original justification for the name of the prior contributors. Parks and facilities named after individuals shall not be changed unless it is found that because of the individual's character the continued use of their name would not be in the best interest of the community. Parks that have been named by deed restriction shall not be considered for renaming.
- 2.7. The following criteria and factors shall be considered with naming or renaming a street, park, or facility:
 - 2.7.1. Neighborhood or geographical identification, such as street, school, or other descriptive names;
 - 2.7.2. Natural or geological features of the area;
 - 2.7.3. Historical or cultural significance: the name of a historical figure can be considered, if the figure had a significant and extraordinary historical influence on the area, state, national, or international level;



Revision	Date
Original	04/21/2006

CITY STREETS, PARKS, AND FACILITIES NAMING POLICY / POLICY #

- 2.7.4. The name of any person or family that has made a significant impact in the community and/or in development of the street, park, or facility;
- 2.7.5. An individual or organization that contributed significantly to the acquisition or development of the park or facility to be named. This can include either a deed or substantial monetary contribution, or contribution toward the acquisition, and/or development of the park of facility. (Naming rights are not guaranteed if the donation is a dedication as required by the subdivision.)
- 2.7.6. The articulated preference of residents of the neighborhood surrounding the street, park, facility;
- 2.7.7. A name should represent community values and consider future generations and ethnic diversity;
- 2.7.8. If the name of an individual or family is to be considered, the use of such name shall have the approval of the individual (or his/her surviving family) or family when reasonably possible;
- 2.7.9. No seated elected official shall have their name added to a naming list or have a street, park or facility named after them while serving on the City Council.
- 2.7.10. Avoid confusing or similar sounding names (Public Safety Dispatch test);
- 2.7.11. Avoid changing street names along any continuous alignment (Continuity test).
- 2.8. Naming of parks and facilities near schools shall be coordinated with the Milpitas Unified School District as much as possible.
- 2.9. All naming and/or renaming of a park or facility will be set forth by a Council Resolution.
- 2.10. Should policy conflict with any City Ordinance, Code or other laws and regulations, the respective City Ordinance, Code or other laws and regulations shall prevail.

3. PROCEDURE

- 3.1. Maintaining a List of Names for Naming Streets, Parks, and Facilities.
 - 3.1.1. The Recreation and Community Services Department shall maintain a List of Names for Naming Streets, Parks, and Facilities.
 - 3.1.2. As needed, the Director of Recreation and Community Services shall bring additions to the List of Names for Naming Streets, Parks, and Facilities to Council for approval at any regular or special meeting.
- 3.2. Naming of Streets, Parks, and Facilities
 - 3.2.1. City street, park and facilities naming recommendations shall be brought to the City Council Ad Hoc Naming Subcommittee for recommendation to the City Council and may be considered at any regular or special City Council meeting.”.
 - 3.2.2. Naming recommendations shall be from the City Council approved List of Names available from the Director of Recreation and Community Services.
- 3.3. Proposed names for new City streets, parks, and facilities should be considered during the entitlement process prior to the final map approval.
- 3.4. Names being considered for streets shall be reviewed by the City and County emergency services dispatch and Post Office to discourage names that are too similar or confusing that may hinder emergency response; or are otherwise inappropriate for public safety purposes.



Revision	Date
Original	04/21/2006

CITY STREETS, PARKS, AND FACILITIES NAMING POLICY / POLICY #

- 3.5. The following City Departments will contribute to the establishment and maintenance of databases for named streets, parks, and facilities:
 - 3.5.1. Information and Technology Department – Maintain database of all City assets (streets, parks, and facilities)
 - 3.5.2. Recreation and Community Services Department – Maintain Naming Lists, information about historical references, person’s full names, ancestry, dates of birth and death, and other information of interest about the person or group, and the significance of their name to Milpitas’ history and/or to that particular named asset.
 - 3.5.3. Planning Department – Coordinate Street Naming related to new development, prepare, and maintain GIS databases for mapping of new facilities.
- 3.6. Renaming of a street, park, or facility
 - 3.6.1. The renaming of a street, park, or facility may be initiated by City Council, City Commission, City staff, a group, or individuals.
 - 3.6.2. The initiation of renaming by non-City organizations or individuals shall be made by participating during Public Forum at the appropriate advisory City Commission or City Council meeting.
 - 3.6.3. The City Commission may place the request on the agenda for review of the proposed name(s), taking of public comment, and discussion of the renaming proposal consistent with this Policy.
 - 3.6.4. When a City Commission considers the renaming proposal of a street, park, or facility, staff shall notify the surrounding neighborhood in a ¼ mile radius.
 - 3.6.5. If the City Commission supports the renaming proposal, it will make a recommendation to the City Council for Council consideration.
- 3.7. The name of a park or facility that is sold, transferred to non-city ownership, or otherwise deemed to no longer be a City of Milpitas property, should be transferred to another location eligible for naming. Should there not be an appropriate location, the name shall be added to the appropriate Naming List for future use.



City of Milpitas
Facilities, Streets & Park Naming Subcommittee
Naming List - *Influential People*
Approved for: Streets & Parks

NAME	DEDICATION LOCATION
<u>Trailblazers</u>	
Christopher Columbus	Columbus Cir./Russell Ln.
Henry Hudson	
Amerigo Vespucci	
Giovanni da Verrazzano	
John Smith	Smith Ln./Pimentel Cir.
John Muir	
Meriwether Lewis	
William Clark	
Sacagawea	
Neil Armstrong	
John Wesley Powell	
Ohlone	
Muwekma	
<u>Civil Leaders</u>	
Martin Luther King Jr.	King Ct./Sinclair Frontage Rd.
Robert E. Lee	Lee Way/DeLong Dr.
Mohandas Gandhi	
Thomas Paine	
John Brown	
Frederick Douglass	
Susan B. Anthony	
W.E.B. Du Bois	
Tecumseh	
Sitting Bull	
Elizabeth Cady Stanton	
Larry Itliong	
Cesar Chavez	Milpitas Community Garden
Delano Manongs	Park at McCandless Drive
<u>First Women</u>	
Pocahontas	

NAME	DEDICATION LOCATION
Eleanor Roosevelt	
Martha Washington	Washington Dr./Square Dr.
Hellen Keller	
Sojourner Truth	
Jane Addams	
Edith Wharton	
<u>Artists</u>	
Ansel Adams	Adams Ave./N. Temple Dr.
Frank Lloyd Wright	
Andy Warhol	
Frederick Law Olmsted	
James Abbott MacNeill Whistler	
Jackson Pollock	
John James Audubon	
Georgia O'Keeffe	
Thomas Eakins	
Thomas Nast	
Alfred Stieglitz	
Mark Twain	
<u>Empire-builders</u>	
Andrew Carnegie	Carnegie Dr./E. Calaveras Blvd.
John D. Rockefeller	
J.P. Morgan	
Walt Disney	
Thomas Alva Edison	
William Randolph Hearst	
Howard Hughes	
Bill Gates	
Cornelius Vanderbilt	
Steve Jobs	
<u>Athletes</u>	
Babe Ruth	
Muhammad Ali	
Jackie Robinson	
James Naismith	
Ty Cobb	
Jim Thorpe	
Billie Jean King	King Ct./Sinclair Frontage Rd.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Approving a Site Development Permit, Conditional Use Permit, Vesting Tentative Map, Density Bonus Permit, Tree Removal Permit, and Environmental Assessment to allow the development of 57 townhome condominiums and associated site improvements on an approximately 2.35-acre site located in the Mixed-Use (MXD) Zoning District at 612 South Main Street (APNs 086-25-027, 028). The Project is located within the Midtown Specific Plan area and submitted under California Senate Bill 330 (Housing Crisis Act of 2019). (Staff Contact: Ned Thomas, Planning Director, 408-586-3273)
Category:	Public Hearings-Community Development
Meeting Date:	4/4/2023
	Recommendation: Adopt a Resolution to approve Site Development Permit No. SD22-0007, Conditional Use Permit No. UP22-0003, Vesting Tentative Map No. MT22-0003, Density Bonus Permit No. DB22-0002, Tree Removal Permit No. TR22-0014, and Environmental Assessment No. EA22-0005, subject to the Conditions of Approval.

BACKGROUND:

The City of Milpitas received an application from The True Life Companies (TTLIC, applicant) requesting a Site Development Permit, Conditional Use Permit, Vesting Tentative Map, Density Bonus Permit, Tree Removal Permit, and Environmental Assessment to allow the development of a 57-unit townhome condominium subdivision, comprised of nine multi-family buildings up to 37-feet (three stories) in height, 123 parking spaces, and associated site improvements on 2.35-acre site located at 612 South Main Street (APNs 086-25-027, 028) in the Midtown Specific Plan area. The application was submitted in accordance with California Senate Bill 330, also known as the Housing Crisis Act of 2019.

The Project consists of 57 three-bedroom townhome condominium units. All 57 townhome units are three-stories in height with attached two-car garages. Nine of the condominiums will be reserved for moderate-income households (to comply with the City's Affordable Housing Ordinance). A moderate-income household is a family or persons whose incomes are between 80 percent and 95 percent of median area income of Santa Clara County. Since the applicant will reserve 15% of the housing units for purchase by moderate-income households, the Project also qualifies for concessions, waivers, and parking reductions under the State Density Bonus Law.

The proposed Project requires approval of five entitlements, as follows:

1. Site Development Permit No. SD22-0007: To allow the development of nine multi-family buildings, up to three stories in height, with up to 57 townhouse condominiums on the 2.35-acre site; and
2. Conditional Use Permit No. UP22-0003: To allow residential units as condominiums and associated subdivision; and
3. Vesting Tentative Map No. MT22-0003: To establish 57 residential condominium spaces, related common areas, and associated easements; and
4. Density Bonus Permit No. DB22-0002: To ensure compliance with State Density Bonus law and regulations; and

5. Tree Removal Permit No. TR22-0014: To remove 13 ordinance-size trees and replace them with 157 new trees on the same site.

In addition to the above entitlements, the City has prepared Environmental Assessment No. EA22-0005 to establish compliance with the California Environmental Quality Act (CEQA) for this Project.

California Senate Bill 330 (SB 330) is a statewide bill intended to reduce the time to approve housing developments in California. It became effective on January 1, 2020, and Senate Bill 8 (SB 8) recently extended the Act through January 1, 2030. Under SB 330, eligible projects receive enhanced streamlining and vesting opportunities by filing a preliminary application. Those benefits include:

- Freezes the ability of local governments to downzone, adopt new development standards, or change land use in residential and mixed-use areas if the change results in less-intensive uses.
- Allows developers to request approval of housing developments that exceed density and design controls of the underlying zoning if the existing zoning conflicts with the General Plan or a Specific Plan.
- Expedites the permitting process for all housing development and limits the list of application materials that cities can review.

Through the Housing Accountability Act, the state requires a local jurisdiction to approve housing consistent with applicable, objective land use standards. Under the State Density Bonus Law, the state also requires a local jurisdiction to approve waivers and concessions for projects that meet certain affordability requirements. Consistent with state law, planning staff has determined that the Project is consistent with applicable, objective design standards and qualifies for certain waivers, incentives, or concessions under the State Density Bonus Law. As provided under SB 330, a local government agency can deny an eligible housing project only if there is strong evidence that denial is the only way to avoid an adverse impact on public health and safety.

On February 22, 2023, a majority of the Milpitas Planning Commission voted affirmatively (four ayes, two nays, and one absent) to recommend that the City Council approve the proposed townhome Project, subject to the attached conditions of approval. Based on public comment received during the hearing, the Milpitas Planning Commission also made a separate recommendation that the City Council consider the need for a parking study for this area of South Main Street.

Staff has found that the required entitlements comply with the policies, standards, and processes outlined in Senate Bill 330 and the State Density Bonus Law, City of Milpitas 2040 General Plan, Midtown Specific Plan, Zoning Ordinance, Subdivision Ordinance, and other provisions of the Milpitas Municipal Code (MMC). Staff recommends that the City Council open and close the public hearing, consider the exemptions in accordance with CEQA and adopt a Resolution approving the development project subject to the conditions of approval.

ANALYSIS:

This analysis will evaluate elements of the proposed Project for conformance with the Milpitas 2040 General Plan, the Midtown Specific Plan, the Zoning Ordinance, and other provisions of the Milpitas Municipal Code, Senate Bill 330, and State Density Bonus Law.

Milpitas 2040 General Plan Conformance

The General Plan designation for the project site is Milpitas Gateway Specific Plan (MGSP), but since City Council has not yet formally adopted the MGSP, the development standards in the Midtown Specific Plan currently apply.

The Project is in conformance with the applicable policies and standards in the City's General Plan, as outlined in Table 1:

Table 1: General Plan Consistency

Policy	Conformance
Policy LU 1-4: <i>Continue to provide for a variety of housing types and densities that meet the needs of individuals and families and offer residents of all income levels, age groups, and special needs sufficient housing opportunities and choices for locating in Milpitas.</i>	Consistent. The Project provides 57 new three-bedroom townhome condominiums in three types of unit type floor plans with modern design elements such as including a minimum of three bathrooms and private balconies in each unit. The Project will also provide housing opportunities with those with special needs by providing at least 10% of the total units (six units) as accessible (ADA) units. The proposed family-sized housing type will meet the needs of individuals, families, and residents of all demographics and income levels as they may need more space for family, professional, or personal needs as compared to studio, one-bedroom, or two-bedroom units. Additionally, nine of the residential units will be reserved for moderate-income households.
Policy LU 5-1: <i>Require new development and redevelopment to be compatible, complementary and, where appropriate, well integrated with existing residential areas. Integrate new large-scale development projects into the fabric of the existing community rather than allowing projects to be insular and self-contained, walled off, or physically divided from surrounding uses. Improve connectivity between neighborhoods and services with new development. Tie circulation systems and open spaces into existing streets and open spaces. Reduce unnecessary barriers and improve connections between neighborhoods and services by retrofitting existing development over time as area improvements or redevelopment occurs.</i>	Consistent. The Project, as proposed, is well integrated with the existing residential, commercial, and mixed-use developments along South Main Street. The Project is located in an area already served by existing infrastructure and utilities and would incorporate an underutilized lot (600 S. Main St.) that has remained vacant and undeveloped for many years. The smaller size of this lot (approximately 150-ft width and 203-ft depth) would be challenging to develop into an efficient mixed-use project individually in the future due to site constraints. As such, the proposed Project would improve connectivity within the surrounding neighborhood by integrating both parcels. Additionally, the Project will gain ingress and egress from two new access points along South Main Street via new driveway curb cuts, and as a result, the Project will blend seamlessly into the fabric of the existing community that also have curb cuts along this street frontage. The Project will be compatible and complementary to the future higher-density mixed-use and residential development planned for other parcels along South Main Street and the Midtown Specific Plan area which are mostly developed with commercial or light industrial uses but are zoned for redevelopment as higher intensity and density mixed-uses.
Policy LU 5-3: <i>Ensure new development is consistent with specific height limits established within the City's Zoning Ordinance as applied through the zoning district for all properties within the City.</i>	Consistent. The Project meets the height standards by proposing nine buildings that are three stories each, up to a maximum 37-feet in height in a zoning district that allows a maximum height of 45 feet.

Midtown Specific Plan Conformance

The Midtown Specific Plan land use designation for the Project is MXD Mixed Use. This designation encourages a compatible mix of residential, retail, entertainment, office and commercial service uses within the framework of a pedestrian-oriented streetscape. As demonstrated in Table 2, the Project is consistent with the applicable Midtown Specific Plan land use policies.

Table 2: Midtown Specific Plan Consistency

Policy	Conformance
Policy 3.10: <i>Designate parcels along the Main Street and Abel Street corridor mixed-use and allow a mixture of retail, office, housing, service, and public/quasi-public uses in this area.</i>	Consistent. The Project will be located on Main Street and is designed as mixed-use and will provide new housing opportunities with 57 townhome condominiums with private outdoor amenity areas. Landscaping improvements will be made within the development and along the South Main Street streetscape to improve the existing condition and encourage pedestrian and other multi-modal activity to utilize the surrounding retail, office, service, and public/quasi-public uses in the area.
Policy 3.12: <i>Encourage housing as the principal upper-level use along Main Street.</i>	Consistent. The Project is fully residential with each of the 57-units as a three-story, three-bedroom attached unit separated in nine buildings. Therefore, housing is a principal use of the Project site along Main Street. As the Project was submitted under SB 330 and complies with all development standards in effect at the time the preliminary application was reviewed from April - May 2022, the City may not require additional changes to the Project proposal or design unless such changes are necessary to address health, life, or safety risks. All reviewing City Departments including Planning, Building and Housing, Fire, Engineering, and Police have not found any such concerns related to the Project as designed to warrant alterations to the current proposal. Furthermore, the project site and the immediate surrounding parcels were not identified to specifically require ground floor commercial uses per the Midtown Specific Plan study area.
Policy 3.13: <i>Adopt development standards and design guidelines for the Mixed-Use District that will create a lively pedestrian environment.</i>	Consistent. The proposed Project follows the development standards of the Mixed-Use (MXD) Zoning District and the Midtown Specific Plan and creates a pedestrian scale streetscape on Main Street by remaining three stories and up to a maximum height of 37-feet. The Project will also activate a formerly vacant and undeveloped parcel at 600 S. Main Street and will connect the uses along the street. Furthermore, the introduction of new residents in the area may utilize the existing commercial and retail land uses in Midtown area and help encourage a lively pedestrian environment.
Policy 3.14: <i>Limit the establishment of new quasi-public uses within the mixed-use designation in order to create a more active street environment.</i>	Consistent. The proposed Project consists of residential uses only.
Policy 3.24: <i>Require new residential development to provide public parks at a ratio of 3.5 acres per 1,000 persons, of which up to 1.5 acres per</i>	Consistent. The developer of the Project will comply by paying a park-in-lieu fee as described in the staff report and conditioned in the attached Resolution. The current park-in-lieu fee is established in Milpitas City Council Resolution No. 8437.

Policy	Conformance
1,000 persons can be developed as private or common open space.	
Policy 4.16: Provide secure and weather protected bicycle parking facilities at the transit stations and within new residential, retail and employment destinations.	Consistent. The Project provides bicycle parking facilities within the new residential development in the private outdoor amenity area with six bicycle racks, providing capacity for up to 12 bicycle parking stalls.
Policy 4.17: Ensure that new development complies with City of Milpitas Zoning Ordinance requirements for off-street parking. Consider reductions on a case-by-case basis.	Consistent. The Project complies with the Midtown Specific Plan zoning regulations for off-street parking requirements by providing the minimum two covered stalls for each three-bedroom unit in an attached garage, for a total of 114 covered stalls. Guest parking requirements for the Project are approximately 17 stalls, or 15 percent of the total required parking as required by the zoning ordinance. The Project qualifies for waivers and concessions under the affordability provisions of the State Density Bonus Law, which allows minimum parking ratios that are less than the City's standard zoning requirements. Such waivers and parking incentives must be granted unless there is a specific finding of a significant health, life, or safety risk.
Policy 5.4: Implement a program of streetscape improvements (Sidewalks, landscaping, bike lanes, benches, lighting) along Main and Abel Streets and Great Mall Parkway.	Consistent. The proposed Project provides street trees and landscaping improvements to the streetscape along Main Street. Some private improvements may be limited due to an existing 10-foot wide public utility easement within the front setback of the project site. No permanent structures, such as benches, can be placed over such easements.
Policy 6.11: Incorporate energy saving devices into new development in order to promote energy conservation.	Consistent. The proposed development will be constructed with the latest adopted California Building Code (CBC) standards which encourages the latest statewide energy efficiency standards in new construction projects. The Project is required to show compliance with the CBC Building Energy Efficiency Standards (Title 24) during the building permit review process. Additionally, technological improvements and energy efficiency in appliances and devices have historically and continuously improved over time and the Project anticipated to install modern energy saving devices compared to older developments.

Zoning Conformance

The project site is located in the MXD Mixed-Use Zoning District. Per the Zoning Ordinance, the MXD Zoning District encourages a compatible mix of residential, retail, entertainment, office and commercial service uses within the framework of a pedestrian-oriented streetscape. It is intended that the residential and commercial uses allowed in the MXD Zoning District combine to provide for an "around-the-clock-environment" with urban open areas (i.e. plazas, squares) that serve multiple purposes and can be used for special events.

As demonstrated in Tables 4 and 5, the proposed Project conforms to all the development standards in Zoning Ordinance and the Midtown Specific Plan for MXD. Where the Project is not in compliance with objec

standards, the State Density Bonus Law requires the City to grant appropriate concessions, waivers, and parking reductions for qualifying projects.

Table 4: Summary of MXD and Midtown Specific Plan Development Standards

Development Standard (MXD)	Required	Proposed	Conformance
Density	21-30 du/ac	24.2 du/ac; 57 units total	Yes
Front Yard Setback	8 ft. (min.) - 15 foot (max.) from back of sidewalk	Buildings 7, 8, and 9 front S. Main St: Bldg 7: 19.9 ft. Bldg 8: 20.4 ft. Bldg 9: 20.7 ft.	Yes, with approval of a Density Bonus waiver
Side Yard Setback	10 ft. (min.)	10-15.1 ft.	Yes
Rear Yard Setback	10 (min.)	5 feet	Yes, with approval of a Density Bonus waiver
Height	45 ft. and three stories	36 ft. 11-in. (three stories)	Yes
Private Open Space	Each dwelling unit shall be provided with private open space as follows: Balconies and porches (above ground level – min. dimension of 4.5-ft): minimum 60 sq. ft. Or Patios (at ground level): minimum one hundred square feet.	Private open space balconies in each unit type will have at least one private balcony with an average size as follows: • Unit Type 1 (28 units): 86 sq. ft – one balcony on 2 nd floor • Unit Type 2 (28 units): Total 100 SF (two balconies at 50 sq. ft each on 2 nd and 3 rd floors • Unit Type 3 (1 unit): 62 sq. ft – one balcony on 2 nd floor	Yes
Residential Open Space	A minimum of 25% of the total site shall be usable open space or recreational facilities. Balconies, porches, or roof decks may be considered usable open space when properly developed for work, play, or outdoor living areas.	Residential Open Space (OS) Provided: Usable OS = 0.45 acres Private Rec. Areas = 0.24 acres Total Residential OS = 0.69 acres	Yes

Development Standard (MXD)	Required	Proposed	Conformance
	25% x 2.35-acre project site = 0.59 acres required		

In addition, projects located in the Midtown Specific Plan area must comply with the additional development and design standards outlined in Table 5:

Table 5: Additional Development Standards Applicable in the Midtown Specific Plan

	Standard	Proposed	Conformance
Projections into Required Yards	Balconies, bay windows, porches, stoops and awnings may project into the setbacks provided at least 60% of the required setback area is landscaping.	Balconies and porches project into setback areas where more than 60% of the required setback area is landscaping	Yes
Building Orientation and Entrances	All buildings must face onto the street they front upon.	Buildings generally face South Main Street which is the Project's primary street frontage	Yes
Vehicle Parking	Three Bedroom – 2 covered stalls per unit x 57 units = 114 covered stalls Guest Parking – 15% of required stalls = 17 stalls Total Required – 131 spaces	114 resident covered spaces - nine guest spaces 123 total (114 covered, nine uncovered)	Yes, parking reduction is allowed under State Density Bonus Law
Bicycle Parking	Bicycle parking equivalent to five percent (5%) of the parking requirement. Seven (7) bicycle parking spaces	12 bicycle parking spaces	Yes
Parking Location	Parking is prohibited in the front setback and should be at the rear of the buildings.	57 private garage entrances face the interior drive aisle	Yes
Parking Garage Type	Tandem parking may be allowed with a Conditional Use Permit (CUP).	28 units proposed with tandem parking garages	Yes, tandem parking is allowed under the State Density Bonus Law as a parking incentive

	Standard	Proposed	Conformance
Parking Access and Curb Cuts	Shared driveways shall be considered wherever possible to minimize curb cuts.	Project proposes two curb cuts on South Main Street only	Yes
Park Acreage Requirements	0.22 acres (after Park-In Lieu Fee)	0.24 acres	Yes

State Density Bonus Law

To encourage affordable housing production, the State Density Bonus Law (Gov. Code §§ 65915 *et seq.*) allows developers to receive density bonuses and other incentives, such as concessions, waivers, and parking reductions, when affordable housing is incorporated within a project. The Density Bonus is a state mandate, and any project that meets the requirements of the state law is entitled to receive the waivers and incentives associated with it.

The proposed Project qualifies for waivers, concessions, and parking reductions under the State Density Bonus Law because more than 10 percent of total units will be reserved as affordable units for moderate-income households. The Project includes nine affordable units, which satisfies the 15 percent total units required under the City's Affordable Housing Ordinance. The City must grant waivers, concessions and parking reductions requested by the applicant for a qualifying project under the State Density Bonus Law.

Table 6 outlines the waivers and parking reductions requested for the proposed Project.

Table 6: State Density Bonus – Concessions, Waivers, and Incentives

	Standard	Applicant Request	Justification	Discretion
<i>Front Setback Waiver</i>	Minimum: 8 feet Maximum: 15 feet.	To provide a front setback of approximately 20-feet for Buildings 7, 8, and 9 as noted in Table 4.	The project site includes existing Public Service Easements located within the first 10-feet of the front setback, and no structures or projections are allowed on or above the easement.	A waiver is allowed under State Density Bonus Law and must be granted by the City.
<i>Rear Setback Waiver</i>	Minimum: 10 feet	To provide a rear setback of approximately 5-feet for Buildings 1, 2, 3, 4, 5, and 6 as noted in Table 4.	A reduction in the rear setback is necessary in order to physically construct the proposed development.	A waiver is allowed under State Density Bonus Law and must be granted by the City.
<i>Parking Reduction</i>	17 guest vehicle parking spaces	Nine guest vehicle parking spaces	Guest parking is not required under the State Density Bonus Law.	Parking reductions allowed under State Density Bonus Law must be granted by the City.

Front and Rear Yard Setback Waivers

The Midtown Specific Plan provides unique front, side, and rear setback requirements for MXD developments. The Project, as designed, satisfies the minimum 10-foot side setbacks on both sides of the property; but the developer is requesting State Density Bonus waivers for altering the maximum front setback and the minimum

rear yard setback. As part of the SB 330 submittal process, all applications must undergo a preliminary application review that is reviewed by various City Departments, including but not limited to Planning, Engineering, Fire, Building and Housing, and Police.

The Midtown Specific Plan requires MXD proposals to have a front yard setback ranging from a minimum of 8-feet to a maximum of 15-feet, and a minimum rear yard setback of 10-feet. The applicant has requested Buildings 7, 8, and 9 which face South Main Street to have front yard setbacks ranging from 19.9-feet to 20.7-feet, and the rear yard setback for Buildings 1-6 to be 5-feet. Both front and rear setback waivers requesting differences in approximately 5-feet of the standard requirements are necessary in order to facilitate the physical development of the proposed Project. All reviewing City Departments confirmed the proposed setbacks do not cause a public health or safety problem. As such, both waivers must be granted per State Density Bonus Law.

Parking Incentives Under State Density Bonus Laws

Under the affordability provisions of the State Density Bonus Law, any project that reserves more than 10% of total units as affordable is eligible for reduced parking standards. Projects located in the Midtown Specific Plan area typically require two vehicle parking spaces for each three-bedroom unit, and an additional 15% of required vehicle parking stalls for guests. However, upon a developer's request, the State Density Bonus Law reduces maximum parking ratios for projects that may be applied instead of City thresholds. As such, the City can only require the maximum number of vehicle parking spaces per State Density Bonus Law parking incentives, as shown in Table 7.

Table 7: Maximum Parking Requirements (under State Density Bonus Law)

Type of Unit (or Guest Parking)	Number of Vehicle Parking Spaces
Accessory Dwelling Units	No parking required if located within one-half mile of public transit
Studio and One Bedroom	One space
Two-Bedroom and Three-Bedroom	1.5 spaces
Four-Bedroom	2.5 spaces
Guest Parking	No guest parking required

The applicant has satisfied the Midtown Specific Plan three-bedroom parking space requirements but has requested a reduction in required guest parking spaces as part of the State Density Bonus Law parking incentives. The applicant has proposed to provide the following, as demonstrated in Table 8.

Table 8: Project Parking Analysis (under State Density Bonus Law)

Land Use	Unit Count	Rate	Maximum Spaces Required	Spaces Provided Onsite	Notes
Three-bedroom	57	1.5 / unit	85.5	114	
Guest Parking	N/A ¹		0	9	See footnote 1
Total			85.5	123	

¹ Zero guest parking spaces are required under the State Density Bonus Law. Without the mandated parking reductions, the Project would require approximately 17 guest parking stalls based on the Midtown Specific Plan ratio of two stalls for each three-bedroom unit (totaling 114 stalls) and a guest parking requirement of 15% of the total number of required stalls.

As noted in the Project Description, all 57 three-bedroom units will include a two-car garage, and up to 28 units will include tandem parking. Per the State Density Bonus law, onsite parking spaces may be provided through tandem or uncovered parking, but not on-street parking. Requesting these parking standards does not count

an incentive or concession. Furthermore, nine additional surface parking spaces will be provided for guests along internal Street B, making a total of 123 onsite parking spaces, which is consistent with the total reduced maximum parking standard of 85.5 parking spaces under the State Density Bonus Law.

Subdivision Ordinance

The Project's form, content, and dedications of the proposed tract map have been reviewed by the City of Milpitas Engineering Department and deemed consistent with the provisions of MMC Section XI-1-4 (Tentative Maps), as outlined in Resolution No. 23-004. Tentative Maps require approval by Resolution by the Planning Commission that recommends final approval or denial by the City Council.

Architectural Design

The Project's design concept includes three-story buildings with heights consistent with existing residential development along South Main Street. The contemporary design includes the following design accents and materials:

- Roof: Composition Shingle
- Exterior: Stucco Finish with Fiber Cement Siding, Hardie Panel Siding in Fiber Cement Textured Panel and Horizontal Shiplap Siding, Metal Siding, and Muddox Thin Brick/Brick
- Trim/Accents: Bronze Metal, Metal Railings with Panel Siding
- Entry Door: Contemporary Front Entry Door with Sidelite
- Garage Door: Cloplay Steel Garage Door with Contemporary Slim Windows

The Project conforms to the Midtown Specific Plan design guidelines, which require orientation of the building to the street, well-articulated exterior walls with consistent style and materials, muted colors for primary building walls with richer accent colors, and integrated parking. Furthermore, the Project has a similar architectural style to the Milpa Village Townhome development north at 260 South Main Street, built out in 2019. The applicant has provided an exhibit with proposed colors and materials for review by City staff and the City Council, as shown in Figure 1.

Figure 1: Color/Materials Board

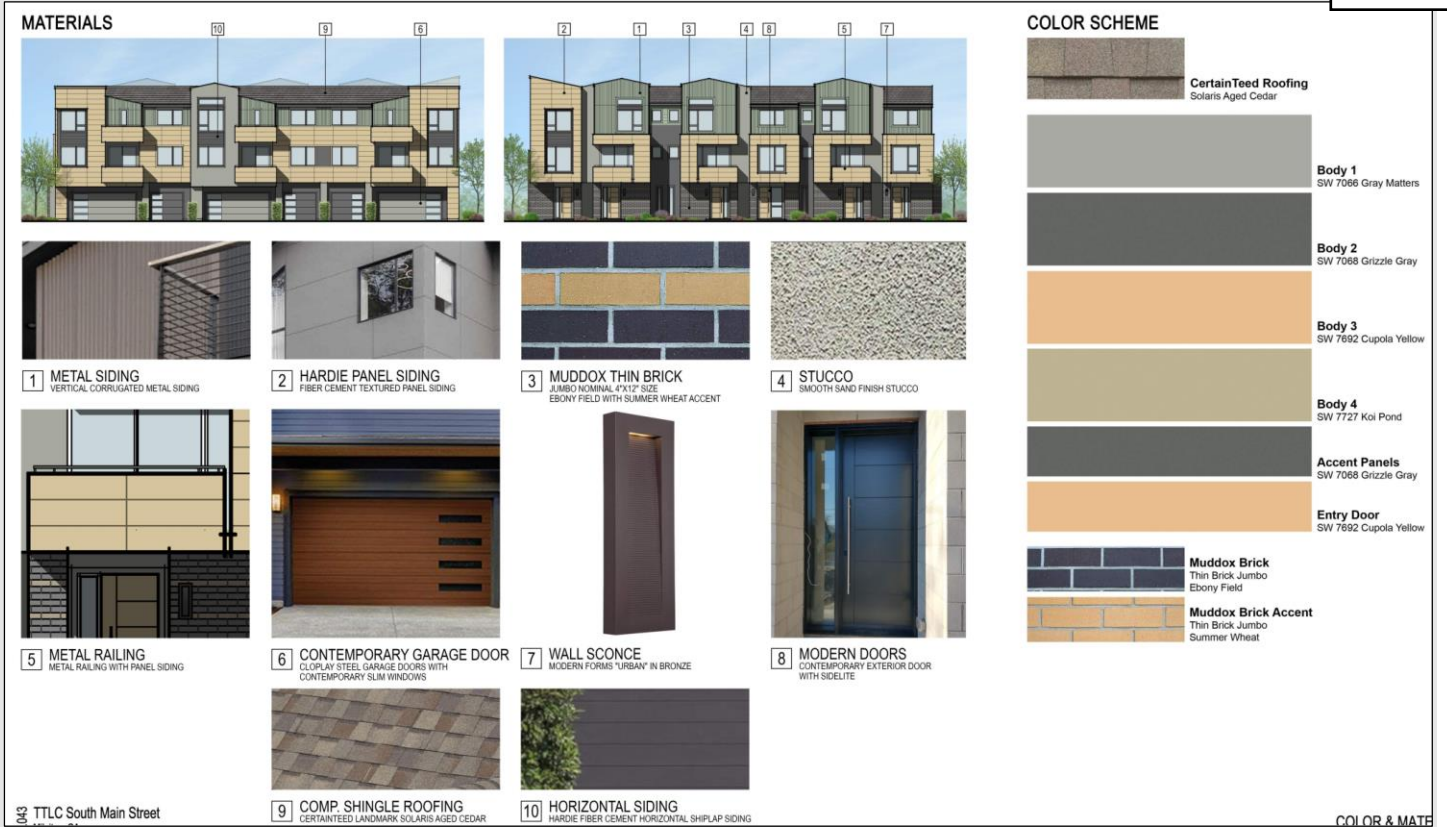


Figure 2 on the following page is a rendering of a typical elevation of the proposed Project.

Figure 2: Project Elevation Facing South Main Street



Tree Removal and Landscaping Requirements

The Project includes removal of 26 existing trees, including 13 ordinance sized trees, from the site. Pursuant to MMC Title X, Chapter 2 (Tree Maintenance and Protection), the Project must plant a minimum of two replacement trees for every one ordinance sized tree that is removed. The Project will include 157 new trees on the same site. Additional landscaping will include the installation of various shrubs, grasses, and vines (New Zealand Flax, Manzanita, Reed Grass, and Creeping Fig) as demonstrated in Figure 3.

Figure 3 – Landscape Plan



Parkland and Open Space Requirements

The Midtown Specific Plan requires all new developments to provide 3.5 acres of parkland for every 1,000 persons or payment of park in-lieu fees, as allowed by MMC Section XI-1-9 (*Improvements: Dedication of Land or Payment of Fee or Both, for Recreational Purposes*). The Parkland Fee is based upon the estimated number of persons expected to reside in the development (per U.S. Census definitions) and the estimated value of parkland in Milpitas (currently \$2,787,840 per acre).

In the Midtown Specific Plan Area at least, two (2) of every three and a half (3 ½) acres (57.4%) shall be provided as public park land. The remaining acreage can be provided as private park land (42.6%). Estimates show 2.49 people will occupy each unit for multi-family developments with 5 units or more. The Project proposes 57 units, resulting in an estimated population of 142 persons and a parkland requirement of 0.50 acres, equivalent to approximately \$1,384,873.46.

The applicant has proposed to pay for public park land and provide private park land space. The City has determined the applicant must pay to provide 0.28 acres of parkland, equivalent to \$789,377.87. The remaining 0.22 acres will be provided onsite with a mixture of a playground area with a pergola, playground equipment, bicycle racks, picnic tables and chairs, and a synthetic turf lawn for play. A full analysis for the parkland requirement is demonstrated in Table 9 below.

Table 9: Parkland Requirement Analysis

TTL Townhomes Proposed	57
TTL Townhomes Population Estimate (2.49 persons/unit per Census)	142 persons
Midtown Parkland Requirement	3.5 acres/1,000 people or equivalent fees-in-lieu
Total Parkland Acreage or In-Lieu Fee Required	0.50 acres / \$1,384,873.46
Amount Satisfied Through Park-In Lieu Fees (Acreage/Dollars)	0.28 acres / \$789,377.87
Remaining Parkland Acreage Required	0.22 acres
Private Recreation/Open Space Included in the Project	0.24 acres

Total Parkland Acreage due**0.00 acres*****Affordable Housing Ordinance***

According to MMC Section XII-1-3.00 (Affordable Housing), the applicant must reserve fifteen percent (15%) of the total number of dwelling units within the development as affordable units. The applicant proposes to meet the City's affordable housing requirement by reserving nine of the 57 units on-site for moderate-income households, which meets the minimum 15 percent requirement of the City's Affordable Housing Ordinance. The developer is required to execute an agreement imposing appropriate ownership controls on the affordable units and all other requirements per MMC Section XII-1-3.04 (Design and distribution of affordable units).

The Project's proposed unit type and building distribution is shown in Table 10 and the distribution of affordable units is shown in Figure 4. As shown in Table 10, the Project will include 28 units as Type 1 and 2, and one unit as Type 3.

Table 10: Proposed Project Unit Type and Building Totals

Building #	Unit Type 1 (3 bed/3 bath) 1,423 S.F.	Unit Type 2 (3 bed/3 bath) 1,689 S.F.	Unit Type 3 (3 bed/3.5 bath) 2,092 S.F.	Total
Building 1	3	3	0	6
Building 2	2	2	1	5
Building 3	3	3	0	6
Building 4	3	3	0	6
Building 5	3	3	0	6
Building 6	3	3	0	6
Building 7	3	3	0	6
Building 8	4	4	0	8
Building 9	4	4	0	8
Total Unit Count	28	28	1	57
Required Affordable Unit Type Distribution per City's Affordable Housing Ordinance	5	4	0	9

The Housing Division within the City's Building Safety and Housing Department reviewed the proposed Project for compliance with the City's Affordable Housing Ordinance. In accordance with the distribution of the unit types shown in Table 10 above, the applicant has agreed to distribute the number of affordable unit types as outlined below and as shown to be dispersed throughout the Project as identified by the red dots in Figure 4:

- Five (5) Affordable Units: Unit Type 1 (3 bedroom/1,423-square feet)
- Four (4) Affordable Units: Unit Type 2 (3 bedroom/1,689-square feet)

Figure 4 – Location and Distribution of Affordable Units



AFFORDABLE UNIT NOTES

1. NUMBER OF UNITS: 9

2. AFFORDABLE LEVEL: MODERATE

PROPOSED UNIT SIZE:

UNIT 1 - 3 BR/1,423 SF (QUANTITY: 5)

UNIT 2 - 3 BR/1,689 SF (QUANTITY: 4)

3. ALL AFFORDABLE UNITS WILL BE BUILT CONCURRENTLY WITH THE MARKET-RATE UNITS

4. AN EXECUTED AGREEMENT IMPOSING APPROPRIATE OWNERSHIP CONTROLS IS REQUIRED. THIS WILL BE COMPLETED DURING THE BUILDING PERMIT PROCESS.

Traffic and Access

Vehicular access will be provided by two driveways with direct ingress/egress from South Main Street. An internal private street and alley grid will provide access to 57 private residential garages with a total of 114 covered vehicle parking spaces. In addition, nine guest parking spaces will be provided along Street B, including one ADA-compliant space, one electric vehicle (EV) parking space, and two compact spaces. The EV parking space will provide full charging facilities.

Grading

The subject site is relatively flat. The proposed Project would result in the demolition of all existing structures, paving, and landscaping on the subject site in order to construct the new development. The applicant would import approximately 600 cubic yards of fill to pad the site and increase the finish grade heights to meet flood zone requirements and support the proposed drainage and utility improvements.

Utilities

The project site is located in an urban area and is currently served by existing utilities, including water, sanitary sewer, storm drainage, electricity, and telecommunications infrastructure. All public utilities will be provided to the project site. The proposed Project improvements to infrastructure include:

- Water: A new 8-inch internal water loop connecting to the existing 8-inch water line along S. Main Street.
- Sewer: A new 8-inch internal sewer line connecting to the existing 18-inch sewer line along S. Main Street.
- Stormwater: an existing storm drain line (12-inch and 18-inch) runs along the property frontage within a storm drain easement parallel to S. Main Street. The Project proposes to upsize all the 12-inch storm drainpipes to 15-inch pipes and tie the treated 12-inch line from the site to the new upsized 15-inch

The Project will have an internal storm drain system, routed through a bio-retention basin to meet water quality requirements, before connecting back to the public storm drain system along S. Main St.

- Gas Lines: The project site will be all-electric; no gas will be installed, and any existing gas services will be abandoned if feasible per PG&E requirements.
- Existing Overhead Utility Lines: The Project will underground the overhead utility lines along the site frontage along S. Main Street.

Climate Action Plan

The City of Milpitas Climate Action Plan (CAP) was adopted in 2013 and included Greenhouse Gas (GHG) reduction goals, policies, and actions for new and existing development projects. The Project would follow these goals and policies by locating future residents near public transportation, jobs, restaurants, and services. The City recently adopted the Climate Action Plan Update on August 9, 2022. In addition, the Project would incorporate green building measures in compliance with CAL Green standard building measures for residential buildings and Title 24 requirements to reduce energy usage.

PUBLIC COMMENT/OUTREACH

Staff provided public notice of the proposed Project in accordance with City (MMC XI-10-64.04) and State public noticing requirements. A notice for the City Council public hearing was published in the Milpitas Post on March 24, 2023. In addition, postcards with information about the Planning Commission public hearing and City Council public hearing were sent to all owners and occupants within 1,000 feet of the project site. Public notices for both hearings were also posted at the project site, on the City's Website, www.milpitas.gov, and at City Hall. Lastly, a project description and copies of project plans were posted under the "Online Public Forum" on the Planning Department page of the City's Website. At the time of publishing this report, one public comment has been received in opposition to the Project. The public comments are included as Attachment G. The applicant also hosted a neighborhood meeting on March 15, 2023, to provide detailed information about the Project and respond to questions from members of the community.

POLICY ALTERNATIVE:

Alternative 1: Deny the applicant's request for a Site Development Permit, Conditional Use Permit, Vesting Tentative Map, Density Bonus Permit, Tree Removal Permit, and Environmental Assessment.

Pros: Denial of the Project would allow the site to remain with one vacant lot and one lot with underutilized land uses, with the possibility a higher density residential or mixed-use Project would be submitted. A higher density or higher intensity mixed-use Project would generate more impact fees to pay for needed infrastructure.

Cons: Denial of the Project would deprive the City of 57 new residential units, nine of which are reserved for below market rate households. The Project would further support affordable housing needs within the region, including the City's Regional Housing Needs Allocation (RHNA). Denial of the Project would also be contrary to the goals and objectives of State and local density bonus laws.

Reason for Not Recommending: The proposed Project is consistent with the City's General Plan, Midtown Specific Plan, and zoning, all of which support the development of affordable housing within proximity to transit and a mixed-use neighborhood. The Project includes nine townhomes reserved for moderate-income households, which are designed with affordability in mind, increasing the number of affordable units in the City of Milpitas and providing more options of housing for its residents. The Project complies with the affordability provisions of the State Density Bonus Law and qualifies for the setback waivers and parking reductions requested by the applicant. The Project complements nearby residential projects and other commercial and mixed-use land uses.

FISCAL IMPACT:

The Project is subject to the following impact fees:

- *Parkland Impact Fee* - The requirements are detailed above in the Parkland and Open Space Requirements section and in Table 9 per MMC Section XI-1-9. The applicant will pay the estimated \$789,377.87 park in-lieu fee prior to building permit issuance.
- *Public Art Fee* - The Project will comply with the City's Public Art Requirements for Private Development, as set forth in Milpitas Municipal Code Section XI-10-14. This fee is currently set at one-half of one percent of building development costs. The proposed Project will pay the fee based on the construction valuation at the building permit issuance.

ENVIRONMENTAL REVIEW:

The City conducted an environmental assessment in accordance with the California Environmental Quality Act ("CEQA"), as amended. The proposed Project is categorically exempt from CEQA pursuant to CEQA Guidelines Section 15332 (In-fill Development Projects). An exemption is the appropriate CEQA determination for the proposed Project. For additional details, see Exhibit 2 of the Resolution (Attachment B) for the proposed Project memorandum demonstrating compliance with CEQA Guidelines Section 15332. Exhibit 3 of the Resolution (Attachment C) includes the supporting technical reports as substantial evidence for the CEQA memorandum.

As a separate and independent basis, the Project is also exempt from further CEQA review pursuant to CEQA Guidelines Section 15168 (Program EIR) because the Project is a residential project that is generally consistent with the buildout projections of the updated 2010 Midtown Specific Plan. Therefore, no further environmental review is required.

RECOMMENDATION:

Adopt a Resolution to approve Site Development Permit No. SD22-0007, Conditional Use Permit No. UP22-0003, Vesting Tentative Map No. MT22-0003, Density Bonus Permit No. DB22-0002, Tree Removal Permit No. TR22-0014, and Environmental Assessment No. EA22-0005, subject to the Conditions of Approval.

Attachment(s):

Attachment A: City Council Resolution, including Exhibit 1 to the Resolution: Conditions of Approval
 Attachment B: Exhibit 2 to the Resolution: CEQA Exemption Memorandum
 Attachment C: Exhibit 3 to the Resolution: CEQA Exemption Supporting Technical Studies
 Attachment D: Planning Commission Staff Report dated February 22, 2023
 Attachment E: Planning Commission Meeting Minutes for February 22, 2023
 Attachment F: Project Plans
 Attachment G: Public Comments received prior to the City Council Public Hearing

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING SITE DEVELOPMENT PERMIT NO. SD22-0007, CONDITIONAL USE PERMIT NO. UP22-0003, VESTING TENTATIVE MAP NO. MT22-0003, DENSITY BONUS PERMIT NO. DB22-0002, TREE REMOVAL PERMIT NO. TR22-0014, AND ENVIRONMENTAL ASSESSMENT NO. EA22-0005 TO ALLOW DEMOLITION OF ONE MULTI-TENANT COMMERCIAL AND OFFICE BUILDING, REMOVAL AND REPLACEMENT OF 13 ORDINANCE-SIZE TREES, AND DEVELOPMENT OF 57 TOWNHOME CONDOMINIUMS, CONSISTING OF NINE MULTI-FAMILY RESIDENTIAL BUILDINGS UP TO 37 FEET IN HEIGHT (THREE STORIES), WITH 123 VEHICLE PARKING SPACES AND ASSOCIATED SITE IMPROVEMENTS ON A 2.35-ACRE SITE LOCATED WITHIN THE MIDTOWN SPECIFIC PLAN AREA AT 612 SOUTH MAIN STREET (APN 086-25-027, 028) AND MAKING FINDINGS OF CEQA EXEMPTION

WHEREAS, the City of Milpitas, California (the “City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, on March 19, 2002, the Milpitas City Council certified an Environmental Impact Report (EIR) prepared to analyze the environmental impacts associated with the proposed Midtown Specific Plan (State Clearinghouse “SCH” No. 2000092027) in accordance with the California Environmental Quality Act (“CEQA”), and subsequently adopted the Midtown Specific Plan; and

WHEREAS, on June 8, 2008, the Milpitas City Council certified the Milpitas Transit Area Specific Plan EIR (SCH No. 2006032091) and subsequently adopted the Transit Area Specific Plan (TASP), a specific plan developed in response to Policy 7.5 of the Midtown Specific Plan that reduced the scope of the Midtown Specific Plan by removing some of the boundaries and areas designated therein and placing them within the planning provisions of the TASP; and

WHEREAS, the Milpitas City Council adopted Resolution No. 7796 approving amendments to a revised 2008 Midtown Specific Plan to acknowledge the TASP, deleted the Transit Oriented Development (TOD) Overlay in the northern area of the Midtown Specific Plan, and updated other outdated text, references, and figures. The resolution determined the proposed amendments to the 2008 Midtown Specific Plan are exempt from further CEQA review pursuant to (a) CEQA Guidelines Section 15162, since all potentially significant effects have been adequately analyzed in the Midtown Specific Plan EIR (SCH No. 2000092027) and the Transit Area Specific Plan EIR (SCH No. 2006032091) and (b) CEQA Guidelines Section 15061(b)(3) since there was no possibility that the proposed amendments could have a significant effect on the environment; and

WHEREAS, on October 7, 2008, the Milpitas City Council certified the Supplemental Environmental Impact Report (SEIR) for the Midtown Specific Plan Transportation Element Update dated January 2008 (SCH No. 2000092027) per a City Council request at its November 7, 2006 meeting to study potential traffic improvements and impacts within portions of the Midtown Specific Plan area; and

WHEREAS, the Milpitas City Council adopted Resolution No. 8044 on November 16, 2010, approving the aforementioned minor amendments and text edits to the General Plan and Milpitas Specific Plan, resulting in the updated 2010 Midtown Specific Plan, the latest adopted version of this specific plan to date. Resolution No. 8044 determined no further environmental review pursuant to CEQA Guidelines Section 15168 (Program EIR) and Section 15162(b) (Subsequent EIRs and Negative Declarations) was required as no new information or circumstances have arisen with regards to the proposed land use, zoning, and other changes reflected in the 2010

Midtown Specific Plan amendments that were not previously considered in the 2002 Midtown Specific Plan or the 2008 Midtown Specific Plan Transportation Update SEIR; and

WHEREAS, the 2010 Midtown Specific Plan encompasses a 589-acre area and envisions the development of up to 1,472 new dwelling units, 51,000-square feet of retail space, 720,000-square feet of office space, 326,000-square feet of commercial and industrial space, and 49-acres of parks and open space, and includes development standards, goals and policies guiding development within the Plan area. Due to the existing land use patterns and the physical characteristics of the area, including major streets and railroads, the Midtown Specific Plan also established sub-areas with specific goals and policies to accommodate those unique characteristics; and

WHEREAS, on July 26, 2022, The True Life Companies (the “Applicant”) submitted an application to the City of Milpitas for the entitlements necessary to allow the development of a 57-unit townhome condominium subdivision, comprised of nine multi-family buildings up to 37-feet (three stories) in height, 123 parking spaces, and associated site improvements on a 2.35-acre site located at 612 South Main Street in the Midtown Specific Plan area (the “Project”); and

WHEREAS, the Planning Department completed Environmental Assessment No. EA22-0005 for the Project in accordance with the CEQA, and recommends that the City Council determine this Project is covered under CEQA Guidelines Section 15332 (In-fill Development Projects) as discussed within a memorandum (the “Memorandum,”), a true and correct copy of which is attached hereto and incorporated herein, as **Exhibit 2 to the Resolution. Exhibit 3 to the Resolution** includes the CEQA Memorandum supporting technical studies), and the Project is located within the Midtown Specific Plan area and is therefore exempt from further environmental review pursuant to CEQA Guidelines Section 15168 (Program EIR); and

WHEREAS, the proposed Project is found to be consistent with the goals, policies, and regulations of the California Density Bonus Law (Government Code sections 65915 *et seq.*), Milpitas 2040 General Plan, Midtown Specific Plan, and Milpitas Zoning Ordinance, specifically Milpitas Municipal Code Section XI-10-54.15 (Density Bonus for Affordable Housing Developments), which permits waivers and concessions to development standards, as analyzed and documented in the staff report; and

WHEREAS, the Planning Commission is an advisory body to the City Council pursuant to Milpitas Municipal Code Section XI-10-64.03 (Consideration of Concurrent Applications), where, as here, due to the application for a Tentative Map pursuant to Milpitas Municipal Code Section XI-1-4.03 and a density bonus pursuant to Milpitas Municipal Code Section XI-10-54.15, the City Council is the highest review authority for the Project and, accordingly, all review by other bodies with approval authority over the application shall be in the form of a recommendation to the City Council; and

WHEREAS, on February 22, 2023, the Planning Commission held a duly-noticed public hearing, during which meeting the Planning Commission considered the CEQA exemption findings as well as Site Development Permit No. SD22-0007, Conditional Use Permit No. UP22-0003, Vesting Tentative Map No. MT22-0003, Density Bonus Permit No. DB22-0002, Tree Removal Permit No. TR22-0014 and Environmental Assessment No. EA22-0005 for 612 South Main Street, heard a presentation from staff, offered the applicant the opportunity to present evidence, and had the opportunity to hear from members of the public; and

WHEREAS, by adoption of Resolution No. 23-004, the Planning Commission recommended that the City Council approve Site Development Permit No. SD22-0007, Conditional Use Permit No. UP22-0002, Vesting Tentative Map No. MT22-0002, Density Bonus Permit No. DB22-0002, Tree Removal Permit No. TR22-0014, and Environmental Assessment No. EA22-0005 for 612 South Main Street; and

WHEREAS, the documents and other materials which constitute the record of proceedings upon which the Planning Commission bases its recommendation and the findings contained within this Resolution are available as part of the agenda packet posting on the City of Milpitas website and may be reviewed at Milpitas City Hall, located at 455 E. Calaveras Boulevard, Milpitas, California 95035; and

WHEREAS, on April 4, 2023, the City Council held a duly-noticed public hearing, during which meeting the City Council considered the CEQA exemption findings as well as Site Development Permit No. SD22-0007, Conditional Use Permit No. UP22-0003, Vesting Tentative Map No. MT22-0003, Density Bonus Permit No. DB22-0002, Tree Removal Permit No. TR22-0014 and Environmental Assessment No. EA22-0005 for 612 South Main Street, heard a presentation from staff, and had the opportunity to hear from members of the public; and

WHEREAS, the findings and conclusions made by the City Council pursuant to this Resolution are based upon the oral and written evidence presented before it as a whole.

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

SECTION 1. Recitals.

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

SECTION 2. California Environmental Quality Act

The City conducted an environmental assessment (memorialized in the attached memorandum, dated February 14, 2023) for the proposed Project in accordance with the California Environmental Quality Act (CEQA).

The proposed Project is categorically exempt from further environmental review pursuant to CEQA Guidelines Section 15332 (In-fill Development Projects) in that the Project is consistent with the General Plan and zoning designation while invoking the State Density Bonus Law waivers from development standards and reduced parking requirements, is located in an urban area that has either been previously developed or adjoins existing qualified urban uses on all of the site's perimeter and is under five-acres in size, has no value to endangered, rare, or threatened species, would not result in any significant effects related to traffic, noise, air quality, or water quality, and the site can be adequately served by all required utilities and public services. A CEQA Exemption Memorandum demonstrating compliance with the categorical exemption is included as Exhibit 2 of the Resolution, and the CEQA Exemption Supporting Technical Studies is included as Exhibit 3 of the Resolution.

As a separate and independent basis, the Project is also exempt from further environmental review pursuant to CEQA Guidelines Section 15168 (Program EIR) per the Midtown Specific Plan EIR (State Clearinghouse No. 2000092027) adopted by the City Council in March 2002, as amended.

SECTION 3. Vesting Tentative Map Findings (Section XI-1-20.01)

The City Council makes the following findings based on the evidence in the administrative record in support of Vesting Tentative Map No. MT22-0003:

1. *The tentative subdivision map is consistent with the General Plan.*

The General Plan designation for the project site references MGSP, but since City Council formally adopted the MGSP as the study and environmental review is currently underway, the Midtown Specific Plan development standards currently apply. Both the MGSP and Midtown Specific Plan standards intend to facilitate the development of compatible land uses for a mixed-use community that includes high-density, transit-oriented housing and a central community cultural hub, as well as encourage walking, biking, and alternative modes of transportation.

The Midtown Specific Plan designates the project site as Mixed Use (MXD). The intent of this designation is to provide a compatible mix of land uses with residential density proposals at a range of 21-30 dwelling units/acre. As this Project proposes 24.2 dwelling units/acre, it is consistent with both the intended land use of the General Plan and the relevant density requirement. In addition, the newly adopted 2023-2031 Housing Element already identified the project site as a pipeline site. As such, the project site has been incorporated into projections for affordable housing opportunities.

Furthermore, the Project is consistent with the Milpitas General Plan, as demonstrated and outlined in Table 1, below.

Table 1: General Plan Consistency

Policy	Conformance
Policy LU 1-4: <i>Continue to provide for a variety of housing types and densities that meet the needs of individuals and families and offer residents of all income levels, age groups, and special needs sufficient housing opportunities and choices for locating in Milpitas.</i>	Consistent. The Project provides 57 new three-bedroom townhome condominiums in three types of unit type floor plans with modern design elements such as including a minimum of three bathrooms and private balconies in each unit. The Project will also provide housing opportunities with those with special needs by providing at least 10% of the total units (six units) as accessible (ADA) units. The proposed family-sized housing type will meet the needs of individuals, families, and residents of all demographics and income levels as they may need more space for family, professional, or personal needs as compared to studio, one-bedroom, or two-bedroom units. Additionally, nine of the residential units will be reserved for moderate-income households.
Policy LU 5-1: <i>Require new development and redevelopment to be compatible, complementary and, where appropriate, well integrated with existing residential areas. Integrate new large-scale development projects into the fabric of the existing community rather than allowing projects to be insular and self-contained, walled off, or physically divided from surrounding uses. Improve connectivity between neighborhoods and services with new development. Tie circulation systems and open spaces into existing streets and open spaces. Reduce unnecessary barriers and improve connections between neighborhoods and</i>	Consistent. The Project, as proposed, is well integrated with the existing residential, commercial, and mixed-use developments along South Main Street. The Project is located in an area already served by existing infrastructure and utilities and would incorporate an underutilized lot (600 S. Main St.) that has remained vacant and undeveloped for many years. The smaller size of this lot (approximately 150-ft width and 203-ft depth) would be challenging to develop into an efficient mixed-use project individually in the future due to site constraints. As such, the proposed Project would improve connectivity

Policy	Conformance
<i>services by retrofitting existing development over time as area improvements or redevelopment occurs.</i>	within the surrounding neighborhood by integrating both parcels. Additionally, the Project will gain ingress and egress from two new access points along South Main Street via new driveway curb cuts, and as a result, the Project will blend seamlessly into the fabric of the existing community that also have curb cuts along this street frontage. The Project will be compatible and complementary to the future higher-density mixed-use and residential development planned for other parcels along South Main Street and the Midtown Specific Plan area which are mostly developed with commercial or light industrial uses but are zoned for redevelopment as higher intensity and density mixed-uses.
Policy LU 5-3: <i>Ensure new development is consistent with specific height limits established within the City's Zoning Ordinance as applied through the zoning district for all properties within the City.</i>	Consistent. The Project meets the height standards by proposing nine buildings that are three stories each, up to a maximum 37-feet in height in a zoning district that allows a maximum height of 45 feet.

2. *None of the conditions identified in California Government Code Section 66474 exist, to wit:*

A. *That the proposed map is not consistent with applicable general and specific plans as specified in Government Code Section 65451.*

As outlined above, the Project includes the development of 57 residential condominium units at a density of 24.2 dwelling units/acre. The General Plan and MGSP/Midtown Specific Plan designations and the MXD zoning district permits residential development at intensities of 21 to 30 dwelling units/acre. The map is therefore consistent with the General Plan and MGSP/Midtown Specific Plan.

B. *That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.*

The Project proposes 24.2 dwelling units per acre, consistent with the 21-30 dwelling units per acre allowed by the general plan and corresponding specific plans. Additionally, the Project is consistent with the policies associated with the MGSP/Midtown Specific Plan, as identified in Tables 3 and 5, except for front and rear setbacks and guest vehicle parking, which is allowed per State Density Bonus Law.

C. *That the site is not physically suitable for the type of development.*

The site is surrounded by property designated for mixed use development under the City's General Plan and zoned for this type of development under the MGSP/Midtown Specific Plan. In addition, this site is suitable for the higher density development based on the location, physical attributes, and proposed infrastructure improvements.

D. *That the site is not physically suitable for the proposed density of development.*

The project site is within the MGSP/Midtown Specific Plan designation of Mixed Use (MXI) permitting residential development at 21 to 30 dwelling units/acre. The design will physically suit the site by providing required utilities and improvements, ample open space, and adequate residential living facilities.

- E. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.*

The Project, including the subdivision and its associated improvements, is located in an urbanized area and was previously developed with a multi-tenant commercial and office building. Therefore, it will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

- F. That the design of the subdivision or type of improvements is likely to cause serious public health problems.*

The Project, including the subdivision and its associated improvements, has been designed in a manner that will not cause serious public health problems. The Project has been reviewed by Building and Housing, Fire, Land Development, Traffic, Water, and Solid Waste Departments. As a result, it has been determined that it can be adequately serviced to preserve public health and wellness.

- G. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.*

Upon review of the subdivision map, it has been determined that the design of the subdivision or the type of improvements will not conflict with any easements acquired by the public at large, for access through or use of, property within the proposed subdivision. The subdivision may involve the vacation of gas easements per PG&E requirements.

SECTION 4. Site Development Permit Findings (Milpitas Municipal Code Section XI-10-57.03(F))

The City Council makes the following findings based on the evidence in the public record in support of Site Development Permit No. SD22-0007:

- 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 Project's site design is consistent with the Midtown Specific Plan development standards. The Project consists of 57 condominium units and associated site amenities on a 2.35-acre site. The building's contemporary architectural design visually relates to and is compatible with the similar townhome projects along Main Street. Colors are earth tone shades of grays and browns with portions of muted green and yellow vertical siding. In addition, residents will access garages via private alleyways, similar to nearby residential developments.

- 2. The Project is consistent with the Milpitas Zoning Ordinance.*

The proposed Project is consistent with the Milpitas Zoning Ordinance, as demonstrated in Table 2. The proposed multi-family residential building is permitted in the Mixed Use (MXD) Zoning District. The Project design conforms to the site and development standards of the MXD zone.

The Project also conforms to MMC Section XI-10-54.015 (Density Bonus for Affordable Housing Developments) and XI-10-57.05 (Density Bonus Permits). Where exceptions from the MXD standards

are needed, the applicant has requested waivers and guest parking exceptions under the State Bonus Law (Gov. Code §§ 65915 *et seq.*). The requested waivers and parking exception will support the development of affordable housing on a site where it would not otherwise be possible through a strict application of the specified standard.

Table 2: Summary of MXD and Midtown Specific Plan Development Standards

Development Standard (MXD)	Required	Proposed	Conformance
Density	21-30 du/ac	24.2 du/ac; 57 units total	Yes
Front Yard Setback	8 ft. (min.) - 15 foot (max.) from back of sidewalk	Buildings 7, 8, and 9 front S. Main St: Bldg 7: 19.9 ft. Bldg 8: 20.4 ft. Bldg 9: 20.7 ft.	Yes, with approval of a Density Bonus waiver
Side Yard Setback	10 ft. (min.)	10-15.1 ft.	Yes
Rear Yard Setback	10 (min.)	5 feet	Yes, with approval of Density Bonus waiver
Height	45 ft. and three stories	36 ft. 11-in. (three stories)	Yes
Private Open Space	Each dwelling unit shall be provided with private open space as follows: - Balconies and porches (above ground level – min. dimension of 4.5-ft): minimum 60 sq. ft. Or - Patios (at ground level): minimum one hundred square feet.	Private open space balconies in each unit type will have at least one private balcony with an average size as follows: - Unit Type 1 (28 units): 86 sq. ft – one balcony on 2nd floor - Unit Type 2 (28 units): Total 100 SF (two balconies at 50 sq. ft each on 2nd and 3rd floors - Unit Type 3 (1 unit): 62 sq. ft – one balcony on 2nd floor	Yes
Residential Open Space	25% of total site shall be usable open space or recreational facilities. Balconies, porches, or roof decks may be considered usable open space when developed for work, play, or outdoor living areas. 25% x 2.35-acre project site = 0.59 acres required	Residential Open Space (OS) Provided: Usable OS = 0.45 acres Private Rec. Areas = 0.24 acres Total Residential OS = 0.69 acres	Yes

3. *The Project is consistent with the General Plan.*

The proposed Project is consistent with the Milpitas General Plan, as demonstrated and outlined in Table 1, above.

4. *The Project is consistent with the Midtown Specific Plan.*

The proposed Project is consistent with the applicable policies and design guidelines of the Midtown Specific Plan, as demonstrated in Tables 3 and 4, below. As the Project is eligible under the State Density Bonus Law, Government Code section 65915(p)(5), the Project is entitled to waivers and parking incentives. The requested front and rear yard setback waivers and guest parking reduction will support the development of affordable housing units on a site where it would not otherwise be possible through a strict application of the specified standard.

Table 3: Midtown Specific Plan Consistency

Policy	Conformance
<i>Policy 3.10:</i> <i>Designate parcels along the Main Street and Abel Street corridor mixed-use and allow a mixture of retail, office, housing, service, and public/quasi-public uses in this area.</i>	Consistent. The Project will be located on Main Street and is designed as mixed-use and will provide new housing opportunities with 57 townhome condominiums with private outdoor amenity areas. Landscaping improvements will be made within the development and along the South Main Street streetscape to improve the existing condition and encourage pedestrian and other multi-modal activity to utilize the surrounding retail, office, service, and public/quasi-public uses in the area.
<i>Policy 3.12:</i> <i>Encourage housing as the principal upper-level use along Main Street.</i>	Consistent. The Project is fully residential with each of the 57-units as a three-story, three-bedroom attached unit separated in nine buildings. Therefore, housing is a principal use of the project site along Main Street. As the Project was submitted under SB 330 and complies with all development standards in effect at the time the preliminary application was reviewed from April - May 2022, the City may not require additional changes to the Project proposal or design unless such changes are necessary to address health, life, or safety risks. All reviewing City Departments including Planning, Building and Housing, Fire, Engineering, and Police have not found any such concerns related to the Project as designed to warrant alterations to the current proposal. Furthermore, the project site and the immediate surrounding parcels were not identified to specifically require ground floor commercial uses per the Midtown Specific Plan study area.

Policy	Conformance
Policy 3.13: <i>Adopt development standards and design guidelines for the Mixed-Use District that will create a lively pedestrian environment.</i>	Consistent. The proposed Project follows the development standards of the Mixed-Use (MXD) Zoning District and the Midtown Specific Plan and creates a pedestrian scale streetscape on Main Street by remaining three stories and up to a maximum height of 37-feet. The Project will also activate a formerly vacant and undeveloped parcel at 600 S. Main Street and will connect the uses along the street. Furthermore, the introduction of new residents in the area may utilize the existing commercial and retail land uses in Midtown area and help encourage a lively pedestrian environment.
Policy 3.14: <i>Limit the establishment of new quasi-public uses within the mixed-use designation in order to create a more active street environment.</i>	Consistent. The proposed Project consists of residential uses only.
Policy 3.24: <i>Require new residential development to provide public parks at a ratio of 3.5 acres per 1,000 persons, of which up to 1.5 acres per 1,000 persons can be developed as private or common open space.</i>	Consistent. The developer of the Project will comply by paying a park-in-lieu fee as described in the staff report and conditioned in the attached Resolution. The current park-in-lieu fee is established in Milpitas City Council Resolution No. 8437.
Policy 4.16: <i>Provide secure and weather protected bicycle parking facilities at the transit stations and within new residential, retail and employment destinations.</i>	Consistent. The Project provides bicycle parking facilities within the new residential development in the private outdoor amenity area with six bicycle racks, providing capacity for up to 12 bicycle parking stalls.
Policy 4.17: <i>Ensure that new development complies with City of Milpitas Zoning Ordinance requirements for off-street parking. Consider reductions on a case-by-case basis.</i>	Consistent. The Project complies with the Midtown Specific Plan zoning regulations for off-street parking requirements by providing the minimum two covered stalls for each three-bedroom unit in an attached garage, for a total of 114 covered stalls. Guest parking requirements for the Project are approximately 17 stalls, or 15 percent of the total required parking as required by the zoning ordinance. The Project qualifies for waivers and concessions under the affordability provisions of the State Density Bonus Law, which allows minimum parking ratios that are less than the City's standard zoning requirements. Such waivers and parking incentives must be granted unless there is a specific finding of a significant health, life, or safety risk.
Policy 5.4: <i>Implement a program of streetscape improvements (Sidewalks, landscaping, bike lanes, benches, lighting) along Main and Abel Streets and Great Mall Parkway.</i>	Consistent. The proposed Project provides street trees and landscaping improvements to the streetscape along Main Street. Some private improvements may be limited due to an existing 10-foot wide public utility easement within the front setback of the project site. No permanent structures, such as benches, can be placed over such easements.
Policy 6.11: <i>Incorporate energy saving devices into new development in order to promote energy conservation.</i>	Consistent. The proposed development will be constructed with the latest adopted California Building Code (CBC) standards which encourages the latest statewide energy efficiency standards in new construction projects. The

Policy	Conformance
	Project is required to show compliance with the CBC Building Energy Efficiency Standards (Title 24) during the building permit review process. Additionally, technological improvements and energy efficiency in appliances and devices have historically and continuously improved over time and the Project anticipated to install modern energy saving devices compared to older developments.

Table 4: Additional Development Standards Applicable in the Midtown Specific Plan

	Standard	Proposed	Conformance
Projections into Required Yards	Balconies, bay windows, porches, stoops and awnings may project into the setbacks provided at least 60% of the required setback area is landscaping.	Balconies and porches project into setback areas where more than 60% of the required setback area is landscaping	Yes
Building Orientation and Entrances	All buildings must face onto the street they front upon.	Buildings generally face South Main Street which is the Project's primary street frontage	Yes
Vehicle Parking	Three Bedroom – 2 covered stalls per unit x 57 units = 114 covered stalls Guest Parking – 15% of required stalls = 17 stalls Total Required – 131 spaces	• 114 resident covered spaces • nine guest spaces 123 total (114 covered, nine uncovered)	Yes, parking reduction is allowed under State Density Bonus Law
Bicycle Parking	Bicycle parking equivalent to five percent (5%) of the parking requirement. Seven (7) bicycle parking spaces	12 bicycle parking spaces	Yes
Parking Location	Parking is prohibited in the front setback and should be at the rear of the buildings.	57 private garage entrances face the interior drive aisle	Yes
Parking Garage Type	Tandem parking may be allowed with a Conditional Use Permit (CUP).	28 units proposed with tandem parking garages	Yes, tandem parking is allowed under the State Density Bonus Law as a parking incentive

	Standard	Proposed	Conformance
Parking Access and Curb Cuts	Shared driveways shall be considered where possible to minimize curb cuts.	Project proposes two curb cuts on South Main Street only	Yes
Park Acreage Requirements	0.22 acres (after Park-In Lieu Fee)	0.24 acres	Yes

Furthermore, as the Project is an eligible housing project under the State Density Bonus Law, Government Code Section 65915(p)(5), the Project is entitled to waivers and reduced parking requirements. The requested waivers and parking exception will support the development of affordable housing units on a site where it would not otherwise be possible through a strict application of the specified standard.

SECTION 5. Conditional Use Permit Findings (Milpitas Municipal Code Section XI-10-57.04(F))

The City Council makes the following findings based on the evidence in the public record in support of Conditional Use Permit No. UP22-0003:

- 1. The proposed use, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety and general welfare.*

The Project will not be detrimental or injurious to property or improvements in the vicinity or public health, safety, or general welfare. The Project is consistent with other multi-family residential projects within the Midtown Specific Plan area and conditioned to preserve the health and wellness of future residents. In addition, the condominium Project creates housing opportunities and increases the diversity of housing types in the Midtown area.

- 2. The Project is consistent with the Milpitas Zoning Ordinance.*

The proposed Project is consistent with most of the Milpitas Zoning Ordinance after utilizing mandated State Density Bonus waivers, as demonstrated in Table 4. The proposed multi-family residential Project is permitted in the Mixed Use (MXD) Zoning District. The Project design conforms to most of the site and development standards of the MXD zone as noted. Therefore, a conditional use permit is required to allow the subdivision of the proposed townhome units.

The Project also conforms to MMC Section XI-10-54.015 (Density Bonus for Affordable Housing Developments) and XI-10-57.05 (Density Bonus Permits). Where exceptions from the MXD standards are needed, the applicant has requested waivers and parking exceptions pursuant to the State Density Bonus Law (Gov. Code §§ 65915 *et seq.*). The requested front and rear yard setback waivers and guest parking exception will support the development of affordable housing on a site where it would not otherwise be possible through a strict application of the specified standard.

- 3. The Project is consistent with the Milpitas General Plan.*

The proposed Project is consistent with the Milpitas General Plan, as demonstrated and outlined in Table 1, above.

- 4. The Project is consistent with the Midtown Specific Plan (Milpitas Gateway Specific Plan).*

The proposed Project is consistent with the applicable policies and design guidelines of the Milpitas Specific Plan, as demonstrated in Tables 3 and 4, above. As the Project is an eligible housing project under the State Density Bonus Law, Government Code section 65915(p)(5), the Project is entitled to waivers and reduced parking requirements. The requested front and rear yard setback waivers and parking exception will support the development of affordable housing units on a site where it would not otherwise be possible through a strict application of the specified standard.

SECTION 6. Density Bonus Permit (Milpitas Municipal Code Section XI-10-54.15(D))

The City Council makes the following findings based on the evidence in the public record in support of Density Bonus Permit No. DB22-0002:

1. *The maximum allowable base density specified in the General Plan, including any other permitted increases to density.*

The proposed Project includes 57 townhome condominiums, equaling to 24.2 dwelling units per acre, meeting the General Plan density allowed in the immediate area.

2. *All affordable units shall be reasonably dispersed throughout the project, shall contain on average the same number of bedrooms as the non-affordable units in the project, and shall be comparable with the non-affordable units in terms of appearance, materials and finished quality. The Planning Commission may recommend to the City Council modifying the requirements as to unit size or type, if it is found that such a modification would better serve the affordable housing need of Milpitas.*

The applicant has proposed nine three-bedroom units as affordable units reserved for moderate-income households, in order to meet the requirement to develop fifteen percent (15%) of the total residential units into affordable units. Each unit will have a two-car attached garages. Five of these affordable units will include the tandem parking stalls and approximately 1,423-square feet of habitable space. The other four units will include traditional zipper parking and approximately 1,689-square feet of habitable space. All units will be three-stories in height and include private balconies. The locations of the affordable units have been identified and approved by the Housing Division as consistent with the Affordable Housing Ordinance (AHO).

3. *Prior to final building inspection and occupancy for a project containing affordable units, the applicant shall execute and record at the Santa Clara County Recorder's Office the City's Agreement Imposing Restrictions on Real Property, which Agreement shall explain the affordability requirements. The agreement shall be approved by the Milpitas City Attorney prior to recordation.*

The Project has been conditioned to provide an agreement to the City of Milpitas explaining the affordability requirements, processes and procedures, to the satisfaction of the Milpitas City Attorney prior to the release of any Certificate of Occupancy.

4. *Retaining Affordability. A developer shall agree to, and the City shall insure continued affordability of, all lower- or very low-income density bonus units for thirty (30) years or a longer period of time, if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.*

Prior to final building inspection and occupancy for the Project containing affordable units, the applicant shall execute and record at the Santa Clara County Recorder's Office the City's Agreement Imposing Restrictions on Real Property, which Agreement shall explain the affordability requirements, including

continued affordability for moderate-income households. The agreement shall be approved by the Milpitas City Attorney prior to recordation.

5. *Affordable Rents. Those units targeted for lower-income households, as defined in Section 50079.5 of the Health and Safety Code shall be affordable at a rent that does not exceed thirty (30%) of sixty (60%) percent of the Santa Clara County median income. Those units targeted for very low-income households, as defined in Section 50105 of the Health and Safety Code, shall be affordable at a rent that does not exceed thirty (30%) of fifty (50%) percent of County median income.*

The standard is not applicable to the Project, as the Project is creating townhome condominiums for sale, rather than for rent. Affordability provisions will be assessed on the sale of the individual condominium.

6. *Relation to Statute. Density bonus requirements not specified in these regulations shall be governed by the State Density Bonus Law, Government Code section 65915, et seq.*

Any density bonus requirements not specified in the City's Municipal Code shall be governed by the State Density Bonus Law, Government Code Section 65915, et seq.

Density Bonus Concessions, Incentives and Waivers

In accordance with California Government Code Section 65915 and MMC Section X-10-54.15, the City must grant the requested incentives/concessions unless the City can make either of the following findings in writing and based on substantial evidence:

- a. *The concession is not required in order to provide for affordable housing costs as defined in State Health and Safety Section 50052.2 or for rents for the affordable units pursuant to Section XI-10-54.15(D)(5), Standards, of Chapter 10 (Zoning) of the Milpitas Municipal Code.*
- b. *The concession would have a specific adverse impact as defined in State Government Code Section 65589.5(d) (2) upon the public health and safety or the physical environment, or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.*

If findings cannot be made, then the proposed concessions/incentives and waivers must be granted, based on the requirements of the Municipal Code and California Government Code Sections 65915 – 65918.

The City does not have substantial evidence to demonstrate that the concessions/incentives and waivers described in Table 5 would fail to result in actual and identifiable cost savings, and/or that these savings are unnecessary to provide the level of affordability proposed. Moreover, the City has no substantial evidence that any of the requested concessions, incentives or waivers would result in any specific, adverse impacts to public health, safety, the physical environment, or historical resources. Accordingly, the Planning Commission recommends that the City Council approve the requested concessions/incentives and waivers in accordance with the State Density Bonus Law.

Table 5: State Density Bonus – Concessions, Waivers, and Incentives

Type of Modification	Standard	Applicant Request	Justification	Discretion
<i>Front Setback Waiver</i>	A minimum front setback of 8-feet and a maximum of 15-feet.	To provide a front setback of approximately 20-feet for Buildings 7, 8, and 9.	The project site includes existing Public Service Easements located within the first 10-feet of the front setback, and no structures or projections are allowed on or above the easement.	This waiver is allowed under State Density Bonus Law and must be granted by the City.
<i>Rear Setback Waiver</i>	Rear setback must be a minimum of 10 feet.	To provide a rear setback of approximately 5-feet for Buildings 1, 2, 3, 4, 5, and 6.	A reduction in the rear setback is necessary in order to physically construct the proposed development.	This waiver is allowed under State Density Bonus Law and must be granted by the City.
<i>Parking Incentive</i>	17 guest vehicle parking spaces	Nine guest vehicle parking spaces	Guest parking is not required under the State Density Bonus Law.	Parking reductions are allowed under State Density Bonus Law and must be granted by the City.

SECTION 7: The City Council hereby approves Site Development Permit No. SD22-0007, Conditional Use Permit No. UP22-0003, Vesting Tentative Map No. MT22-0003, Density Bonus Permit No. DB22-0002, Tree Removal Permit No. TR22-0014, and Environmental Assessment No. EA22-0005, based on the above Findings and subject to the Conditions of Approval attached hereto and incorporated herein as **Exhibit 1**, the CEQA Exemption Memorandum attached hereto as **Exhibit 2**, and the CEQA Exemption Supporting Technical Studies attached hereto as **Exhibit 3**.

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

EXHIBIT 1

**CONDITIONS OF APPROVAL
612 SOUTH MAIN STREET
TRUE LIFE TOWNHOME RESIDENTIAL DEVELOPMENT**

**SITE DEVELOPMENT PERMIT NO. SD22-0007
CONDITIONAL USE PERMIT NO. UP22-0003
VESTING TENTATIVE MAP NO. MT22-0003
DENSITY BONUS PERMIT NO. DB22-0002
TREE REMOVAL PERMIT NO. TR22-0014
ENVIRONMENTAL ASSESSMENT NO. EA22-0005**

GENERAL CONDITIONS

1. General Compliance: The Permittee and owner, including all successors in interest (collectively "Permittee") shall comply with each and every condition set forth in this Permit. **SITE DEVELOPMENT PERMIT SD22-0007, CONDITIONAL USE PERMIT UP22-0003, VESTING TENTATIVE MAP MT22-0003, DENSITY BONUS PERMIT NO. DB22-0002, TREE REMOVAL PERMIT NO. TR22-0014, and ENVIRONMENTAL ASSESSMENT EA22-0005** (collectively "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. The Permittee shall develop the site in accordance with the approved Attachments and as modified by these Conditions of Approval.
2. 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 City Council approved this Permit.
3. 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 the terms, obligations, and conditions of this Permit.
4. Permit Expiration: Pursuant to Section XI-10-64-06 of the Milpitas Municipal 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 Municipal 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.
5. Time Extension: Pursuant to Section XI-10-64.07 of the Milpitas Municipal 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)**
6. 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 project 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 es remaining balance of at least twenty-five percent (25%) of the required initial deposit. **(P/E)**

7. 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 Permittee may file a protest has begun under California Government Code Section 66020(d)(1).
8. 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. **(ALL)**
9. 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 Project is operating under the permits and approvals in this Resolution. **(ALL)**
10. 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. **(CAO/P/E/B)**
11. 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 Permittee, 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. The above indemnification is intended to be as broad as permitted by applicable law. To the extent the above indemnification is limited by Government Code Section 66474.9, any limitations shall only apply to Vesting Tentative Map No. MT22-0003, and the balance of the Permit shall be unaffected by Government Code Section 66474.9.
12. Certificate of Insurance: Permittee shall provide certificate of insurance and name City as an additional insured in its insurance policies for the Project.
13. Revocation, Suspension, Modification: This Permit may be suspended, revoked or modified in accordance with Section XI-10-63.06 of the Milpitas Municipal Code.
14. 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.

15. Response to Conditions of Approval: Permittee shall provide a written response to comments upon s 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)**
16. Compliance with Fire Department and California Fire Code: The project shall comply with the requirements of the Milpitas Fire Department and the California Fire Code, as adopted by the City. Changes to the site plan and/or buildings requires review and re-approval by the Fire Department. **(F)**
17. Compliance with Land Development Department. The Project/development shall comply with the requirements of the Engineering Division, as may be amended by the City of Milpitas. **(E)**
18. Compliance with Milpitas Police Department. The Project/development shall comply with the requirements of the Police Department, as may be amended by the City of Milpitas. **(POL)**
19. Mitigation Monitoring. The Project shall comply with the applicable mitigation measures from the certified Midtown Specific Plan EIR. The mitigation measures are compiled in the Mitigation Monitoring and Reporting Program as adopted with the Final EIR.
20. Conditions of Approval. As part of the issuance of building permits, the Permittee shall include within the first four 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)**
21. Development in Conformance with Approved Plans: Permittee shall develop the approved Project in conformance with the plans dated December 20, 2022 and approved by the City Council on the date of the signed City Council Resolution, in accordance with these Conditions of Approval. 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, the owner or designee 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)**

PLANNING DEPARTMENT CONDITIONS

22. Landscape: All approved landscaping shall be permanently maintained and replaced with substantially similar plant material as necessary to provide a permanent, attractive and effective appearance.
23. Streetlights: Permittee shall provide or relocate street lighting along all street frontages subject to the review and approval of the Planning Department. Permittee shall likewise install pedestrian scale lights along all public and private street frontages consistent with the Midtown Specific Plan lighting design standard. The Permittee shall submit a photometric plan to determine appropriate light levels with submittal of on-site improvement plans.
24. Lighting Plan. Prior to issuance of any building permit, Permittee shall submit a lighting and iso-illumination plan that shall demonstrate 1) safe and adequate lighting of the project site and 2) lighting is contained and does not spill over onto adjacent properties or create unwanted glare. Permittee shall provide detail, elevations and manufacturer's specifications on proposed light fixture for, light standards, and wall sconces subject to Planning Director for approval. Proposed light fixtures shall be high quality and complement the architectural style of each townhome. Light fixtures over garage doors shall be of high-quality, residential scale, architectural design, subject to final approval by the Planning Director.

The proposed lighting plan shall also incorporate the Midtown Specific Plan lighting design standards as follows:

- a. Lights should be designed and placed to direct lighting to direct lighting to appropriate surfaces and minimize glare into adjacent areas.
- b. The light source used in outdoor lighting should provide a white light for better color representation to create a more pedestrian-friendly environment.
- c. Low pressure sodium lamps are prohibited.
- d. To reinforce the pedestrian character of the area, light standards along sidewalks should not exceed 12 to 16 feet in height.
- e. The use of uplighting to accent interesting architectural features or landscaping is encouraged.

25. Signage. Any future proposed signage and/or sign program for the Project shall receive a separate planning permit per the latest City adopted zoning regulations for signs in the City and shall incorporate signage design standards in the Midtown Specific Plan as applicable. The Midtown Specific Plan signage standards are as follows:

- a. A coordinated signage plan should be included for all multi-tenant buildings.
- b. Freestanding signs are discouraged, except at a single major site entry.
- c. Animated, moving, flashing, blinking, reflecting and revolving signs are prohibited.
- d. Cabinet signs are prohibited.
- e. All signs should be designed to complement the architectural style and setting of the structure or use it is adjacent to. Building wall and fascia signs should be compatible with the predominant visual elements of the building.
- f. Signs should be an integral part of the design of the storefronts in mixed-use buildings.
- g. The size of signs and sign letters should be proportional to the space they are located in, with the letters typically 6 and 16-inches high.
- h. Sign letters and materials should be professionally designed and fabricated. Primary signs should contain only the name of the business and/or its logo.
- i. Signs should be constructed using high quality materials such as metal, stone, wood.
- j. Exposed conduit and tubing are prohibited. All transformers and other equipment should be concealed.
- k. Projecting signs mounted perpendicular to the façade of the building should be located at least 8 feet above the sidewalk. The outside edge should be no more than 5 feet from the face of the building.
- l. Window signs should not exceed 15% of the window area. Signs should not obstruct visibility into and out of the window.
- m. Window signs may include one “open” or “closed” sign less than 2 square-feet.
- n. While bilingual signs are allowed, the size of English lettering should be at least equal to the size of letters of another language.

26. Utilities. Project shall comply with Special Development Standards in Mixed-Use Zones per MMC XI-10-6.06 as applicable:

1. Utilities shall be placed in underground or subsurface conduits.
2. All mechanical equipment, ground transformers and meters shall be located and screened to minimize visual impacts.
3. Rooftop mechanical equipment shall be concealed from street level views through roof designs that area architecturally integrated with the building, such as equipment wells and parapets.
4. Public utility distribution meters, vaults, and similar installations shall be consolidated in a single area whenever possible and located away from highly visible areas such as street corners and public open spaces.
5. Backflow preventors shall be located within landscaped setback areas and painted black or dark green to minimize visual impact. Where no landscaped setback areas exist the backflow preventors shall be incorporated into the front of the building to minimize visual obtrusiveness.
6. Refuse and recycling containers shall not be visible from a public or private street. Such containers shall be stored either within the parking facility of the building or within a vehicular accessway with screening designed to meet the requirements of this section.
7. Trash enclosure walls shall incorporate building materials and colors that match the architecture of the building and be well landscaped.
8. All telecommunications antennas shall be building façade or roof mounted and screened appropriately.
9. On Main Street only telecommunication facilities that are disguised to appear as a part of the building architecture (i.e. “stealth” antennas) may be used.

27. CC&Rs. Permittee shall submit proposed covenants, conditions, and restrictions (CC&Rs) to the City for approval prior to submission to the Department of Real Estate. The CC&Rs shall include disclosure statements informing future residents of noise due to trash enclosure collection; potential noise, traffic, as well as the use and/or storage of any hazardous material associated with normal operations of the railroad and commercial business activity and development; noise from the Union Pacific Railroads; and potential graffiti problems towards the tracks. Furthermore, the CC&Rs shall restrict the use of gasoline powered landscape equipment (blowers and string trimmers).

28. Site Improvement. Onsite water and sewer mains and laterals shall be City owned, operated, and maintained. All proposed streets and all other utilities within the project site shall be private and owned, operated, and maintained by Permittee or any Homeowners Association that may subsequently be established. The main entries and driveways shall have vertical curbs in all areas including parking areas; rolled curbs may be allowed in the alleys.

29. Parking: Parking shall be provided as depicted on the Site Plan approved by the City Council and shall consist of the following:

- a. RESIDENT: A total of 114 vehicle spaces within unit parking garages.
- b. GUEST: A total of nine (9) vehicle spaces are to be provided on site.

- c. **COMPACT:** A total of two (2) guest parking spaces will be designated as compact spaces. Additional spaces shall be compact without written approval from the Planning Director or his/her designee.
30. **Bicycle Racks:** A total of twelve (12) short-term bicycle parking spaces shall be installed on the site.
31. **Trees:** The project will remove 13 ordinance-sized trees and replace with approximately 157 trees, in conformance with the plans dated December 20, 2022 and approved by City Council on the date of the signed City Council Resolution for the Project.
32. **Site Improvement.** Prior to issuance of any building permit, Permittee must pay all applicable development fees, including but not limited to, connection fees (water, sewer and storm), plan check and inspection deposit, and 3.8% building permit automation fee. These fees are collected as part of the secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials.
33. **Park in Lieu Fee.** Permittee shall be subject to Park-in-lieu fee per the requirements of the Milpitas Midtown Specific Plan. Prior to issuance of Building Permit, Permittee shall pay park-in-lieu fees as set forth per Resolution No. 8437.
34. **Public Art Requirement:** Permittee shall comply with the City's Public Art Requirements for Private Development, as set forth in Milpitas Municipal Code Section XI-10-14. Fee shall be no less than one-half of one percent of building development costs and shall be payable at time of building permit issuance.

MIDTOWN SPECIFIC PLAN ENVIRONMENTAL IMPACT REPORT (EIR) MITIGATION MEASURES

The following are the mitigation measures from the certified Midtown Specific Plan EIR that apply to this Project with each mitigation measure being imposed as a condition of approval as follows:

HAZARDOUS MATERIALS

35. ***Mitigation Measure HazMat-1:*** A Phase I Environmental Site Assessment (ESA) shall be conducted in accordance with American Society for Testing and Materials (ASTM) guidelines prior to the approval of development that would involve soil disturbance within 100 feet of any parcel that has been identified on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5, or which has had previous land uses associated with hazardous materials (e.g., industrial sites, gas stations, etc.). Additional investigation may not be necessary for sites have no record of hazardous materials, past history of land uses associated with hazardous materials, adjacency to such sites, nor surface indications of possible hazardous materials conditions. Figure 3.3-1 located in the Midtown Milpitas Specific Plan EIR, dated October 2001, provides the general location of reported hazardous materials sites as of August 2000. For more detail, refer to the Environmental Records Search, on file with the Planning Division (EDR 2000).

The Phase I ESA will include the findings of a site reconnaissance and investigation of prior uses of the property that could have resulted in contamination. If a significant likelihood of contamination is revealed by the Phase I ESA, a Phase II and/or III assessment may be required, which would involve soil and/or water quality sampling and could result in remediation requirements in accordance with State and Federal regulations.

36. **Mitigation Measure Bio-1:** Undeveloped areas proposed for development during the nesting season (April 15 to July 15) shall be surveyed for burrowing owls. The survey must follow the California Department of Fish and Game (now Department of Fish and Wildlife) protocol. The survey report shall be submitted to Milpitas Planning Division for review and approval. If owls are observed during the surveys, or if a burrowing owl nest has been documented on the site within the last three years, a burrowing owl habitat map and mitigation plan must be prepared by a qualified ornithologist and submitted to the City for approval.
37. **Mitigation Measure Bio-2:** Most hawks build bulky nests of twigs, bark, and leaves high in trees. Red-shouldered hawks (the species observed in the project area) nest in deciduous or coniferous trees, usually 20-60 feet above the ground. The birds construct well-made cupped nests of sticks and twigs, lined with bark, mosses, leaves, feathers and down. A red-shouldered hawk nest is approximately 2 feet wide and 1 foot deep. For proposed projects that would remove any large tree with a potential raptor nest during the raptor-nesting season (February 1 to August 31), the following mitigation measures shall be implemented.
- If construction or large tree (i.e., 20 feet or more in height) removal is proposed during the raptor-nesting season (February 1 to August 31), Planning Division staff shall conduct a site visit to determine whether any nest structure is visible in the trees to be removed.
 - If a nest is observed, a focused survey shall be conducted by a qualified biologist during the nesting season to identify if they are active. The survey shall be conducted no less than 14 days and no more than 30 days prior to the beginning of construction or tree removal.
 - If nesting raptors are found during the focused survey, no construction or tree removal will occur within 500 feet of an active nest (or an alternative distance deemed appropriate by the California Department of Fish and Game (now California Department of Fish and Wildlife), depending on the existing degree of disturbance in the vicinity of the nest) until the young have fledged (as determined by a qualified biologist). If next trees are unavoidable, they shall be removed during the non-breeding season.
38. **Mitigation Measure Bio-3:** If a project in the planning area has the potential to result in discharge of dredged or fill material into Waters of the United States, including wetlands, the following measures shall be implemented. Waterways in the planning area that could be Waters of the United States are Berryessa Creek, Lower Wrigley Ford Creek, and East Penitencia Creek.
- Prior to implementation of a project in the vicinity of known waterways in the planning area, qualified biologists shall make a determination as to whether Waters of the United States, including jurisdictional wetlands, are present in the development area. If no Waters of the United States, including jurisdictional wetlands, would be filled or degraded as a result of the proposed project, no further mitigation will be required.
 - If Waters of the United States would be filled or degraded as a result of the proposed project, authorization for the fills shall be secured from USACE via the Section 404 permitting process.
 - The acreage of Waters of the United States would be filled or degraded as result or rehabilitated on a “no-net-loss” basis in accordance with USACE regulations. Habitat restoration, rehabilitation and/or replacement shall be at a location and by methods agreeable to USACE.
 - Measures to minimize erosion and runoff into drainage channels shall be included in all drainage plans and implemented during construction adjacent to creeks.

CULTURAL RESOURCES

39. **Mitigation Measure Cult-1:** The following mitigation measures shall be implemented to ensure substantial adverse changes do not occur to historical resources within the planning area. These measures shall be implemented when modification or demolition is proposed for any of the sites identified on Figure 3.8-1 of the Midtown Milpitas Specific Plan EIR, dated October 2001.

- a. Where maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation, or reconstruction of the historic resource would be conducted in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstruction Historic Buildings (1995), Weeks and Grimmer, the project's impact on the historic resource shall be considered mitigated to a less-than-significant level. This is the preferred mitigation approach.
- b. If removal or modification of any potentially significant resource is proposed and is not consistent with the Standards described in (a), the resource shall be evaluated for its integrity and structural values pursuant to the California Register criteria by a licensed architect specialized in historic buildings. This shall occur prior to the approval of any proposed modification or demolition.
- c. If these resources are determined ineligible for the California Register of Historic Resources, no further mitigation is required. However, if a resource is listed or determined eligible for the California Register of Historic Resources, documentation of the structure's architectural values by a licensed architect specialized in historic buildings shall be completed prior to demolition or alteration. At least one additional mitigation measure also will be implemented at the recommendation of the architect in consultation with the City of Milpitas; this might include on-site interpretation of the lost resource or documentation of the resource to Historic American Buildings Survey/Historic American Engineering Recordation (HABS/HAER) standards.

40. **Mitigation Measure Cult-2:** When proposed for development, the planned bicycle and pedestrian improvements in the vicinity of the Penitencia Creek and development of vacant lands in the vicinity of Penitencia Creek (Within 100 feet of the creek bank) shall be reviewed for their potential to adversely affect archaeological site CA-SCL-38. Mitigation, including site avoidance, data recovery and/or construction monitoring may be necessary, depending on the nature of the site, and the project's potential impact to it. A qualified archaeologist shall make project-specific recommendations, which shall be implemented prior to the development of the path or construction on these vacant lands.

41. **Mitigation Measure Cult-3:** Project developers shall be required to implement provisions for historical or unique archaeological resources accidentally discovered during construction in accordance with CEQA Guidelines Section 15064.5 (e)(f). This requirement shall be specified in all building and grading permits. These provisions require the immediate evaluation of the find by a qualified archaeologist or historic archaeologist meeting the Secretary of the Interior's Professional Qualification Standards. If the find is determined to be a historical or unique archaeological resource, funding will be made available by the project developer and a schedule identified for implementing avoidance measures or appropriate mitigation. Work could continue on other parts of the building site while historical or unique archaeological resource mitigation takes place.

42. **Mitigation Measure Cult-4:** In the event that human remains are encountered, City planning staff will be contacted and excavation or disturbance activities at the site or at any nearby area reasonably suspected to overlie adjacent human will be halted. This requirement shall be specified in all building and grading permits. The Santa Clara County coroner will be contacted and appropriate measures implemented. These actions would be consistent with the State Health and Safety Code Section 7050.5, which prohibits disinterring, disturbing, or removing human remains from any location other than a dedicated cemetery. If the County coroner determines the remains to be Native American, the coroner shall contact the Native American

Heritage Commission within 24 hours. The Native American Heritage Commission shall identify the or persons it believes to be most likely deceased from the deceased Native American.

AIR QUALITY

43. **Measure Air-1:** The following basic control measures are required to be implemented at all construction sites in the Midtown area. These measures shall be incorporated into construction contracts for projects in the Midtown area.

- a. Water all active construction areas twice daily and more often during windy periods. Active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with no toxic stabilizers or dust palliatives.
- b. Cover all trucks hauling soil, sand, and other loose materials, or require all trucks to maintain at least two feet of freeboard.
- c. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- d. Sweep daily (preferably with water sweepers) all paved access roads, parking areas and staging areas at construction sites.
- e. Sweep streets daily (preferably with water sweepers) if visible soil material is carried on to adjacent public streets.
- f. Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
- g. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.)
- h. Limit traffic speeds on unpaved roads to 15 miles per hour.
- i. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- j. Replant vegetation in disturbed areas as quickly as possible.
- k. Suspend excavation and grading activity whenever the wind is so high that it results in visible dust plumes despite control efforts.

44. **Mitigation Measure Air-2:** The Specific Plan contains Policies directed at reducing vehicle miles traveled. The Specific Plan encourages a compatible mixture of land uses, provides for a land-use mix that supports major transit facilities, locates higher density development around hubs and commercial centers, provides for the continuation of pedestrian-oriented retail development, and provides pedestrian connections between the transit stations and important destinations.

Though these policies would help to reduce emissions, they would not reduce them to a level of insignificance. Due to the intensity of the development proposed, the proposed Specific Plan could not be feasibly developed without an increase in air emissions above the significance thresholds of 15 tons per year for RO, NOx, and PM10.

45. **Mitigation Measure Air-3:** Due to the intensity of the development proposed, the Specific Plan could not be feasibly developed without causing an increase in regional emissions, and all feasible mitigation measures have been incorporated into the Specific Plan as policies (e.g., policies directed at encouraging non-automotive transportation).

BUILDING

46. 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.

HOUSING

47. Provide the following information on Sheet A01 of the plans: Per MMC XII-1-3.02 – Conditions of Approval, provide the habitable square feet for residential units, and net residential square feet of the total project, affordable units, and market rate units.

48. Affordable Housing Requirement: Permittee shall comply with the City’s Affordable Housing Ordinance, as set forth in Milpitas Municipal Code Section XI-1-3.00. All new residential development projects of ten units or more designed and intended for permanent occupancy shall construct 15 percent of the total number of dwelling units within the development as affordable units, unless otherwise remedied by the City Council.

49. Affordable Housing Agreement: Prior to the issuance of a building permit for an affordable unit, resale restrictions or rental controls, or both, as the case may be, shall be set forth in an agreement between the City and the applicant, which agreement shall be recorded against the affordable units. The agreement shall be executed by the City Manager or designee, and its requirements shall run with the land and bind the applicant's successors. Covenants on the affordable units shall not be less than 55 years.

50. **PRIOR TO BUILDING PERMIT ISSUANCE.** The project shall comply with the City’s Affordable Housing Ordinance. The aforementioned conditions including but not limited to compliance with MMC XII-1-3.02 and XII-1-3.04 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 Building Safety and Housing.

FIRE DEPARTMENT CONDITIONS

51. To determine the acceptability of technologies, processes, products, facilities, materials, and uses attending the design, operation or use of a building or premises subject to inspection by the Fire Code Official, the Fire Code Official is authorized to require the owner or agent to provide, without charge to the jurisdiction, a technical opinion(s), plan review(s) and/or report(s). CFC Section 104.7.2

52. Fire Department Access: Fire Department apparatus and staff access shall be provided to all buildings and site. Detailed review will be done during construction permit process. CFC Section 503

- a. Fire apparatus access roads shall meet the Milpitas Fire Department turning radii guidelines and shall provide continuous apparatus travel. Turning radii for fire apparatus access roads shall be a minimum net clearance of 48 feet-6 inches for the outside radius and 28 feet-0 inches for the inside radius. The

layout for the outside and the inside radius shall be from the same reference point (center). CFC 503

- b. 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. When there is a dead-end condition, means for fire apparatus turn-around shall be provided.
- c. Adjacent Access. No source of access from lands adjoining a property to be developed shall be considered unless there is obtained the irrevocable and unobstructed right to use same. CFC Section 503.7, added by MMC V-300-2.56
- d. Fire access roads shall be paved (concrete and/or asphalt cement, or other concrete type pavement approved by the Fire Dept.). Fire apparatus access roads/lanes and emergency vehicle 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. Design criteria shall be based on the City of Milpitas fire apparatus Sutphen S95 Aerial Platform unit. Please contact the Fire Prevention Division if specifications are needed. CFC Section 503.2.3
- e. Ground structures (including landscape) and building projections shall not encroach or impede the fire apparatus access requirements. CFC Section 503.4
- f. Emergency Vehicle Access (EVA) roads, when required, shall meet the fire department site access requirements specified herein this document. CFC Section 503
- g. No parking in fire access roads. The required access road shall be designated and clearly marked as a fire lane. The designated fire lane shall be identified as set forth in Section 22500.1 of the Vehicle Code. The designation shall be indicated (1) by a sign posted immediately adjacent to, and visible from, the designated place clearly stating in letters not less than one inch in height that the place is a fire lane, (2) by outlining or painting the place in red and, in contrasting color, marking the place with the words "FIRE LANE", which are clearly visible from a vehicle, or (3) by a red curb or red paint on the edge of the roadway upon which is clearly marked the words "FIRE LANE". CFC Section 503.3
- h. Minimum marking shall be pole signage and red curb with "FIRE LANE – CVC 22500.1" stencil. Signage and red curbs shall be done throughout and as needed to clearly identify the no parking zones.
- i. Fire Protection. When fire apparatus access roads or a water supply for fire protection is required to be installed, such protection shall be installed and made serviceable prior to and during the time of construction. Combustible construction shall not begin until water mains and hydrants are operational and fire apparatus access roads are installed (paved). CFC Section 501.4
- j. 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.

53. Fire Protection Water Supply (hydrants, on-site and public)

- a. An approved water supply (hydrants on-site and public) capable of supplying the required fire flow for fire protection shall be provided upon which facilities, buildings, or portions of buildings are hereafter constructed or moved into or within the jurisdiction. Water supply shall meet the Fire Code and the City of Milpitas Engineering Division water supply guidelines and the CFC Section 507, Appendix B and Appendix C. Fire flow reduction as noted in the Appendix B of the Fire Code is not permitted, CFC Section B103.2.
- b. Water System Calculations Requirements. Private fire service mains and appurtenances shall be designed and installed in accordance with the City of Milpitas Engineering design guideline requirements and the NFPA 24. Design calculations and all the necessary design information for the water system to meet the

domestic and fire flow requirements as per the City of Milpitas Engineer Division water requirements shall be provided as part of the construction permit process. CFC Section 507

The minimum water flow at the worst-case hydrant outlet within the private system shall be not less than 2,500 gpm.

- c. Hydrant for automatic fire sprinkler and or standpipe systems. Buildings equipped with an automatic fire sprinkler system and or a standpipe system installed in accordance with Sections 903 and or 905 shall have a fire hydrant within 50 feet of the fire department connections. CFC Section 507.1.1, amended by MMC Section V-300-2.61
- d. Private hydrants shall have the bottom 6 inches of the hydrant painted, with a weather resistive paint, white in color. CFC Section 507.5.7, added by MMC V-300-2.62
- e. No parking is permitted in front of fire hydrants. Hydrants located on streets (Public or Private Street) shall have an unobstructed clearance of not less than 30 feet per CA Vehicle Code 22514. Provide stripping per CA Vehicle Code 22500.1. CFC Section 507.5.4

54. Fire service water laterals for building sprinkler systems.

- a. Each building shall have a fire service water laterals for the automatic fire sprinkler system and shall meet the California Fire Code requirements, Chapter 9, and the NFPA 13 and other applicable Standards. Note that the utilities drawings provided with the plan set for entitlement are not reviewed nor approved for construction. CFC Section 912.1
- b. The location of the FDC's/PIV's (fire department connection/post indicator valve) shall be at a readily visible and accessible location off the fire access road and approved by the Fire Code Official. FDC's/PIV's shall not be located behind parking stalls nor behind any other obstruction. Final review for location for the FDC's/PIV's will be conducted during the construction permit process. CFC Section 912.2
- c. FDC/PIV Signage. A metal sign with raised letters at least 1 inch in size shall be mounted on all fire department connections. Signage shall be reflective, weather resistive and approved by the Fire Code Official. CFC Section 912.5
- d. Backflow Protection. Potable water supply to the automatic sprinkler and/or the standpipe systems shall be protected against backflow as required by the Health and Safety Code section 13114.7 and the City of Milpitas Utilities Engineering Division. CFC Section 912.6
- e. Automatic fire sprinkler riser location. The fire sprinkler system riser shall not be located within electrical rooms or storage closets and shall be provided with clear access and working clearance. California Fire Code Section 903.3.5.5, added by MMC Section V-300-2.66

55. Access Control Devices. When access control devices including bars, grates, gates, electric or magnetic locks or similar devices, which would inhibit rapid fire department emergency access to the building, are installed, such devices shall be approved by the Fire Code Official. All access control devices shall be provided with an approved means for deactivation or unlocking by the fire department. Access control devices shall also comply with Chapter 10 Egress. CFC Section 504.6, added by MMC Section V-300-2.59

56. Premises Identification. New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters and shall be consistent with Milpitas standardized addressing guidelines. CFC Section 505

The Fire Dept. may require the installation of address numbers at multiple building locations. CFC 102.9

57. All required addresses shall be illuminated. CFC Section 505.3, added by MMC V-300-2.60
58. Fire Dept. emergency Key Box (Knox Box, Knox locks, Knox electric switches, etc.). The Fire Code Official is authorized to require a key box(es) to be installed in an approved location(s) if necessary for lifesaving or fire-fighting purposes. Quantify and location shall be as directed by the Fire Code Official. CFC Section 506 Locked mechanical closets, electrical closets, fire alarm closets, sprinkler riser closets, etc. will need a Fire Dept. approved lock or “Knox” key box.
59. Building/Structure Requirements.
- a. The buildings shall be provided with an automatic fire sprinkler system in conformance with the NFPA 13 or NFPA 13D Standards. System type will depend on building/structure construction type and area analysis. California Fire Code Section 903.3
 - b. All new installations of sprinkler systems shall preclude sprinkler test and system drain water from discharging into the storm drain; provisions to direct water to the sanitary sewer or landscape or other approved means shall be provided. Sprinkler system design shall include the proposed method for drainage of sprinkler system discharge. Storm Water Pollution Regulations
60. Landscape sheets. The proposed landscaping may be impacted by the comments above and the requirements for fire access, fire systems and devices (such as apparatus access, hydrants, fire service lines, fire department connections valves, etc.). The Fire Dept. reserves the right to relocate, delete or change the proposed landscaping when in conflict with fire systems and devices. CFC 507.5.4
61. Complete plans and specifications for all aspects of fire protection systems shall be submitted to the Fire Department for review and approval prior to system installation. CFC Section 901.2

POLICE DEPARTMENT CONDITIONS

TRAFFIC

62. The entrance to the complex shall be posted with appropriate signage such as “No Trespassing/ Loitering” and applicable towing advisements such as 22658(a) CVC to assist in the removal of unauthorized person and vehicles from the private premises.
63. The curb-line of South Main St. along the frontage of the proposed complex is a designated “No Parking” zone clearly marked with signage. Due to the small amount of guest parking spaces, and the lack of street parking, vehicles may use neighboring commercial business lots for additional parking. Parking restrictions, requirements and rules, shall be clearly communicated to future residents at the time of property sale.
64. Signage shall be posted at the exit to the complex advising outgoing traffic to turn right (northbound) onto S. Main St. to reduce the impact on traffic and reduce the risk of collisions.

ADDRESSING

65. Address numbers shall be illuminated during hours of darkness and should be strategically positioned as to be readily visible from the street. Address numbers should have a minimum height of 12 inches. If numerous

alarm zones are utilized then zone numbers should be clearly marked above appropriate common areas (i.e. fitness/recreational center, laundry room, etc.). All other housing alarms shall be directly linked to specific housing unit (if installed).

PARKING

66. Parking issues presented by the facility could create concerns if adjacent parking lots belonging to surrounding businesses are utilized. The parking procedures need to be clearly understood and followed by residents and guests of the proposed property. The parking stalls within the property shall be clearly marked for resident and guest parking and include disabled parking spaces as required by law.

ENGINEERING DEPARTMENT 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)*

67. Modifications: The Site Development Plans dated December 20, 2022, is subject to change during the plan check stage based upon City's previous comments and conditions stated herein.
68. Solid Waste and Recycling Handling Plan: Permittee shall submit final Solid Waste and Recycling Handling Plan based upon City's previous comments for City's review and approval by the Engineering Department Solid Waste Program. The subject Plan shall show calculations of waste generation volumes and how materials will be transferred from the waste generation areas to the trash enclosure/external collection point; demonstrate how recycling, food waste, and yard trimmings shall have a separately maintained process from garbage handling; address other requirements such as waste generation and compactor sizing, chute shut-off and property management responsibility for bin management and litter control; outreach and education to tenants/occupants, and procure sufficient service frequency based upon waste generation calculation volumes.
69. Stormwater Control Plan: Permittee shall submit City approved final Stormwater Control Plan (SWCP) that complies with the latest Municipal Regional Stormwater NPDES Permit, including Low Impact Development (LID) Section C3.c.i.(2)(b) measures for harvesting and reuse, infiltration, or evapo-transpiration, for City's review and approval by the Engineering Department.
70. Photometric Analysis: Permittee shall submit streetlight photometric analysis for City's review and approval by the Engineering Department along South Main Street that meet the Illuminating Engineering Society of North America (IESNA), RP8, for roadway and sidewalk lighting standards and City standard design guidelines.
71. 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.
72. Project Job Account/Fee Deposit: Permittee shall open a new PJ account as a deposit to cover the costs for Engineering Department's services for review and inspection of the project. The amount shall be determined based on the public improvement cost estimates as prepared by the Permittee's engineer.
73. Coordination with other Projects: Permittee shall coordinate designs with the Extra Shine Car Wash project at 554 South Main Street in advance prior to any plan submittal.

PRIOR TO FINAL MAP APPROVAL/RECORDATION

*The following conditions shall be addressed during the final map plan check process and shall be met **prior to** any final approval/recordation (except demolition permit and rough grade permit), unless otherwise approved by the Director of Engineering/City Engineer. (E)*

74. Dedication on the Final Map: Permittee shall dedicate necessary emergency vehicle access easements, public service utility easements, street easements, public access easement and other public easements deemed necessary for the project.
75. Abandonment/Quitclaim Easements: Permittee shall abandon/quit claim existing easements that are in conflict with or unnecessary for the project.
76. Easements on the Final Map: Permittee shall depict all existing easements to remain based upon current preliminary title report and depict new easements on the final map.
77. Concurrent Off-site Plan Reviews: Permittee shall submit separate off-site improvement plans for City's review and approval by the Engineering Department.
78. Street Name Approval: Permittee shall obtain approval from the City Council for all new street names based upon recommendation from the Planning Commission and City guidelines.
79. Utility Company Approval: Permittee shall obtain approval letters from utility companies (PG&E, AT&T, Comcast) for abandonment of existing and dedication of new public service utilities easements.
80. Demolition of Existing Building: Permittee shall demolish existing buildings/facilities that are in conflict with the new property lines.
81. Covenant, Conditions & Restrictions (CC&Rs): Permittee shall provide CC&Rs for City's review and approval for perpetual maintenance of private roadways, private utilities, stormwater management facilities in accordance with a separately recorded Stormwater Management Facilities Operation and Maintenance Agreement, etc.
82. Subdivision Improvement Agreement and Securities: Permittee shall execute a Subdivision Improvement Agreement and provide improvement securities in accordance with MMC Title XI, Section 17, and submit all other supplemental documents as stipulated in the Improvement Agreement (such as certificate of insurance).
83. Annexation to the Community Facilities District: Permittee shall submit an executed petition affirmatively consenting to annex the subject property to the Community Facilities District (CFD) 2005-1 and agree to pay the special taxes levied by the CFD 2005-1 for the purpose of maintaining the public services. The CFD annexation process shall be completed prior to final map approval. Permittee shall comply with all rules, regulations, policies and practices established by the State Law and/or by the City with respect to the CFD including, without limitation, requirements for notice and disclosure to future owners and/or residents. This condition of approval is non-severable from the Permit, and invalidation or limitation of this condition invalidates the Permit, condition 14 notwithstanding.

PRIOR TO OFF-SITE PLAN APPROVAL/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)*

84. 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:
- Milpitas Design Guidelines: (<http://www.ci.milpitas.ca.gov/milpitas/departments/engineering/design-guidelines/>);
 - Standard details and specifications: (<http://www.ci.milpitas.ca.gov/milpitas/departments/engineering/standard-details-and-specifications/>);
 - Midtown Specific Plan design guidelines: (http://www.ci.milpitas.ca.gov/_pdfs/plan_plan_midtown.pdf); and
 - Americans with Disabilities Act (ADA) requirements, where applicable.
85. Sanitary Sewer Calculations: Permittee shall submit a completed “Sewer Needs Questionnaire” form and sanitary sewer calculations to justify lateral size design, allocation of discharge for each of the lateral, and impact to the existing main. Permittee shall be responsible to implement any necessary improvements if there is any identified deficiency to the existing main as a result of the project.
86. Storm Drain Design: Permittee shall submit storm drain hydrology and hydraulic calculations based upon a 10-year storm event to justify the size of the storm drain lateral flowing full, without surcharging the main line pipe, and to be reviewed and approved by the Engineering Department.
87. Domestic Water and Fire Service Calculations: Permittee shall submit potable water and fire service calculations to confirm adequacy of lateral size, pressure and flow, to be reviewed and approved by the Engineering Department and Fire Department. Hydraulic modeling analysis by the City and paid by the Permittee may be required as needed. Permittee shall be responsible to implement any necessary improvements if there is any identified deficiency to the existing main as a result of the project.
88. 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.
- Underground existing overhead facilities along the frontage of South Main Street per MMC Title XI, Chapter 1, Section 7.02-2 and as approved by the City and PG&E.
 - Installation of public (City-maintained) water and sewer mains within on-site private streets and public easements. Please ensure all horizontal and vertical separations meet the CCR title 22 requirements.
 - Installation of separate utility service lines (domestic water, fire service, sanitary sewer) for each residential building at minimum.
 - Upsizing of the undersized segments of the existing City storm drain main located within the public service and utility easement behind the public sidewalk to 15” at minimum.
 - Installation of separate water meters for each of the following services: residential, irrigation and fire. 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. Permittee shall execute a recorded instrument providing dedicated space, access rights and dedicated power supplies to the City for operation/maintenance/repair/replacement of subject radio antenna.
 - Remove and replace curb, gutter and sidewalk along the project street frontage on South Main Street. All sidewalk design shall comply with applicable City standards and details, including Midtown Specific Plan design details.

- g. Installation of new street tree wells along the project frontage. The locations, spacing of tree species, and tree well grates shall comply with the applicable City standards and details, including Midtown Specific Plan design details.
- h. Installation of Type II slurry seal and pavement striping along full width of South Main Street project frontage.
- i. Installation of City Streetlights per Mid-Town Specific Plan guidelines and standard. Permittee shall coordinate with City's Midtown Street Light Project during the design phase to ensure consistency of new street light design and location along project frontage. Salvage existing City Streetlights.

89. Abandonment of Existing City Utilities: Permittee shall cap, abandon or remove any unused existing public utilities based upon City's Abandonment Notes and to the City's satisfaction.

90. Relocation and Adjustment of Existing Public Utilities: Permittee shall relocate and/or adjust existing public utilities, as needed, to remove any and all conflicts with the proposed improvements. Relocation or adjustments shall be reviewed and approved by the City's Public Works Director or an assigned utilities engineer.

91. Water Service Agreement: Permittee shall complete a water service agreement to obtain water service.

92. 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.

93. Pothole Encroachment Permit: Due to multiple new utility service connections along the project frontage, Permittee shall pothole and verify all potential utility crossing conflict as part of the public improvement plan during the design stage.

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)*

94. Final Map Recordation: Permittee shall record the final map.

95. 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.

96. Stormwater Facility Operation & Maintenance Plan: Permittee shall incorporate design details into applicable construction plans in accordance with City approved Storm Water Control Plan (SWCP). Permittee shall also submit Stormwater Facility Operation & Maintenance Plan that describes operation and maintenance procedures needed to ensure that treatment Best Management Practices (BMPs) and other storm water control measures continue to work as intended and do not create a nuisance (including vector control).

97. Stormwater Management Facilities O&M Agreement: Permittee shall execute and record a Stormwater Management Facilities Operation and Maintenance (O&M) Agreement associated with the SWCP O&M Plan, including perpetual maintenance of treatment areas/units, as reviewed and accepted by the Engineering Department. The subject O&M Agreement shall be referenced in the CC&R.

98. NPDES Compliance: The project shall comply with the requirements of the National Pollution Elimination Discharge System (NPDES) permit as administered by the California State Water Resources Control Board and the San Francisco Bay Regional Water Quality Control Board. The project is required to meet the performance standards within the permit. Specifically, the project shall incorporate, at a minimum, stormwater treatment measures that meet the numeric sizing requirements for pollutant removal.
99. 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.
100. 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.
101. Solid Waste and Recycling Facility Design: Permittee shall comply with all applicable City design guidelines/details associated with haul route, turning radius, vertical and horizontal clearance, trash enclosure, staging area, storage area, etc.
102. Reuse and Recycling: Permittee shall make every effort to salvage materials for reuse and recycling and shall comply with the City's demolition and construction debris recycling ordinance.
103. Recycling Report Prior to Demolition Permit Issuance: Permittee shall submit Part I of a Recycling Report on business letterhead to the Building Department, for forwarding to the Engineering Department for review and approval. The report shall describe the following resource recovery activities:
- What materials will be salvaged.
 - How materials will be processed during demolition.
 - Intended locations or businesses for reuse or recycling.
 - Quantity estimates in tons (both recyclable and for landfill disposal). Estimates for recycling and disposal tonnage amounts by material type shall be included as separate items in all reports to the Building Division before demolition begins.
104. Recycling Report Prior to Building Permit Issuance: Permittee shall submit Part II of the Recycling Report to the Building Department, for forwarding to the Engineering Department. Part II of the Recycling Report shall be supported by copies of weight tags and/or receipts of "end dumps." Actual reuse, recycling and disposal tonnage amounts (and estimates for "end dumps") shall be submitted to the Building Department for approval by the Engineering Department prior to inspection by the Building Department.
105. Flood Plain Management: This project is in the Flood Zone "AO" with 1' average flood depth, therefore, Permittee shall comply with all applicable flood protection criterion required by the Federal Emergency Management Agency (FEMA) and MMC Title XI, Chapter 15. Permittee shall obtain a CLOMR-F from FEMA for the development prior to building permit application submittal and a LOMR-F prior to occupancy release. Permittee shall also submit a Flood Study for the Project demonstrating, to the satisfaction of the City Engineer, that the proposed development has no adverse impact to the surrounding flood plain within the Special Flood Hazard Area (SFHA) and to the flood carrying capacity of the area. The study should include cumulative effects of existing and proposed developments demonstrating the combined effects will not increase the water surface elevation of the Base Flood Elevation (BFE) more than one foot at any point. For the AO Flood Zone, the flood study is required to establish the BFE, and set the building elevation accordingly. The flood study shall be consistent with the requirements in accordance

with Title 44 of the Code of Federal Regulations by establishing a hydraulic model and HEC-RAS. study shall clearly identify the lowest floor elevation as being either the bottom of garage, bottom of first floor residential units, bottom of elevator pit, etc. and shall be completely elevated out of the SFHA.

106. Development Fees: Permittee shall pay the following development fees. The information listed in items “a” through “g” are based upon fee rates in effect at the time of the initial planning application submittal per SB 330 requirements. The exact fee amount shall be determined using these rates at the time of building permit fee payment.
- a. Storm water connection fee at \$16,771/acre for residential and \$21,562/acre for commercial.
 - b. Water connection fee at \$1,164/unit for residential and \$5.97/gpd for commercial, based upon increased water usage.
 - c. Sewer connection fee at \$1,406/unit for residential and \$8.52/gpd for commercial, based upon increased average wastewater flow.
 - d. Wastewater Treatment Plant fee per MMC VIII, Chapter 2, Section 7.04.
 - e. Calaveras Boulevard Widening Traffic Impact fee per Resolution No. 7894.
 - f. 3.8% of applicable fees in accordance with City Resolution No. 8969 as Permitting Automation Fee.
 - g. FEMA Flood Zone Designation Letter fee in the amount of \$100.00 each.

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)*

107. 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.
108. 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.
109. 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 rights-of-way or public easements.
110. Water Shut-down Plan: Permittee shall provide a water shut-down plan at least seven days in advance of the shut-down in coordination with the Engineering Inspector and notify affected property owners/tenants when cut-in tee(s) is/are required.

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.*

111. 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.
112. LOMR-F: Permittee shall submit the FEMA approved LOMR-F for each unit/building associated with the requested occupancy, if project is located in the SFHA.

113. Elevation Certificate: Permittee's civil engineer shall submit Elevation Certificate for the lowest finished floor elevation of each building for City record.
114. Landscape Certificate of Completion: Permittee shall submit a Certificate of Substantial Completion that complies with the Milpitas Municipal Code Water Efficient Landscapes Ordinance.
115. Record Drawings: Permittee shall submit record drawings in AutoCAD, Tiff, and PDF formats for City records. Record drawings shall include all public improvements. Additionally, if the project uses recycled water, the permittee shall also submit record drawings of on-site irrigation facilities.
116. Private Job (PJ) Balance: Permittee shall pay for any remaining balance from the Private Job deposit.

LEGEND

P = Planning Department

B = Building Department

E = Engineering Department

F = Fire Department

POL = Police Department

CAO = City Attorney's Office

ALL = All Reviewing Departments

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.

EXHIBIT 2

Item # 17.

CEQA EXEMPTION MEMORANDUM

CEQA EXEMPTION MEMORANDUM SUPPORTING TECHNICAL STUDIES

Part 1: Biological Constraints Analysis for 612-630 South Main Street Project, Milpitas, California, prepared by First Carbon Solutions dated May 20, 2022.

Part 2: Trip Generation Study for 612 South Main Street, Milpitas, California, prepared by TJKM dated April 2, 2022.

Part 3: Noise Impacts Constraints Analysis for the South Main Street Project in Milpitas, California, prepared by First Carbon Solutions dated May 17, 2022.

Part 4: Air Quality and Greenhouse Gas Emissions Constraints Analysis for the South Main Street Project in Milpitas, California prepared by First Carbon Solutions dated May 27, 2022.

Part 5: Preliminary Stormwater Quality Control Plan for South Main Street Milpitas 600 & 612 South Main Street prepared by MacKay & Somps dated June 2022.

EXHIBIT 2

CEQA EXEMPTION MEMORANDUM

MEMORANDUM

Planning Department



To: Ned Thomas, AICP, Planning Director, City of Milpitas
From: Kristina Phung, Associate Planner, City of Milpitas
Subject: 612 South Main Street Project Categorical Exemption
Date: February 14, 2023

This memorandum supports the finding that the proposed project at 612 South Main Street "Project" would be exempt from further review pursuant to California Environmental Quality Act (CEQA) Section 15332 (In-Fill Development Projects). The Project site located at 612 South Main Street is a combination of two adjacent parcels: 600 South Main Street (APN 086-25-028) and 612-650 South Main Street (APN 086-25-027) in the City of Milpitas, Santa Clara County. The proposed Project is described in the attached staff report. All supporting technical studies referenced herein are included as Exhibit 3.

Class 32 Infill Exemption, Per CEQA Guidelines Section 15332

Article 19 of the California Environmental Quality Act (CEQA Guidelines Section 15300 to Section 15333) includes a list of classes of projects that have been determined to not have a significant effect on the environment and as a result, are exempt from review under CEQA. Among the classes of projects that are exempt from CEQA review are those projects that are specifically identified as urban in-fill development. CEQA Guidelines Section 15332 (Class 32) consists of projects characterized as in-fill development when meeting the following conditions:

- (a) The Project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; and
- (b) The proposed Project occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; and
- (c) The Project site has no value as habitat for endangered, rare or threatened species; and
- (d) Approval of the proposed Project would not result in any significant effects relating to traffic, noise, air quality or water quality, and
- (e) The site can be adequately served by all required utilities and public services.

The analysis presented in the following section provides substantial evidence that the proposed Project qualifies for an exemption under CEQA Guidelines Section 15332 as a Class 32 urban in-fill development, and would not have a significant effect on the environment. Section 15183(a) of the California Environmental Quality Act (CEQA)



Guidelines states that "...projects which are consistent with the development density established by the existing zoning, community plan, or general plan policies for which an Environmental Impact Report (EIR) was certified shall not require additional environmental review, except as may be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site."

Section 15332 (a): General Plan & Zoning Consistency

Yes	No	The Project is consistent with the applicable General Plan designation and all applicable planning policies and is consistent with the applicable zoning designation and regulations.
X		

As described in the staff report and in Table 1 of Exhibit A, the Project is consistent with the Milpitas 2040 General Plan and policies and meets the majority of the Mixed Use (MXD) zoning designation and regulations under the Midtown Specific Plan. The Project was submitted under SB 330 (Housing Crisis Act of 2019) and as the Project is restricting the sale of more than 10 percent of the housing units to moderate-income residents, the Project qualifies for concessions, waivers, and parking reductions under the mandated State Density Bonus Law. Therefore, the City must grant the requested Project waivers to the front and rear yard setback development standards and allow for parking reductions if those development standards would physically preclude the development from construction and do not cause a public health or safety problem.

Section 15332 (b): Project Location, Size, and Context

Yes	No	The proposed Project occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
X		

The Project is on a site less than five acres at approximately 2.35-acres and is entirely surrounded by urban uses with existing developed lots including a car wash, assembly place, self-storage business, commercial shopping plaza, streets, landscaping, and associated existing infrastructure and utilities.

Section 15332 (c): Endangered, Rare or Threatened Species

Yes	No	The Project site has no value as habitat for endangered, rare or threatened species.
X		

The Project site includes one lot that is vacant and undeveloped and one paved lot with an existing two-story commercial and office building located within a developed urban area. The Project site has no significant riparian corridors, estuaries, marshes, wetlands, or any other potential wildlife habitat that might contain endangered, rare or threatened species as documented by the Biological Constraints Analysis for the 612-630 South Main Street Project prepared by FirstCarbon Solutions dated May 20, 2022. The Project will remove 13 Ordinance-sized trees and will be subject to all bird nesting mitigation measures within the adopted Midtown Specific Plan EIR, as included in the Conditions of Approval. Thus, the Project site has no value as habitat for rare, threatened, or endangered species.

Section 15332 (d): Traffic, Noise, Air Quality, or Water Quality

Yes	No	Approval of the proposed Project would not result in any significant effects related to traffic, noise, air quality or water quality.
X		

Traffic: The proposed Project will result in an increase of 57 units which will have a negligible effect on traffic based on the International Traffic Engineers (ITE) estimates for the Project and credit for the existing school/day care use and gymnastics center use, since the Project would result in a decrease in traffic impacts (changing from commercial and office to residential). As demonstrated by the Trip Generation Study for the Project prepared by TJKM dated April 2, 2022, the proposed Project would not generate any new trips during the daily, a.m. peak hour trips or p.m. peak hour trips and the total net daily trips would be reduced by 115 from its existing condition.

Noise: As substantiated by the Noise Impacts Constraints Analysis for the Project prepared by FirstCarbon Solutions dated May 17, 2022, the introduction of 57 new housing units on the Project site would not result in significant noise impacts upon adjacent uses, because noise emanating from the proposed residences would be typical of the neighborhood and would not result in a significant change or increase in the existing noise environment. The Project will be required to comply with Section 1207 of the California Building Code which requires that the interior noise levels of multi-family units have an interior noise levels of 45 dB DNL or lower. The Project would also have to comply with the City's noise ordinance per Milpitas Municipal Code Chapter V-213-3, restricting construction noise to 7:00 a.m. to 7:00 p.m. on weekday sand weekends and shall be prohibited on federal holidays.

Air Quality: The impact of dust and exhaust generated by grading and excavation of future construction activities is temporary in nature and limited to site preparation and future construction of the new townhomes. The Applicant provided the Air Quality and Greenhouse Gas Emissions Constraints Analysis for the Project prepared by FirstCarbon Solutions dated May 27, 2022, that confirmed the Project will not conflict with the 2017 Clean Air Plan by the Bay Area Air Quality Management District (BAAQMD) and the proposed residential land use is below BAAQMD's construction and operational screening levels for requiring further quantitative criteria air pollutant analysis and would not introduce a new source of odors. Furthermore, the Midtown Specific Plan EIR identified air quality mitigation measures that have been incorporated into the Conditions of Approval the Project must adhere to. As such, the Project would not result in any significant effects related to air quality.

Water Quality: The Project will not violate water quality standards or waste discharge requirements because it will be required to comply with the standard Best Management Practices per the C.3 Stormwater Handbook by the Santa Clara Valley Urban Runoff Pollution Prevention Program which regulates discharge into the City's storm drainage system; and the increase in runoff would not be large enough to cause flooding on- or off-site. All projects of this nature are required to comply with these standards and will be reviewed for compliance by the City's Engineering Department during the building permit review process. Furthermore, the Applicant prepared a Preliminary Stormwater Quality Control Plan dated June 2022 by consultants MacKay & Soms for the Project.

Section 15332 (e): Utilities and Public Services

Yes	No	The site can be adequately served by all required utilities and public services.
X		

The Project site is located in an area surrounded completely by existing development and infrastructure and has been reviewed by all major reviewing Departments including but not limited to Building, Fire, Police, Land Development, Traffic, Water, and Solid Waste Departments. As a result, it has been determined that the site can be adequately serviced to preserve public health, safety, and wellness. The Applicant has also agreed to a number of onsite utility improvements as included in the Conditions of Approval.

EXHIBIT 3**CEQA EXEMPTION MEMORANDUM SUPPORTING TECHNICAL STUDIES**

Part 1: Biological Constraints Analysis for 612-630 South Main Street Project, Milpitas, California, prepared by First Carbon Solutions dated May 20, 2022.

Part 2: Trip Generation Study for 612 South Main Street, Milpitas, California, prepared by TJKM dated April 2, 2022.

Part 3: Noise Impacts Constraints Analysis for the South Main Street Project in Milpitas, California, prepared by First Carbon Solutions dated May 17, 2022.

Part 4: Air Quality and Greenhouse Gas Emissions Constraints Analysis for the South Main Street Project in Milpitas, California prepared by First Carbon Solutions dated May 27, 2022.

Part 5: Preliminary Stormwater Quality Control Plan for South Main Street Milpitas 600 & 612 South Main Street prepared by MacKay & Soms dated June 2022.

Exhibit 3, Part 1:

Biological Constraints Analysis for 612-630 South Main Street Project, Milpitas, California, prepared by
First Carbon Solutions dated May 20, 2022.

Biological Constraints Analysis 612-630 South Main Street Project City of Milpitas, Santa Clara County, California

Project Applicant:

TTLc Milpitas-Main Street LLC

12647 Alcosta Boulevard, Suite 470
San Ramon, CA 94583

Contact: Hassan Naboulsi, Project Manager
925.380.1210

Prepared by:

FirstCarbon Solutions

1350 Treat Boulevard, Suite 380
Walnut Creek, CA 94597
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Contact: Robert Carroll, Biologist

Date: May 20, 2022

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Table of Contents

Section 1: Introduction	1
1.1 - Project Location	1
1.2 - Project Description.....	1
Section 2: Regulatory Setting.....	7
2.1 - Federal.....	7
2.2 - State	8
2.3 - Regional and Local	11
Section 3: Methods.....	13
3.1 - Literature Review	13
3.2 - Field Survey	14
Section 4: Results.....	17
4.1 - Existing Conditions.....	17
4.2 - Special-status Species	18
4.3 - Jurisdictional Waters and Wetlands.....	27
4.4 - Wildlife Movement Corridors	27
4.5 - Protected Trees.....	27
4.6 - Santa Clara Valley Habitat Plan.....	27
Section 5: Biological Constraints And Recommendations	33
5.1 - Avoidance of Impacts to Burrowing Owl.....	33
5.2 - Avoidance of Impacts to Nesting Birds	33
5.3 - Avoidance of Impacts to Roosting Bats	34
5.4 - Tree Preservation	34
Appendix A: Site Photographs	
Appendix B: Database Searches	
Appendix C: Tree Inventory Report	

List of Tables

Table 1: Trees Evaluated by Tree Inventory Report	18
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List of Exhibits

Exhibit 1: Regional Location Map.....	3
Exhibit 2: Local Vicinity Map	5
Exhibit 3: Soils Map	29
Exhibit 4: Landcover and Vegetation.....	31

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SECTION 1: INTRODUCTION

FirstCarbon Solutions (FCS) has prepared this Biological Constraints Analysis for the proposed 612-630 South Main Street Project (proposed project) located in Milpitas, California. The purpose of the Biological Constraints Analysis is to identify any potential development constraints related to sensitive or protected biological resources that are present or have potential to occur on-site and to identify any potential impacts that the development of the project site could have on these resources. Recommended measures to avoid or minimize potential project-related impacts to sensitive and protected biological resources on-site are included as appropriate.

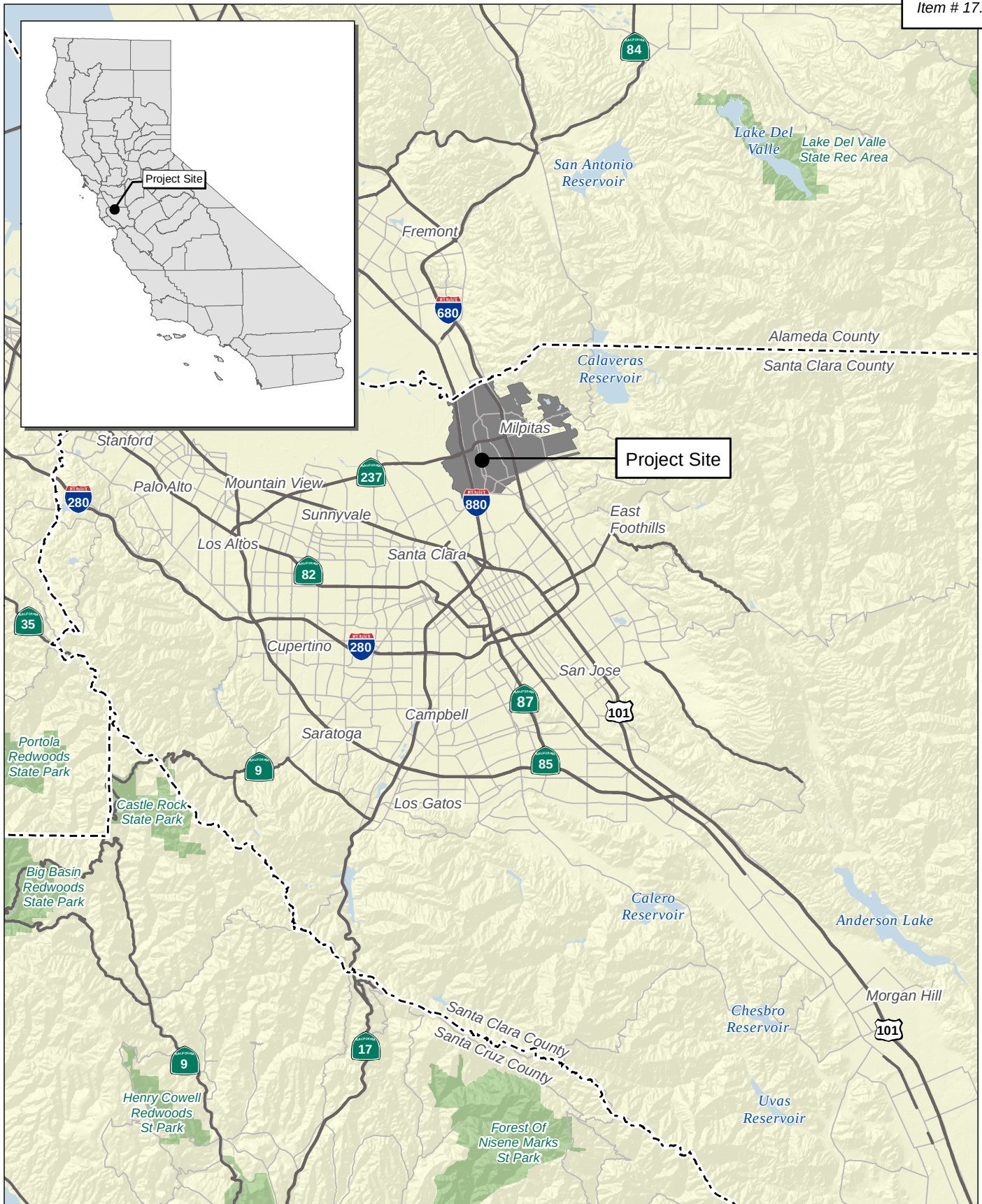
1.1 - Project Location

The project site is located in the City of Milpitas, in Santa Clara County, California (Exhibit 1). Specifically, the project site is located just east of Main Street between West Curtis Avenue and Corning Avenue (Exhibit 2). The project site's Assessor's Parcel Number (APN) is 086-25-027. The project site is composed of vacant land and an active Montessori school with associated surface parking.

1.2 - Project Description

The proposed project would include the development of vacant land and the demolition of the existing approximate 29,000-square-foot Montessori school structure. Project construction consists of 57 attached, three-story townhome dwelling units and associated amenities on the approximately 2.3-acre site. The proposed project would also include 20,368 square feet of open space, including private open space areas. The proposed project would include 124 total parking spaces, including 114 garage unit parking spaces (two spaces per unit), and 10 guest surface parking spaces.

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Source: Census 2000 Data, The California Spatial Information Library (CaSIL).

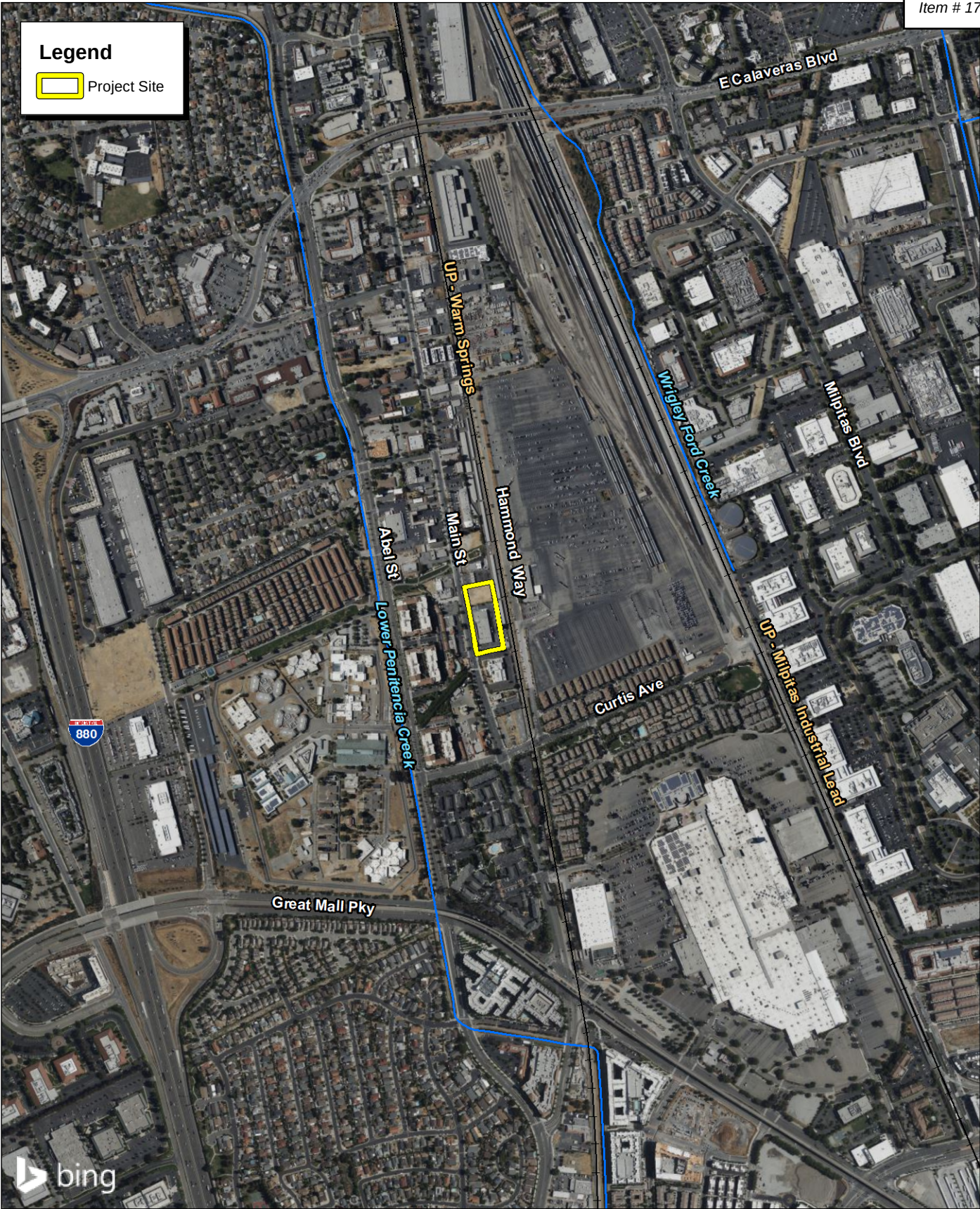
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Exhibit 1 Regional Location Map

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Source: Bing Aerial Imagery. Santa Clara County.

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Exhibit 2
Local Vicinity Map

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SECTION 2: REGULATORY SETTING

2.1 - Federal

2.1.1 - Endangered Species Act

The United States Fish and Wildlife Service (USFWS) has jurisdiction over species listed as threatened or endangered under the Endangered Species Act. Section 9 of the Endangered Species Act protects listed species from “take,” which is broadly defined as actions taken to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct.” The Endangered Species Act protects threatened and endangered plants and animals and their critical habitat. Candidate species are those proposed for listing; during the environmental review process these species are usually treated by resource agencies as if they were actually listed as threatened or endangered.

2.1.2 - Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) implements international treaties between the United States and other nations devised to protect migratory birds, their parts, eggs, and nests from activities such as hunting, pursuing, capturing, killing, selling, and shipping, unless expressly authorized in the regulations or by permit. All migratory birds and their nests are protected from take and other impacts under the MBTA (16 United States Code [USC] § 703, *et seq.*).

2.1.3 - Bald and Golden Eagle Protection Act

The golden eagle (*Aquila chrysaetos*) and bald eagle (*Haliaeetus leucocephalus*) are afforded additional protection under the Eagle Protection Act, amended in 1973 (16 USC § 669, *et seq.*) and the Bald and Golden Eagle Protection Act (16 USC §§ 668–668d).

2.1.4 - Clean Water Act

Section 404

The United States Army Corps of Engineers (USACE) administers Section 404 of the federal Clean Water Act (CWA), which regulates the discharge of dredge and fill material into waters of the United States. On April 21, 2020, the United States Environmental Protection Agency (EPA) and the USACE (collectively “Agencies”) published a new definition of waters of the United States in the Federal Register. This new definition, called the 2020 Navigable Waters Protection Rule (NWPR), went into effect on June 22, 2020. Under the 2020 NWPR, the Code of Federal Regulations (33 CFR § 328.3(a); 40 CFR § 230.3(s)) currently defines waters of the United States as:

- a) The territorial seas, and traditional navigable waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including waters which are subject to the ebb and flow of the tide;
- b) Perennial and intermittent tributaries that contribute surface water flow to such waters;
- c) Certain ponds, lakes, and impoundments of jurisdictional waters; and

- d) Adjacent wetlands to other jurisdictional features.

Section 404 jurisdiction regarding “other waters” refers to features such as ponds, lakes, and streams which extend to the upward limit of the ordinary high water mark (OHWM). The OHWM is defined as the “line on shore established by the fluctuations of water and indicated by physical characteristics such as a clear natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter or debris; or other appropriate means that consider the characteristics of the surrounding areas” (33 CFR § 328.3(7)).

Section 401

As stated in Section 401 of the CWA, “any applicant for a federal permit for activities that involve a discharge to waters of the State, shall provide the federal permitting agency a certification from the State in which the discharge is proposed that states that the discharge will comply with the applicable provisions under the Federal Clean Water Act.” Therefore, before the USACE will issue a valid Section 404 permit, applicants must obtain a Section 401 Water Quality Certification from the Regional Water Quality Control Board (RWQCB).

2.2 - State

2.2.1 - CEQA Guidelines

The following California Environmental Quality Act (CEQA) Guidelines Appendix G checklist questions serve as thresholds of significance when evaluating the potential impacts of a proposed project on biological resources. Impacts are considered significant if a project would:

- Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as being a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife (CDFW) or USFWS.
- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the CDFW or USFWS.
- Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the CWA (including but not limited to marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.
- Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.
- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.
- Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or State habitat conservation plan.

2.2.2 - California Endangered Species Act

The State of California enacted the California Endangered Species Act (CESA) in 1984. CESA is similar to the Endangered Species Act but pertains to State-listed endangered and threatened species. CESA requires State agencies to consult with the CDFW when preparing CEQA documents to ensure that the State lead agency actions do not jeopardize the continued existence of a listed species or result in the destruction or adverse modification of habitat essential to the continued existence of those species if there are reasonable and prudent alternatives available (Fish and Game Code [FGC] § 2080). CESA directs agencies to consult with the CDFW on projects or actions that could affect listed species, directs the CDFW to determine whether jeopardy would occur, and allows the CDFW to identify “reasonable and prudent alternatives” to the proposed project consistent with conserving the species. CESA allows the CDFW to authorize exceptions to the State’s prohibition against take of a listed species if the take of a listed species is incidental to carrying out an otherwise lawful project that has been approved under CEQA (FGC § 2081).

2.2.3 - California Fish and Game Code

Under CESA, the CDFW has the responsibility for maintaining a list of endangered and threatened species (FGC § 2070). Fish and Game Code Sections 2050–2098 outline the protection provided to California’s rare, endangered, and threatened species. Fish and Game Code Section 2080 prohibits the taking of plants and animals listed under the CESA. Fish and Game Code Section 2081 established an incidental take permit program for State-listed species. The CDFW maintains a list of “candidate species,” which it formally notices as being under review for addition to the list of endangered or threatened species.

In addition, the Native Plant Protection Act of 1977 (NPPA) (FGC § 1900, *et seq.*) prohibits the take, possession, or sale within the State of any plants with a State designation of rare, threatened, or endangered (as defined by the CDFW). An exception to this prohibition in the NPPA allows landowners to take listed plant species under specified circumstances, provided that the owners first notify the CDFW and give the agency at least 10 days to retrieve (and presumably replant) the plants before they are plowed under or otherwise destroyed. Fish and Game Code Section 1913 exempts from the take prohibition “the removal of endangered or rare native plants from a canal, lateral ditch, building site, or road, or other right-of-way.” Project impacts to these species are not considered significant unless the species are known to have a high potential to occur within the area of disturbance associated with construction of the proposed project.

In addition to formal listing under the Endangered Species Act and CESA, some species receive additional consideration by the CDFW and local lead agencies during the CEQA process. Species that may be considered for review are those listed as a “Species of Special Concern.” The CDFW maintains lists of Species of Special Concern that serve as species “watch lists.” Species with this status may have limited distributions or limited populations and/or the extent of their habitats has been reduced substantially, such that their populations may be threatened. Thus, their populations are monitored and they may receive special attention during environmental review. While they do not have statutory protection, they may be considered rare under CEQA and specific protection measures may be warranted. In addition to Species of Special Concern, the CDFW Special Animals List identifies animals that are tracked by the California Natural Diversity Database (CNDDB) and may be potentially vulnerable but warrant no federal interest and no legal protection.

Sensitive species that would qualify for listing but are not currently listed are afforded protection under CEQA. CEQA Guidelines Section 15065 (Mandatory Findings of Significance) requires that a substantial reduction in numbers of a rare or endangered species be considered a significant effect. CEQA Guidelines Section 15380 (Rare or Endangered Species) provides for the assessment of unlisted species as Rare or Endangered under CEQA if the species can be shown to meet the criteria for listing. Unlisted plant species on the California Native Plant Society (CNPS) List ranked 1A, 1B, or 2 would typically require evaluation under CEQA.

Fish and Game Code Sections 3500 to 5500 outline protection for fully protected species of mammals, birds, reptiles, amphibians, and fish. Species fully protected by these sections may not be taken or possessed at any time. The CDFW cannot issue permits or licenses that authorize the take of any fully protected species except under certain circumstances such as scientific research and live capture and relocation of such species pursuant to a permit for the protection of livestock.

Under Fish and Game Code Section 3503.5, it is unlawful to take, possess, or destroy any birds in the orders of *Falconiformes* or *Strigiformes* (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto. To comply with the requirements of CESA, an agency reviewing a proposed project within its jurisdiction must determine whether any State-listed endangered or threatened species may be present in the project study area and determine whether the proposed project will have a potentially significant impact on such species. In addition, the CDFW encourages informal consultation on any proposed project that may impact a candidate species.

Project-related impacts to species on the CESA endangered or threatened list would be considered significant. State-listed species are fully protected under the mandates of CESA. “Take” of protected species incidental to otherwise lawful management activities may be authorized under Fish and Game Code Section 206.591. Authorization from the CDFW would be in the form of an Incidental Take Permit.

Fish and Game Code Section 1602 requires any entity to notify the CDFW before beginning any activity that “may substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of any river, stream, or lake” or “deposit debris, waste, or other materials that could pass into any river, stream, or lake.” “River, stream, or lake” includes waters that are episodic and perennial and ephemeral streams, desert washes, and watercourses with a subsurface flow. A Lake or Streambed Alteration Agreement will be required if the CDFW determines that project activities may substantially adversely affect fish or wildlife resources through alterations to a covered body of water.

2.2.4 - California Department of Fish and Wildlife Species of Concern

In addition to formal listing under the Endangered Species Act and CESA, species receive additional consideration by the CDFW and local lead agencies during the CEQA process. Species that may be considered for review are included on a list of “Species of Special Concern” developed by the CDFW. It tracks species in California whose numbers, reproductive success, or habitat may be threatened. In addition to Species of Special Concern, the CDFW identifies animals that are tracked by the CNDDB but warrant no federal interest and no legal protection. These species are identified as California Special Animals.

2.2.5 - California Porter-Cologne Water Quality Control Act

The RWQCB regulates actions that would involve “discharging waste, or proposing to discharge waste, within any region that could affect the water of the State” (Water Code § 13260(a)) pursuant to provisions of the Porter-Cologne Water Quality Act. “Waters of the State” are defined as “any surface water or groundwater, including saline waters, within the boundaries of the State” (Water Code § 13050(e)).

2.2.6 - California Native Plant Society

The CNPS maintains a rank of plant species that are native to California and that have low population numbers, limited distribution, or are otherwise threatened with extinction. This information is published in the Inventory of Rare and Endangered Vascular Plants of California. Following are the definitions of the CNPS ranks:

- **Rank 1A:** Plants presumed extirpated in California and either rare or extinct elsewhere
- **Rank 1B:** Plants rare, threatened, or endangered in California and elsewhere
- **Rank 2A:** Plants presumed extirpated in California but common elsewhere
- **Rank 2B:** Plants rare, threatened, or endangered in California but more common elsewhere
- **Rank 3:** Plants about which more information is needed
- **Rank 4: Watch List:** Plants of limited distribution

Potential impacts to populations of CNPS-ranked plants receive consideration under CEQA review. All plants appearing on the CNPS List ranked 1 or 2 are considered to meet the CEQA Guidelines Section 15380 criteria. While only some of the plants ranked 3 or 4 meet the definitions of threatened or endangered species, potential impacts to these species or their habitats should be analyzed during the preparation of environmental documents pursuant to CEQA as they may meet the definition of Rare or Endangered under the CEQA Guidelines Section 15380 criteria.

2.3 - Regional and Local

Milpitas, California, Municipal Code

Chapter 2 Section 7, Tree Protection and Heritage Tree Program.

The City of Milpitas requires a Tree Removal Permit for the removal of any trees meeting the following characteristics:

- All trees which have a 56-inch or greater circumference of any trunk measured 4.5 feet from the ground and located on developed residential property; or
- All trees which have a 37-inch or greater circumference of any trunk measured 4.5 feet from the ground and located on developed commercial or industrial property; or
- All trees which have a 37-inch or greater circumference of any trunk measured 4.5 feet from the ground, when removal relates to any transaction for which zoning approval or subdivision approval is required; or
- Any tree existing at the time of a zoning or subdivision approval and which was a specific subject of such approval or otherwise covered by subsection (b) above; or

- All trees which have a 37-inch or greater circumference of any trunk measured 4.5 feet from the ground and located on a vacant, undeveloped, or underdeveloped property; or
- All heritage trees or groves of trees meeting the following characteristics:
 - One of the largest or oldest trees or grove of trees in Milpitas; or
 - A tree or grove of trees possessing distinctive form, size, age, location, and/or historical significance.

SECTION 3: METHODS

3.1 - Literature Review

This literature review provides a baseline from which to evaluate project impacts on biological resources potentially occurring on the project site and in the surrounding area.

3.1.1 - Existing Documentation

As part of the literature review, an FCS Biologist examined existing environmental documentation for the project site and vicinity. This documentation included literature pertaining to the habitat requirements of special-status species with the potential to occur in the project vicinity and federal register listings, protocols, and species data provided by the USFWS and CDFW.

3.1.2 - Topographic Maps and Aerial Photographs

An FCS Biologist reviewed current United States Geological Survey (USGS) 7.5-minute topographic quadrangle map(s) and aerial photographs as a preliminary analysis of the existing conditions within the project site and immediate vicinity.¹ Information obtained from the topographic maps included elevation, general watershed information, and potential drainage feature locations using Google Earth in conjunction with the EPA Watershed Assessment, Tracking, and Environmental Results System (WATERS).² Aerial photographs provided a perspective of the current site conditions relative to on-site and off-site land use, plant community locations, and potential locations of wildlife movement corridors.

3.1.3 - Soil Surveys

The United States Department of Agriculture (USDA) has published soil surveys that describe the soil series (i.e., group of soils with similar profiles) occurring within a particular area.³ These profiles include major horizons with similar thickness, arrangement, and other important characteristics. These series are further subdivided into soil mapping units that provide specific information regarding soil characteristics. Many special-status plant species have a limited distribution based exclusively on soil type. Therefore, pertinent USDA soil survey maps were reviewed to determine the existing soil mapping units within the project site and to establish whether the soil conditions on-site are suitable for any special-status plant species.

3.1.4 - Special-status Species Database Search

An FCS Biologist compiled a list of threatened, endangered, and otherwise special-status species previously recorded within the project vicinity based on a search of the CNDDDB and the CNPS

¹ United States Geological Survey (USGS). 2022. National Geospatial Program. Website: https://www.usgs.gov/core-science-systems/national-geospatial-program/us-topo-maps-america?qt-science_support_page_related_con=4#qt-science_support_page_related_con. Accessed April 27, 2022.

² United States Environmental Protection Agency (EPA). 2022. Watershed Assessment, Tracking, and Environmental Results System (WATERS). Website: <https://www.epa.gov/waterdata/waters-watershed-assessment-tracking-environmental-results-system>. Accessed April 27, 2022.

³ Natural Resources Conservation Service (NRCS). 2022. Web Soil Survey (WSS). United States Department of Agriculture (USDA). Website: <https://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>. Accessed April 27, 2022.

Electronic Inventory (CNPSEI) of Rare and Endangered Vascular Plants of California for the *Milpitas, California*, USGS 7.5-minute Topographic Quadrangle Map and the eight surrounding quadrangles.^{4,5}

The CNDDDB Biogeographic Information and Observation System (BIOS 5) database was used to determine the distance between the known occurrences of special-status species and the project site.⁶

3.1.5 - Trees

Prior to conducting the reconnaissance-level field survey, an FCS Biologist reviewed applicable City ordinances pertaining to tree preservation and protection and ascertained whether tree replacement measures or permits for the removal of protected trees are required. Additionally, FCS reviewed the Preliminary Tree Inventory Report prepared by HortScience in May 2022. The findings of the report informed the Results and Biological Constraints sections of this report. The Tree Inventory Report is included as Appendix C to this report.

3.1.6 - Jurisdictional Waters and Wetlands

Prior to conducting the reconnaissance-level survey, an FCS Biologist reviewed EPA WATERS and aerial photography to identify potential natural drainage features and water bodies.⁷ In general, all surface drainage features identified as blue-line streams on USGS and USFWS maps are potentially State or federally protected waters or wetlands.

3.1.7 - Santa Clara Valley Habitat Plan

Prior to conducting the reconnaissance-level survey, an FCS Biologist reviewed the Santa Clara Valley Habitat Agency Geobrowser interactive web tool to determine biological constraints applicable to the project site related to the requirements of the Santa Clara Valley Habitat Plan (SCVHP).⁸ Additionally, FCS reviewed applicable habitat-type definitions provided in the SCVHP.

3.2 - Field Survey

On April 6, 2022, FCS Biologist Robert Carroll conducted a general biological field survey of the project site and its immediate vicinity, where accessible. The objective of the survey was to assess and characterize the biological conditions on and adjacent to the site, including identification of plant and wildlife species and their habitats. During the survey, Mr. Carroll searched for evidence of any habitat for special-status species and other sensitive biological resources, including those that were identified in the literature review.

⁴ California Department of Fish and Wildlife (CDFW). 2022. CNDDDB RareFind 5 California Natural Diversity Database Query for Special-Status Species. Website: <https://map.dfg.ca.gov/rarefind/view/RareFind.aspx>. Accessed April 27, 2022.

⁵ California Native Plant Society (CNPS). 2022. California Native Plant Society Rare and Endangered Plant Inventory. Website: <http://www.rareplants.cnps.org/>. Accessed April 27, 2022.

⁶ California Department of Fish and Wildlife (CDFW). 2022. Biogeographic Information and Observation System (BIOS 5). Website: <https://map.dfg.ca.gov/bios/>. Accessed April 27, 2022.

⁷ United States Environmental Protection Agency (EPA). 2022. Watershed Assessment, Tracking and Environmental Results System (WATERS). Website: <https://www.epa.gov/waterdata/waters-watershed-assessment-tracking-environmental-results-system>. Accessed April 27, 2022.

⁸ Santa Clara Valley Habitat Agency. 2021. Habitat Agency Geobrowser. Website: <http://www.hcpmaps.com/habitat/>. Accessed April 27, 2022.

3.2.1 - Vegetation

Common plant species observed during the reconnaissance-level survey were identified by visual characteristics and morphology in the field and recorded. Uncommon and less familiar plants were identified with the use of taxonomical guides, including Jepson eFlora and Calflora.^{9,10} Taxonomic nomenclature used in this study follows The Jepson Manual: Vascular Plants of California.¹¹ Common plant names, when not available from The Jepson Manual, were taken from other regionally specific references. Vegetation types and boundaries were noted on aerial photos, verified through field observation, and digitized using ESRI ArcGIS software® ArcMap 10.8. By incorporating collected field data and interpreting aerial photography, a map of habitat types, land cover types, and other biological resources within the project site was prepared.

3.2.2 - Wildlife

Wildlife species detected during the reconnaissance-level survey by sight, calls, tracks, scat, or other signs were recorded. Notations were made regarding suitable habitat for those special-status species determined to have the potential to occur within the project site.¹² If necessary, appropriate field guides were used to assist in species identification during surveys, such as Peterson, Reid, and Stebbins.^{13,14,15} Online resources such as eBird and California Herps were also consulted, as necessary.^{16,17}

3.2.3 - Wildlife Movement Corridors

Wildlife movement corridors link areas of suitable wildlife habitat that are otherwise separated by rugged terrain, changes in vegetation, or human disturbance. Urbanization and the resulting fragmentation of open space areas create isolated “islands” of wildlife habitat, forming separated populations. Corridors act as an effective link between populations.

The project site was evaluated for evidence of a wildlife movement corridor during the reconnaissance-level survey. The scope of the biological resource assessment did not include a formal wildlife movement corridor study utilizing track plates, camera stations, scent stations, or snares. Rather, the focus of this study was to determine whether a change in land use at the project site could have significant impacts on the regional movement of wildlife. Conclusions are based on the information compiled during the literature review, including aerial photographs, USGS topographic maps, and resource maps for the vicinity; the field survey; and professional experience with the desired topography, habitat, and resource requirements of the special-status species potentially utilizing the project site and vicinity.

⁹ Jepson Flora Project (eds.) 2022. Jepson eFlora, <https://ucjeps.berkeley.edu/eflora/>. Accessed on April 27, 2022.

¹⁰ Calflora. 2022. Calflora: Information on California plants for education, research, and conservation. Website: <http://www.calflora.org/>. April 27, 2022.

¹¹ Baldwin, B. et al. 2012. The Jepson Manual: Vascular Plants of California. Berkeley: University of California Press. County of San Bernardino (Bernardino). 2007 (amended 2015).

¹² California Department of Fish and Wildlife (CDFW). 2022. CNDDDB RareFind 5 California Natural Diversity Database Query for Special-Status Species. Website: <https://map.dfg.ca.gov/rarefind/view/RareFind.aspx>. Accessed April 27, 2022.

¹³ Peterson, T.R. 2010. A Field Guide to Birds of Western North America, Fourth Edition.

¹⁴ Reid, F. 2006. A Field Guide to Mammals of North America, Fourth Edition.

¹⁵ Stebbins, R.C. 2003. A Field Guide to Western Reptiles and Amphibians, Third Edition.

¹⁶ eBird. 2022. Online bird occurrence database. Website: <http://ebird.org/content/ebird/>. April 27, 2022.

¹⁷ California Herps. 2021. A Guide to the Amphibians and Reptiles of California. Website: <http://www.californiaherps.com/>. Accessed April 27, 2022.

Methods

3.2.4 - Jurisdictional Waters and Wetlands

The project site was surveyed for presence of wetland indicators during the reconnaissance-level survey on April 6, 2022, based on the U.S. Army Corps of Engineers Wetland Delineation Manual.

SECTION 4: RESULTS

This section summarizes the results of the literature search, database review, and field survey.

4.1 - Existing Conditions

Weather conditions during the April 6, 2022, field survey were sunny, with an approximate temperature of 78°F (degrees Fahrenheit). Wind speeds were 2 to 5 miles per hour. Photos of the site are provided in Appendix A.

4.1.1 - Soils

The Natural Resources Conservation Service (NRCS) web soil survey identifies one soil unit for the project site: Urban land–Newpark complex (0 to 2 percent slopes) (Exhibit 3).¹⁸

No signs of serpentine outcrops, serpentine-derived soils, or other indicators of presence of serpentine (e.g., serpentine-associated plant communities) were observed on-site.

4.1.2 - Vegetation Communities and Land Cover

Exhibit 4 depicts the vegetation and landcover types present on the project site.

Ruderal—0.73 Acres

Ruderal habitat is classified as areas that have been physically altered by previous anthropogenic activities and are no longer recognizable as a native or naturalized vegetation but continue to retain a soil substrate. Past aerial photography indicate that this area of the project site was developed between 1993 and 1999 and was eventually razed in 2000.¹⁹ This area is dominated by a mix of non-native annual grasses and forbs, including cheeseweed (*Malva parviflora*), Italian thistle (*Carduus pycnocephalus*), wild oats (*Avena* spp.), English plantain (*Plantago lanceolata*), salsify (*Tragopogon porrifolius*), redstem filaree (*Erodium cicutarium*), burclover (*Medicago polymorpha*), wild radish (*Raphanus sativus*), and others. Ornamental trees in this area included Canary Island date palm (*Phoenix canariensis*), elderberry (*Sambucus* sp.), sweetgum (*Liquidambar styraciflua*), Brisbane box (*Lophostemon confertus*), Mediterranean fan palm (*Chamaerops humilis*), crape myrtle (*Lagerstroemia indica*), Chinese hackberry (*Celtis sinensis*), and silk tree (*Albizia julibrissin*).

Urban/Developed—1.61 Acres

Developed land is characterized by permanent or semi-permanent structures, pavement, or hardscape, and landscaped areas that often require irrigation. The urban/developed vegetation community includes land that has been constructed upon or otherwise covered with a permanent man-made surface. Vegetation within the urban/developed land usually consists of maintained ornamental vegetation. This portion of the project site has been developed with commercial uses including an active Montessori school and associated surface parking. Ornamental trees in this area

¹⁸ Natural Resources Conservation Service (NRCS). United States Department of Agriculture. 2022. Web Soil Survey. Website: <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>. Accessed April 27, 2022.

¹⁹ Google Earth Pro, 1999. 37° 25' 21.54"N, 121° 54' 14.38"W, Eye alt 1,376 ft. Accessed April 27, 2022.

Results

included Canary Island date palm (*Phoenix canariensis*), lemon-scented gum (*Eucalyptus citriodora*), sweetgum (*Liquidambar styraciflua*), Brisbane box (*Lophostemon confertus*), and crape myrtle (*Lagerstroemia indica*).

The Tree Inventory Report prepared for the project evaluated a total of 33 trees, including nine street trees representing nine different species.²⁰ Table 1 below summarizes the findings of the Tree Inventory Report.

Table 1: Trees Evaluated by Tree Inventory Report

Common Name	Scientific Name	Total
Silk tree	<i>Albizia julibrissin</i>	1
Chinese hackberry	<i>Celtis sinesis</i>	2
Mediterranean fan palm	<i>Chamaerops humilis</i>	2
Lemon-scented gum	<i>Eucalyptus citriodora</i>	2
Crape myrtle	<i>Lagerstroemia indica</i>	7
Sweetgum	<i>Liquidambar styraciflua</i>	13
Brisbane box	<i>Lophostemon confertus</i>	4
Canary Island date palm	<i>Phoenix canariensis</i>	1
Elderberry	<i>Sambucus sp.</i>	1
Total		33

4.1.3 - Wildlife

The project site may provide habitat for generalist and opportunistic wildlife species that are able to tolerate high levels of habitat disturbance, including skunk (*Mephitis mephitis*), raccoon (*Procyon lotor*), mourning dove (*Zenaida macroura*), American crow (*Corvus brachyrhynchos*), house finch (*Haemorhous mexicanus*), house sparrow, (*Passer domesticus*), and Anna's hummingbird (*Calypte anna*), among others.

Many trees that surround the project site could provide suitable habitat for migratory or resident nesting birds. No signs of bat roosts were observed during the field survey; however, many small crevices in the existing structures on-site could provide roosting habitat for bats. Three California ground squirrel (*Otospermophilus beecheyi*) burrows were also observed on-site.

4.2 - Special-status Species

A review of the CNDDDB and CNPS Inventory determined that 33 special-status plant species and 53 special-status animal species have been recorded in the greater vicinity of the project site (Appendix

²⁰ HortScience | Bartlett Consulting Divisions of The F.A. Bartlett Tree Expert Company. 2022. Tree Inventory Report 612 South Main Street Milpitas, CA. May 2022.

B).^{21,22} The parameters of these search queries included an area consisting of the *Milpitas, California*, USGS 7.5-minute Topographic Quadrangle Map and the eight surrounding quadrangles (regional vicinity). The likelihood and rationale for these species to occur are discussed in the paragraphs below. No special-status plants or animal species were observed during the field survey.

4.2.1 - Special-status Plants

A total of 33 special-status plant species have been recorded on undeveloped land in the regional vicinity. The following species have been recorded within a 5-mile radius of the project site and are evaluated below in Table 2.

Table 2: Special-status Plants Evaluated

Scientific Name Common Name	Status			Habitat Description ⁴	Occurrence Determination
	USFWS ¹	CDFW ²	CNPS ³		
Alkali milk-vetch <i>Astragalus tener</i> var. <i>tener</i>	—	—	1B.2	Alkali playa, valley and foothill grassland, vernal pools. Low ground, alkali flats, and flooded lands; in annual grassland or in playas or vernal pools Elevation: 0–170 m. Blooming period: March–June	Not present. Disturbed and managed ruderal grassland present on-site does not provide suitable habitat for this species. Species was not observed during the April 6, 2022, survey.
Congdon's tarplant <i>Centromadia parryi</i> <i>ssp. congdonii</i>	FE	ST	1B.1	Valley and foothill grassland. Alkaline soils sometimes described as heavy white clay. Elevation: 0–245 m. Blooming period: May–October	Not present. Disturbed and managed ruderal grassland present on-site does not provide suitable habitat for this species. Species was not observed during the April 6, 2022, survey.
Point Reyes salty bird's-beak <i>Chloropyron maritimum</i> ssp. <i>palustre</i>	—	—	1B.2	Coastal salt marsh. Usually in coastal salt marsh with <i>Salicornia</i> , <i>Distichlis</i> , <i>Jaumea</i> , <i>Spartina</i> , etc Elevation: 0–115 m. Blooming period: June–October	Not present. Disturbed and managed ruderal grassland present on-site does not provide suitable habitat for this species. Species was not observed during the April 6, 2022, survey.
robust spineflower <i>Chorizanthe robusta</i> var. <i>robusta</i>	FE	—	1B.1	Cismontane woodland, coastal dunes, coastal scrub, chaparral. Sandy terraces and bluffs or in loose sand. Elevation: 5–245 m. Blooming period: April–September	Not present. Disturbed and managed ruderal grassland present on-site does not provide suitable habitat for this species. Species was not observed during the April 6, 2022, survey.

²¹ California Department of Fish and Wildlife (CDFW). 2022. CNDDDB RareFind 5 California Natural Diversity Database Query for Special-Status Species. Website: <https://map.dfg.ca.gov/rarefind/view/RareFind.aspx>. Accessed April 27, 2022.

²² California Native Plant Society (CNPS). 2022. California Native Plant Society Rare and Endangered Plant Inventory. Website: <http://www.rareplants.cnps.org/>. Accessed April 27, 2022

Results

Scientific Name Common Name	Status			Habitat Description ⁴	Occurrence Determination
	USFWS ¹	CDFW ²	CNPS ³		
Hoover's button-celery <i>Eryngium aristulatum</i> var. <i>hooveri</i>	—	—	1B.1	Vernal pools. Alkaline depressions, vernal pools, roadside ditches and other wet places near the coast. Elevation: 1–150 m. Blooming period: June	Not present. Disturbed and managed ruderal grassland present on-site does not provide suitable habitat for this species. Species was not observed during the April 6, 2022, survey.
San Joaquin spearscale <i>Extriplex joaquinana</i>	—	—	1B.2	Chenopod scrub, alkali meadow, playas, valley and foothill grassland. In seasonal alkali wetlands or alkali sink scrub with <i>Distichlis spicata</i> , <i>Frankenia</i> , etc. Elevation: 0–800 m. Blooming period: April–September	Not present. Disturbed and managed ruderal grassland present on-site does not provide suitable habitat for this species. Species was not observed during the April 6, 2022, survey.
arcuate bush-mallow <i>Malacothamnus arcuatus</i>	—	—	1B.2	Chaparral, cismontane woodland. Gravelly alluvium. Elevation: 1–735 m. Blooming period: April–September	Not present. Disturbed and managed ruderal grassland present on-site does not provide suitable habitat for this species. Species was not observed during the April 6, 2022, survey.
Hall's bush-mallow <i>Malacothamnus hallii</i>	—	—	1B.2	Chaparral, coastal scrub. Some populations on serpentine. Elevation: 10–735 m. Blooming period: May–September	Not present. Disturbed and managed non-serpentine ruderal grassland present on-site does not provide suitable habitat for this species. Species was not observed during the April 6, 2022, survey.
hairless popcornflower <i>Plagiobothrys glaber</i>	—	—	1A	Meadows and seeps, marshes and swamps. Coastal salt marshes and alkaline meadows. Elevation: 5–125 m. Blooming period: March–May	Not present. Disturbed and managed ruderal grassland present on-site does not provide suitable habitat for this species. Species was not observed during the April 6, 2022, survey.
California seablite <i>Suaeda californica</i>	FE	—	1B.1	Marshes and swamps. Margins of coastal salt marshes. Elevation: 0–5 m. Blooming period: July–October	Not present. Disturbed and managed ruderal grassland present on-site does not provide suitable habitat for this species. Species was not observed during the April 6, 2022, survey.
saline clover <i>Trifolium hydrophilum</i>	—	—	1B.2	Marshes and swamps, valley and foothill grassland, vernal pools. Mesic, alkaline sites. Elevation: 1–335 m. Blooming period: April–June	Not present. Disturbed and managed ruderal grassland present on-site does not provide suitable habitat for this species. Species was not observed during the April 6, 2022, survey.

Scientific Name Common Name	Status			Habitat Description ⁴	Occurrence Determination
	USFWS ¹	CDFW ²	CNPS ³		
Code Designations					
¹ Federal Status: 2022 USFWS Listing		² State Status: 2022 CDFW Listing		³ CNPS: 2022 CNPS Listing	
ESU = Evolutionary Significant Unit is a distinctive population. FE = Listed as endangered under the Endangered Species Act. FT = Listed as threatened under the Endangered Species Act. FC = Candidate for listing (threatened or endangered) under the Endangered Species Act. FD = Delisted in accordance with the Endangered Species Act. FPD = Federally Proposed to be Delisted. MBTA = protected by the Migratory Bird Treaty Act — = Not federally listed		SE = Listed as endangered under the CESA. ST = Listed as threatened under the CESA. SSC = Species of Special Concern as identified by the CDFW. FP = Listed as fully protected under FGC. CFG = FGC = protected by Fish and Game Code 3503.5 CR = Rare in California. — = Not State listed		Rank 1A = Plants presumed extirpated in California and either rare or extinct elsewhere. Rank 1B = Plant species that are rare, threatened, or endangered in California and elsewhere. Rank 2 = Plant species that are rare, threatened, or endangered in California, but more common elsewhere. Rank 3 = Plants about which more information is needed Rank 4 = Watch List: Plants of limited distribution Blooming period: Months in parentheses are uncommon.	
Notes: ⁴ Habitat Description: Habitat description adapted from CNDDB and CNPS online inventory or other specified source. Sources: California Department of Fish and Wildlife (CDFW). 2021. Biogeographic Information and Observation System (BIOS 5). Website: https://map.dfg.ca.gov/bios/ . Accessed April 28, 2022. California Department of Fish and Wildlife (CDFW). 2022. CNDDB RareFind 5 California Natural Diversity Database Query for Special-Status Species. Website: https://map.dfg.ca.gov/rarefind/view/RareFind.aspx . Accessed April 28, 2022. California Native Plant Society (CNPS). 2022. California Native Plant Society Rare and Endangered Plant Inventory. Website: http://www.rareplants.cnps.org/ . Accessed April 28, 2022.					

The ruderal grassland community on the project site is substantially disturbed by past and continuous anthropogenic activities (including vegetation management, trespassing, parking, etc.) and is heavily invaded by non-native invasive species (see Section 4.1.2 Vegetation Communities). Furthermore, the site does not contain serpentine-derived substrate or outcrops, marshes, or vernal pools and is cut off from regionally occurring special-status species populations by concentrated surrounding development. No special-status plant species or vegetation communities or other

Results

conditions supporting sensitive plant species were observed. Therefore, it is reasonable to conclude that no special-status plant species occur on the project site.

4.2.2 - Special-status Wildlife

The database results included 53 special-status wildlife species that are known to occur within the regional vicinity of the project site (Appendix B). The following species have been recorded within a 5-mile radius of the project site and are evaluated below in Table 3.

Table 3: Special-status Wildlife Species Evaluated

Scientific Name Common Name	Status		Habitat Description ³	Potential to Occur and Rationale ⁴
	USFWS ¹	CDFW ²		
Amphibians				
California tiger salamander <i>Ambystoma californiense</i>	FT	ST	Lives in vacant or mammal-occupied burrows throughout most of the year; in grassland, savanna, or open woodland habitats. Need underground refuges, especially ground squirrel burrows, and vernal pools or other seasonal water sources for breeding.	None. The project site does not contain suitable aquatic habitat to support this species. While the portions of the project site contain burrows, dense commercial development separate the project site from suitable aquatic habitat.
foothill yellow-legged frog <i>Rana boylei</i>	—	SE SSC	Partly shaded, shallow streams and riffles with a rocky substrate in a variety of habitats. Needs at least some cobble-sized substrate for egg-laying. Needs at least 15 weeks to attain metamorphosis.	None. The project site does not contain suitable aquatic habitat to support this species.
California red-legged frog <i>Rana draytonii</i>	FT	— SSC	Lowlands and foothills in or near permanent sources of deep water with dense, shrubby, or emergent riparian vegetation. Requires 11–20 weeks of permanent water for larval development. Must have access to estivation habitat.	None. The project site does not contain suitable aquatic habitat to support this species.
Birds				
Tricolored blackbird <i>Agelaius tricolor</i>	— MBTA	ST SSC	Highly colonial species, most numerous in Central Valley and vicinity. Largely endemic to California. Requires open water, protected nesting substrate, and foraging area with insect prey within a few km of the colony.	None. The project site does not contain suitable aquatic habitat to support this species.
golden eagle <i>Aquila chrysaetos</i>	— MBTA	— FP WL	Rolling foothills, mountain areas, sage-juniper flats, and desert. Cliff-walled canyons provide nesting habitat in most parts of range; also, large trees in open areas.	Low. The project site does not contain suitable nesting habitat for this species. Eagles may fly over the site while foraging. Nearest recorded occurrences is located approximately 3.25 miles northeast of the project site.

Scientific Name Common Name	Status		Habitat Description ³	Potential to Occur and Rationale ⁴
	USFWS ¹	CDFW ²		
Great blue heron <i>Ardea Herodias</i>	— MBTA	—	Colonial nester in tall trees, cliffsides, and sequestered spots on marshes. Rookery sites in close proximity to foraging areas: marshes, lake margins, tide-flats, rivers and streams, wet meadows. Nesting colonies considered sensitive by CDFW.	None. The project site does not contain suitable aquatic habitat to support this species.
<i>Athene cunicularia</i> burrowing owl	— MBTA	— SSC	Found in open, dry annual or perennial grasslands, deserts, and scrublands characterized by low-growing vegetation. A subterranean nester, dependent upon burrowing mammals, most notably the California ground squirrel.	Low. Species or signs of species presence were not observed during survey. The project site does contain grassland suitable for foraging after mowing. Burrows suitable for nesting were observed. Three occurrences within 1 mile of the project site.
Swainson's hawk <i>Buteo swainsoni</i>	— MBTA	ST	Breeds in grasslands with scattered trees, juniper-sage flats, riparian areas, savannahs, and agricultural or ranch lands with groves or lines of trees. Requires adjacent suitable foraging areas such as grasslands or alfalfa or grain fields supporting rodent populations.	Low. Suitable nesting trees are present on-site. The project site contains marginal foraging habitat due to habitat fragmentation from development.
western snowy plover <i>Charadrius nivosus nivosus</i>	FT MBTA	— SSC	Sandy beaches, salt pond levees and shores of large alkali lakes. Needs sandy, gravelly, or friable soils for nesting.	None. The project site does not contain suitable habitat to support this species.
western yellow-billed cuckoo <i>Coccyzus americanus occidentalis</i>	FT MBTA	SE	Riparian forest nester along the broad, lower flood-bottoms of larger river systems. Nests in riparian jungles of willow, often mixed with cottonwoods, with lower story of blackberry, nettles, or wild grape.	None. The project site does not contain suitable habitat to support this species.
Yellow rail <i>Coturnicops noveboracensis</i>	— MBTA	— SSC	Freshwater marshlands.	None. The project site does not contain suitable aquatic habitat to support this species.
<i>Elanus leucurus</i> white-tailed kite	— MBTA	— FP	Often found near foothills and valley margins with scattered oaks and river bottomlands or marshes next to deciduous woodland or isolated dense-topped trees for nesting and perching. Forages in open grasslands, meadows, or marshes.	Low. Suitable nesting trees are present on-site. The project site contains marginal foraging habitat due to habitat fragmentation from development.
American peregrine falcon <i>Falco peregrinus anatum</i>	— MBTA	FP SSC	Near wetlands, lakes, rivers, or other water; on cliffs, banks, dunes, mounds; also, human-made structures. Nest consists of a scrape or a depression or ledge in an open site.	Low. The project site does not contain suitable nesting habitat for this species. Falcons may fly over the site while foraging.

Results

Scientific Name Common Name	Status		Habitat Description ³	Potential to Occur and Rationale ⁴
	USFWS ¹	CDFW ²		
Saltmarsh common yellowthroat <i>Geothlypis trichas sinuosa</i>	— MBTA	— SSC	Resident of the San Francisco Bay region, in fresh and saltwater marshes. Requires thick, continuous cover down to water surface for foraging; tall grasses, tule patches, willows for nesting	None. The project site does not contain suitable aquatic habitat to support this species.
California black rail <i>Laterallus jamaicensis coturniculus</i>	— MBTA	ST FP	Inhabits freshwater marshes, wet meadows, and shallow margins of saltwater marshes bordering larger bays. Needs water depths of about 1 inch that do not fluctuate during the year and dense vegetation for nesting habitat.	None. The project site does not contain suitable aquatic habitat to support this species.
Alameda song sparrow <i>Melospiza melodia pusillula</i>	— MBTA	— SSC	Resident of salt marshes bordering south arm of San Francisco Bay. Inhabits <i>Salicornia</i> marshes; nests low in <i>Grindelia</i> bushes (high enough to escape high tides) and in <i>Salicornia</i> .	None. The project site does not contain suitable habitat to support this species.
California Ridgway's rail <i>Rallus obsoletus obsoletus</i>	FE MBTA	SE FP	Salt water and brackish marshes traversed by tidal sloughs in the vicinity of San Francisco Bay. Associated with abundant growths of pickleweed, but feeds away from cover on invertebrates from mud-bottomed sloughs.	None. The project site does not contain suitable habitat to support this species.
Fish				
Steelhead—central California coast DPS <i>Oncorhynchus mykiss irideus</i> pop. 8	FT	—	DPS includes all naturally spawned populations of steelhead (and their progeny) in streams from the Russian River to Aptos Creek, Santa Cruz County, California (inclusive). Also includes the drainages of San Francisco and San Pablo Bays.	None. The project site does not contain suitable aquatic habitat to support this species.
Mammals				
Pallid bat <i>Antrozous pallidus</i>	—	SSC	Inhabits low elevation (below 1,830 m./6,000 feet) rocky arid deserts and canyonlands, shrub-steppe grasslands, karst formations, and higher elevation coniferous forests (below 2,100 m./7,000 feet). Day and night roosts include crevices in rocky outcrops and cliffs, caves, mines, trees, and various human structures such as bridges, barns, porches, bat boxes, and human-occupied as well as vacant buildings.	Low. The project site does contain man-made structures and trees that may support roosting.
Townsend's big-eared bat <i>Corynorhinus townsendii</i>	—	SSC	Throughout California in a wide variety of habitats. Most common in mesic sites. Roosts in the open, hanging from walls and ceilings. Roosting sites limiting. Extremely sensitive to human disturbance	Low. The project site does contain man-made structures and trees that may support roosting.

Scientific Name Common Name	Status		Habitat Description ³	Potential to Occur and Rationale ⁴
	USFWS ¹	CDFW ²		
salt-marsh harvest mouse <i>Reithrodontomys raviventris</i>	FE	SE FP	Only in the saline emergent wetlands of San Francisco Bay and its tributaries. Pickleweed is primary habitat, but may occur in other marsh vegetation types and in adjacent upland areas. Does not burrow; builds loosely organized nests. Requires higher areas for flood escape.	None. The project site does not contain suitable habitat to support this species.
Salt-marsh wandering shrew <i>Sorex vagrans halicoetes</i>	—	— SSC	Salt marshes of the south arm of San Francisco Bay. Medium high marsh 6–8 ft above sea level where abundant driftwood is scattered among <i>Salicornia</i> .	None. The project site does not contain suitable habitat to support this species.
Reptiles				
Northern California legless lizard <i>Anniella pulchra</i>	—	— SSC	Sandy or loose loamy soils under sparse vegetation. Soil moisture is essential. Prefers soils with a high moisture content.	None. The project site does not contain suitable habitat to support this species.
<i>Phrynosoma blainvillii</i> coast horned lizard	—	— SSC	Inhabits open areas of sandy soil and low vegetation in valleys, foothills, and semiarid mountains. Found in grasslands, coniferous forests, woodlands, and chaparral, with open areas and patches of loose soil. Often found in lowlands along sandy washes with scattered shrubs and along dirt roads. Often found near ant hills feeding on ants.	None. The project site does not contain suitable habitat to support this species.
Code Designations				
¹ Federal Status: 2022 USFWS Listing			² State Status: 2022 CDFW Listing	
ESU = Evolutionary Significant Unit is a distinctive population. FE = Listed as endangered under the Endangered Species Act. FT = Listed as threatened under the Endangered Species Act. FC = Candidate for listing (threatened or endangered) under the Endangered Species Act. FD = Delisted in accordance with the Endangered Species Act. FPD = Federally Proposed to be Delisted. MBTA = protected by the Migratory Bird Treaty Act — = Not federally listed			SE = Listed as endangered under the CESA. ST = Listed as threatened under the CESA. SSC = Species of Special Concern as identified by the CDFW. FP = Listed as fully protected under the Fish and Game Code. CFG = FGC =protected by Fish and Game code 3503.5 CE = Candidate endangered under the CESA. — = Not State listed	

Results

Scientific Name Common Name	Status		Habitat Description ³	Potential to Occur and Rationale ⁴
	USFWS ¹	CDFW ²		
Notes: ³ Habitat Description: Habitat description adapted from CNDDb or other specified source ⁴ Potential to Occur and Rationale: Location of recorded species occurrences determined by geospatial information from BIOS 5 or other specified source. Sources: California Department of Fish and Wildlife (CDFW). 2022. CNDDb RareFind 5 California Natural Diversity Database Query for Special-Status Species. Website: https://map.dfg.ca.gov/rarefind/view/RareFind.aspx . Accessed April 28, 2022. California Department of Fish and Wildlife (CDFW). 2022. Biogeographic Information and Observation System (BIOS 5). Website: https://map.dfg.ca.gov/bios/ . Accessed April 28, 2022.				

Most of the species discussed in Table 3 are not expected to occur on the project site due to the lack of suitable habitat on the project site and/or the fact that the project site is situated outside of the species' known geographic range. Many of the special-status species that were recorded in the CNDDb are unlikely to occur on-site given the relatively high level of past and present anthropogenic disturbance, its small size, its urban setting, and the presence of man-made barriers which limit dispersal onto the site. Species whose potential to occur on-site could not be immediately ruled out are discussed in more detail below.

Burrowing Owl

Burrowing owl (*Athene cunicularia*) is designated as a Species of Special Concern by the CDFW. CNDDb records shows three occurrences of burrowing owl within 1 mile of the project site.²³ The presence of burrows and suitable ruderal grassland habitat on-site leaves open the possibility that burrowing owl may inhabit the project site under certain conditions (e.g., after vegetation has been mowed). Burrowing owl are known to overwinter in disturbed sites and sites near frequent human use. No burrowing owl or signs of burrowing owl were observed during the field survey; however, they could colonize the site in the future, such as before start of project construction. Therefore, burrowing owl has potential to occur on-site, albeit low potential.

Nesting birds

The project site contains several mature ornamental trees which could provide suitable nesting habitat for native resident and migratory bird species, including birds of prey (raptors) protected under federal and State regulations while nesting.

Special-status raptors, such as Swainson's hawk, American peregrine falcon, golden eagle, and white-tailed kite, are unlikely to nest on-site as more suitable nesting sites and foraging habitat that is not subject to man-made disturbances is present outside the urban setting of the City of Milpitas. It is possible that these species may fly over the project site while foraging; however, potential for these species to occur on-site is low.

²³ California Department of Fish and Wildlife (CDFW). 2022. CNDDb RareFind 5 California Natural Diversity Database Query for Special-Status Species. Website: <https://map.dfg.ca.gov/rarefind/view/RareFind.aspx>. Accessed April 28, 2022.

Roosting bats

The trees and buildings found on-site contain crevices that are large enough to potentially be inhabited by roosting special-status bat species, including pallid bat and Townsend's big-eared bat. However, the developed nature of the site and surrounding areas (including anthropogenic disturbance and lack of foraging opportunities) would limit the likelihood of bat use of the project site; the potential for these species to occur on-site is low.

4.3 - Jurisdictional Waters and Wetlands

No wetlands or other hydrological features that meet criteria as waters of the United States or waters of the State were observed within the proposed project site during the field survey.

4.4 - Wildlife Movement Corridors

Most of the site consists of developed hardscaped areas in addition to disturbed/ruderal annual grassland habitat. The project site is also surrounded by roads, highways, and urban development that limits wildlife movement.

4.5 - Protected Trees

As identified in the Tree Inventory Report (dated May 2022) prepared by HortScience, there are a total of 33 trees on the project site (including nine street trees), and of these 20 meet the City's criteria as a protected tree.

4.6 - Santa Clara Valley Habitat Plan

The project site does not lie within the boundaries of the any adopted Habitat Conservation Plan, Natural Community Conservation Plan, or any other approved local, regional, or State habitat conservation plan. The project site is located just outside the boundaries of the SCVHP.²⁴

²⁴ Santa Clara Valley Habitat Agency. 2022. Santa Clara Valley Habitat Agency Geobrowser. Website: <http://www.hcpmaps.com/habitat/>. Accessed April 28, 2022.

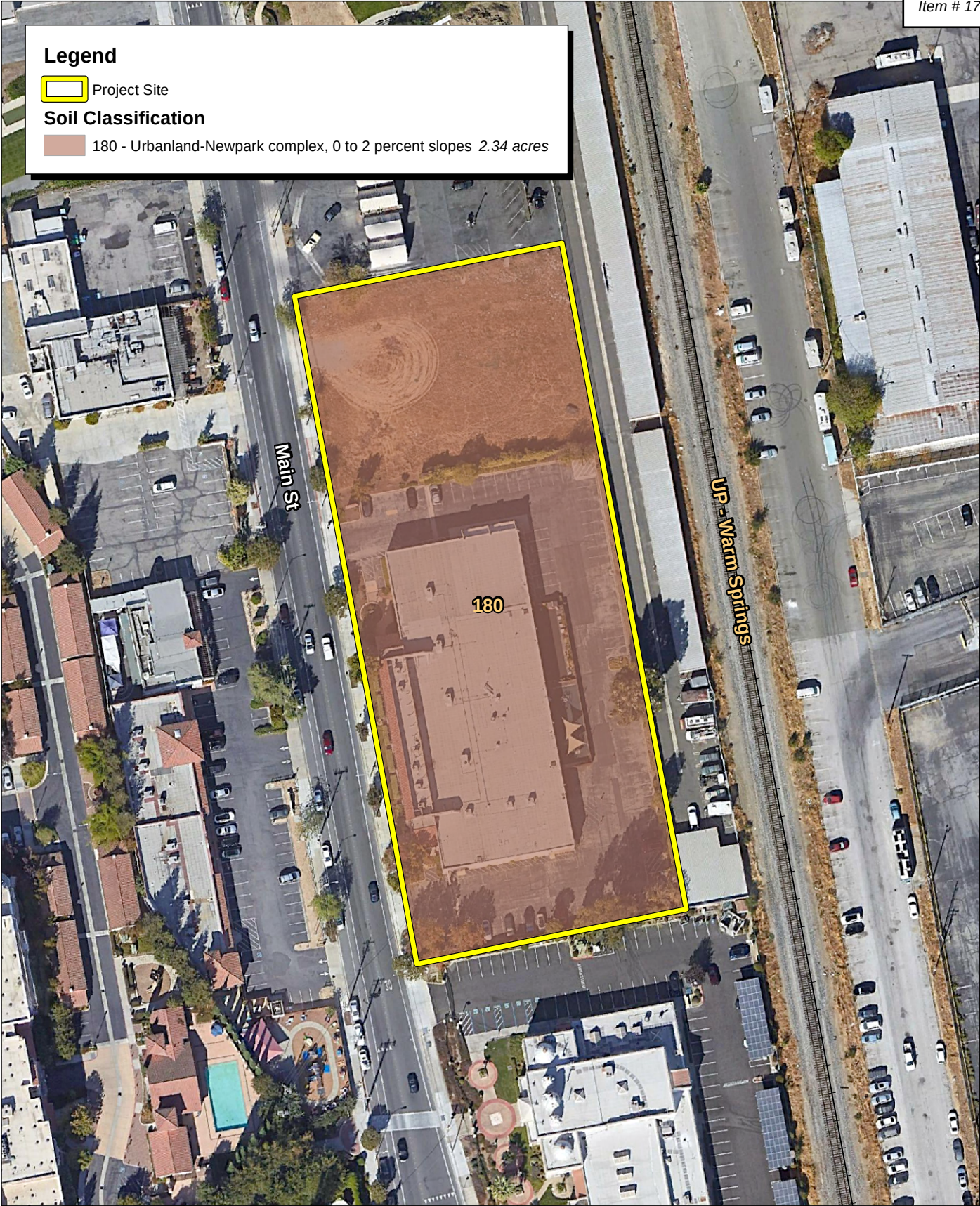
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Legend

 Project Site

Soil Classification

 180 - Urbanland-Newpark complex, 0 to 2 percent slopes 2.34 acres



Source: Google Earth Aerial Imagery. USDA Soils Data Mart, Santa Clara County Western Area.

FIRSTCARBON
SOLUTIONS™



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Feet

Exhibit 3
Soils Map

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Source: Google Earth Aerial Imagery.

FIRSTCARBON
SOLUTIONS™



100 50 0 100
Feet

Exhibit 4 Land Cover and Vegetation Map

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SECTION 5: BIOLOGICAL CONSTRAINTS AND RECOMMENDATIONS

In conclusion, the Biological Constraints Analysis determined that:

- The project site does not contain suitable habitat for special-status plants.
- The project site does not contain suitable habitat for any special-status wildlife species aside from a potential for nesting birds and roosting bats and a low probability for burrowing owl.
- The project site does not contain potentially jurisdictional wetlands or waters of the United States or waters of the State.
- The proposed project would not directly impact any known wildlife corridors.
- The proposed project has the potential to impact trees protected under the City of Milpitas Municipal Code and/or subject to the City's tree removal permit requirements.
- The project is not within the SCVHP permit area.

The following section recommends project design features, conditions of approval, and/or best management practices (BMPs) that would result in avoidance or minimization of potential project-related impacts to regulated biological resources.

5.1 - Avoidance of Impacts to Burrowing Owl

Burrowing owl, a California Species of Special Concern, was assessed as having low potential to occur on the project site. Though no burrowing owl or signs of burrowing owl were observed on-site, and the species is currently not expected to breed or nest on the project site due to the site's low-quality habitat, burrowing owl may use the site for short periods during migratory movements through the area. Therefore, it is recommended that the project implement measures to avoid potential impacts to burrowing owl. Recommended avoidance and minimization measures include the following:

- Conduct pre-construction survey for burrowing owl prior to the start of construction.
- If active burrows are detected, establish construction exclusion (buffer) zones around active burrows in coordination with CDFW.

5.2 - Avoidance of Impacts to Nesting Birds

Several native migratory or resident birds that are protected under the MBTA and/or Fish and Game Code may nest in the trees and shrubs that are found on and adjacent to the project site. During nesting season, the development of the proposed project has the potential to impact protected bird nests due to the removal of this vegetation or to indirectly harm birds through the generation of noise, light, and other disturbances that could result in the abandonment of eggs or young. Therefore, if work takes place during nesting season, it is recommended that the project implement measures to avoid potential impacts to nesting birds. Recommended avoidance and minimization measures include the following:

Biological Constraints and Recommendations

- Limit tree and vegetation removal to outside the nesting season (generally February 1 to August 31).
- During the nesting season, conduct pre-construction surveys for nesting birds prior to the start of construction.
- If active nests are found, establish construction exclusion (buffer) zones around active nests regulated by the Fish and Game Code and/or MBTA.

5.3 - Avoidance of Impacts to Roosting Bats

The trees and buildings found on-site have potential to be inhabited by roosting bats including potentially special-status bat species, which could be disturbed or even harmed during the demolition of these structures. Additionally, many bat species are sensitive to disturbances such as light and noise that may result from the development of the proposed project. These disturbances could awaken torpid bats (if during winter hibernation period) and cause them to abandon their roosts. Therefore, the following actions are recommended to avoid potential impacts to roosting bats:

- Conduct pre-construction surveys for roosting bats prior to that start of construction.
- Limit the demolition of structures containing roosting bats or that exhibit signs of past or present use to between March 1 and April 31 to avoid take of torpid overwintering bats and between September 1 and November 15 to prevent take of young that are not yet self-sufficiently volant. Establish construction exclusion (buffer) zones around occupied roost in coordination with CDFW.

5.4 - Tree Preservation

Project construction may require the removal of trees present on-site, including protected trees. If construction requires the removal of City protected trees, the project applicant would be required to apply to the City for a tree removal permit prior the removal of any protected trees. The project applicant would also be required to comply with the Tree Preservation Guidelines as described in the Tree Inventory Report to avoid unnecessary impacts to any trees found on-site or on adjacent properties.

Appendix A:
Site Photographs

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Photograph 1: Eastern border, looking south.



Photograph 2: Eastern border, looking west.



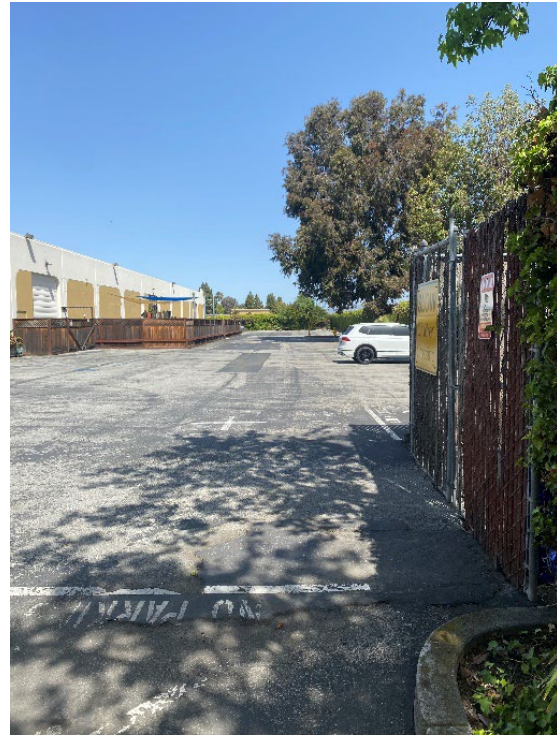
Photograph 3: Western border, looking north.



Photograph 4: Northeastern border, looking south.



Photograph 5: Northeastern border, looking southeast.



Photograph 6: Southeastern border, looking north.



Photograph 7: Southeastern border, looking west.

Appendix B:
Database Searches

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Selected Elements by Scientific Name

California Department of Fish and Wildlife

California Natural Diversity Database

Item # 17.

Query Criteria: Quad< IS (San Jose East (3712137) OR San Jose West (3712138) OR Calaveras Reservoir (3712147) OR La Costa Valley (3712157) OR Mountain View (3712241) OR Niles (3712158) OR Newark (3712251) OR Cupertino (3712231) OR Milpitas (3712148))

Species	Element Code	Federal Status	State Status	Global Rank	State Rank	Rare Plant Rank/CDFW SSC or FP
<i>Accipiter cooperii</i> Cooper's hawk	ABNKC12040	None	None	G5	S4	WL
<i>Accipiter striatus</i> sharp-shinned hawk	ABNKC12020	None	None	G5	S4	WL
<i>Adela oplerella</i> Opler's longhorn moth	IILEE0G040	None	None	G2	S2	
<i>Agelaius tricolor</i> tricolored blackbird	ABPBXB0020	None	Threatened	G1G2	S1S2	SSC
<i>Ambystoma californiense pop. 1</i> California tiger salamander - central California DPS	AAAAA01181	Threatened	Threatened	G2G3T3	S3	WL
<i>Aneides niger</i> Santa Cruz black salamander	AAAAD01070	None	None	G3	S3	SSC
<i>Anniella pulchra</i> Northern California legless lizard	ARACC01020	None	None	G3	S3	SSC
<i>Antrozous pallidus</i> pallid bat	AMACC10010	None	None	G4	S3	SSC
<i>Aquila chrysaetos</i> golden eagle	ABNKC22010	None	None	G5	S3	FP
<i>Ardea herodias</i> great blue heron	ABNGA04010	None	None	G5	S4	
<i>Astragalus tener var. tener</i> alkali milk-vetch	PDFAB0F8R1	None	None	G2T1	S1	1B.2
<i>Athene cunicularia</i> burrowing owl	ABNSB10010	None	None	G4	S3	SSC
<i>Atriplex depressa</i> brittlescale	PDCHE042L0	None	None	G2	S2	1B.2
<i>Atriplex minuscula</i> lesser saltscale	PDCHE042M0	None	None	G2	S2	1B.1
<i>Balsamorhiza macrolepis</i> big-scale balsamroot	PDAST11061	None	None	G2	S2	1B.2
<i>Bombus caliginosus</i> obscure bumble bee	IIHYM24380	None	None	G2G3	S1S2	
<i>Bombus crotchii</i> Crotch bumble bee	IIHYM24480	None	None	G2	S1S2	
<i>Bombus occidentalis</i> western bumble bee	IIHYM24250	None	None	G2G3	S1	



Selected Elements by Scientific Name
California Department of Fish and Wildlife
California Natural Diversity Database



Species	Element Code	Federal Status	State Status	Global Rank	State Rank	Rare Plant Rank/CDFW SSC or FP
<i>Buteo swainsoni</i> Swainson's hawk	ABNKC19070	None	Threatened	G5	S3	
<i>Campanula exigua</i> chaparral harebell	PDCAM020A0	None	None	G2	S2	1B.2
<i>Centromadia parryi ssp. congdonii</i> Congdon's tarplant	PDAST4R0P1	None	None	G3T1T2	S1S2	1B.1
<i>Charadrius nivosus nivosus</i> western snowy plover	ABNNB03031	Threatened	None	G3T3	S2	SSC
<i>Chloropyron maritimum ssp. palustre</i> Point Reyes salty bird's-beak	PDSCR0J0C3	None	None	G4?T2	S2	1B.2
<i>Chorizanthe robusta var. robusta</i> robust spineflower	PDPGN040Q2	Endangered	None	G2T1	S1	1B.1
<i>Circus hudsonius</i> northern harrier	ABNKC11011	None	None	G5	S3	SSC
<i>Cirsium fontinale var. campylon</i> Mt. Hamilton thistle	PDAST2E163	None	None	G2T2	S2	1B.2
<i>Clarkia concinna ssp. automixa</i> Santa Clara red ribbons	PDONA050A1	None	None	G5?T3	S3	4.3
<i>Coccyzus americanus occidentalis</i> western yellow-billed cuckoo	ABNRB02022	Threatened	Endangered	G5T2T3	S1	
<i>Collinsia multicolor</i> San Francisco collinsia	PDSCR0H0B0	None	None	G2	S2	1B.2
<i>Corynorhinus townsendii</i> Townsend's big-eared bat	AMACC08010	None	None	G4	S2	SSC
<i>Coturnicops noveboracensis</i> yellow rail	ABNME01010	None	None	G4	S1S2	SSC
<i>Danaus plexippus pop. 1</i> monarch - California overwintering population	IILEPP2012	Candidate	None	G4T2T3	S2S3	
<i>Delphinium californicum ssp. interius</i> Hospital Canyon larkspur	PDRAN0B0A2	None	None	G3T3	S3	1B.2
<i>Dicamptodon ensatus</i> California giant salamander	AAAAH01020	None	None	G3	S2S3	SSC
<i>Dipodomys heermanni berkeleyensis</i> Berkeley kangaroo rat	AMAFD03061	None	None	G4T1	S1	
<i>Dipodomys venustus venustus</i> Santa Cruz kangaroo rat	AMAFD03042	None	None	G4T1	S1	
<i>Dirca occidentalis</i> western leatherwood	PDTHY03010	None	None	G2	S2	1B.2
<i>Dudleya abramsii ssp. setchellii</i> Santa Clara Valley dudleya	PDCRA040Z0	Endangered	None	G4T2	S2	1B.1
<i>Egretta thula</i> snowy egret	ABNGA06030	None	None	G5	S4	



Selected Elements by Scientific Name
California Department of Fish and Wildlife
California Natural Diversity Database



Species	Element Code	Federal Status	State Status	Global Rank	State Rank	Rare Plant Rank/CDFW SSC or FP
<i>Elanus leucurus</i> white-tailed kite	ABNKC06010	None	None	G5	S3S4	FP
<i>Emys marmorata</i> western pond turtle	ARAAD02030	None	None	G3G4	S3	SSC
<i>Eryngium aristulatum</i> var. <i>hooveri</i> Hoover's button-celery	PDAP10Z043	None	None	G5T1	S1	1B.1
<i>Euphydryas editha bayensis</i> Bay checkerspot butterfly	IILEPK4055	Threatened	None	G5T1	S1	
<i>Extriplex joaquinana</i> San Joaquin spearscale	PDCHE041F3	None	None	G2	S2	1B.2
<i>Falco mexicanus</i> prairie falcon	ABNKD06090	None	None	G5	S4	WL
<i>Falco peregrinus anatum</i> American peregrine falcon	ABNKD06071	Delisted	Delisted	G4T4	S3S4	FP
<i>Fritillaria liliacea</i> fragrant fritillary	PMLIL0V0C0	None	None	G2	S2	1B.2
<i>Geothlypis trichas sinuosa</i> saltmarsh common yellowthroat	ABPBX1201A	None	None	G5T3	S3	SSC
<i>Gonidea angulata</i> western ridged mussel	IMBIV19010	None	None	G3	S1S2	
<i>Hoita strobilina</i> Loma Prieta hoita	PDFAB5Z030	None	None	G2?	S2?	1B.1
<i>Lasiurus cinereus</i> hoary bat	AMACC05030	None	None	G3G4	S4	
<i>Lasthenia conjugens</i> Contra Costa goldfields	PDAST5L040	Endangered	None	G1	S1	1B.1
<i>Laterallus jamaicensis coturniculus</i> California black rail	ABNME03041	None	Threatened	G3T1	S1	FP
<i>Lepidurus packardii</i> vernal pool tadpole shrimp	ICBRA10010	Endangered	None	G4	S3S4	
<i>Lessingia micradenia</i> var. <i>glabrata</i> smooth lessingia	PDAST5S062	None	None	G2T2	S2	1B.2
<i>Linderiella occidentalis</i> California linderiella	ICBRA06010	None	None	G2G3	S2S3	
<i>Malacothamnus arcuatus</i> arcuate bush-mallow	PDMAL0Q0E0	None	None	G2Q	S2	1B.2
<i>Malacothamnus hallii</i> Hall's bush-mallow	PDMAL0Q0F0	None	None	G2	S2	1B.2
<i>Masticophis lateralis euryxanthus</i> Alameda whipsnake	ARADB21031	Threatened	Threatened	G4T2	S2	
<i>Melospiza melodia pusillula</i> Alameda song sparrow	ABPBXA301S	None	None	G5T2?	S2S3	SSC



Selected Elements by Scientific Name

California Department of Fish and Wildlife

California Natural Diversity Database



Species	Element Code	Federal Status	State Status	Global Rank	State Rank	Rare Plant Rank/CDFW SSC or FP
<i>Microcina homi</i> Hom's micro-blind harvestman	ILARA47020	None	None	G1	S2	
<i>Monolopia gracilens</i> woodland woollythreads	PDAST6G010	None	None	G3	S3	1B.2
<i>Myotis evotis</i> long-eared myotis	AMACC01070	None	None	G5	S3	
<i>Myotis yumanensis</i> Yuma myotis	AMACC01020	None	None	G5	S4	
<i>Navarretia prostrata</i> prostrate vernal pool navarretia	PDPLM0C0Q0	None	None	G2	S2	1B.2
<i>Neotoma fuscipes annectens</i> San Francisco dusky-footed woodrat	AMAFF08082	None	None	G5T2T3	S2S3	SSC
<i>Northern Coastal Salt Marsh</i> Northern Coastal Salt Marsh	CTT52110CA	None	None	G3	S3.2	
<i>Oncorhynchus mykiss irideus pop. 8</i> steelhead - central California coast DPS	AFCHA0209G	Threatened	None	G5T2T3Q	S2S3	
<i>Plagiobothrys glaber</i> hairless popcornflower	PDBOR0V0B0	None	None	GX	SX	1A
<i>Puccinellia simplex</i> California alkali grass	PMPOA53110	None	None	G3	S2	1B.2
<i>Rallus obsoletus obsoletus</i> California Ridgway's rail	ABNME05011	Endangered	Endangered	G3T1	S1	FP
<i>Rana boylei</i> foothill yellow-legged frog	AAABH01050	None	Endangered	G3	S3	SSC
<i>Rana draytonii</i> California red-legged frog	AAABH01022	Threatened	None	G2G3	S2S3	SSC
<i>Reithrodontomys raviventris</i> salt-marsh harvest mouse	AMAFF02040	Endangered	Endangered	G1G2	S1S2	FP
<i>Riparia riparia</i> bank swallow	ABPAU08010	None	Threatened	G5	S2	
<i>Rynchops niger</i> black skimmer	ABNNM14010	None	None	G5	S2	SSC
<i>Senecio aphanactis</i> chaparral ragwort	PDAST8H060	None	None	G3	S2	2B.2
<i>Sidalcea malachroides</i> maple-leaved checkerbloom	PDMAL110E0	None	None	G3	S3	4.2
<i>Sorex vagrans halicoetes</i> salt-marsh wandering shrew	AMABA01071	None	None	G5T1	S1	SSC
<i>Spergularia macrotheca var. longistyla</i> long-styled sand-spurrey	PDCAR0W062	None	None	G5T2	S2	1B.2
<i>Spirinchus thaleichthys</i> longfin smelt	AFCHB03010	Candidate	Threatened	G5	S1	



Selected Elements by Scientific Name
California Department of Fish and Wildlife
California Natural Diversity Database



Species	Element Code	Federal Status	State Status	Global Rank	State Rank	Rare Plant Rank/CDFW SSC or FP
<i>Sternula antillarum browni</i> California least tern	ABNNM08103	Endangered	Endangered	G4T2T3Q	S2	FP
<i>Streptanthus albidus ssp. albidus</i> Metcalf Canyon jewelflower	PDBRA2G011	Endangered	None	G2T1	S1	1B.1
<i>Streptanthus albidus ssp. peramoenus</i> most beautiful jewelflower	PDBRA2G012	None	None	G2T2	S2	1B.2
<i>Stuckenia filiformis ssp. alpina</i> northern slender pondweed	PMPOT03091	None	None	G5T5	S2S3	2B.2
<i>Suaeda californica</i> California seablite	PDCHE0P020	Endangered	None	G1	S1	1B.1
<i>Sycamore Alluvial Woodland</i> Sycamore Alluvial Woodland	CTT62100CA	None	None	G1	S1.1	
<i>Trifolium hydrophilum</i> saline clover	PDFAB400R5	None	None	G2	S2	1B.2
<i>Tryonia imitator</i> mimic tryonia (=California brackishwater snail)	IMGASJ7040	None	None	G2	S2	

Record Count: 89

Search Results

5 matches found. Click on scientific name for details

Search Criteria: CRPR is one of [1A:1B:2A:2B:3:4] Fed List is one of [FE:FT:FC] or State List is one of [CE:CT:CR:CE:CT] , 9-Quad include [3712137:3712138:3712147:3712157:3712241:3712158:3712251:3712231:3712148]

▲ SCIENTIFIC NAME	COMMON NAME	FAMILY	LIFEFORM	BLOOMING PERIOD	FED LIST	STATE LIST	GLOBAL RANK	STATE RANK	CA RARE PLANT RANK	PHOTO
Chorizanthe robusta var. robusta	robust spineflower	Polygonaceae	annual herb	Apr-Sep	FE	None	G2T1	S1	1B.1	No Photo Available
Dudleya abramsii ssp. setchellii	Santa Clara Valley dudleya	Crassulaceae	perennial herb	Apr-Oct	FE	None	G4T2	S2	1B.1	No Photo Available
Lasthenia conjugens	Contra Costa goldfields	Asteraceae	annual herb	Mar-Jun	FE	None	G1	S1	1B.1	 © 2013 Neal Kramer
Streptanthus albidus ssp. albidus	Metcalf Canyon jewelflower	Brassicaceae	annual herb	Apr-Jul	FE	None	G2T1	S1	1B.1	 © 2015 Aaron Schusteff
Suaeda californica	California seablite	Chenopodiaceae	perennial evergreen shrub	Jul-Oct	FE	None	G1	S1	1B.1	No Photo Available

Showing 1 to 5 of 5 entries

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Send questions and comments to rareplants@cnps.org.

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- [The California Lichen Society](#)
- [California Natural Diversity Database](#)
- [The Jepson Flora Project](#)
- [The Consortium of California Herbaria](#)
- [CalPhotos](#)



Appendix C:
Tree Inventory Report

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Tree Inventory Report

**612 South Main Street
Milpitas, CA**

PREPARED FOR:

TTL Management Inc.
An Arizona Corporation
12647 Alcosta Blvd. Suite 470
San Ramon CA 94583

PREPARED BY:

HortScience | Bartlett Consulting
325 Ray Street
Pleasanton, CA 94566

May 2022



Tree Inventory Report

612 South Main Street
Milpitas, CA

Table of Contents

	Page
Introduction and Overview	1
Tree Assessment Methods	1
Description of Trees	2
Milpitas Tree Ordinance	4
Suitability for Preservation	5
Preliminary Tree Preservation Guidelines	7

List of Tables

Table 1. Condition ratings and frequency of occurrence of trees	2
Table 2. Tree suitability for preservation	6

Exhibits

Tree Assessment Plan

Tree Assessment Form

Tree Inventory Report

612 South Main Street

Milpitas, CA

Introduction and Overview

TTL Management Inc. is proposing to redevelop the subject property at 612 South Main Street in Milpitas. HortScience | Bartlett Consulting, Divisions of The F. A. Bartlett Tree Expert Company, was asked to prepare a **Tree Inventory Report** for the trees on the property as part of the application to the City of Milpitas.

This report provides the following information:

1. An assessment of each tree's health, structure, suitability for preservation and protected status within and adjacent to the proposed project area.
2. Preliminary guidelines for tree preservation during the design, construction and maintenance phases of development.

Assessment Methods

Twenty-eight trees were assessed on September 24, 2021. Five additional trees on an adjacent lot to the north (APN #086-25-028) were added to the inventory on April 29, 2022. The assessment included all trees within or adjacent to the properties with a diameter of 2 inches or greater. Tree tag numbers were #315 – 342 and #381 – 385. The assessment procedure consisted of the following steps:

1. Identifying the tree species.
2. Tagging or confirming the presence of a metal numerical tag and confirming its location on a map.
3. Measuring the trunk diameter at a point 54 inches above grade; for off-site trees diameters were estimated.
4. Evaluating the health and structural condition using a scale of 1 – 5:
 - 5** - A healthy, vigorous tree, reasonably free of signs and symptoms of disease, with good structure and form typical of the species.
 - 4** - Tree with slight decline in vigor, small amount of twig dieback, minor structural defects that could be corrected.
 - 3** - Tree with moderate vigor, moderate twig and small branch dieback, thinning of crown, poor leaf color, moderate structural defects that might be mitigated with regular care.
 - 2** - Tree in decline, epicormic growth, extensive dieback of medium to large branches, significant structural defects that cannot be abated.
 - 1** - Tree in severe decline, dieback of scaffold branches and/or trunk; most of foliage from epicormics; extensive structural defects that cannot be abated.
5. Rating the suitability for preservation as "high", "moderate" or "low". Suitability for preservation considers the health, age and structural condition of the tree species, and its potential to remain an asset to the site.

High: Trees with good health and structural stability that have the potential for longevity at the site.

Moderate: Trees with somewhat declining health and/or structural defects than can be abated with treatment. The tree will require more intense management and monitoring, and may have shorter life span than those in 'high' category.

Low: Trees in poor health or with significant structural defects that cannot be mitigated. Tree is expected to continue to decline, regardless of treatment. The species or individual tree may have characteristics that are undesirable for landscapes, and generally are unsuited for use areas.

Description of Trees

Thirty-three (33) trees representing 9 species were evaluated. Nineteen (19, or 58%) trees were in fair condition and nine (12, or 36%) were poor. Trees #315 and 325 were in good condition. Tree condition varied by species. Nine street trees were included in the assessment. Descriptions of each tree are found in the **Tree Assessment Form** and locations are plotted on the **Tree Assessment Plan** (see Exhibits).

Table 1. Tree condition and frequency of occurrence. 612 S. Main Street, Milpitas, CA.

Common Name	Scientific Name	Condition			Total
		Poor (1-2)	Fair (3)	Good (4-5)	
Silk tree	<i>Albizia julibrissin</i>	1	-	-	1
Chinese hackberry	<i>Celtis sinensis</i>	1	1	-	2
Mediterranean fan palm	<i>Chamaerops humilis</i>	1	1	-	2
Lemon-scented gum	<i>Eucalyptus citriodora</i>	-	1	1	2
Crape myrtle	<i>Lagerstroemia indica</i>	-	7	-	7
Sweetgum	<i>Liquidambar styraciflua</i>	6	6	1	13
Brisbane box	<i>Lophostemon confertus</i>	1	3	-	4
Canary Island date palm	<i>Phoenix canariensis</i>	1	-	-	1
Elderberry	<i>Sambucus</i> sp.	1	-	-	1
Total		12	19	2	33

The site consisted of two adjacent lots. The south lot had one building that was surrounded on three sides by parking. Trees were growing at the edges of the parking lot and in front of the building. The north lot was undeveloped, with shrubs and small trees growing along the fence separating the two lots.

Sweetgum was the most common species assessed, with almost half the population (13 trees, or 39%). Most were growing along the southern edges of the property or near the building (Photo 1). Condition was divided between fair and poor (6 trees each), with tree #315 in good condition. The sweetgums had codominant or multiple attachments and varied form. A few had sparse crowns. Many were crowded together or close to the building.

Seven (7) crape myrtles were assessed (Photo 1). All were street trees growing in planting wells of varying sizes along South Main Street. All were in fair condition, with multiple attachments. Several had full, rounded crowns. Upper branches of crape myrtles #336 and 341 extended into overhead utility lines.

Four (4) Brisbane boxes were growing in narrow planters near the property fences (Photo 2). Three were in fair condition and #320 was in poor. None of the Brisbane boxes was in good condition. All had multiple attachments and most were engulfed in ivy or crowded by shrubs.

Two mature lemon-scented gums were present, at the east and south fences. Gum #319 had multiple attachments with trunks ranging from 14 to 24 inches in diameter. It was in fair condition. Gum #325 was the largest tree assessed, with a diameter of 38 inches (Photo 2). Its base was raised and filled the space between fence and curb. Trunk texture was smooth and yellow. Overall tree condition was good.



Photo 1 (left). Sweetgums #322 – 324 were growing at the southwest corner of the school building. Young crape myrtles #337 and 338 are visible at left (red arrow).



Photo 2 (right). Lemon-scented gum #325 was the largest tree on site, growing at the south fence. Brisbane box #326 is at right (yellow arrow).



Photo 3 (left). Elderberry #317 (green arrow) and Canary Island date palm #318 (red arrow) were growing at the northeast corner of the parking lot.

Two Chinese hackberries were street trees growing in 4-foot square tree wells across from the vacant lot. Hackberry #382 was leaning slightly southeast and was in fair condition. Hackberry #383 had a deflected central leader and scorched leaf tips. It was in poor condition. Both were growing beneath overhead utility lines.

Mediterranean fan palm #342 was in fair condition and had a diameter of 17 inches. Its brown trunk height was approximately 4 feet and fronds were sprouting at the base. Palm #385 was growing at the base of the fence dividing the two lots and was crowded by surrounding shrubs and ivy. It had brown trunk height of approximately 2 feet and was in poor condition.

None of the remaining three species were represented by more than a single tree. Included in this group were:

- Elderberry #317 had multiple attachments from 4 to 15 inches in diameter and was growing against the north fence (Photo 3). It had a history of limb removal and was engulfed in shrubs. It was in poor condition.
- Young Canary Island date palm #318 had a 10-inch diameter and approximately 1 foot of brown trunk height. It was growing next to the curb near tree #317 and was in poor condition (Photo 3).
- Silk tree #384 was growing at the north edge of the northern lot. It had two codominant 10-inch stems and leaned west. It was in poor condition (Photo 4).



Photo 4. Silk tree #384 was growing near an adjacent car wash (left side of image).

Milpitas Tree Ordinance

The City of Milpitas Municipal Code (Chapter 2, Section 7 - Tree Protection and Heritage Tree Program) defines a Protected tree on a developed commercial property as any tree with a circumference of 37 inches or greater (about 11.78 inches in diameter). Street trees of any size are Protected. Twenty (20) of the 33 assessed trees met this criterion. Protected Trees are identified on the **Tree Assessment Form** (see Exhibits). Permits and replacement tree planting at a ratio of 2:1 are required for the removal of Protected trees.

Removal of protected trees on already improved commercial properties may be subject to replacement trees as determined by the Director of Planning or an arborist's recommendation approved by the Director. Tree replacement ratio may depend on the ability of the property to accommodate replacement trees, as determined by the Director or an arborist's recommendation approved by the Director.

Suitability for Preservation

Before evaluating the impacts that will occur during development, it is important to consider the quality of the tree resource itself, and the potential for individual trees to function well over an extended length of time. Trees that are preserved on development sites must be carefully selected to make sure that they may survive development impacts, adapt to a new environment and perform well in the landscape. Our goal is to identify trees that have the potential for long-term health, structural stability and longevity within the proposed development.

Evaluation of suitability for preservation considers several factors:

- **Tree health**
Healthy, vigorous trees are better able to tolerate impacts such as root injury, demolition of existing structures, changes in soil grade and moisture, and soil compaction than are non-vigorous trees. For example, sweetgum #322 was in very poor health with a slight lean and sparse foliage; it would not make a good candidate for preservation.
- **Structural integrity**
Trees with significant amounts of wood decay and other structural defects that cannot be corrected are likely to fail. Elderberry #317 had multiple attachments at 2 feet and was growing in a crowded area at the north fence. I do not recommend attempting to preserve this tree.
- **Species response**
There is a wide variation in the response of individual species to construction impacts and changes in the environment. Brisbane box are generally tolerant of construction impacts depending upon age and condition of the trees, while sweetgum have moderate tolerance of construction impacts, and require irrigation post-construction to mitigate impacts. Silk tree is intolerant of construction impacts.
- **Tree age and longevity**
Old trees, while having significant emotional and aesthetic appeal, have limited physiological capacity to adjust to an altered environment. Young trees are better able to generate new tissue and respond to change.
- **Invasiveness**
Species that spread across a site and displace desired vegetation are not always appropriate for retention. This is particularly true when indigenous species are displaced. The California Invasive Plant Inventory Database (<http://www.cal-ipc.org/paf/>) lists species identified as being invasive. Milpitas is part of the Central West Floristic Province. Canary Island date palm is considered invasive on a limited basis.

Each tree was rated for suitability for preservation based upon its age, health, structural condition and ability to safely coexist within a development environment (Table 2, below). We consider trees with high suitability for preservation to be the best candidates for preservation. We do not recommend retention of trees with low suitability for preservation in areas where people or property will be present. Retention of trees with moderate suitability for preservation depends upon the intensity of proposed site changes.

Table 2: Tree suitability for preservation. 612 S. Main Street, Milpitas, CA.

High	Trees in this category had good health and structural stability that have the potential for longevity at the site. Trees #315 and 325 had high suitability for preservation.
Moderate	Trees in this category have fair health and/or structural defects that may be abated with treatment. Trees in this category require more intense management and monitoring and may have shorter lifespans than those in the “high” category. Eighteen (18) trees had moderate suitability for preservation including seven crape myrtles and six sweetgums.
Low	Trees in this category are in poor health or have significant defects in structure that cannot be abated with treatment. These trees can be expected to decline regardless of management. The species or individual tree may possess either characteristics that are undesirable in landscape settings or be unsuited for use areas. Thirteen (13) trees had low suitability for preservation including six sweetgums.

Preliminary Tree Preservation Guidelines

The goal of tree preservation is not merely tree survival during development but maintenance of tree health and beauty for many years. Trees retained on sites that are either subject to extensive injury during construction or are inadequately maintained become a liability rather than an asset. The response of individual trees will depend on the amount of excavation and grading, the care with which demolition is undertaken, and the construction methods. Coordinating any construction activity inside the **TREE PROTECTION ZONE** can minimize these impacts. Trees with high suitability for preservation should be preserved where possible.

The following recommendations will help reduce impacts to trees from development as well as maintain and improve their health and vitality through the clearing, grading and construction phases. The key elements of a tree preservation plan for the 612 S. Main Street property would include:

- Focus efforts at tree preservation on those trees with high or moderate suitability for preservation. Examples include: sweetgum #315, lemon-scented gum #325 and street trees #336 – 341 and 381 (crape myrtle); and #382 (Chinese hackberry).
- Establish **TREE PROTECTION ZONES** for each tree to be preserved. **TREE PROTECTION ZONES** are identified by the Consulting Arborist based on species tolerances, tree condition, trunk diameters and the nature and proximity of the proposed disturbance.
- Provide supplemental irrigation prior to and during the demolition and construction phases.

Trees should be preserved in groups with minimal grading within the critical root zone, where possible. The following are recommendations for design and construction phases that will assist in successful tree preservation.

Design recommendations

1. Plan for tree preservation by designing adequate space around trees to be preserved. This area is called the **TREE PROTECTION ZONE**. No grading, excavation, construction or storage of materials should occur within that zone. Route underground services including utilities, sub-drains, water or sewer around the **TREE PROTECTION ZONE**. For design purposes, the tree protection zone is ten times the trunk diameter or the entire dripline whichever is larger. Areas of the **Tree Protection Zone** should be fenced to minimize impacts and staging in the **TREE PROTECTION ZONE**.
2. Any changes to the plans affecting the trees should be reviewed by the Project Arborist with regard to tree impacts. These include, but are not limited to, site plans, improvement plans, utility and drainage plans, grading plans, landscape and irrigation plans, and demolition plans.
3. Irrigation systems must be designed so that no trenching severs roots larger than 1 inch in diameter within the **TREE PROTECTION ZONE**.
4. Tree Preservation Guidelines prepared by the Project Arborist, which include specifications for tree protection during demolition and construction, should be included on all plans.
5. Any herbicides placed under paving materials must be safe for use around trees and labeled for that use.
6. Do not lime the subsoil within 50 feet of any tree. Lime is toxic to tree roots.
7. Ensure adequate but not excessive water is supplied to trees; in most cases, occasional irrigation will be required. Avoid directing runoff toward trees.

Pre-demolition and pre-construction treatments and recommendations

1. The demolition and construction superintendents shall meet with the Project Arborist before beginning work to review all work procedures, access routes, storage areas, and tree protection measures.
2. Fence the **TREE PROTECTION ZONE**. Trees adjacent to demolition may require limb and trunk protections. This may be accomplished using foam wrapped with wattle and orange snow fencing to protect the areas where the limb (or trunk) is exposed to incidental contact.
3. Trees to be preserved may require pruning to clean the crown of dead branches 1 inch and larger in diameter, raise canopies as needed for construction activities. All pruning shall be done by a State of California Licensed Tree Contractor (C61/D49). All pruning shall be done by Certified Arborist or Certified Tree Worker in accordance with the Best Management Practices for Pruning (International Society of Arboriculture, 2002) and adhere to the most recent editions of the American National Standard for Tree Care Operations (Z133.1) and Pruning (A300). The Project Arborist will provide pruning specifications prior to site demolition.
4. Structures and underground features to be removed within the **TREE PROTECTION ZONE** shall use equipment that will minimize damage to trees above and below ground, and operate from outside the **TREE PROTECTION ZONE**. The Project Arborist shall be on site during all operations within the **TREE PROTECTION ZONE** to monitor demolition activity.
5. All tree work shall comply with the Migratory Bird Treaty Act as well as California Fish and Wildlife code 3503-3513 to not disturb nesting birds. To the extent feasible, tree pruning and removal should be scheduled outside of the breeding season. Breeding bird surveys should be conducted prior to tree work. Qualified biologists should be involved in establishing work buffers for active nests.
6. Apply and maintain 4-6" of wood chip mulch within the **TREE PROTECTION ZONE**.

Recommendations for tree protection during construction

1. Any approved grading, construction, demolition or other work within the **TREE PROTECTION ZONE** should be monitored by the Project Arborist.
2. All contractors shall conduct operations in a manner that will prevent damage to trees to be preserved.
3. Tree protection devices are to remain until all site work has been completed within the work area. Fences or other protection devices may not be relocated or removed without permission of the Project Arborist.
4. Construction trailers, traffic and storage areas must remain outside **TREE PROTECTION ZONE** at all times.
5. Any root pruning required for construction purposes shall receive the prior approval of and be supervised by the Project Arborist. Roots should be cut with a saw to provide a flat and smooth cut. Removal of roots larger than 2 inches in diameter should be avoided.
6. If roots 1 inches and greater in diameter are encountered during site work and must be cut to complete the construction, the Project Arborist must be consulted to evaluate effects on the health and stability of the tree and recommend treatment.
7. Spoil from trench, footing, utility or other excavation shall not be placed within the **TREE PROTECTION ZONE**, neither temporarily nor permanently.
8. All grading within the dripline of trees shall be done using the smallest equipment possible. The equipment shall operate perpendicular to the tree and operate from

outside the **TREE PROTECTION ZONE**. Any modifications must be approved and monitored by the Project Arborist.

9. All trees shall be irrigated on a schedule to be determined by the Project Arborist (every 3 to 6 weeks is typical). Each irrigation shall wet the soil within the **TREE PROTECTION ZONE** to a depth of 18-24 inches.
10. If injury should occur to any tree during construction, it should be evaluated as soon as possible by the Project Arborist so that appropriate treatments can be applied.
11. No excess soil, chemicals, debris, equipment or other materials shall be dumped or stored within the **TREE PROTECTION ZONE**.
12. Any additional tree pruning needed for clearance during construction must be performed by a Certified Arborist and not by construction personnel or certified tree climber.
13. Trees that accumulate a sufficient quantity of dust on their leaves, limbs and trunk as judged by the Project Arborist shall be spray-washed at the direction of the Project Arborist.

Maintenance of impacted trees

Trees should be monitored and inspected annually and after major storms to identify conditions requiring treatment to manage risk associated with tree failure.

Preserved trees will experience a physical environment different from that pre-development. As a result, tree health and structural stability should be monitored. Occasional pruning, fertilization, mulch, pest management, replanting and irrigation may be required. In addition, provisions for monitoring both tree health and structural stability following construction must be made a priority. Inspect trees annually and following major storms to identify conditions requiring treatment to manage risk associated with tree failure.

Our procedures included assessing trees for observable defects in structure. This is not to say that trees without significant defects will not fail. Failure of apparently defect-free trees does occur, especially during storm events. Wind forces, for example, can exceed the strength of defect-free wood causing branches and trunks to break. Wind forces coupled with rain can saturate soils, reducing their ability to hold roots, and blow over defect-free trees. Although we cannot predict all failures, identifying those trees with observable defects is a critical component of enhancing public safety.

Furthermore, trees change over time. Our inspections represent the condition of the tree at the time of inspection. As trees age, the likelihood of failure of branches or entire trees increases. Annual tree inspections are recommended to identify changes to tree health and structure. In addition, trees should be inspected after storms of unusual severity to evaluate damage and structural changes. Initiating these inspections is the responsibility of the client and/or tree owner.

If you have any questions regarding my observations or recommendations, please contact me.

HortScience | Bartlett Consulting



Pam Nagle
Consulting Arborist and Urban Forester
Certified Arborist #WE-9617A
ISA Tree Risk Assessment Qualified

Exhibits

Tree Assessment Plan

Tree Assessment Form

612 South Main Street
Milpitas, CA

Prepared for:
The True Life Companies
San Ramon, CA

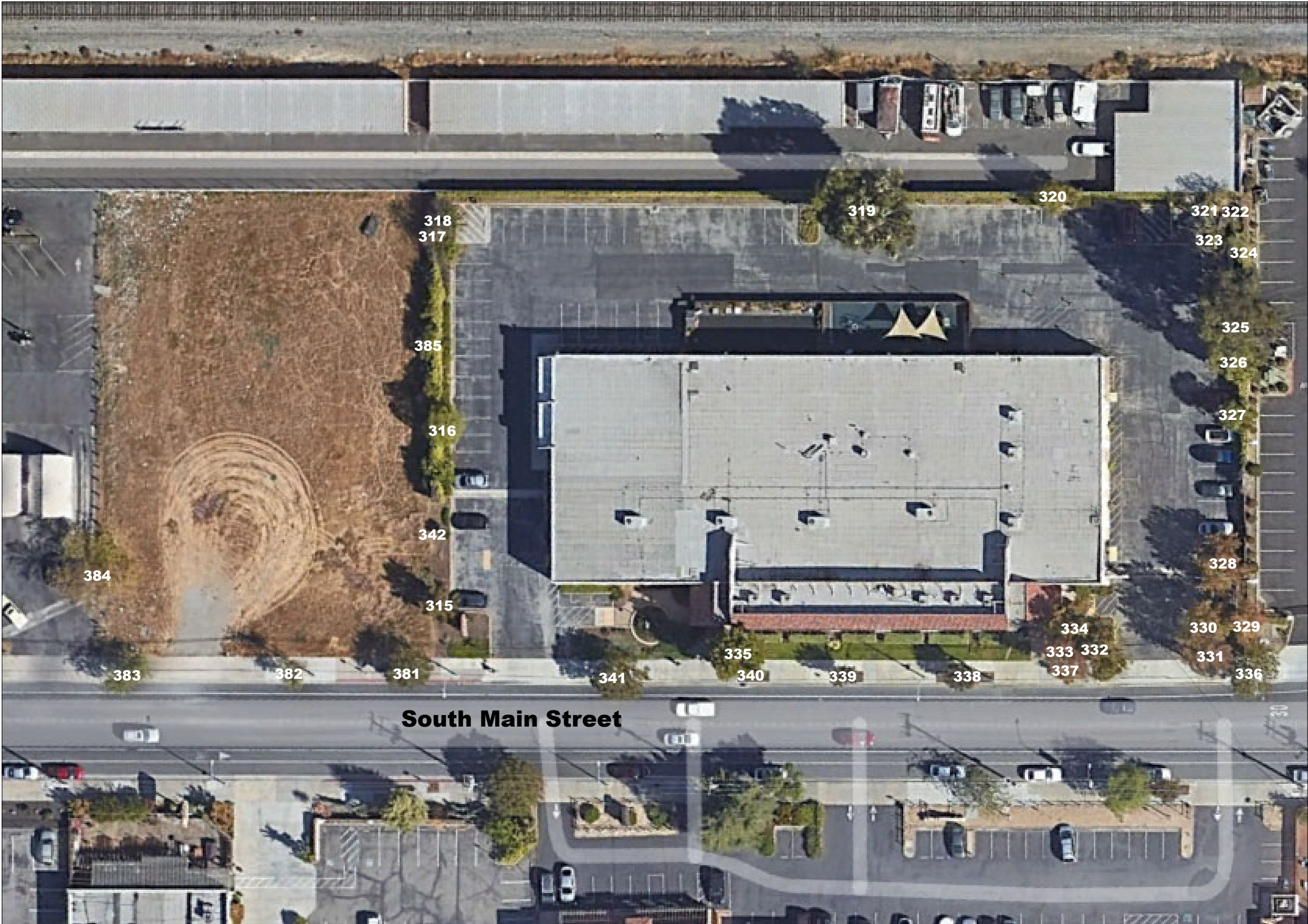
September 2021 / May 2022



No Scale

Notes:

- Base map provided by:
Muir Consulting, Inc.
Oakdale, CA
- Numbered tree locations are approximate.



Tree Assessment

612 South Main Street
Milpitas, CA
September 2021 / April 2022



Tree No.	Species	Trunk Diameter (in.)	Protected Tree?	Condition 1=poor 5=excellent	Suitability for Preservation	Comments
315	Sweetgum	7	No	4	High	Growing in shrubs; good form and structure; 2' from curb.
316	Brisbane box	7,6,5,4,3	No	3	Moderate	1' from fence; engulfed in ivy; vase form; rounded crown; slightly sparse; multiple attachments at 3.5'.
317	Elderberry	15,4,4	Yes	2	Low	Against fence; multiple attachments at 2'; history of limb removal; thin crown; engulfed in shrubs.
318	Canary Island date palm	10	No	2	Low	1' BTH; wide arching fronds; at curb.
319	Lemon-scented gum	24,19,18,17,14	Yes	3	Low	Multiple attachments at 2'; in 4' bed between curb/fence; large vigorous tree.
320	Brisbane box	9,8,6,6	No	2	Low	In 4' bed between curb/fence; multiple attachments at 3'; growing against fence; engulfed in ivy; slightly sparse.
321	Sweetgum	8	No	2	Low	Multiple attachments at 8'; vase form; sparse.
322	Sweetgum	6	No	1	Low	Slight lean S; codominant stems at 9'; very sparse.
323	Sweetgum	11	No	2	Low	Buried root crown; multiple attachments at 6'; branch dieback; sparse.
324	Sweetgum	8	No	2	Low	Buried root crown; slight lean S.; codominant stems at 9'; some branch dieback.
325	Lemon-scented gum	38	Yes	4	High	Between curb and fence; raised base; good form and structure; large gorgeous tree.
326	Brisbane box	12	Yes	3	Moderate	Near fence; engulfed in ivy; multiple attachments at 9'; oval crown.
327	Brisbane box	9	No	3	Moderate	Near fence; in shrubs; engulfed in ivy; multiple attachments at 9'.
328	Sweetgum	13	Yes	3	Moderate	Roots squared from former planter; multiple attachments at 7'; history of limb removal; conc. border S. side at trunk; 2' from electric box.
329	Sweetgum	13	Yes	2	Low	At fence; engulfed in ivy; codominant stems at 7'; narrow crown.

Tree Assessment

612 South Main Street
Milpitas, CA
September 2021 / April 2022



Tree No.	Species	Trunk Diameter (in.)	Protected Tree?	Condition 1=poor 5=excellent	Suitability for Preservation	Comments
330	Sweetgum	9	No	2	Low	In shrub planting bed; codominant stems at 5'; vase form; history of limb removal; slightly sparse.
331	Sweetgum	10	No	3	Moderate	In shrub planting bed; trunk divides at 6 and 8'; vase form; history of limb removal; slightly sparse.
332	Sweetgum	14	Yes	3	Moderate	2' from sidewalk; codominant stems at 8' ; upright vase form; utility lines W. edge crown.
333	Sweetgum	14	Yes	3	Moderate	Large surface roots N. side w/ 2" girdling root; growing against drainage basin N.E. side; codominant stems at 6'.
334	Sweetgum	13	Yes	3	Moderate	Multiple attachments at 10'; raised berm 2' from conc. walk; some branch dieback; history of limb removal.
335	Sweetgum	15	Yes	3	Moderate	Large surface roots in lawn; slight correcting lean W.; history of limb removal; crowded by bldg.; narrow upright form.
336	Crape myrtle	9	Yes	3	Moderate	Street tree. In 4x6' well; root pruned; multiple attachments at 6'; some branch dieback; upper crown in utility lines.
337	Crape myrtle	2	Yes	3	Moderate	Street tree. In 4.5' square well; multiple attachments at 5'; slightly drought stressed; good young tree.
338	Crape myrtle	5	Yes	3	Moderate	Street tree. In 5' wide extended planting bed; multiple attachments at 7'; rounded crown.
339	Crape myrtle	5	Yes	3	Moderate	Street tree. In 5' wide extended planting bed; multiple attachments at 6 and 8'; compact upright crown.
340	Crape myrtle	2	Yes	3	Moderate	Street tree. In 5' wide extended planting bed; slightly 1-sided to W.; suppressed by sweetgum; narrow form.
341	Crape myrtle	9	Yes	3	Moderate	Street tree. In 4.5' square well; root pruned; multiple attachments at 7'; 5" lateral to N.E. turns upward; upper crown in utility lines.
342	Mediterranean fan palm	17	Yes	3	Moderate	Tag on frond; 4' BTH; multiple sprouts at base; low shrubby form.
381	Crape myrtle	7	Yes	3	Moderate	Street tree. In 4' square well; correcting lean N.; multiple attachments at 7'; vigorous; under utility lines.

Tree Assessment

612 South Main Street
Milpitas, CA
September 2021 / April 2022



Tree No.	Species	Trunk Diameter (in.)	Protected Tree?	Condition 1=poor 5=excellent	Suitability for Preservation	Comments
382	Chinese hackberry	5	Yes	3	Moderate	Street tree. In 4' square well; slight lean S.E.; under utility lines.
383	Chinese hackberry	6	Yes	2	Low	Street tree. In 4' square well; multiple attachments at 9'; leader deflects sharply W. at attachment; scorched foliage tips; under utility lines.
384	Silk tree	10,10	No	2	Low	At edge of asphalt of property to N.; codominant at 2'; leans W.; wide flat-topped crown; sparse; overhangs property ~21'.
385	Mediterranean fan palm	10	No	2	Low	No tag. At S. fence; approx. 2' brown trunk height; leans N.; engulfed in ivy; crowded and suppressed by shrubs.

Exhibit 3, Part 2:

Trip Generation Study for 612 South Main Street, Milpitas, California, prepared by TJKM dated April 2, 2022.

April 2, 2022

Leah Beniston
Vice President-Entitlements
The True Life Companies
12657 Alcosta Boulevard, Suite 470
San Ramon, CA 94583

Re: Trip Generation Study for 612 South Main Street, Milpitas, California

Dear Ms. Beniston:

At your request, TJKM has prepared this trip generation analysis of the proposed development located at 612 South Main Street in Milpitas, California. The site is currently occupied by a 6,413 square feet (sf) Montessori School for preschool aged students and an 11,700 gymnastics facility. The project also incorporates an adjacent vacant lot. The project site will consist of 57 three-story townhouse style dwelling units with two-car garage and seven on-site guest parking spaces.

To determine the proposed project trips, the following trip rates are applicable, based on the Institute of Transportation Engineer's (ITE) *Trip Generation, 11th Edition*. The land use for Multi-family Housing, Mid-Rise (code 221) was used because it has three or more stories and are connected by three or more dwelling units. Trip Generation for the school is based on the number of students. Because there is no ITE land use for the gymnastics facility, trip generation was estimated based on information provided by the tenant. The net trips for proposed use is shown in the table below:

Land Use (ITE Code)	Size		Daily		A.M. Peak Hour				P.M. Peak Hour			
			Rate	Trips	Rate	In	Out	Total	Rate	In	Out	Total
Proposed												
Multifamily Housing, Mid- Rise (221)	57	DU	4.54	259	0.37	4	17	21	0.39	13	10	23
Existing												
Montessori School/Day Care (565)	72	Students	4.09	294	0.78	30	26	56	0.79	27	30	57
Gymnastics	11.7	ksf		80						12	12	24
Net Total Trips				-115		-26	-9	-35		-26	-32	-58

Notes: DU- Dwelling Units; ksf: thousand square feet

Source: Institute of Transportation Engineers (ITE) Trip Generation Manual, 11th Edition, 2021, Gymnastics tenant operations

The proposed project will not generate any net new trips during the daily, a.m. peak hour (7:00 a.m. to 9:00 a.m.) trips or p.m. peak hour (4:00 p.m. to 6:00 p.m.).



April 2, 2022

Page 2 of 2

Per the Valley Transportation Authority (VTA) Congestion Management Program Transportation Impact Analysis (TIA) Guidelines, dated October 2014, transportation impacts of all land uses that are projected to generate 100 or more net new weekday a.m. or p.m. peak hour, including both inbound and outbound trips are required to prepare a TIA. Based on the trip generation, this project would be exempt from preparing a TIA.

Please contact me if there are questions on this matter.

Very truly yours,

A handwritten signature in black ink that reads "Chris D. Kinzel". The signature is fluid and cursive, with the first letters of the first and last names being capitalized.

Chris D. Kinzel, P.E.

Vice President

Exhibit 3, Part 3:

Noise Impacts Constraints Analysis for the South Main Street Project in Milpitas, California, prepared by
First Carbon Solutions dated May 17, 2022.

Memorandum

Date: May 17, 2022

To: Hassan Naboulsi, Project Manager

From: Philip Ault, Director of Noise and Air Quality

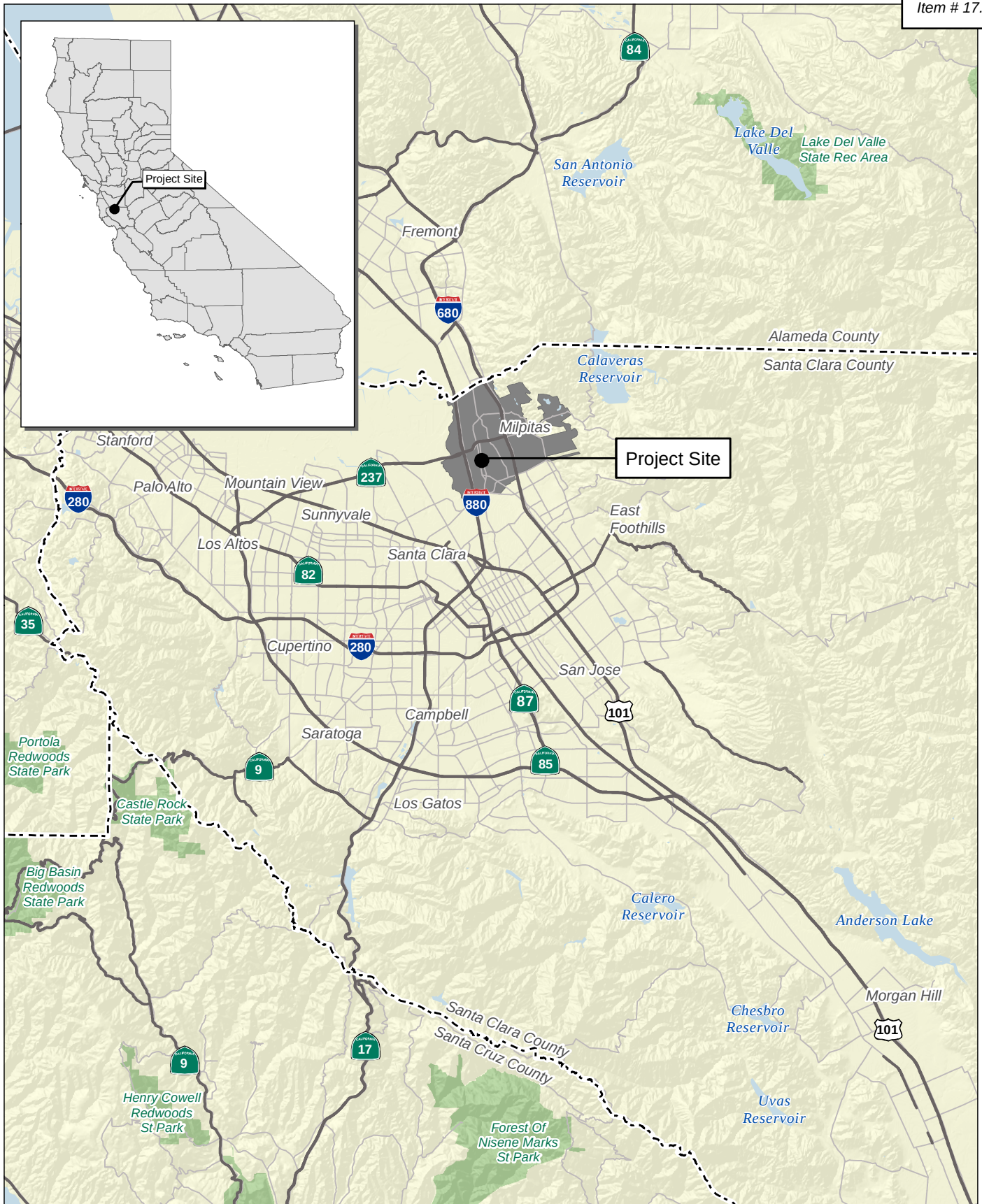
Subject: Noise Impacts Constraints Analysis for the South Main Street Project in Milpitas, California

This memorandum summarizes the findings of a Noise Impacts Constraints Analysis conducted by FirstCarbon Solutions (FCS) for the South Main Street Project (proposed project) located on South Main Street, just east of South Abel Street, in Milpitas, California. Recommended measures to avoid or minimize potential project-related noise impacts to sensitive receptors in the project vicinity are included as appropriate.

PROJECT UNDERSTANDING

The proposed project would construct a 57-unit townhome residential development at South Main Street in Milpitas, California. Exhibit 1 shows the regional location map and Exhibit 2 shows the local vicinity map. The project site includes two parcels with Assessor's Parcel Number (APN) 086-25-027 and APN 086-25-028.

The proposed project would include the demolition of the existing Montessori School structure and the construction of 57 attached, 3-story townhome dwelling units and associated amenities on the approximately 2.3-acre site (Exhibit 3). The proposed project would also include 20,368 square feet of open space, including private open space areas. The proposed project would include 124 total parking spaces, including 114 garage unit parking spaces (two spaces per unit), and 10 guest surface parking spaces.



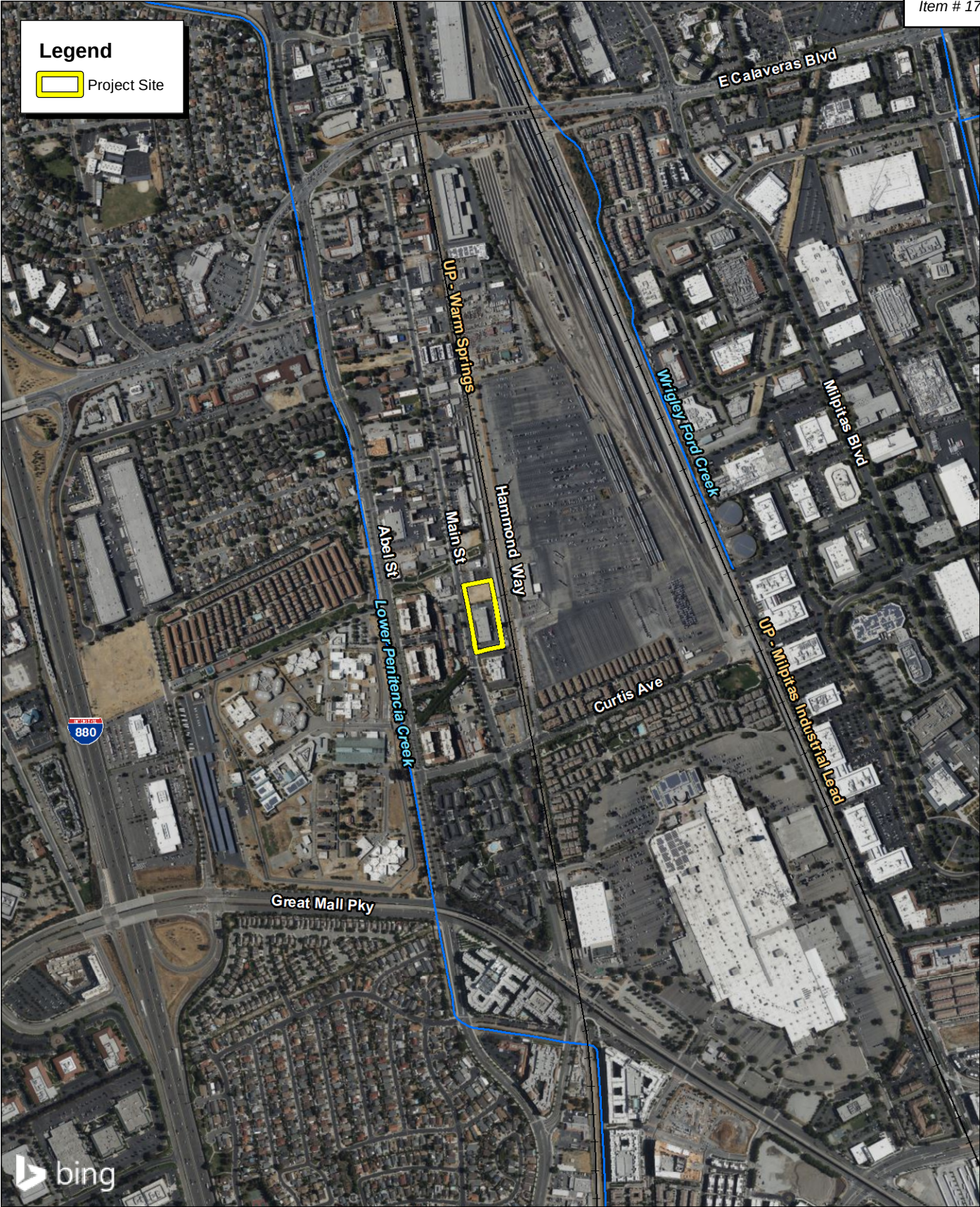
Source: Census 2000 Data, The California Spatial Information Library (CaSIL).

FIRSTCARBON
SOLUTIONS™



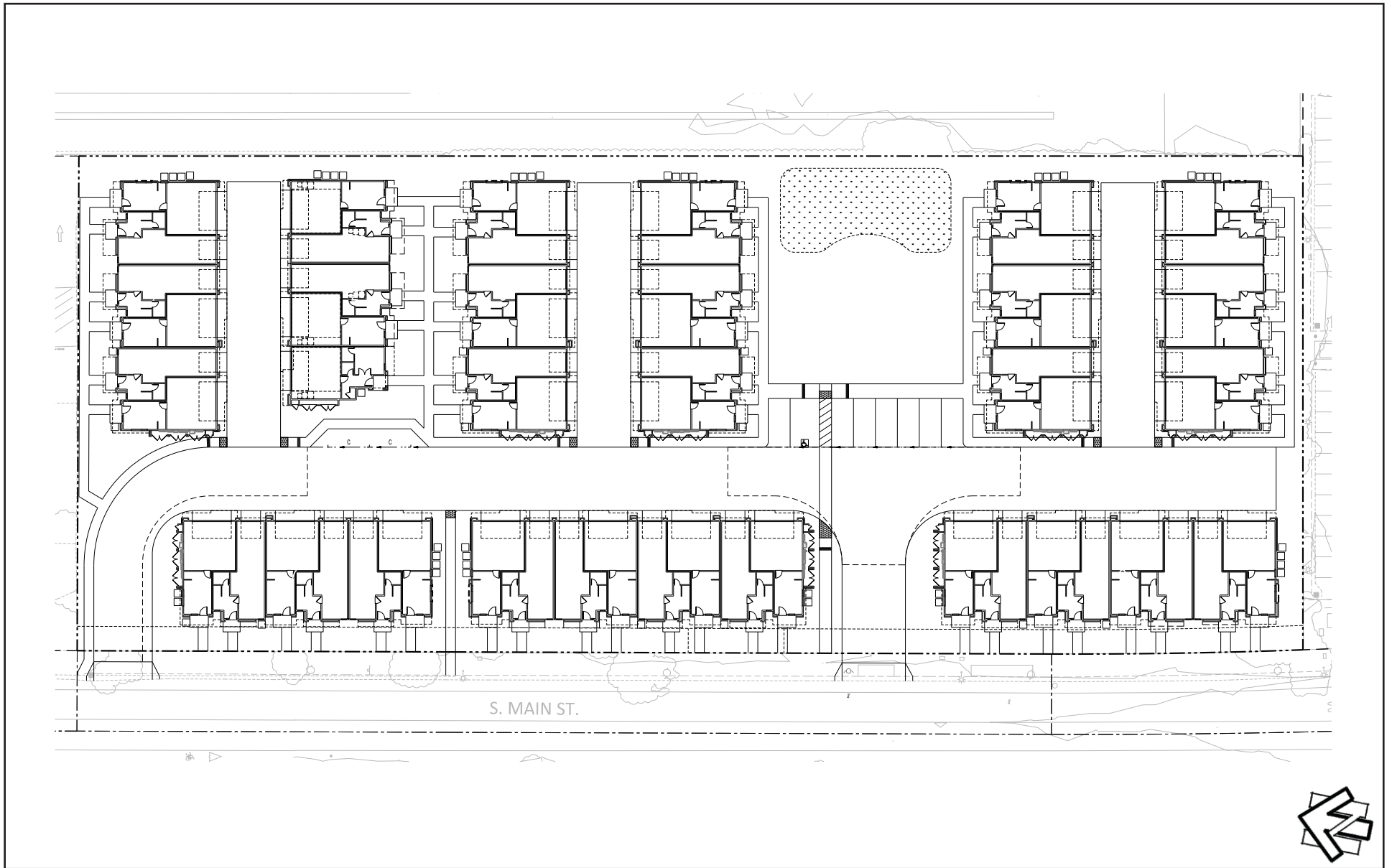
5 2.5 0 5
Miles

Exhibit 1 Regional Location Map



Source: Bing Aerial Imagery. Santa Clara County.





CHARACTERISTICS OF NOISE

Noise is defined as unwanted sound. Sound levels are usually measured and expressed in decibels (dB), with 0 dB corresponding roughly to the threshold of hearing. Most of the sounds that we hear in the environment do not consist of a single frequency, but rather a broad band of frequencies, with each frequency differing in sound level. The intensities of each frequency add together to generate a sound. Noise is typically generated by transportation, specific land uses, and ongoing human activity.

The 0 point on the dB scale is based on the lowest sound level that the healthy, unimpaired human ear can detect. Changes of 3 dB or less are only perceptible in laboratory environments. A change of 3 dB is the lowest change that can be perceptible to the human ear in outdoor environments. While a change of 5 A-weighted decibel (dBA) is considered to be the minimum readily perceptible change to the human ear in outdoor environments.

Since the human ear is not equally sensitive to sound at all frequencies, the dBA was derived to relate noise to the sensitivity of humans, it gives greater weight to the frequencies of sound to which the human ear is most sensitive. The dBA sound level is the basis for a number of various sound level metrics, including the day/night sound level (L_{dn}) and the Community Noise Equivalent Level (CNEL), both of which represent how humans are more sensitive to sound at night. In addition, the equivalent continuous sound level (L_{eq}) is the average sound energy of time-varying noise over a sample period and L_{max} is the maximum instantaneous noise level occurring over a sample period.

REGULATORY FRAMEWORK

The City of Milpitas has established noise land use compatibility and noise performance standards in the Noise Element of the Milpitas General Plan 2040¹ and in the Milpitas Municipal Code.²

Milpitas General Plan

The City of Milpitas establishes noise standards for multi-family residential developments in its General Plan. The multi-family residential noise standards will be used to determine noise impacts for this project, as it is a residential building project. According to Table N-1 (see Attachment A) of the Noise Element, the City considers environments with ambient noise levels of up to 65 dBA L_{dn} to be normally acceptable for new multi-family residential development. Environments with noise levels between 65 dBA and 75 dBA L_{dn} are considered “conditionally acceptable,” and development may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features are included in the design. Indoor noise levels should not exceed an L_{dn} of 45 dBA in new residential housing units.

¹ City of Milpitas. 2021. Milpitas 2040 General Plan.

² City of Milpitas. 2021. Milpitas Municipal Code. Website: https://library.municode.com/ca/milpitas/codes/code_of_ordinances?nodeId=TITVPUHESAWE_CH213NOAB_213-3UNCRPEDINO. Accessed April 18, 2022.

Relevant noise policies are listed below:

- Policy N 1-1** Consider the noise compatibility of existing and future development when making land use planning decisions. Require development and infrastructure projects to be consistent with the land use compatibility standards contained in Tables N-1 and N-2 [see Attachment A] to ensure acceptable noise exposure levels for existing and future development.
- Policy N 1-2** Require new development to mitigate excessive noise to the standards indicated in Tables N-1 and N-2 [see Attachment A] through best practices, including building location and orientation, building design features, placement of noise-generating equipment away from sensitive receptors, shielding of noise-generating equipment, placement of noise-tolerant features between noise sources and sensitive receptors, and use of noise-minimizing materials.
- Policy N 1-3** Use sound walls for sound attenuation only when other measures are not practical, or when recommended by an acoustical expert as part of a mitigation measure. Sound walls shall be designed to be aesthetically pleasing, and should incorporate features such as vegetation, variations in color and texture, artwork, and other features deemed appropriate by the City.
- Policy N 1-4** Ensure that new development does not result in indoor noise levels exceeding 45 dBA L_{dn} for residential uses by requiring the implementation of construction techniques and noise reduction measures for all new residential development.
- Policy N 1-6** For projects that are required to prepare an acoustical study to analyze noise impacts, the following criteria shall be used to determine the significance of those impacts:

Stationary and Non-Transportation Noise Sources

- A significant impact will occur if the project results in an exceedance of the noise level standards contained in this element. In instances where the ambient noise level is already above the standards contained in this element, a significant impact will occur if the project results in an increase in ambient noise levels by more than 3 dB. This does not apply to temporary construction activities.

Transportation Noise Source

- Where existing traffic noise levels are 60 dB L_{dn} or less at the outdoor activity areas of noise-sensitive uses, a +5 dB L_{dn} increase in roadway noise levels will be considered significant;
- Where existing traffic noise levels are greater than 60 dB L_{dn} and up to 65 dB L_{dn} at the outdoor activity areas of noise-sensitive uses, a +3 dB L_{dn} increase in roadway noise levels will be considered significant; and

- Where existing traffic noise levels are greater than 65 dB L_{dn} at the outdoor activity areas of noise-sensitive uses, a + 1.5 dB L_{dn} increase in roadway noise levels will be considered significant.

Policy N 1-8 Require construction activities to comply with standard best practices to reduce noise exposure to adjacent sensitive receptors (see Action N 1d).

Non-Transportation Noise

Policy N 1-12 Require non-transportation related noise from site specific noise sources to comply with the standards shown in Table N-2 [see Attachment A].

Action N-1d During the environmental review process, determine if proposed construction will constitute a significant impact on nearby sensitive receptors and, if necessary, require mitigation measures in addition to the standard best practice controls. Suggested best practices for control of construction noise include:

- Noise-generating construction activities, including truck traffic coming to and from the construction site for any purpose, shall be limited to between the hours of 7:00 a.m. and 7:00 p.m. No construction shall occur on National holidays.
- All equipment driven by internal combustion engines shall be equipped with mufflers, which are in good condition and appropriate for the equipment.
- The construction contractor shall utilize “quiet” models of air compressors and other stationary noise sources where technology exists.
- At all times during project grading and construction, stationary noise-generating equipment shall be located as far as practicable from sensitive receptors and placed so that emitted noise is directed away from residences.
- Unnecessary idling of internal combustion engines shall be prohibited for a duration of longer than 5 minutes.
- Construction staging areas shall be established at locations that will create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction activities, to the extent feasible.
- Neighbors located adjacent to the construction site shall be notified of the construction schedule in writing.
- The construction contractor shall designate a “noise disturbance coordinator” who will be responsible for responding to any local complaints about construction noise. The disturbance coordinator shall be responsible for determining the cause of the noise complaint (e.g., starting too early, poor muffler, etc.) and instituting reasonable measures as warranted to correct the problem. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site.

- Policy N 2-2** The City may elect to allow new noise-sensitive land uses within activity centers (areas within the boundaries of an adopted Specific Plan)) that exceed the Land Use Compatibility Standards in Table N-1, and Stationary Noise Source Standards in Table N-2 [see Attachment A]. Noise mitigation, including an acoustical analysis, shall be required to reduce interior space noise levels to 45 dB Ldn, or less, for sensitive receptors. Exterior noise levels shall be reduced to the extent feasible using building orientation, construction and design features; however ultimately, noise levels may exceed the noise standards identified in Table N-1 and N-2 [see Attachment A], but shall comply with standards identified in Table N-3 [see Attachment A].
- Policy N 2-3** Consider groundborne vibration and noise nuisance associated with rail operations prior to approving the development of sensitive uses.
- Action N-2b** Review new developments within 100 feet of the rail line to ensure that vibration experienced by residents and sensitive uses would not exceed the Federal Transit Administration guidelines.
- Action N-2c** Establish provisions that would allow new noise-sensitive land uses on a case-by-case basis in proximity to transportation noise sources and mixed-use areas that do not fall within the Conditionally Acceptable Land Use Compatibility Standards in Table N-1[see Attachment A]. Residential projects which are approved in areas where future tenants would be exposed to noise levels that exceed the standards in Table N-1 [see Attachment A] shall be required to include noise disclosure statements on property titles and in [California Code of Regulations] CCRs, where applicable.

Milpitas Municipal Code

The Municipal Code contains noise ordinances that address the City's construction noise performance standards. According to Chapter V-213-3, Unlawful to Create or Permit Disturbing Noise, the ordinance states that no person shall engage or permit others to engage in construction of any building or related road or walkway, pool, or landscape improvement or in the construction operations related thereto, including delivery of construction materials, supplies, or improvements on or to a construction site except within the hours of 7:00 a.m. to 7:00 p.m. on weekdays and weekends. No construction work shall be conducted or performed on federal holidays.

NOISE IMPACTS CONSTRAINTS ANALYSIS

Consistent with the California Environmental Quality Act (CEQA) Guidelines Checklist questions, potential noise impacts are compared to the following significance criteria. Would the proposed project:

a) **Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?**

Less than significant impact. A significant impact would occur for the proposed project if the proposed residential multi-family land use development would be exposed to ambient noise levels in conflict with the City's land use compatibility standards. For new residential multi-family development, the Milpitas 2040 General Plan determines exterior noise levels below 65 dBA L_{dn} to be normally acceptable and 65 dBA L_{dn} to 75 dBA L_{dn} to be conditionally acceptable. Normally Acceptable exterior noise levels should not exceed 65 dBA where outdoor use is a major consideration. Additionally, the City requires that interior noise levels are not to exceed the State of California's interior noise standard of 45 dBA L_{dn} .

Ambient Noise

The existing ambient noise levels on the project site were documented through a noise monitoring effort performed at the project site. The noise measurements were taken using a Larson-Davis Model LxT Type 2 precision sound level meter programmed in "slow" mode to record noise levels in "A" weighted form. The sound level meter and microphone were held approximately 5 feet above the ground and were equipped with a windscreen during all measurements. The sound level meter was calibrated before and after the monitoring using a Larson-Davis calibrator, Model CAL 150. The accuracy of the calibrator is maintained through a program established by the manufacturer and is traceable to the National Bureau of Standards. The unit meets the requirements of American National Standards Institute Standard S1.4-1984 and International Electrotechnical Commission (IEC) Standard 942: 1988 for Class 2 equipment. All noise level measurement equipment meets American National Standards Institute specifications for sound level meters (S1.4 1983 identified in Chapter 19.68.020.AA).

One short-term noise measurement (15 minutes) was taken during the midday peak noise hour on Thursday, October 28, 2021, starting at approximately 1:30 p.m. and ending at approximately 1:45 p.m. This noise measurement was taken in the northwestern corner of the project site approximately 5 feet from the edge of South Main Street. The resulting measurement showed that ambient noise levels at this location averaged 65.3 dBA L_{eq} . As was observed by the technician at the time of the noise measurement, the dominant noise source at this site was vehicle traffic along South Main Street.

A long-term (approximately 24-hour) noise measurement was also conducted on the project site, from approximately 2:05 p.m. on Thursday, October 28, 2021, to approximately 1:40 p.m. on Friday, October 29, 2021. This long-term noise measurement was taken at the southeastern corner of the project site nearest the rail line to the east of the project site. The resulting measurement determined that ambient noise levels at this location averaged 56.8 dBA L_{dn} . The daytime average noise level (7:00 a.m. to 10:00 p.m.) was 54.5 dBA L_{eq} , and the nighttime average noise level (10:00 p.m. to 7:00 a.m.) was 49.4 dBA L_{eq} . Documented maximum noise levels ranged up to 74.4 dBA L_{max} . As was observed by the technician at the time of the noise measurement, the dominant noise source in the project vicinity was vehicle traffic along South Main Street, children playing outside at the nearby day care facility, and train passings. Observed maximum noise levels were from train passings on the rail line east of the project site.

The noise measurement data sheets are provided in Attachment B of this document.

The City considers environments with noise levels below 65 dBA L_{dn} to be normally acceptable for new multi-family residential development. Therefore, the documented 24-hour average ambient noise levels of 56.8 dBA L_{dn} are within the City's normally acceptable range for new multi-family residential development.

Based on the United States Environmental Protection Agency (EPA) Protective Noise Levels,³ with a combination of walls, doors, and windows, standard construction in accordance with building code requirements for multi-family residential developments would provide a minimum of 25 dBA in exterior-to-interior noise reduction with windows closed and 15 dBA or more with windows open. With windows open, the interior noise levels of the proposed units nearest to and facing the railroad line would still meet the City's interior noise standard of 45 dBA L_{dn} for indoor sleeping areas (i.e., 56.8 dBA - 15 dBA = 41.8 dBA). Therefore, the interior noise level standard would also be met, even with windows open. Therefore, the proposed project would not result in a conflict with the City's adopted land use-noise compatibility guidelines or interior noise standard, and the impact would be less than significant.

- b) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?**

Short-term Construction Impacts

Less than significant impact. For purposes of this analysis, a significant impact would occur if construction activities would result in a substantial temporary increase in ambient noise levels outside of the City's permissible hours of construction which would result in annoyance or sleep disturbance of nearby sensitive receptors. According to the City's noise ordinance, construction activities including delivery of construction materials, supplies, or improvements on or to a construction site are only permitted within the hours of 7:00 a.m. to 7:00 p.m. on weekdays and weekends. No construction work shall be conducted or performed on federal holidays.

Construction-related Traffic Noise

Noise impacts from construction activities associated with the proposed project would be a function of the noise generated by construction equipment, equipment location, sensitivity of nearby land uses, and the timing and duration of the construction activities. One type of short-term noise impacts that could occur during project construction would result from the increase in traffic flow on local streets, associated with the transport of workers, equipment, and materials to and from the project site.

The transport of workers, construction equipment, and materials to the project site would incrementally increase noise levels on access roads leading to the site. Because workers and construction equipment

³ United States Environmental Protection Agency (EPA). 1978. Protective Noise Levels. EPA 550/9-79-100. Website: <https://www.nonoise.org/library/levels/levels.htm>. Accessed on May 13, 2022.

would use existing routes, noise from passing trucks would be similar to existing vehicle-generated noise on these local roadways. Typically, a doubling of the Average Daily Traffic (ADT) hourly volumes on a roadway segment is required in order to result in an increase of 3 dBA in traffic noise levels; which, as discussed in the characteristics of noise discussion above, is the lowest change that can be perceptible to the human ear in outdoor environments. Project-related construction trips would not be expected to double the hourly traffic volumes along any roadway segment in the project vicinity. For these reasons, short-term intermittent noise from trucks would be minor when averaged over a longer time-period. Therefore, short-term construction-related noise impacts associated with worker commute and equipment transport to the project site would not exceed applicable significance thresholds and would be less than significant.

Construction Equipment Operational Noise

The second type of short-term noise impact is related to noise generated during construction on the project site. Construction noise levels are rarely steady in nature, and often fluctuate depending on the type and number of equipment being used at any given time. In addition, there could be times where large equipment is not operating and noise would be at or near normal ambient levels. Construction is completed in discrete steps, each of which has its own mix of equipment and its own noise characteristics. These various sequential phases would change the character of the noise generated on the site and, therefore, the noise levels surrounding the site as construction progresses. Despite the variety in the type and size of construction equipment, similarities in the dominant noise sources and patterns of operation allow construction-related noise ranges to be categorized by work phase.

The site preparation phase, which includes excavation and grading activities, tends to generate the highest noise levels because the noisiest construction equipment is earthmoving equipment. Earthmoving equipment includes excavating machinery and compacting equipment, such as bulldozers, draglines, backhoes, front loaders, roller compactors, scrapers, and graders. Typical operating cycles for these types of construction equipment may involve 1 or 2 minutes of full power operation followed by 3 or 4 minutes at lower power settings.

Construction of the proposed project is expected to require the use of front-end loaders, excavators, haul trucks, water trucks, concrete mixer trucks, and pickup trucks. The maximum noise level generated by each concrete mixing truck is assumed to be 85 dBA L_{max} at 50 feet from this equipment.⁴ Each front-end loader would also generate 85 dBA L_{max} at 50 feet. The maximum noise level generated by excavators is approximately 85 dBA L_{max} at 50 feet. Each doubling of sound sources with equal strength increases the noise level by 3 dBA.

A conservative but reasonable assumption is that this equipment would operate simultaneously and continuously over at least a 1-hour period in the vicinity of the closest existing residential receptors, but would move linearly over the project site as they perform their earthmoving operations, spending a relatively short amount of time adjacent to any one receptor. Assuming that each piece of construction

⁴ Federal Highway Administration (FHWA). 2006. Highway Construction Noise Handbook. August.

equipment operates at some distance from the other equipment, a reasonable worst-case combined noise level during this phase of construction would be 90 dBA L_{max} (and a worst-case hourly average of 86 dBA L_{eq}) at a distance of 50 feet from the acoustic center of a construction area. The acoustical center reference is used because construction equipment must operate at some distance from one another on a project site, and the combined noise level as measured at a point equidistant from the sources (acoustic center) would be the worst-case maximum noise level.

The closest sensitive receptor to proposed areas of construction is an apartment complex located west of the project site on South Abel Street. The façade of this closest sensitive receptor would be located approximately 285 feet from the acoustic center of construction activity where multiple pieces of heavy construction equipment would potentially operate at the project site. At this distance, reasonable worst-case construction noise levels could range up to approximately 75 dBA L_{max} intermittently, and could have an hourly average of up to 71 dBA L_{eq} at the façade of the nearest sensitive receptor when multiple pieces of equipment operate simultaneously at the nearest center of construction activity. These noise levels would occur for only a short period during the site preparation phase of construction, as noise levels would drop off at a rate of 6 dBs per doubling of distance as construction equipment moves across the site.

Based on the ambient noise monitoring effort described above, documented maximum noise levels on the project site ranged up to 74.4 dBA L_{max} . The measured ambient noise adjacent to South Main Street in the vicinity of the nearest sensitive receptors averaged 65.3 dBA L_{eq} .

These potential maximum noise levels are lower than the existing documented maximum noise levels in the project vicinity of 74.4 dBA L_{max} . However, these calculated reasonable worst-case hourly average noise levels that could occur during the loudest phase of construction would exceed measured daytime hourly average noise levels of 65.3 dBA L_{eq} by slightly more than 5 dBA. Although there could be a relatively high single-event noise exposure potential causing an intermittent noise nuisance, the effect of construction activities on daytime ambient noise levels would be small. However, these reasonable worst-case construction noise levels could exceed nighttime hourly average noise levels of 49.4 dBA L_{eq} by as much as 21.6 dBA, which would be considered a substantial temporary increase which could result in sleep disturbance or annoyance of nearby sensitive receptors.

However, the proposed project is required to comply with the City's Municipal Code standards restricting the permissible hours of construction. According to the City's noise ordinance, no person shall engage or permit others to engage in construction of any building, including, delivery of construction materials, supplies, or improvements on or to a construction site except within the hours of 7:00 a.m. to 7:00 p.m. on weekdays and weekends. Compliance with these restrictions on permissible hours of construction would ensure that project construction would not result in any nighttime noise. Therefore, project construction activities conducted in compliance with the City's noise ordinance requirements would not result in a substantial temporary increase in ambient noise levels and potential impacts would be less than significant.

Operational/Stationary Source Noise Impacts

Less than significant impact. A significant impact would occur if operational noise levels generated by stationary noise sources at the proposed project site would result in a substantial permanent increase in ambient noise levels in excess of any of the noise performance thresholds established by the City. The City has established that a significant impact will occur if a project would result in an exceedance of the noise level standards contained in the noise element of the General Plan. As shown in Table N-2 in Attachment A, the City's noise performance thresholds for stationary noise sources are 55 dBA and 45 dBA L_{eq} for daytime and nighttime hours respectively as measured at receiving residential land uses. In addition, in instances where the ambient noise level is already above the standards, a significant impact would occur if the project resulted in an increase in ambient noise levels by more than 3 dBA.

Mechanical Equipment Operations

At the time of preparation of this analysis, details were not available pertaining to proposed mechanical ventilation systems for the proposed project. Therefore, a reference noise level for typical residential mechanical ventilation systems was used. Noise levels from typical residential mechanical ventilation equipment are sound rated from 60 dBA to 70 dBA L_{eq} as measured at approximately 3 feet from the operating unit.

The nearest off-site sensitive receptor is the apartment complex land use, located west of the project site across South Main Street. The nearest façade of this sensitive receptor would be located approximately 370 feet from the proposed mechanical ventilation systems. At this distance, noise generated by mechanical ventilation equipment would attenuate to less than 29 dBA L_{eq} at the nearest sensitive receptor. Existing traffic noise levels along common areas with heavy traffic, such as South Main Street, are documented in the City's General Plan Noise Element with normal levels of 60 dBA L_{dn} . Therefore, noise levels from proposed residential mechanical ventilation equipment operations would not exceed existing ambient noise levels as measured at this nearest sensitive receptor. In addition, these noise levels would not exceed the City's noise performance thresholds for receiving residential land uses of 55 dBA and 45 dBA L_{eq} for daytime and nighttime hours respectively.

Therefore, noise levels from mechanical ventilation equipment operations would not generate a substantial temporary or permanent increase in ambient noise levels in the project vicinity in excess of standards established in the local general plan or noise ordinance, and the impact would be less than significant.

Operational/Mobile Source Noise Impacts

Less than significant impact. A significant impact would occur if project-generated traffic would result in a substantial increase in ambient noise levels compared with those that would exist without the proposed project.

The City considers traffic noise increases to be significant if (1) an increase in +5 dB L_{dn} occurs in roadway noise levels where existing traffic noise levels are 60 dB L_{dn} or less at the outdoor activity areas of noise-

sensitive uses, or (2) an increase in +3 dB L_{dn} occurs in roadway noise levels where existing traffic noise levels are greater than 60 dB L_{dn} and up to 65 dB L_{dn} at the outdoor activity areas of noise-sensitive uses, or (3) an increase in + 1.5 dB L_{dn} occurs in roadway noise levels where existing traffic noise levels are greater than 65 dB L_{dn} at the outdoor activity areas of noise-sensitive uses.

Based on the traffic analysis prepared for the proposed project, the proposed project would generate 115 fewer daily trips than the existing land uses.⁵ In addition, the proposed project would result in 35 fewer AM peak-hour trips and 58 fewer PM peak-hour trips. Because the proposed project would generate fewer daily and peak-hour trips than the existing land uses, the proposed project would result in no increase in traffic noise levels in the project vicinity.

Therefore, implementation of the proposed project would not generate a substantial permanent increase in ambient noise levels in the project vicinity in excess of standards established in the local general plan or noise ordinance, and project-related traffic noise impacts would be less than significant.

c) Generation of excessive groundborne vibration or groundborne noise levels?

Less than significant impact. A significant impact would occur if the proposed project would generate groundborne vibration or groundborne noise levels in excess of established standards. For determining construction-related vibration impacts, the Federal Transit Administration (FTA) Construction Vibration Impact Criteria are utilized. The FTA has established industry accepted standards for vibration impact assessment in its Transit Noise and Vibration Impact Assessment Manual, dated September 2018.

Groundborne noise is an effect of groundborne vibration and only exists indoors, since it is produced from noise radiated from the motion of the walls and floors of a room, and may also consist of the rattling of windows or dishes on shelves. In general, if groundborne vibration levels do not exceed levels considered to be perceptible, then groundborne noise levels would not be perceptible in most interior environments. Therefore, this analysis focuses on determining exceedances of groundborne vibration levels.

Although groundborne vibration can be felt outdoors, it is typically only an annoyance to people indoors where the associated effects such as the shaking of a building can be notable. When assessing annoyance from groundborne vibration, vibration is typically expressed as root mean square (rms) velocity in units of dBs of 1 microinch per second. To distinguish these vibration levels referenced in dBs from noise levels referenced in dBs, the unit is written as “VdB.” In extreme cases, excessive groundborne vibration has the potential to cause structural damage to buildings. Common sources of groundborne vibration include construction activities such as blasting, pile driving and operating heavy earthmoving equipment. However, construction vibration impacts on building structures are generally assessed in terms of peak particle velocity (PPV). For purposes of this analysis, project-related impacts are expressed in terms of PPV.

⁵ TJKM. 2022. Trip Generation Study for 612 South Main Street, Milpitas, California. April 2.

Short-term Construction Vibration Impacts

A significant impact would occur if project construction activities would generate groundborne vibration levels in excess of levels established by the FTA's Construction Vibration Impact Criteria for the receiving type of structure.

Of the variety of equipment used during construction, the small vibratory rollers that could be used in the site preparation phase of construction of the project would produce the greatest groundborne vibration levels. Small vibratory rollers produce groundborne vibration levels ranging up to 0.101 inch per second (in/sec) PPV at 25 feet from the operating equipment.

The nearest off-site structure to the proposed project construction footprint is a car wash business located immediately north of the project site on South Main Street. The nearest façade of these buildings would be located approximately 20 feet from the nearest construction footprint where the heaviest construction equipment would potentially operate. At this distance, groundborne vibration levels would range up to 0.14 in/sec PPV from operation of the types of equipment that would produce the highest vibration levels. This is below the FTA's Construction Vibration Impact Criteria of 0.2 in/sec PPV for structures of non-engineered timber and masonry construction.

Therefore, project construction activities would not generate groundborne vibration or groundborne noise levels in excess of established standards and impacts to off-site receptors would be less than significant.

Operational Vibration Impacts

A significant impact would occur if project operations would generate groundborne vibration levels in excess of the City's standards. The City prohibits generation of groundborne vibration levels that would be discernible without instruments at the lot line of the establishment or use.

Implementation of the proposed project would not include any permanent sources of vibration that would expose persons in the project vicinity to groundborne vibration levels that could be perceptible without instruments at any of the proposed project lot lines. Therefore, operational groundborne vibration impacts would be less than significant.

- d) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?**

No impact. A significant impact would occur if the proposed project would expose people residing or working in the project area to excessive noise levels for a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport.

The project site is not located within the vicinity of a private airstrip. The nearest public airport to the project site is the San Jose International Airport, located approximately 3.67 miles southwest of the project site. The project site is located outside of the 60 dBA CNEL airport noise contours of this closest

airport. While aircraft noise is occasionally audible on the project site from aircraft flyovers, aircraft noise associated with nearby airport activity would not expose people residing or working near the project site to excessive noise levels. Therefore, implementation of the proposed project would not expose persons residing or working in the project vicinity to noise levels from airport activity that would be in excess of normally acceptable standards for the proposed land use development, and no impact would occur.

SUMMARY

Based on our understanding of the proposed project described above, the proposed project would not result in a conflict with the City's adopted land use-noise compatibility guidelines or interior noise standard. Required compliance of the proposed project with the City's Municipal Code noise ordinance restricting permissible hours of construction to daytime hours would ensure that potential construction noise impacts would not result in a substantial temporary increase in ambient noise levels as measured at nearby sensitive receptors. The proposed project would also not result in any substantial permanent increase in ambient noise levels compared with noise levels existing without the project. Furthermore, project implementation would not generate groundborne vibration or groundborne noise levels in excess of established standards during construction or operation of the proposed project. Finally, implementation of the proposed project would not expose persons residing or working in the project vicinity to noise levels from airport activity that would be in excess of normally acceptable standards for the proposed land use development.

Sincerely,



Philip Ault
Director of Noise and Air Quality
FirstCarbon Solutions
1350 Treat Boulevard, Suite 380
Walnut Creek, CA 94597

Attachment A: Tables N-1, N-2, and N-3 of the Noise Element of the General Plan
Attachment B: Ambient Noise Monitoring Data

**Attachment A:
Tables N-1, N-2, and N-3 of the Noise Element of the General Plan**



Table N-1: Land Use Compatibility for Community Noise Environment

Land Use Category	Exterior Noise Exposure (Ldn)					
	55	60	65	70	75	80
Single-Family Residential						
Multi-Family Residential, Hotels, and Motels						
Outdoor Sports and Recreation, Neighborhood Parks and Playgrounds						
Schools, Libraries, Museums, Hospitals, Personal Care, Public Assembly						
Office Buildings, Business Commercial, and Professional						
Industrial						
Note: Residential components of Mixed-Use developments are subject to the Multi-Family Residential Noise Standards unless otherwise allowed in conjunction with Policy N 2-2.						
	NORMALLY ACCEPTABLE Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special insulation requirements					
	CONDITIONALLY ACCEPTABLE Specified land use may be permitted only after detailed analysis of the noise reduction requirements and needed noise insulation features included in the design					
	UNACCEPTABLE New construction or development should generally not be undertaken because mitigation was found to be infeasible to comply with noise element policies					



Table N-2: Stationary (Non-Transportation) Noise Source Standards

Land Use Receiving the Noise	Hourly Noise- Level Descriptor	Exterior Noise-Level Standard (dBA)	
		Daytime (7am-10pm)	Nighttime (10pm-7am)
Residential	L _{eq}	55	45
	L _{max}	70	65
Notes:			
a) The residential standards apply to all properties that are zoned for residential use. The exterior noise level standard is to be applied at the property line of the receiving land use or at a designated outdoor activity area. For mixed-use projects, the exterior noise level standard may be waived in conjunction with Policy N 2-2 (at the discretion of the decision-making body) if the residential portion of the project does not include a designated activity area and mitigation of property line noise is not practical.			
b) Each of the noise levels specified above shall be lowered by 5 dBA for tonal noises characterized by a whine, screech, or hum, noises consisting primarily of speech or music, or recurring impulsive noises. In no case shall mitigation be required to a level that is less than existing ambient noise levels, as determined through measurements conducted during the same operational period as the subject noise source.			
c) In situations where the existing noise level exceeds the noise levels indicated in the above table, any new noise source must include mitigation that reduces the noise level of the noise source to the existing level plus 3 dB.			

Tonal Noises are characterized by a whine, screech, beep, or hum, consisting primarily of speech or music, or recurring impulsive noises. Tonal noises can cause unpleasant experiences in spaces adjacent to areas that produce tonal noise, which annoys occupants and, in turn, lead to increased complaints from nearby sensitive receptors.



Table N-3 Stationary (Non-Transportation) Noise Source Standards (Commercial Mixed-Use and Transit-Oriented Areas)

Land Use Receiving the Noise	Hourly Noise-Level Descriptor	Exterior Noise-Level Standard (dBA)		
		Daytime (7am-10pm)	Late Night (10pm-12am)	Nighttime (12am-7am)
Residential (Sunday Night – Thursday Night)	L _{eq}	60	55	50
	L _{max}	70	65	65
Residential (Friday Night – Saturday Night)	L _{eq}	65	60	55
	L _{max}	75	70	65

**Attachment B:
Ambient Noise Monitoring Data**

Sheet ____ of ____

Test Personnel: Robert Carroll

Site Location: Northern corner of site, ~5 feet from street

Primary Noise Sources: steady traffic, a few loud trucks,

Comments: None

Summary							
Filename	LxT_Data.466						
Serial Number	4228						
Model	SoundTrack LxT®						
Firmware Version	2.206						
User							
Location							
Job Description							
Note							
Measurement Description							
Start	28/10/2021 13:31:40						
Stop	28/10/2021 13:46:43						
Duration	0:15:02.4						
Run Time	0:15:02.4						
Pause	0:00:00.0						
Pre Calibration	28/10/2021 13:27:37						
Post Calibration	None						
Calibration Deviation	---						
Overall Settings							
RMS Weight	A Weighting						
Peak Weight	A Weighting						
Detector	Slow						
Preamp	PRMLxT2L						
Microphone Correction	Off						
Integration Method	Linear						
Overload	125.5 dB						
	A	C	Z				
Under Range Peak	81.7	78.7	83.7 dB				
Under Range Limit	27.3	27.3	32.1 dB				
Noise Floor	18.1	18.2	22.9 dB				
Results							
LAeq	65.3 dB						
LAE	94.9 dB						
EA	341.739 µPa²h						
EA8	10.907 mPa²h						
EA40	54.533 mPa²h						
LApeak (max)	28/10/2021 13:43:19	91.2 dB					
LASmax	28/10/2021 13:37:44	74.4 dB					
LASmin	28/10/2021 13:37:26	48.8 dB					
SEA	-99.9 dB						
LAS > 85.0 dB (Exceedence Counts / Duration)	0	0.0 s					
LAS > 115.0 dB (Exceedence Counts / Duration)	0	0.0 s					
LApeak > 135.0 dB (Exceedence Counts / Duration)	0	0.0 s					
LApeak > 137.0 dB (Exceedence Counts / Duration)	0	0.0 s					
LApeak > 140.0 dB (Exceedence Counts / Duration)	0	0.0 s					
Community Noise	Ldn	LDay 07:00-23:00	LNight 23:00-07:00	Lden	LDay 07:00-19:00	LEvening 19:00-23:00	LNight 23:00-07:00
	65.3	65.3	-99.9	65.3	65.3	-99.9	-99.9
LCeq	70.2 dB						
LAeq	65.3 dB						
LCeq - LAeq	4.9 dB						
LAlaq	66.3 dB						
LAeq	65.3 dB						
LAlaq - LAeq	1.0 dB						
# Overloads	0						
Overload Duration	0.0 s						
Dose Settings							
Dose Name	OSHA-1	OSHA-2					
Exch. Rate	5	5 dB					
Threshold	90	80 dB					
Criterion Level	90	90 dB					
Criterion Duration	8	8 h					
Results							
Dose	-99.9	-99.9 %					
Projected Dose	-99.9	-99.9 %					
TWA (Projected)	-99.9	-99.9 dB					
TWA (t)	-99.9	-99.9 dB					
Lep (t)	50.3	50.3 dB					
Statistics							
LAS5.00	70.2 dB						
LAS10.00	69.4 dB						
LAS33.30	65.8 dB						
LAS50.00	63.6 dB						
LAS66.60	59.8 dB						
LAS90.00	52.3 dB						

Sheet ____ of ____

Test Personnel: Robert Carroll

Site Number: LT1 Date: 10/28/21 Time: From 2:05 To 1:45 10/29/21

Primary Noise Sources: Daycare in back of building → Kids playing

[illegible]

Measured Difference: -0.21 dBA

Windscreen ☐

NORTH AMERICA | EUROPE | AFRICA | AUSTRALIA | ASIA
FIRSTCARBONSOLUTIONS.COM

SLM data							
Filename	LxT_Data.467						
Serial Number	4228						
Model	SoundTrack LxT®						
Firmware Version	2.206						
User							
Location							
Job Description							
Note							
Measurement Description							
Start	28/10/2021 14:05:22						
Stop	29/10/2021 13:40:02						
Duration	23:34:39.6						
Run Time	23:34:39.6						
Pause	0:00:00.0						
Pre Calibration	28/10/2021 13:26:39						
Post Calibration	None						
Calibration Deviation	---						
Overall Settings							
RMS Weight	A Weighting						
Peak Weight	A Weighting						
Detector	Slow						
Preamp	PRMLxT2L						
Microphone Correction	Off						
Integration Method	Linear						
Overload	125.5 dB						
	A	C	Z				
Under Range Peak	81.7	78.7	83.7 dB				
Under Range Limit	27.3	27.3	32.1 dB				
Noise Floor	18.1	18.2	22.9 dB				
Results							
LAeq	53.3 dB						
LAE	102.6 dB						
EA	2.035 mPa²h						
EA8	690.385 µPa²h						
EA40	3.452 mPa²h						
LApk (max)	28/10/2021 17:57:34	97.2 dB					
LASmax	28/10/2021 17:57:34	79.6 dB					
LASmin	29/10/2021 01:26:19	39.5 dB					
SEA	-99.9 dB						
LAS > 85.0 dB (Exceedence Counts / Duration)	0	0.0 s					
LAS > 115.0 dB (Exceedence Counts / Duration)	0	0.0 s					
LApk > 135.0 dB (Exceedence Counts / Duration)	0	0.0 s					
LApk > 137.0 dB (Exceedence Counts / Duration)	0	0.0 s					
LApk > 140.0 dB (Exceedence Counts / Duration)	0	0.0 s					
Community Noise	Ldn	LDay 07:00-23:00	LNight 23:00-07:00	Lden	LDay 07:00-19:00	LEvening 19:00-23:00	LNight 23:00-07:00
	56.8	54.5	49.4	57.4	54.9	52.9	49.4
LCeq	65.0 dB						
LAeq	53.3 dB						
LCeq - LAeq	11.6 dB						
LALeq	56.6 dB						
LAeq	53.3 dB						
LALeq - LAeq	3.2 dB						
# Overloads	0						
Overload Duration	0.0 s						
Dose Settings							
Dose Name	OSHA-1	OSHA-2					
Exch. Rate	5	5 dB					
Threshold	90	80 dB					
Criterion Level	90	90 dB					
Criterion Duration	8	8 h					
Results							
Dose	-99.9	-99.9 %					
Projected Dose	-99.9	-99.9 %					
TWA (Projected)	-99.9	-99.9 dB					
TWA (t)	-99.9	-99.9 dB					
Lep (t)	58.0	58.0 dB					
Statistics							
LAS5.00	58.0 dB						
LAS10.00	55.9 dB						
LAS33.30	52.5 dB						
LAS50.00	50.8 dB						
LAS66.60	48.9 dB						
LAS90.00	44.7 dB						

Exhibit 3, Part 4:

Air Quality and Greenhouse Gas Emissions Constraints Analysis for the South Main Street Project in Milpitas, California prepared by First Carbon Solutions dated May 27, 2022.

Memorandum

Date: May 27, 2022

To: Hassan Naboulsi, Project Manager

From: Philip Ault, Director of Noise and Air Quality
Lance Park, Senior Air Quality Scientist
Mercedes Kaiser, Air Quality Analyst

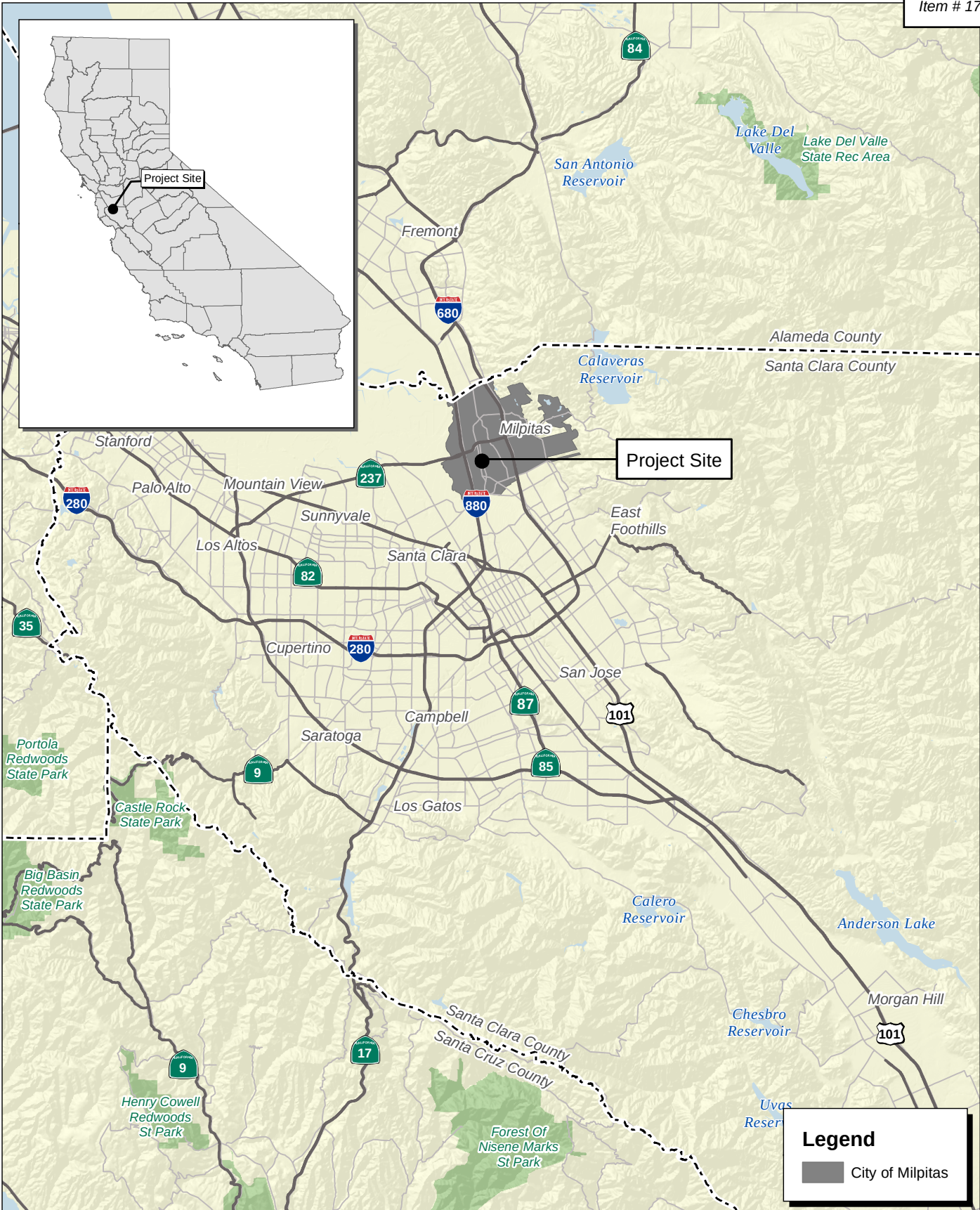
Subject: Air Quality and Greenhouse Gas Emissions Constraints Analysis for the South Main Street Project in Milpitas, California

This memorandum summarizes the findings of an Air Quality and Greenhouse Gas Emissions Impacts Constraints Analysis conducted by FirstCarbon Solutions (FCS) for the TTLC Milpitas–Main Street LLC Project (proposed project) located at 612-630 South Main Street in Milpitas, California. Recommended measures to avoid or minimize potential project-related impacts are included as appropriate.

PROJECT UNDERSTANDING

The proposed project would construct a 57-unit townhome residential development at South Main Street in Milpitas, California. Exhibit 1 shows the regional location map and Exhibit 2 shows the local vicinity map. The project site includes two parcels with Assessor's Parcel Number (APN) 086-25-027 and 086-25-028.

The proposed project would include the demolition of the existing approximate 29,000-square-foot Montessori School structure and the construction of 57 attached 3-story townhome dwelling units and associated amenities on the approximately 2.3-acre site (Exhibit 3). Twelve of the units would be provided at rates to meet affordable housing requirements. The proposed project would include approximately 0.57 acre of open space and landscaping. The proposed project would include 124 total parking spaces.

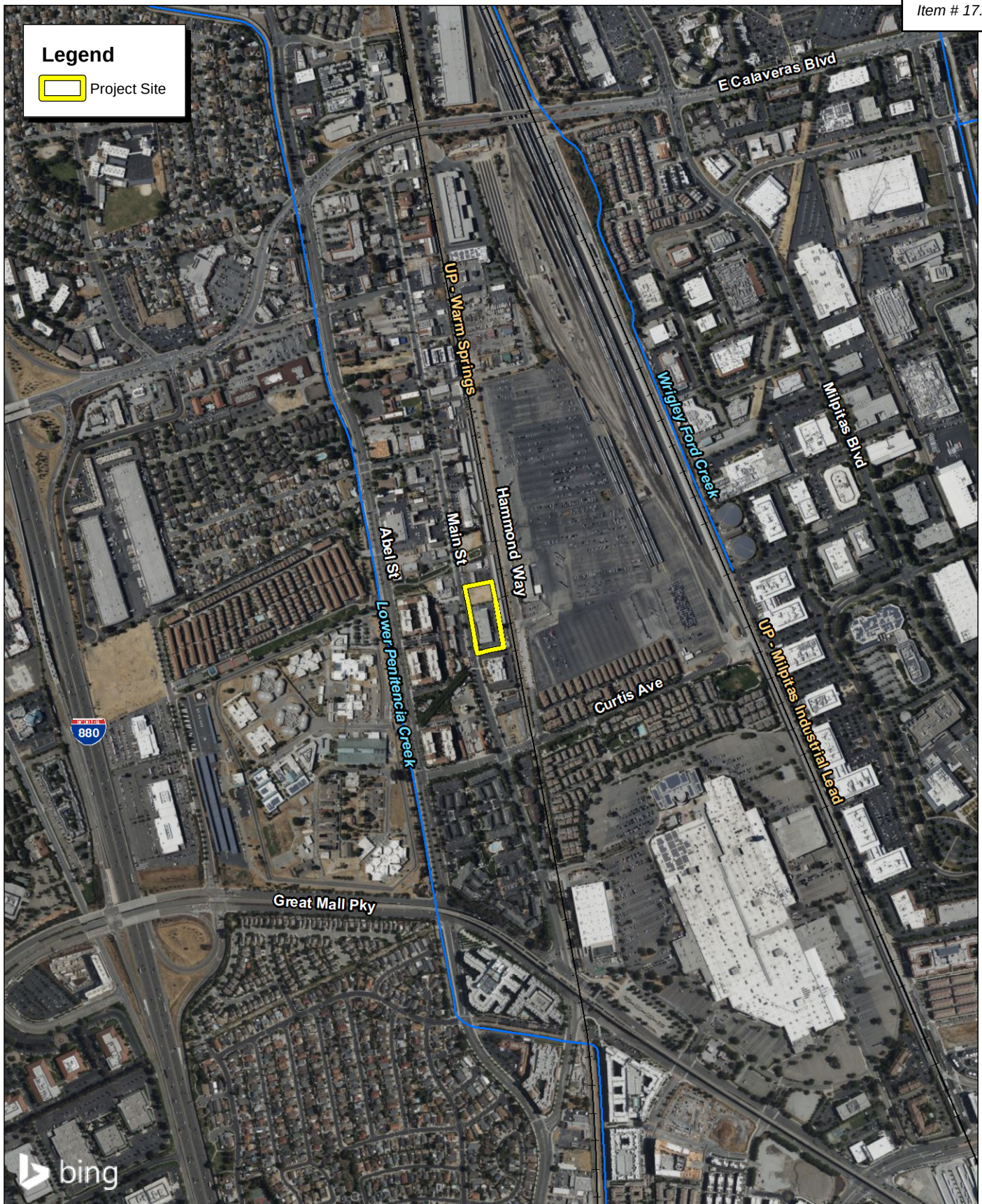


Source: Census 2000 Data, The California Spatial Information Library (CaSIL).



Exhibit 1

Regional Location Map



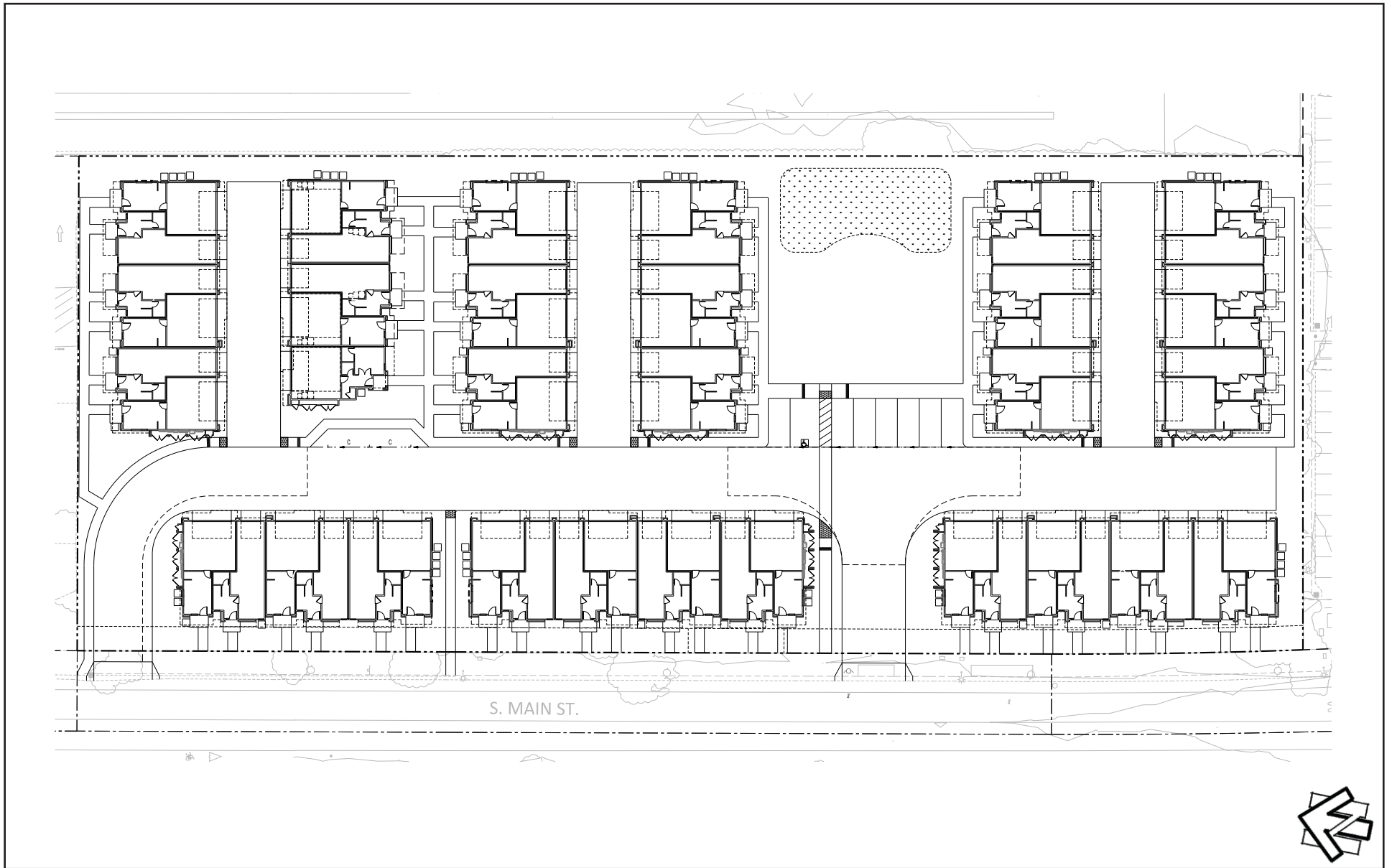
Source: Bing Aerial Imagery. Santa Clara County.

FIRSTCARBON
SOLUTIONS™



1,000 500 0 1,000
Feet

Exhibit 2 Local Vicinity Map



ENVIRONMENTAL SETTING AND REGULATORY FRAMEWORK

The City of Milpitas is located within the San Francisco Bay Area Air Basin (Air Basin or SFBAAB). The Air Basin is approximately 5,600 square miles in area and consists of nine counties that surround the San Francisco Bay, including all of Alameda, Contra Costa, Marin, San Francisco, San Mateo, Santa Clara, and Napa counties; the southwestern portion of Solano County; and the southern portion of Sonoma County. The San Francisco Bay Area has a Mediterranean climate characterized by mild, dry summers and mild, moderately wet winters, moderate daytime onshore breezes, and moderate humidity.

A semi-permanent, high-pressure area centered over the northeastern Pacific Ocean dominates the summer climate of the West Coast. Because this high-pressure cell is persistent, storms rarely affect the California coast during the summer. Thus, the conditions that persist along the coast of California during summer are a northwest airflow and negligible precipitation. A thermal low-pressure area from the Sonoran-Mojave Desert also causes air to flow onshore over the Bay Area much of the summer.

The steady northwesterly flow around the eastern edge of the Pacific High (a high-pressure cell) exerts stress on the ocean surface along the West Coast. This airflow pattern induces upwelling of cold water from below the surface. Upwelling produces a band of cold water off San Francisco that is approximately 80 miles wide. During July, the surface waters off San Francisco are 3°F (degrees Fahrenheit) cooler than those off Vancouver, British Columbia, more than 900 miles to the north. Air approaching the California coast, already cool and moisture-laden from its long trajectory over the Pacific Ocean is further cooled as it flows across this cold bank of water near the coast, thus accentuating the temperature contrast across the coastline. This cooling is often sufficient to produce condensation—a high incidence of fog and stratus clouds along the Northern California coast in summer.

In summer, the northwest winds to the west of the Pacific coastline are drawn into the interior through the gap in the western Coast Ranges, known as the Golden Gate, and over the lower portions of the San Francisco Peninsula. Immediately to the south of Mount Tamalpais, the northwesterly winds accelerate considerably and come more nearly from the west as they stream through the Golden Gate. This channeling of the flow through the Golden Gate produces a jet that sweeps eastward but widens downstream, producing southwest winds at Berkeley and northwest winds at San José; a branch also curves eastward through the Carquinez Straits and into the Central Valley. Wind speeds may be locally strong in regions where air is channeled through a narrow opening such as the Golden Gate, the Carquinez Strait, or San Bruno Gap. For example, the average wind speed at San Francisco International Airport from 3:00 a.m. to 4:00 p.m. in July is about 20 miles per hour (mph), compared with only about 8 mph at San José and less than 7 mph at the Farallon Islands.

The sea breeze between the coast and the Central Valley² commences near the surface along the coast in late morning or early afternoon; it may first be observed only through the Golden Gate. Later in the day, the layer deepens and intensifies while spreading inland. As the breeze intensifies and deepens, it flows over the lower hills farther south along the peninsula. This process frequently can be observed as a bank of stratus clouds “rolling over” the coastal hills on the west side of the Bay. The depth of the sea breeze depends in large part upon the height and strength of the inversion. The generally low elevation

of this stable layer of air prevents marine air from flowing over the coastal hills. It is unusual for the summer sea breeze to flow over terrain exceeding 2,000 feet in elevation.

In winter, the SFBAAB experiences periods of storminess, moderate-to-strong winds, and periods of stagnation with very light winds. Winter stagnation episodes are characterized by outflow from the Central Valley, nighttime drainage flows in coastal valleys, weak onshore flows in the afternoon, and otherwise light and variable winds.

A primary factor in air quality is the mixing depth (the vertical air column available for diluting contaminant sources). Generally, the air temperature decreases with height, creating a gradient from warmer air near the ground to cooler air at elevation caused by the sun converting large amounts of energy to sensible heat at the ground, which warms the air at the surface. The warm air rises in the atmosphere, where it expands and cools. Sometimes, however, the temperature of air increases with height. This condition is known as a temperature inversion because the atmosphere's temperature profile is "inverted" from its usual state. Over the SFBAAB, the frequent occurrence of temperature inversions limits mixing depth and, consequently, limits the availability of air for dilution.

Air Pollutant Types, Sources, and Effects

Criteria Air Pollutants

Air pollutants are termed criteria air pollutants if they are regulated by developing specific public health- and welfare-based criteria as the basis for setting permissible levels. Table 1 provides a summary of the types, sources, and effects of criteria air pollutants.

Table 1: Description of Criteria Pollutants of National and California Concern

Criteria Pollutant	Physical Description and Properties	Sources	Most Relevant Effects from Pollutant Exposure
Ozone	Ozone is a photochemical pollutant as it is not emitted directly into the atmosphere, but is formed by a complex series of chemical reactions between volatile organic compounds (VOC), nitrous oxides (NO _x), and sunlight. Ozone is a regional pollutant that is generated over a large area and is transported and spread by the wind.	Ozone is a secondary pollutant; thus, it is not emitted directly into the lower level of the atmosphere. The primary sources of ozone precursors (VOC and NO _x) are mobile sources (on-road and off-road vehicle exhaust).	Irritate respiratory system; reduce lung function; breathing pattern changes; reduction of breathing capacity; inflame and damage cells that line the lungs; make lungs more susceptible to infection; aggravate asthma; aggravate other chronic lung diseases; cause permanent lung damage; some immunological changes; increased mortality risk; vegetation and property damage.
Particulate matter (PM ₁₀) Particulate matter (PM _{2.5})	Suspended particulate matter is a mixture of small particles that consist of dry solid fragments, droplets of water, or solid cores with liquid coatings. The particles vary in shape, size, and composition.	Stationary sources include fuel or wood combustion for electrical utilities, residential space heating, and industrial processes; construction	Short-term exposure (hours/days): irritation of the eyes, nose, throat; coughing; phlegm; chest tightness; shortness of breath; aggravate existing lung disease, causing asthma attacks and acute

Criteria Pollutant	Physical Description and Properties	Sources	Most Relevant Effects from Pollutant Exposure
	PM ₁₀ refers to particulate matter that is between 2.5 and 10 microns in diameter, (one micron is one-millionth of a meter). PM _{2.5} refers to particulate matter that is 2.5 microns or less in diameter, about one-thirtieth the size of the average human hair.	and demolition; metals, minerals, and petrochemicals; wood products processing; mills and elevators used in agriculture; erosion from tilled lands; waste disposal, and recycling. Mobile or transportation-related sources are from vehicle exhaust and road dust. Secondary particles form from reactions in the atmosphere.	bronchitis; those with heart disease can suffer heart attacks and arrhythmias. Long-term exposure: reduced lung function; chronic bronchitis; changes in lung morphology; death.
Nitrogen dioxide (NO ₂)	During combustion of fossil fuels, oxygen reacts with nitrogen to produce nitrogen oxides—NO _x (NO, NO ₂ , NO ₃ , N ₂ O, N ₂ O ₃ , N ₂ O ₄ , and N ₂ O ₅). NO _x is a precursor to ozone, PM ₁₀ , and PM _{2.5} formation. NO _x can react with compounds to form nitric acid and related small particles and result in particulate matter related health effects.	NO _x is produced in motor vehicle internal combustion engines and fossil fuel-fired electric utility and industrial boilers. Nitrogen dioxide forms quickly from NO _x emissions. NO ₂ concentrations near major roads can be 30 to 100 percent higher than those at monitoring stations.	Potential to aggravate chronic respiratory disease and respiratory symptoms in sensitive groups; risk to public health implied by pulmonary and extra-pulmonary biochemical and cellular changes and pulmonary structural changes; contributions to atmospheric discoloration; increased visits to hospital for respiratory illnesses.
Carbon monoxide (CO)	CO is a colorless, odorless, toxic gas. CO is somewhat soluble in water; therefore, rainfall and fog can suppress CO conditions. CO enters the body through the lungs, dissolves in the blood, replaces oxygen as an attachment to hemoglobin, and reduces available oxygen in the blood.	CO is produced by incomplete combustion of carbon-containing fuels (e.g., gasoline, diesel fuel, and biomass). Sources include motor vehicle exhaust, industrial processes (metals processing and chemical manufacturing), residential wood burning, and natural sources.	Ranges depending on exposure: slight headaches; nausea; aggravation of angina pectoris (chest pain) and other aspects of coronary heart disease; decreased exercise tolerance in persons with peripheral vascular disease and lung disease; impairment of central nervous system functions; possible increased risk to fetuses; death.
Sulfur dioxide (SO ₂)	Sulfur dioxide is a colorless, pungent gas. At levels greater than 0.5 parts per million (ppm), the gas has a strong odor, similar to rotten eggs. Sulfur oxides (SO _x) include sulfur dioxide and sulfur	Human caused sources include fossil fuel combustion, mineral ore processing, and chemical manufacturing. Volcanic emissions are a natural	Bronchoconstriction accompanied by symptoms which may include wheezing, shortness of breath and chest tightness, during exercise or physical activity in persons with asthma. Some population-

Criteria Pollutant	Physical Description and Properties	Sources	Most Relevant Effects from Pollutant Exposure
	trioxide. Sulfuric acid is formed from sulfur dioxide, which can lead to acid deposition and can harm natural resources and materials. Although sulfur dioxide concentrations have been reduced to levels well below State and federal standards, further reductions are desirable because sulfur dioxide is a precursor to sulfate and PM ₁₀ .	source of sulfur dioxide. The gas can also be produced in the air by dimethyl sulfide and hydrogen sulfide. Sulfur dioxide is removed from the air by dissolution in water, chemical reactions, and transfer to soils and ice caps. The sulfur dioxide levels in the State are well below the maximum standards.	based studies indicate that the mortality and morbidity effects associated with fine particles show a similar association with ambient sulfur dioxide levels. It is not clear whether the two pollutants act synergistically, or one pollutant alone is the predominant factor.
Lead (Pb)	Lead is a solid heavy metal that can exist in air pollution as an aerosol particle component. Leaded gasoline was used in motor vehicles until around 1970. Lead concentrations have not exceeded State or federal standards at any monitoring station since 1982.	Lead ore crushing, lead ore smelting, and battery manufacturing are currently the largest sources of lead in the atmosphere in the United States. Other sources include dust from soils contaminated with lead-based paint, solid waste disposal, and crustal physical weathering.	Lead accumulates in bones, soft tissue, and blood and can affect the kidneys, liver, and nervous system. It can cause impairment of blood formation and nerve conduction, behavior disorders, mental retardation, neurological impairment, learning deficiencies, and low IQs.

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Criteria Pollutant	Physical Description and Properties	Sources	Most Relevant Effects from Pollutant Exposure
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Toxic Air Contaminants

Concentrations of toxic air contaminants (TACs) are also used as indicators of air quality conditions. Air pollutant human exposure standards are identified for many TACs, including the following common TACs relevant to development projects: particulate matter, fugitive dust, lead, and asbestos. These air pollutants are called TACs because they are air pollutants that may cause or contribute to an increase in mortality or in serious illness or that may pose a hazard to human health. TACs are usually present in minute quantities in the ambient air; however, their high toxicity or health impact may pose a threat to public health even at low concentrations. TACs can cause long-term health effects (such as cancer, birth defects, neurological damage, asthma, bronchitis, or genetic damage) or short-term acute affects (such as eye watering, respiratory irritation, runny nose, throat pain, or headaches).

TACs are separated into carcinogens and noncarcinogens based on the nature of the physiological effects associated with exposure to a particular TAC. Carcinogens are assumed to have no safe threshold below which health impacts would not occur. Cancer risk is typically expressed as excess cancer cases per million exposed individuals, typically over a lifetime exposure or other prolonged duration. For noncarcinogenic substances, there is generally assumed to be a safe level of exposure below which no negative health impact is believed to occur. These levels may vary depending on the specific pollutant. Acute and chronic exposure to noncarcinogens is expressed as a hazard index (HI), which is the ratio of expected exposure levels to an acceptable reference exposure levels (RELs). Table 2 provides a summary of the types, sources, and effects of TACs.

Table 2: Description of Toxic Air Contaminants of National and California Concern

Toxic Air Contaminant	Physical Description and Properties	Sources	Most Relevant Effects from Pollutant Exposure
Diesel Particulate Matter (DPM)	DPM is a source of PM _{2.5} —diesel particles are typically 2.5 microns and smaller. Diesel exhaust is a complex mixture of thousands of particles and gases that is produced when an engine burns diesel fuel. Organic compounds account for 80 percent of the total particulate matter mass, which consists of compounds such as hydrocarbons and	Diesel exhaust is a major source of ambient particulate matter pollution in urban environments. Typically, the main source of DPM is from combustion of diesel fuel in diesel-powered engines. Such engines are in on-road vehicles such as diesel trucks, off-road construction vehicles, diesel electrical generators, and	Some short-term (acute) effects of DPM exposure include eye, nose, throat, and lung irritation, coughs, headaches, light-headedness, and nausea. Studies have linked elevated particle levels in the air to increased hospital admissions, emergency room visits, asthma attacks, and premature deaths among those suffering from respiratory problems.

Toxic Air Contaminant	Physical Description and Properties	Sources	Most Relevant Effects from Pollutant Exposure
	their derivatives, and polycyclic aromatic hydrocarbons and their derivatives. Fifteen polycyclic aromatic hydrocarbons are confirmed carcinogens, a number of which are found in diesel exhaust.	various pieces of stationary construction equipment.	Human studies on the carcinogenicity of DPM demonstrate an increased risk of lung cancer, although the increased risk cannot be clearly attributed to diesel exhaust exposure.
VOCs	Reactive organic gases (ROGs), or VOCs, are defined as any compound of carbon—excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate—that participates in atmospheric photochemical reactions. Although there are slight differences in the definition of ROGs and VOCs, the two terms are often used interchangeably.	Indoor sources of VOCs include paints, solvents, aerosol sprays, cleansers, tobacco smoke, etc. Outdoor sources of VOCs are from combustion and fuel evaporation. A reduction in VOC emissions reduces certain chemical reactions that contribute to the formulation of ozone. VOCs are transformed into organic aerosols in the atmosphere, which contribute to higher PM ₁₀ and lower visibility.	Although health-based standards have not been established for VOCs, health effects can occur from exposures to high concentrations because of interference with oxygen uptake. In general, concentrations of VOCs are suspected to cause eye, nose, and throat irritation; headaches; loss of coordination; nausea; and damage to the liver, the kidneys, and the central nervous system. Many VOCs have been classified as TACs.
Benzene	Benzene is a VOC. It is a clear or colorless light-yellow, volatile, highly flammable liquid with a gasoline-like odor. The EPA has classified benzene as a “Group A” carcinogen.	Benzene is emitted into the air from fuel evaporation, motor vehicle exhaust, tobacco smoke, and from burning oil and coal. Benzene is used as a solvent for paints, inks, oils, waxes, plastic, and rubber. Benzene occurs naturally in gasoline at 1 to 2 percent by volume. The primary route of human exposure is through inhalation.	Short-term (acute) exposure of high doses from inhalation of benzene may cause dizziness, drowsiness, headaches, eye irritation, skin irritation, and respiratory tract irritation, and at higher levels, loss of consciousness can occur. Long-term (chronic) occupational exposure of high doses has caused blood disorders, leukemia, and lymphatic cancer.
Asbestos	Asbestos is the name given to a number of naturally occurring fibrous silicate minerals that have been mined for their useful properties such as thermal insulation, chemical and thermal stability, and high tensile strength. The three most common types of	Chrysotile, also known as white asbestos, is the most common type of asbestos found in buildings. Chrysotile makes up approximately 90 to 95 percent of all asbestos contained in buildings in the United States.	Exposure to asbestos is a health threat; exposure to asbestos fibers may result in health issues such as lung cancer, mesothelioma (a rare cancer of the thin membranes lining the lungs, chest, and abdominal cavity), and asbestosis (a non-cancerous lung disease that

Toxic Air Contaminant	Physical Description and Properties	Sources	Most Relevant Effects from Pollutant Exposure
	asbestos are chrysotile, amosite, and crocidolite.		causes scarring of the lungs). Exposure to asbestos can occur during demolition or remodeling of buildings that were constructed prior to the 1977 ban on asbestos for use in buildings. Exposure to naturally occurring asbestos can occur during soil-disturbing activities in areas with deposits present.
Hydrogen Sulfide	Hydrogen sulfide (H ₂ S) is a flammable, colorless, poisonous gas that smells like rotten eggs.	Manure, storage tanks, ponds, anaerobic lagoons, and land application sites are the primary sources of hydrogen sulfide. Anthropogenic sources include the combustion of sulfur containing fuels (oil and coal).	High levels of hydrogen sulfide can cause immediate respiratory arrest. It can irritate the eyes and respiratory tract and cause headache, nausea, vomiting, and cough. Long exposure can cause pulmonary edema.
Sulfates	Sulfates occur in combination with metal and/or hydrogen ions. Many sulfates are soluble in water.	Sulfates are particulates formed through the photochemical oxidation of sulfur dioxide. In California, the main source of sulfur compounds is combustion of gasoline and diesel fuel.	(a) Decrease in ventilatory function; (b) aggravation of asthmatic symptoms; (c) aggravation of cardiopulmonary disease; (d) vegetation damage; (e) degradation of visibility; (f) property damage.
Visibility-Reducing Particles	Suspended particulate matter is a mixture of small particles that consist of dry solid fragments, droplets of water, or solid cores with liquid coatings. The particles vary in shape, size, and composition. PM ₁₀ refers to particulate matter that is between 2.5 and 10 microns in diameter (1 micron is one-millionth of a meter). PM _{2.5} refers to particulate matter that is 2.5 microns or less in diameter, about one-thirtieth the size of the average human hair.	Stationary sources include fuel or wood combustion for electrical utilities, residential space heating, and industrial processes; construction and demolition; metals, minerals, and petrochemicals; wood products processing; mills and elevators used in agriculture; erosion from tilled lands; waste disposal; and recycling. Mobile or transportation-related sources are from vehicle exhaust and road dust. Secondary particles form from reactions in the atmosphere.	• Short-term exposure (hours/days): irritation of the eyes, nose, throat; coughing; phlegm; chest tightness; shortness of breath; aggravates existing lung disease, causing asthma attacks and acute bronchitis; those with heart disease can suffer heart attacks and arrhythmias. • Long-term exposure: reduced lung function; chronic bronchitis; changes in lung morphology; death.

Toxic Air Contaminant	Physical Description and Properties	Sources	Most Relevant Effects from Pollutant Exposure
Vinyl Chloride	Vinyl chloride, or chloroethene, is a chlorinated hydrocarbon and a colorless gas with a mild, sweet odor. In 1990, the California Air Resources Board (ARB) identified vinyl chloride as a toxic air contaminant and estimated a cancer unit risk factor.	Most vinyl chloride is used to make polyvinyl chloride plastic and vinyl products, including pipes, wire and cable coatings, and packaging materials. It can be formed when plastics containing these substances are left to decompose in solid waste landfills. Vinyl chloride has been detected near landfills, sewage plants, and hazardous waste sites.	Short-term exposure to high levels of vinyl chloride in the air causes central nervous system effects, such as dizziness, drowsiness, and headaches. Epidemiological studies of occupationally exposed workers have linked vinyl chloride exposure to development of a rare cancer, liver angiosarcoma, and have suggested a relationship between exposure and lung and brain cancers.
Lead (Pb)	Lead is a solid heavy metal that can exist in air pollution as an aerosol particle component. Leaded gasoline was used in motor vehicles until around 1970. Lead concentrations have not exceeded State or federal standards at any monitoring station since 1982.	Lead ore crushing, lead ore smelting, and battery manufacturing are currently the largest sources of lead in the atmosphere in the United States. Other sources include dust from soils contaminated with lead-based paint, solid waste disposal, and crustal physical weathering.	Lead accumulates in bones, soft tissue, and blood and can affect the kidneys, liver, and nervous system. It can cause impairment of blood formation and nerve conduction, behavior disorders, mental retardation, neurological impairment, learning deficiencies, and low IQs.

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Toxic Air Contaminant	Physical Description and Properties	Sources	Most Relevant Effects from Pollutant Exposure
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United States Environmental Protection Agency (EPA). 2021. Indoor Air Quality (IAQ). Volatile Organic Compounds' Impact on Indoor Air Quality. Website: https://www.epa.gov/indoor-air-quality-iaq/volatile-organic-compounds-impact-indoor-air-quality . December 2, 2021.			
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Air Quality

Air quality is a function of both the rate and location of pollutant emissions under the influence of meteorological conditions and topographic features. Atmospheric conditions such as wind speed, wind direction, and air temperature inversions interact with the physical features of the landscape to determine the movement and dispersal of air pollutant emissions and, consequently, their effect on air quality.

Regional Air Quality

The Bay Area Air Quality Management District (BAAQMD) is the regional agency regulating air quality within the nine-county SFBAAB. The SFBAAB includes Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, and Santa Clara counties, the western portion of Solano County, and the southern portion of Sonoma County.

Air Pollutant Standards and Attainment Designations

Air pollutant standards have been adopted by the EPA and the ARB for the following six criteria air pollutants that affect ambient air quality: ozone, NO₂, CO, SO₂, lead, and PM, which is subdivided into two classes based on particle size: PM with aerodynamic diameters equal to or less than 10 microns (PM₁₀), and PM with aerodynamic diameters equal to or less than 2.5 microns (PM_{2.5}). These air pollutants are called “criteria air pollutants” because they are regulated by developing specific public health- and welfare-based criteria as the basis for setting permissible levels. California has also established standards for TACs such as visibility-reducing particles, sulfates, hydrogen sulfide, and vinyl chloride. Table 3 presents the National Ambient Air Quality Standards (NAAQS) and California Ambient Air Quality Standards (CAAQS) for these aforementioned air pollutants. Note that there are no State or federal ambient air quality standards for reactive organic gases (ROGs), benzene, or DPM.

Table 3: Federal and State Air Quality Standards in the San Francisco Bay Area Air Basin

Air Pollutant	Averaging Time	California Standard (CAAQS)	Federal Standard ^a (NAAQS)
Ozone	1 Hour	0.09 ppm	—
	8 Hours	0.070 ppm	0.070 ppm ^f
Nitrogen dioxide ^b (NO ₂)	1 Hour	0.18 ppm	0.100 ppm
	Annual	0.030 ppm	0.053 ppm

Air Pollutant	Averaging Time	California Standard (CAAQS)	Federal Standard ^a (NAAQS)
Carbon monoxide (CO)	1 Hour	20 ppm	35 ppm
	8 Hours	9.0 ppm	9 ppm
Sulfur dioxide ^c (SO ₂)	1 Hour	0.25 ppm	0.075 ppm
	3 Hours	—	0.5 ppm
	24 Hours	0.04 ppm	0.14 (for certain areas)
	Annual	—	0.030 ppm (for certain areas)
Lead ^e	30-day	1.5 µg/m ³	—
	Quarter	—	1.5 µg/m ³
	Rolling 3-month average	—	0.15 µg/m ³
Particulate matter (PM ₁₀)	24 hours	50 µg/m ³	150 µg/m ³
	Mean	20 µg/m ³	—
Particulate matter (PM _{2.5})	24 Hours	—	35 µg/m ³
	Annual	12 µg/m ³	12.0 µg/m ³
Visibility-reducing particles	8 Hours	See note below ^d	
Sulfates	24 Hours	25 µg/m ³	—
Hydrogen sulfide	1 Hour	0.03 ppm	—
Vinyl chloride ^e	24 Hours	0.01 ppm	—

Notes:

ppm = parts per million (concentration)

µg/m³ = micrograms per cubic meter Annual = Annual Arithmetic Mean

30-day = 30-day average

Quarter = Calendar quarter

- a Federal standard refers to the primary National Ambient Air Quality Standard (NAAQS), or the levels of air quality necessary, with an adequate margin of safety to protect the public health. All standards listed are primary standards except for 3-Hour SO₂, which is a secondary standard. A secondary standard is the level of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.
- b To attain the 1-hour nitrogen dioxide national standard, the 3-year average of the annual 98th percentile of the 1-hour daily maximum concentrations at each site must not exceed 100 parts per billion (0.100 ppm).
- c On June 2, 2010, a new 1-hour SO₂ standard was established and the existing 24-hour and annual primary standards were revoked. To attain the 1-hour national standard, the 3-year average of the annual 99th percentile of the 1-hour daily maximum concentrations at each site must not exceed 75 part per billion (ppb). The 1971 SO₂ national standards (24-hour and annual) remain in effect until 1 year after an area is designated for the 2010 standard, except that in areas designated nonattainment for the 1971 standards, the 1971 standards remain in effect until implementation plans to attain or maintain the 2010 standards are approved.
- d Visibility-reducing particles: In 1989, the ARB converted both the general Statewide 10-mile visibility standard and the Lake Tahoe 30-mile visibility standard to instrumental equivalents, which are “extinction of 0.23 per kilometer” and “extinction of 0.07 per kilometer” for the Statewide and Lake Tahoe Air Basin standards, respectively.

Air Pollutant	Averaging Time	California Standard (CAAQS)	Federal Standard ^a (NAAQS)
e	The ARB has identified lead and vinyl chloride as “toxic air contaminants” with no threshold level of exposure for adverse health effects determined. These actions allow for implementing control measures at levels below the ambient concentrations specified for these pollutants.		
f	The EPA Administrator approved a revised 8-hour ozone standard of 0.07 ppb on October 1, 2015. The new standard went into effect 60 days after publication the Final Rule in the Federal Register. The Final Rule was published in the Federal Register on October 26, 2015, and became effective on December 28, 2015.		
Source: California Air Resources Board (ARB). 2016. Ambient Air Quality Standards. May 4. Website: https://ww2.arb.ca.gov/sites/default/files/2020-07/aaqs2.pdf . December 2, 2021.			

Air quality monitoring stations operated by the ARB and BAAQMD measure ambient air pollutant concentrations in the SFBAAB. In general, the SFBAAB experiences low concentrations of most pollutants compared to federal or State standards.

Both the EPA and ARB use ambient air quality monitoring data to designate areas according to their attainment status for criteria air pollutants. These designations identify the areas with air quality problems and initiate planning efforts for improvement. The three basic designation categories are nonattainment, attainment, and unclassified. “Attainment” status refers to those regions that are meeting federal and/or State standards for a specified criteria pollutant. “Nonattainment” refers to regions that do not meet federal and/or State standards for a specified criteria pollutant. “Unclassified” refers to regions with insufficient data to determine the region’s attainment status for a specified criteria air pollutant. Each standard has a different definition, or “form” of what constitutes attainment, based on specific air quality statistics. For example, the federal 8-hour CO standard is not to be exceeded more than once per year; therefore, an area is in attainment of the CO standard if no more than one 8-hour ambient air monitoring values exceeds the threshold per year. In contrast, the federal annual PM_{2.5} standard is met if the 3-year average of the annual average PM_{2.5} concentration is less than or equal to the standard.

Table 4 shows the current attainment designations for the SFBAAB. The SFBAAB is designated as nonattainment for the State ozone, PM₁₀, and PM_{2.5} standards, and the national ozone and PM_{2.5} standards.

Table 4: San Francisco Bay Area Air Basin Attainment Status

Pollutant	State Status	National Status
Ozone	Nonattainment	Nonattainment
CO	Attainment	Attainment
NO ₂	Attainment	Attainment
SO ₂	Attainment	N/A
PM ₁₀	Nonattainment	Unclassified

Pollutant	State Status	National Status
PM _{2.5}	Nonattainment	Nonattainment
Sulfates	Attainment	N/A
Hydrogen Sulfates	Unclassified	N/A
Visibility-reducing Particles	Unclassified	N/A
Lead	N/A	Attainment
Notes: N/A = information not available. Source: Bay Area Air Quality Management District (BAAQMD). 2017. Air Quality Standards and Attainment Status. January 5. Website: http://www.baaqmd.gov/research-and-data/air-quality-standards-and-attainment-status . December 2, 2021.		

Air Quality Index

The health impacts of the various air pollutants of concern can be presented in a number of ways. The clearest comparison is to the State and federal ozone standards. If concentrations are below the standard, it is safe to say that no health impact would occur to anyone. When concentrations exceed the standard, impacts will vary based on the amount by which the standard is exceeded. The EPA developed the Air Quality Index (AQI) as an easy-to-understand measure of health impacts compared with concentrations in the air. Table 5 provides a general description of the health impacts of ozone at different concentrations.

Table 5: Air Quality Index and Health Effects from Ozone

Air Quality Index/ 8-hour Ozone Concentration	Health Effects Description
AQI—0–50—Good Concentration 0–54 ppb	Sensitive Groups: Children and people with asthma are the groups most at risk.
	Health Effects Statements: None.
	Cautionary Statements: None.
AQI—51–100—Moderate Concentration 55–70 ppb	Sensitive Groups: Children and people with asthma are the groups most at risk.
	Health Effects Statements: Unusually sensitive individuals may experience respiratory symptoms.
	Cautionary Statements: Unusually sensitive people should consider limiting prolonged outdoor exertion.
AQI—101–150—Unhealthy for Sensitive Groups Concentration 71–85 ppb	Sensitive Groups: Children and people with asthma are the groups most at risk.
	Health Effects Statements: Increasing likelihood of respiratory symptoms and breathing discomfort in active children and adults, and people with respiratory disease, such as asthma.
	Cautionary Statements: Active children and adults, and people with respiratory disease, such as asthma, should limit prolonged outdoor exertion.

Air Quality Index/ 8-hour Ozone Concentration	Health Effects Description
AQI—151–200—Unhealthy Concentration 86–105 ppb	Sensitive Groups: Children and people with asthma are the groups most at risk.
	Health Effects Statements: Greater likelihood of respiratory symptoms and breathing difficulty in active children and adults and people with respiratory disease, such as asthma; possible respiratory effects in general population.
	Cautionary Statements: Active children and adults, and people with respiratory disease, such as asthma, should avoid prolonged outdoor exertion; everyone else, especially children, should limit prolonged outdoor exertion.
AQI—201–300—Very Unhealthy Concentration 106–200 ppb	Sensitive Groups: Children and people with asthma are the groups most at risk.
	Health Effects Statements: Increasingly severe symptoms and impaired breathing likely in active children and adults and people with respiratory disease, such as asthma; increasing likelihood of respiratory effects in general population.
	Cautionary Statements: Active children and adults, and people with respiratory disease, such as asthma, should avoid all outdoor exertion; everyone else, especially children, should limit outdoor exertion.
Source: Air Now. n.d. AQI Calculator: AQI to Concentration Calculator. Website: https://www.airnow.gov/aqi/aqi-calculator . Accessed December 2, 2021.	

Local Air Quality

Air quality is a function of both the rate and location of pollutant emissions under the influence of meteorological conditions and topographic features. Atmospheric conditions such as wind speed, wind direction, and air temperature inversions interact with the physical features of the landscape to determine the movement and dispersal of air pollutant emissions and, consequently, their effect on air quality.

The local air quality can be evaluated by reviewing relevant air pollution concentrations near the project area. The air quality monitoring station closest to the project site is the San José–Jackson Street Air Monitoring Station, located approximately 5 miles south of the project site. Table 6 summarizes the recorded ambient air data at the representative monitoring station for the years 2018 through 2020, which is the most current data available at the time of this analysis. As Table 6 shows, the recorded data show exceedances of the California standards for ozone (1-hour and 8-hour) and PM₁₀, and national standards for 8-hour ozone, NO₂, PM_{2.5}, and PM₁₀ on multiple occasions from 2018 through 2020. No recent monitoring data for Santa Clara County or the SFBAAB was available for CO or SO₂. Generally, no monitoring is conducted for pollutants that are no longer likely to exceed ambient air quality standards.

Table 6: Air Quality Monitoring Summary

Air Pollutant	Averaging Time	Item	2018	2019	2020
Ozone	1 Hour	Max 1-Hour (ppm)	0.078	0.095	0.106
		Days > State Standard (0.09 ppm)	0	1	1

Air Pollutant	Averaging Time	Item	2018	2019	2020
	8 Hour	Max 8-Hour (ppm)	0.061	0.082	0.086
		Days > State Standard (0.07 ppm)	0	2	2
		Days > National Standard (0.070 ppm)	0	2	2
CO	8 Hour	Max 8-Hour (ppm)	ND	ND	ND
		Days > State Standard (9.0 ppm)	ND	ND	ND
		Days > National Standard (9 ppm)	ND	ND	ND
NO ₂	Annual	Annual Average (ppm)	0.012	0.010	0.009
	1 Hour	Max 1-Hour (ppm)	0.086	0.060	0.052
		Days > State Standard (0.18 ppm)	0	0	0
SO ₂	Annual	Annual Average (ppm)	ND	ND	ND
	24 Hour	Max 24-Hour (ppm)	ND	ND	ND
		Days > State Standard (0.04 ppm)	ND	ND	ND
Inhalable coarse particles (PM ₁₀)	Annual	Annual Average (µg/m ³)	23.1	19.1	24.8
	24 Hour	Max 24-Hour (µg/m ³)	121.8	77.1	137.1
		Days > State Standard (50 µg/m ³) ⁽³⁾	4	4	10
		Days > National Standard (150 µg/m ³)	0	0	0
Fine particulate matter (PM _{2.5})	Annual	Annual Average (µg/m ³)	12.9	9.1	11.5
	24 Hour	Max 24-Hour (µg/m ³)	133.9	34.4	120.5
		Days > National Standard (35 µg/m ³)	15	0	12
Notes: > = exceed ppm = parts per million µg/m ³ = micrograms per cubic meter ID = insufficient data ND = no data max = maximum Bold = exceedance State Standard = California Ambient Air Quality Standard (CAAQS). National Standard = National Ambient Air Quality Standard (NAAQS).					

Sensitive Receptors

Air pollution does not affect every individual in the population in the same way, and some groups are more sensitive to adverse health effects than others are. Land uses such as residences, schools, day care centers, hospitals, nursing and convalescent homes, and parks are considered the most sensitive to poor air quality because the population groups associated with these uses have increased susceptibility to respiratory distress or, as in the case of residential receptors, their exposure time is greater than that for other land uses. Therefore, these groups are referred to as sensitive receptors. Exposure assessment guidance typically assumes that residences would receive exposure to air pollution 24 hours per day, 350 days per year, for 30 years. The BAAQMD defines sensitive receptors as children, adults, and seniors

occupying or residing in residential dwellings, schools, day care centers, hospitals, and senior care facilities.

Project Vicinity

The closest off-site air pollution sensitive receptors near the project site in each direction include the following:

- Ready Preschool approximately 790 feet northwest of the project site.
- A multi-family residence approximately 370 feet west of the project site.
- A multi-family residence approximately 580 feet southwest of the project site.
- A multi-family residence approximately 430 feet southeast of the project site.

Project Vicinity

The primary sources of air pollutants (both criteria air pollutant and TACs) in the project site vicinity include the various other surrounding industrial properties, building-related energy use, and motor-related vehicle trips associated with the local business use, particularly from the Union Pacific Railroad Company. The project site is located approximately 1,500 feet west of Union Pacific and approximately 2,900 feet east of Interstate 880 (I-880). Other activities that result in emissions include space and water heating, landscape maintenance, and any surrounding industrial uses that can store, produce, decommission, or otherwise handle hazardous materials.

Existing Emission Sources

The Montessori School of Silicon Valley and Game Time Elite Gymnastics currently operate on the 1.6-acre site. There is regular activity from the business that would generate greenhouse gas (GHG) emissions. However, because the operative status of existing uses is unknown at the time this analysis was prepared, the emissions generated from operation of land uses currently on the project site were not quantified and considered when analyzing net emission generation from the proposed project. As such, this approach represents a conservative assessment of the proposed project's emissions generation.

Regulatory Framework

Federal

Clean Air Act

Congress established much of the basic structure of the Clean Air Act (CAA) in 1970, and made major revisions in 1977 and 1990. Six common air pollutants (also known as criteria pollutants) are addressed in the CAA. These are particulate matter, ground-level ozone, CO, sulfur oxides, nitrogen oxides, and lead. The EPA calls these pollutants criteria air pollutants because it regulates them by developing human health-based and/or environmentally based criteria (science-based guidelines) for setting permissible levels. The set of limits based on human health are called primary standards. Another set of limits intended to prevent environmental and property damage are called secondary standards. The NAAQS provide benchmarks for determining whether air quality is healthy at specific locations and

whether development activities will cause or contribute to a violation of the standards. The criteria pollutants are:

- Ozone
- Nitrogen dioxide (NO₂)
- Lead
- Particulate matter (PM₁₀ and PM_{2.5})
- Carbon monoxide (CO)
- Sulfur dioxide

The NAAQS were set to protect public health, including that of sensitive individuals; thus, the EPA is tasked with updating the standards as more medical research is available regarding the health effects of the criteria pollutants. Primary federal standards are the levels of air quality necessary, with an adequate margin of safety, to protect the public health.

The CAA also requires each state to prepare an air quality control plan referred to as a State Implementation Plan (SIP). The federal CAA Amendments of 1990 added requirements for states with nonattainment areas to revise their SIPs to incorporate additional control measures to reduce air pollution. The SIP is periodically modified to reflect the latest emissions inventories, planning documents, and rules and regulations of the air basins, as reported by their jurisdictional agencies.

EPA Emission Standards for New Off-Road Equipment

Before 1994, there were no standards to limit the amount of emissions from off-road equipment. In 1994, the EPA established emission standards for hydrocarbons, NO_x, CO, and PM to regulate new pieces of off-road equipment. These emission standards came to be known as Tier 1. Since that time, increasingly more stringent Tier 2, Tier 3, and Tier 4 (interim and final) standards were adopted by the EPA, as well as by the ARB. Each adopted emission standard was phased in over time. New engines built in and after 2015 across all horsepower sizes must meet Tier 4 final emission standards. In other words, new manufactured engines cannot exceed the emissions established for Tier 4 final emissions standards.

State

California Air Quality Control Plan (State Implementation Plan)

An SIP is a document prepared by each state describing existing air quality conditions and measures that will be followed to attain and maintain federal standards. The SIP for the State of California is administered by the ARB, which has overall responsibility for Statewide air quality maintenance and air pollution prevention. California's SIP incorporates individual federal attainment plans for regional air districts—an air district prepares their federal attainment plan, which is sent to the ARB to be approved and incorporated into the California SIP. Federal attainment plans include the technical foundation for understanding air quality (e.g., emission inventories and air quality monitoring), control measures and strategies, and enforcement mechanisms for attaining and maintaining air quality standards.

Areas designated nonattainment must develop air quality plans and regulations to achieve standards by specified dates, depending on the severity of the exceedances. For much of the country, implementation of federal motor vehicle standards and compliance with federal permitting requirements for industrial sources are adequate to attain air quality standards on schedule. For many areas of California, however, additional State and local regulation is required to achieve the standards.

California Clean Air Act

The California Legislature enacted the California Clean Air Act (CCAA) in 1988 to address air quality issues of concern not adequately addressed by the federal CAA at the time. California's air quality problems were and continue to be some of the most severe in the nation, and required additional actions beyond the federal mandates. The ARB administers the CAAQS for the 10 air pollutants designated in the CCAA. The 10 State air pollutants are the six federal standards listed above as well as visibility-reducing particulates, hydrogen sulfide, sulfates, and vinyl chloride. The EPA authorized California to adopt its own regulations for motor vehicles and other sources that are more stringent than similar federal regulations implementing the CAA. Generally, the planning requirements of the CCAA are more stringent than the federal CAA; therefore, consistency with the CAA will also demonstrate consistency with the CCAA.

Other ARB responsibilities include but are not limited to overseeing local air district compliance with California and federal laws; approving local air quality plans; submitting SIPs to the EPA; monitoring air quality; determining and updating area designations and maps; conducting basic research aimed at providing a better understanding between emissions and public well-being, and setting emissions standards for new mobile sources, consumer products, small utility engines, off-road vehicles, and fuels.

California Health and Safety Code Section 39655 and California Code of Regulations Title 17 Section 93000 (Substances Identified as Toxic Air Contaminants)

The ARB identifies substances as TACs as defined in Health and Safety Code Section 39655 and listed in Title 17, Section 93000 of the California Code of Regulations, "Substances Identified As Toxic Air Contaminants." A TAC is defined as an air pollutant that may cause or contribute to an increase in mortality or serious illness, or that may pose a hazard to human health. TACs are usually present in minute quantities in the ambient air; however, their high toxicity or health risk may pose a threat to public health even at low concentrations. In general, for those TACs that may cause cancer, there are thresholds set by regulatory agencies below which adverse health impacts are not expected to occur. This contrasts with the criteria pollutants for which acceptable levels of exposure can be determined and for which the State and federal government have set ambient air quality standards. According to the California Almanac of Emissions and Air Quality, the majority of the estimated health risk from TACs for the State of California can be attributed to relatively few compounds, the most important of which is diesel particulate matter (DPM) from diesel-fueled engines.

California Low Emission Vehicle Program

The ARB first adopted Low Emission Vehicle (LEV) program standards in 1990. These first LEV standards ran from 1994 through 2003. LEV II regulations, running from 2004 through 2010, represent continuing progress in emission reductions. As the State's passenger vehicle fleet continues to grow and more sport utility vehicles and pickup trucks are used as passenger cars rather than work vehicles, the more stringent LEV II standards were adopted to provide reductions necessary for California to meet federally mandated clean air goals outlined in the 1994 SIP. In 2012, the ARB adopted the LEV III amendments to California's LEV regulations. These amendments, also known as the Advanced Clean Car Program, include more stringent emission standards for model years 2017 through 2025 for both criteria pollutants and GHG emissions for new passenger vehicles.

California On-Road Heavy-Duty Vehicle Program

The ARB has adopted standards for emissions from various types of new on-road heavy-duty vehicles. Section 1956.8, Title 13, California Code of Regulations contains California's emission standards for on-road heavy-duty engines and vehicles, and test procedures. The ARB has also adopted programs to reduce emissions from in-use heavy-duty vehicles including the Heavy-Duty Diesel Vehicle Idling Reduction Program, the Heavy-Duty Diesel In-Use Compliance Program, the Public Bus Fleet Rule and Engine Standards, and the School Bus Program and others.

California In-Use Off-Road Diesel Vehicle Regulation

On July 26, 2007, the ARB adopted a regulation to reduce DPM and NO_x emissions from in-use (existing) off-road heavy-duty diesel vehicles in California. Such vehicles are used in construction, mining, and industrial operations. The regulation limits idling to no more than five consecutive minutes, requires reporting and labeling, and requires disclosure of the regulation upon vehicle sale. The ARB is enforcing that part of the rule with fines up to \$10,000 per day for each vehicle in violation. Performance requirements of the rule are based on a fleet's average NO_x emissions, which can be met by replacing older vehicles with newer, cleaner vehicles or by applying exhaust retrofits. The regulation was amended in 2010 to delay the original timeline of the performance requirements, making the first compliance deadline January 1, 2014, for large fleets (over 5,000 horsepower), 2017 for medium fleets (2,501-5,000 horsepower), and 2019 for small fleets (2,500 horsepower or less).

The latest amendments to the Truck and Bus regulation became effective on December 31, 2014. The amended regulation requires diesel trucks and buses that operate in California to be upgraded to reduce emissions. Newer heavier trucks and buses must meet PM filter requirements beginning January 1, 2012. Lighter and older heavier trucks must be replaced starting January 1, 2015. By January 1, 2023, nearly all trucks and buses will need to have 2010 model year engines or equivalent.

The regulation applies to nearly all privately and federally owned diesel-fueled trucks and buses and to privately and publicly owned school buses with a gross vehicle weight rating greater than 14,000 pounds. The regulation provides a variety of flexibility options tailored to fleets operating low use vehicles, fleets operating in selected vocations like agricultural and construction, and small fleets of three or fewer trucks.

California Airborne Toxic Control Measures for Asbestos

The ARB has adopted Airborne Toxic Control Measures (ATCM) for sources that emit a particular TAC. If there is a safe threshold for a substance at which there is no toxic effect, the control measure must reduce exposure below that threshold. If there is no safe threshold, the measure must incorporate Best Available Control Technology (BACT) to minimize emissions.

In July 2001, the ARB approved an ATCM for construction, grading, quarrying and surface mining operations to minimize emissions of naturally occurring asbestos. The regulation requires application of Best Management Practices (BMPs) to control fugitive dust in areas known to have naturally occurring asbestos and requires notification to the local air district prior to commencement of ground-disturbing activities. The measure establishes specific testing, notification and engineering controls prior to grading,

quarrying, or surface mining in construction zones where naturally occurring asbestos is located on projects of any size. There are additional notification and engineering controls at work sites larger than one acre in size. These projects require the submittal of a “Dust Mitigation Plan” and approval by the air district prior to the start of a project.

Construction sometimes requires the demolition of existing buildings where construction occurs. Asbestos is also found in a natural state, known as naturally occurring asbestos. Exposure and disturbance of rock and soil that naturally contain asbestos can result in the release of fibers into the air and consequent exposure to the public. Asbestos most commonly occurs in ultramafic rock that has undergone partial or complete alteration to serpentine rock (serpentinite) and often contains chrysotile asbestos. In addition, another form of asbestos, tremolite, can be found associated with ultramafic rock, particularly near faults. Sources of asbestos emissions include unpaved roads or driveways surfaced with ultramafic rock, construction activities in ultramafic rock deposits, or rock quarrying activities where ultramafic rock is present.

The ARB has an ATCM for construction, grading, quarrying, and surface mining operations, requiring the implementation of mitigation measures to minimize emissions of asbestos-laden dust. The measure applies to road construction and maintenance, construction and grading operations, and quarries and surface mines when the activity occurs in an area where naturally occurring asbestos is likely to be found. Areas are subject to the regulation if they are identified on maps published by the Department of Conservation as ultramafic rock units or if the Air Pollution Control Officer or owner/operator has knowledge of the presence of ultramafic rock, serpentine, or naturally occurring asbestos on the site. The measure also applies if ultramafic rock, serpentine, or asbestos is discovered during any operation or activity. Review of the Department of Conservation maps indicates that no ultramafic rock has been found near the project site.¹

Verified Diesel Emission Control Strategies

The EPA and the ARB tiered off-road emission standards only apply to new engines and off-road equipment can last several years. The ARB has developed Verified Diesel Emission Control Strategies (VDECS), which are devices, systems, or strategies used to achieve the highest level of pollution control from existing off-road vehicles, to help reduce emissions from existing engines. VDECS are designed primarily for the reduction of DPM emissions and have been verified by ARB. There are three levels of VDECS, the most effective of which is the Level 3 VDECS. Tier 4 engines are not required to install VDECS because they already meet the emissions standards for lower tiered equipment with installed controls.

California Diesel Risk Reduction Plan

The ARB Diesel Risk Reduction Plan has led to the adoption of new State regulatory standards for all new on-road, off-road, and stationary diesel-fueled engines, and vehicles to reduce DPM emissions in 2020 by about 90 percent overall from year 2000 levels. The projected emission benefits associated with the full

¹ Department of Conservation. 2011. Map Sheet 59: Reported Historic Asbestos Mines, Historic Asbestos Prospects, and Other Natural Occurrences of Asbestos in California. Website: https://www.conservation.ca.gov/cgs/Documents/Publications/Map-Sheets/MS_059_Plate.pdf. Accessed December 3, 2021.

implementation of this plan, including federal measures, are reductions in DPM emissions and associated cancer risks of 75 percent by 2010, and 85 percent by 2020.

Tanner Air Toxics Act and Air Toxics Hot Spots Information and Assessment Act

TACs in California are primarily regulated through the Tanner Air Toxics Act (Assembly Bill [AB] 1807) and the Air Toxics Hot Spots Information and Assessment Act of 1987 (AB 2588), also known as the Hot Spots Act. To date, the ARB has identified more than 21 TACs, and has adopted the EPA's list of Hazardous Air Pollutants (HAPs) as TACs.

Carl Moyer Memorial Air Quality Standards Attainment Program

The Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program), a partnership between the ARB and local air districts, issues grants to replace or retrofit older engines and equipment with engines and equipment that exceed current regulatory requirements to reduce air pollution. Money collected through the Carl Moyer Program complements California's regulatory program by providing incentives to effect early or extra emission reductions, especially from emission sources in environmental justice communities and areas disproportionately affected by air pollution. The program has established guidelines and criteria for the funding of emissions reduction projects. Within the SFBAAB, the BAAQMD administers the Carl Moyer Program. The program has established guidelines and criteria for the funding of emissions reduction projects and has established cost-effectiveness criteria for funding emission reductions projects, which under the final 2017 Carl Moyer Program Guidelines are \$30,000 per weighted ton of NO_x, ROG, and PM.

Regional

BAAQMD California Environmental Quality Act Air Quality Guidelines

The BAAQMD is the primary agency responsible for ensuring that air quality standards (NAAQS and CAAQS) are attained and maintained in the SFBAAB through comprehensive planning, regulation, enforcement, technical innovation, and promotion of the understanding of air quality issues. The BAAQMD prepares plans to attain ambient air quality standards in the SFBAAB and prepares ozone attainment plans for the national ozone standard, clean air plans for the California standard, and PM plans to fulfill federal air quality planning requirements. The BAAQMD also inspects stationary sources of air pollution; responds to citizen complaints; monitors ambient air quality and meteorological conditions; and implements programs and regulations required by the CAA and the CCAA.

The BAAQMD developed quantitative thresholds of significance for its California Environmental Quality Act (CEQA) Guidelines in 2010, which were also included in its updated 2011 Guidelines. The BAAQMD's adoption of the 2010 thresholds of significance was later challenged in court. In an opinion issued on December 17, 2015, related to the BAAQMD CEQA Guidelines, the California Supreme Court held that CEQA does not generally require an analysis of the impacts of locating development in areas subject to environmental hazards unless the proposed project would exacerbate existing environmental hazards. The California Supreme Court also found that CEQA requires the analysis of exposing people to environmental hazards in specific circumstances, including the location of development near airports, schools near sources of toxic contamination, and certain exemptions for infill and workforce housing.

The California Supreme Court also held that public agencies remain free to voluntarily conduct this analysis not required by CEQA for their own public projects (*CBIA v. BAAQMD (2016)* 2 Cal.App.5th 1067, 1083).

In view of the California Supreme Court's opinion, the BAAQMD published a new version of its CEQA Guidelines in May 2017. The BAAQMD CEQA Guidelines state that local agencies may rely on thresholds designed to reflect the impact of locating development near areas of toxic air contamination where CEQA requires such an analysis, or where the agency has determined that such an analysis would assist in making a decision about the proposed project. However, the thresholds are not mandatory, and agencies should apply them only after determining that they reflect an appropriate measure of a project's impacts. The BAAQMD's guidelines for implementing the thresholds are for informational purposes only, to assist local agencies.

BAAQMD Particulate Matter Plan

To fulfill federal air quality planning requirements, the BAAQMD adopted a PM_{2.5} emissions inventory for the year 2010 at a public hearing on November 7, 2012. The Bay Area Clean Air Plan also included several measures for reducing PM emissions from stationary sources and wood burning. On January 9, 2013, the EPA issued a final rule determining that the Bay Area has attained the 24-hour PM_{2.5} NAAQS, suspending federal SIP planning requirements for the SFBAAB. Despite this EPA action, the SFBAAB will continue to be designated as nonattainment for the national 24-hour PM_{2.5} standard until the BAAQMD submits a redesignation request and a maintenance plan to the EPA, and the EPA approves the proposed redesignation.

The Air Basin is designated nonattainment for the State PM₁₀ and PM_{2.5} standards, but the Air Basin is currently unclassified for the federal PM₁₀ standard and nonattainment for federal PM_{2.5} standards. The EPA lowered the 24-hour PM_{2.5} standard from 65 µg/m³ to 35 µg/m³ in 2006, and designated the Air Basin as nonattainment for the new PM_{2.5} standard effective December 14, 2009.

On December 8, 2011, the ARB submitted a "clean data finding" request to the EPA on behalf of the Bay Area. If the clean data finding request is approved, then EPA guidelines provide that the region can fulfill federal PM_{2.5} SIP requirements by preparing either a redesignation request and a PM_{2.5} maintenance plan, or a "clean data" SIP submittal. Because peak PM_{2.5} levels can vary from year to year based on natural, short-term changes in weather conditions, the BAAQMD believes that it would be premature to submit a redesignation request and PM_{2.5} maintenance plan at this time. Therefore, the BAAQMD will prepare a "clean data" SIP to address the required elements, including:

- An emission inventory for primary PM_{2.5}, as well as precursors to secondary PM formation
- Amendments to the BAAQMD's New Source Review regulation to address PM_{2.5}

BAAQMD 2017 Clean Air Plan

In May 2017, the BAAQMD adopted the final Bay Area 2017 Clean Air Plan. The BAAQMD prepared the 2017 Clean Air Plan in cooperation with the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG). The goals of the 2017 Clean Air Plan are to reduce

regional air pollutants and climate pollutants to improve the health of Bay Area residents for the next decades. The 2017 Clean Air Plan aims to lead the region into a post-carbon economy, continue progress toward attaining all State and federal air quality standards, and eliminate health risk disparities from air pollution exposure in Bay Area communities. The Plan includes 85 distinct control measures to help the region reduce air pollutants and has a long-term strategic vision that forecasts what a clean air Bay Area will look like in the year 2050. The 2017 Clean Air Plan envisions a future whereby the year 2050:

- Buildings will be energy efficient—heated, cooled and powered by renewable energy.
- Transportation will be a combination of electric vehicles, both shared and privately owned; autonomous public transit fleets; with a large share of trips by bicycling, walking, and transit.
- The Bay Area will be powered by clean, renewable electricity and will be a leading incubator and producer of clean energy technologies leading the world in the carbon-efficiency of our products.
- Bay Area residents will have developed a low-carbon lifestyle by driving electric vehicles, living in zero-net-energy homes, eating low-carbon foods, and purchasing goods and services with low carbon content.
- Waste will be greatly reduced, waste products will be re-used or recycled, and all organic waste will be composted and put to productive use.

The focus of control measures includes aggressively targeting the largest source of GHG, ozone pollutants and particulate matter emissions—transportation. This includes more incentives for electric vehicle (EV) infrastructure, off-road electrification projects such as Caltrain and shore power at ports, and reducing emissions from trucks, school buses, marine vessels, locomotives, and off-road equipment. Additionally, the BAAQMD will continue to work with regional and local governments to reduce vehicle miles traveled through the further funding of rideshare, bike and shuttle programs.

BAAQMD Regulations

Regulation 2, Rule 1 (Permits–General Requirements)

The BAAQMD regulates new sources of air pollution and the modification and operation of existing sources through the issuances of authorities to construct and permits to operate. Regulation 2, Rule 1 provides an orderly procedure which the project would be required to comply with to receive authorities to construct or permits to operate from the BAAQMD for new sources of air pollutants, as applicable.

Regulation 2, Rule 5 (New Source Review Permitting)

The BAAQMD regulates backup emergency generators, fire pumps, and other sources of TACs through its New Source Review (Regulation 2, Rule 5) permitting process. Although emergency generators are intended for use only during periods of power outages, monthly testing of each generator is required; however, the BAAQMD limits testing to no more than 50 hours per year. Each emergency generator installed is assumed to meet a minimum of Tier 2 emission standards (before control measures). As part of the permitting process, the BAAQMD limits the excess cancer risk from any facility to no more than 10 per 1-million-population for any permits that are applied for within a 2-year period and would require

any source that would result in an excess cancer risk greater than 1 per 1 million to install BACT for Toxics.

Regulation 6, Rule 1 (Particulate Matter—General Requirements)

The BAAQMD regulates particulate matter emissions through Regulation 6 by means of establishing limitations on emission rates, emissions concentrations, and emission visibility and opacity. Regulation 6, Rule 1 provides existing standards for particulate matter emissions that could result during project construction or operation that the project would be required to comply with, as applicable, such as the prohibition of emissions from any source for a period or aggregate periods of more than three minutes in any hour which are equal to or greater than 20 percent opacity.

Regulation 6, Rule 6, (Particulate Matter—Prohibition of Trackout)

One rule by which the BAAQMD regulates particulate matter includes Regulation 6, Rule 6, which prohibits particulate matter trackout during project construction and operation. Regulation 6, Rule 6 requires the prevention or timely cleanup of trackout of solid materials onto paved public roads outside the boundaries of large bulk material sites, large construction sites, and large disturbed surface sides such as landfills.

Regulation 8, Rule 3 (Architectural Coatings)

This rule governs the manufacture, distribution, and sale of architectural coatings and limits the ROG content in paints and paint solvents. Although this rule does not directly apply to the proposed project, it does dictate the ROG content of paint available for use during the construction.

Regulation 8, Rule 15 (Emulsified and Liquid Asphalts)

Although this rule does not directly apply to the proposed project, it does dictate the reactive organic gases content of asphalt available for use during the construction through regulating the sale and use of asphalt and limits the ROG content in asphalt.

Regulation 9, Rule 8 (Inorganic Gaseous Pollutants – Nitrogen Oxides and Carbon Monoxide from Stationary Internal Combustion Engines)

Under Regulation 9, Rule 8, the BAAQMD regulates the emissions of nitrogen oxides and carbon monoxide from stationary internal combustion engines with an output rated by the manufacturer at more than 50 brake horsepower. As such, any proposed stationary source equipment (e.g., backup generators, fire pumps) which would be greater than 50 horsepower would require a BAAQMD permit under Regulation 9, Rule 8 to operate.

Regulation 11, Rule 2 (Hazardous Pollutants – Asbestos Demolition, Renovation, and Manufacturing)

Under Regulation 11, Rule 2, the BAAQMD regulates emissions of asbestos to the atmosphere during demolition, renovation, milling, and manufacturing, and establish appropriate waste disposal procedures. Any of these activities which pose the potential to generate emissions of airborne asbestos are required to comply with the appropriate provisions of this regulation.

Regulation 1, Rule 301 (Odorous Emissions)

The BAAQMD is responsible for investigating and controlling odor complaints in the Bay Area. The agency enforces odor control by helping the public to document a public nuisance. Upon receipt of a complaint, the BAAQMD sends an investigator to interview the complainant and to locate the odor source if possible. The BAAQMD typically brings a public nuisance court action when there are a substantial number of confirmed odor events within a 24-hour period. An odor source with five or more confirmed complaints per year, averaged over 3 years is considered to have a substantial effect on receptors.

Several BAAQMD regulations and rules apply to odorous emissions. Regulation 1, Rule 301 is the nuisance provision that states that sources cannot emit air contaminants that cause nuisance to several people. Regulation 7 specifies limits for the discharge of odorous substances where the BAAQMD receives complaints from 10 or more complainants within a 90-day period. Among other things, Regulation 7 precludes discharge of an odorous substance that causes the ambient air at or beyond the property line to be odorous after dilution with four parts of odor-free air and specifies maximum limits on the emission of certain odorous compounds.

Lastly, the BAAQMD enforces the Portable Equipment Registration Program (PERP) ATCM on behalf of the ARB. Under the PERP, owners or operators of portable engines and other types of equipment which meet the qualifications of the ATCM can register their equipment to operate throughout California. However, owners and operators of portable engines which meet the qualifications of this ATCM that do not register their equipment under the PERP must obtain individual permits from local air districts. Permits issued under the PERP must be honored by all air districts throughout California.

Plan Bay Area

On July 18, 2013, ABAG and the MTC approved the Plan Bay Area. The Plan Bay Area includes integrated land use and transportation strategies for the region and was developed through OneBayArea, a joint initiative between ABAG, BAAQMD, MTC, and the San Francisco Bay Conservation and Development Commission. The plan's transportation policies focus on maintaining the extensive existing transportation network and utilizing these systems more efficiently to handle density in Bay Area transportation cores. Assumptions for land use development come from local and regional planning documents. Emission forecasts in the Bay Area Clean Air Plan rely on projections of vehicle miles traveled, population, employment, and land use projections made by local jurisdictions during development of Plan Bay Area. The Plan Bay Area 2050 was adopted 2021 and is the most recent update to the Plan Bay Area.

Plan Bay Area 2050, published by the MTC and ABAG, is a long-range integrated transportation and land use/housing strategy through 2050 for the Bay Area. Plan Bay Area 2050 functions as the sustainable communities' strategy mandated by Senate Bill (SB) 375. As a regional land use plan, Plan Bay Area 2050 aims to reduce per capita GHG emissions by promoting more compact, mixed-use residential and commercial neighborhoods located near transit. Plan Bay Area 2050 is a limited and focused update that builds upon a growth pattern and strategies developed in the original Plan Bay Area but with updated

planning assumptions that incorporate key economic, demographic, and financial trends from the release of the previous Plan Bay Area version.

Local

City of Milpitas General Plan 2040

The City of Milpitas adopted its General Plan on March 9, 2021, which contains objectives and policies that help address air quality and reduce the community's vulnerability to air pollution. The following objectives and policies from the City's General Plan are relevant to air quality and apply to the proposed project:

- CON 7-1** Ensure that land use and transportation plans support air quality goals through a logical development pattern that focuses growth in and around existing urbanized areas, locates new housing near places of employment, encourages alternative modes of transportation, supports efficient parking strategies, reduces vehicle miles traveled, and requires projects to mitigate significant air quality impacts

- CON 7-2** Minimize exposure of the public to toxic or harmful air emissions and odors through requiring an adequate buffer or setback distance between residential and other sensitive land uses and land uses that typically generate air pollutants, toxic air contaminants, or obnoxious fumes or odors, including but not limited to industrial, manufacturing, and processing facilities, high-volume roadways, and industrial rail lines. New sensitive receptors, such as residences (including residential care and assisted living facilities for the elderly), childcare centers, schools, playgrounds, churches, and medical facilities shall be located away from existing point sources of air pollution such that excessive levels of exposure do not result in unacceptable health risks. Compliance shall be verified through the preparation of a Health Risk Assessment when deemed necessary by the Planning Director.

- CON 7-3** Require projects which generate high levels of air pollutants, such as heavy industrial, manufacturing facilities and hazardous waste handling operations, to incorporate air quality mitigations in their design to reduce impacts to the greatest extent feasible.

- CON 7-4** Require projects to adhere to the requirements of the Bay Area Air Quality Management District (BAAQMD).

- CON 7-5** Use the City's development review process and the California Environmental Quality Act (CEQA) to evaluate and mitigate the local and cumulative effects of new development on air quality.

- CON 7-6** Coordinate with the California Air Resources Board (ARB) and the Bay Area Air Quality Management District to properly measure air quality emission sources and enforce the standards of the Clean Air Act.

- CON 7-7** Comply with regional and federal standards and programs for control of all airborne pollutants and noxious odors, regardless of source.
- CON 7-8** Consider the health risks associated with Toxic Air Contaminants (TACs) when reviewing development applications.
- CON 7-9** Coordinate with Santa Clara County and nearby cities to implement regional GHG reduction plans and to consolidate efforts to reduce GHGs throughout the county as appropriate.
- CON 7-10** Implement policies and action from the Land Use and Circulation Elements to provide mixed-use developments, locate high-density uses near transit facilities, provide neighborhood-serving retail uses convenient to residential neighborhoods, and other Transportation Demand Management (TDM) programs that would reduce vehicle trips and vehicle miles traveled, thus reducing air pollutant emissions.
- CON 7-11** Encourage improvements and design features that reduce vehicle delay such as bus turnouts, and synchronized traffic signals for new development to reduce excessive vehicle emissions caused by idling.
- CON 7-12** Encourage and prioritize infrastructure investments and improvements that promote safe walking, bicycling and increased transit ridership.
- CON 7-13** Implement energy policies and actions that have co-benefits of reduced air pollution and greenhouse gases by increasing energy efficiency, conservation, and the use of renewable resources.

City of Milpitas Climate Action Plan

The City of Milpitas Climate Action Plan (Milpitas CAP) contains the following GHG actions and measures.

- Measure 5.1** Increased densities: continue to promote the increase of density and mixed uses in key opportunity areas, including the Midtown Specific Plan, Transit Area Specific Plan, and town center areas.
- Action A** Require new development to include two or more uses per building if located along identified corridors or in a specific plan area.
- Measure 5.2** Urban plazas: encourage development of urban plazas in new development in the Transit Area Specific Plan, Midtown Specific Plan, and town center areas to encourage pedestrian activity and vibrant mixed-use centers that reduce vehicular activity.
- Measure 6.1** Transit density: support high levels of ridership at the new BART station by encouraging higher density, mixed uses, and connectivity along transit corridors and at transit nodes.

Measure 12.1 Lawn and garden equipment support a community-wide transition to cleaner outdoor lawn and garden equipment.

Action C Require new buildings to provide accessible exterior electrical outlets to charge electric powered lawn and garden equipment.

Milpitas Midtown Specific Plan Mitigation Measures

The following mitigation measures from the Milpitas Midtown Specific Plan apply to residential development projects proposed in the City of Milpitas to ensure that associated air quality impacts are less than significant. These mitigation measures are incorporated into this report as project design features required by the Midtown Specific Plan Draft EIR.

MM AIR-1 The following basic control measures are required to be implemented at all construction sites in the Midtown area. These measures shall be incorporated into construction contracts for projects in the Midtown area:

- a.) Water all active construction areas twice daily and more often during windy periods. Active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives.
- b.) Cover all trucks hauling soil, sand and other loose materials, or require all trucks to maintain at least two feet of freeboard.
- c.) Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- d.) Sweep daily all paved access roads, parking areas and staging areas at construction sites.
- e.) Sweep streets daily if visible soil material is carried on to adjacent public streets.
- f.) Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
- g.) Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.)
- h.) Limit traffic speeds on unpaved roads to 15 miles per hour.
- i.) Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- j.) Replant vegetation in disturbed areas as quickly as possible.
- k.) Suspend excavation and grading activity whenever the wind is so high that it results in visible dust plumes despite control efforts.

After implementation of the listed mitigation measures, construction-related emissions would be less than significant.

MM AIR-2 The Specific Plan contains policies directed at reducing vehicle miles traveled. The Specific Plan encourages a compatible mixture of land uses, provides for a land use mix that supports major transit facilities, locates higher density development around hubs and commercial centers, provides for the continuation of pedestrian-oriented retail

development and provides pedestrian connections between the transit stations and important destinations.

Though these policies would help to reduce emissions, they would not reduce them to a level of insignificance. Due to the intensity of the development proposed, the proposed Specific Plan could not be feasibly developed without an increase in air emissions above the significance thresholds of 15 tons per year for ROG, NOX, and PM10. This impact is considered significant and unavoidable.

MM AIR-3 Due to the intensity of the development proposed, the Specific Plan could not be feasibly developed without causing an increase in regional emissions, and all feasible mitigation measures have been incorporated into the specific plan as policies. This impact is considered significant and unavoidable.

AIR QUALITY IMPACTS CONSTRAINTS ANALYSIS

According to the CEQA Guidelines Appendix G Environmental Checklist, to determine whether impacts to air quality are significant environmental effects, the following questions are analyzed and evaluated.

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.

Would the project:

- a) Conflict with or obstruct implementation of the applicable air quality plan?
- b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or State ambient air quality standard?
- c) Expose sensitive receptors to substantial pollutant concentrations?
- d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

The above questions are analyzed and evaluated below.

a) Conflict with or obstruct implementation of the applicable air quality plan?

Less than significant impact with mitigation. The BAAQMD has adopted several air quality policies and plans to address the attainment and maintenance of State and federal air quality standards. The most recent BAAQMD plan is the 2017 Clean Air Plan, which was adopted in April of 2017. The 2017 Clean Air Plan serves as the regional Air Quality Plan (AQP) for the Air Basin for attaining federal ambient air quality standards. The primary goals of the 2017 Clean Air Plan are to protect public health and protect the climate. The 2017 Clean Air Plan acknowledges that the BAAQMD's two stated goals of protection are closely related. As such, the 2017 Clean Air Plan identifies a wide range of control measures intended

to decrease both criteria air pollutants² and GHGs.³ The 2017 Clean Air Plan also accounts for projections of population growth provided by ABAG and Vehicle Miles Traveled (VMT) provided by the MTC and identifies strategies to bring regional emissions into compliance with federal and State air quality standards. A project would be judged to conflict with or obstruct the 2017 Clean Air Plan implementation if it would result in substantial new regional emissions not foreseen in the air quality planning process.

The BAAQMD does not provide a numerical threshold of significance for project-level consistency analysis with AQPs. Therefore, the following criteria will be used for determining a project's consistency with the AQP.

- **Criterion 1:** Does the project support the primary goals of the AQP?
- **Criterion 2:** Does the project include applicable control measures from the AQP?
- **Criterion 3:** Does the project disrupt or hinder implementation of any AQP control measures?

Criterion 1

The primary goals of the 2017 Clean Air Plan, the current AQP to date, are to:

- Attain air quality standards;
- Reduce population exposure to unhealthy air and protecting public health in the Bay Area; and
- Reduce GHG emissions and protect the climate.

A measure for determining whether the proposed project supports the primary goals of the AQP is if the proposed project would result in an increase in the frequency or severity of existing air quality violations, cause or contribute to new violations, or delay timely attainment of air quality standards or the interim emission reductions specified in the AQPs. The development of the AQP is based, in part, on the Land Use General Plan determinations of the various cities and counties that constitute the Air Basin. The project site is designated Mixed-Use Flex (MU-F) on the City's Zoning Map and is designated Mixed Used Flex (7-24 du/ac) on the General Plan Land Use Plan. The proposed project is considered consistent with the General Plan land use designation and associated density limits as the proposed project would only include 57 attached 3-story townhome dwelling units on the approximately 2.35-acre site, resulting in an average development density of 24 dwelling units per acre. Because the proposed project would not increase the population growth, and subsequent VMT, during project operation beyond that assumed in the General Plan, and by extension the AQP, it is reasonable to conclude that the proposed project would not adversely affect the implementation of the AQP. Moreover, as further discussed under Air Quality Impact(b) and Impact(c), the proposed project would not create a localized or contribute to a regional

² The United States Environmental Protection Agency (EPA) has established National Ambient Air Quality Standards (NAAQS) for six of the most common air pollutants—carbon monoxide, lead, ground-level ozone, particulate matter, nitrogen dioxide, and sulfur dioxide—known as “criteria” air pollutants (or simply “criteria pollutants”).

³ A greenhouse gas is any gaseous compound in the atmosphere that is capable of absorbing infrared radiation, thereby trapping and holding heat in the atmosphere. By increasing the heat in the atmosphere, greenhouse gases are responsible for the greenhouse effect, which ultimately leads to global warming.

violation of State or federal air quality standards. Therefore, the proposed project would be consistent with Criterion 1.

Criterion 2

The 2017 Clean Air Plan contains 85 control measures that describe specific actions to reduce air pollutants and GHGs at the local, regional, and global levels. Along with the traditional stationary, area, mobile source, and transportation control measures, the 2017 Clean Air Plan contains several control measures designed to protect the climate, promote mixed use, and compact development to reduce vehicle emissions and exposure to pollutants from stationary and mobile sources. The 2017 Clean Air Plan also includes an account of the implementation status of control measures identified in the 2010 Clean Air Plan.

Table 7 lists the relevant Clean Air Plan policies to the proposed project and evaluates the proposed project's consistency with the policies. As shown below, the proposed project would be consistent with applicable measures.

Table 7: Project Consistency with Applicable Clean Air Plan Control Measures

Control Measure	Project Consistency
Buildings Control Measures	
BL1: Green Buildings	Consistent. The proposed project would not conflict with the implementation of this measure. The proposed project would comply with the latest energy efficiency standards and incorporate applicable energy efficiency features designed to reduce project energy consumption.
BL4: Urban Heat Island Mitigation	Consistent. The proposed project would incorporate landscaping throughout the site. The proposed project would provide landscaping, including trees, shrubs, vines, and groundcover according to City standards that would reduce the urban heat island effect.
Energy Control Measures	
EN1: Decarbonize Electricity Generation	Consistent. The proposed project would not conflict with the implementation of this measure. The proposed project would comply with the latest energy efficiency standards such as the 2019 California Title 24 Energy Code, including Title 24, Part 6, Subchapter 8, which would require the proposed project to incorporate rooftop solar.

Control Measure	Project Consistency
EN2: Decrease Electricity Demand	Consistent. The proposed project would be required to conform to the California Building Standards Code's energy efficiency requirements, also known as Title 24, which was adopted to meet an Executive Order in the Green Building Initiative to improve the energy efficiency of buildings through aggressive standards. The 2019 Title 24 Standards are the current State building regulations, which went into effect on January 1, 2020. Proposed buildings that would receive building permits after January 1, 2020, would be subject to the 2019 Title 24 Standards, including the proposed project.
Natural and Working Lands Control Measures	
NW2: Urban Tree Planting	Consistent. The proposed project would incorporate landscaping throughout the site. The proposed project would provide trees according to City standards that would reduce the urban heat island effect.
WA3: Green Waste Diversion	Consistent. The proposed project's waste service provider will be required to meet the AB 341 and SB 939 and SB 1374 requirements that require waste service providers to divert green waste.
WA4: Recycling and Waste Reduction	Consistent. The proposed project's waste service provider will be required to meet the AB 341 and SB 939 and SB 1374 requirements that require waste to be recycled.
Stationary Control Measures	
SS36: Particulate Matter from Trackout	Consistent with Mitigation. Mitigation Measure Air-1 from the Midtown Milpitas Specific Plan requires that basic control measures be incorporated into construction contracts for projects in the Midtown area. As a result, mud and dirt that may be tracked out onto the nearby public roads during construction activities would need to be removed promptly by the contractor based on the Midtown Milpitas Specific Plan requirements.
SS37: Particulate Matter from Asphalt Operations	Consistent. Asphalt used during project construction would be subject to BAAQMD Regulation 8, Rule 15-Emulsified and Liquid Asphalts. Although this rule does not directly apply to the proposed project, it does limit the ROG content of asphalt available for use during construction by regulating the sale and use of asphalt. Using asphalt from facilities that meet BAAQMD regulations, the proposed project would be consistent with this Clean Air Plan measure.

Control Measure	Project Consistency
Transportation Control Measures	
TR9: Bicycle and Pedestrian Access and Facilities	Consistent. The proposed project would be pedestrian-accessible by providing a sidewalk from the existing face of curb, within the City's existing right-of-way. Therefore, the proposed project would not obstruct or conflict with the BAAQMD's effort to encourage planning for bicycle and pedestrian facilities.
Source: Bay Area Air Quality Management District (BAAQMD). 2017. Final 2017 Clean Air Plan. April 19. Website: https://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_-proposed-final-cap-vol-1-pdf.pdf?la=en . Accessed July 13, 2021.	

In summary, the proposed project would not conflict with any applicable measures under the 2017 Clean Air Plan after implementing *Basic Construction Mitigation Measures*, as required by Mitigation Measure Air-1 Mentioned in the Midtown Milpitas Specific Plan; therefore, the proposed project would be consistent with Criterion 2 after incorporation of mitigation.

Criterion 3

The proposed project would not preclude extension of a transit line or bike path, propose excessive parking beyond parking requirements, or otherwise create an impediment or disruption to implementing any AQP control measures. Table 7 illustrates that the proposed project would incorporate several AQP control measures as project design features, such as utilizing asphalt which would be compliant with BAAQMD regulations, complying with energy efficiency standards contained in the 2019 California Building Code, and installing landscaping across the project site. Considering this information, the proposed project would not disrupt or hinder the implementation of any AQP control measures. Therefore, the proposed project would be consistent with Criterion 3.

Summary

As addressed above, the proposed project would be consistent with all three criteria after incorporating *Basic Construction Mitigation Measures*, as required by Mitigation Measure Air-1. Thus, the proposed project would not conflict with the 2017 Clean Air Plan. Therefore, impacts associated with conflicting with or obstructing the 2017 Clean Air Plan's implementation would be less than significant with mitigation incorporated.

b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or State ambient air quality standard?

Less than significant impact. This impact is related to the cumulative effect of a project's criteria pollutant emissions. By its nature, air pollution is largely a cumulative impact resulting from emissions generated over a large geographic region. The nonattainment status of regional pollutants results from past and present development within the Air Basin, and this regional impact is a cumulative impact. Therefore, new development projects (such as the proposed project) within the Air Basin would

contribute to this impact only on a cumulative basis. No single project would be sufficient in size, by itself, to result in nonattainment of regional air quality standards. Instead, a project's emissions may be individually limited, but cumulatively considerable when evaluated in combination with past, present, and future development projects.

Potential impacts could result in exceedances of State or federal standards for nitrogen oxides (NO_x), particulate matter (PM₁₀ and PM_{2.5}), or carbon monoxide (CO). NO_x emissions are of concern because of potential health impacts from exposure to NO_x emissions during construction and operation and as a precursor in the formation of ground-level ozone. PM₁₀ and PM_{2.5} are of concern during construction because of the potential to emit exhaust emissions from the operation of off-road construction equipment and fugitive dust during earth-disturbing activities (construction fugitive dust). Particulate matter is also of concern during both construction and operation due to the operation of motor vehicles generating aerated brake particulates and aerated tire particulates from vehicle wear and tear. CO emissions are of concern during project operation because operational CO hotspots are related to increases in on-road vehicle congestion and their consequential health impacts.

ROG emissions are also important because of their participation in the formation of ground-level ozone. Ozone is a respiratory irritant and an oxidant that increases susceptibility to respiratory infections that can cause substantial damage to vegetation and other materials. Excessive ozone concentrations result in reduced lung function, particularly during vigorous physical activity. This health problem is particularly acute in sensitive receptors such as the sick, elderly, and young children.

The cumulative analysis focuses on whether a specific project would result in cumulatively considerable emissions. According to Section 15064(h)(4) of the CEQA Guidelines, the existence of significant cumulative impacts caused by other projects alone does not constitute substantial evidence that the project's incremental effects would be cumulatively considerable. Rather, the determination of cumulative air quality impacts for construction and operational emissions is based on whether that project would result in emissions that exceed the BAAQMD thresholds of significance for construction and operations on a project level. The thresholds of significance represent the allowable emissions each project can generate without generating a cumulatively considerable contribution to regional air quality impacts. Therefore, a project that would not exceed the BAAQMD thresholds of significance on a project level also would not be considered to result in a cumulatively considerable contribution to these regional air quality impacts. Construction and operational emissions are discussed separately below.

Construction Emissions

Construction Fugitive Dust

The BAAQMD bases the determination of significance for fugitive dust on considering the control measures to be implemented. If the appropriate emissions control measures are implemented for a project as recommended by the BAAQMD, then fugitive dust emissions during construction are not considered significant. The proposed project would implement the Midtown Milpitas Specific Plan's Mitigation Measure Air-1, which includes the following measures:

- a) Water all active construction areas twice daily and more often during windy periods. Active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives.
- b) Cover all trucks hauling soil, sand and other loose materials, or require all trucks to maintain at least two feet of freeboard.
- c) Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- d) Sweep daily all paved access roads, parking areas and staging areas at construction sites.
- e) Sweep streets daily if visible soil material is carried on to adjacent public streets.
- f) Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
- g) Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.)
- h) Limit traffic speeds on unpaved roads to 15 miles per hour.
- i) Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- j) Replant vegetation in disturbed areas as quickly as possible.
- k) Suspend excavation and grading activity whenever the wind is so high that it results in visible dust plumes despite control efforts.

With the incorporation of the above dust control measures, the proposed project would result in a less than significant impact related to short-term construction fugitive dust emissions.

Construction Air Pollutant Emissions: ROG, NO_x, Exhaust PM₁₀, and Exhaust PM_{2.5}

CalEEMod, Version 2020.4.0, was used to estimate the proposed project's construction emissions. CalEEMod provides a consistent platform for estimating construction and operational emissions from various land use projects and is the model recommended by the BAAQMD for estimating project emissions. Estimated construction emissions are compared with the applicable thresholds of significance established by the BAAQMD to assess ROG, NO_x, exhaust PM₁₀, and exhaust PM_{2.5} construction emissions to determine significance for this impact. The predominant activity which would generate ROG, NO_x, exhaust PM₁₀, and exhaust PM_{2.5} during project construction would be the operation of construction equipment and vehicles.

At the time of this analysis, the construction of the proposed project was anticipated to begin in Fall of 2023 and be completed 11 months later. If the construction schedule moves to later years, construction emissions would likely decrease because of improvements in technology and more stringent regulatory requirements.

Construction activities such as grading, excavation, and travel on unpaved surfaces would generate dust and lead to elevated concentrations of PM₁₀ and PM_{2.5}. According to the project applicant, approximately 3,430 cubic yards of soil is anticipated to be imported during grading activities. Table 8 presents

construction-period emissions that would result from the development of the proposed project, which considers implementation of Mitigation Measure Air-1.

Table 8: Construction Emissions

Construction Activity	Criteria Pollutant Emissions (tons)			
	ROG	NOX	PM10 (Exhaust)	PM2.5 (Exhaust)
Demolition	0.02	0.16	0.01	0.01
Site Preparation	<0.01	0.02	<0.01	<0.01
Grading	<0.01	0.07	<0.01	<0.01
Building Construction	0.20	1.51	0.06	0.06
Paving	0.01	0.04	<0.01	<0.01
Architectural Coating	0.85	0.01	<0.01	<0.01
Total Construction Emissions (tons)	1.07	1.82	0.07	0.07
BAAQMD Significance Thresholds (tons/year)	10	10	15	10
Significant Impact?	No	No	No	No
Average Daily Emissions				
Total Construction Emissions (lbs)	2,138.70	3,631.70	145.34	138.58
Average Daily Construction Emissions (lbs/day)	7.95	13.50	0.54	0.52
BAAQMD Significance Thresholds (lbs/day)	54	54	82	54
Significant Impact?	No	No	No	No
Notes: This analysis relies on a 269-day construction schedule, consistent with the construction schedule and modeling results contained in Attachment A. lbs = pounds ROG = reactive organic gases NO _x = nitrogen oxides PM ₁₀ = particulate matter, including dust, 10 micrometers or less in diameter PM _{2.5} = particulate matter, including dust, 2.5 micrometers or less in diameter BAAQMD = Bay Area Air Quality Management District Source: Attachment A.				

As shown in Table 8, emissions generated during project construction would not exceed BAAQMD significance thresholds. Therefore, construction emissions would be less than significant with the implementation of Mitigation Measure Air-1.

Operational Emissions

Operational Air Pollutant Emissions: ROG, NO_x, PM₁₀, and PM_{2.5}

Operational emissions would include area, energy, and mobile sources. Area sources would include emissions from architectural coatings, consumer products, and landscape equipment. Energy sources include emissions from the combustion of natural gas for water and space heating. Mobile sources include exhaust and road dust emissions from the vehicles that would travel to and from the project site. Pollutants of concern include ROG, NO_x, PM₁₀, and PM_{2.5} and are shown in Table 9. As previously mentioned, because the operative status of existing uses was unknown at the time this analysis was prepared, the emissions generated from operation of land uses currently on the project site were not quantified and considered when analyzing net emission generation from the proposed project. As such, this approach represents a conservative assessment of the proposed project's emissions generation.

Table 9: Operational Emissions

Emissions Source	Criteria Pollutant Emissions (Tons) ¹			
	ROG	NO _x	PM ₁₀ (Total)	PM _{2.5} (Total)
Area	0.56	<0.01	<0.01	<0.01
Energy	0.01	0.05	<0.01	<0.01
Mobile	0.11	0.12	0.25	0.07
Total (tons/year)	0.67	0.17	0.26	0.07
BAAQMD Significance Thresholds (tons/year)	10	10	15	10
Significant Impact?	No	No	No	No
Average Daily Operational Emissions (lbs/day)				
Total Emissions (tons)	0.67	0.17	0.26	0.07
Total Emissions (lbs)	1,349.80	338.76	510.44	147.24
Average Daily Emissions (lbs/day)	3.70	0.93	1.40	0.40
BAAQMD Significance Thresholds (lbs/day)	54	54	82	54
Project Exceeds Threshold?	No	No	No	No
Notes: lbs = pounds ROG = reactive organic gases NO _x = nitrogen oxides PM ₁₀ = particulate matter, including dust, 10 micrometers or less in diameter PM _{2.5} = particulate matter, including dust, 2.5 micrometers or less in diameter BAAQMD = Bay Area Air Quality Management District Source: Attachment A.				

Table 9 indicates that the proposed project would result in operational-related criteria air pollutants or ozone precursors which would not exceed the BAAQMD's thresholds of significance. Therefore, long-term operational impacts associated with criteria pollutant emissions generated by the proposed project would be less than significant.

Operational Carbon Monoxide Hotspot

The CO emissions from traffic generated by the proposed project are a concern at the local level because congested intersections can result in high, localized concentrations of CO (referred to as a CO hotspot).

The BAAQMD recommends a screening analysis to determine whether a project has the potential to contribute to a CO hotspot. The screening criteria identify when site-specific CO dispersion modeling is necessary. The proposed project would result in a less than significant impact to air quality for local CO if the following screening criteria are met:

1. The proposed project is consistent with an applicable congestion management program established by the county congestion management agency for designated roads or highways, regional transportation plan, and local congestion management agency plans; and
2. The project traffic would not increase traffic volumes at affected intersections to more than 44,000 vehicles per hour; and
3. The project traffic would not increase traffic volumes at affected intersections to more than 24,000 vehicles per hour where vertical and/or horizontal mixing is substantially limited (e.g., tunnel, parking garage, bridge underpass, natural or urban street canyon, below-grade roadway).

Based on the information provided in the Transportation Generation Study prepared by TKJM,⁴ the proposed project would generate an estimated 21 total AM peak-hour trips, 23 total PM peak-hour trips, and 259 daily vehicle trips. Fehr Peers in 2020 prepared a Draft Local Transportation Analysis Report for a land use development near the project site which forecasted cumulative 2040 traffic volumes for roadway segments and intersections around the project site.⁵ According to the Draft Local Transportation Analysis Report, the intersection of South Main Street and Montague Expressway would experience an estimated 8,134 vehicles during the AM peak-hour and 9,597 vehicles during the PM peak-hour under cumulative 2040 conditions. As the proposed project would introduce an estimated 21 vehicles to the AM peak-hour and 23 vehicles to the PM peak-hour, resulting in 8,155 AM peak-hour vehicles and 9,620 PM peak-hour vehicles under 2040 cumulative conditions including trips generated by the proposed project. Therefore, the new traffic volumes introduced by the proposed project would not result in any nearby intersection or roadway segment exceeding 44,000 vehicles per hour.

Nonetheless, CO hotspots can occur when a transportation facility's design or orientation prevents the adequate dispersion of CO emissions from vehicles, resulting in the accumulation of local CO concentrations. The design or orientation of a transportation facility that may prevent CO emissions

⁴ TKJM. 2022. Trip Generation Study for 612 South Main Street, Milpitas, California, April 2, 2022

⁵ Fehr Peers. 2020. Draft Local Transportation Analysis. Website: https://www.ci.milpitas.ca.gov/wp-content/uploads/2021/03/Appendix-G_Traffic-Data.pdf. Accessed May 25, 2022.

dispersion includes tunnels, parking garages, bridge underpasses, natural or urban canyons, below-grade roadways, or other features where vertical or horizontal atmospheric mixing is substantially limited. The adjacent roadways are not located in an area where vertical or horizontal atmospheric mixing is substantially limited.

In addition, as the proposed project would result in a net decrease in vehicle trips when compared with existing land uses if they were operable at the time of development, the proposed project would be considered consistent with the region's congestion management plan. Therefore, based on the above criteria, the proposed project would not exceed the CO screening criteria and would have a less than significant impact related to CO.

c) Expose sensitive receptors to substantial pollutant concentrations?

Less than significant impact. The BAAQMD defines sensitive receptors as the following: "Facilities or land uses that include members of the population that are particularly sensitive to the effects of air pollutants, such as children, the elderly, and people with illnesses. Examples include schools, hospitals, and residential areas."

Project Construction

As previously mentioned, the proposed project would involve the development of 57 townhomes on a 2.35-acre site. In addition, construction of the small-scale proposed project would be of short duration and does not involve extensive site preparation or soil hauling. The closest sensitive receptor to the project site, located approximately 370 feet west of the project site, was identified as Multi-Family Residential Very High Density per the City of Milpitas Zoning & Land Use Map.⁶ In addition, as shown in Table 8, emissions generated during project construction would be well below the BAAQMD's significance thresholds and are not anticipated to result in exposing receptors to substantial pollutant concentrations. Given the distance to closest sensitive receptor, the low intensity nature of proposed construction, and relatively small project site size, construction of the proposed project is not anticipated to result in a significant impact to nearby sensitive receptors.

Project Operation

Since the proposed project is a small residential development. As shown in Table 9, operational emissions would primarily be attributed to gasoline powered passenger vehicles, and overall operational emissions generated by the proposed project would be well below the BAAQMD's significance thresholds. As described in the Trip Generation Study, the proposed project is expected to generate 259 daily vehicle trips.⁷ The proposed project would primarily generate trips from a mix of residents and employees traveling to and from the project site, which would primarily consist of passenger vehicles. Because nearly all passenger vehicles are gasoline-fueled, the proposed project would not generate a significant amount of diesel particulate matter (DPM) emissions during operation; however, gasoline-

⁶ City of Milpitas. 2021. Zoning & Land Use Map. Website: <https://milpitas.maps.arcgis.com/apps/webappviewer/index.html?id=89ef3a70704844d18fd61f6e49b26715>. Accessed April 15, 2022

⁷ TKJM. 2022. Trip Generation Study for 612 South Main Street, Milpitas, California, April 2, 2022

fueled vehicles would still emit relatively small amounts of gasoline TACs such as benzene, isopentane, and toluene during project operation. Nonetheless, the potential cancer risks associated with non-diesel TACs emitted from gasoline vehicles in the San Francisco Bay Air Basin are substantially less than the potential cancer risks associated with DPM emissions⁸ and are therefore not included in this analysis. Furthermore, these emissions would be dispersed throughout the local roadway network and would not solely be generated at the project site.

As discussed above under Air Quality Impact (b), the intersection to receive project-generated traffic that would experience the greatest traffic volumes would be the intersection of South Main Street and Montague Expressway with an estimated 9,597 vehicle trips during the PM peak-hour. This level of peak-hour vehicle trips would not substantially add to nearby intersection traffic volumes causing an exceedance in the BAAQMD screening thresholds of 44,000 vehicles per hour or 24,000 vehicles per hour through an intersection with limited vertical and/or horizontal mixing. Therefore, the proposed project is not reasonably expected to exceed the BAAQMD's CO screening criteria and would have a less than significant impact related to localized CO hotspots. Therefore, the proposed project would not result in significant health impacts to nearby sensitive receptors during operation.

d) Would the project result in other emissions (such as those leading to odors or) adversely affecting a substantial number of people?

As stated in the BAAQMD 2017 Air Quality Guidelines, odors are generally regarded as an annoyance rather than a health hazard. The ability to detect odors varies considerably among the populations and is subjective. The BAAQMD does not have a recommended odor threshold for construction activities. However, the BAAQMD recommends operational screening criteria based on the distance between receptors and types of sources known to generate odors.

The type of uses that are considered to have objectionable odors include wastewater treatments plants, compost facilities, landfills, solid waste transfer stations, fiberglass manufacturing facilities, paint/coating operations (e.g., auto body shops), dairy farms, petroleum refineries, asphalt batch plants, chemical manufacturing, and food manufacturing facilities. One such facility was identified within the applicable odor screening distances, a meat processing center. Nonetheless, public records retrieved from the BAAQMD show that no odor complaints were filed for these locations between January 1, 2018, and the time at which this analysis was prepared. Moreover, as the proposed project is a residential project, it is not anticipated to generate objectionable odors that may affect nearby sensitive receptors, the closest of which is a multi-family residential development located approximately 370 feet west of the project site. Therefore, this impact would be less than significant.

Recommended Mitigation

None.

⁸ California Air Resources Board (ARB). 2008. Health Risk Assessment for the Union Pacific Railroad Oakland Railyard. Website: https://ww2.arb.ca.gov/sites/default/files/classic/railyard/hra/up_oak_hra.pdf?_ga=2.229617876.913681903.1594937953-503090677.1594937953. Accessed May 25, 2022.

GREENHOUSE GAS EMISSIONS IMPACT ANALYSIS

According to the CEQA Guidelines Appendix G Environmental Checklist, to determine whether impacts to GHG emissions are significant environmental effects, the following questions are analyzed and evaluated.

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.

Would the project:

- a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?
- b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

The above questions are analyzed and evaluated below.

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

Both construction and operational activities have the potential to generate GHG emissions. The proposed project would generate GHG emissions during temporary (short-term) construction activities such as demolition, site preparation, grading, building construction, paving, and architectural coating activities; running of construction equipment engines including movement of on-site heavy-duty construction vehicles; hauling materials to and from the project site; asphalt paving; coating, and construction worker motor vehicle trips.

Long-term, operational GHG emissions would result from project-generated vehicular traffic, on-site combustion of natural gas, operation of any landscaping equipment, off-site generation of electrical power over the life of the project, the energy required to convey water to and wastewater from the project site, and the emissions associated with the hauling and disposal of solid waste from the project site.

The 2017 BAAQMD Thresholds contain the following for GHGs:

For land use development projects (including residential, commercial, industrial, and public land uses and facilities), the threshold is compliance with a qualified GHG Reduction Strategy; or annual emissions less than 1,100 metric tons per year of carbon dioxide equivalent (CO₂e); or 4.6 metric tons CO₂e/service population/year (residents + employees).

As such, to determine significance for GHG Impact(a), the proposed project's GHG emissions are assessed against the following thresholds: 1,100 metric tons (MT) CO₂e/year for the first operational year.

Construction Emissions

The proposed project would emit GHG emissions during construction from the use of off-road construction equipment, worker vehicles, vendor trucks, and haul trucks. Attachment A includes detailed construction assumptions used in estimating the construction GHG emissions. The BAAQMD does not presently provide a construction GHG generation threshold but recommends that construction GHG emissions be quantified and disclosed. Table 10 presents the total GHG emissions generated during all construction activities.

Table 10: Construction Greenhouse Gas Emissions

Construction Activity	Construction
	MT CO ₂ e ¹
Demolition	31
Site Preparation	3
Grading	19
Building Construction	312
Paving	8
Architectural Coating	2
Total	375
Amortized Over 30 Years	13
Notes: MT CO ₂ e = metric tons of carbon dioxide equivalent ¹ Construction GHG emissions are amortized over the 30-year lifetime of the project. Source: CalEEMod Output (Attachment A).	

As shown in Table 10, the proposed project's construction is estimated to generate approximately 375 MT CO₂e over the entire duration of project construction. As discussed above, neither the City of Milpitas nor BAAQMD has an adopted threshold of significance for construction GHG emissions. Because construction would be temporary and would not result in a permanent increase in emissions, construction of the proposed project would not interfere with the implementation of AB 32 or SB 32. Nonetheless, to account for potential impacts related to construction, the total project construction GHG emissions were amortized over an assumed 30-year project life and added to the operational emissions to determine the total emissions from the project. As presented in Table 10, project construction emissions were estimated to be 375 MT CO₂e for the entire construction duration. When amortized over 30 years, construction emissions equal 13 MT CO₂e per year.

Operational Emissions

Operational or long-term emissions occur over the life of a project. The major sources for operational GHG emissions include:

Motor Vehicles

These emissions refer to GHG emissions contained in the exhaust from the cars and trucks that would travel to and from the project site. Vehicle trips associated with project operations would primarily include residents and visitors traveling to and from the project site. Trip generation rates used in estimating mobile source emissions were consistent with those presented in the Transportation Analysis Report prepared for the proposed project by TJKM.⁹

Natural Gas

These emissions refer to the GHG emissions that occur when natural gas is burned on the project site.

Indirect Electricity

These emissions refer to those generated by off-site power plants to supply the electricity required for the proposed project. The proposed project would be required to incorporate rooftop solar; however, according to the calculations presented in Title 24, Part 6, Subchapter 8 of the 2019 California Building Code and contained in Attachment A of this analysis, the required solar system would not satisfy 100 percent of the proposed project's electricity demand. Both Pacific Gas and Electric Company (PG&E) and Silicon Valley Clean Energy are potential electricity suppliers to the proposed project for the electricity that is not covered by the required solar system. PG&E was chosen as the utility providing electricity and natural gas service to the proposed project for a conservative assessment. GHG emissions from energy consumption were calculated using PG&E's energy intensity factors for CO₂, N₂O, and CH₄.

Water Transport

These emissions refer to those generated by the electricity required to transport and treat the water to be used on the project site.

Waste

These emissions refer to the GHG emissions produced by decomposing waste generated by the project.

Attachment A provides a more detailed description of the assumptions used to estimate project-generated GHG emissions as well as detailed modeling results. Table 11 shows the operational GHG emissions by source including the amortized construction emissions.

The estimated total annual project emissions, including operational emissions and amortized construction emissions, were compared with the bright-line threshold of 1,100 MT CO₂e/year to determine significance at project buildout assumed for the year 2022. As previously discussed, because the operative status of existing uses was unknown at the time this analysis was prepared, the emissions generated from operation of land uses currently on the project site were not quantified and considered

⁹ TJKM. April 2, 2022. Trip Generation Study for 612 South Main Street, Milpitas, California.

when analyzing net emission generation from the proposed project. In addition, should project construction and the commencement of operation move to later years, emissions are likely to be less than what is disclosed here as a result of increasingly stringent requirements for emission control technology and vehicle and equipment fuel efficiency. As such, this approach represents a conservative assessment of the proposed project's emissions generation.

Table 11: Operational Greenhouse Gas Emissions

Emissions Source	Year 2022
	(MT CO ₂ e/Year)
Area	1
Energy	67
Mobile	208
Waste	8
Water	7
Total Operational Emissions	291
Amortized Construction Emissions	13
Total Project Emissions	304
Significance Threshold (MT CO₂e/year)	1,100
Exceeds Threshold?	No
Notes: MT CO ₂ e = metric tons of carbon dioxide equivalent ¹ Construction GHG emissions are amortized over the 30-year lifetime of the project. Source: CalEEMod Output (Attachment A).	

As shown in Table 11, the proposed project's combined long-term net operational emissions and amortized construction emissions would not exceed the BAAQMD recommended thresholds for GHG emissions. Since total emissions do not exceed BAAQMD thresholds, this analysis would not include baseline emissions from existing land uses as a conservative approach. Therefore, the proposed project's generation of GHG emissions would not significantly impact the environment.

b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

Less than significant impact. The Milpitas CAP was adopted on May 7, 2013. The CAP contains goals and policies that serve as actions to reduce GHG emissions.¹⁰ Project consistency with the Milpitas CAP is provided in Table 12. Significance for this impact is determined by project compliance with the City's CAP, and project consistency with the ARB 2017 Climate Change Scoping Plan Update. Goals and

¹⁰ City of Milpitas. 2013. Climate Action Plan. Adopted 2013. Website: https://www.ci.milpitas.ca.gov/_pdfs/Climate_ActionPlan.pdf. Accessed November 10, 2021.

policies of the City's CAP which apply to the proposed project are listed below. A project consistency analysis with the ARB 2017 Scoping Plan Update is provided in Table 13.

Table 12: City of Milpitas Climate Action Plan

2013 Climate Action Plan	Project Consistency
Measure 5.1: Increased Densities	Consistent. This residential project is located in the Milpitas Midtown Specific Plan. The proposed project is a combination of one 5-plex, two 8-plex, and six 6-plex dense 3-story townhomes in the Transit Area Specific Plan. Therefore, the proposed project would not require mixed use.
Measure 5.2: Urban Plazas	Consistent. This residential project is located in the Midtown Milpitas Specific Plan which includes mixed uses within the area.
Measure 6.1: Transit Density	Consistent. The proposed project are 3-story townhomes that are high in density and is located 1.1 miles from the nearest BART station.
Measure 12.1: Lawn And Garden	Consistent. New proposed buildings have access to exterior electrical outlets to charge electric powered lawn and garden equipment.
Sources: ¹ Midtown Specific Plan. 2010. Figure 1.1: Aerial View of Midtown Milpitas. https://www.ci.milpitas.ca.gov/_pdfs/plan_plan_midtown.pdf . Accessed April 15, 2022 ² City of Milpitas. Milpitas Specific Plan. Adopted 2002. Updated 2010. Website: https://www.ci.milpitas.ca.gov/_pdfs/plan_plan_midtown.pdf . Accessed April 15, 2022.	

As shown above, the proposed project would be consistent with the applicable policies and measures contained in the City's CAP. The proposed project is also evaluated below for its consistency with the ARB-adopted 2017 Climate Change Scoping Plan Update. The 2017 Climate Change Scoping Plan Update addressing the SB 32 targets was adopted on December 14, 2017.¹¹ Table 13 provides an analysis of the project's consistency with the 2017 Scoping Plan Update measures. As shown therein, none of the measures apply to the proposed project.

Table 13: Consistency with SB 32 2017 Scoping Plan Update

2017 Scoping Plan Update Reduction Measure	Project Consistency
SB 350: 50 Percent Renewable Mandate. Utilities subject to the legislation will be required to increase their renewable energy mix from 33 percent in 2020 to 50 percent in 2030.	Not applicable. This measure would apply to utilities and not to individual development projects. The proposed project would, however, purchase electricity from a utility provider subject to the SB 350 and SB 100 RPS requirements for any operational electricity demand that is not satisfied with the required solar system.

¹¹ California Air Resource Board (ARB). 2017. California's 2017 Climate Change Scoping Plan. November. Website: https://ww3.arb.ca.gov/cc/scopingplan/scoping_plan_2017.pdf. Accessed April 15, 2022.

2017 Scoping Plan Update Reduction Measure	Project Consistency
SB 350: Double Building Energy Efficiency by 2030. This is equivalent to a 20 percent reduction from 2014 building energy usage compared to current projected 2030 levels.	Not applicable. This measure applies to existing buildings. The proposed project would involve new development and remodeling that would meet the latest applicable building code standards.
Low Carbon Fuel Standard. This measure requires fuel providers to meet an 18 percent reduction in carbon content by 2030.	Not applicable. This is a Statewide measure that cannot be implemented by a project applicant or lead agency. However, vehicles accessing the proposed building at the project site would benefit from the standards.
Mobile Source Strategy (Cleaner Technology and Fuels Scenario). Vehicle manufacturers will be required to meet existing regulations mandated by the LEV III and Heavy-Duty Vehicle programs. The strategy includes a goal of having 4.2 million Zero Emission Vehicles (ZEVs) on the road by 2030 and increasing numbers of ZEV trucks and buses.	Not applicable. This measure is not applicable to the proposed project; however, vehicles accessing the building at the project site would benefit from the increased availability of cleaner technology and fuels.
Sustainable Freight Action Plan. The plan's target is to improve freight system efficiency 25 percent by increasing the value of goods and services produced from the freight sector, relative to the amount of carbon that it produces by 2030. This would be achieved by deploying over 100,000 freight vehicles and equipment capable of zero emission operation and maximize near-zero emission freight vehicles and equipment powered by renewable energy by 2030.	Not applicable. The proposed project is a residential development that would not support freight operations.
Short-lived Climate Pollutant (SLCP) Reduction Strategy. The strategy requires the reduction of SLCPs by 40 percent from 2013 levels by 2030 and the reduction of black carbon by 50 percent from 2013 levels by 2030.	Not applicable. The proposed project would not include major sources of black carbon. In compliance with BAAQMD Regulation 6, Rule 3, ¹ the proposed project would not include installing any woodstoves or fireplaces.
SB 375 Sustainable Communities Strategies. Requires Regional Transportation Plans to include a Sustainable Communities Strategy for reduction of per capita Vehicle Miles Traveled (VMT).	Not applicable. The proposed project does not include the development of a Regional Transportation Plan.
Post-2020 Cap-and-Trade Program. The Post 2020 Cap-and-Trade Program continues the existing program for another 10 years. The Cap-and-Trade Program applies to large industrial sources such as power plants, refineries, and cement manufacturers.	Not applicable. The proposed project is not one targeted by the cap-and-trade system regulations, and, therefore, this measure does not apply to the project.
Natural and Working Lands Action Plan. The ARB is working in coordination with several other agencies at the federal, State, and local levels, stakeholders, and with the public, to develop measures as outlined in the Scoping Plan Update and the governor's Executive Order B-30-15 to reduce GHG emissions and to cultivate net carbon sequestration potential for California's natural and working land.	Not applicable. The proposed project is in a built-up urban area and would not be considered natural or working lands.
Source: ¹ Bay Area Air Quality Management District (BAAQMD). 2015. Regulation 6 Particulate Matter and Visible Emissions, Rule 3 Wood Burning Devices. October 21. Website: http://www.baaqmd.gov/~media/dotgov/files/rules/reg-6-rule-3-woodburning-devices/documents/rg0603.pdf?la=en. Accessed April 15, 2022. Source of Measures: California Air Resource Board (ARB). 2017. California's 2017 Climate Change Scoping Plan. November. Website: https://ww3.arb.ca.gov/cc/scopingplan/scoping_plan_2017.pdf. Accessed April 15, 2022.	

Summary

As presented in Table 13, the proposed project is consistent with the ARB's 2017 Scoping Plan Update. Additionally, as previously discussed, the proposed project would be consistent with the applicable policies of the City's CAP and SB 32 Scoping Plan. Considering this information, the proposed project would not conflict with any applicable plan, policy, or regulation of an agency adopted to reduce the emissions of GHGs.

Recommended Mitigation

None.

CONCLUSION

Based on the project understanding described above, the proposed project would result in less than significant impacts to air quality after incorporation of Milpitas Midtown Specific Plan Mitigation Measure Air-1.

The analysis further determined that the proposed project would not generate criteria pollutant, TAC, or GHG emissions, either directly or indirectly, that may have a significant impact on the environment or surrounding receptors; nor would the proposed project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing GHG emissions.

Thank you for the opportunity to conduct an air quality, GHG emissions, and energy impacts analysis. Please feel free to contact Phil Ault (559.930.6191 or pault@fcs-intl.com) or Lance Park (805.535.5412 or lpark@fcs-intl.com) should you have any questions.

Sincerely,



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Attachment A: Air Quality Modeling Results and Supporting Calculations
Attachment B: Transportation Generation Analysis

Attachment A: **Air Quality Modeling Results and Supporting Calculations**

Attachment A: Air Quality Supporting Information and Modeling Results

Table of Contents

Demolition Calculations.....	1
Vehicle Trip Generation Adjustments	2
Project Construction AQ Emissions	3
Project Operational AQ Emissions	4
Project GHG Emissions.....	5
CalEEMod Modeling Notes	6
CalEEMod Modeling Annual Output	8

Demolition Debris Calculations

Parameters ¹			
1	building sf	10	cf building volume
1	cf building volume	0.25	cf waste volume
1	cf	0.037	cy
1	cy waste volume	0.5	ton waste weight
1	sf	0.04625	ton waste material

Existing	Description	square feet ²	height/ depth (ft) ³	density (lbs/cf) ⁴	Demolition Weight (pounds)	Demolition Weight (tons)
Building gsf	Buildings	29,000				1,341.25
Hardscape	Pavement	41,278	0.5	150	3,095,850	1,547.93
Totals					3,095,850	2,889

Notes:

cy = cubic yard

gsf = gross square feet

sf = square feet

cf = cubic feet

¹ Source: California Air Pollution Control Officers Association (CAPCOA). 2017. Appendix A Calculation Details for CalEEMod. October.

² Source: Aerial imagery retrieved from GoogleEarth.

³ Source: DC Construction Services. 2017. How Thick Is Parking Lot Asphalt? Website: <https://dccpaving.com/how-thick-is-parking-lot-asphalt/>. Accessed December 21, 2021.

⁴ Source: SFGate. 2019. How to Calculate Asphalt Weight Per Yard. Website: <https://homeguides.sfgate.com/calculate-asphalt-weight-per-yard-81825.html>. Accessed December 21, 2021.

Operational Vehicle Trip Generation Rate Adjustments

Trip-Generating CalEEMod Land Use	Size Metric	Size	Default Trip Generation Rates ¹			Adjusted Trip Generation Rates (Based on proportional change to weekday trips)		
			Weekday	Saturday	Sunday	Weekday	Saturday	Sunday
City Park	Acre	0.57	0.78	1.96	2.19	0.00	0.00	0.00
Condo/Townhouse	Dwelling Unit	57	7.32	8.14	6.28	4.54	5.05	3.89
Parking Lot	Space	124	0	0	0	0.00	0.00	0.00

Notes/Sources:

¹ California Air Pollution Control Officers Association (CAPCOA). 2021. California Emissions Estimator Model (CalEEMod), Version 2020.4.0.

Project Construction Emissions

File Name: TTLCL Milpitas Project - Santa Clara County, Annual
 Timestamp: Date: 05/24/22 10:00 AM

Construction Emissions (tons)

	ROG	NO _x	PM ₁₀ (Exhaust)	PM _{2.5} (Exhaust)
on site	0.01	0.14	0.01	0.01
off site	0.00	0.02	0.00	0.00
Demolition	0.02	0.16	0.01	0.01
on site	0.00	0.02	0.00	0.00
off site	0.00	0.00	-	-
Site Preparation	0.00	0.02	0.00	0.00
on site	0.00	0.04	0.00	0.00
off site	0.00	0.03	0.00	0.00
Grading	0.00	0.07	0.00	0.00
on site	0.18	1.42	0.06	0.06
off site	0.02	0.10	0.00	0.00
Building Construction	0.20	1.51	0.06	0.06
on site	0.01	0.04	0.00	0.00
off site	0.00	0.00	-	-
Paving	0.01	0.04	0.00	0.00
on site	0.85	0.01	0.00	0.00
off site	0.00	0.00	-	-
Architectural Coating	0.85	0.01	0.00	0.00
On Site	1.05	1.67	0.07	0.07
Off Site	0.02	0.14	0.00	0.00

Note: Values above which represent true zeros are represented with "-" while values that are less than 0.005 are automatically rounded down to "0.00."

Average Daily Construction Emissions (lbs/day)

	ROG	NO _x	PM ₁₀ (Exhaust)	PM _{2.5} (Exhaust)
Total Emissions (tons)	1.07	1.82	0.07	0.07
Total Emissions (lbs)	2,138.70	3,631.70	145.34	138.58
Average Daily Emissions (lbs/day)	7.95	13.50	0.54	0.52

Construction Phase	Workdays
Demolition	20
Site Preparation	3
Grading	6
Building Construction	220
Paving	10
Architectural Coating	10
Total Nonoverlapping Workdays	269

Project Operational Emissions

File Name: TTLC Milpitas Project - Santa Clara County, Annual

Timestamp: Date: 05/24/22 10:00 AM

Emissions Source	ROG	NO _x	PM ₁₀ (Total)	PM _{2.5} (Total)
	Tons per Year			
Area	0.56	0.00	0.00	0.00
Energy	0.01	0.05	0.00	0.00
Mobile	0.11	0.12	0.25	0.07
Waste	-	-	-	-
Water	-	-	-	-
Total	0.67	0.17	0.26	0.07
BAAQMD Significance Thresholds	10	10	15	10
Exceeds Threshold?	No	No	No	No

Note: All zeros displayed in the above table represent emission values which are below 0.005 tons per year and have subsequently rounded down. All true zero values are represented with "-".

Average Daily Operational Emissions (lbs/day)

Emissions/Thresholds	ROG	NO _x	PM ₁₀ (Total)	PM _{2.5} (Total)
Total Emissions (tons)	0.67	0.17	0.26	0.07
Total Emissions (lbs)	1,349.80	338.76	510.44	147.24
Average Daily Emissions (lbs/day)	3.70	0.93	1.40	0.40
BAAQMD Significance Thresholds	54	54	82	54
Project Exceeds Threshold?	No	No	No	No

Project Operational GHG Emissions

Construction GHG Emissions

File Name: TTLC Milpitas Project - Santa Clara County, Annual

Timestamp: Date: 05/24/22 10:00 AM

Emissions Source	Construction MT CO ₂ e
Demolition	31
Site Preparation	3
Grading	19
Building Construction	312
Paving	8
Architectural Coating	2
Total	375
Amortized Over 30 Years	13

Operational GHG Emissions

File Name: TTLC Milpitas Project - Santa Clara County, Annual

Timestamp: Date: 05/24/22 10:00 AM

Emissions Source	Year 2022 (MT CO ₂ e/Year)
Area	1
Energy	67
Mobile	208
Waste	8
Water	7
Total Operational Emissions	291
Amortized Construction Emissions	13
Total Project Emissions	304
Significance Threshold (MT CO₂e/year)	1,100
Exceeds Threshold?	No

Note: Consistent with BAAQMD guidance, the GHG emission estimates shown above discount

5647.0001 TTLC Milpitas Main St CalEEMod Notes

- Note 1 Land uses and sizes associated with development of the proposed project are drawn the SDG Architects, Inc. Architectural Site Plans for South Main Street Milpitas, dated April 8, 2022. Land uses in the model represent the following:
- Residential > Condo/Townhouse High Rise > 118,846 sqft = Proposed 57 attached townhomes. Total building footprint was identified as 38,782 square feet.
- Recreational > City Park > 0.57 acre = Designated open space and landscaping.
- Parking > Parking Lot > 124 spaces = Parking and other paved surfaces. Area assumed to be the balance of the 2.35-acre project site after accounting for all other uses.
- Note 2 According to information provided by the Applicant on October 2, 2021, approximately 3,430 cubic yards of fill material would be imported during grading activities.
- Note 3 Square footage of existing building and hardscape were provided by the Applicant. The existing buildings and hardscape include approximately 29,000 square feet of building space for the Montessori School structure and 41,278 square feet of pavement. Therefore, an estimated 2,889 tons of building and pavement debris would be removed during demolition activities. Please see the demolition calculations contained in Attachment A for more information.
- Note 4 According to the BAAQMD's Regulation 6, Rule 3, new residential developments are prohibited from installing wood-burning stoves and fireplaces. As a result, the model was adjusted to remove the inclusion of wood-burning devices.
- Note 5 Mitigation Measure Air-1 of the Midtown Specific Plan EIR requires the implementation of various dust control measures. Therefore, BAAQMD *Basic Construction Mitigation Measures Recommended For All Proposed Projects* was applied to this project, which includes watering exposed areas at minimum twice per day and limiting construction vehicle speeds to 15 miles per hour on unpaved roads.
- Note 6 According to project information provided by the project applicant, each dwelling unit would include solar panel electricity generation in compliance with the California Building Code. According to the California Code of Regulations, Title 24, Part 6, Subchapter 8 – Low-Rise Residential Building – Performance and Prescriptive Compliance Approaches, “[a]ll low-rise residential buildings shall have a photovoltaic (PV) system meeting the minimum qualification requirements as specified in Joint Appendix JA11, with annual electrical output equal or greater than the dwelling’s annual electrical usage as determined by Equation 150.1-C.”¹

¹ California Code of Regulations, Title 24, Part 6, Subchapter 8. “Low-Rise Residential Buildings”. Website: <https://codes.iccsafe.org/content/CAEC2019/subchapter-8-low-rise-residential-buildings-performance-and-prescriptive-compliance-approaches>

Equation 150.1-C Annual Photovoltaic Electrical Output

$$\text{kWPV} = (\text{CFA} \times \text{A}) / 1,000 + (\text{NDwell} \times \text{B})$$

Where:

kWPV = kWdc size of the PV system

CFA = conditioned floor area

NDwell = number of dwelling units

A = Adjustment factor from Table 150.1-C

B = Dwelling adjustment factor from Table 150.1-C

As the project is located in climate zone 4, the A adjustment factor mentioned above is identified as 0.586 and the B adjustment factor mentioned above is identified as 1.21. The conditioned floor area is based on the building square footage.

Therefore:

$$\text{kWPV} = (118,846 \times 0.586) / 1,000 + (57 \times 1.21) = 153.24$$

While this accounts for the entire project's kW PV system, it does not provide the annual production rate that would be generated by this size of system. Therefore, the total kW PV system was reduced to a per-dwelling-unit kW PV system to determine the expected annual production rate. 153.24 kW PV divided by 57 dwelling units results in an average 2.69 kW PV system per dwelling unit.

According to TheEcoExperts.com², a 2 kW PV system has an average annual production rate of 1,750 kWh/year. The below equation proportionally applies the same average annual production rate to the calculated 2.69 kW system per each dwelling unit.

$$(2.69/2) \times 1,750 \text{ kWh/year} = 2,352 \text{ kWh/year}$$

Therefore, the proposed project is expected to result in an average on-site electricity generation rate of 2,352 kWh per dwelling unit per year. As such, after multiplying by 57 dwelling units, the proposed project would generate an estimated 134,084 kWh annually.

Note 7 TJKM prepared a Trip Generation Study (Attachment B) for the proposed project that analyzes the trip generation rates for the proposed project. As disclosed therein, the proposed project would result in an average 4.54 vehicle trips per day per dwelling unit. As such, the model was adjusted to account for this trip generation rate and adjusted the Saturday and Sunday trip generation rates consistent with the same proportional change experienced during the weekday generation rate adjustments.

² TheEcoExperts. 2016. "Solar Panel Output." Website: <http://www.theecoexperts.com/solar-panel-output/>. Accessed June 9, 2021.

TTLc Milpitas Project - Santa Clara County, Annual

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

TTLc Milpitas Project
Santa Clara County, Annual

1.0 Project Characteristics

1.1 Land Usage

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
Parking Lot	124.00	Space	0.89	38,725.00	0
City Park	0.57	Acre	0.57	24,859.00	0
Condo/Townhouse	57.00	Dwelling Unit	0.89	118,846.00	163

1.2 Other Project Characteristics

Urbanization	Urban	Wind Speed (m/s)	2.2	Precipitation Freq (Days)	58
Climate Zone	4			Operational Year	2024
Utility Company	Pacific Gas and Electric Company				
CO2 Intensity (lb/MW hr)	203.98	CH4 Intensity (lb/MW hr)	0.033	N2O Intensity (lb/MW hr)	0.004

1.3 User Entered Comments & Non-Default Data

- Project Characteristics -
- Land Use - CalEEMod Note 1
- Demolition - CalEEMod Note 3
- Grading - CalEEMod Note 2
- Vehicle Trips - CalEEMod Note 7
- Woodstoves - CalEEMod Note 4
- Construction Off-road Equipment Mitigation - CalEEMod Note 5
- Energy Mitigation - CalEEMod Note 6

TTLC Milpitas Project - Santa Clara County, Annual

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

Table Name	Column Name	Default Value	New Value
tblConstDustMitigation	WaterUnpavedRoadVehicleSpeed	0	15
tblFireplaces	FireplaceDayYear	11.14	0.00
tblFireplaces	FireplaceHourDay	3.50	0.00
tblFireplaces	FireplaceWoodMass	228.80	0.00
tblGrading	MaterialImported	0.00	3,430.00
tblLandUse	LandUseSquareFeet	49,600.00	38,725.00
tblLandUse	LandUseSquareFeet	24,829.20	24,859.00
tblLandUse	LandUseSquareFeet	57,000.00	118,846.00
tblLandUse	LotAcreage	1.12	0.89
tblLandUse	LotAcreage	3.56	0.89
tblVehicleTrips	DV_TP	11.00	0.00
tblVehicleTrips	PB_TP	3.00	0.00
tblVehicleTrips	PR_TP	86.00	100.00
tblVehicleTrips	ST_TR	1.96	0.00
tblVehicleTrips	ST_TR	8.14	5.05
tblVehicleTrips	SU_TR	2.19	0.00
tblVehicleTrips	SU_TR	6.28	3.89
tblVehicleTrips	WD_TR	0.78	0.00
tblVehicleTrips	WD_TR	7.32	4.54
tblWoodstoves	WoodstoveDayYear	14.12	0.00
tblWoodstoves	WoodstoveWoodMass	582.40	0.00

TTLIC Milpitas Project - Santa Clara County, Annual

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

2.0 Emissions Summary**2.1 Overall Construction****Unmitigated Construction**

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	tons/yr										MT/yr					
2023	0.0371	0.3729	0.3182	8.3000e-004	0.0674	0.0148	0.0821	0.0187	0.0139	0.0326	0.0000	74.8018	74.8018	0.0122	3.9100e-003	76.2726
2024	1.0323	1.4429	1.6772	3.4600e-003	0.0676	0.0579	0.1255	0.0182	0.0554	0.0736	0.0000	296.2603	296.2603	0.0438	6.0900e-003	299.1715
Maximum	1.0323	1.4429	1.6772	3.4600e-003	0.0676	0.0579	0.1255	0.0187	0.0554	0.0736	0.0000	296.2603	296.2603	0.0438	6.0900e-003	299.1715

Mitigated Construction

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Year	tons/yr										MT/yr					
2023	0.0371	0.3729	0.3182	8.3000e-004	0.0373	0.0148	0.0520	0.0103	0.0139	0.0242	0.0000	74.8017	74.8017	0.0122	3.9100e-003	76.2725
2024	1.0323	1.4429	1.6772	3.4600e-003	0.0676	0.0579	0.1255	0.0182	0.0554	0.0736	0.0000	296.2600	296.2600	0.0438	6.0900e-003	299.1712
Maximum	1.0323	1.4429	1.6772	3.4600e-003	0.0676	0.0579	0.1255	0.0182	0.0554	0.0736	0.0000	296.2600	296.2600	0.0438	6.0900e-003	299.1712

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	22.31	0.00	14.50	22.70	0.00	7.89	0.00	0.00	0.00	0.00	0.00	0.00

Quarter	Start Date	End Date	Maximum Unmitigated ROG + NOX (tons/quarter)	Maximum Mitigated ROG + NOX (tons/quarter)
1	10-30-2023	1-29-2024	0.5692	0.5692
2	1-30-2024	4-29-2024	0.5031	0.5031
3	4-30-2024	7-29-2024	0.5016	0.5016
4	7-30-2024	9-30-2024	0.3472	0.3472
		Highest	0.5692	0.5692

TTLIC Milpitas Project - Santa Clara County, Annual

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

2.2 Overall Operational

Unmitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Area	0.5642	4.8800e-003	0.4242	2.0000e-005		2.3500e-003	2.3500e-003		2.3500e-003	2.3500e-003	0.0000	0.6936	0.6936	6.7000e-004	0.0000	0.7103
Energy	5.3000e-003	0.0453	0.0193	2.9000e-004		3.6700e-003	3.6700e-003		3.6700e-003	3.6700e-003	0.0000	79.3234	79.3234	5.3500e-003	1.4900e-003	79.9006
Mobile	0.1054	0.1192	1.0359	2.2300e-003	0.2477	1.5700e-003	0.2492	0.0661	1.4600e-003	0.0676	0.0000	205.3370	205.3370	0.0126	9.4300e-003	208.4630
Waste						0.0000	0.0000		0.0000	0.0000	5.3326	0.0000	5.3326	0.3152	0.0000	13.2112
Water						0.0000	0.0000		0.0000	0.0000	1.1782	2.8374	4.0156	0.1215	2.9100e-003	7.9205
Total	0.6749	0.1695	1.4794	2.5400e-003	0.2477	7.5900e-003	0.2552	0.0661	7.4800e-003	0.0736	6.5108	288.1914	294.7022	0.4553	0.0138	310.2057

Mitigated Operational

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Area	0.5642	4.8800e-003	0.4242	2.0000e-005		2.3500e-003	2.3500e-003		2.3500e-003	2.3500e-003	0.0000	0.6936	0.6936	6.7000e-004	0.0000	0.7103
Energy	5.3000e-003	0.0453	0.0193	2.9000e-004		3.6700e-003	3.6700e-003		3.6700e-003	3.6700e-003	0.0000	66.9174	66.9174	3.3400e-003	1.2500e-003	67.3720
Mobile	0.1054	0.1192	1.0359	2.2300e-003	0.2477	1.5700e-003	0.2492	0.0661	1.4600e-003	0.0676	0.0000	205.3370	205.3370	0.0126	9.4300e-003	208.4630
Waste						0.0000	0.0000		0.0000	0.0000	5.3326	0.0000	5.3326	0.3152	0.0000	13.2112
Water						0.0000	0.0000		0.0000	0.0000	1.1782	2.8374	4.0156	0.1215	2.9100e-003	7.9205
Total	0.6749	0.1695	1.4794	2.5400e-003	0.2477	7.5900e-003	0.2552	0.0661	7.4800e-003	0.0736	6.5108	275.7854	282.2962	0.4533	0.0136	297.6770

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio-CO2	Total CO2	CH4	N2O	CO2e
Percent Reduction	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	4.30	4.21	0.44	1.74	4.04

TTLC Milpitas Project - Santa Clara County, Annual

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied**3.0 Construction Detail****Construction Phase**

Phase Number	Phase Name	Phase Type	Start Date	End Date	Num Days Week	Num Days	Phase Description
1	Demolition	Demolition	10/30/2023	11/24/2023	5	20	
2	Site Preparation	Site Preparation	11/25/2023	11/29/2023	5	3	
3	Grading	Grading	11/30/2023	12/7/2023	5	6	
4	Building Construction	Building Construction	12/8/2023	10/10/2024	5	220	
5	Paving	Paving	10/11/2024	10/24/2024	5	10	
6	Architectural Coating	Architectural Coating	10/25/2024	11/7/2024	5	10	

Acres of Grading (Site Preparation Phase): 4.5**Acres of Grading (Grading Phase): 6****Acres of Paving: 0.89****Residential Indoor: 240,663; Residential Outdoor: 80,221; Non-Residential Indoor: 2; Non-Residential Outdoor: 1; Striped Parking Area: 2,324**

TTLc Milpitas Project - Santa Clara County, Annual

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

OffRoad Equipment

Phase Name	Offroad Equipment Type	Amount	Usage Hours	Horse Power	Load Factor
Demolition	Concrete/Industrial Saws	1	8.00	81	0.73
Demolition	Rubber Tired Dozers	1	8.00	247	0.40
Demolition	Tractors/Loaders/Backhoes	3	8.00	97	0.37
Site Preparation	Graders	1	8.00	187	0.41
Site Preparation	Scrapers	1	8.00	367	0.48
Site Preparation	Tractors/Loaders/Backhoes	1	7.00	97	0.37
Grading	Graders	1	8.00	187	0.41
Grading	Rubber Tired Dozers	1	8.00	247	0.40
Grading	Tractors/Loaders/Backhoes	2	7.00	97	0.37
Building Construction	Cranes	1	8.00	231	0.29
Building Construction	Forklifts	2	7.00	89	0.20
Building Construction	Generator Sets	1	8.00	84	0.74
Building Construction	Tractors/Loaders/Backhoes	1	6.00	97	0.37
Building Construction	Welders	3	8.00	46	0.45
Paving	Cement and Mortar Mixers	1	8.00	9	0.56
Paving	Pavers	1	8.00	130	0.42
Paving	Paving Equipment	1	8.00	132	0.36
Paving	Rollers	2	8.00	80	0.38
Paving	Tractors/Loaders/Backhoes	1	8.00	97	0.37
Architectural Coating	Air Compressors	1	6.00	78	0.48

TTLIC Milpitas Project - Santa Clara County, Annual

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

Trips and VMT

Phase Name	Offroad Equipment Count	Worker Trip Number	Vendor Trip Number	Hauling Trip Number	Worker Trip Length	Vendor Trip Length	Hauling Trip Length	Worker Vehicle Class	Vendor Vehicle Class	Hauling Vehicle Class
Demolition	5	13.00	0.00	286.00	10.80	7.30	20.00	LD_Mix	HDT_Mix	HHDT
Site Preparation	3	8.00	0.00	0.00	10.80	7.30	20.00	LD_Mix	HDT_Mix	HHDT
Grading	4	10.00	0.00	429.00	10.80	7.30	20.00	LD_Mix	HDT_Mix	HHDT
Building Construction	8	68.00	17.00	0.00	10.80	7.30	20.00	LD_Mix	HDT_Mix	HHDT
Paving	6	15.00	0.00	0.00	10.80	7.30	20.00	LD_Mix	HDT_Mix	HHDT
Architectural Coating	1	14.00	0.00	0.00	10.80	7.30	20.00	LD_Mix	HDT_Mix	HHDT

3.1 Mitigation Measures Construction

Water Exposed Area

Reduce Vehicle Speed on Unpaved Roads

3.2 Demolition - 2023Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.0309	0.0000	0.0309	4.6800e-003	0.0000	4.6800e-003	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.0147	0.1432	0.1346	2.4000e-004		6.7700e-003	6.7700e-003		6.3300e-003	6.3300e-003	0.0000	21.0866	21.0866	5.3500e-003	0.0000	21.2202
Total	0.0147	0.1432	0.1346	2.4000e-004	0.0309	6.7700e-003	0.0377	4.6800e-003	6.3300e-003	0.0110	0.0000	21.0866	21.0866	5.3500e-003	0.0000	21.2202

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	3.0000e-004	0.0194	4.5100e-003	9.0000e-005	2.4300e-003	1.6000e-004	2.5800e-003	6.7000e-004	1.5000e-004	8.2000e-004	0.0000	8.5636	8.5636	2.9000e-004	1.3600e-003	8.9755
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	3.2000e-004	2.3000e-004	2.9000e-003	1.0000e-005	1.0300e-003	1.0000e-005	1.0400e-003	2.7000e-004	0.0000	2.8000e-004	0.0000	0.7849	0.7849	2.0000e-005	2.0000e-005	0.7920
Total	6.2000e-004	0.0197	7.4100e-003	1.0000e-004	3.4600e-003	1.7000e-004	3.6200e-003	9.4000e-004	1.5000e-004	1.1000e-003	0.0000	9.3485	9.3485	3.1000e-004	1.3800e-003	9.7675

Mitigated Construction On-Site

TTLc Milpitas Project - Santa Clara County, Annual

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.0139	0.0000	0.0139	2.1100e-003	0.0000	2.1100e-003	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	0.0147	0.1432	0.1346	2.4000e-004		6.7700e-003	6.7700e-003		6.3300e-003	6.3300e-003	0.0000	21.0865	21.0865	5.3500e-003	0.0000	21.2202
Total	0.0147	0.1432	0.1346	2.4000e-004	0.0139	6.7700e-003	0.0207	2.1100e-003	6.3300e-003	8.4400e-003	0.0000	21.0865	21.0865	5.3500e-003	0.0000	21.2202

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	3.0000e-004	0.0194	4.5100e-003	9.0000e-005	2.4300e-003	1.6000e-004	2.5800e-003	6.7000e-004	1.5000e-004	8.2000e-004	0.0000	8.5636	8.5636	2.9000e-004	1.3600e-003	8.9755
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	3.2000e-004	2.3000e-004	2.9000e-003	1.0000e-005	1.0300e-003	1.0000e-005	1.0400e-003	2.7000e-004	0.0000	2.8000e-004	0.0000	0.7849	0.7849	2.0000e-005	2.0000e-005	0.7920
Total	6.2000e-004	0.0197	7.4100e-003	1.0000e-004	3.4600e-003	1.7000e-004	3.6200e-003	9.4000e-004	1.5000e-004	1.1000e-003	0.0000	9.3485	9.3485	3.1000e-004	1.3800e-003	9.7675

3.3 Site Preparation - 2023**Unmitigated Construction On-Site**

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					2.3900e-003	0.0000	2.3900e-003	2.6000e-004	0.0000	2.6000e-004	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	1.9500e-003	0.0214	0.0147	4.0000e-005		8.1000e-004	8.1000e-004		7.5000e-004	7.5000e-004	0.0000	3.2317	3.2317	1.0500e-003	0.0000	3.2578
Total	1.9500e-003	0.0214	0.0147	4.0000e-005	2.3900e-003	8.1000e-004	3.2000e-003	2.6000e-004	7.5000e-004	1.0100e-003	0.0000	3.2317	3.2317	1.0500e-003	0.0000	3.2578

TTLc Milpitas Project - Santa Clara County, Annual

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	3.0000e-005	2.0000e-005	2.7000e-004	0.0000	1.0000e-004	0.0000	1.0000e-004	3.0000e-005	0.0000	3.0000e-005	0.0000	0.0725	0.0725	0.0000	0.0000	0.0731
Total	3.0000e-005	2.0000e-005	2.7000e-004	0.0000	1.0000e-004	0.0000	1.0000e-004	3.0000e-005	0.0000	3.0000e-005	0.0000	0.0725	0.0725	0.0000	0.0000	0.0731

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					1.0700e-003	0.0000	1.0700e-003	1.2000e-004	0.0000	1.2000e-004	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	1.9500e-003	0.0214	0.0147	4.0000e-005		8.1000e-004	8.1000e-004		7.5000e-004	7.5000e-004	0.0000	3.2317	3.2317	1.0500e-003	0.0000	3.2578
Total	1.9500e-003	0.0214	0.0147	4.0000e-005	1.0700e-003	8.1000e-004	1.8800e-003	1.2000e-004	7.5000e-004	8.7000e-004	0.0000	3.2317	3.2317	1.0500e-003	0.0000	3.2578

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	3.0000e-005	2.0000e-005	2.7000e-004	0.0000	1.0000e-004	0.0000	1.0000e-004	3.0000e-005	0.0000	3.0000e-005	0.0000	0.0725	0.0725	0.0000	0.0000	0.0731
Total	3.0000e-005	2.0000e-005	2.7000e-004	0.0000	1.0000e-004	0.0000	1.0000e-004	3.0000e-005	0.0000	3.0000e-005	0.0000	0.0725	0.0725	0.0000	0.0000	0.0731

TTLIC Milpitas Project - Santa Clara County, Annual

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.4 Grading - 2023

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					0.0214	0.0000	0.0214	0.0103	0.0000	0.0103	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	4.0000e-003	0.0434	0.0261	6.0000e-005		1.8100e-003	1.8100e-003		1.6700e-003	1.6700e-003	0.0000	5.4312	5.4312	1.7600e-003	0.0000	5.4751
Total	4.0000e-003	0.0434	0.0261	6.0000e-005	0.0214	1.8100e-003	0.0233	0.0103	1.6700e-003	0.0120	0.0000	5.4312	5.4312	1.7600e-003	0.0000	5.4751

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	4.5000e-004	0.0292	6.7600e-003	1.3000e-004	3.6400e-003	2.4000e-004	3.8800e-003	1.0000e-003	2.3000e-004	1.2300e-003	0.0000	12.8454	12.8454	4.4000e-004	2.0400e-003	13.4632
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	7.0000e-005	5.0000e-005	6.7000e-004	0.0000	2.4000e-004	0.0000	2.4000e-004	6.0000e-005	0.0000	6.0000e-005	0.0000	0.1811	0.1811	1.0000e-005	1.0000e-005	0.1828
Total	5.2000e-004	0.0292	7.4300e-003	1.3000e-004	3.8800e-003	2.4000e-004	4.1200e-003	1.0600e-003	2.3000e-004	1.2900e-003	0.0000	13.0265	13.0265	4.5000e-004	2.0500e-003	13.6460

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Fugitive Dust					9.6500e-003	0.0000	9.6500e-003	4.6400e-003	0.0000	4.6400e-003	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	4.0000e-003	0.0434	0.0261	6.0000e-005		1.8100e-003	1.8100e-003		1.6700e-003	1.6700e-003	0.0000	5.4312	5.4312	1.7600e-003	0.0000	5.4751
Total	4.0000e-003	0.0434	0.0261	6.0000e-005	9.6500e-003	1.8100e-003	0.0115	4.6400e-003	1.6700e-003	6.3100e-003	0.0000	5.4312	5.4312	1.7600e-003	0.0000	5.4751

TTLc Milpitas Project - Santa Clara County, Annual

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	4.5000e-004	0.0292	6.7600e-003	1.3000e-004	3.6400e-003	2.4000e-004	3.8800e-003	1.0000e-003	2.3000e-004	1.2300e-003	0.0000	12.8454	12.8454	4.4000e-004	2.0400e-003	13.4632
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	7.0000e-005	5.0000e-005	6.7000e-004	0.0000	2.4000e-004	0.0000	2.4000e-004	6.0000e-005	0.0000	6.0000e-005	0.0000	0.1811	0.1811	1.0000e-005	1.0000e-005	0.1828
Total	5.2000e-004	0.0292	7.4300e-003	1.3000e-004	3.8800e-003	2.4000e-004	4.1200e-003	1.0600e-003	2.3000e-004	1.2900e-003	0.0000	13.0265	13.0265	4.5000e-004	2.0500e-003	13.6460

3.5 Building Construction - 2023**Unmitigated Construction On-Site**

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	0.0137	0.1090	0.1137	2.0000e-004		4.9100e-003	4.9100e-003		4.7000e-003	4.7000e-003	0.0000	16.6162	16.6162	3.1400e-003	0.0000	16.6947
Total	0.0137	0.1090	0.1137	2.0000e-004		4.9100e-003	4.9100e-003		4.7000e-003	4.7000e-003	0.0000	16.6162	16.6162	3.1400e-003	0.0000	16.6947

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	1.5000e-004	6.0600e-003	1.9100e-003	3.0000e-005	9.0000e-004	4.0000e-005	9.3000e-004	2.6000e-004	3.0000e-005	2.9000e-004	0.0000	2.7041	2.7041	6.0000e-005	4.0000e-004	2.8239
Worker	1.3600e-003	9.5000e-004	0.0121	4.0000e-005	4.3100e-003	2.0000e-005	4.3400e-003	1.1500e-003	2.0000e-005	1.1700e-003	0.0000	3.2846	3.2846	9.0000e-005	9.0000e-005	3.3143
Total	1.5100e-003	7.0100e-003	0.0141	7.0000e-005	5.2100e-003	6.0000e-005	5.2700e-003	1.4100e-003	5.0000e-005	1.4600e-003	0.0000	5.9887	5.9887	1.5000e-004	4.9000e-004	6.1382

TTLIC Milpitas Project - Santa Clara County, Annual

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	0.0137	0.1090	0.1137	2.0000e-004		4.9100e-003	4.9100e-003		4.7000e-003	4.7000e-003	0.0000	16.6162	16.6162	3.1400e-003	0.0000	16.6947
Total	0.0137	0.1090	0.1137	2.0000e-004		4.9100e-003	4.9100e-003		4.7000e-003	4.7000e-003	0.0000	16.6162	16.6162	3.1400e-003	0.0000	16.6947

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	1.5000e-004	6.0600e-003	1.9100e-003	3.0000e-005	9.0000e-004	4.0000e-005	9.3000e-004	2.6000e-004	3.0000e-005	2.9000e-004	0.0000	2.7041	2.7041	6.0000e-005	4.0000e-004	2.8239
Worker	1.3600e-003	9.5000e-004	0.0121	4.0000e-005	4.3100e-003	2.0000e-005	4.3400e-003	1.1500e-003	2.0000e-005	1.1700e-003	0.0000	3.2846	3.2846	9.0000e-005	9.0000e-005	3.3143
Total	1.5100e-003	7.0100e-003	0.0141	7.0000e-005	5.2100e-003	6.0000e-005	5.2700e-003	1.4100e-003	5.0000e-005	1.4600e-003	0.0000	5.9887	5.9887	1.5000e-004	4.9000e-004	6.1382

3.5 Building Construction - 2024**Unmitigated Construction On-Site**

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	0.1629	1.3080	1.4382	2.5500e-003		0.0549	0.0549		0.0526	0.0526	0.0000	211.8682	211.8682	0.0395	0.0000	212.8547
Total	0.1629	1.3080	1.4382	2.5500e-003		0.0549	0.0549		0.0526	0.0526	0.0000	211.8682	211.8682	0.0395	0.0000	212.8547

TTLIC Milpitas Project - Santa Clara County, Annual

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied**Unmitigated Construction Off-Site**

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	1.8500e-003	0.0773	0.0239	3.5000e-004	0.0114	4.6000e-004	0.0119	3.3000e-003	4.4000e-004	3.7400e-003	0.0000	33.9701	33.9701	7.2000e-004	4.9800e-003	35.4725
Worker	0.0162	0.0108	0.1445	4.4000e-004	0.0550	2.6000e-004	0.0553	0.0146	2.4000e-004	0.0149	0.0000	40.5405	40.5405	1.1000e-003	1.0900e-003	40.8921
Total	0.0181	0.0881	0.1684	7.9000e-004	0.0664	7.2000e-004	0.0671	0.0179	6.8000e-004	0.0186	0.0000	74.5106	74.5106	1.8200e-003	6.0700e-003	76.3646

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	0.1629	1.3080	1.4382	2.5500e-003		0.0549	0.0549		0.0526	0.0526	0.0000	211.8680	211.8680	0.0395	0.0000	212.8545
Total	0.1629	1.3080	1.4382	2.5500e-003		0.0549	0.0549		0.0526	0.0526	0.0000	211.8680	211.8680	0.0395	0.0000	212.8545

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	1.8500e-003	0.0773	0.0239	3.5000e-004	0.0114	4.6000e-004	0.0119	3.3000e-003	4.4000e-004	3.7400e-003	0.0000	33.9701	33.9701	7.2000e-004	4.9800e-003	35.4725
Worker	0.0162	0.0108	0.1445	4.4000e-004	0.0550	2.6000e-004	0.0553	0.0146	2.4000e-004	0.0149	0.0000	40.5405	40.5405	1.1000e-003	1.0900e-003	40.8921
Total	0.0181	0.0881	0.1684	7.9000e-004	0.0664	7.2000e-004	0.0671	0.0179	6.8000e-004	0.0186	0.0000	74.5106	74.5106	1.8200e-003	6.0700e-003	76.3646

TTLc Milpitas Project - Santa Clara County, Annual

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

3.6 Paving - 2024

Unmitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	4.2100e-003	0.0405	0.0585	9.0000e-005		1.9800e-003	1.9800e-003		1.8300e-003	1.8300e-003	0.0000	7.7574	7.7574	2.4600e-003	0.0000	7.8188
Paving	1.1700e-003					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Total	5.3800e-003	0.0405	0.0585	9.0000e-005		1.9800e-003	1.9800e-003		1.8300e-003	1.8300e-003	0.0000	7.7574	7.7574	2.4600e-003	0.0000	7.8188

Unmitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	1.8000e-004	1.2000e-004	1.5600e-003	0.0000	5.9000e-004	0.0000	6.0000e-004	1.6000e-004	0.0000	1.6000e-004	0.0000	0.4384	0.4384	1.0000e-005	1.0000e-005	0.4422
Total	1.8000e-004	1.2000e-004	1.5600e-003	0.0000	5.9000e-004	0.0000	6.0000e-004	1.6000e-004	0.0000	1.6000e-004	0.0000	0.4384	0.4384	1.0000e-005	1.0000e-005	0.4422

Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Off-Road	4.2100e-003	0.0405	0.0585	9.0000e-005		1.9800e-003	1.9800e-003		1.8300e-003	1.8300e-003	0.0000	7.7573	7.7573	2.4600e-003	0.0000	7.8188
Paving	1.1700e-003					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Total	5.3800e-003	0.0405	0.0585	9.0000e-005		1.9800e-003	1.9800e-003		1.8300e-003	1.8300e-003	0.0000	7.7573	7.7573	2.4600e-003	0.0000	7.8188

TTLc Milpitas Project - Santa Clara County, Annual

EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	1.8000e-004	1.2000e-004	1.5600e-003	0.0000	5.9000e-004	0.0000	6.0000e-004	1.6000e-004	0.0000	1.6000e-004	0.0000	0.4384	0.4384	1.0000e-005	1.0000e-005	0.4422
Total	1.8000e-004	1.2000e-004	1.5600e-003	0.0000	5.9000e-004	0.0000	6.0000e-004	1.6000e-004	0.0000	1.6000e-004	0.0000	0.4384	0.4384	1.0000e-005	1.0000e-005	0.4422

3.7 Architectural Coating - 2024**Unmitigated Construction On-Site**

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Archit. Coating	0.8447					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	9.0000e-004	6.0900e-003	9.0500e-003	1.0000e-005		3.0000e-004	3.0000e-004		3.0000e-004	3.0000e-004	0.0000	1.2766	1.2766	7.0000e-005	0.0000	1.2784
Total	0.8456	6.0900e-003	9.0500e-003	1.0000e-005		3.0000e-004	3.0000e-004		3.0000e-004	3.0000e-004	0.0000	1.2766	1.2766	7.0000e-005	0.0000	1.2784

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	1.6000e-004	1.1000e-004	1.4600e-003	0.0000	5.6000e-004	0.0000	5.6000e-004	1.5000e-004	0.0000	1.5000e-004	0.0000	0.4092	0.4092	1.0000e-005	1.0000e-005	0.4127
Total	1.6000e-004	1.1000e-004	1.4600e-003	0.0000	5.6000e-004	0.0000	5.6000e-004	1.5000e-004	0.0000	1.5000e-004	0.0000	0.4092	0.4092	1.0000e-005	1.0000e-005	0.4127

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Mitigated Construction On-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Archit. Coating	0.8447					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Off-Road	9.0000e-004	6.0900e-003	9.0500e-003	1.0000e-005		3.0000e-004	3.0000e-004		3.0000e-004	3.0000e-004	0.0000	1.2766	1.2766	7.0000e-005	0.0000	1.2784
Total	0.8456	6.0900e-003	9.0500e-003	1.0000e-005		3.0000e-004	3.0000e-004		3.0000e-004	3.0000e-004	0.0000	1.2766	1.2766	7.0000e-005	0.0000	1.2784

Mitigated Construction Off-Site

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Hauling	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Vendor	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Worker	1.6000e-004	1.1000e-004	1.4600e-003	0.0000	5.6000e-004	0.0000	5.6000e-004	1.5000e-004	0.0000	1.5000e-004	0.0000	0.4092	0.4092	1.0000e-005	1.0000e-005	0.4127
Total	1.6000e-004	1.1000e-004	1.4600e-003	0.0000	5.6000e-004	0.0000	5.6000e-004	1.5000e-004	0.0000	1.5000e-004	0.0000	0.4092	0.4092	1.0000e-005	1.0000e-005	0.4127

4.0 Operational Detail - Mobile**4.1 Mitigation Measures Mobile**

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Mitigated	0.1054	0.1192	1.0359	2.2300e-003	0.2477	1.5700e-003	0.2492	0.0661	1.4600e-003	0.0676	0.0000	205.3370	205.3370	0.0126	9.4300e-003	208.4630
Unmitigated	0.1054	0.1192	1.0359	2.2300e-003	0.2477	1.5700e-003	0.2492	0.0661	1.4600e-003	0.0676	0.0000	205.3370	205.3370	0.0126	9.4300e-003	208.4630

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4.2 Trip Summary Information

Land Use	Average Daily Trip Rate			Unmitigated	Mitigated
	Weekday	Saturday	Sunday	Annual VMT	Annual VMT
City Park	0.00	0.00	0.00		
Condo/Townhouse	258.78	287.85	221.73	670,159	670,159
Parking Lot	0.00	0.00	0.00		
Total	258.78	287.85	221.73	670,159	670,159

4.3 Trip Type Information

Land Use	Miles			Trip %			Trip Purpose %		
	H-W or C-W	H-S or C-C	H-O or C-NW	H-W or C-W	H-S or C-C	H-O or C-NW	Primary	Diverted	Pass-by
City Park	9.50	7.30	7.30	33.00	48.00	19.00	66	28	6
Condo/Townhouse	10.80	4.80	5.70	31.00	15.00	54.00	100	0	0
Parking Lot	9.50	7.30	7.30	0.00	0.00	0.00	0	0	0

4.4 Fleet Mix

Land Use	LDA	LDT1	LDT2	MDV	LHD1	LHD2	MHD	HHD	OBUS	UBUS	MCY	SBUS	MH
City Park	0.572464	0.055653	0.187060	0.115672	0.020329	0.005102	0.007934	0.006404	0.000900	0.000380	0.024412	0.000914	0.002776
Condo/Townhouse	0.572464	0.055653	0.187060	0.115672	0.020329	0.005102	0.007934	0.006404	0.000900	0.000380	0.024412	0.000914	0.002776
Parking Lot	0.572464	0.055653	0.187060	0.115672	0.020329	0.005102	0.007934	0.006404	0.000900	0.000380	0.024412	0.000914	0.002776

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EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

5.0 Energy Detail

Historical Energy Use: N

5.1 Mitigation Measures Energy

Kilowatt Hours of Renewable Electricity Generated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Electricity Mitigated						0.0000	0.0000		0.0000	0.0000	0.0000	14.4182	14.4182	2.3300e-003	2.8000e-004	14.5608
Electricity Unmitigated						0.0000	0.0000		0.0000	0.0000	0.0000	26.8242	26.8242	4.3400e-003	5.3000e-004	27.0894
NaturalGas Mitigated	5.3000e-003	0.0453	0.0193	2.9000e-004		3.6700e-003	3.6700e-003		3.6700e-003	3.6700e-003	0.0000	52.4992	52.4992	1.0100e-003	9.6000e-004	52.8112
NaturalGas Unmitigated	5.3000e-003	0.0453	0.0193	2.9000e-004		3.6700e-003	3.6700e-003		3.6700e-003	3.6700e-003	0.0000	52.4992	52.4992	1.0100e-003	9.6000e-004	52.8112

5.2 Energy by Land Use - NaturalGas

Unmitigated

	NaturalGas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	tons/yr										MT/yr					
City Park	0	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Condo/Townhouse	983798	5.3000e-003	0.0453	0.0193	2.9000e-004		3.6700e-003	3.6700e-003		3.6700e-003	3.6700e-003	0.0000	52.4992	52.4992	1.0100e-003	9.6000e-004	52.8112
Parking Lot	0	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Total		5.3000e-003	0.0453	0.0193	2.9000e-004		3.6700e-003	3.6700e-003		3.6700e-003	3.6700e-003	0.0000	52.4992	52.4992	1.0100e-003	9.6000e-004	52.8112

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EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied**Mitigated**

	Natural Gas Use	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Land Use	kBTU/yr	tons/yr										MT/yr					
City Park	0	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Condo/Townhouse	983798	5.3000e-003	0.0453	0.0193	2.9000e-004		3.6700e-003	3.6700e-003		3.6700e-003	3.6700e-003	0.0000	52.4992	52.4992	1.0100e-003	9.6000e-004	52.8112
Parking Lot	0	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Total		5.3000e-003	0.0453	0.0193	2.9000e-004		3.6700e-003	3.6700e-003		3.6700e-003	3.6700e-003	0.0000	52.4992	52.4992	1.0100e-003	9.6000e-004	52.8112

5.3 Energy by Land Use - Electricity**Unmitigated**

	Electricity Use	Total CO2	CH4	N2O	CO2e
Land Use	kWh/yr	MT/yr			
City Park	0	0.0000	0.0000	0.0000	0.0000
Condo/Townhouse	276363	25.5701	4.1400e-003	5.0000e-004	25.8230
Parking Lot	13553.8	1.2540	2.0000e-004	2.0000e-005	1.2664
Total		26.8242	4.3400e-003	5.2000e-004	27.0894

Mitigated

	Electricity Use	Total CO2	CH4	N2O	CO2e
Land Use	kWh/yr	MT/yr			
City Park	-44694.7	-4.1353	-0.0007	-0.0001	-4.1762
Condo/Townhouse	231668	21.4348	3.4700e-003	4.2000e-004	21.6468
Parking Lot	-31140.9	-2.8813	-0.0005	-0.0001	-2.9098
Total		14.4182	2.3300e-003	2.8000e-004	14.5608

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EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

6.0 Area Detail

6.1 Mitigation Measures Area

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
Category	tons/yr										MT/yr					
Mitigated	0.5642	4.8800e-003	0.4242	2.0000e-005		2.3500e-003	2.3500e-003		2.3500e-003	2.3500e-003	0.0000	0.6936	0.6936	6.7000e-004	0.0000	0.7103
Unmitigated	0.5642	4.8800e-003	0.4242	2.0000e-005		2.3500e-003	2.3500e-003		2.3500e-003	2.3500e-003	0.0000	0.6936	0.6936	6.7000e-004	0.0000	0.7103

6.2 Area by SubCategory

Unmitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	tons/yr										MT/yr					
Architectural Coating	0.0845					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Consumer Products	0.4669					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Hearth	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Landscaping	0.0128	4.8800e-003	0.4242	2.0000e-005		2.3500e-003	2.3500e-003		2.3500e-003	2.3500e-003	0.0000	0.6936	0.6936	6.7000e-004	0.0000	0.7103
Total	0.5642	4.8800e-003	0.4242	2.0000e-005		2.3500e-003	2.3500e-003		2.3500e-003	2.3500e-003	0.0000	0.6936	0.6936	6.7000e-004	0.0000	0.7103

Mitigated

	ROG	NOx	CO	SO2	Fugitive PM10	Exhaust PM10	PM10 Total	Fugitive PM2.5	Exhaust PM2.5	PM2.5 Total	Bio- CO2	NBio- CO2	Total CO2	CH4	N2O	CO2e
SubCategory	tons/yr										MT/yr					
Architectural Coating	0.0845					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Consumer Products	0.4669					0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Hearth	0.0000	0.0000	0.0000	0.0000		0.0000	0.0000		0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
Landscaping	0.0128	4.8800e-003	0.4242	2.0000e-005		2.3500e-003	2.3500e-003		2.3500e-003	2.3500e-003	0.0000	0.6936	0.6936	6.7000e-004	0.0000	0.7103
Total	0.5642	4.8800e-003	0.4242	2.0000e-005		2.3500e-003	2.3500e-003		2.3500e-003	2.3500e-003	0.0000	0.6936	0.6936	6.7000e-004	0.0000	0.7103

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EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

7.0 Water Detail

7.1 Mitigation Measures Water

	Total CO2	CH4	N2O	CO2e
Category	MT/yr			
Mitigated	4.0156	0.1215	2.9100e-003	7.9205
Unmitigated	4.0156	0.1215	2.9100e-003	7.9205

7.2 Water by Land Use

Unmitigated

	Indoor/Outdoor Use	Total CO2	CH4	N2O	CO2e
Land Use	Mgal	MT/yr			
City Park	0 / 0.679144	0.2199	4.0000e-005	0.0000	0.2221
Condo/Townhouse	3.71378 / 2.3413	3.7957	0.1214	2.9100e-003	7.6984
Parking Lot	0 / 0	0.0000	0.0000	0.0000	0.0000
Total		4.0156	0.1215	2.9100e-003	7.9205

Mitigated

	Indoor/Outdoor Use	Total CO2	CH4	N2O	CO2e
Land Use	Mgal	MT/yr			
City Park	0 / 0.679144	0.2199	4.0000e-005	0.0000	0.2221
Condo/Townhouse	3.71378 / 2.3413	3.7957	0.1214	2.9100e-003	7.6984
Parking Lot	0 / 0	0.0000	0.0000	0.0000	0.0000
Total		4.0156	0.1215	2.9100e-003	7.9205

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EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

8.0 Waste Detail

8.1 Mitigation Measures Waste

Category/Year

	Total CO2	CH4	N2O	CO2e
	MT/yr			
Mitigated	5.3326	0.3152	0.0000	13.2112
Unmitigated	5.3326	0.3152	0.0000	13.2112

8.2 Waste by Land Use

Unmitigated

	Waste Disposed	Total CO2	CH4	N2O	CO2e
Land Use	tons	MT/yr			
City Park	0.05	0.0102	6.0000e-004	0.0000	0.0252
Condo/Townhouse	26.22	5.3224	0.3146	0.0000	13.1861
Parking Lot	0	0.0000	0.0000	0.0000	0.0000
Total		5.3326	0.3152	0.0000	13.2112

Mitigated

	Waste Disposed	Total CO2	CH4	N2O	CO2e
Land Use	tons	MT/yr			
City Park	0.05	0.0102	6.0000e-004	0.0000	0.0252
Condo/Townhouse	26.22	5.3224	0.3146	0.0000	13.1861
Parking Lot	0	0.0000	0.0000	0.0000	0.0000
Total		5.3326	0.3152	0.0000	13.2112

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EMFAC Off-Model Adjustment Factors for Gasoline Light Duty Vehicle to Account for the SAFE Vehicle Rule Not Applied

9.0 Operational Offroad

Equipment Type	Number	Hours/Day	Days/Year	Horse Power	Load Factor	Fuel Type
----------------	--------	-----------	-----------	-------------	-------------	-----------

10.0 Stationary Equipment

Fire Pumps and Emergency Generators

Equipment Type	Number	Hours/Day	Hours/Year	Horse Power	Load Factor	Fuel Type
----------------	--------	-----------	------------	-------------	-------------	-----------

Boilers

Equipment Type	Number	Heat Input/Day	Heat Input/Year	Boiler Rating	Fuel Type
----------------	--------	----------------	-----------------	---------------	-----------

User Defined Equipment

Equipment Type	Number
----------------	--------

11.0 Vegetation

Attachment B:
Transportation Generation Analysis

April 2, 2022

Leah Beniston
Vice President-Entitlements
The True Life Companies
12657 Alcosta Boulevard, Suite 470
San Ramon, CA 94583

Re: Trip Generation Study for 612 South Main Street, Milpitas, California

Dear Ms. Beniston:

At your request, TJKM has prepared this trip generation analysis of the proposed development located at 612 South Main Street in Milpitas, California. The site is currently occupied by a 6,413 square feet (sf) Montessori School for preschool aged students and an 11,700 gymnastics facility. The project also incorporates an adjacent vacant lot. The project site will consist of 57 three-story townhouse style dwelling units with two-car garage and seven on-site guest parking spaces.

To determine the proposed project trips, the following trip rates are applicable, based on the Institute of Transportation Engineer's (ITE) *Trip Generation, 11th Edition*. The land use for Multi-family Housing, Mid-Rise (code 221) was used because it has three or more stories and are connected by three or more dwelling units. Trip Generation for the school is based on the number of students. Because there is no ITE land use for the gymnastics facility, trip generation was estimated based on information provided by the tenant. The net trips for proposed use is shown in the table below:

Land Use (ITE Code)	Size		Daily		A.M. Peak Hour				P.M. Peak Hour			
			Rate	Trips	Rate	In	Out	Total	Rate	In	Out	Total
Proposed												
Multifamily Housing, Mid- Rise (221)	57	DU	4.54	259	0.37	4	17	21	0.39	13	10	23
Existing												
Montessori School/Day Care (565)	72	Students	4.09	294	0.78	30	26	56	0.79	27	30	57
Gymnastics	11.7	ksf		80						12	12	24
Net Total Trips				-115		-26	-9	-35		-26	-32	-58

Notes: DU- Dwelling Units; ksf: thousand square feet

Source: Institute of Transportation Engineers (ITE) Trip Generation Manual, 11th Edition, 2021, Gymnastics tenant operations

The proposed project will not generate any net new trips during the daily, a.m. peak hour (7:00 a.m. to 9:00 a.m.) trips or p.m. peak hour (4:00 p.m. to 6:00 p.m.).



Per the Valley Transportation Authority (VTA) Congestion Management Program Transportation Impact Analysis (TIA) Guidelines, dated October 2014, transportation impacts of all land uses that are projected to generate 100 or more net new weekday a.m. or p.m. peak hour, including both inbound and outbound trips are required to prepare a TIA. Based on the trip generation, this project would be exempt from preparing a TIA.

Please contact me if there are questions on this matter.

Very truly yours,

A handwritten signature in black ink that reads "Chris D. Kinzel". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Chris D. Kinzel, P.E.

Vice President

Exhibit 3, Part 5:

Preliminary Stormwater Quality Control Plan for South Main Street Milpitas 600 & 612 South Main Street prepared by MacKay & Somps dated June 2022.

PRELIMINARY
STORMWATER QUALITY CONTROL PLAN
For
SOUTH MAIN STREET MILPITAS
600 & 612 South Main Street

June 2022

Prepared by:

MacKay & Soms
5142 Franklin Drive, Suite B
Pleasanton, CA 94588
(925) 225-0690
Mariana Mena

TABLE OF CONTENTS

I. Project Setting.....	1
I.A. Project Description.....	1
I.B. Site Features and Conditions	1
I.C. Opportunities and Constraints for Stormwater Control	1
I.D. Hydromodification Management Requirements	1
II. Measures to Limit Imperviousness	1
II.A. Measures to Make Development More Compact	1
II.B. Measures to Limit Directly Connected Impervious Area.....	2
II.B.1. Selection of Paving Materials	
II.B.2. Self Treating Areas	
III. Selection and Preliminary Design of Stormwater Treatment BMPs	2
III.A. Hydrology	2
III.B. Recommended Permanent BMPs.....	2
IV. Source Control Measures	3
IV.A. Structural Control Measures	3
IV.B. Operational Control Measures	3
V. Permitting and Code Compliance Issues.....	4
VI. BMP Maintenance Requirements	5
VI.A. Recommended BMP Maintenance	5
VII. CERTIFICATIONS.....	6

TABLES

Table 1. Site Data

Table 2. Proposed Drainage Areas

Table 3. Estimated Runoff Coefficients during Small Storms

FIGURES

Figure 1: Vicinity Map

Figure 2: Aerial Photo

Figure 3: Hydromodification Management Control Area Map

Figure 4: Existing Conditions

Figure 5: Proposed Conditions

Figure 6: Stormwater Control Plan with BMP sizing

Figure 7: Bioretention Area

Figure 8: Zoeller Submersible Sewage Pump

Figure 9: Zoeller Z-Rail System and Lifting Cable

I. PROJECT DATA

I.A. Project Description

The site consists of two parcels located at 600 and 612 South Main Street in the city of Milpitas within Santa Clara County. The 0.70-acre parcel at 600 S. Main Street is a vacant lot and the 2.35-acre parcel at 612 is occupied by a commercial building. The project proposes to redevelop the combined 2.35 acres into 9 buildings resulting in 57 townhome units. The project also includes a landscape common area, one main drive aisle with two access driveways entrances and three private alleys. Walkways and landscaped areas make up the remainder of the site.

I.B. Site Features and Conditions

The 2.35 -acre rectangular site is currently operating as a commercial site and vacant lot. Grades across the site range from an elevation of $23.8\pm$ to $25\pm$ and drain East to West of the property. The site is relatively flat, and it drains to the north corner off-site into South Main Street where drainage is picked up along existing storm drain curb inlets. The site is bordered by commercial developments across South Main Street and to the North and South edges. To the East the project is adjacent to the UPRR parcel.

I.C. Opportunities and Constraints for Stormwater Control

Opportunities:

- Landscape areas – A 5-to-10-foot setback along the perimeter of the project will be landscaped and used as self-treating areas. The common landscape open space area is vastly large and is an ideal location for the water quality bioretention basin to be located. In addition, this project proposes a 29% landscape area, exceeding the minimum 25% residential open space requirement.
- Existing SD system - There is an existing 12" storm drain system along South Main Street that serves as the main storm drain connection point to discharge treated water to the public storm drain system.

Constraints:

- Land use – Due to the project density it is difficult to provide dispersed bioretention swales for treatment.
- Topography - Generally flat topography can make it difficult to grade parking lots and driveways to drain into planters or swales located at the site perimeter.

I.D. Hydromodification Management Requirements

The project is exempt from Hydromodification Management Plan requirements since the project is located outside the HM applicability map (green area), see figure 3.

II. MEASURES TO LIMIT IMPERVIOUSNESS

II.A. Measures to Make Development more compact

The site density is 24 DU/acre, which is above the minimum 21 DU/acre required for high density residential development. The site has also been designed to maximize open space and

provide landscape buffer areas with a minimum 10' setback along the perimeter of the project.

II.B. Measures to Limit Directly Connected Impervious Area.

II.B.1. Selection of paving materials

Conventional concrete and conventional asphalt are used throughout the site.

II.B.2. Self-Treating Areas

The project includes three self-treating areas located along the eastern and southern boundaries. As shown in the Stormwater Control Plan Exhibit as DMA 2. Since these self-treating areas do not receive any runoff from impervious areas, runoff will discharge directly to the storm drain system on-site via area drains. Area DMA 2 is shown in the Stormwater BMP Exhibit (figure 6).

III. SELECTION AND PRELIMINARY DESIGN OF STORMWATER TREATMENT BMPs

III.A. Hydrology

Runoff coefficients for existing and proposed on-site conditions were based on the C.3 Stormwater Handbook Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) June 2016 shown in Table 3.

The water quality bioretention basin has been designed to treat the flow of the resultant surface drainage for this project. The basin is sized per the SCVURPPP Appendix B – Section IV “Sizing for Flow and Volume-Based Treatment Measure” natural method A rainfall intensity value of 0.2 inches per hour is used for treatment flows based on the uniform intensity approach. The weighted runoff coefficient is based on the imperviousness percentage for the drainage area.

The basin includes treatment soil and a rock gallery beneath it to function as a bioretention facility to mitigate stormwater quality impacts. Runoff from building, walkways, and alleys will surface drain and/or be conveyed by a storm drain system and then pumped into the bioretention basin for treatment by a ¼ horsepower non-automatic pump with lockable simplex controller that has an audible and visual alarm system and HOA switch. The prefabricated pump system will be installed on a rail system that will allow it to be raised and lowered for maintenance and service, refer to figure 8 and 9. Treated stormwater will drain thru outlet pipe in basin to the existing public storm drain system in South Main Street.

III.B. Recommended Permanent BMPs

The water quality bioretention basin is the best method to fulfill on-site treatment requirements and the recommended BMP solutions are shown in Figures 5, 6, and 7. These BMPs will provide a level of treatment that meets the C.3 requirements for the runoff generated by the project improvements.

- DMA 1:
 - Pavement totaling 24,443 square feet drains to basin via proposed SD system
 - Building Roofs totaling 42,239 square feet drains to basin via proposed SD system
 - Walkway totaling 9,113 square feet drains to basin via proposed SD system
 - Driveway totaling 3,900 square feet drains to basin via proposed SD system
 - Pervious totaling 19,624 square feet drains to basin via proposed SD system

- DMA 2:
 - Self-Treating Areas consisting of the vegetated landscape buffers on the eastern edge of the project boundary, totaling 3,086 square feet.

DMA 1 will be treated by the bioretention basin located in the common area and will be sized to maximize treatment for tributary area. Runoff will infiltrate through a minimum of 18" of bio-treatment soil (as identified in the SCVURPPP Handbook). The treatment soil and the planting material to be used within the bioretention treatment areas must have an infiltration rate of 5 inches per hour to meet the minimum infiltration criteria as described in the SCVURPPP bioretention design and sizing guidelines from appendix B. The mean annual precipitation for the proposed project site is determined from the SCVURPPP Appendix B, Figure B-1 Soil Texture and Mean Annual Precipitation Depths for the Santa Clara Basin. The design calculations were performed for Flow and Volume based treatment Measures per section IV. The combined runoff from streets, alleys, sidewalks, and walkways will be routed through gutter and storm drain system to the water quality bioretention basin.

IV. SOURCE CONTROL MEASURES

IV.A. Structural Control Measures

This project will create a few potential sources of stormwater pollutants.

Sources to be controlled include:

- On-site storm drain inlets
- Need for future indoor and structural pest control
- Interior Floor Drains
- Landscape/outdoor pesticide use
- Vehicle and equipment cleaning
- Vehicle/equipment repair and maintenance
- Fire sprinkler test water

IV.B. Operation Control Measures Table

All areas where these activities occur will drain to stormwater treatment facilities. To further reduce the potential for pollutants to enter runoff, permanent and operational BMPs will be implemented as described below.

Sources and Source Control BMPs

Potential Source	Permanent BMPs	Operational BMPs
On-Site Storm Drain Inlets	Inlets that are accessible from driveways will be marked with city approval "No Dumping – Drains to Creek" curb markers	Inlet markings will be inspected annually and replaced or renewed as needed.

Need for Future Indoor and Structural Pest Control	Standard building design minimizes potential need for future pest control.	Buyers will receive integrated pest management information.
Interior Floor Drains	All interior floor drains shall be plumbed to the sanitary sewer system and shall not connect to storm drains	
Landscape/Outdoor Pesticide Use	Any native trees, shrubs, and ground cover on the site will be preserved to the maximum extent possible. Landscaping will be designed to minimize required irrigation and runoff, to promote surface infiltration, and to minimize the use of fertilizers and pesticides that can contribute to storm water pollution. Where possible, pest-resistant plants will be selected, especially for locations adjacent to hardscape. Plants will be selected appropriate to site soils, slopes, climate, sun, wind, rain, land use, air movement, ecological consistency, and plant interactions.	All open space landscaping is to be maintained by a professional landscaping contractor utilizing integrated management methods. Pesticides will only be applied by appropriately licensed contractors.
Vehicle and Equipment Cleaning		Car washing on-site is discouraged. Car washing will be deferred to car wash outlets.
Vehicle/Equipment Repair and Maintenance		Vehicle/equipment repair on-site is prohibited.
Construction Related Pollutants		Regular street sweeping to control pollutants. Controlled construction wash down areas. Washwater containing any cleaning agent or degreaser shall be collected and discharged to the sanitary sewer and shall not be discharged to a storm drain.

V. PERMITTING AND CODE COMPLIANCE ISSUES

There are no known conflicts between the proposed stormwater control plan and City of Milpitas ordinances or policies. Any conflicts that are found will be resolved through the design review process or during subsequent permitting.

VI. BMP OPERATION AND MAINTENANCE

VI.A. Recommended BMP Maintenance

Ownership and maintenance responsibility for the stormwater facility lies with the resident Homeowner's Association. Operation and Maintenance Agreement and Plan will be recorded with to the recording of the Final Map.

The applicant will prepare and submit, for the City's review, an acceptable Stormwater Control Operation and Maintenance Plan prior to completion of construction and will execute a Stormwater Management Facilities Operation and Maintenance Agreement before sale, transfer, or permanent occupancy of the site. The applicant accepts responsibility for maintenance of stormwater management facilities until such responsibility is transferred to another entity.

The bioretention basin removes pollutants primarily by filtering runoff slowly through an active layer of soil. Routine maintenance is needed to ensure that flow is unobstructed, that erosion is prevented, and that soils are held together by plant roots and are biologically active. Typical routine maintenance consists of the following:

- Inspect inlets for channels, exposure of soils, or other evidence of erosion. Clear any obstructions and remove any accumulation of sediment. Examine rock or other material used as a splash pad and replenish if necessary.
- Inspect outlets for erosion or plugging.
- Inspect side slopes for evidence of instability or erosion and correct as necessary.
- Observe soil in the swale or planter for uniform percolation throughout. If portions of the swale or filter do not drain within 48 hours after the end of a storm, the soil should be tilled and replanted. Remove any debris or accumulations of sediment.
- Examine the vegetation to ensure that it is healthy and dense enough to provide filtering and to protect soils from erosion. Replenish mulch as necessary, remove fallen leaves and debris, prune large shrubs or trees, and mow turf areas. Confirm that irrigation is adequate and not excessive. Replace dead plants and remove invasive vegetation.
- Abate any potential vectors by filling holes in the ground in and around the swale and by ensuring that there are no areas where water stands longer than 48 hours following a storm. If mosquito larvae are present and persistent, contact the Santa Clara County Vector Control District for information and advice. Mosquito larvicides should be applied only when absolutely necessary and then only by a licensed individual or contractor.

VII. CERTIFICATIONS

The selection, sizing, and preliminary design of stormwater treatment and other control measures in this plan meet the requirements of Regional Water Quality Control Board Order R2-2015-0049.

By

Print Name

TABLE 1 - Site Data**EXISTING CONDITIONS**

Surface Type	Area (ac)	Percentages	C
Impervious			
Roof	0.63	27%	0.9
Streets/Parking/Walkway	0.83	35%	0.8
Total Impervious	1.46	62%	0.43
Pervious			
Landscape	0.89	38%	0.1
Total Pervious	0.89	38%	0.1
Total	2.35	100%	0.78

PROPOSED CONDITIONS

Surface Type	Area (ac)	Percentages	C
Impervious			
Roof	0.97	41%	0.9
Streets/Parking	0.56	24%	0.8
Walkways	0.21	9%	0.8
Driveway Aprons	0.09	4%	0.8
Total Impervious	1.83	78%	0.83
Pervious			
Landscape	0.52	22%	0.1
Total Pervious	0.52	22%	0.1
Total	2.35	100%	0.61

TABLE 2 - Proposed Drainage Area

Drainage Management Area (DMA)	Tributary Area (SF)	Existing Imp. Area (Remaining) (SF)	New/Replaced Imp. Area (SF)	Landscape Area (SF)
1	99,319	0	79,695	19,624
2	3,086	0	0	3,086
Total	102,405	0	79,695	22,710

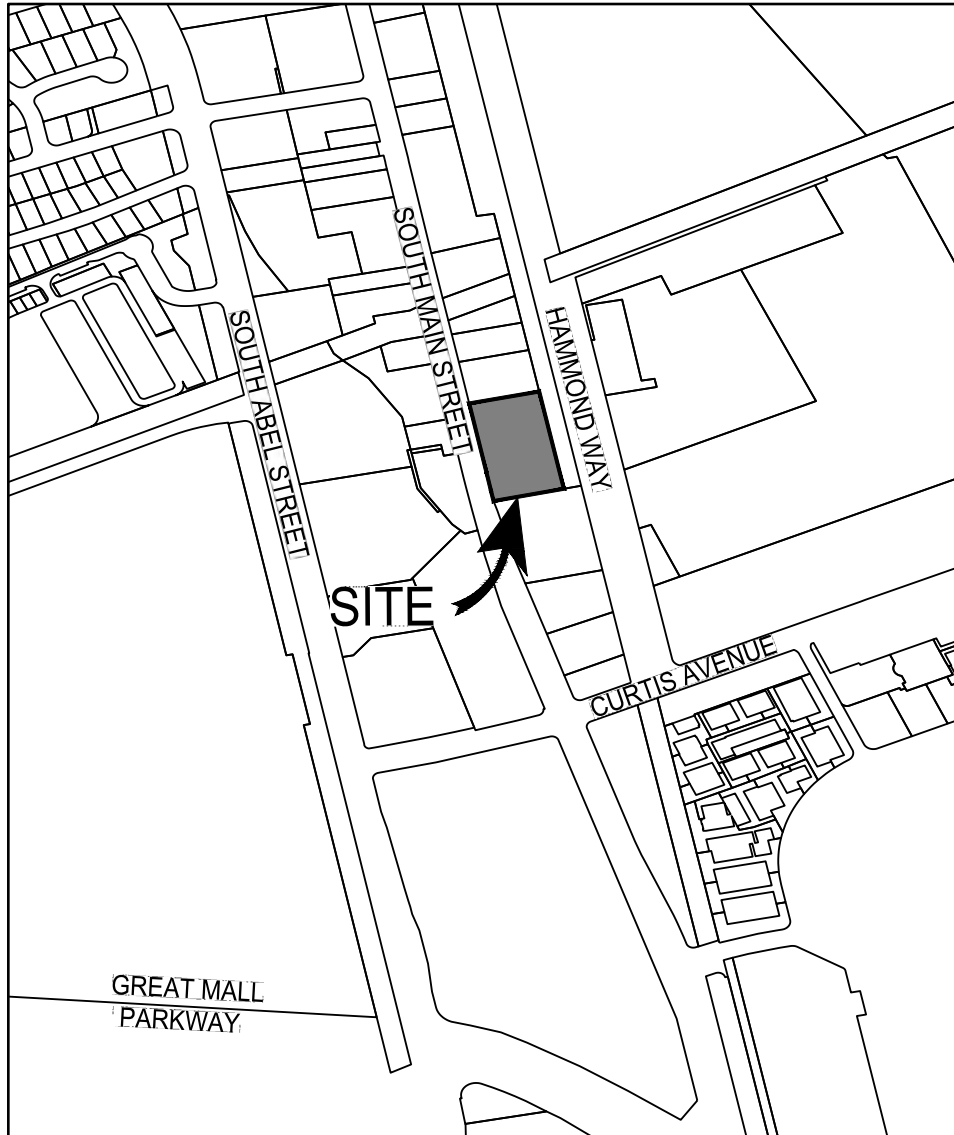
TABLE 3 - Estimated Runoff Coefficients During Small Storms

(From SCVURPPP, June 2016)

Table B-3 --- Estimated Runoff Coefficients for Various Surfaces During Small Storms

Type of Surface	Runoff Coefficients "C" factor
Roofs	0.90
Concrete	0.90
Stone, brick, or concrete pavers with mortared joints and bedding	0.90
Asphalt	0.90
Stone, brick, or concrete pavers with sand joints and bedding	0.90
Pervious concrete	0.10
Porous asphalt	0.10
Permeable interlocking concrete pavement	0.10
Grid pavements with grass or aggregate surface	0.10
Crushed aggregate	0.10
Grass	0.10

Notes: These C-factors are only appropriate for small storm treatment BMP design, and should not be used for flood control sizing. Where available, locally developed small storm C-factors for various surfaces should be used. Sources BASMAA, 2003; Lindeburg, 2003; Hade and Smith, 1988; Smith, 2012.



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FIGURE 1-VICINITY MAP
SOUTH MAIN STREET
 MILPITAS, CALIFORNIA

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FIGURE 2 - AERIAL PHOTO
SOUTH MAIN STREET
MILPITAS, CALIFORNIA



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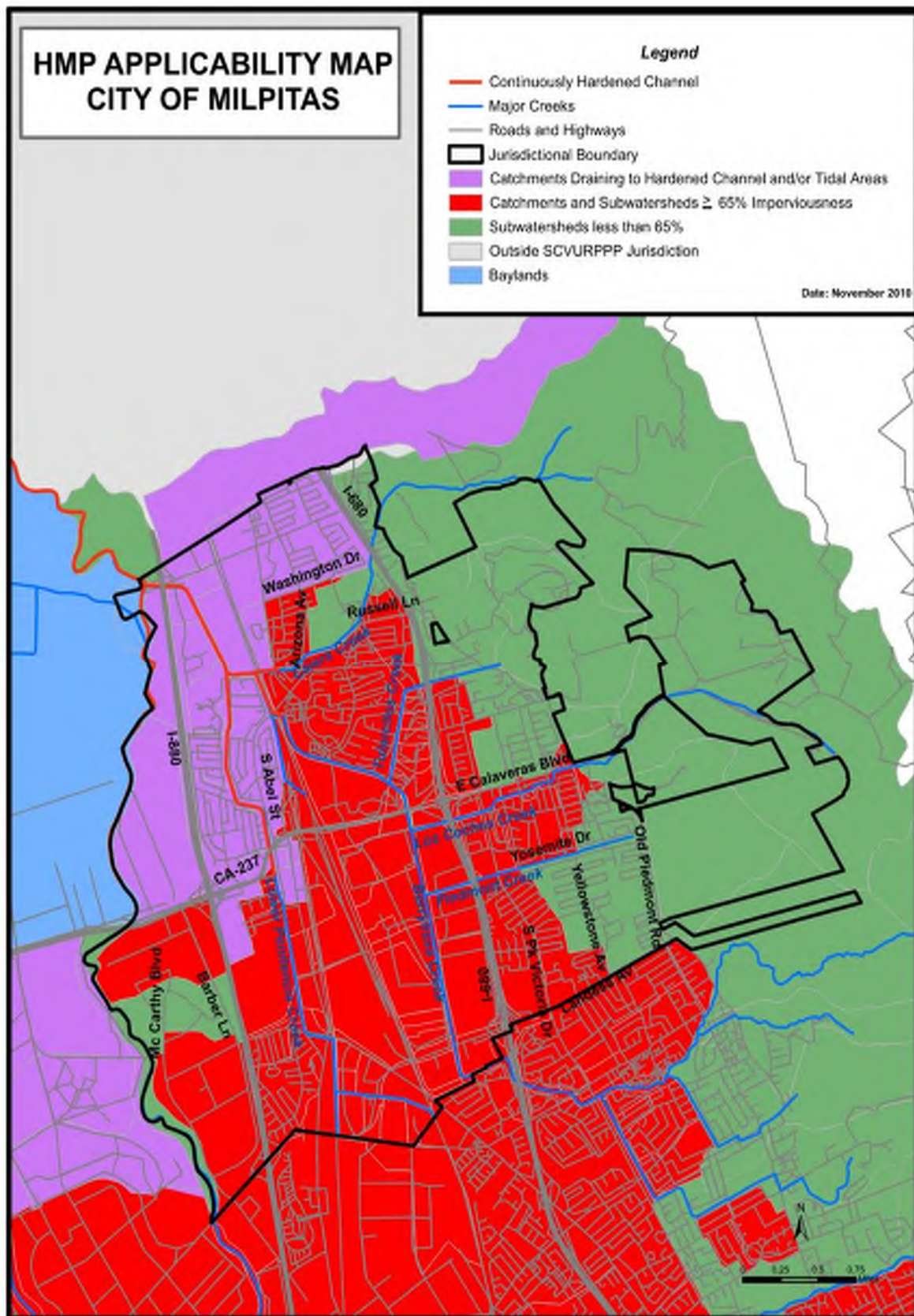
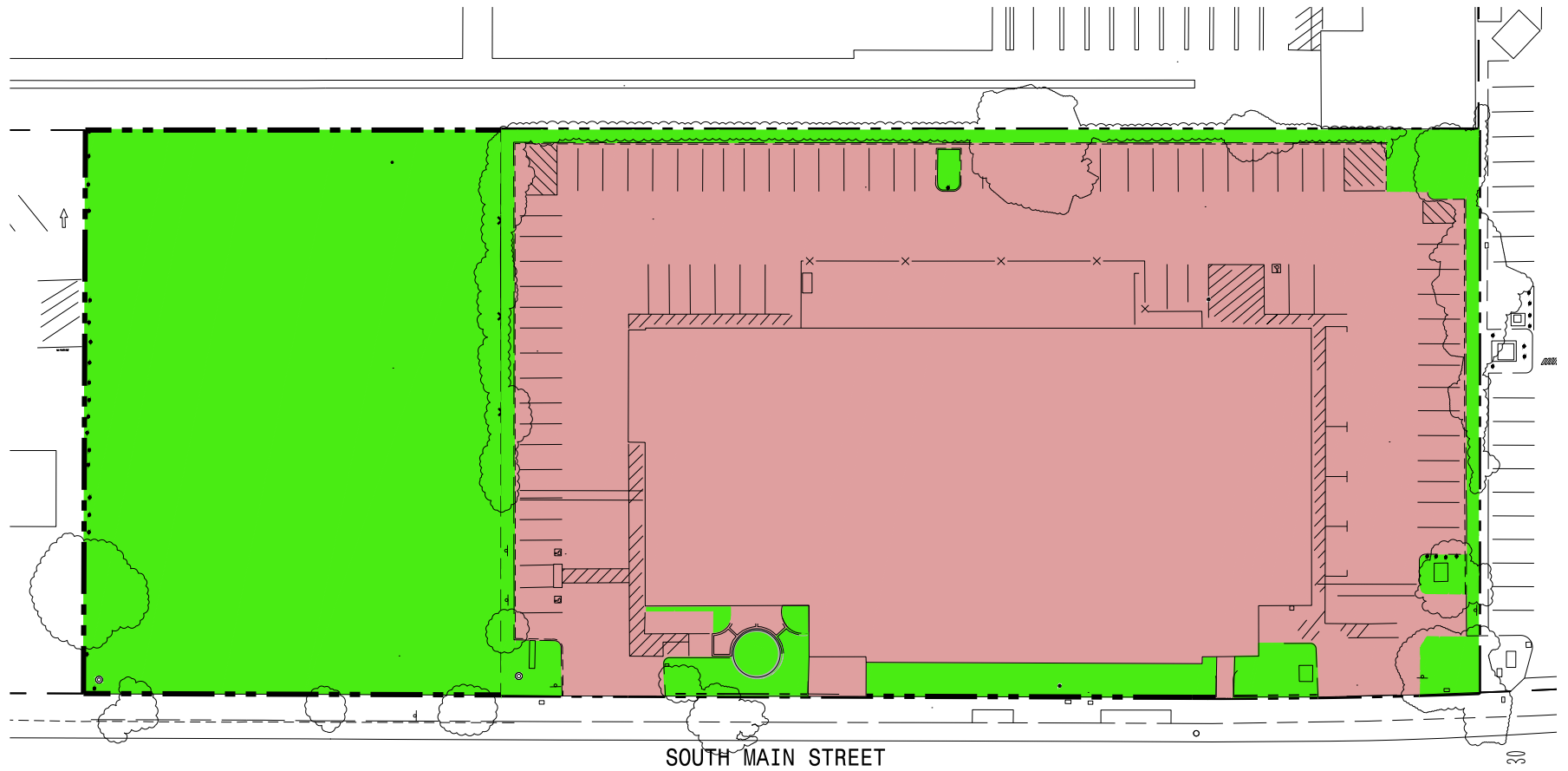


FIGURE 3



LEGEND:

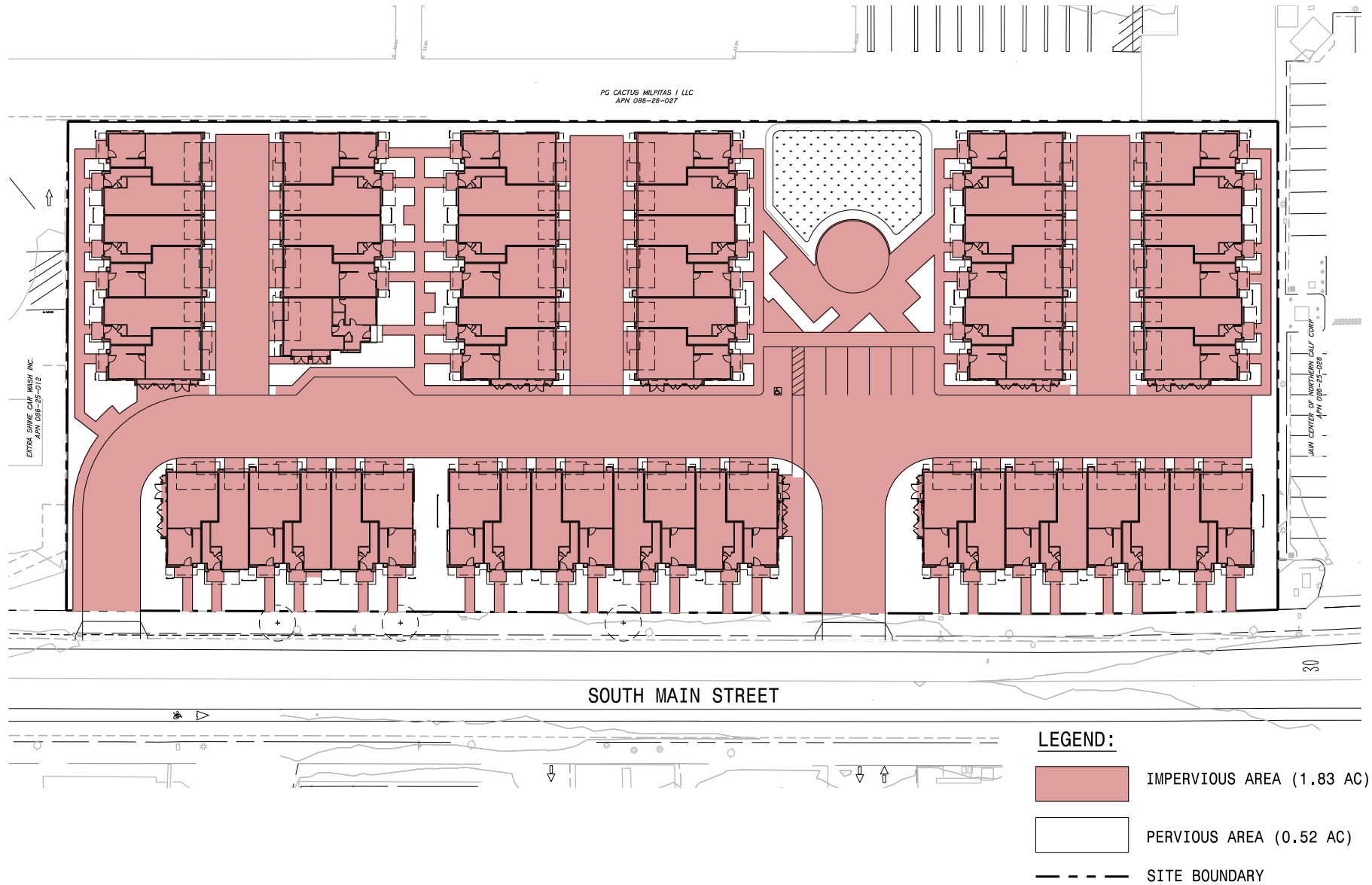
- IMPERVIOUS AREA (1.46 AC)
- PERVIOUS AREA (0.89 AC)
- SITE BOUNDARY

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FIGURE 4 - EXISTING CONDITIONS
SOUTH MAIN STREET
 MILPITAS, CALIFORNIA



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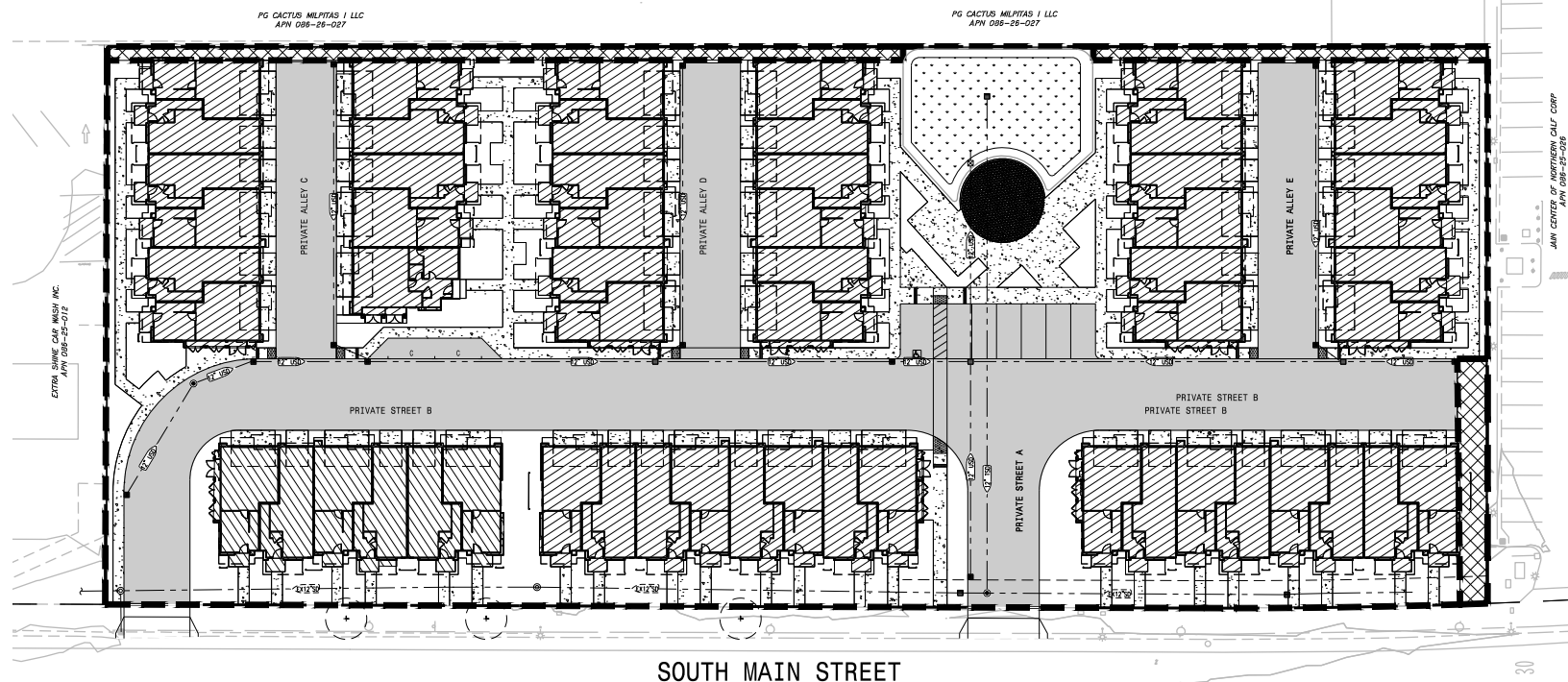


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FIGURE 5 - PROPOSED CONDITIONS
SOUTH MAIN STREET
MILPITAS, CALIFORNIA



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**LEGEND:**TREATMENT AREA -
BIORETENTION BASIN

SELF TREATING AREA



IMPERVIOUS AREA - PAVEMENT

IMPERVIOUS AREA - BUILDING
INCLUDING PORCHESIMPERVIOUS AREA - WALKWAY
AND DRIVEWAYS

— — — — — DRAINAGE SHED BOUNDARY

DMA 1 DRAINAGE MANAGEMENT AREA NUMBER

Drainage Management Area (DMA)	Total Drainage Area (SF)	Impervious Area ⁽²⁾ (sqft)	Interceptor Tree Reduction ⁽³⁾ (sqft)	Pervious Area ⁽⁴⁾ (sqft)	Effective Impervious Area ⁽⁵⁾ (sqft)	Water Quality Design Volume ⁽⁶⁾ (cuft)	Estimated Surface Area w/Sizing Factor 0.03 (sqft)	Treated Runoff Volume (cuft)	Volume in Ponding Area (cuft)	Provided Treatment Area ⁽⁸⁾ (sqft)	Ponding Depth ⁽⁹⁾ (in)	Treatment Type	Lined or Unlined Treatment Measure
1	69,318	76,695	0	19,024	51,657	4,676	2,387	2,835	1,759	2,300	10"	Bioretention Basin	Lined
2	3,086	0	0	3,086	0	0	0	0	0	0		Self Treating Area	

Notes:

- ⁽¹⁾ Mean Annual Precipitation (MAP) determined using the Figure 8-1 Soil Texture and Mean Annual Precipitation Depths for the Santa Clara Basin of the C.3 Stormwater Handbook SCVURPPP June 2016.
⁽²⁾ Impervious Surfaces includes all impervious surfaces (Roof Areas, Porches, Pavement, Driveways, Landscape walkway area, and Sidewalks).
⁽³⁾ Interceptor trees were not included in planning calculation but are anticipated during the design phase.
⁽⁴⁾ Pervious surfaces (Landscaping).
⁽⁵⁾ Effective impervious area includes the total impervious surfaces - Interceptor Tree credit - (0.1) * Pervious Surfaces.
⁽⁶⁾ WQD Volume is the required treatment volume using Adapted CASQA Stormwater BMP Handbook Approach of Section II.B.
⁽⁷⁾ Rain Event Duration assumes an intensity of 0.2 in/hr, the Adjusted Unit Basin Volume is divided by the intensity.
⁽⁸⁾ The Treatment Area provided on the site design. For dimensions of the irregular shaped treatment area refer to the Preliminary Site plan sheet of the VTM plans.
⁽⁹⁾ The depth of ponding the provided Treatment Area will have in the design event.

NOTES:

- BIORETENTION BASIN SIZING IS PER THE SANTA CLARA VALLEY URBAN RUNOFF POLLUTION PREVENTION PROGRAM (SCVURPPP) C.3 STORMWATER HANDBOOK DATED JUNE 2016 APPENDIX B - BIORETENTION BASIN SIZING SECTION IV.B SIZING FOR FLOW AND VOLUME BASED TREATMENT MEASURES BASED ON UNIFORM INTENSITY APPROACH.
- PER THE SCVURPPP C.3 DATA FORM, THE PROJECT IS EXEMPT FROM HYDROMODIFICATION SINCE THE PROJECT IS LOCATED OUTSIDE THE HM APPLICABILITY MAP (GREEN AREA).

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FIGURE 6 - STORMWATER CONTROL PLAN W/BMP SIZING

SOUTH MAIN STREET

MILPITAS, CALIFORNIA

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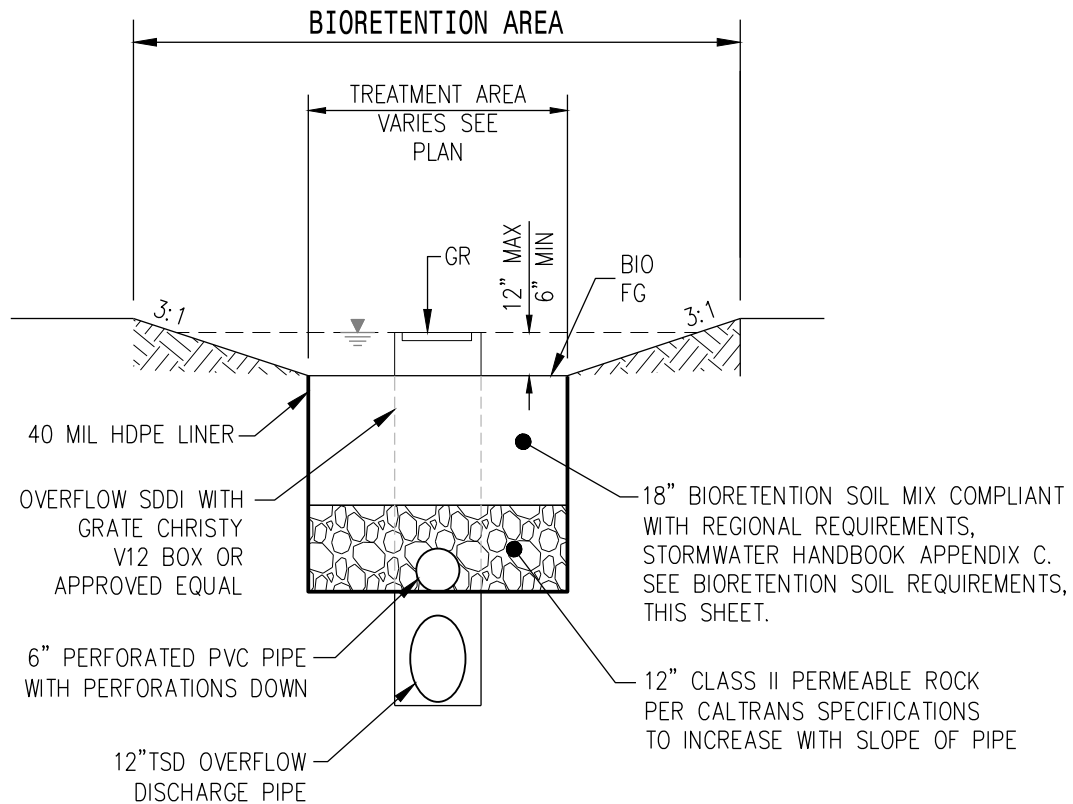


FIGURE 6-5 OF THE SCVURPPP C.3 GUIDANCE DOCUMENT DATED JUNE 2016

BIOTREATMENT SOIL REQUIREMENTS

PRIOR TO ORDERING THE BIOTREATMENT SOIL MIX OR DELIVERY TO THE PROJECT SITE, CONTRACTOR SHALL PROVIDE A BIOTREATMENT SOIL MIX SPECIFICATION CHECKLIST, COMPLETED BY THE SOIL MIX SUPPLIER AND CERTIFIED TESTING LAB.



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FIGURE 7 - BIORETENTION AREA SOUTH MAIN STREET

MILPITAS, CALIFORNIA

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Product information presented here reflects conditions at time of publication. Consult factory regarding discrepancies or inconsistencies.

TECHNICAL DATA SHEET

HIGH HEAD WASTE-MATE SERIES

Models 282/4282, 284/4284

Submersible Sewage Pumps

PRODUCT SPECIFICATIONS

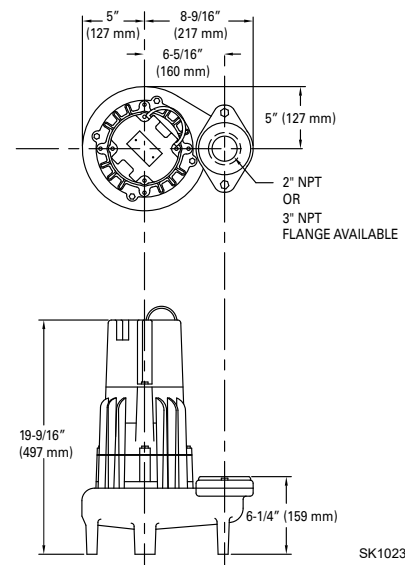
MOTOR	Horse Power	1/2 (282/4282) or 1 (284/4284)
	Voltage	115 - 575
	Phase	1 or 3 Ph
	Hertz	60 Hz
	RPM	1750
	Type	Permanent split capacitor or 3 Ph
	Insulation	Class B
	Amps	1.4 - 10.3
PUMP	Operation	Automatic or nonautomatic
	Auto On/Off Points	16-1/2" (40.6 cm) / 5-1/4" (13 cm)
	Discharge Size	2" or 3" NPT female, flanged vertical
	Solids Handling	2" (50 mm) spherical solids
	Cord Length	10' (3 m) automatic, 15' (5 m) nonautomatic
	Cord Type	1 Ph-UL listed 3-wire neoprene cord and plug 3 Ph-4 wire with no plug
	Max. Head	35' (10.7 m)
	Max. Flow Rate	179 GPM (678 LPM)
	Max. Operating Temp.	130 °F (54 °C)
	Cooling	Oil filled
	Motor Protection	Auto reset thermal overload (1 Ph)
MATERIALS	Upper Bearing	Ball bearing
	Lower Bearing	Ball bearing
	Mechanical Seals	Carbon and ceramic
	Impeller Type	Non-clogging vortex
	Impeller	Cast iron
	Hardware	Stainless steel
	Motor Shaft	1117 carbon steel or 416 stainless steel*
	Gasket	Neoprene square ring and gasket

*Single seal models are built with a carbon steel motor shaft, and double seal models are built with a stainless steel motor shaft.

NOTE: The sizing of effluent systems normally requires variable level float(s) controls and properly sized basins to achieve required pumping cycles or dosing timers with nonautomatic pumps.

NOTE: See model comparison chart for specific details.

SINGLE SEAL



DOUBLE SEAL

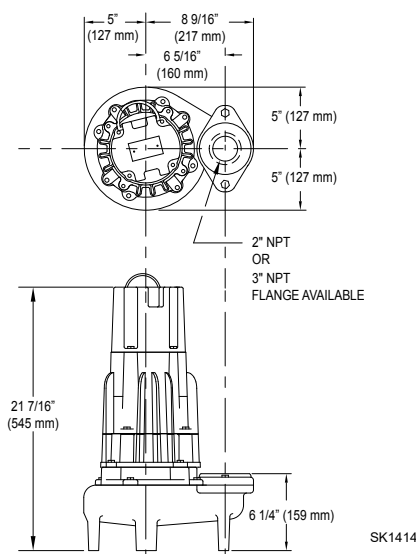
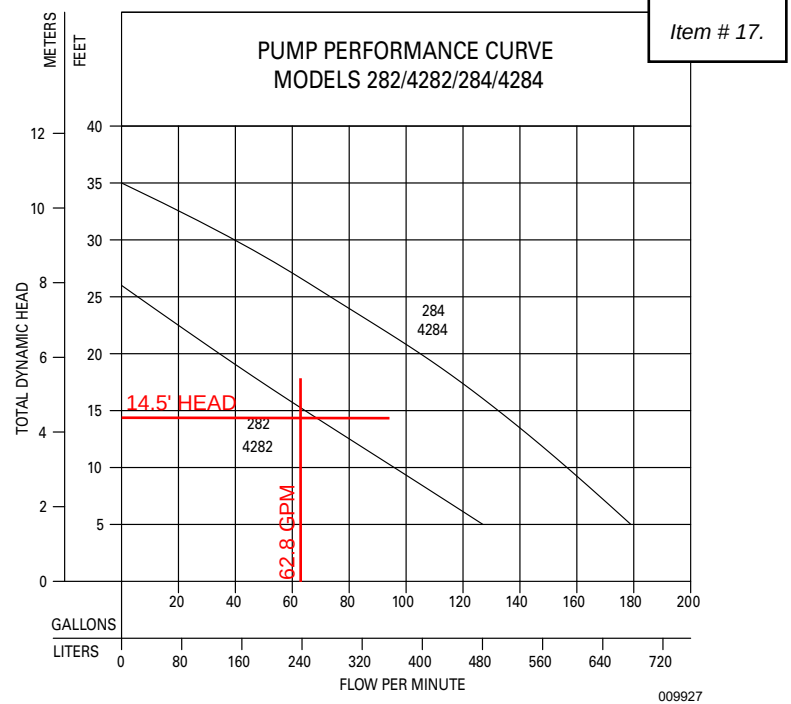


FIGURE 8

TOTAL DYNAMIC HEAD FLOW PER MINUTE

MODELS		282/4282		284/4284	
Feet	Meters	Gal.	Liters	Gal.	Liters
5	1.5	127	481	179	678
10	3.0	96	363	157	594
15	4.6	64	242	133	503
20	6.1	34	129	106	401
25	7.6	6	23	73	276
30	9.1	--	--	42	159
Shut-off Head		26 ft. (7.9m)		35 ft. (10.7m)	



Model	MODEL COMPARISON											CERTIFICATIONS
	Seal	Mode	Volts	Ph	Amps	HP	Hz	Lbs	Kg	Simplex	Duplex	cCSAus
M282	Single	Auto	115	1	10.3	1/2	60	82	37	1	---	Y
N282/N4282	Single / Dbl	Non	115	1	10.3	1/2	60	82 / 88	37 / 40	2 or 3	4	Y
BN282	Single	Auto	115	1	10.3	1/2	60	83	38	---	---	Y
D282	Single	Auto	230	1	5.0	1/2	60	82	37	1	---	Y
E282/E4282	Single / Dbl	Non	230	1	5.0	1/2	60	82 / 88	37 / 40	2 or 3	4	Y
* H282	Single	Auto	200	1	6.1	1/2	60	82	37	1	---	Y
* I282/I4282	Single / Dbl	Non	200	1	6.1	1/2	60	82 / 88	37 / 40	3	4	Y
* J282/J4282	Single / Dbl	Non	200	3	3.6	1/2	60	82 / 88	37 / 40	3	4	Y
* F282/F4282	Single / Dbl	Non	230	3	3.0	1/2	60	82 / 88	37 / 40	3	4	Y
BE282	Single	Auto	230	1	5.0	1/2	60	83	38	---	---	Y
* CF282	Single	Auto	230	3	3.0	1/2	60	82	37	1	---	N
* G282/G4282	Single / Dbl	Non	460	3	1.7	1/2	60	82 / 88	37 / 40	3	4	Y
* BA282/BA4282	Single / Dbl	Non	575	3	1.4	1/2	60	82 / 88	37 / 40	3	4	Y
D284	Single	Auto	230	1	8.9	1	60	85	39	1	---	Y
E284/E4284	Single / Dbl	Non	230	1	8.9	1	60	85 / 91	39 / 41	2 or 3	4	Y
* H284	Single	Auto	200	1	9.3	1	60	85	39	1	---	Y
* I284/I4284	Single / Dbl	Non	200	1	9.3	1	60	85 / 91	39 / 41	3	4	Y
* J284/J4284	Single / Dbl	Non	200	3	5.5	1	60	85 / 91	39 / 41	3	4	Y
* F284/F4284	Single / Dbl	Non	230	3	5.0	1	60	85 / 91	39 / 41	3	4	Y
BE284	Single	Auto	230	1	8.9	1	60	85	39	---	---	Y
* CF284	Single	Auto	230	3	5.0	1	60	85	39	1	---	N
* G284/G4284	Single / Dbl	Non	460	3	2.6	1	60	85 / 91	39 / 41	3	4	Y
* BA284/BA4284	Single / Dbl	Non	575	3	2.2	1	60	85 / 91	39 / 41	3	4	Y

* no molded plug Additional cord lengths are available in 15' (5 m), 25' (8 m), 35' (11 m) and 50' (15 m).

SELECTION GUIDE

1. Integral float-operated mechanical switch, no external control required.
2. For automatic use single piggyback variable level float switch or double piggyback variable level float switch. Refer to FM0477.
3. See FM1228 for correct model of simplex control panel.
4. See FM0712 for correct model of duplex control panel.
5. Variable level control switch 10-0743 used as a control activator, specify simplex (3) float or duplex (4) float system. Refer to FM0526.



All installation of controls, protection devices and wiring should be done by a qualified licensed electrician. All electrical and safety codes should be followed including the most recent National Electrical Code (NEC) and the Occupational Safety and Health Act (OSHA).

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Product information presented here reflects conditions at time of publication. Consult factory regarding discrepancies or inconsistencies.



SECTION Item # 17.

1120
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0418

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SHIP TO: 3649 Cane Run Road • Louisville, KY 40211-1961
TEL: (502) 778-2731 • 1 (800) 928-PUMP • FAX: (502) 774-3624

Visit our website:
zoellerpumps.com

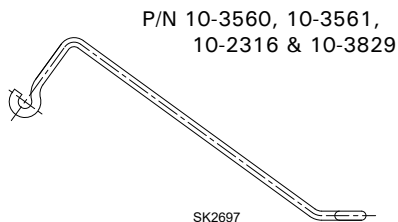
Z-RAIL® DISCONNECT SYSTEMS (1-1/4" - 3" NPT Discharge Pumps)



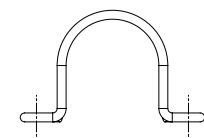
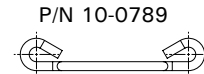
2" Z-Rail® Disconnect System

FEATURES

- Sewage, storm water and effluent pump systems
- For concrete, steel, or fiberglass tanks
- Allows for removal of pumps from ground level
- No confined space entry to service pump
- No pull rods or hold down rods
- Disconnect fitting with positive machine fit and o-ring seal provides a reliable seal.
- Seals up to 160 psi, supports a weight up to 300 lbs.
- Guide rails direct the pump to and from the disconnect fitting. Systems are supplied complete with disconnect fitting, guide plate, rail guide, and upper rail support bracket.
- All systems use 3/4" schedule 40 pipe rails (not included).



SK2697



SK2486

SPECIFICATIONS

Rail System	Pump Discharge	Rail System Discharge	Materials of Construction*	Weight	Type
39-0134	1-1/4" V	2" V	powder coated, ductile iron	41	Z-Rail®
39-0135	1-1/4" V	2" V	powder coated, ductile iron w/ SS upper rail support bracket	43	Z-Rail®
39-0136	1-1/4" V	2" V	powder coated, ductile iron w/ brass for non-sparking	44	Z-Rail®
39-0143	1-1/4" V	2" V	powder coated, ductile iron w/ SS upper rail support/ brass for non-sparking	44	Z-Rail®
39-0137	1-1/4" H	1-1/4" V	powder coated, ductile iron (810/815 only)	41	Z-Rail®
39-0138	1-1/4" H	1-1/4" V	powder coated, ductile iron w/ SS upper rail support bracket (810/815 only)	43	Z-Rail®
39-0131	1-1/2" V	2" V	powder coated, ductile iron	41	Z-Rail®
39-0132	1-1/2" V	2" V	powder coated, ductile iron w/ SS upper rail support bracket	43	Z-Rail®
39-0133	1-1/2" V	2" V	powder coated, ductile iron w/ brass for non-sparking	44	Z-Rail®
39-0142	1-1/2" V	2" V	powder coated, ductile iron w/ SS upper rail support/ brass for non-sparking	43	Z-Rail®
39-0128	2" V	2" V	powder coated, ductile iron	42	Z-Rail®
39-0129	2" V	2" V	powder coated, ductile iron w/ SS upper rail support bracket	43	Z-Rail®
39-0130	2" V	2" V	powder coated, ductile iron w/ brass for non-sparking	45	Z-Rail®
39-0141	2" V	2" V	powder coated, ductile iron w/ SS upper rail support/ brass for non-sparking	44	Z-Rail®
39-0122	3" V	3" V	powder coated, ductile iron	47	Z-Rail®
39-0123	3" V	3" V	powder coated, ductile iron w/ SS upper rail support bracket	47	Z-Rail®
39-0124	3" V	3" V	powder coated, ductile iron / brass for non-sparking	47	Z-Rail®
39-0125	3" V	3" V	powder coated, ductile iron w/ SS upper rail support/ brass for non-sparking	47	Z-Rail®

ACCESSORIES

Intermediate rail brackets are required for each 12' of basin depth.

39-0139	intermediate rail bracket 1-1/4", 1-1/2" and 2" discharge - SS	4	Z-Rail®
39-0140	intermediate stabilizer, SS, for 3" system	4	Z-Rail®
** 10-3560	SS lifting bail for 50, 90 & 150 series	1	Z-Rail®
** 10-3561	SS lifting bail for 140 series	1	Z-Rail®
** 10-2316	SS lifting bail for 130, 260 & 270 series	1	Z-Rail®
** 10-3829	SS lifting bail for 803, 805 & 807 series	1	Z-Rail®
** 10-0789	SS lifting bail for 160, 180, 280, 290, 810/815 and 818/819/820 series (see above)	1	Z-Rail®

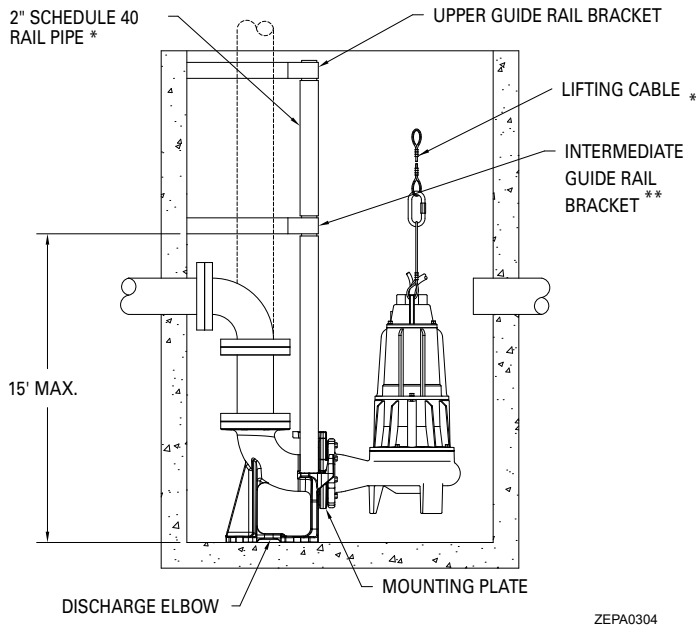
* Disconnect fitting, guide rail plate, rail guide and upper rail support bracket SS lifting bail for 160, 180, 280, 290, 810/815 and 818/819/820 series

** Lifting bails are required on these models to balance pump and rail plate evenly. Other models already include proper lifting device.

FIGURE 8

FLANGED RAIL SYSTEMS (3" & 4") - FIELD ASSEMBLED

Item # 17.



ZEPA0304

* Not included

** One intermediate guide rail bracket is required for every
☐ 20 ft. for 3" system or
☐ 15 ft. for 4" system, of basin depth. See chart for part number.

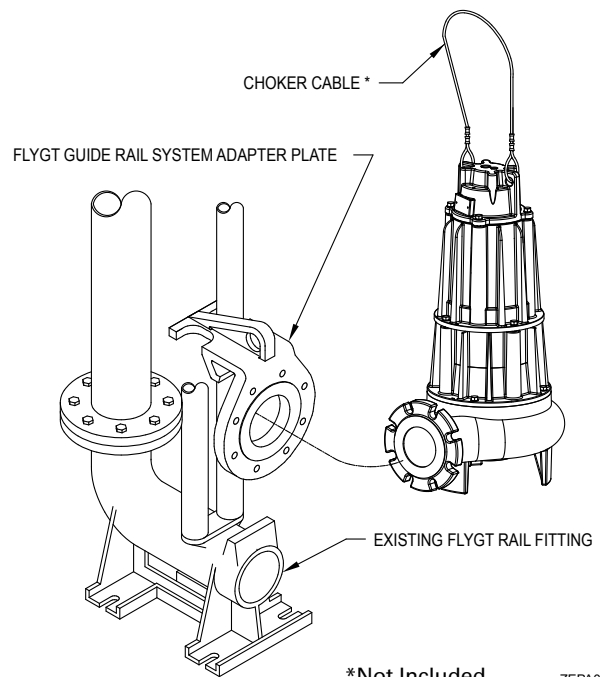
Guide rail system is for removal and installation of flanged, horizontal discharge pumps without getting in or removing fluid from pit.

SPECIFICATIONS			
Part Number	Description	Pump Discharge	Guide Rails *
39-0094	3" guide rail system SS	3" horizontal flange	2" SS or galv.
39-0154	4" guide rail system SS bracket	4" horizontal flange	2" SS or galv.
39-0095	3" guide rail system SS non-sparking for Class I Group C and /or Group D Division 1 Installation	3" horizontal flange	2" SS or galv.
39-0155	4" guide rail system, non-sparking for class I Group C and/or Group D Division 1 Installation	4" horizontal flange	2" SS or galv.
39-0096	Intermediate bracket for 3" rail systems		
39-0014	Intermediate bracket for 4" rail systems (SS)		

FLYGT GUIDE RAIL SYSTEM ADAPTERS

Adapter plates for retrofitting 3" & 4" horizontal ANSI flange discharge pumps to existing Flygt rail systems.

Pump Discharge	Part Number
3"	6039-0070
4"	6039-0048



ZEPA0601

DESIGN FEATURES:

Cast iron construction

Flange conforms to ANSI B16.10 fully flat. MSS SP-6

For use with all 400, 600 & 700 series pumps with 3" or 4" discharge and 2" rail pipe.

Flange gasket and stainless steel bolts included.

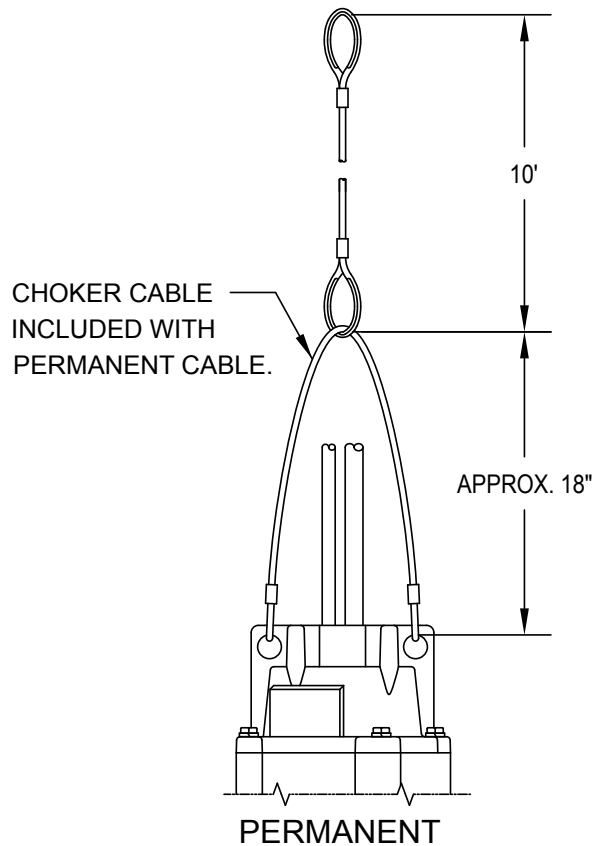
⚠ CAUTION

All installation of controls, protection devices and wiring should be done by a qualified licensed electrician. All electrical and safety codes should be followed including the most recent National Electrical Code (NEC) and the Occupational Safety and Health Act (OSHA).

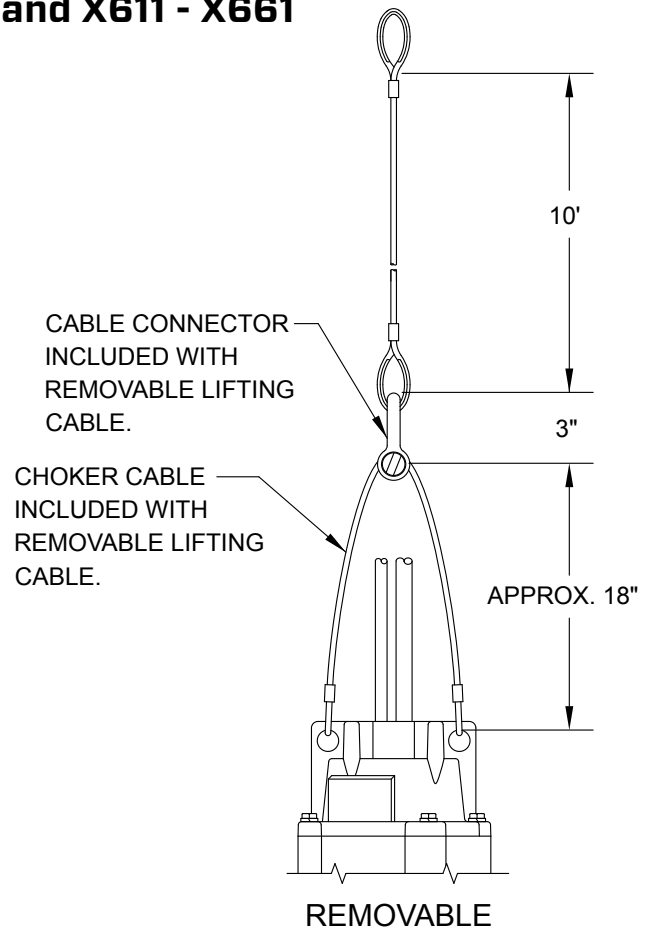
FIGURE 8 PUMP LIFTING CABLES

Item # 17.

Lifting Cables for Pump Model: 611 - 661 and X611 - X661



ZEPa0191A

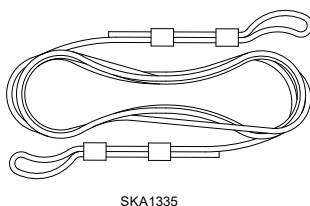


ZEPa0191B

P/N	Description	Material	Wt. Lbs.
6039-0026	Choker Cable	Stainless Steel	1
6039-0027	Choker Cable	Galvanized Steel	1
6039-0028	Permanent Cable 10'	Stainless Steel	4
6039-0029	Permanent Cable 10'	Galvanized Steel	4
6039-0030	Removable Cable 10'	Stainless Steel	5
6039-0031	Removable Cable 10'	Galvanized Steel	5
6039-0032	Permanent Cable 15'	Stainless Steel	6
6039-0061	Permanent Cable 25'	Stainless Steel	8
6039-0062	Permanent Cable 20'	Stainless Steel	7

Additional lengths available. Consult Factory.

Models: Non 600 Series Pumps



SKA1335

1/8" Stainless Steel Lifting Cable*

Part Number	Length
39-0031	8'
39-0032	12'
39-0033	16'
39-0034	20'
39-0035	24'

* Limited to 150 lbs.

FIGURE 8

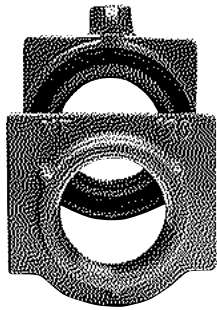
DISCONNECT & RAIL SYSTEMS

Item # 17.

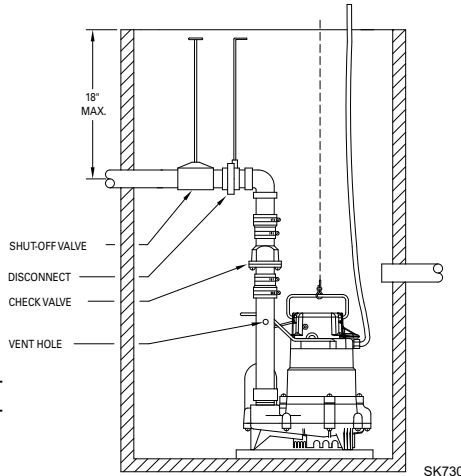
- Economical: reduces time and cost of removing pump.
- Safety: keeps personnel out of pits and out of contact with contaminants.
- Inspections made are fast and easy.

DISCONNECT ONLY (1-1/4", 1-1/2" & 2" Discharge)

Disconnect fitting: used for shallow systems where guide rails are not necessary. (pull rod not included)

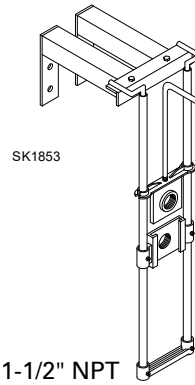


39-0053, 1-1/4" NPT
39-0001, 1-1/2" NPT
39-0002, 2" NPT

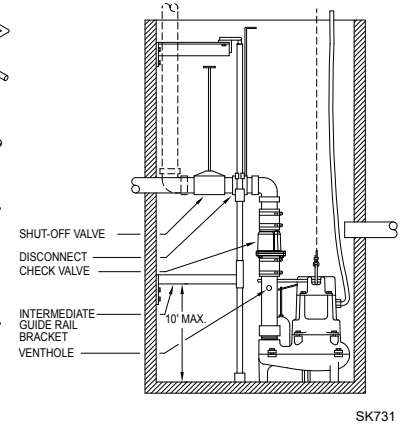


COMPLETE SYSTEMS (1-1/2" & 2" Discharge)

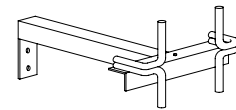
Rail and disconnect system for effluent or sewage pumps: used for removal and reinstallation of pumps without getting in or removing fluid from the pit. (2 standoffs included)



39-0003, 1-1/2" NPT
39-0004, 2" NPT
Pipe rails, pull rods and intermediate brackets not included.

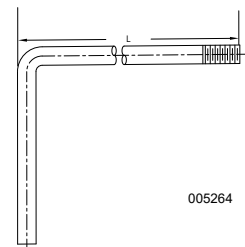


Intermediate Guide Rail Bracket
One intermediate guide rail bracket is required for every 10 feet of rail.
Use 39-0022 with 39-0003 & 39-0004.



39-0022

SK1260



005264

Stainless Steel Pull Rods

3/8"-16 UNC

Part Number	Length
39-0069	1'
39-0006	2-1/2'
39-0007	3-1/2'
39-0008	4-1/2'
39-0009	5-1/2'
39-0018	7'
39-0010	8'

SPECIFICATIONS					
Part Number	39-0053	39-0001	39-0002	39-0003	39-0004
Pipe size	1-1/4" NPT	1-1/2" NPT	2" NPT	1-1/2" NPT	2" NPT
Disconnect material	brass	brass	brass	brass	brass
Disconnect weight	1.6 lbs.	2.0 lbs.	2.5 lbs.	10.1 lbs.	12 lbs.
Centerline of rails from wall-in 30" basin (minimum)	_____	_____	_____	2.75"	2.75"
Travel to disengage	33/4"	3"	3-1/2"	3-3/8"	3-7/8"
Pressure rating	150 PSI	150 PSI	150 PSI	150 PSI	150 PSI
Pull rods thread size	3/8" - 16 UNC	3/8" - 16 UNC	3/8" - 16 UNC	3/8" - 16 UNC	3/8" - 16 UNC
Support weight	All pumps should be supported underneath with concrete blocks or basin floor.				
Guide rail size & material	_____	_____	_____	3/4" IPS Pipe (S.S./Gal.) (recommended) or PVC Scd. 80 (optional). Supplied by customer.	



MILPITAS PLANNING COMMISSION STAFF REPORT

February 22, 2023

APPLICATION:

TRUE LIFE TOWNHOMES – 612 S MAIN ST – P-SD22-0007, P-UP22-0003, P-MT22-0003, P-DB22-0002, P-TR22-0014, AND P-EA22-0005. A Site Development Permit, Conditional Use Permit, Vesting Tentative Map, Density Bonus Permit, Tree Removal Permit, and Environmental Assessment to allow demolition of a multi-tenant commercial and office building, removal and replacement of 13 ordinance-size trees, and development of a multi-family residential project with 57 townhomes. The residential development will consist of nine multi-family residential buildings up to 37 feet in height (three stories), surface parking for up to with 123 vehicle parking stalls, and associated site improvements on a 2.35-acre site located in the Mixed Use (MXD) Zoning District at 612 South Main Street. The Project is located within the Midtown Specific Plan Area and submitted under California Senate Bill 330 (Housing Crisis Act of 2019).

RECOMMENDATION:

Staff recommends that the Planning Commission open and close the public hearing, consider and determine the Project is exempt from environmental review in accordance with CEQA, and adopt Resolution No. 23-004, recommending that the City Council approve Site Development Permit No. SD22-0007, Conditional Use Permit No. UP22-0003, Vesting Tentative Map MT22-0003, Density Bonus Permit No. DB22-0002, Tree Removal Permit No. TR22-0014 and Environmental Assessment No. EA22-0005, subject to the Conditions of Approval.

PROJECT LOCATION:

Addresses and Assessor's

Parcel Number (APN):

Area of City:

612 South Main Street (086-25-027, 028)

Midtown Specific Plan

PEOPLE:

Project Applicant:

Leah Beniston, Senior Vice President of Entitlements
The True Life Companies, San Ramon, CA

Consultant(s):

Architect: *SDG Architects, Inc., Brentwood, CA*
Civil Engineer: *MacKay & Soms, Pleasanton, CA*
Landscape Architect: *R3 Studios, Oakland, CA*

Property Owner:

TTLC Milpitas – S Main St, LLC, San Ramon, CA

Project Planner: Kristina Phung, Associate Planner

LAND USE:

General Plan Designation: Milpitas Gateway Specific Plan (MGSP)
 Specific Plan Designation: Midtown Specific Plan
 Zoning District: Mixed Use (MXD)

ENVIRONMENTAL: The Project is exempt from environmental review pursuant to California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15332 (In-fill Development Projects, Class 32 Categorical Exemption). As a separate and independent basis, the Project is also exempt from further environmental review pursuant to CEQA Guidelines Section 15168 (Program EIR).

EXECUTIVE SUMMARY

The City of Milpitas received an application from The True Life Companies (TTLC, applicant) requesting a Site Development Permit, Conditional Use Permit, Vesting Tentative Map, Density Bonus Permit, Tree Removal Permit, and Environmental Assessment to allow the development of a 57-unit townhome condominium subdivision, comprised of nine multi-family buildings up to 37-feet (three stories) in height, 123 parking spaces, and associated site improvements on 2.35-acre site located at 612 South Main Street (APNs 086-25-027, 028) in the Midtown Specific Plan area. The application was submitted in accordance with California Senate Bill 330, also known as the Housing Crisis Act of 2019.

The Project consists of 57 three-bedroom townhome condominium units. All 57 townhome units are three-stories in height with attached two-car garages. Nine of the condominiums will be reserved for moderate-income households (to comply with the City's Affordable Housing Ordinance). A moderate-income household is a family or persons whose incomes are between 80 percent and 95 percent of median area income of Santa Clara County.

Since the applicant will reserve 15% of the housing units for purchase by moderate-income households, the Project also qualifies for concessions, waivers, and parking reductions under the State Density Bonus Law.

The proposed Project requires approval of five entitlements, as follows:

1. Site Development Permit No. SD22-0007: To allow the development of nine multi-family buildings, up to three stories in height, with up to 57 townhouse condominiums on the 2.35-acre site; and
2. Conditional Use Permit No. UP22-0003: To allow residential units as condominiums and associated subdivision; and
3. Vesting Tentative Map No. MT22-0003: To establish 57 residential condominium spaces, related common areas, and associated easements; and
4. Density Bonus Permit No. DB22-0002: To ensure compliance with State Density Bonus law and regulations; and

5. Tree Removal Permit No. TR22-0014: To remove 13 ordinance-size trees and replace them with 157 new trees on the same site.

In addition to the above entitlements, the City has prepared Environmental Assessment No. EA22-0005 to establish compliance with the California Environmental Quality Act (CEQA) for this Project.

Staff has found the required entitlements comply with the policies, standards, and processes outlined in the State Density Bonus Law, City of Milpitas 2040 General Plan, Midtown Specific Plan, Zoning Ordinance, and other provisions of the Milpitas Municipal Code (MMC). Staff recommends that the Planning Commission open and close the public hearing, consider the exemptions in accordance with CEQA and adopt Resolution No. 23-004, recommending that the Milpitas City Council approve the Project, subject to the conditions of approval. The balance of this report provides specific details regarding the Project.

BACKGROUND

The Project site located at 612 South Main Street is a combination of two adjacent parcels: 600 South Main Street (APN 086-25-028) and 612-650 South Main Street (APN 086-25-027). The parcel at 600 South Main Street is vacant, and the adjacent parcel at 612-650 South Main Street is developed with a partial two-story multi-tenant commercial and light industrial office building (approximately 27,500 square feet). At present, the building is occupied with a mix of commercial and office tenants, including a Montessori school, piano and guitar lessons shop, gymnastics center, and a real estate office. Most of these tenants or similar uses have operated at this location since the building was completed in 1985.

Milpitas Midtown Specific Plan

The Project site is located within the Milpitas Midtown Specific Plan area. This Plan, which was adopted in March 2002 and last updated in 2010, identified the subject parcels as opportunity sites as they were either vacant or had existing buildings or uses that were likely to be developed with a higher or more intense use in the future.

In late 2021, the City initiated an update to the Midtown Specific Plan and rebranded this effort as the Milpitas Gateway-Main Street Specific Plan (MGSP). The City expects to complete this effort in early 2024. The MGSP will provide an updated vision for new mixed-use and pedestrian-oriented development along Main Street as well as land use and streetscape improvements along the Calaveras Boulevard corridor. The MGSP will also establish branding, placemaking, and urban design strategies to promote economic investment and redevelopment in these areas.

California Senate Bill 330 (Housing Crisis Act of 2019)

In April 2022, TTLC submitted a preliminary application pursuant to California Senate Bill 330 (SB 330) for a 57-unit townhome subdivision at the Project site. On July 26, 2022, TTLC submitted a formal application for the same townhome housing development.

California Senate Bill 330 (SB 330) is a statewide bill intended to reduce the time to approve housing developments in California. It became effective on January 1, 2020, and Senate Bill 8 (SB 8) recently extended the Act through January 1, 2030. Under SB 330, eligible projects receive enhanced streamlining and vesting opportunities by filing a preliminary application. Those benefits include:

- Freezes the ability of local governments to downzone, adopt new development standards, or change land use in residential and mixed-use areas if the change results in less-intensive uses.
- Allows developers to request approval of housing developments that exceed density and design controls of the underlying zoning if the existing zoning conflicts with the General Plan or a Specific Plan.
- Expedites the permitting process for all housing development and limits the list of application materials that cities can review.

Applicable State Housing Laws

The California Housing Accountability Act (Government Code section 65589.5) requires local jurisdictions to approve housing projects that comply with applicable, objective codes and standards. In addition, the State Density Bonus Laws (Gov. Code §§ 65915 *et seq.*) require local jurisdictions to approve waivers and concessions for projects that meet certain affordability requirements. Consistent with state law, planning staff has determined that the Project is consistent with applicable, objective land use and design standards (and meets the requirements for waivers and incentives/concessions under the State Density Bonus Law. A local government agency can deny an eligible housing project only if there is a preponderance of evidence that denial is the only way to avoid an adverse impact on public health and safety.

PROJECT DESCRIPTION

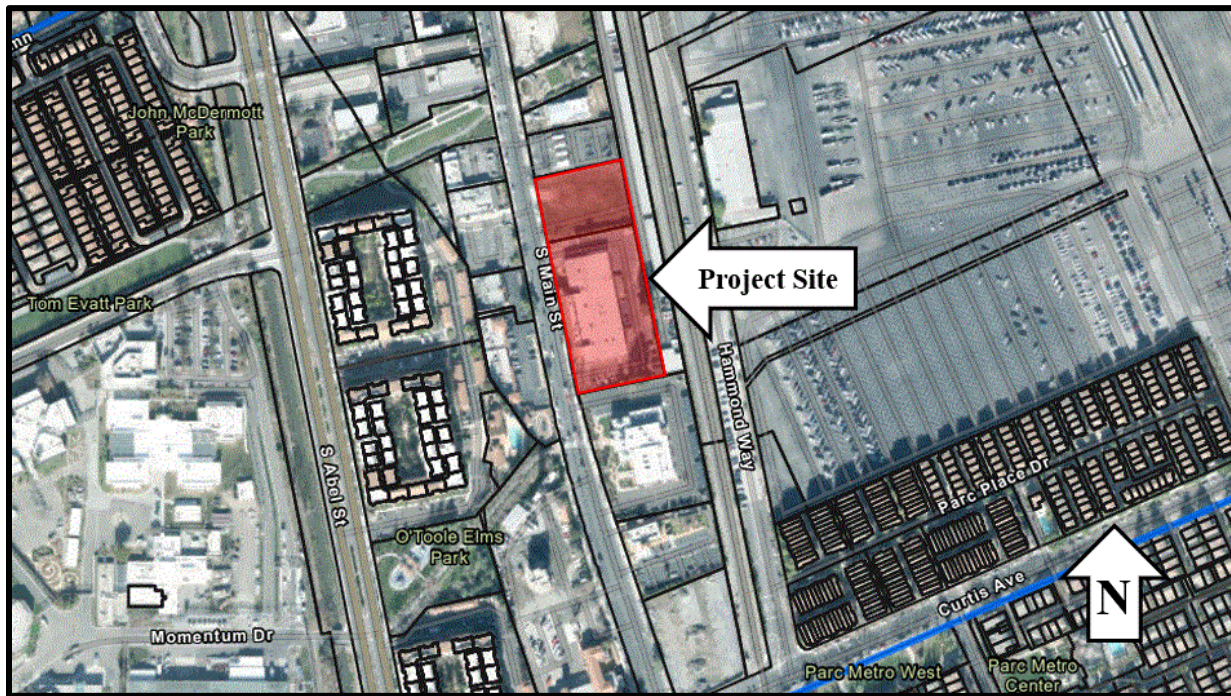
Overview

The Project consists of demolition of the existing multi-tenant commercial and office building and surface parking lot, and development of 57 townhome condominium units and associated site improvements, including private alleyways and outdoor amenity spaces. The townhomes will range from 1,423 to 2,092-square feet in size, each with three bedrooms and three or three-and-a-half bathrooms. The Project provides a total of 123 onsite parking spaces (114 spaces within a garage, nine surface spaces on-site for guests). To comply with the City's Affordable Housing Ordinance, the applicant will designate nine of the townhomes for sale to moderate-income households.

The Project is eligible for certain concessions, waivers, and parking incentives under State Density Bonus Law (Gov. Code § 65915 *et seq.*) because 15% of the total townhome units will be reserved for moderate-income households.

Location and Context

The Project is located on a 2.35-acre site on the east side of South Main Street and west of Hammond Way. Figure 1 shows the location of the proposed Project:

Figure 1 – Project Site Location

The property is located within the Midtown Specific Plan area and zoned Mixed Use (MXD). Table 1 and Figure 2 below summarize the land use designation and surrounding uses of nearby properties:

Table 1: Surrounding Zoning and Land Uses

	General Plan	Zoning	Existing Uses
Subject Site	Milpitas Gateway Specific Plan	Mixed Use (MXD)	Multi-tenant Commercial/Office Building
North	Milpitas Gateway Specific Plan	Mixed Use (MXD)	Vehicle-Related Services (Car Wash)
South	Milpitas Gateway Specific Plan	Mixed Use (MXD)	Assembly (Jain Center of Northern California)
East	Milpitas Gateway Specific Plan	Mixed Use (MXD)	Commercial (Mini Storage)
West	Milpitas Gateway Specific Plan	Mixed Use (MXD)	Commercial (Multi-tenant Commercial Plaza)

Figure 2 – 612 S. Main Street (Zoning Map)

PROJECT ANALYSIS

This section will evaluate elements of the proposed Project for conformance with the Milpitas 2040 General Plan, Midtown Specific Plan, Zoning Ordinance, and other provisions of the Milpitas Municipal Code, Senate Bill 330, and State Density Bonus Law.

General Plan Conformance

The General Plan designation for the Project site is Milpitas Gateway Specific Plan (MGSP), but since City Council has not yet formally adopted the MGSP, the development standards in the Midtown Specific Plan currently apply.

The Project is in conformance with the applicable policies and standards in the City's General Plan, as outlined in Table 2:

Table 2: General Plan Consistency

Policy	Conformance
<i>Policy LU 1-4:</i> Continue to provide for a variety of housing types and densities that meet the needs of individuals and families and offer residents of all income levels, age groups, and special needs sufficient housing opportunities and choices for locating in Milpitas.	Consistent. The Project provides 57 new three-bedroom townhome condominiums in three types of unit type floor plans with modern design elements such as including a minimum of three bathrooms and private balconies in each unit. The Project will also provide housing opportunities with those with special needs by providing at least 10% of the total units (six units) as accessible (ADA) units. The proposed family-sized housing type

Policy	Conformance
	will meet the needs of individuals, families, and residents of all demographics and income levels as they may need more space for family, professional, or personal needs as compared to studio, one-bedroom, or two-bedroom units. Additionally, nine of the residential units will be reserved for moderate-income households.
Policy LU 5-1: <i>Require new development and redevelopment to be compatible, complementary and, where appropriate, well integrated with existing residential areas. Integrate new large-scale development projects into the fabric of the existing community rather than allowing projects to be insular and self-contained, walled off, or physically divided from surrounding uses. Improve connectivity between neighborhoods and services with new development. Tie circulation systems and open spaces into existing streets and open spaces. Reduce unnecessary barriers and improve connections between neighborhoods and services by retrofitting existing development over time as area improvements or redevelopment occurs.</i>	Consistent. The Project, as proposed, is well integrated with the existing residential, commercial, and mixed-use developments along South Main Street. The Project is located in an area already served by existing infrastructure and utilities and would incorporate an underutilized lot (600 S. Main St.) that has remained vacant and undeveloped for many years. The smaller size of this lot (approximately 150-ft width and 203-ft depth) would be challenging to develop into an efficient mixed-use project individually in the future due to site constraints. As such, the proposed Project would improve connectivity within the surrounding neighborhood by integrating both parcels. Additionally, the Project will gain ingress and egress from two new access points along South Main Street via new driveway curb cuts, and as a result, the Project will blend seamlessly into the fabric of the existing community that also have curb cuts along this street frontage. The Project will be compatible and complementary to the future higher-density mixed-use and residential development planned for other parcels along South Main Street and the Midtown Specific Plan area which are mostly developed with commercial or light industrial uses but are zoned for redevelopment as higher intensity and density mixed-uses.
Policy LU 5-3: <i>Ensure new development is consistent with specific height limits established within the City's Zoning Ordinance as applied through the zoning district for all properties within the City.</i>	Consistent. The Project meets the height standards by proposing nine buildings that are three stories each, up to a maximum 37-feet in height in a zoning district that allows a maximum height of 45 feet.

Midtown Specific Plan Conformance

The Project site is located within the 2010 Midtown Specific Plan and is zoned Mixed Use (MXD).

The purpose of the Midtown Specific Plan is:

- Guide the development and further evolution of the Milpitas Midtown Planning Area (Midtown Area);
- Encourage development that responds to City and regional objectives, such as a compatible mixture of residential, retail, and commercial uses;
- Reflect neighborhood considerations; and
- Encourage private investment in the area.

The proposed Project supports the purpose and intent of the Midtown Specific Plan. Table 3 below outlines the Project's consistency with applicable Midtown Specific Plan Policies:

Table 3: Midtown Specific Plan Consistency

Policy	Conformance
<i>Policy 3.10:</i> <i>Designate parcels along the Main Street and Abel Street corridor mixed-use and allow a mixture of retail, office, housing, service, and public/quasi-public uses in this area.</i>	Consistent. The Project will be located on Main Street and is designed as mixed-use and will provide new housing opportunities with 57 townhome condominiums with private outdoor amenity areas. Landscaping improvements will be made within the development and along the South Main Street streetscape to improve the existing condition and encourage pedestrian and other multi-modal activity to utilize the surrounding retail, office, service, and public/quasi-public uses in the area.
<i>Policy 3.12:</i> <i>Encourage housing as the principal upper-level use along Main Street.</i>	Consistent. The Project is fully residential with each of the 57-units as a three-story, three-bedroom attached unit separated in nine buildings. Therefore, housing is a principal use of the Project site along Main Street. As the Project was submitted under SB 330 and complies with all development standards in effect at the time the preliminary application was reviewed from April - May 2022, the City may not require additional changes to the Project proposal or design unless such changes are necessary to address health, life, or safety risks. All reviewing City Departments including Planning, Building and Housing, Fire, Engineering, and Police have not found any such concerns related to the Project as designed to warrant alterations to the current proposal. Furthermore, the Project site and the immediate surrounding parcels were not identified to specifically

Policy	Conformance
	require ground floor commercial uses per the Midtown Specific Plan study area.
Policy 3.13: <i>Adopt development standards and design guidelines for the Mixed-Use District that will create a lively pedestrian environment.</i>	Consistent. The proposed Project follows the development standards of the Mixed-Use (MXD) Zoning District and the Midtown Specific Plan and creates a pedestrian scale streetscape on Main Street by remaining three stories and up to a maximum height of 37-feet. The Project will also activate a formerly vacant and undeveloped parcel at 600 S. Main Street and will connect the uses along the street. Furthermore, the introduction of new residents in the area may utilize the existing commercial and retail land uses in Midtown area and help encourage a lively pedestrian environment.
Policy 3.14: <i>Limit the establishment of new quasi-public uses within the mixed-use designation in order to create a more active street environment.</i>	Consistent. The proposed Project consists of residential uses only.
Policy 3.24: <i>Require new residential development to provide public parks at a ratio of 3.5 acres per 1,000 persons, of which up to 1.5 acres per 1,000 persons can be developed as private or common open space.</i>	Consistent. The developer of the Project will comply by paying a park-in-lieu fee as described in the staff report and conditioned in the attached Resolution. The current park-in-lieu fee is established in Milpitas City Council Resolution No. 8437.
Policy 4.16: <i>Provide secure and weather protected bicycle parking facilities at the transit stations and within new residential, retail and employment destinations.</i>	Consistent. The Project provides bicycle parking facilities within the new residential development in the private outdoor amenity area with six bicycle racks, providing capacity for up to 12 bicycle parking stalls.
Policy 4.17: <i>Ensure that new development complies with City of Milpitas Zoning Ordinance requirements for off-street parking. Consider reductions on a case-by-case basis.</i>	Consistent. The Project complies with the Midtown Specific Plan zoning regulations for off-street parking requirements by providing the minimum two covered stalls for each three-bedroom unit in an attached garage, for a total of 114 covered stalls. Guest parking requirements for the Project are approximately 17 stalls, or 15 percent of the total required parking as required by the zoning ordinance. The Project qualifies for waivers and concessions under the affordability provisions of the State Density Bonus Law, which allows minimum parking ratios that are less than the City's standard zoning requirements. Such waivers and parking incentives

Policy	Conformance
	must be granted unless there is a specific finding of a significant health, life, or safety risk.
<i>Policy 5.4:</i> Implement a program of streetscape improvements (Sidewalks, landscaping, bike lanes, benches, lighting) along Main and Abel Streets and Great Mall Parkway.	Consistent. The proposed Project provides street trees and landscaping improvements to the streetscape along Main Street. Some private improvements may be limited due to an existing 10-foot wide public utility easement within the front setback of the Project site. No permanent structures, such as benches, can be placed over such easements.
<i>Policy 6.11:</i> Incorporate energy saving devices into new development in order to promote energy conservation.	Consistent. The proposed development will be constructed with the latest adopted California Building Code (CBC) standards which encourages the latest statewide energy efficiency standards in new construction projects. The Project is required to show compliance with the CBC Building Energy Efficiency Standards (Title 24) during the building permit review process. Additionally, technological improvements and energy efficiency in appliances and devices have historically and continuously improved over time and the Project anticipated to install modern energy saving devices compared to older developments.

Zoning Conformance

The Project site is located in the MXD Mixed-Use Zoning District. Per the Zoning Ordinance, the MXD Zoning District encourages a compatible mix of residential, retail, entertainment, office and commercial service uses within the framework of a pedestrian-oriented streetscape. It is intended that the residential and commercial uses allowed in the MXD Zoning District combine to provide for an "around-the-clock-environment" with urban open areas (i.e. plazas, squares) that serve multiple purposes and can be used for special events.

As demonstrated in Tables 4 and 5, the proposed Project conforms to all the development standards in the Zoning Ordinance and the Midtown Specific Plan for MXD. Where the Project is not in compliance with objective standards, the State Density Bonus Law requires the City to grant appropriate concessions, waivers, and parking reductions for qualifying projects.

Table 4: Summary of MXD and Midtown Specific Plan Development Standards

Development Standard (MXD)	Required	Proposed	Conformance
Density	21-30 du/ac	24.2 du/ac; 57 units total	Yes
Front Yard Setback	8 ft. (min.) - 15 foot (max.) from back of sidewalk	Buildings 7, 8, and 9 front S. Main St: Bldg 7: 19.9 ft. Bldg 8: 20.4 ft. Bldg 9: 20.7 ft.	Yes, with approval of a Density Bonus waiver
Side Yard Setback	10 ft. (min.)	10-15.1 ft.	Yes
Rear Yard Setback	10 (min.)	5 feet	Yes, with approval of a Density Bonus waiver
Height	45 ft. and three stories	36 ft. 11-in. (three stories)	Yes
Private Open Space	Each dwelling unit shall be provided with private open space as follows: - Balconies and porches (above ground level – min. dimension of 4.5-ft): minimum 60 sq. ft. Or - Patios (at ground level): minimum one hundred square feet.	Private open space balconies in each unit type will have at least one private balcony with an average size as follows: - Unit Type 1 (28 units): 86 sq. ft – one balcony on 2nd floor - Unit Type 2 (28 units): Total 100 SF (two balconies at 50 sq. ft each on 2nd and 3rd floors - Unit Type 3 (1 unit): 62 sq. ft – one balcony on 2nd floor	Yes

Development Standard (MXD)	Required	Proposed	Conformance
Residential Open Space	A minimum of 25% of the total site shall be usable open space or recreational facilities. Balconies, porches, or roof decks may be considered usable open space when properly developed for work, play, or outdoor living areas. 25% x 2.35-acre Project site = 0.59 acres required	Residential Open Space (OS) Provided: Usable OS = 0.45 acres Private Rec. Areas = 0.24 acres Total Residential OS = 0.69 acres	Yes

In addition, projects located in the Midtown Specific Plan area must comply with the additional development and design standards outlined in Table 5:

Table 5: Additional Development Standards Applicable in the Midtown Specific Plan

	Standard	Proposed	Conformance
Projections into Required Yards	Balconies, bay windows, porches, stoops and awnings may project into the setbacks provided at least 60% of the required setback area is landscaping.	Balconies and porches project into setback areas where more than 60% of the required setback area is landscaping	Yes
Building Orientation and Entrances	All buildings must face onto the street they front upon.	Buildings generally face South Main Street which is the Project's primary street frontage	Yes
Vehicle Parking	Three Bedroom – 2 covered stalls per unit x 57 units = 114 covered stalls Guest Parking – 15% of required stalls = 17 stalls Total Required – 131 spaces	114 resident covered spaces - nine guest spaces 123 total (114 covered, nine uncovered)	Yes, parking reduction is allowed under State Density Bonus Law

	Standard	Proposed	Conformance
Bicycle Parking	Bicycle parking equivalent to five percent (5%) of the parking requirement. Seven (7) bicycle parking spaces	12 bicycle parking spaces	Yes
Parking Location	Parking is prohibited in the front setback and should be at the rear of the buildings.	57 private garage entrances face the interior drive aisle	Yes
Parking Garage Type	Tandem parking may be allowed with a Conditional Use Permit (CUP).	28 units proposed with tandem parking garages	Yes, tandem parking is allowed under the State Density Bonus Law as a parking incentive
Parking Access and Curb Cuts	Shared driveways shall be considered wherever possible to minimize curb cuts.	Project proposes two curb cuts on South Main Street only	Yes
Park Acreage Requirements	0.22 acres (after Park-In Lieu Fee)	0.24 acres	Yes

State Density Bonus Law

To encourage affordable housing production, the State Density Bonus Law (Gov. Code §§ 65915 *et seq.*) allows developers to receive density bonuses and other incentives, such as concessions, waivers, and parking reductions, when affordable housing is incorporated within a project. The Density Bonus is a state mandate, and any project that meets the requirements of the state law is entitled to receive the waivers and incentives associated with it.

The proposed Project qualifies for waivers, concessions, and parking reductions under the State Density Bonus Law because more than 10 percent of total units will be reserved as affordable units for moderate-income households. The Project includes nine affordable units, which satisfies the 15 percent total units required under the City's Affordable Housing Ordinance. The City must grant waivers, concessions and parking reductions requested by the applicant for a qualifying project under the State Density Bonus Law.

Table 6 outlines the waivers and parking reductions requested for the proposed Project.

Table 6: State Density Bonus – Concessions, Waivers, and Incentives

Type of Modification	Standard	Applicant Request	Justification	Discretion
<i>Front Setback Waiver</i>	A minimum front setback of 8-feet and a maximum of 15-feet.	To provide a front setback of approximately 20-feet for Buildings 7, 8, and 9 as noted in Table 4.	The Project site includes existing Public Service Easements located within the first 10-feet of the front setback, and no structures or projections are allowed on or above the easement.	This waiver is allowed under State Density Bonus Law and must be granted by the City.
<i>Rear Setback Waiver</i>	Rear setback must be a minimum of 10 feet.	To provide a rear setback of approximately 5-feet for Buildings 1, 2, 3, 4, 5, and 6 as noted in Table 4.	A reduction in the rear setback is necessary in order to physically construct the proposed development.	This waiver is allowed under State Density Bonus Law and must be granted by the City.
<i>Parking Reduction</i>	17 guest vehicle parking spaces	Nine guest vehicle parking spaces	Guest parking is not required under the State Density Bonus Law.	Parking reductions are allowed under State Density Bonus Law and must be granted by the City.

Front and Rear Yard Setback Waivers

The Midtown Specific Plan provides unique front, side, and rear setback requirements for MXD developments. The Project, as designed, satisfies the minimum 10-foot side setbacks on both sides of the property; but the developer is requesting State Density Bonus waivers for altering the maximum front setback and the minimum rear yard setback. As part of the SB 330 submittal process, all applications must undergo a preliminary application review that is reviewed by various City Departments, including but not limited to Planning, Engineering, Fire, Building and Housing, and Police.

The Midtown Specific Plan requires MXD proposals to have a front yard setback ranging from a minimum of 8-feet to a maximum of 15-feet, and a minimum rear yard setback of 10-feet. The applicant has requested Buildings 7, 8, and 9 which face South Main Street to have front yard setbacks ranging from 19.9-feet to 20.7-feet, and the rear yard setback for Buildings 1-6 to be 5-feet. Both front and rear setback waivers requesting differences in approximately 5-feet of the

standard requirements are necessary in order to facilitate the physical development of the proposed Project. All reviewing City Departments confirmed the proposed setbacks do not cause a public health or safety problem. As such, both waivers must be granted per State Density Bonus Law.

Parking Incentives Under State Density Bonus Laws

Under the affordability provisions of the State Density Bonus Law, any project that reserves more than 10% of total units as affordable is eligible for reduced parking standards. Projects located in the Midtown Specific Plan area typically require two vehicle parking spaces for each three-bedroom unit, and an additional 15% of required vehicle parking stalls for guests. However, upon a developer's request, the State Density Bonus Law reduces maximum parking ratios for projects that may be applied instead of City thresholds. As such, the City can only require the maximum number of vehicle parking spaces per State Density Bonus Law parking incentives, as shown in Table 7.

Table 7: Maximum Parking Requirements (under State Density Bonus Law)

Type of Unit (or Guest Parking)	Number of Vehicle Parking Spaces
Accessory Dwelling Units	Zero space (if within one-half mile of walking distance of public transit)
Studio and One Bedroom	One space
Two-Bedroom and Three-Bedroom	1.5 spaces
Four-Bedroom	2.5 spaces
Guest Parking	Zero spaces

The applicant has satisfied the Midtown Specific Plan three-bedroom parking space requirements but has requested a reduction in required guest parking spaces as part of the State Density Bonus Law parking incentives. The applicant has proposed to provide the following, as demonstrated in Table 8.

Table 8: Project Parking Analysis (under State Density Bonus Law)

Land Use	Unit Count	Rate	Maximum Spaces Required	Spaces Provided Onsite	Notes
Three-bedroom	57	1.5 / unit	85.5	114	
Guest Parking	N/A ¹		0	9	See footnote 1
Total			85.5	123	

¹ Zero guest parking spaces are required under State Density Bonus Law parking incentives. Without the mandated State Density Bonus Law parking reductions, the Project requires approximately 17 guest parking stalls based on the Midtown Specific Plan ratio of two stalls for each three-bedroom unit (totaling 114 stalls) and a guest parking requirement of 15% of the total number of required stalls.

As noted in the Project Description, all 57 three-bedroom units will include a two-car garage, and up to 28 units will include tandem parking. Per the State Density Bonus law, onsite parking spaces may be provided through tandem or uncovered parking, but not on-street parking. Requesting these parking standards does not count as an incentive or concession. Furthermore, nine additional surface parking spaces will be provided for guests along internal Street B, making a total of 123 onsite parking spaces, which is consistent with the total reduced maximum parking standard of 85.5 parking spaces under the State Density Bonus Law.

Subdivision Ordinance

The Project's form, content, and dedications of the proposed tract map have been reviewed by the City of Milpitas Engineering Department and deemed consistent with the provisions of MMC Section XI-1-4 (Tentative Maps), as outlined in Resolution No. 23-004. Tentative Maps require approval by Resolution by the Planning Commission that recommends final approval or denial by the City Council.

Architectural Design

The Project's design concept includes three-story buildings with heights consistent with existing residential development along South Main Street. The contemporary design includes the following design accents and materials:

- Roof: Composition Shingle
- Exterior: Stucco Finish with Fiber Cement Siding, Hardie Panel Siding in Fiber Cement Textured Panel and Horizontal Shiplap Siding, Metal Siding, and Muddox Thin Brick/Brick
- Trim/Accents: Bronze Metal, Metal Railings with Panel Siding
- Entry Door: Contemporary Front Entry Door with Sidelite
- Garage Door: Cloplay Steel Garage Door with Contemporary Slim Windows

The Project conforms to the Midtown Specific Plan design guidelines, which require orientation of the building to the street, well-articulated exterior walls with consistent style and materials, muted colors for primary building walls with richer accent colors, and integrated parking. Furthermore, the Project has a similar architectural style to the Milpa Village Townhome development north at 260 South Main Street, built out in 2019. A rendering of the Project is shown in Figure 3.

Figure 3 – Proposed Project Rendering Facing South Main Street



The applicant has provided an exhibit with proposed colors and materials for review by City staff and the Planning Commission, as demonstrated in Figure 4.

Figure 4 – Colors and Materials Board



Tree Removal and Landscaping Requirements

The Project includes removal of 26 existing trees, including 13 ordinance sized trees, from the site. Pursuant to MMC Title X, Chapter 2 (Tree Maintenance and Protection), the project must plant a minimum of two replacement trees for every one ordinance sized tree that is removed. The Project will include 157 new trees on the same site. Additional landscaping will include the installation of various shrubs, grasses, and vines (New Zealand Flax, Manzanita, Reed Grass, and Creeping Fig) as demonstrated in Figure 5.

Figure 5 – Landscape Plan**Parkland and Open Space Requirements**

The Midtown Specific Plan requires all new developments to provide 3.5 acres of parkland for every 1,000 persons or payment of park in-lieu fees, as allowed by MMC Section XI-1-9 (*Improvements: Dedication of Land or Payment of Fee or Both, for Recreational Purposes*). The Parkland Fee is based upon the estimated number of persons expected to reside in the development (per U.S. Census definitions) and the estimated value of parkland in the City of Milpitas (currently \$2,787,840 per acre).

In the Midtown Specific Plan Area at least, two (2) of every three and a half (3 ½) acres (57.4%) shall be provided as public park land. The remaining acreage can be provided as private park land (42.6%). Estimates show 2.49 people will occupy each unit for multi-family developments with 5 units or more. The Project proposes 57 units, resulting in an estimated population of 142 persons and a parkland requirement of 0.50 acres, equivalent to approximately \$1,384,873.46.

The applicant has proposed to pay for public park land and provide private park land space. The City has determined the applicant must pay to provide 0.28 acres of parkland, equivalent to \$789,377.87. The remaining 0.22 acres will be provided onsite with a mixture of a playground area with a pergola, playground equipment, bicycle racks, picnic tables and chairs, and a synthetic turf lawn for play. A full analysis for the parkland requirement is demonstrated in Table 9 below.

Table 9: Parkland Requirements Analysis

TTL Townhomes Proposed	57
TTL Townhomes Population Estimate (2.49 persons/unit per Census)	142 persons
Midtown Parkland Requirement	3.5 acres/1,000 people or equivalent fees-in-lieu
Total Parkland Acreage or In-Lieu Fee Required	0.50 acres / \$1,384,873.46

Amount Satisfied Through Park-In Lieu Fees (Acreage/Dollars)	0.28 acres / \$789,377.87
Remaining Parkland Acreage Required	0.22 acres
Private Recreation/Open Space Included in the Project	0.24 acres
Total Parkland Acreage due	0.00 acres / \$0

Affordable Housing Ordinance

According to MMC Section XII-1-3.00 (Affordable Housing), the applicant must reserve fifteen percent (15%) of the total number of dwelling units within the development as affordable units. The applicant proposes to meet the City's affordable housing requirement by reserving nine of the 57 units on-site for moderate-income households, which meets the minimum 15 percent requirement of the City's Affordable Housing Ordinance. The Project has been conditioned to execute an agreement imposing appropriate ownership controls on the affordable units and all other requirements per MMC Section XII-1-3.04 (Design and distribution of affordable units).

The Project's proposed unit type and building distribution is shown in Table 10 and the distribution of affordable units is shown in Table 6. As shown in Table 10, the Project will include 28 units as Type 1 and 2, and one unit as Type 3.

Table 10: Proposed Project Unit Type and Building Totals

Building #	Unit Type 1 (3 bed/3 bath) 1,423 S.F.	Unit Type 2 (3 bed/3 bath) 1,689 S.F.	Unit Type 3 (3 bed/3.5 bath) 2,092 S.F.	Total
Building 1	3	3	0	6
Building 2	2	2	1	5
Building 3	3	3	0	6
Building 4	3	3	0	6
Building 5	3	3	0	6
Building 6	3	3	0	6
Building 7	3	3	0	6
Building 8	4	4	0	8
Building 9	4	4	0	8
Total Unit Count	28	28	1	57
Required Affordable Unit Type Distribution per City's Affordable Housing Ordinance	5	4	0	9

The Housing Division within the City's Building, Safety, and Housing Department reviewed the proposed Project for compliance with the City's Affordable Housing Ordinance. In accordance with the distribution of the unit types shown in Table 10 above, the applicant has agreed to distribute the number of affordable unit types as outlined below and as shown to be dispersed throughout the Project as identified by the red dots in Figure 6:

- Five (5) Affordable Units: Unit Type 1 (3 bedroom/1,423-square feet)
- Four (4) Affordable Units: Unit Type 2 (3 bedroom/1,689-square feet)

Figure 6 – Project Affordable Unit Distribution



Traffic and Access

Vehicular access will be provided by two driveways with direct ingress/egress from South Main Street. An internal private street and alley grid will provide access to 57 private residential garages with a total of 114 covered vehicle parking spaces. In addition, nine guest parking spaces will be provided along Street B, including one ADA-compliant space, one electric vehicle (EV) parking space, and two compact spaces. The EV parking space will provide full charging facilities.

Grading

The existing site is relatively flat. The proposed Project would result in the demolition of all existing structures, paving, and landscaping on the subject site in order to construct the new development. The applicant would import approximately 600 cubic yards of fill to pad the site and increase the finish grade heights to meet flood zone requirements and support the proposed drainage and utility improvements.

Utilities

The Project site is located in an urban area and is currently served by existing utilities, including water, sanitary sewer, storm drainage, electricity, and telecommunications infrastructure. All public utilities will be provided to the Project site. The proposed Project improvements to infrastructure include:

- Water: A new 8-inch internal water loop connecting to the existing 8-inch water line along S. Main Street.
- Sewer: A new 8-inch internal sewer line connecting to the existing 18-inch sewer line along S. Main Street.
- Stormwater: an existing storm drain line (12-inch and 18-inch) runs along the property frontage within a storm drain easement parallel to S. Main Street. The Project proposes to upsize all the 12-inch storm drainpipes to 15-inch pipes and tie the treated 12-inch line from the site to the new upsized 15-inch line. The Project will have an internal storm drain system, routed through a bio-retention basin to meet water quality requirements, before connecting back to the public storm drain system along S. Main St.
- Gas Lines: The Project site will be all-electric; no gas will be installed, and any existing gas services will be abandoned if feasible per PG&E requirements.
- Existing Overhead Utility Lines: The Project will underground the overhead utility lines along the site frontage along S. Main Street.

Climate Action Plan

The City of Milpitas Climate Action Plan (CAP) was adopted in 2013 and included Greenhouse Gas (GHG) reduction goals, policies, and actions for new and existing development projects. The Project would follow these goals and policies by locating future residents near public transportation, jobs, restaurants, and services. The City recently adopted the Climate Action Plan Update on August 9, 2022. In addition, the Project would incorporate green building measures in compliance with CAL Green standard building measures for residential buildings and Title 24 requirements to reduce energy usage.

Development Fees

The Project is subject to the following impact fees:

Parkland Impact Fee

The requirements are detailed above in the Parkland and Open Space Requirements section and in Table 9 per MMC Section XI-1-9. The applicant will pay the estimated \$789,377.87 park in-lieu fee prior to building permit issuance.

Public Art Fee

The Project will comply with the City's Public Art Requirements for Private Development, as set forth in MMC Section XI-10-14. This fee is currently set at one-half of one percent of building development costs. The proposed Project will pay the fee based on the construction valuation at the building permit issuance.

FINDINGS FOR APPROVAL

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.

Vesting Tentative Map

To approve the Major Vesting Tentative Subdivision Map, the following findings must be made pursuant to Milpitas Municipal Code Section XI-1-20.01:

1. The tentative subdivision map is consistent with the General Plan.

The General Plan designation for the Project site references MGSP, but since City Council has not formally adopted the MGSP as the study and environmental review is currently underway, the Midtown Specific Plan development standards currently apply. Both the MGSP and Midtown Specific Plan standards intend to facilitate the development of compatible land uses for a mixed-use community that includes high-density, transit-oriented housing and a central community cultural hub, as well as encourage walking, biking, and alternative modes of transportation.

The Midtown Specific Plan designates the Project site as Mixed Use (MXD). The intent of this designation is to provide a compatible mix of land uses with residential density proposals at a range of 21-30 dwelling units/acre. As this Project proposes 24.2 dwelling units/acre, it is consistent with both the intended land use of the General Plan and the relevant density requirement. In addition, the newly adopted 2023-2031 Housing Element already identified the Project site as a pipeline site. As such, the Project site has been incorporated into projections for affordable housing opportunities.

Furthermore, the Project is consistent with the Milpitas General Plan, as demonstrated and outlined in Table 2, above.

2. None of the conditions identified in California Government Code Section 66474 exist, to wit:

A. The proposed map is not consistent with applicable general and specific plans as specified in Government Code Section 65451.

As outlined above, the Project includes the development of 57 residential condominium units at a density of 24.2 dwelling units/acre. The General Plan and MGSP/Midtown Specific Plan designations and the MXD zoning district permits residential development at intensities of 21 to 30 dwelling units/acre. The map is therefore consistent with the General Plan and MGSP/Midtown Specific Plan.

B. The design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

The Project proposes 24.2 dwelling units per acre, consistent with the 21-30 dwelling units per acre allowed by the general plan and corresponding specific plans. Additionally, the Project is consistent with the policies associated with the

MGSP/Midtown Specific Plan, as identified in Tables 3 and 5, except for front and rear setbacks and guest vehicle parking, which is allowed per State Density Bonus Law.

C. The site is not physically suitable for the type of development.

The site is surrounded by property designated for mixed use development under the City's General Plan and zoned for this type of development under the MGSP/Midtown Specific Plan. In addition, this site is suitable for the higher density development based on the location, physical attributes, and proposed infrastructure improvements.

D. That the site is not physically suitable for the proposed density of development.

The Project site is within the MGSP/Midtown Specific Plan designation of Mixed Use (MXD) permitting residential development at 21 to 30 dwelling units/acre. The design will physically suit the site by providing required utilities and improvements, sufficient open space, and adequate residential living facilities.

E. The design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

The Project, including the subdivision and its associated improvements, is located in an urbanized area and was previously developed with a multi-tenant commercial and office building. Therefore, it will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

F. The design of the subdivision or type of improvements is likely to cause serious public health problems.

The Project, including the subdivision and its associated improvements, has been designed in a manner that will not cause serious public health problems. The Project has been reviewed by Building and Housing, Fire, Land Development, Traffic, Water, and Solid Waste Departments. As a result, it has been determined that it can be adequately serviced to preserve public health and wellness.

G. The design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Upon review of the subdivision map, it has been determined that the design of the subdivision or the type of improvements will not conflict with any easements acquired by the public at large, for access through or use of, property within the proposed subdivision. The subdivision may involve the vacation of gas easements per PG&E requirements.

Site Development Permit

To approve the Site Development Permit, the following findings must be made pursuant to Milpitas Municipal Code Section XI-10-57.03(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 Project's site design is consistent with the MGSP/Midtown Specific Plan development standards. The Project consists of 57 condominium units and associated site amenities on a 2.35-acre site. The building's contemporary architectural design visually relates to and is compatible with the similar townhome projects along Main Street. Colors are earth tone shades of grays and browns with portions of muted green and yellow vertical siding. In addition, residents will access garages via private alleyways, similar to nearby residential developments.

2. *The Project is consistent with the Milpitas Zoning Ordinance.*

The proposed Project is consistent with the Milpitas Zoning Ordinance, as demonstrated in Table 4. The proposed multi-family residential building is permitted in the Mixed Use (MXD) Zoning District. The Project design conforms to the site and development standards of the MXD zone.

The Project also conforms to MMC Section XI-10-54.015 (Density Bonus for Affordable Housing Developments) and XI-10-57.05 (Density Bonus Permits). Where exceptions from the MXD standards are needed, the applicant has requested waivers and guest parking exceptions under the State Density Bonus Law (Gov. Code §§ 65915 *et seq.*). The requested waivers and parking exception will support the development of affordable housing on a site where it would not otherwise be possible through a strict application of the specified standard.

3. *The Project is consistent with the Milpitas General Plan.*

The proposed Project is consistent with the Milpitas General Plan, as demonstrated and outlined in Table 2.

4. *The Project is consistent with the Midtown Specific Plan.*

The proposed Project is consistent with the applicable policies and design guidelines of the MGSP/Midtown Specific Plan, as demonstrated in Tables 3 and 5. As the Project is eligible under the State Density Bonus Law, Government Code section 65915(p)(5), the Project is entitled to waivers and parking concessions. The requested front and rear yard setback waivers and guest parking reduction will support the development of affordable housing units on a site where it would not otherwise be possible through a strict application of the specified standard.

Conditional Use Permit

To approve the Conditional Use Permit, the following findings must be made pursuant to Milpitas Municipal Code Section XI-10-57.04(F):

1. *The proposed use, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety and general welfare.*

The Project will not be detrimental or injurious to property or improvements in the vicinity or public health, safety, or general welfare. The Project is consistent with other multi-family residential projects within the Midtown Specific Plan area and conditioned to preserve the health and wellness of residents. In addition, the condominium Project creates housing opportunities and increases the diversity of housing types in the Midtown area.

2. *The Project is consistent with the Milpitas Zoning Ordinance.*

The proposed Project is consistent with most of the Milpitas Zoning Ordinance after utilizing mandated State Density Bonus waivers, as demonstrated in Table 4. The proposed multi-family residential Project is permitted in the Mixed Use (MXD) Zoning District. The Project design conforms to most of the site and development standards of the MXD zone as noted. Therefore, a conditional use permit is required to allow the subdivision of the proposed townhome units.

The Project also conforms to MMC Section XI-10-54.015 (Density Bonus for Affordable Housing Developments) and XI-10-57.05 (Density Bonus Permits). Where exceptions from the MXD standards are needed, the applicant has requested waivers and parking exceptions pursuant to the State Density Bonus Law (Gov. Code §§ 65915 *et seq.*). The requested front and rear yard setback waivers and guest parking exception will support the development of affordable housing on a site where it would not otherwise be possible through a strict application of the specified standard.

3. *The Project is consistent with the Milpitas General Plan.*

The proposed Project is consistent with the Milpitas General Plan, as demonstrated and outlined in Table 2.

4. *The Project is consistent with the Midtown Specific Plan.*

The proposed Project is consistent with the applicable policies and design guidelines of the MGSP/Midtown Specific Plan, as demonstrated in Tables 3 and 5. As the Project is an eligible housing project under the State Density Bonus Law, Government Code section 65915(p)(5), the Project is entitled to waivers and reduced parking requirements. The requested front and rear yard setback waivers and guest parking exception will support the development of affordable housing units on a site where it would not otherwise be possible through a strict application of the specified standard.

Density Bonus Permit

To qualify for a Density Bonus Permit, the following standards must be met pursuant to Milpitas Municipal Code Section XI-10-54.15(D):

1. *The maximum allowable base density specified in the General Plan, including any other permitted increases to density.*

The proposed Project includes 57 townhome condominiums, equaling to 24.2 dwelling units per acre, meeting the General Plan density allowed in the immediate area.

2. *All affordable units shall be reasonably dispersed throughout the project, shall contain on average the same number of bedrooms as the non-affordable units in the project, and shall be comparable with the non-affordable units in terms of appearance, materials and finished quality. The Planning Commission may recommend to the City Council and/or Redevelopment Agency modifying the requirements as to unit size or type, if it is found that such a modification would better serve the affordable housing need of Milpitas.*

The applicant has proposed nine three-bedroom units as affordable units reserved for moderate-income households, in order to meet the requirement to develop fifteen percent (15%) of the total residential units into affordable units. Each unit will have a two-car attached garages. Five of these affordable units will include the tandem parking stalls and approximately 1,423-square feet of habitable space. The other four units will include traditional zipper parking and approximately 1,689-square feet of habitable space. All units will be three-stories in height and include private balconies. The affordable units locations have been identified and approved by the Housing Department as meeting the intent of the Affordable Housing Ordinance (AHO).

3. *Prior to final building inspection and occupancy for a project containing affordable units, the applicant shall execute and record at the Santa Clara County Recorder's Office the City's Agreement Imposing Restrictions on Real Property, which Agreement shall explain the affordability requirements. The agreement shall be approved by the Milpitas City Attorney prior to recordation.*

The Project has been conditioned to provide an agreement to the City of Milpitas explaining the affordability requirements, processes and procedures, to the satisfaction of the Milpitas City Attorney prior to the release of any Certificate of Occupancy.

4. *Retaining Affordability. A developer shall agree to, and the City shall insure continued affordability of, all lower- or very low-income density bonus units for thirty (30) years or a longer period of time, if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.*

Prior to final building inspection and occupancy for the Project containing affordable units, the applicant shall execute and record at the Santa Clara County Recorder's Office the City's Agreement Imposing Restrictions on Real Property, which Agreement shall explain the affordability requirements, including continued affordability for moderate-income households. The agreement shall be approved by the Milpitas City Attorney prior to recordation.

5. *Affordable Rents. Those units targeted for lower-income households, as defined in Section 50079.5 of the Health and Safety Code shall be affordable at a rent that does not exceed thirty (30%) of sixty (60%) percent of the Santa Clara County median income. Those units targeted for very low-income households, as defined in Section 50105 of the Health and Safety Code, shall be affordable at a rent that does not exceed thirty (30%) of fifty (50%) percent of County median income.*

The standard is not applicable to the Project, as the Project is creating townhome condominiums for sale, rather than for rent. Affordability provisions will be assessed on the sale of the individual condominium.

6. *Relation to Statute. Density bonus requirements not specified in these regulations shall be governed by the State Density Bonus Law, Government Code section 65915, et seq.*

The developer has identified and requested bonus waivers and incentives held within the State Density Bonus Law, and the Planning Department supports this request.

ENVIRONMENTAL REVIEW

The City conducted an environmental assessment in accordance with the California Environmental Quality Act (“CEQA”), as amended. The proposed Project is categorically exempt from CEQA pursuant to CEQA Guidelines Section 15332 (In-fill Development Projects). An exemption is the appropriate CEQA determination for the proposed Project. For additional details, see Exhibit 2 of the Resolution (Attachment B) for the proposed Project memorandum demonstrating compliance with CEQA Guidelines Section 15332. Exhibit 3 of the Resolution (Attachment C) includes the supporting technical reports as substantial evidence for the CEQA memorandum.

As a separate and independent basis, the Project is also exempt from further CEQA review pursuant to CEQA Guidelines Section 15168 (Program EIR) because the Project is a residential project that is generally consistent with the buildout projections of the updated 2010 Midtown Specific Plan. Therefore, no further environmental review is required.

PUBLIC COMMENT/OUTREACH

Staff provided public notice of the application in accordance with City and State public noticing requirements. At the time of publishing this report, no public comments have been received. A notice was published in the Milpitas Post on February 10, 2023. In addition, notices were sent to all owners and occupants within 1,000 feet of the Project site. A public notice was also posted at the Project site, on the City's Website, www.milpitas.gov, and at City Hall. Lastly, the Project was posted to the City's Website with additional opportunities for public comment as an “Online Public Forum.”

RECOMMENDATION

Staff recommends that the Planning Commission:

1. Open the Public Hearing to receive comments;
2. Close the Public Hearing;
3. Consider the exemptions in accordance with CEQA; and
4. Adopt Resolution No. 23-004, recommending that the City Council approve Site Development Permit No. SD22-0007, Conditional Use Permit No. UP22-0003, Vesting Tentative Map MT22-0003, Density Bonus Permit No. DB22-0002, Tree Removal Permit No. TR22-0014 and Environmental Assessment No. EA22-0005, subject to the Conditions of Approval.

ATTACHMENTS

- A: Resolution No. 23-004, including Exhibit 1 to the Resolution: Conditions of Approval
- B: Exhibit 2 to the Resolution: CEQA Exemption Memorandum
- C: Exhibit 3 to the Resolution: CEQA Exemption Supporting Technical Studies
- D: Project Plans



CITY OF MILPITAS Planning Commission

Item # 17.

MEETING MINUTES

7:00 PM

Wednesday, February 22, 2023
CITY COUNCIL CHAMBERS
455 E CALAVERAS BLVD, MILPITAS, CA
and
via TELECONFERENCE (Zoom Webinar)

CALL TO ORDER

Chair Chuan called the meeting to order at 7:01 PM.

PLEDGE OF ALLEGIANCE

Commissioner Mohsin led the pledge of allegiance.

ROLL CALL

Recording Secretary Jessica Thiragirayuta called the roll.

PRESENT: Chair Chuan, Vice Chair Ciardella, Commissioners Albana, Galang, Medina-Ashby, and Mohsin

ABSENT: Awasthi

STAFF: Ned Thomas, Michael Mutalipassi, Avery Stark, Kristina Phung, Alex Andrade, Bill Tott, Robert Mussalum Arthur Belton, Steve Chan, Jessica Thiragirayuta

CONFLICT OF INTEREST DECLARATION

City Attorney Michael Mutalipassi asked if any member of the Commission had any personal or financial conflict of interest related to any of the items on the agenda and there were none.

APPROVAL OF THE MEETING AGENDA

By motion, approve the meeting agenda for February 22, 2023.

Motion/Second Galang/Medina-Ashby

Motion carried by a vote of AYES: 6 NOES: 0

ANNOUNCEMENTS

No announcements from Commissioners or Planning Director Ned Thomas.

PUBLIC FORUM

Chair Chuan invited members of the public to address the commission and there was one speaker: Albert Lustre

PUBLIC HEARING

VIII-1 NEW CONCRETE TILT-UP INDUSTRIAL BUILDING – 475 – 525 SYCAMORE DR – SITE DEVELOPMENT PERMIT NO. SD22-0002 & SD22-0016, CONDITIONAL USE PERMIT NO. UP22-008, TREE REMOVAL PERMIT NO. TE22-0009, AND ENVIRONMENTAL ASSESSMENT NO EA22-0004: A request for a Site Development Permit, Master Sign Program, Conditional Use Permit, Tree Removal Permit, and Environment Assessment to demolish three existing commercial buildings and develop an approximately 293,422-square foot tilt-up concrete industrial building and associated site improvements on an approximately 14-acre site located in the MP Industrial Park Zoning District at 475-525 Sycamore Drive. Proposed site improvements include new internal roadways, landscaping, utility upgrades and a new surface parking lot with 228

vehicle parking spaces distributed on all sides of the building, 52 oversized parking stalls for tractor-trailers, and 40 loading dock doors. The proposed building would be up to 50 feet in height and designed to accommodate multiple tenants. The proposed project also includes a request for approval of a Master Sign Program for the entire building and a Tree Removal Permit to allow the removal and replacement of 111 trees, including 70 ordinance-sized trees, on the site. In accordance with the California Environmental Quality Act (CEQA), the City has prepared an Initial Study/Mitigated Negative Declaration for the proposed project pursuant to CEQA Guidelines Sections 15064, 15071, and 15370. Project Planner: Avery Stark, (408) 586-3288, astark@milpitas.gov

Project Planner Avery Stark and Janet Gomez, Prologis (applicant) addressed commissioners' clarifying questions regarding the type of business operations to occupy the property site, if multiple businesses can use building, the location of the trees that will be removed, status of existing buildings, if there is a designated committee to oversee that hazardous materials are demolished/disposed from the project site properly, if there will be the appropriate amount of parking spaces for the type of building/business, location of loading docks, and noise concerns of large commercial trucks.

Chair Chuan invited members of the public to address the commission and there was (3) speakers: Edgar Alvarez, Dominic Toriano, and Frank Austin.

Motion to close the Public Forum.

Motion/Second Mohsin/Albana

Motion carried by a vote of AYES: 6 NOES: 0

Recommendation: Staff recommends that the Planning Commission conduct a public hearing and adopt Resolution No. 23-003, approving Site Development Permit No. SD22-0002 (new building), Site Development Permit No. SD22-0016 (master sign program), Conditional Use Permit No. UP22-0008, Tree Removal Permit No. TE22-0009, and Environmental Assessment No. EA22-0004, to develop an approximately 293,422-square foot tilt-up concrete industrial building (warehouse and distribution) and associated site improvements, and adopt an Initial Study/Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program (MMRP) for the proposed project in accordance with CEQA Guidelines Sections 15064, 15071, and 15370.

Motion/Second Albana/Mohsin

Motion carried by a vote of AYES: 6 NOES: 0

VIII-2 TRUE LIFE TOWNHOMES – 612 S MAIN ST – SITE DEVELOPMENT PERMIT NO. SD22-0007, CONDITIONAL USE PERMIT NO. UP22-0003, VESTING TENTATIVE MAP NO. TM22-0003, TREE REMOVAL PERMIT NO. TR22-0014, ENVIRONMENTAL ASSESSMENT NO. EA22-0005, AND DENSITY BONUS PERMIT NO. DB22-0002: A request for a Site Development Permit, Conditional Use Permit, Vesting Tentative Map, Tree Removal Permit, Environmental Assessment, and Density Bonus Permit to allow demolition of an existing multi-tenant office building, removal and replacement of 13 ordinance-size trees, and development of a multi-family residential project with 57 townhomes. The residential development will consist of nine multi-family residential buildings, up to 37 feet in height (three stories), surface parking for up to 123 vehicles, and associated site improvements on a 2.35-acre site located in the Mixed Use (MXD) Zoning District at 612 South Main Street. The Project is

located within the Midtown Specific Plan Area and submitted under California Senate Bill 330 (Housing Crisis Act of 2019). The Project is exempt from environmental review under the California Environmental Quality Act pursuant to Sections 15332 (Infill Development) and 15168 (Program EIR) of the CEQA Guidelines. The proposed project is covered under the scope of activities previously analyzed in the Midtown Specific Plan Environmental Impact Report (SCH #200092027) certified by the Milpitas City Council in March 2002. Project Planner: Kristina Phung, (408) 586-3278, kphung@milpitas.gov

Project Planner Kristina Phung and applicant, The True Life Companies' team [*Leah Beniston, Senior Vice President of Entitlements* | *Scott Menard, Executive Vice President* | *Aiden Barry, Executive Vice President*] addressed commissioners' questions regarding the windows type for the units adjacent to the railroad tracks (concern of noise), any planned modification of the fence/wall adjacent to the railroad tracks, a suggested increase in the setback for those units along the railroad tracks, the buffer between project site and railroad track (storage units plus drive aisle), width of the windows being able to withstand a strong earthquake, density bonus/BMR qualifications, number of guest parking stalls, number of EV charging station for guest parking, confirmation of no street parking, concern with tree removal, the acceptable decibel level of noise when trains pass property site, parking alternative/solutions if project gets approved (transit options), park area being available to public, traffic assessment of project area, state requirements for public noticing of developments going to Planning Commission, how can the City lawfully safeguard landmarks/religious entities/places of worship and their surrounding areas from construction, scheduling a neighborhood meeting with Jain Center of Northern California to address concerns. Appreciation was shared on development layout, garden area, playground area, window design, and more needed housing and businesses in the Milpitas Midtown area. Other concerns shared were that the Jain Center of Northern California may be growing to where its organization's property site cannot accommodate their congregations' events and parking needs. Hopes of a compromise where homes can be built; as well as respectfully accommodating the Jain Center of Northern California needs for their religious establishment.

Chair Chuan invited members of the public to address the commission and there were (12) speakers from Jain Center of Northern California (JCNC): Nita Itchhaporia, Nikunj Mehta, Nitin Shah, Rakesh Shah, Mittal Kothari, Yogesh Bapna, Rahul Parekh, Kirit Bavishi, Soli Metham, Sharad Shah, Chandni Shah, and Akshay Jai.

Motion to close the Public Forum.

Motion/Second Mohsin/Medina-Ashby

Motion carried by a vote of AYES: 6 NOES: 0

Recommendation: Staff recommends that the Planning Commission conduct a public hearing, consider and determine the project exempt in accordance with CEQA, and adopt Resolution No. 23-004, recommending that the City Council approve Site Development Permit No. SD22-0007, Conditional Use Permit No. UP22-0003, Vesting Tentative Map MT22- 0003, Density Bonus Permit No. DB22-0002, Tree Removal Permit No. TR22-0014 and Environmental Assessment No. EA22-0005, subject to the Conditions of Approval. ****Adding that a neighborhood meeting be scheduled with community Jain Center of Northern California to address concerns before the April 4th City Council meeting*

and independently recommend that the City Council take action to have a study parking done on Main Street.

Motion/Second Medina-Ashby/Albana

Motion carried by a vote of AYES: 4 NOES: 2 (Mohsin, Ciardella)

NEW BUSINESS

NO ITEMS

ADJOURNMENT

Chair Chuan adjourned the meeting at 10:03 pm

Motion/Second Mohsin/Galang

Motion carried by a vote of AYES: 6 NOES: 0

Meeting Minutes submitted by
Planning Commission Secretary Elizabeth Medina

SOUTH MAIN STREET

MILPITAS, CA

DECEMBER 20, 2022



SHEET INDEX

ARCHITECTURAL

- A00 COVER SHEET
- A01 PROJECT DATA & ARCHITECTURAL SITE PLAN
- A01.1 PRIVATE OPEN SPACE
- A01.2 PRIVATE OPEN SPACE
- A02 SITE & BUILDING SECTIONS
- A02.1 BUILDING RENDERS
- A03 UNITS 1 & 2 FLOOR PLANS
- A04 UNIT 3 FLOOR PLANS
- A05 BUILDING TYPE A (8 UNIT) ELEVATIONS
- A06 BUILDING TYPE A (8 UNIT) FIRST & SECOND FLOOR PLANS
- A07 BUILDING TYPE A (8 UNIT) THIRD FLOOR & ROOF PLANS
- A08 BUILDING TYPE B (6 UNIT) ELEVATIONS
- A09 BUILDING TYPE B (6 UNIT) FLOOR & ROOF PLANS
- A10 BUILDING TYPE C (5 UNIT) ELEVATIONS
- A11 BUILDING TYPE C (5 UNIT) FLOOR & ROOF PLANS
- A12 COLOR & MATERIALS
- A13 LADDER ACCESS SECTIONS

CIVIL

- C1.0 EXISTING CONDITIONS PLAN / DEMOLITION PLAN
- C2.0 PRELIMINARY SITE PLAN
- C2.1 SITE PLAN SECTIONS
- C3.0 VESTING TENTATIVE TRACT MAP FOR CONDOMINIUM PURPOSES
- C4.0 PRELIMINARY GRADING & DRAINAGE PLAN
- C5.0 PRELIMINARY MASTER UTILITY PLAN
- C6.0 CONCEPTUAL STORMWATER MANAGEMENT PLAN
- C7.0 PRELIMINARY FIRE TRUCK ACCESS PLAN
- C8.0 PRELIMINARY SOLID WASTE HANDLING PLAN
- C9.0 OPEN SPACE EXHIBIT

LANDSCAPE

- L-1.1 ILLUSTRATIVE SITE PLAN
- L-1.2 PRELIMINARY LANDSCAPE PLAN
- L-2 OPEN SPACE ENLARGEMENT
- L-3 TREE MITIGATION PLAN
- L-4.1 CONSTRUCTION DETAILS
- L-4.2 CONSTRUCTION DETAILS
- L-4.3 CONSTRUCTION DETAILS
- L-4.4 CONSTRUCTION DETAILS
- L-5.1 IRRIGATION NOTES & LEGEND (PRIVATELY MAINTAINED LANDSCAPE AREAS)
- L-5.2 IRRIGATION DETAILS (PRIVATELY MAINTAINED LANDSCAPE AREAS)
- L-5.3 IRRIGATION DETAILS (PRIVATELY MAINTAINED LANDSCAPED AREAS)
- L-5.4 IRRIGATION DETAILS (PUBLICLY MAINTAINED LANDSCAPED AREAS)
- L-6 PROPOSED PLANT PALETTE
- L-7.1 PLANTING DETAILS (PRIVATELY MAINTAINED LANDSCAPE AREAS)
- L-7.2 PLANTING DETAILS (PUBLICLY MAINTAINED LANDSCAPE AREAS)

APPLICANT:

TTLIC MANAGEMENT, INC.
ARIZONA CORP.
12647 ALCOSTA BLVD., SUITE 470
SAN RAMON, CA 94583
ATTN: LEAH BENISTON
925.380.1699

ARCHITECT:

SDG ARCHITECTS, INC.
3361 WALNUT BLVD., SUITE 120
BRENTWOOD, CA 94513
ATTN: SCOTT PRICKETT
925.634.7000

CIVIL ENGINEER:

MACKEY & SOMPS CIVIL ENGINEER INC.
5142 FRANKLIN DRIVE, SUITE B
PLEASANTON, CA 94588
ATTN: CHRIS GUENTHER
925.225.0690

LANDSCAPE ARCHITECT:

R3 STUDIOS, INC.
248 3RD STREET, SUITE 202
OAKLAND, CA 94607
ATTN: ROMAN DE SOTA
510.452.1490



TTLIC Management, Inc. an Arizona Corp.

12647 Alcosta Blvd., Suite 470 San Ramon CA 94583
925.824.4300

SDG Architects, Inc.
3361 Walnut Blvd. Suite 120
Brentwood, CA 94513
925.634.7000 | sdgarchitectsinc.com



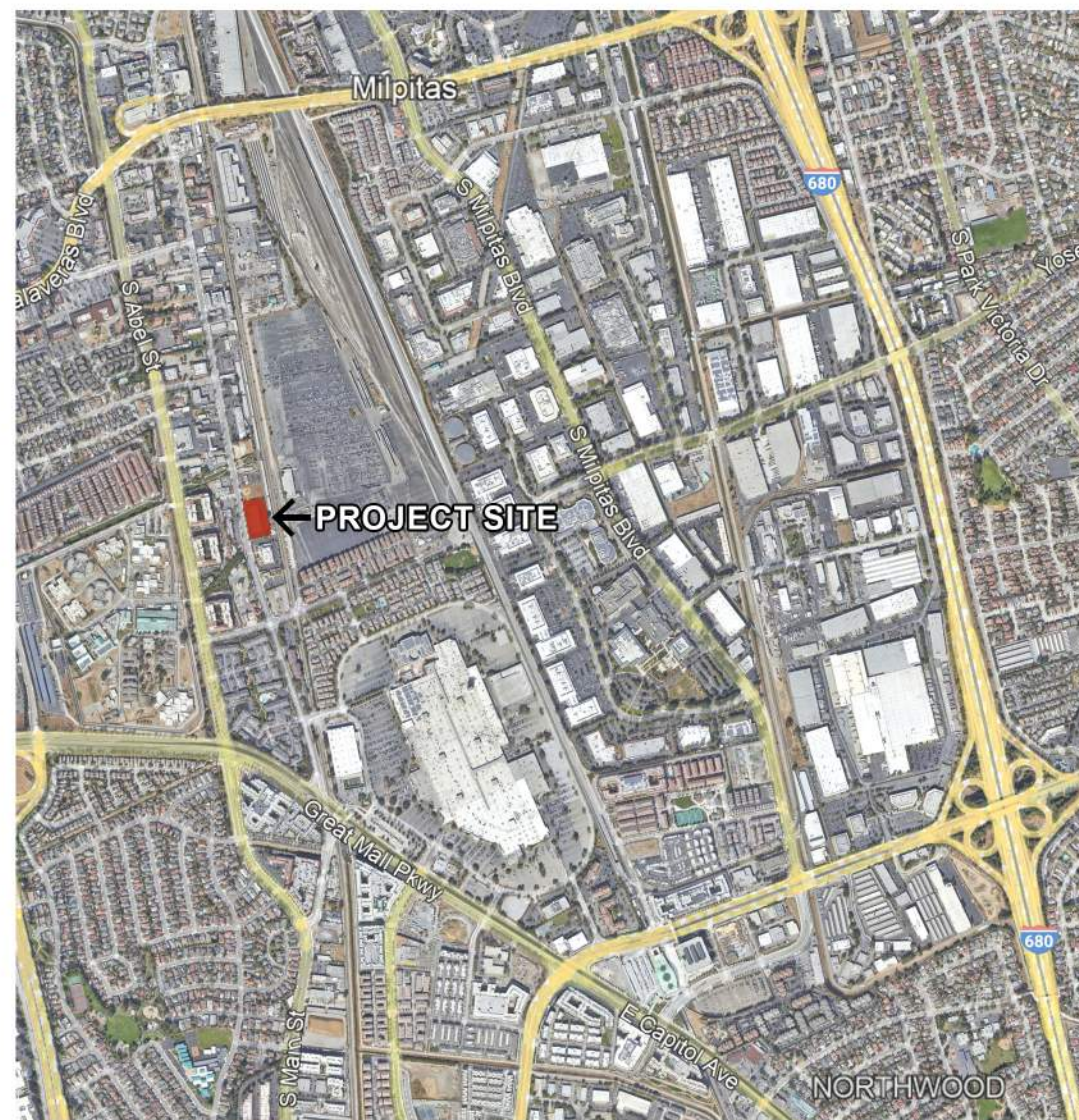


NOTE: DATA TABLES INCLUDE ALL PRIVATE OPEN SPACE REGARDLESS OF COMPLIANCE WITH MILPITAS ELIGIBILITY STANDARDS.
*GROUND FLOOR PORCHES ARE NOT PLANNING CODE COMPLIANT TO BE COUNTED AS PRIVATE OPEN SPACE.

Unit & Building Totals				
Building #	Unit 1	Unit 2	Unit 3	Total
Building 1	3	3	0	6
Building 2	2	2	1	5
Building 3	3	3	0	6
Building 4	3	3	0	6
Building 5	3	3	0	6
Building 6	3	3	0	6
Building 7	3	3	0	6
Building 8	4	4	0	8
Building 9	4	4	0	8
Total Unit Count	28	28	1	57
Bedroom Count per Unit	3	3	3	
Total Bedroom Count	84	84	3	171
Total Private Open Space	3,332	3,864	96	7,292
Total Living Area	39,844	47,292	2,092	89,228

Townhome Units							
	Total Unit SF	Private Open Space SF			Private Garage SF	BRs	Baths
		PORCH*	BALCONY	TOTAL			
1	1,423	33	86	119	537	3	3
2	1,689	38	100	138	483	3	3
3	2,092	34	62	96	489	3	3.5

Building Areas by Occupancy				
Building #	R-2	U	Total Building Area	Private Open Space
Building 1	9,336	3,060	12,396	771
Building 2	8,316	2,529	10,845	610
Building 3	9,336	3,060	12,396	771
Building 4	9,336	3,060	12,396	771
Building 5	9,336	3,060	12,396	771
Building 6	9,336	3,060	12,396	771
Building 7	9,336	3,060	12,396	771
Building 8	12,448	4,080	16,528	1,028
Building 9	12,448	4,080	16,528	1,028
Total Across Site	89,228	29,049	118,277	7,292



VICINITY MAP N.T.S.

LEGEND

- Ⓐ ADAPTABLE UNIT ON AN ACCESSIBLE PATH
- Ⓐ AFFORDABLE UNIT
- Ⓐ SITE/BUILDING SECTION - SEE SHEET A02
- Ⓐ PERSPECTIVE VIEWS - SEE RENDERED VIEWS ON SHEET A02.1

AFFORDABLE UNIT NOTES

1. NUMBER OF UNITS: 9
2. AFFORDABLE LEVEL: MODERATE
- PROPOSED UNIT SIZE:
 - UNIT 1 - 3 BR/1,423 SF (QUANTITY: 5)
 - UNIT 2 - 3 BR/1,689 SF (QUANTITY: 4)
3. ALL AFFORDABLE UNITS WILL BE BUILT CONCURRENTLY WITH THE MARKET-RATE UNITS
4. AN EXECUTED AGREEMENT IMPOSING APPROPRIATE OWNERSHIP CONTROLS IS REQUIRED. THIS WILL BE COMPLETED DURING THE BUILDING PERMIT PROCESS.

GENERAL INFORMATION

ADDRESS: 610-612 MAIN STREET, MILPITAS, CA
 APN: 086-25-027 & 028
 PROPOSED SCOPE OF WORK: DEMOLISH EXISTING COMMERCIAL BUILDING AND REPLACE WITH 9 NEW 3-STORY TOWNHOUSE BUILDINGS
 GENERAL PLAN DESIGNATION: MILPITAS GATEWAY SPECIFIC PLAN (MGSP)
 EXISTING ZONING: MIXED-USE (MXD) PER MGSP
 PROPOSED ZONING: NO CHANGE

SITE INFORMATION

GROSS LOT AREA: 2.35 AC/102,366 SF
 PROPOSED UNIT COUNT: 57 UNITS
 DENSITY: 24.2 DUA

SETBACKS	REQUIRED	PROVIDED
FRONT SETBACKS	8'-15'	11.1' TO 20.7' (SEE CIVIL SHEET C2.0 FOR RANGE OF DIMENSIONS FROM FRONT PROPERTY LINE TO BUILDING)
RIGHT SIDE SETBACK	10' MIN.	15'-0" (@ BLDG. 6); 10' (@ BLDG. 9)
LEFT SIDE SETBACK	10' MIN.	15'-1" (@ BLDG. 1)
REAR SETBACK	10' MIN.	5', WAIVER REQUIRED

BUILDING HEIGHT INFORMATION			
	NUMBER OF STORIES	HEIGHT	TYP. EAVE HT.
MAX ALLOWABLE	3	45'	-
BLDG TYPE A (#8 & 9)	3	36'-11" MAX	+/-29'-11"
BLDG TYPE B (#1, 3-7)	3	36'-11" MAX	+/-29'-11"
BLDG TYPE C (#2)	3	36'-10" MAX	+/-29'-11"

BUILDING CODE INFORMATION

CODE REFERENCE: 2019 CALIFORNIA BUILDING CODE / CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 2
 OCCUPANCY TYPE: TOWNHOUSES PER 2019 C.B.C WITH COMMON 1-HR. WALL SEPARATIONS
 CONSTRUCTION TYPE: V-B (NON-RATED)
 ALLOWABLE AREA: 21,000 SF x 2 = 42,000 SF
 BUILDING AREA CALCULATIONS: SEE TABLE ON THIS SHEET
 FIRE SPRINKLER SYSTEM: NFPA 13
 ACCESSIBILITY: PER 2019 CALIFORNIA BUILDING CODE CHAPTER 11A
 ADA - ADAPTABLE UNITS REQUIRED: 10% x 57 UNITS = 6 UNITS

ACCESSIBILITY

CODE REFERENCE: PER 2019 CBC CHAPTER 11A
 REQUIRED: 10% OR 6 UNITS TO BE ADAPTABLE ON AN ACCESSIBLE PATH
 PROVIDED: 6 UNITS

USABLE PRIVATE RESIDENTIAL OPEN SPACE

IN ORDER TO BE ELIGIBLE, PORCHES AND/OR BALCONIES MUST HAVE MIN. 4'-6" DIMENSION AND MIN. 60 SF.
 PROVIDED:

UNIT 1 BALCONIES	86 SF x 28	= 2,408 SF
UNIT 2 BALCONIES	100 SF x 28	= 2,800 SF
UNIT 3 BALCONIES	62 SF x 1	= 62 SF
TOTAL		5,270 SF

(ALL UNIT GROUND FLOOR PORCHES INELIGIBLE DUE TO REQUIRED MINIMUM SF). SEE A01.1 & A01.2 FOR ELIGIBLE BALCONIES.

RESIDENTIAL OPEN SPACE

SEE CIVIL SHEET C9.0

PARKING

SEE CIVIL

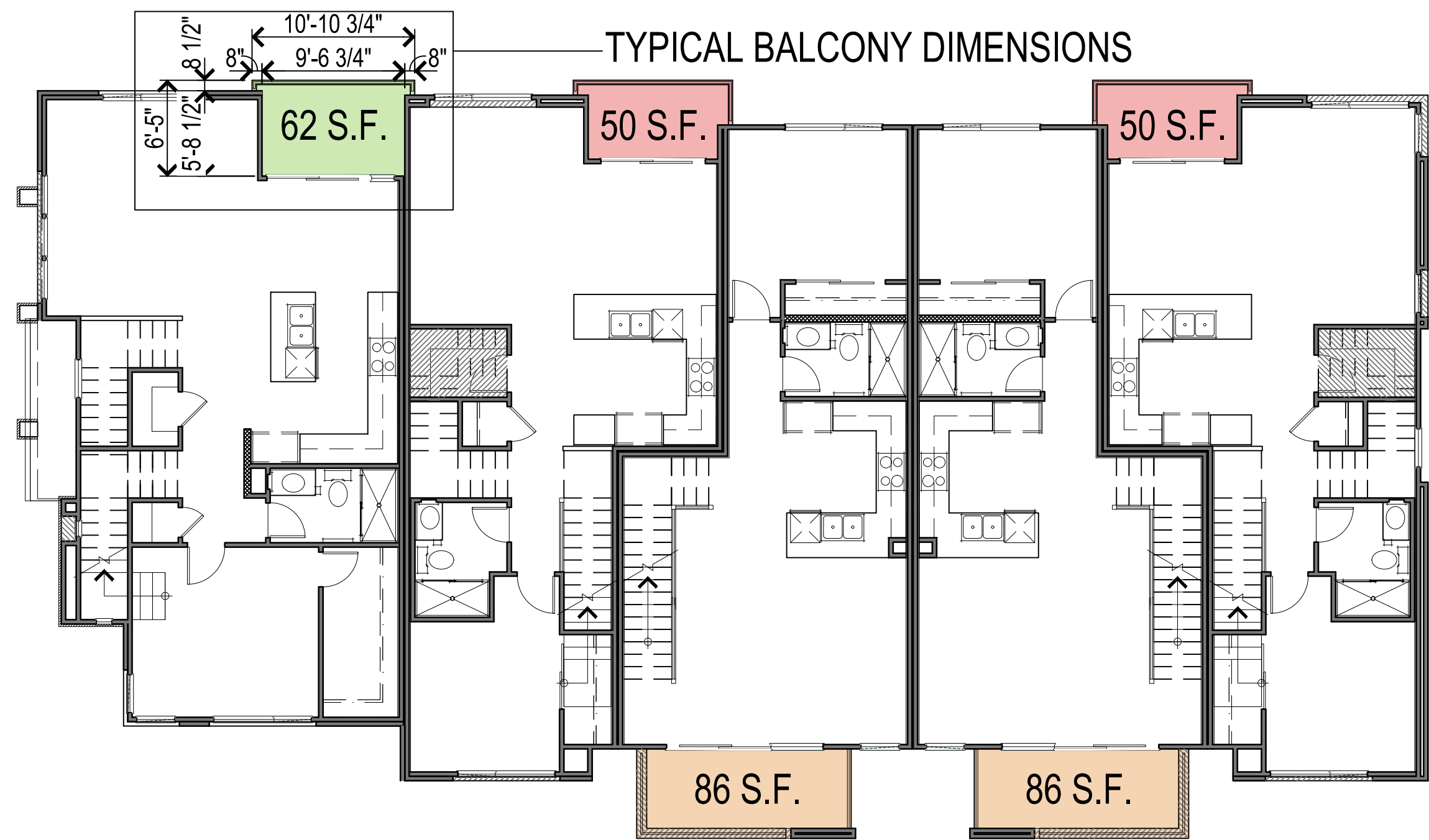
342.043 TLC South Main Street
 Milpitas, CA
 December 20, 2022

TTL Management, Inc. an Arizona Corp.
 12647 Alcosta Blvd., Suite 470 San Ramon CA 94583
 925.824.4300

PROJECT DATA & ARCHITECTURAL SITE PLAN
A01

SDG Architects, Inc.
 3361 Walnut Blvd. Suite 120
 Brentwood, CA 94513
 925.634.7000 | sdgarchitectsinc.com





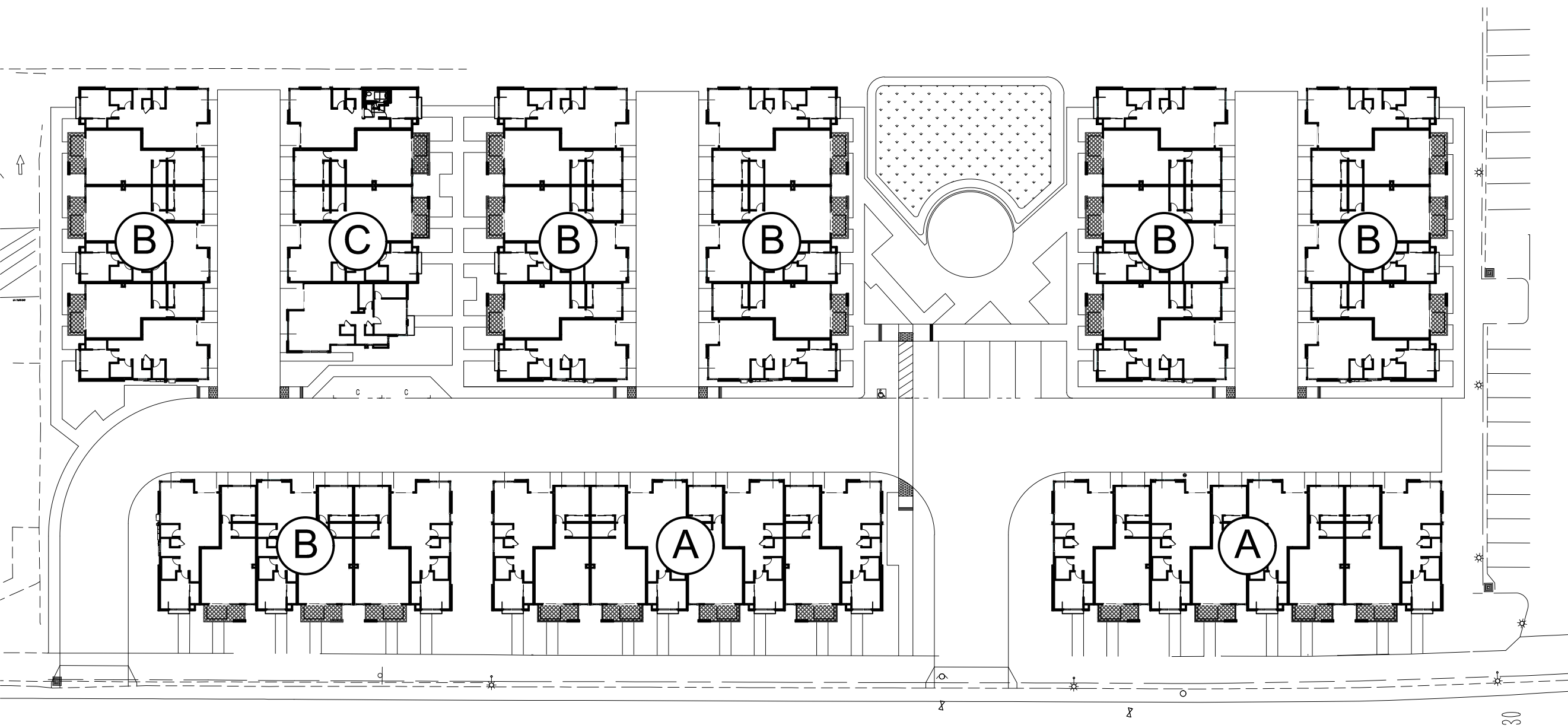
Ⓒ 5-UNIT BUILDING
2ND FLOOR

TOTAL PRIVATE RESIDENTIAL OPEN SPACE:

UNIT 1 BALCONIES:	28 x 86 SF	= 2,408 SF
UNIT 2 BALCONIES 1 & 2:	28 x 100 SF	= 2,800 SF
UNIT 3 BALCONY:	1 x 62 SF	= 62 SF
TOTAL ELIGIBLE OPEN SPACE		= 5,270 SF

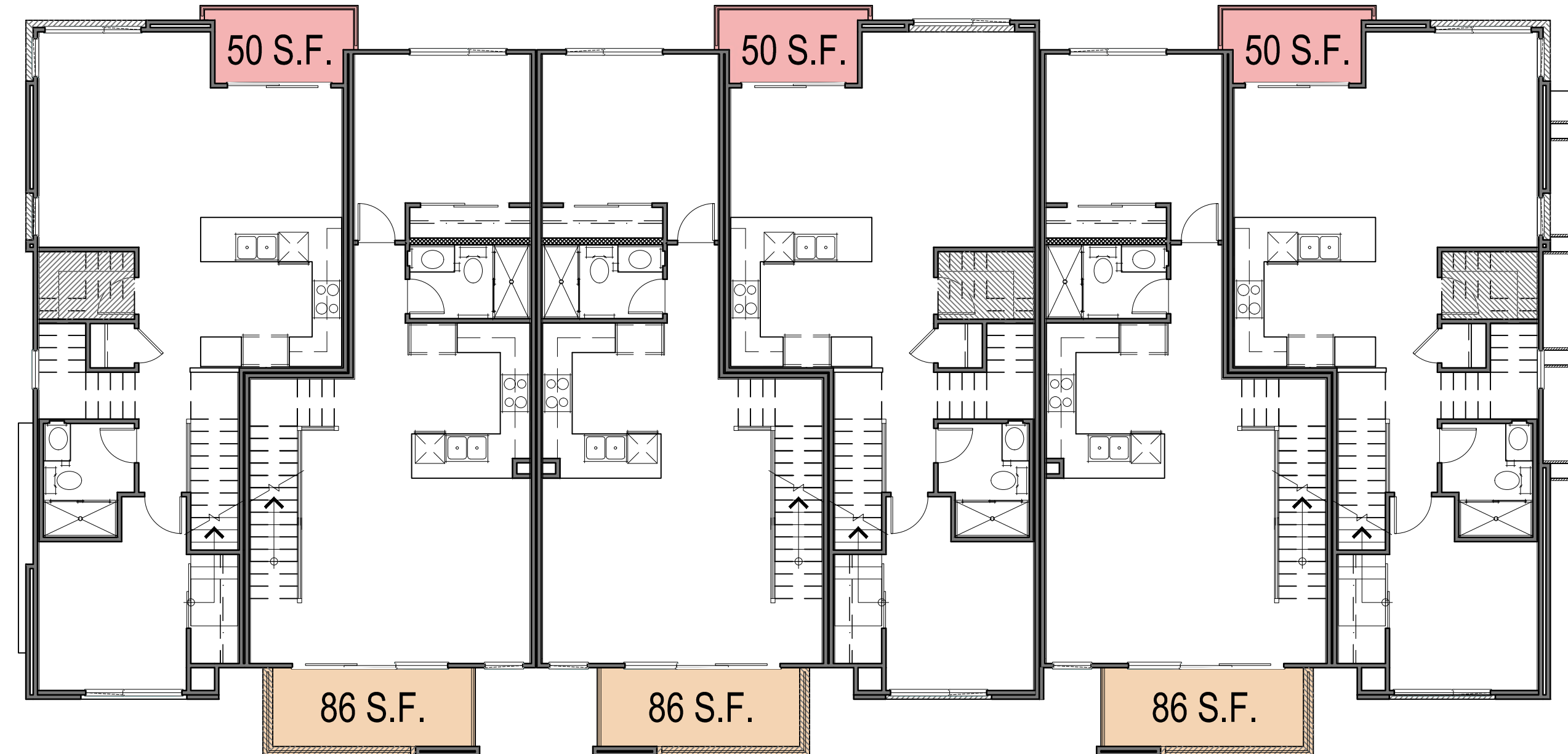
UNIT 1 PORCHES:	28 x 33 SF	= 924 SF
		(INELIGIBLE, SEE SHEET C9.0)
UNIT 2 PORCHES:	28 x 38 SF	= 1064 SF
		(INELIGIBLE, SEE SHEET C9.0)
UNIT 3 PORCHES:	1 x 34 SF	= 34 SF
		(INELIGIBLE, SEE SHEET C9.0)
TOTAL OPEN SPACE:		= 2022 SF
		(INELIGIBLE, SEE SHEET C9.0)

TOTAL ELIGIBLE RESIDENTIAL OPEN SPACE		= 5,270 SF
(SEE PROJECT DATA SHEET A01)		

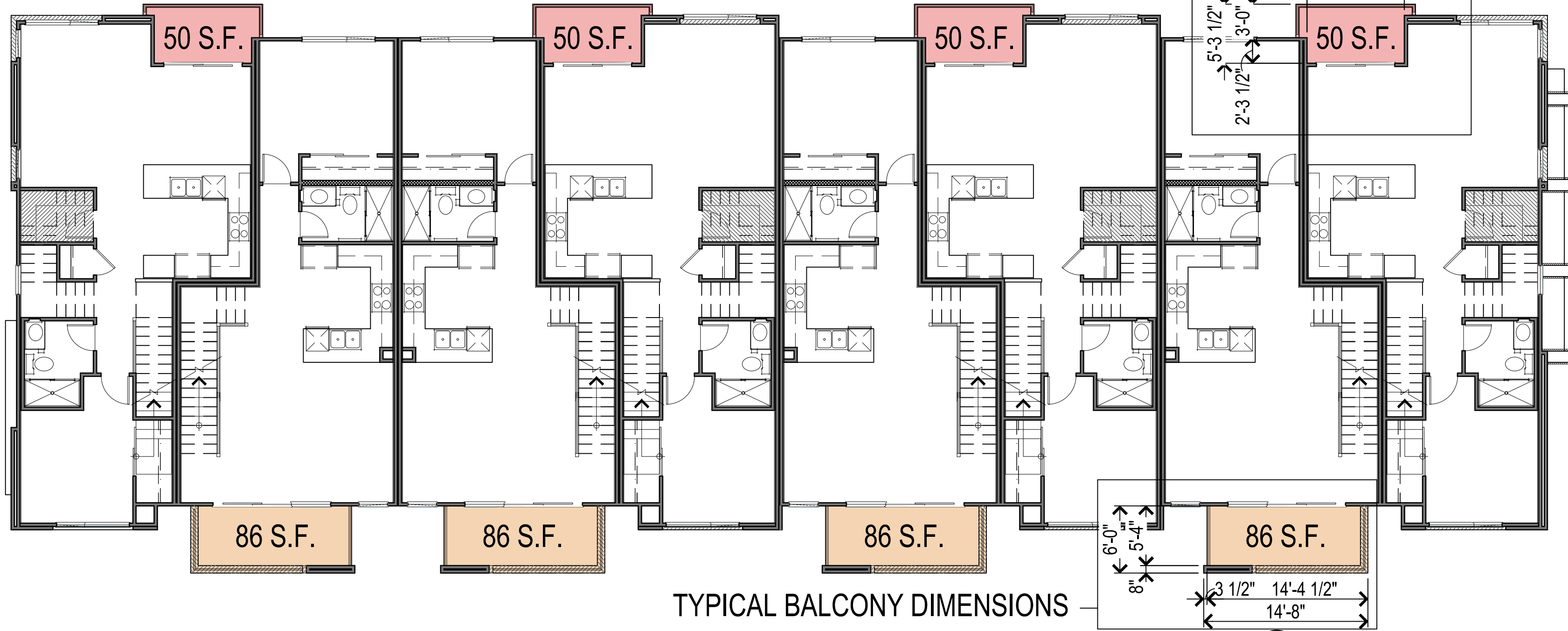


- = UNIT 1 BALCONY
- = UNIT 2 BALCONY
- = UNIT 3 BALCONY

KEY PLAN:
BUILDING TYPE Ⓐ - BUILDINGS #8 & #9
BUILDING TYPE Ⓑ - BUILDINGS #1, #3, #4, #5, #6 & #7
BUILDING TYPE Ⓒ - BUILDING #2



Ⓑ 6-UNIT BUILDING
2ND FLOOR



Ⓐ 8-UNIT BUILDING
2ND FLOOR

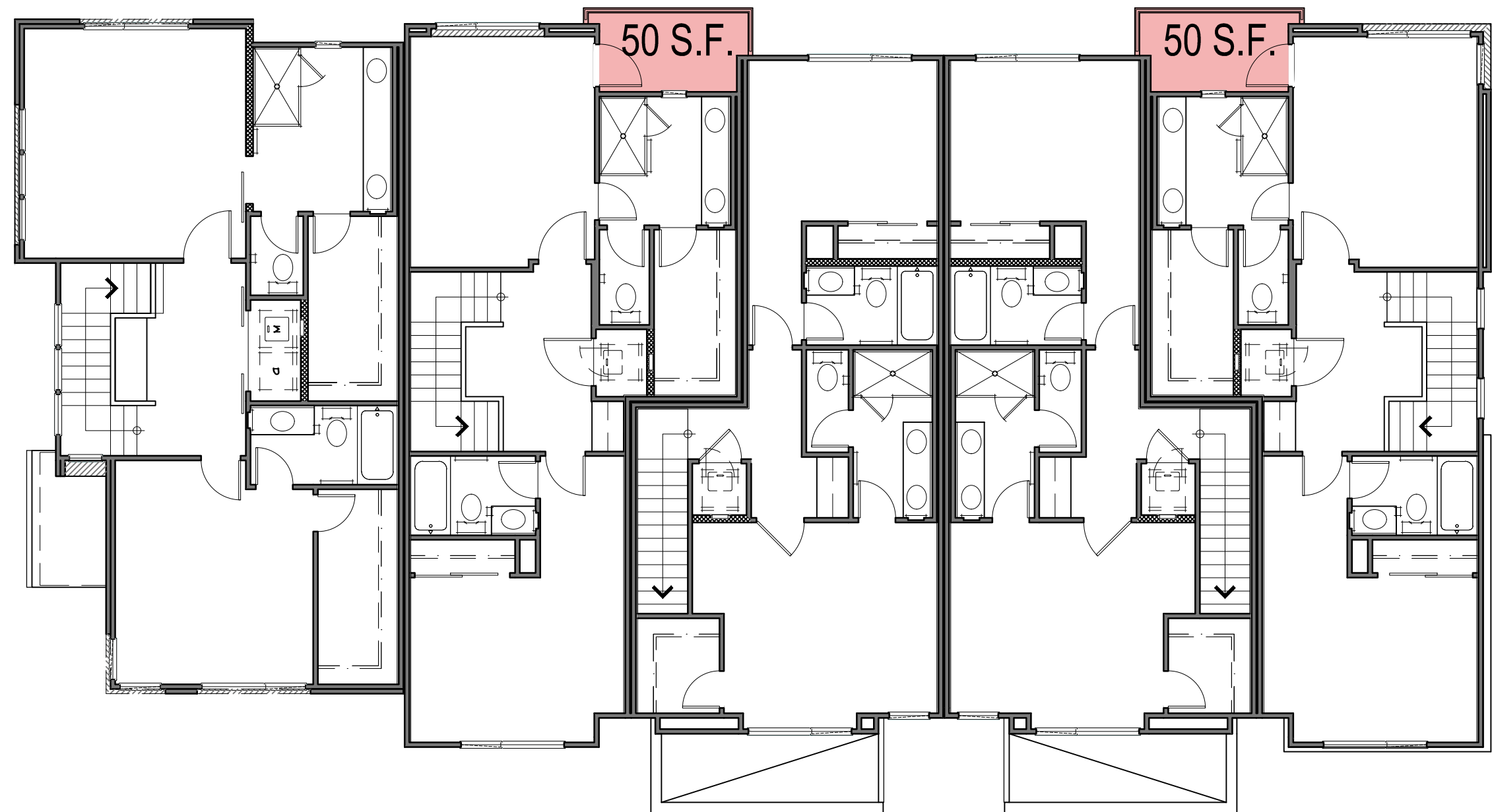
PRIVATE OPEN SPACE
A01.1

342.043 TTLC South Main Street
Milpitas, CA
December 20, 2022

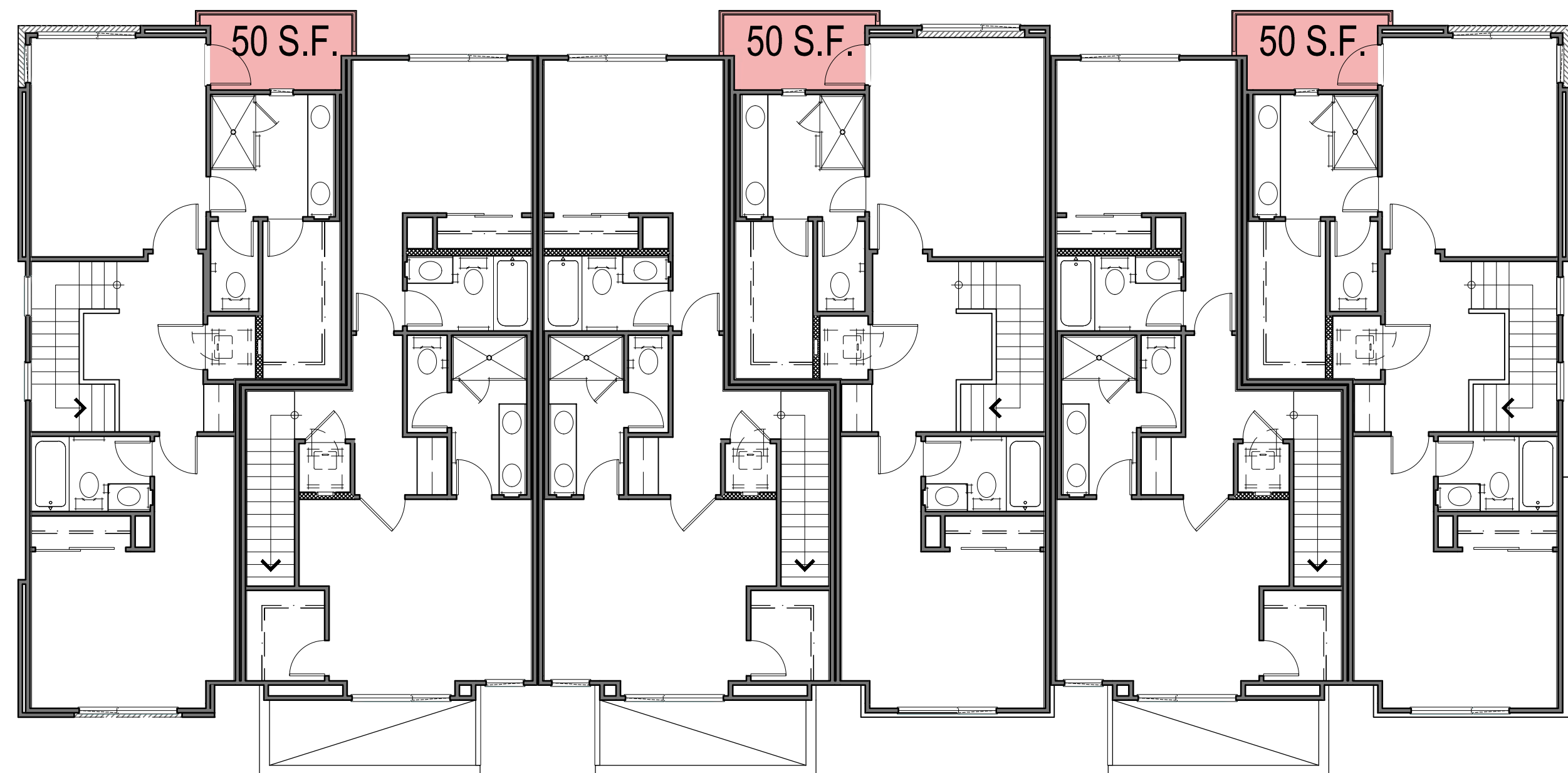
THE TRUE LIFE COMPANIES
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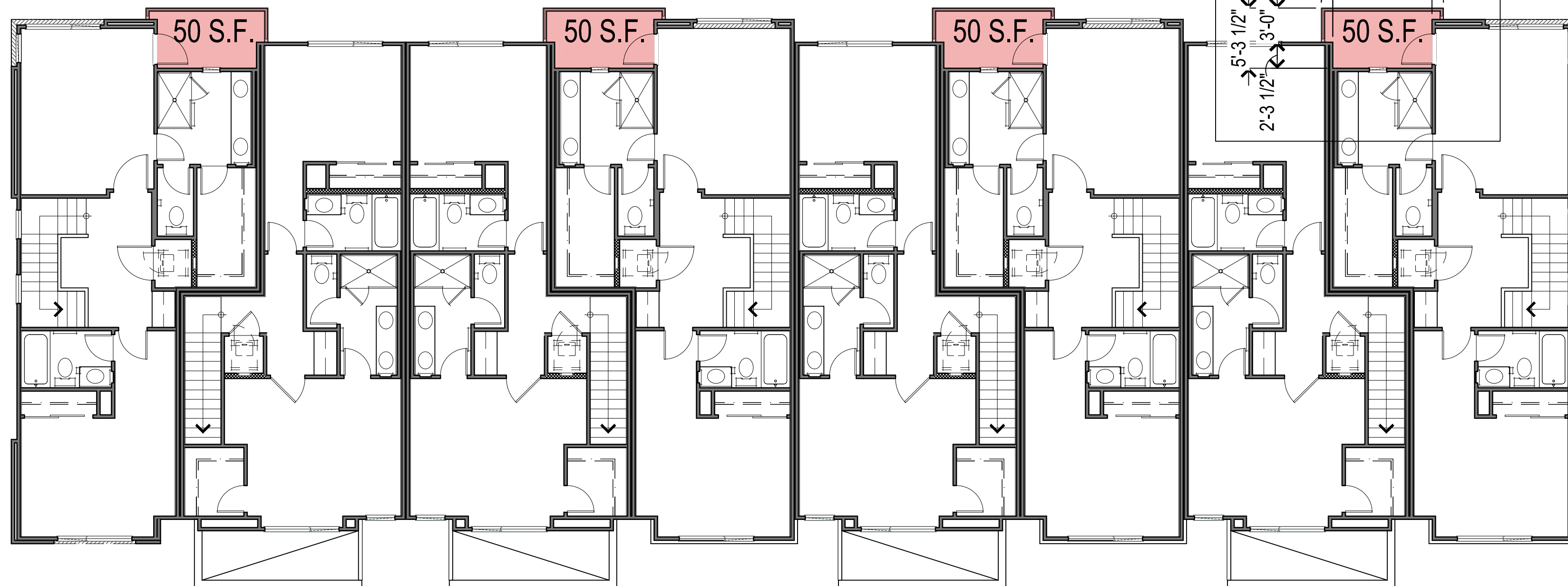




Ⓒ 5-UNIT BUILDING
3RD FLOOR



Ⓑ 6-UNIT BUILDING
3RD FLOOR



Ⓐ 8-UNIT BUILDING
3RD FLOOR

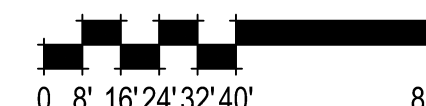
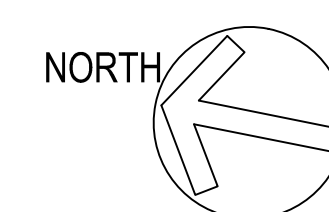
-  = UNIT 1 BALCONY
-  = UNIT 2 BALCONY
-  = UNIT 3 BALCONY

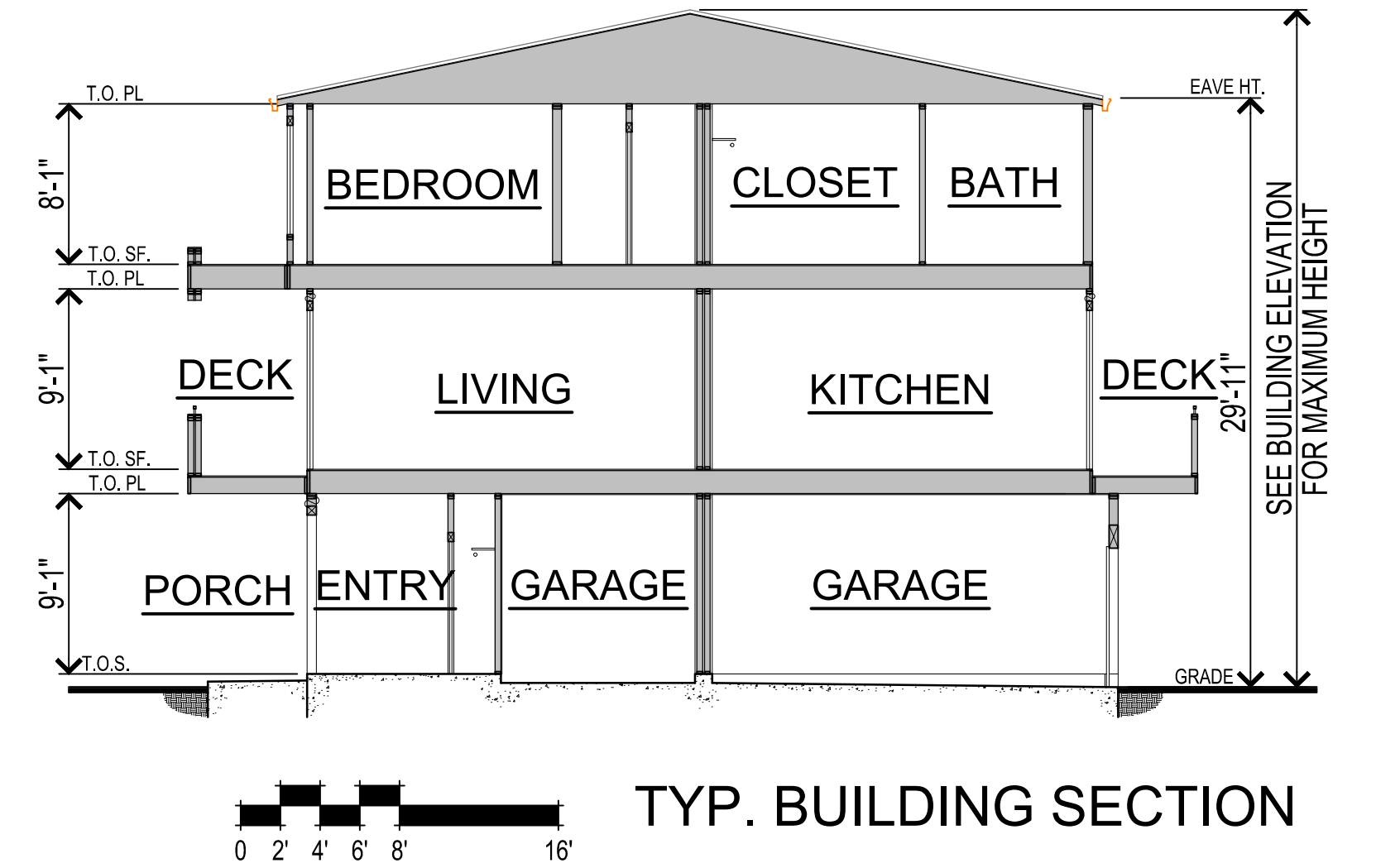
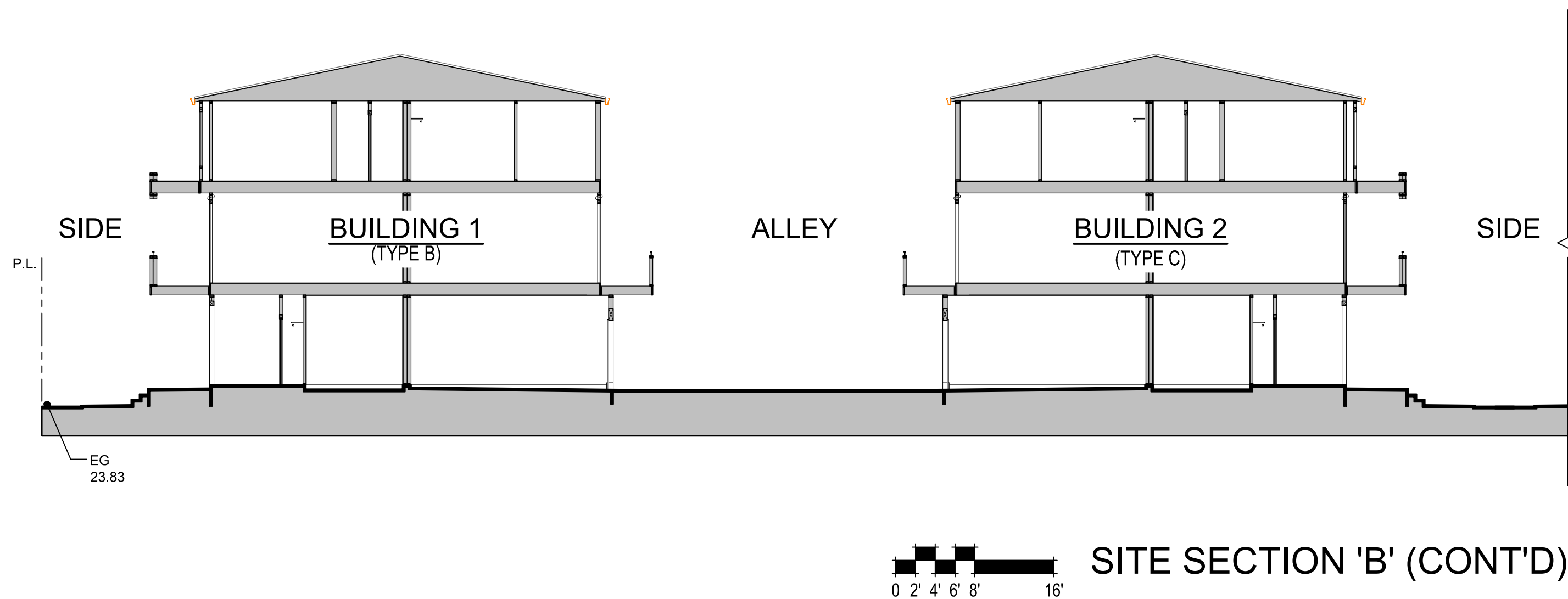
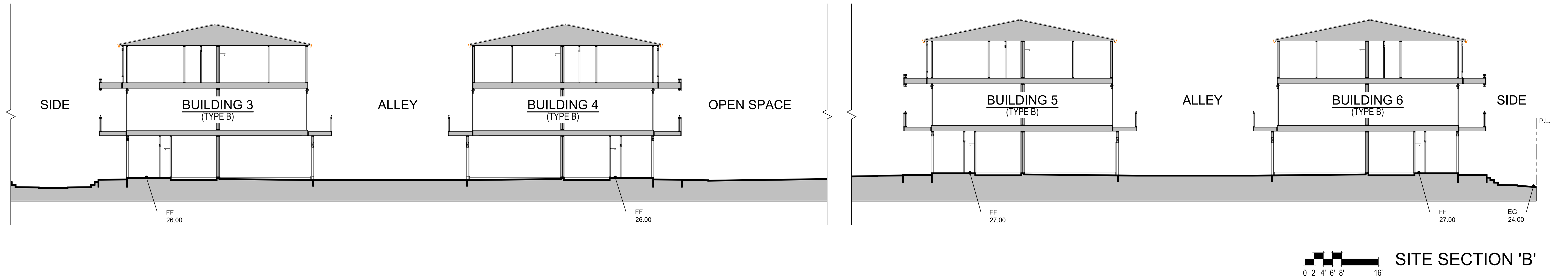
KEY PLAN:

BUILDING TYPE Ⓐ - BUILDINGS #8 & #9

BUILDING TYPE Ⓑ - BUILDINGS #1, #3, #4, #5, #6 & #7

BUILDING TYPE Ⓒ - BUILDING #2





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SITE & BUILDING SECTIONS
A02

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VIEW 2 - COMMON OPEN SPACE



VIEW 3 - DRIVEWAY LOOKING SOUTH



VIEW 1 - ENTRY DRIVE LOOKING EAST AT COMMON OPEN SPACE

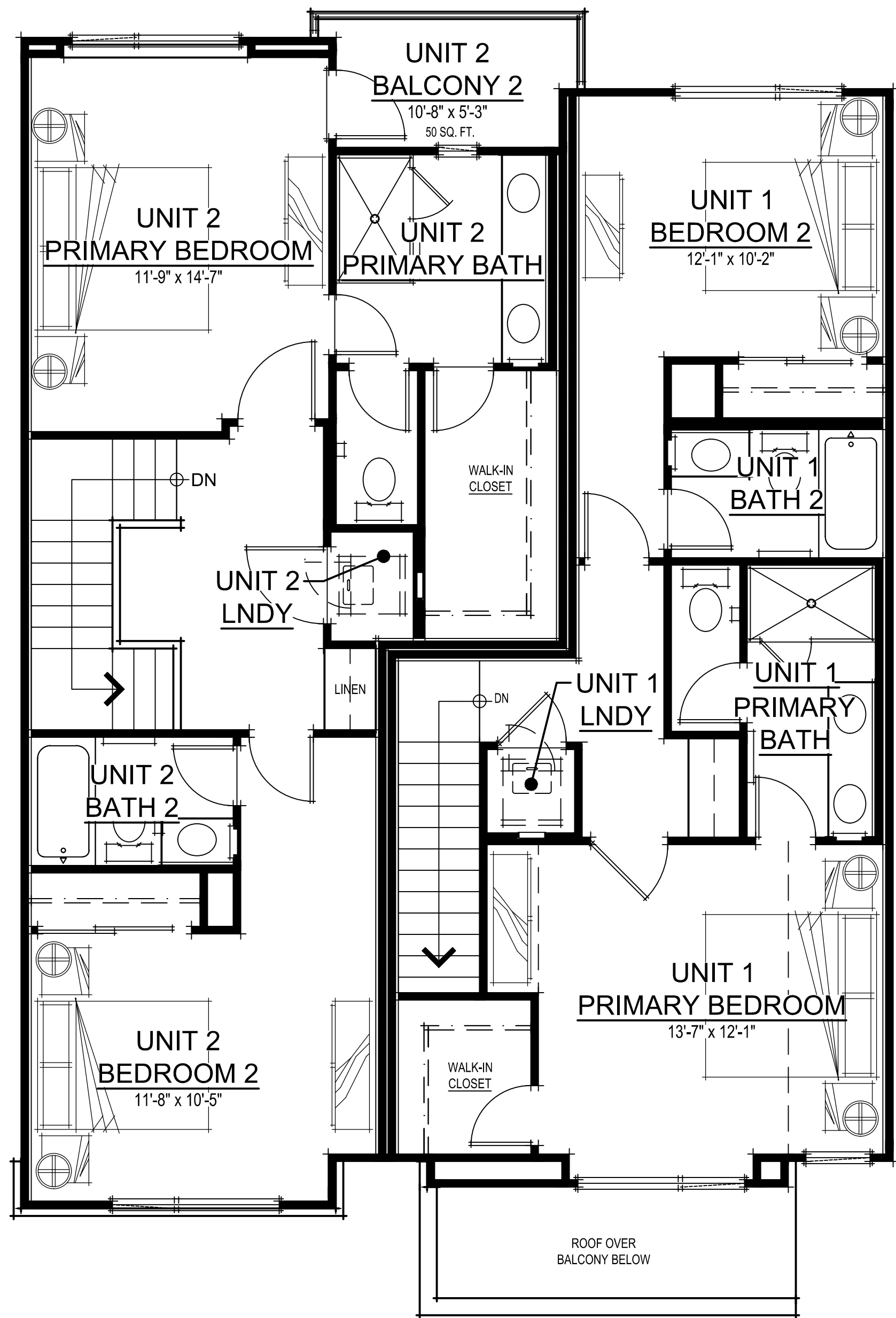
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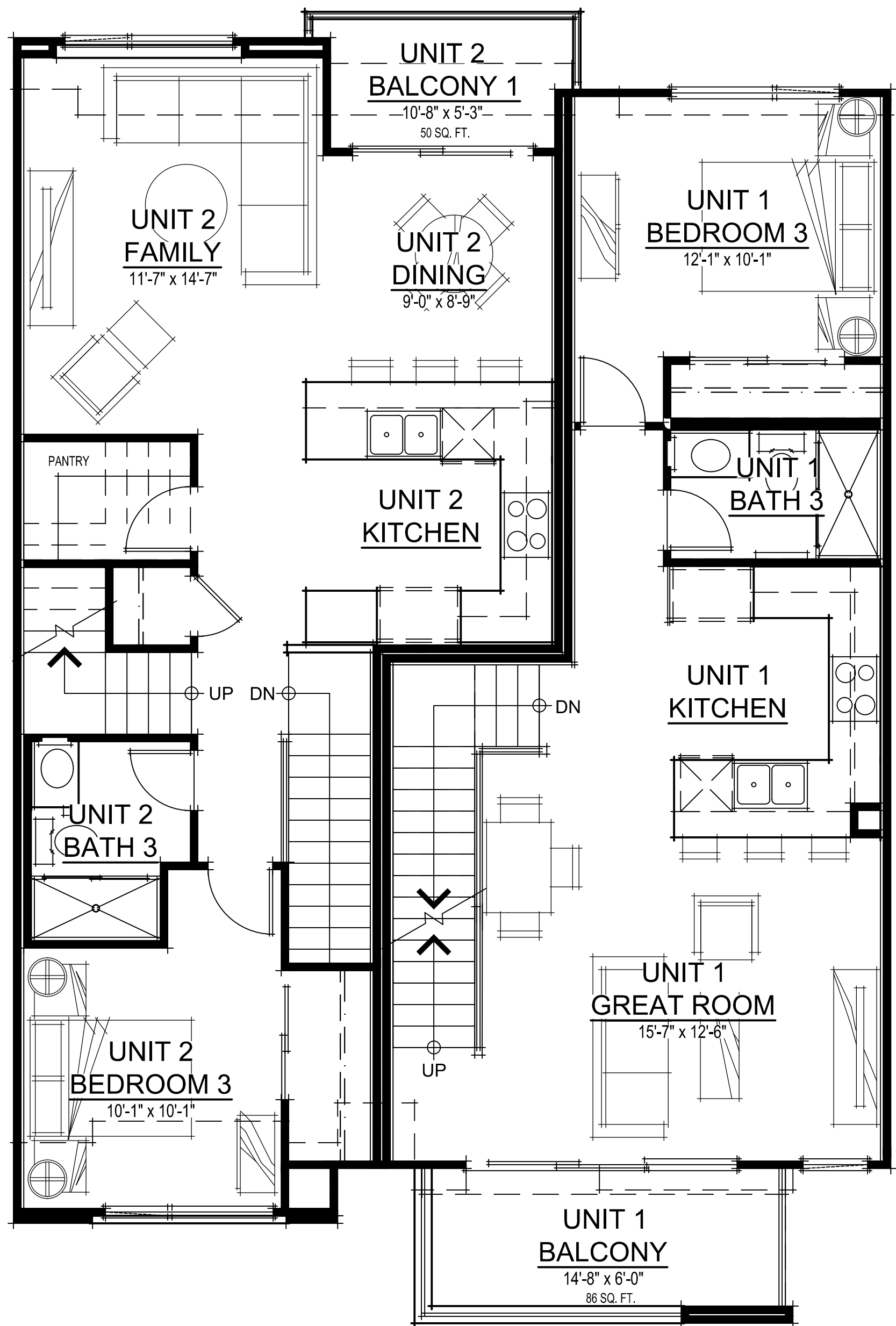
BUILDING RENDERS
A02.1

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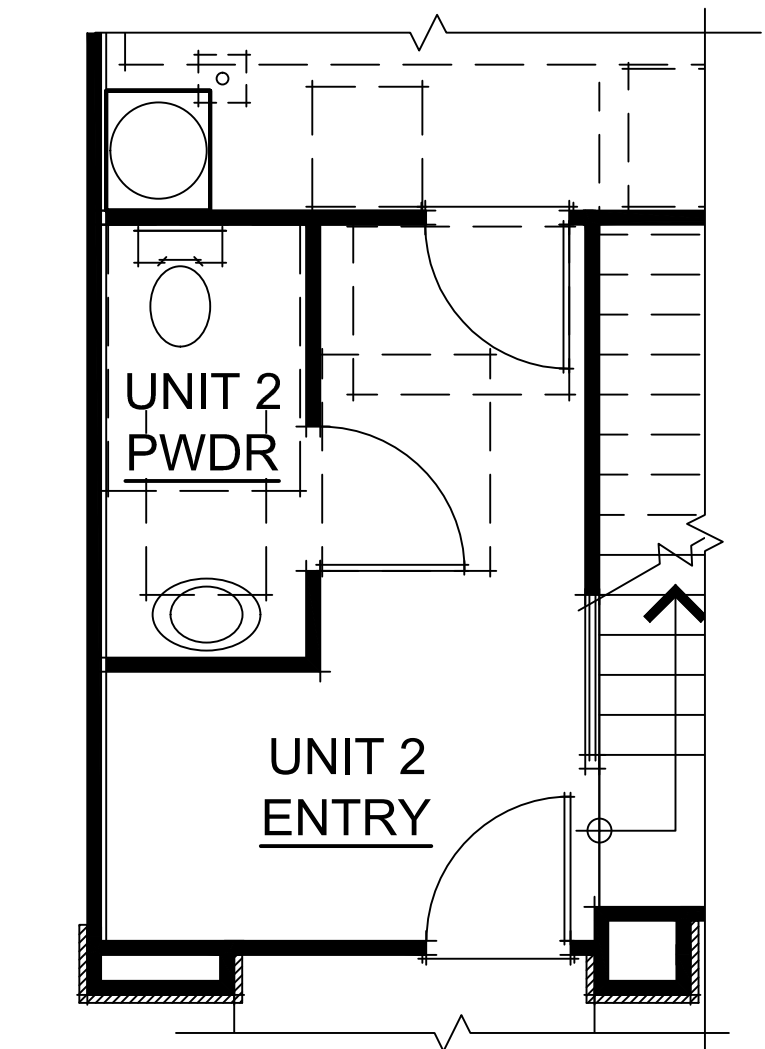




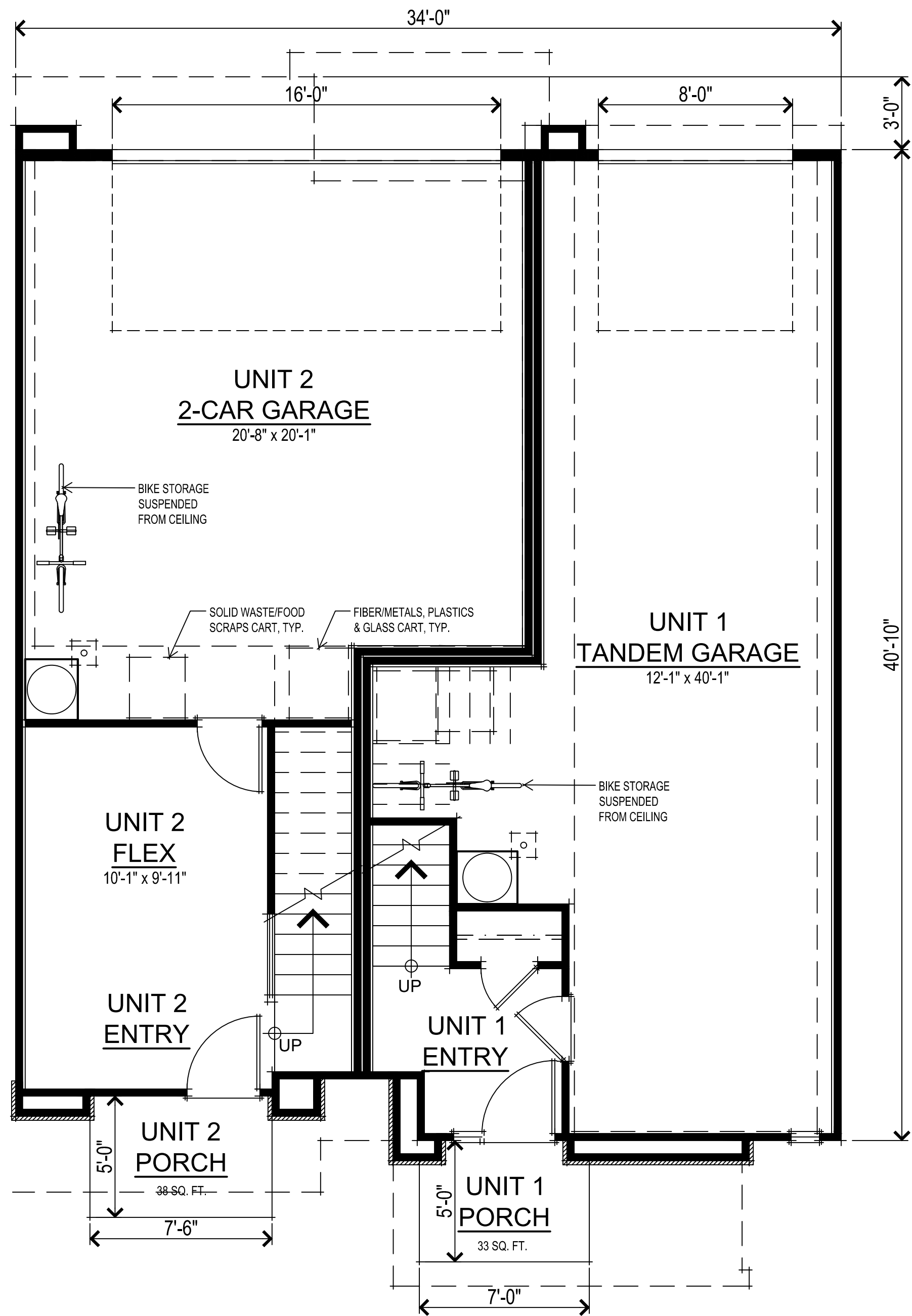
THIRD FLOOR PLAN



SECOND FLOOR PLAN

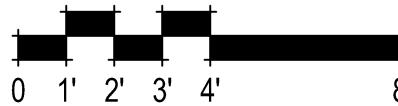


ADAPTABLE POWDER
AS REQUIRED BY
CBC SEC. 11A



FIRST FLOOR PLAN

UNIT 1 SQUARE FOOTAGES		UNIT 2 SQUARE FOOTAGES	
FIRST FLOOR	117 SQ. FT.	FIRST FLOOR	219 SQ. FT.
SECOND FLOOR	673 SQ. FT.	SECOND FLOOR	727 SQ. FT.
THIRD FLOOR	633 SQ. FT.	THIRD FLOOR	743 SQ. FT.
TOTAL LIVING	1423 SQ. FT.	TOTAL LIVING	1689 SQ. FT.
TANDEM GARAGE	537 SQ. FT.	2-CAR GARAGE	483 SQ. FT.
UNIT 1 PORCH SLAB	33 SQ. FT.	UNIT 2 PORCH SLAB	38 SQ. FT.
BALCONY (2ND FLOOR)	86 SQ. FT.	BALCONY 1 (2ND FLOOR)	50 SQ. FT.
		BALCONY 2 (3RD FLOOR)	50 SQ. FT.



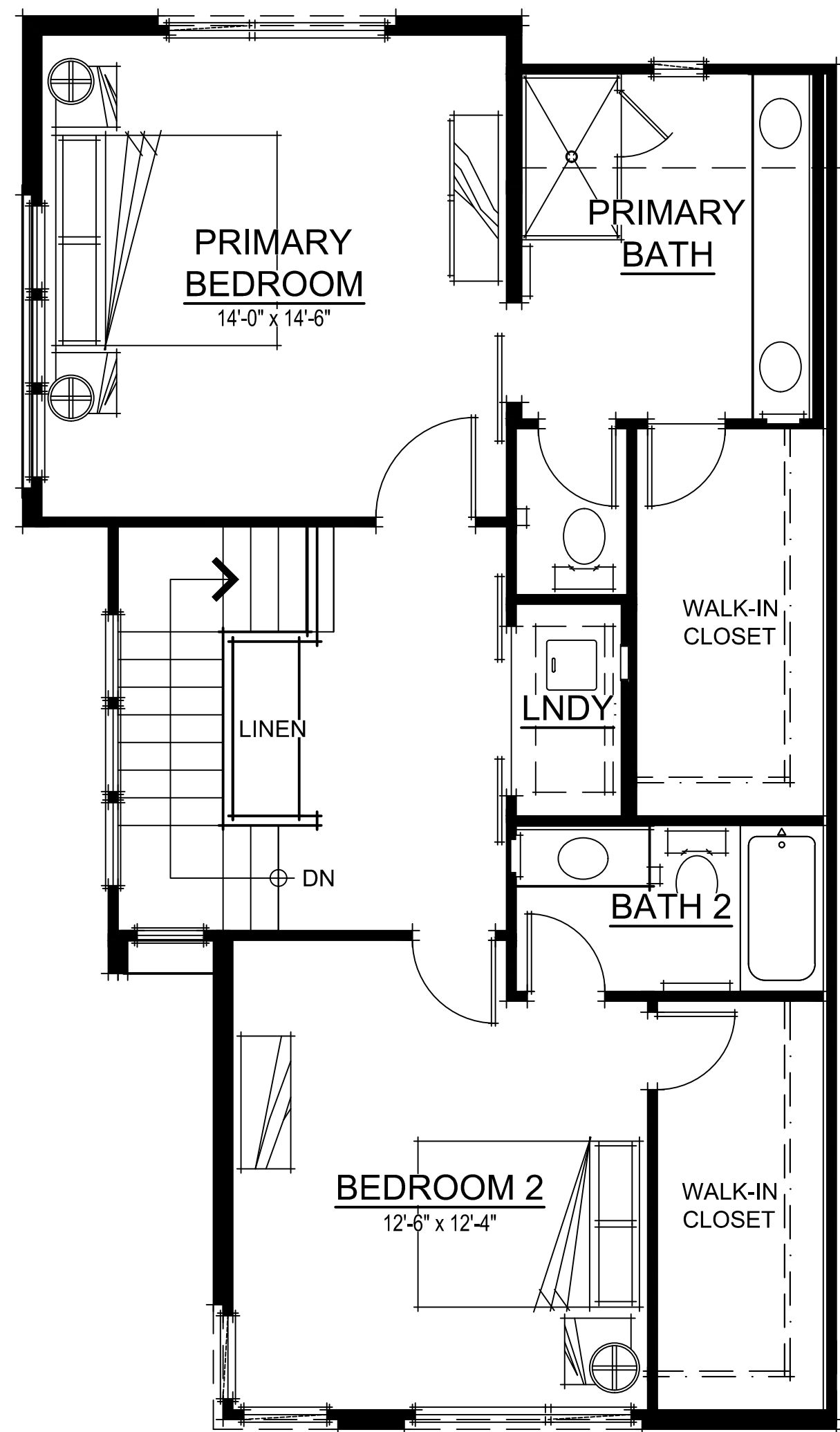
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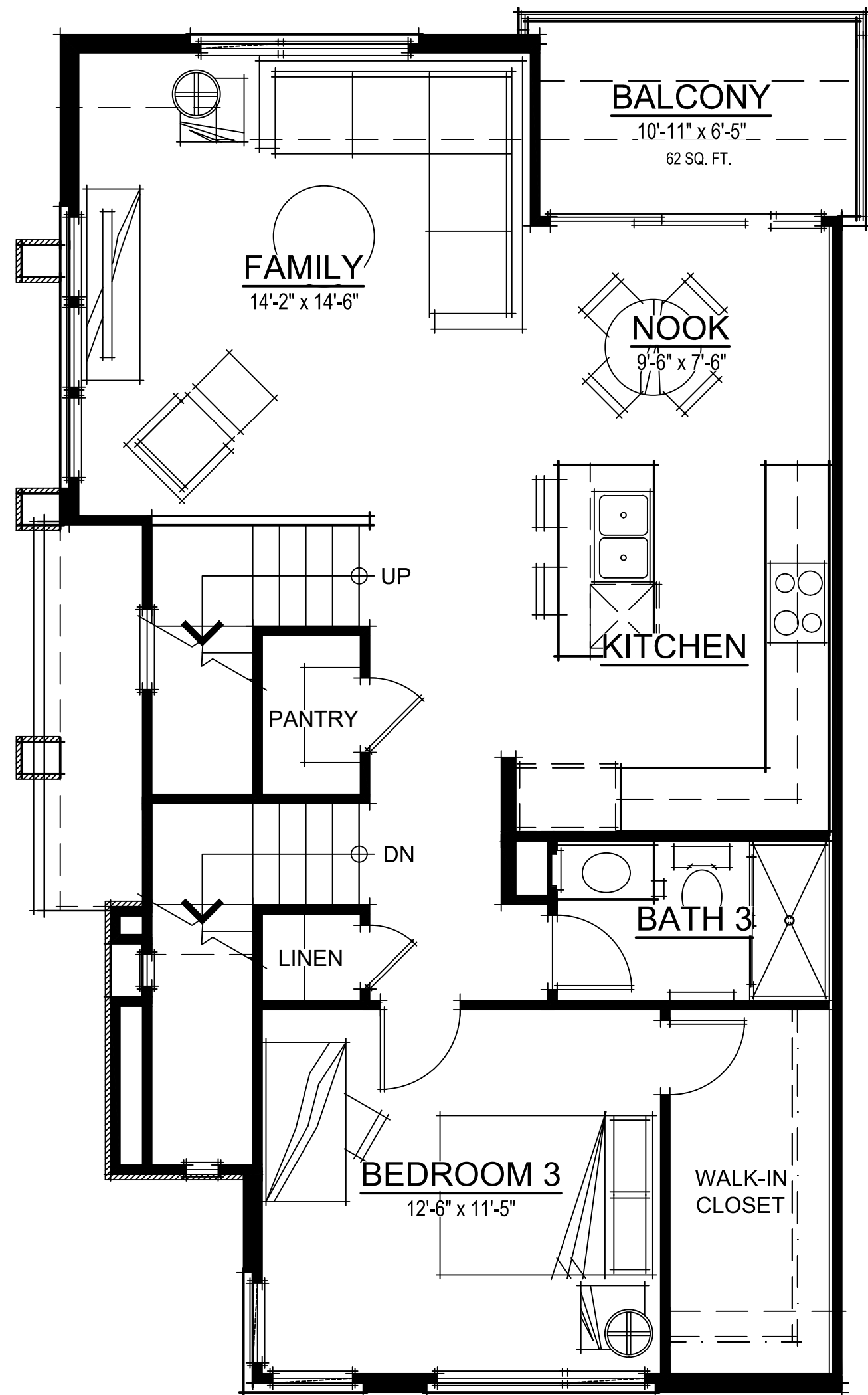
UNITS 1 & 2 FLOOR PLANS
A03

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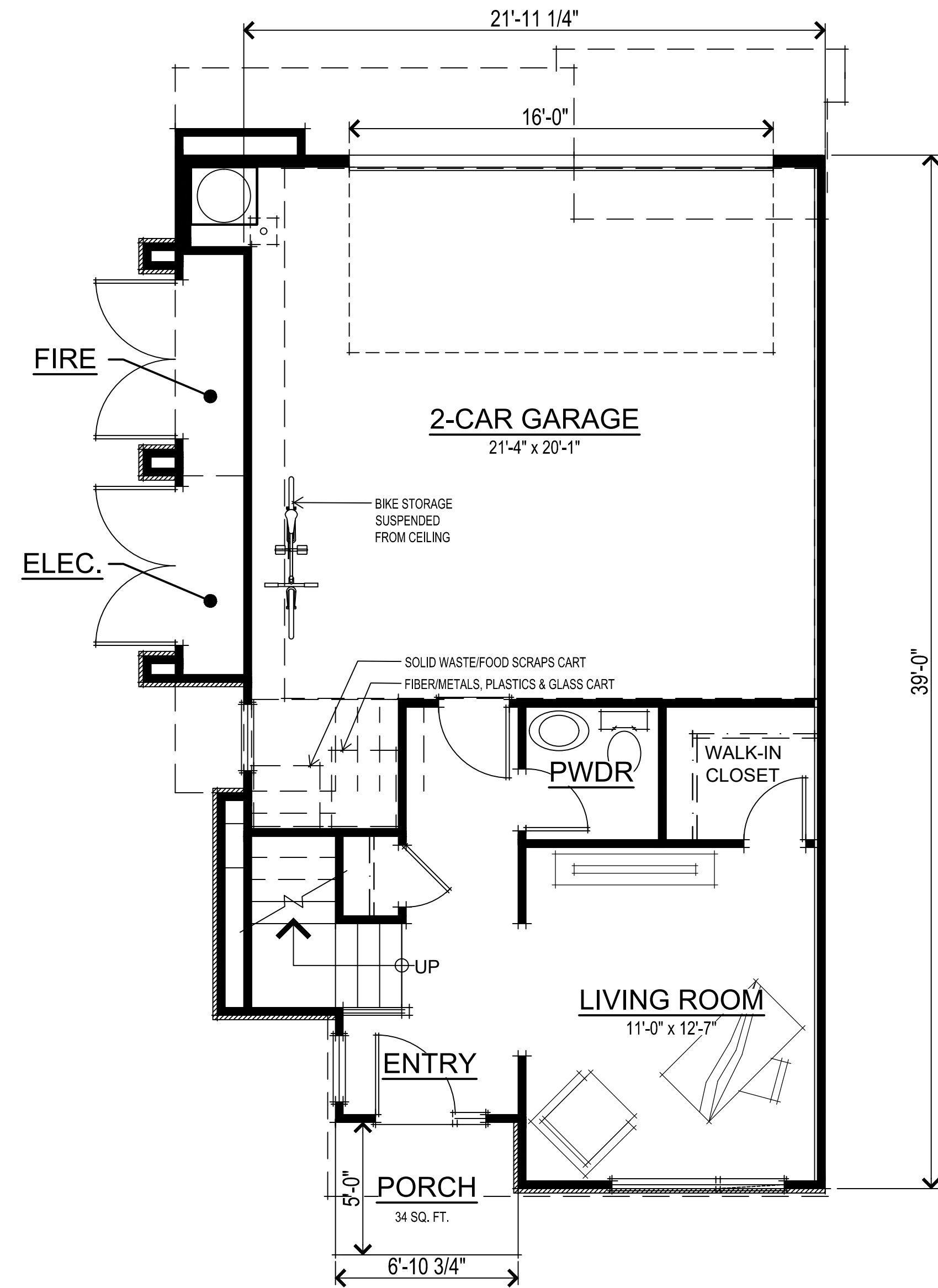




THIRD FLOOR PLAN

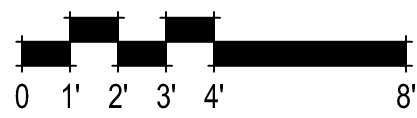


SECOND FLOOR PLAN



FIRST FLOOR PLAN

UNIT 3 SQUARE FOOTAGES	
FIRST FLOOR	336 SQ. FT.
SECOND FLOOR	882 SQ. FT.
THIRD FLOOR	874 SQ. FT.
TOTAL LIVING	2092 SQ. FT.
2-CAR GARAGE	489 SQ. FT.
PORCH SLAB	34 SQ. FT.
BALCONY	62 SQ. FT.



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RIGHT ELEVATION



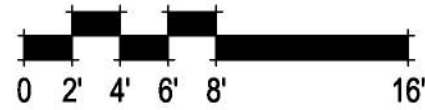
REAR ELEVATION



LEFT ELEVATION



FRONT ELEVATION



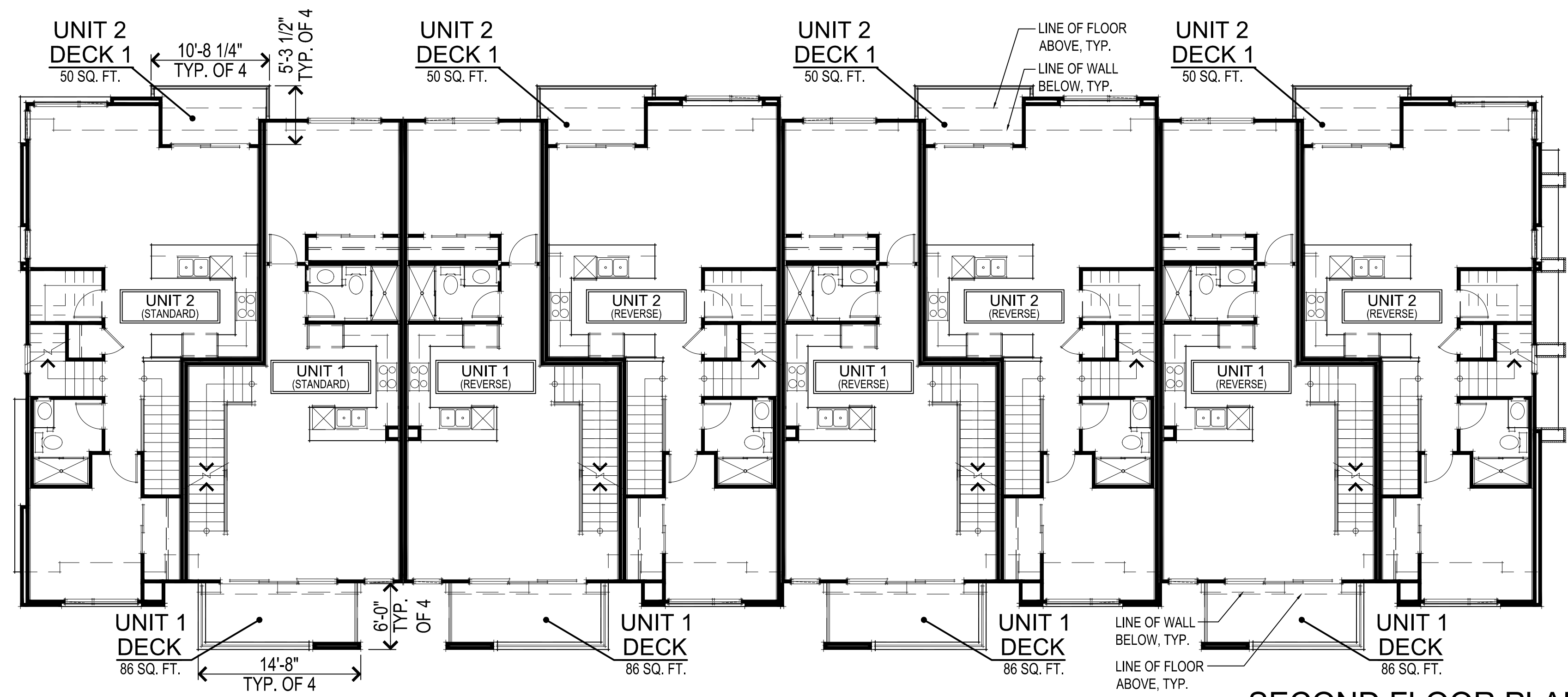
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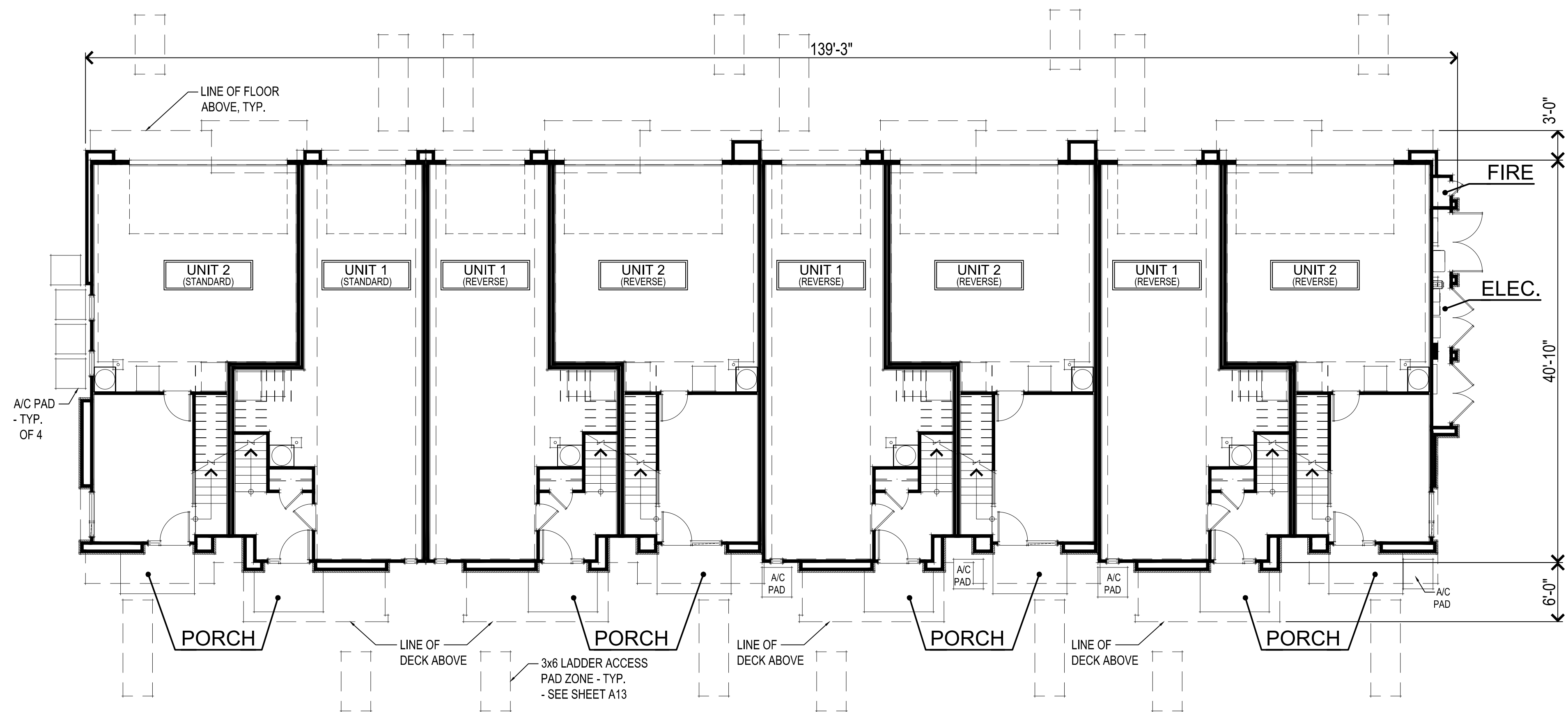
BUILDING TYPE A (8 UNIT) ELEVATIONS
A05

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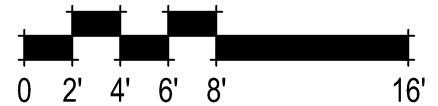




SECOND FLOOR PLAN



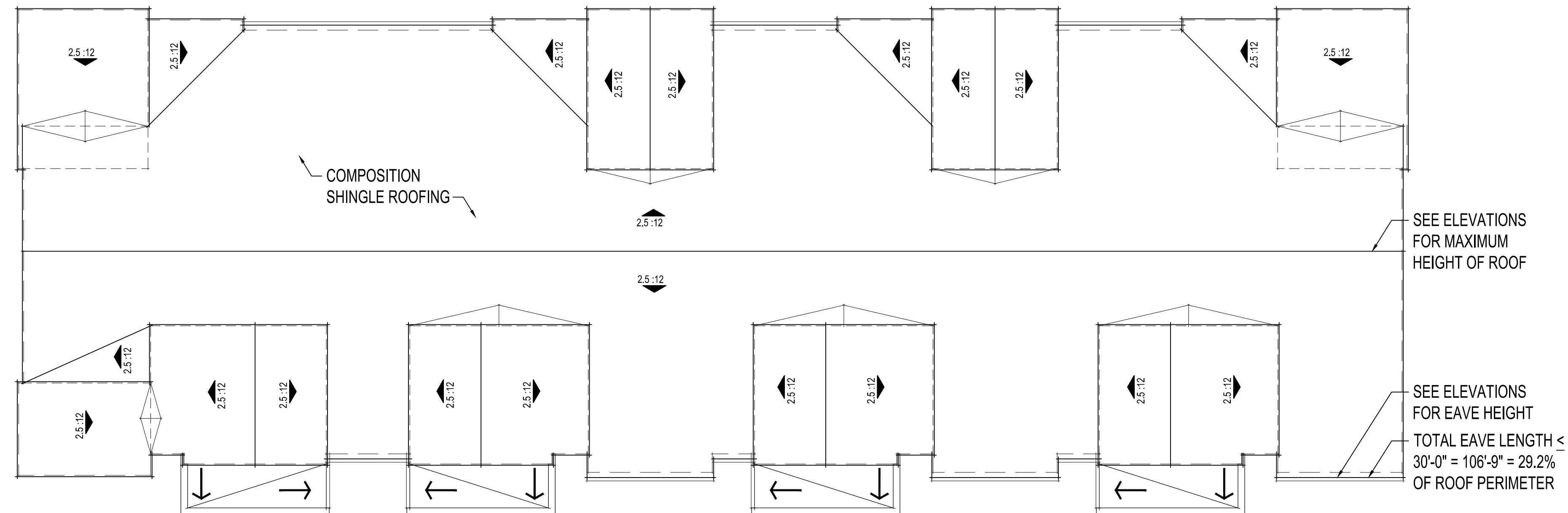
FIRST FLOOR PLAN



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BUILDING TYPE A (8 UNIT) FIRST & SECOND FLOOR PLANS
A06





ROOF PLAN



THIRD FLOOR PLAN



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BUILDING TYPE A (8 UNIT) THIRD FLOOR & ROOF PLANS
A07



RIGHT ELEVATION



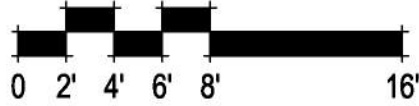
REAR ELEVATION



LEFT ELEVATION



FRONT ELEVATION



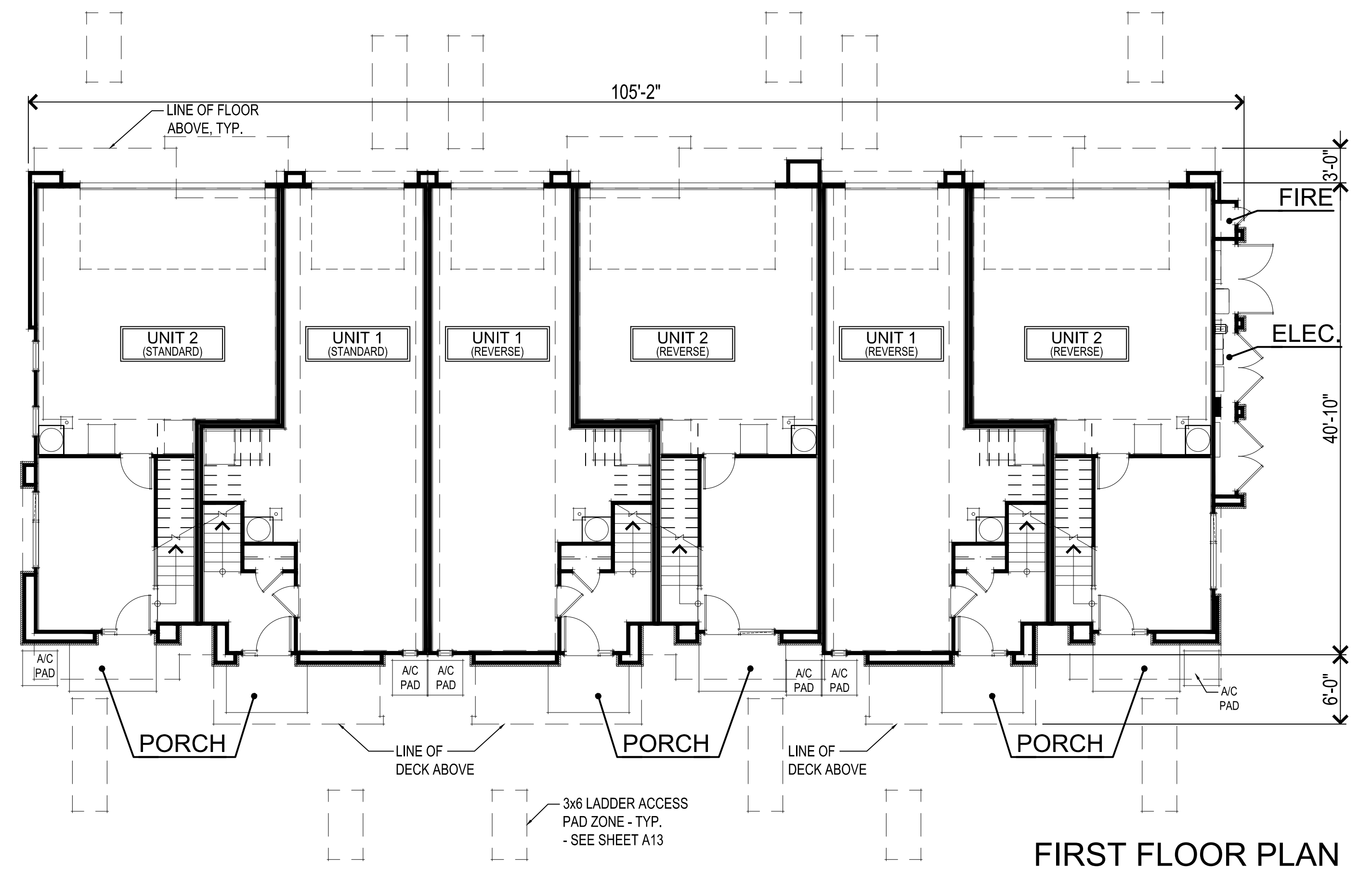
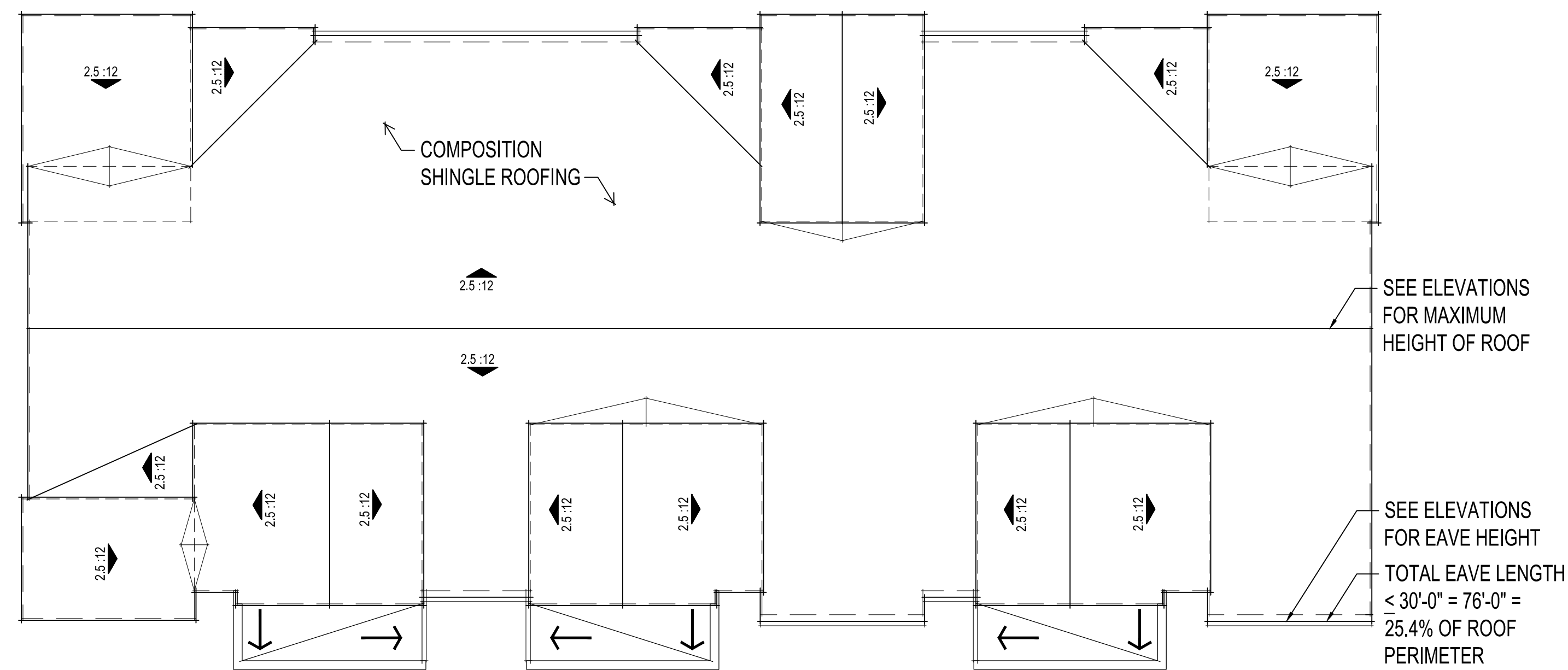
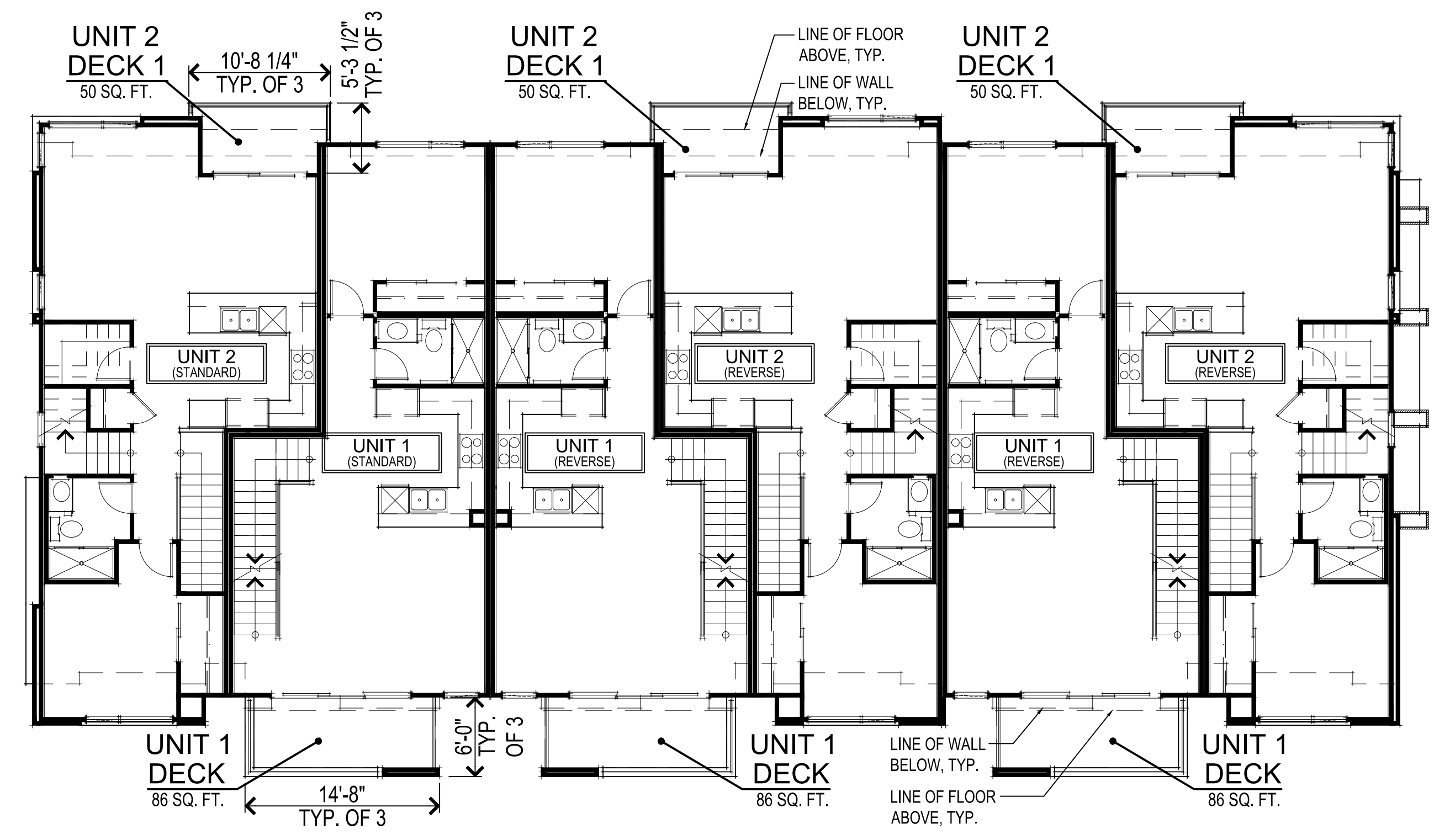
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BUILDING TYPE B (6 UNIT) ELEVATIONS
A08

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RIGHT ELEVATION



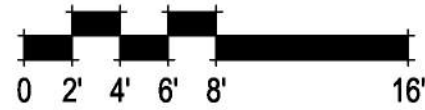
REAR ELEVATION



LEFT ELEVATION



FRONT ELEVATION



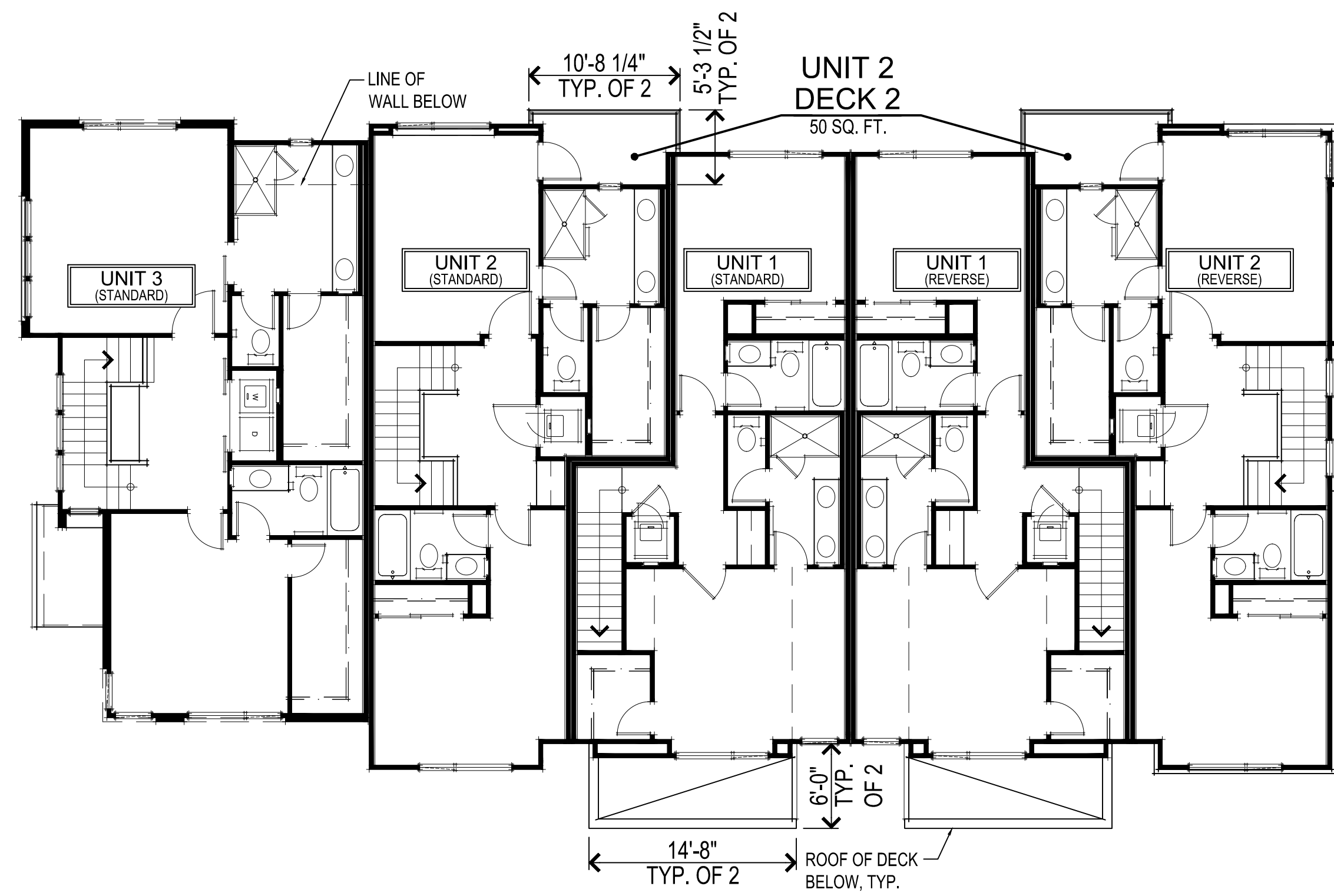
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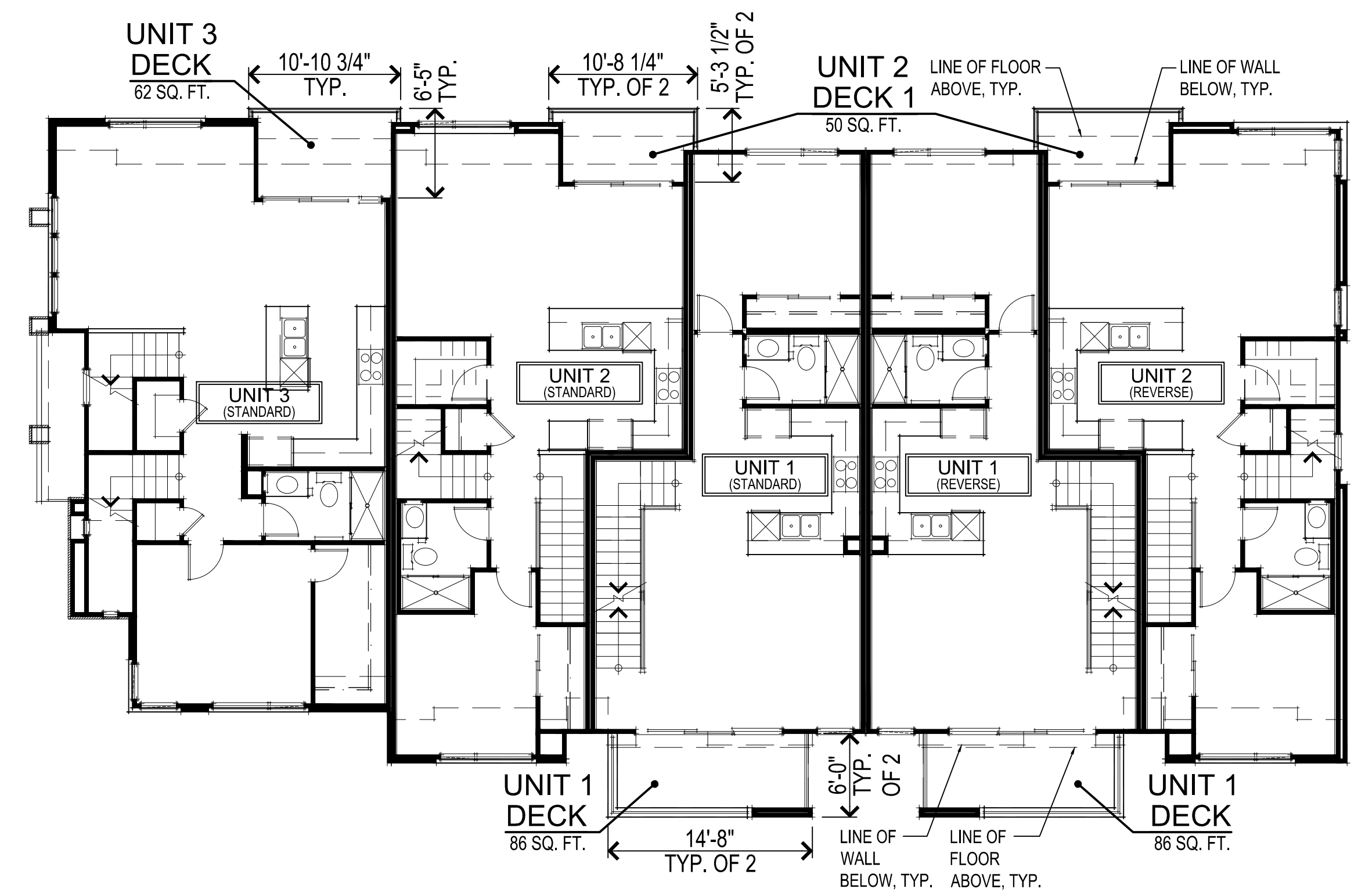
BUILDING TYPE C (5 UNIT) ELEVATIONS
A10

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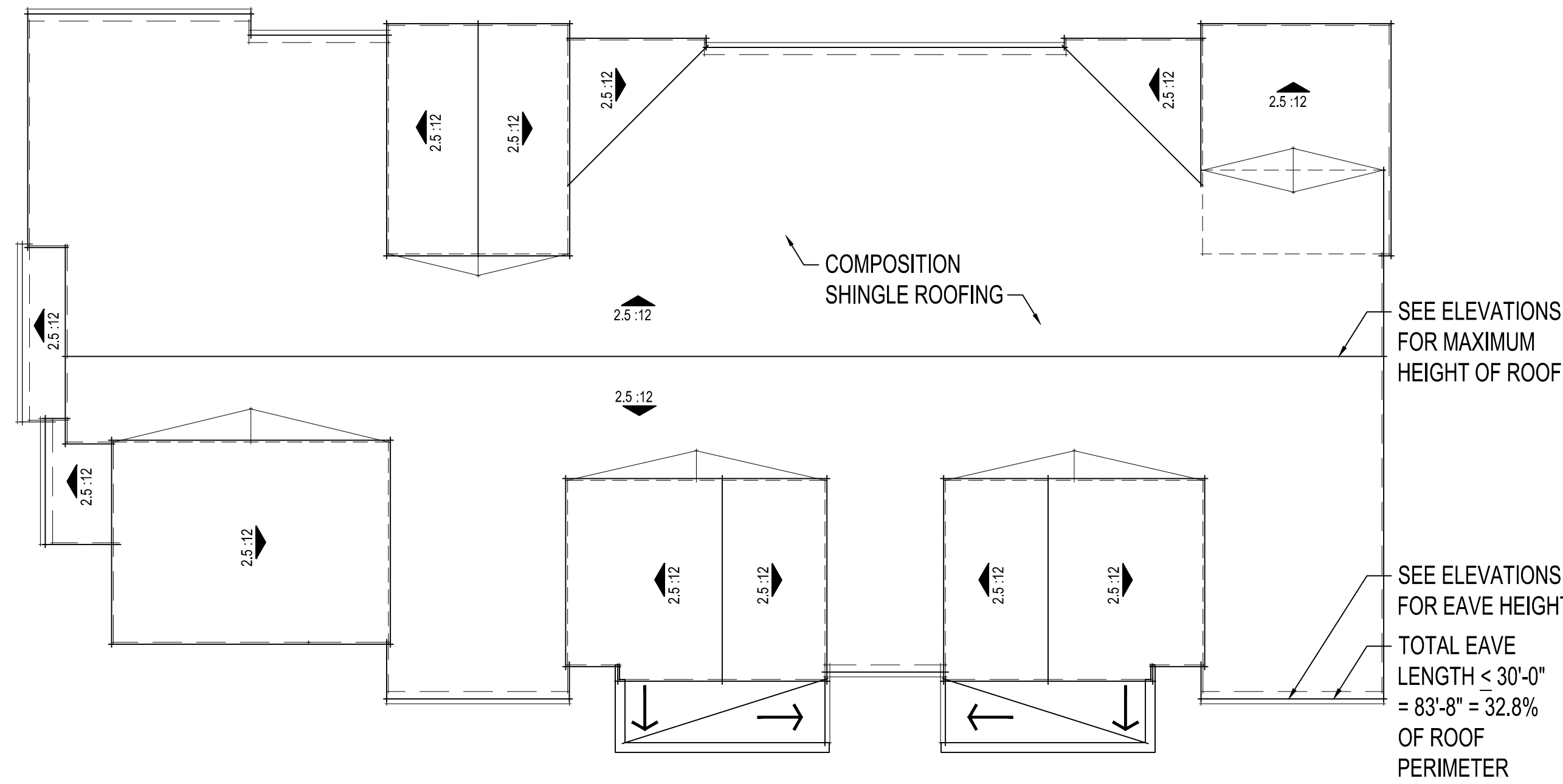




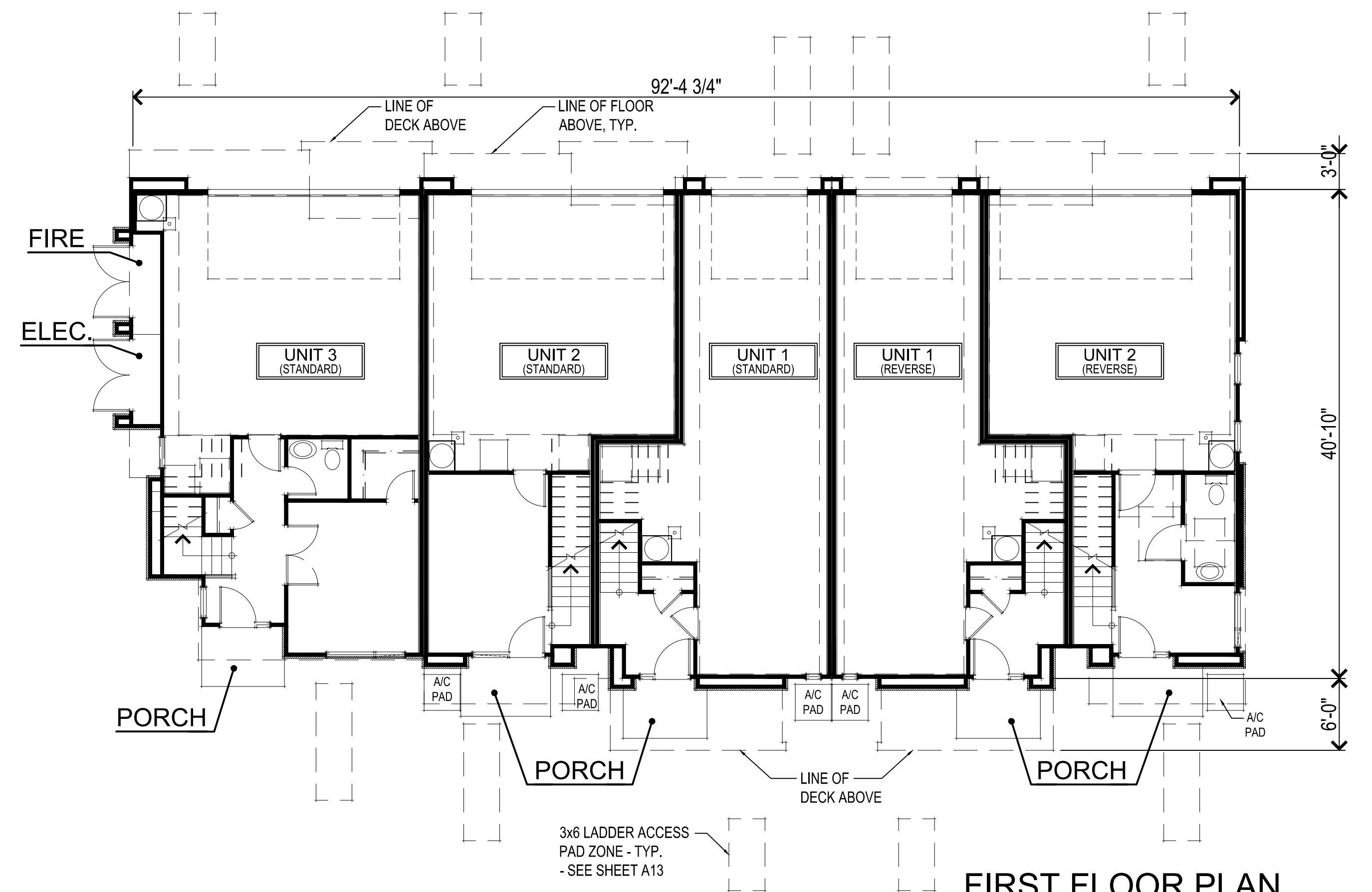
THIRD FLOOR PLAN



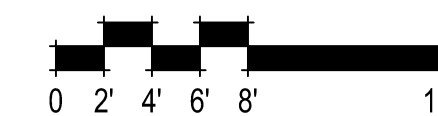
SECOND FLOOR PLAN



THIRD FLOOR PLAN



FIRST FLOOR PLAN



BUILDING TYPE C (5 UNIT) FLOOR & ROOF PLANS

A11

MATERIALS



1 METAL SIDING
VERTICAL CORRUGATED METAL SIDING



2 HARDIE PANEL SIDING
FIBER CEMENT TEXTURED PANEL SIDING



3 MUDDOX THIN BRICK
JUMBO NOMINAL 4"X12" SIZE
EBONY FIELD WITH SUMMER WHEAT ACCENT



4 STUCCO
SMOOTH SAND FINISH STUCCO



5 METAL RAILING
METAL RAILING WITH PANEL SIDING



6 CONTEMPORARY GARAGE DOOR
CLOPLAY STEEL GARAGE DOORS WITH
CONTEMPORARY SLIM WINDOWS



7 WALL SCONCE
MODERN FORMS "URBAN" IN BRONZE



8 MODERN DOORS
CONTEMPORARY EXTERIOR DOOR
WITH SIDELITE



9 COMP. SHINGLE ROOFING
CERTAINTEED LANDMARK SOLARIS AGED CEDAR



10 HORIZONTAL SIDING
HARDIE FIBER CEMENT HORIZONTAL SHIPLAP SIDING

COLOR SCHEME



CertainTeed Roofing
Solaris Aged Cedar



Body 1
SW 7066 Gray Matters



Body 2
SW 7068 Grizzle Gray



Body 3
SW 7692 Cupola Yellow



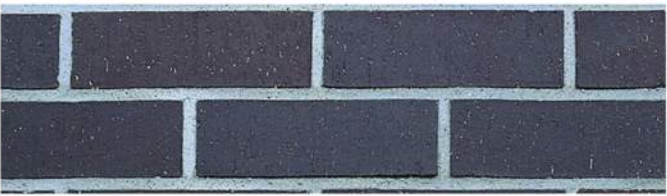
Body 4
SW 7727 Koi Pond



Accent Panels
SW 7068 Grizzle Gray



Entry Door
SW 7692 Cupola Yellow



Muddox Brick
Thin Brick Jumbo
Ebony Field



Muddox Brick Accent
Thin Brick Jumbo
Summer Wheat

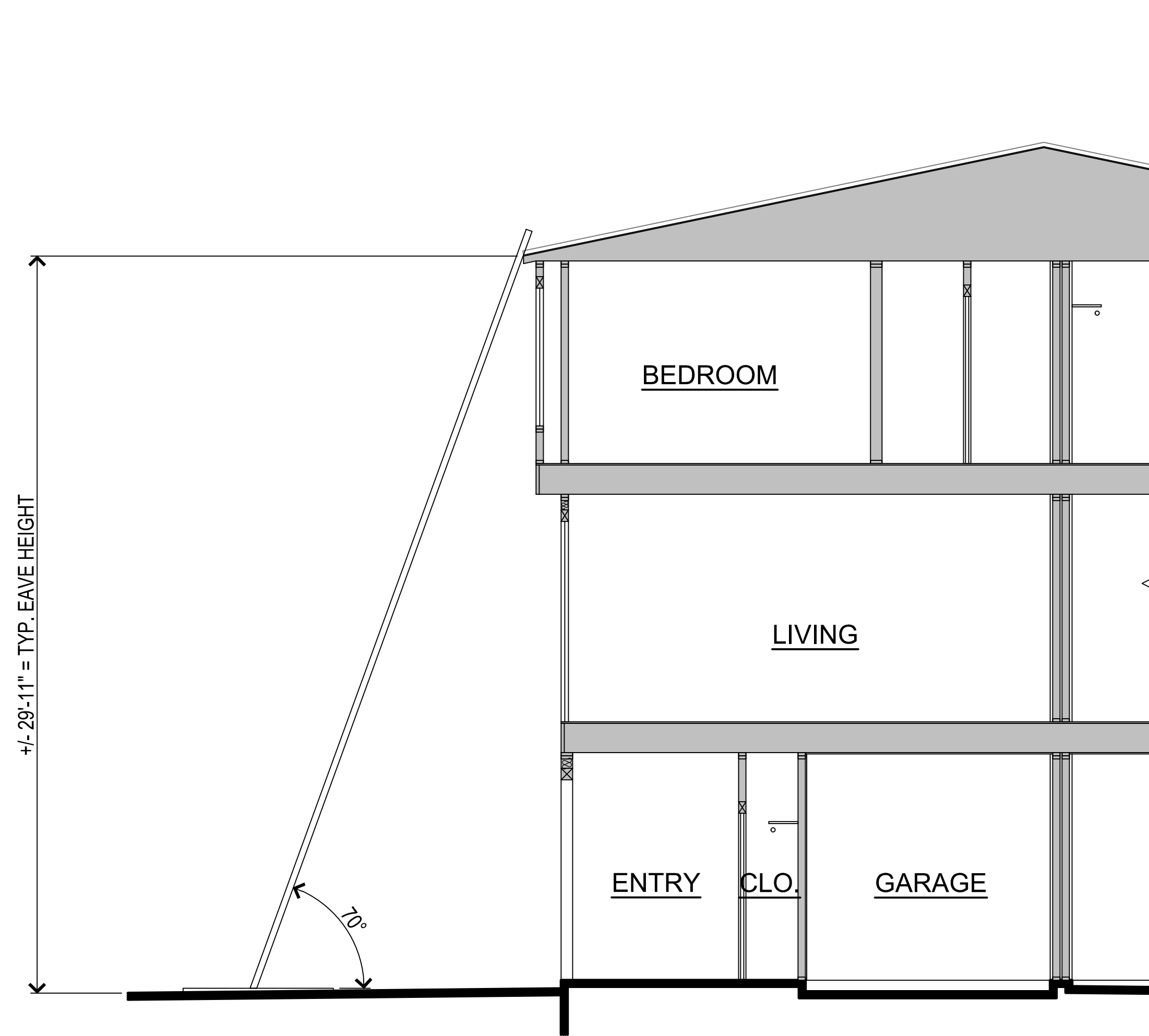
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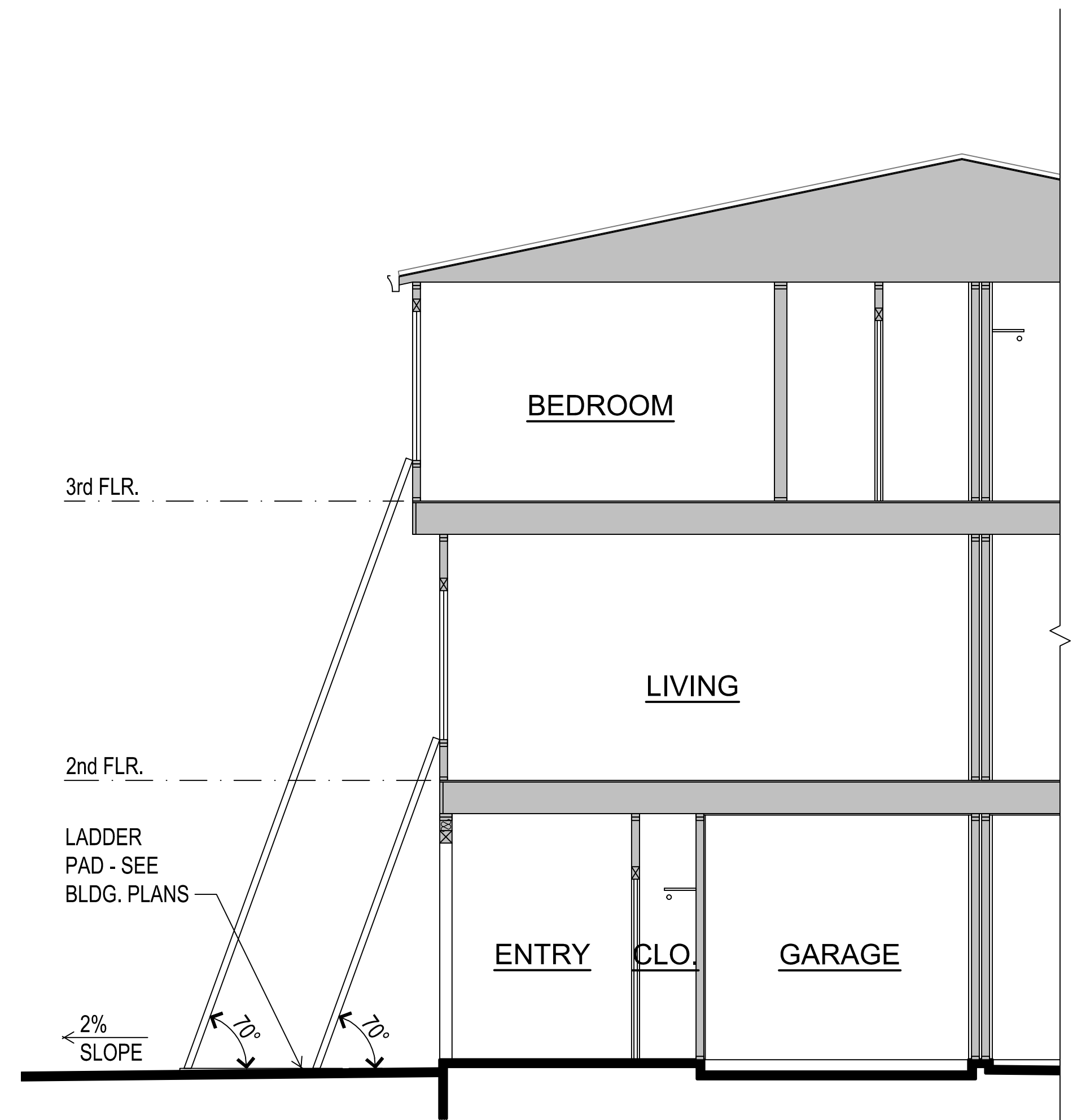
COLOR & MATERIALS
A12

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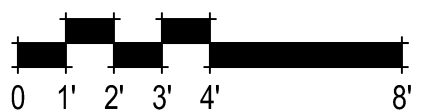




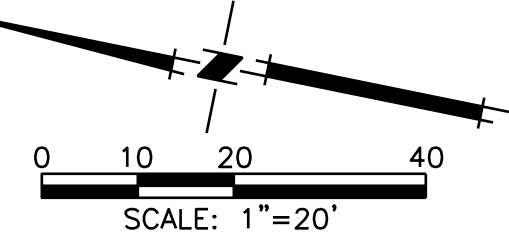
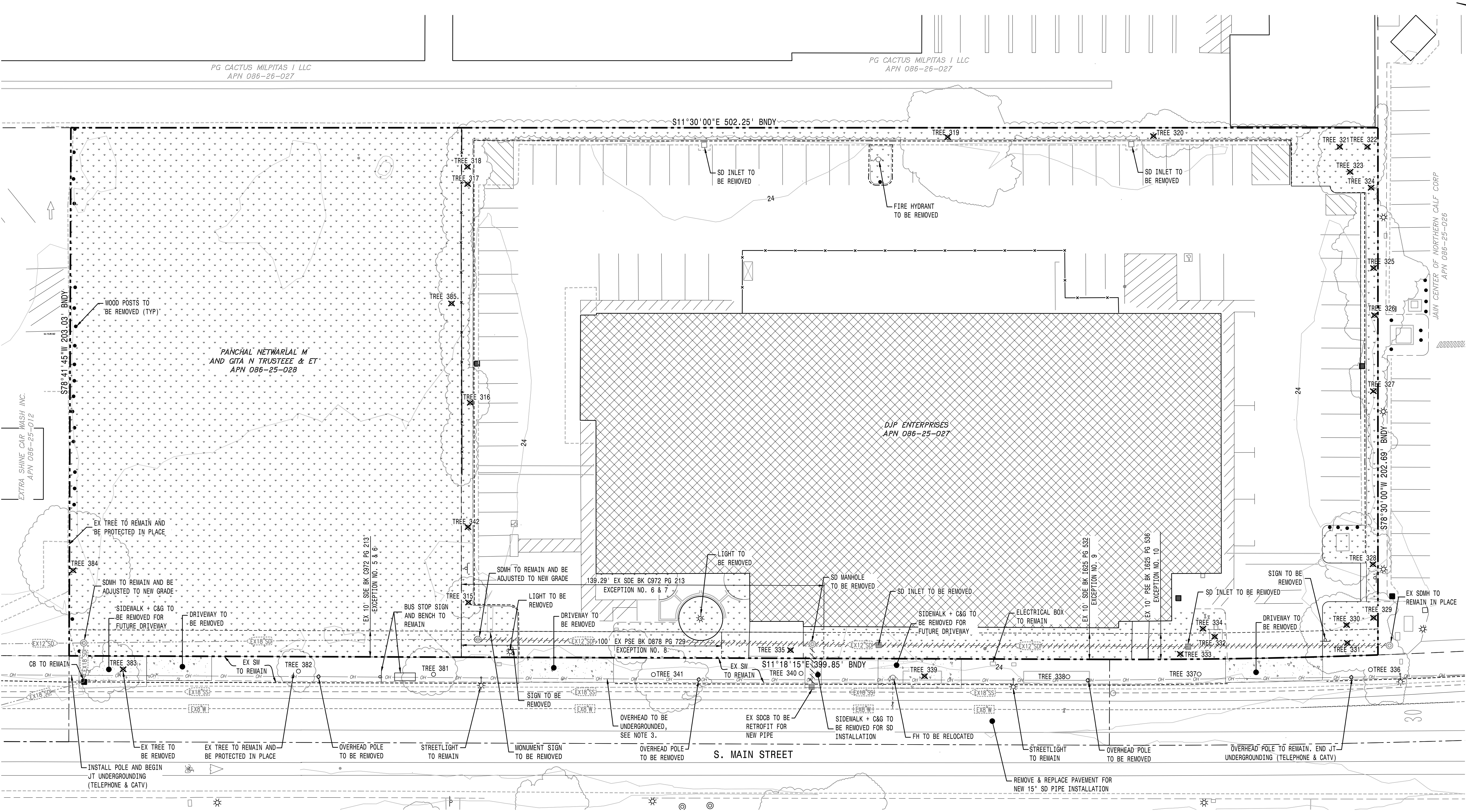
TYPICAL ROOF
ACCESS DETAIL
B



TYPICAL EGRESS
WINDOW DETAIL
A



LADDER ACCESS SECTIONS
A13



- LEGEND:**
- PUBLIC SIDEWALK TO BE REMOVED = 1,600 SF
 - HARDSCAPE TO BE REMOVED = 36,262 SF
 - BUILDING TO BE DEMOLISHED = 27,520 SF
 - LANDSCAPE TO BE REMOVED = 38,623 SF
 - PROPERTY BOUNDARY = LIMIT OF DEMOLITION (SEE NOTE 1)
 - EXISTING EASEMENT
 - TREE # ON-SITE TREE, # FROM ARBORIST REPORT TITLED 'TREE INVENTORY REPORT - 612 S. MAIN STREET MILPITAS, CA' PREPARED BY, HORTSCIENCE/BARTLETT CONSULTING DATED MAY 2022
 - TREE TO BE REMOVED
 - SD PIPE TO BE REPLACED (SEE NOTE 4)

- NOTES:**
- ALL ONSITE PRIVATE UTILITIES, UNDERGROUND IMPROVEMENTS, AND SURFACE IMPROVEMENTS (INCLUDING TREES) ARE TO BE REMOVED WITHIN PROJECT BOUNDARY UNLESS OTHERWISE NOTED.
 - THE PROJECT WILL REMOVE 13 PROTECTED TREES AND PLANT 26 REPLACEMENT TREES, IN ADDITION 131 NEW TREES WILL BE PLANTED ON THE PROPERTY, HENCE MEETING THE CITY'S TREE REMOVAL PERMIT REQUIREMENTS OF 2:1 REPLACEMENT RATIO. PLEASE REFER TO LANDSCAPE SHEET L-3 "TREE MITIGATION PLAN" FOR MORE DETAILS. FOR NEW TREE LOCATION AND TYPE REFER TO LANDSCAPE SHEET "PRELIMINARY LANDSCAPE PLAN".
 - OVERHEAD UNDERGROUND LIMITS ALONG PROJECT FRONTAGE SHALL BE CONFIRMED DURING THE DESIGN PHASE.
 - EXISTING 12" SD & 18" SD PIPES ONSITE MAY BE PRESERVED IN PLACE IF MINIMUM HORIZONTAL CLEARANCES TO THE NEW JOINT TRENCH SECTION ARE SATISFIED. IF THE JT UNDERGROUNDING DESIGN ALLOWS FOR THE SD PIPES TO REMAIN THE EXISTING 12" SD SECTIONS SHALL BE UP-SIZED TO 15". REFER TO THE GEOTECHNICAL MEMO TITLED "GEOTECHNICAL REVIEW OF STORM DRAIN EASEMENT SETBACK" DATED 10/11/2022 BY CORNERSTONE EARTH GROUP, CONFIRMING THAT NO EXERTED PRESSURE BY THE BUILDINGS WILL AFFECT THE EXISTING SD PIPES & STRUCTURES. THIS SHALL BE CONFIRMED DURING THE DESIGN PHASE.

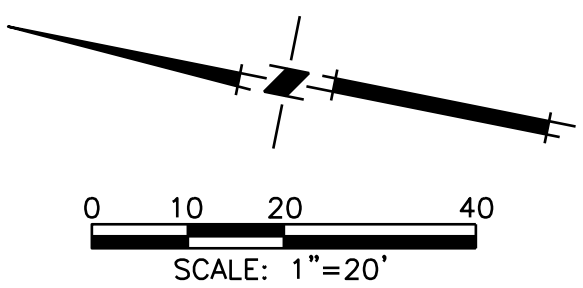
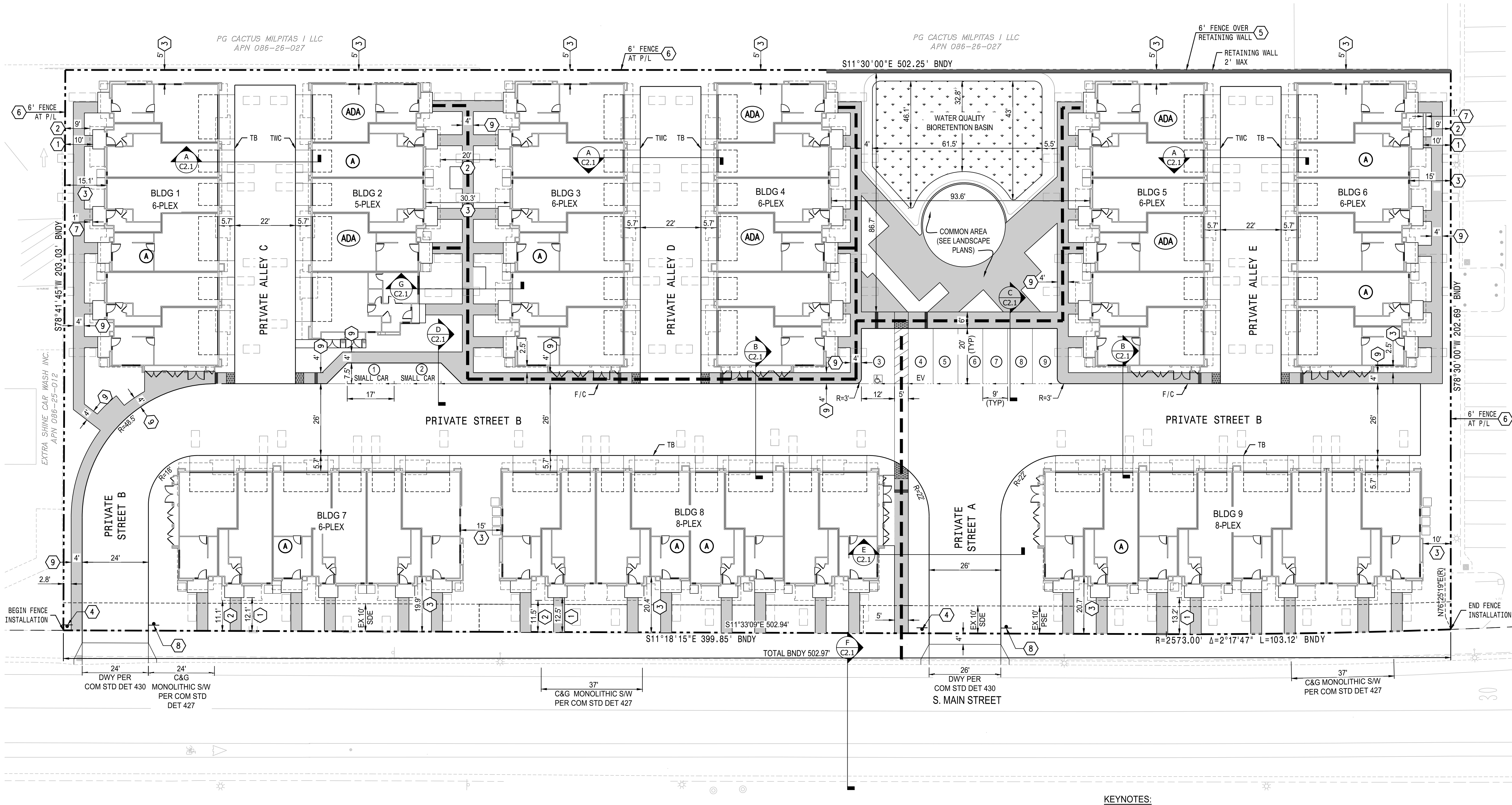


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EXISTING CONDITIONS/DEMOLITION PLAN
C1.0

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ABBREVIATIONS:

BDY	BOUNDARY
COM	CITY OF MILPITAS
DET	DETAIL
D/W	DRIVEWAY
EX	EXISTING
F/C	FACE OF CURB
PL	PROPERTY LINE
PSE	PUBLIC SERVICE EASEMENT
R	RADIUS
ROW	RIGHT OF WAY
S/W	SIDEWALK
STD	STANDARD
TB	TOP OF CONCRETE BAND
TWC	TOP OF WEDGE CURB

LEGEND:

1	- BUILDING NUMBER
ADA	- ADA ADAPTABLE UNITS
A	- AFFORDABLE UNITS
#	- BUILDING NUMBER
---	- PATH OF TRAVEL
---	- RETAINING WALL
7	- PARKING NUMBER
---	- VALLEY GUTTER
---	- PROPOSED SIDEWALK
B C2.1	- CROSS SECTION SHOWN ON SHEET C2.1
EV	- ELECTRICAL VEHICLE "CAPABLE"

SITE DATA FOR MIXED-USE (MXD)		
	REQD	PROVIDED
Unit Count		
Unit 1 Tandem	28	
Unit 2 Zipper	28	
Unit 3 Custom	1	
Total units	57	
Building Placement		
Front Setback - Residential	8' - 15'	11.1' to 20.7' max (Waiver per State Density Bonus Law)
Right Side Setback	10' min	15' (@ bldg 6); 10' (@bldg 9)
Left Side Setback	10' min	15.08' (@ bldg 1)
Rear Setback	10' min	5' (Waiver per State Density Bonus Law)
Parking Multi-Family		
2-3 bedrooms	2 spaces/unit = 114	2 spaces/unit = 114
Guest Parking	15% of the total required, may be uncovered = 18	7 (Standard 9' x 20') 2 (Compact 7.5' x 17') Total = 9
Bike Parking	5% of required spaces = 6	12"

Site data requirements are per Table 8.1 Development Standard Matrix
* Refer to landscape plans for bike locations

KEYNOTES:

- 1 TO SLAB ON GRADE PORCH

2 TO 2ND STORY BALCONY

3 TO BUILDING

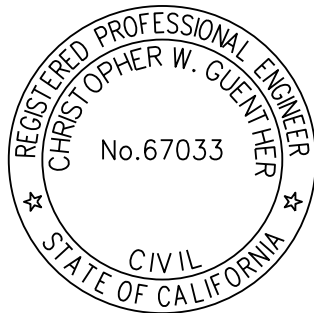
4 INSTALL SIGN R3-5R "RIGHT TURN ONLY"

5 WOOD FENCE OVER RETAINING WALL, PER LANDSCAPE DETAIL 4/SHEET L-4
- 6 WOOD FENCE, PER LANDSCAPE DETAIL 3/SHEET L-4

7 2ND STORY BALCONY PROJECTION INTO SIDE YARD SETBACK

8 INSTALL SIGNS "PRIVATE PROPERTY NO PARKING, UNAUTHORIZED VEHICLES WILL BE TOWED AT VEHICLE OWNER'S EXPENSE & RISK, 22658(a) CVC" + "PRIVATE PROPERTY NO TRESPASSING/LOITERING"

9 SIDEWALK DIMENSION

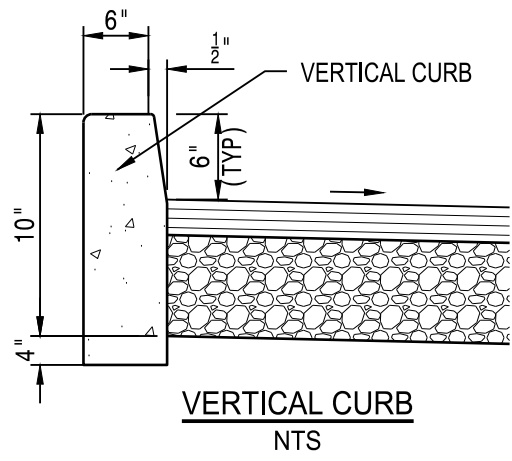
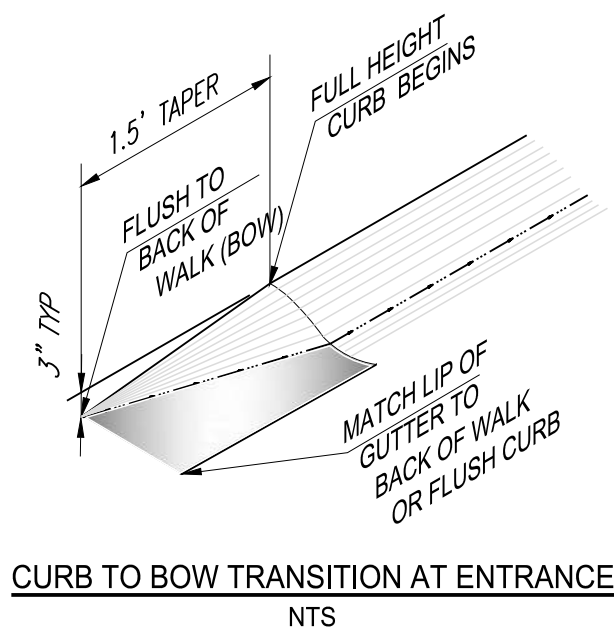
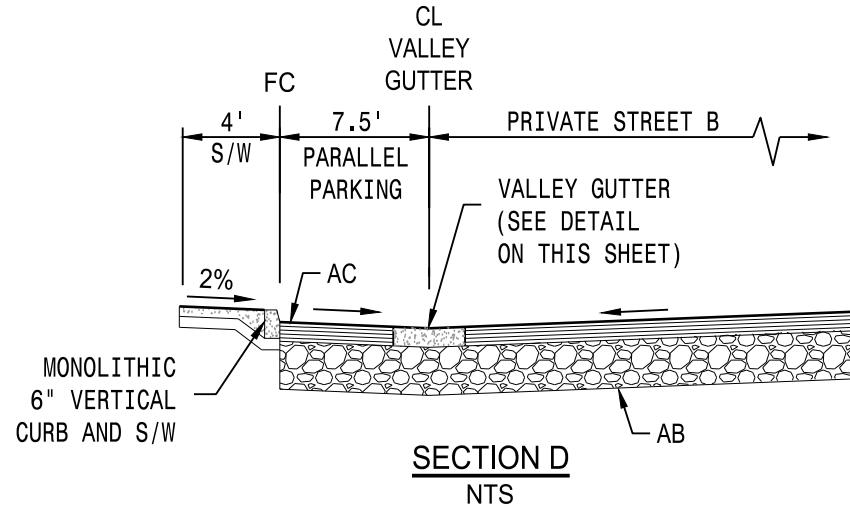
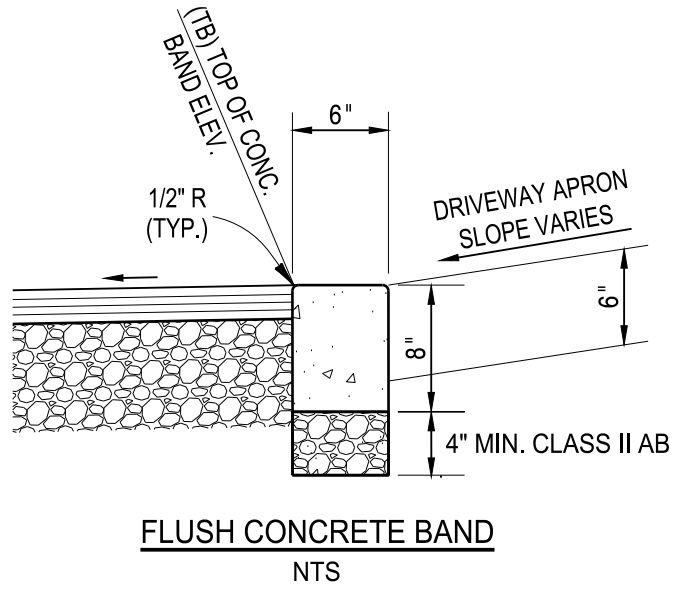
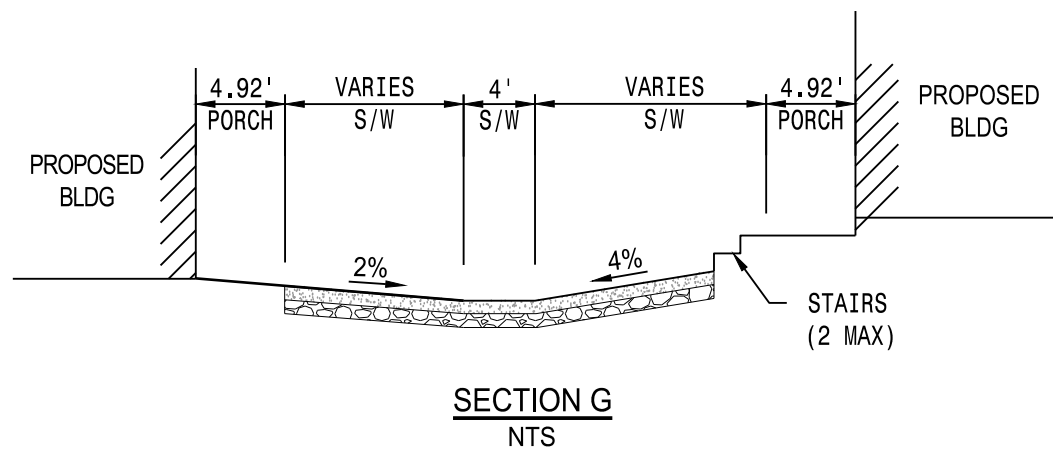
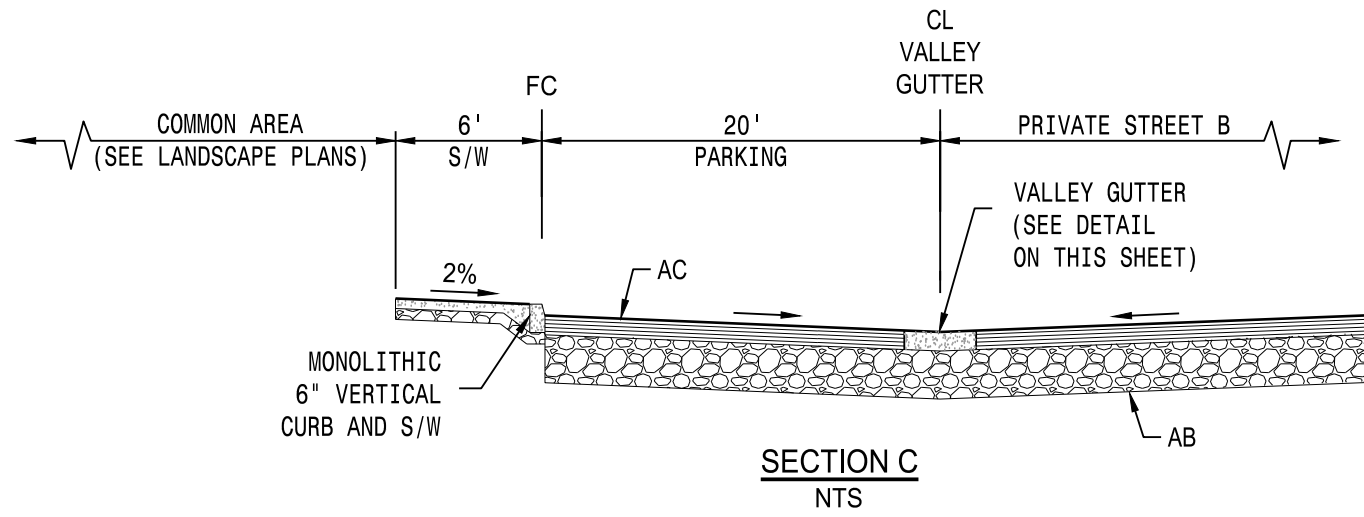
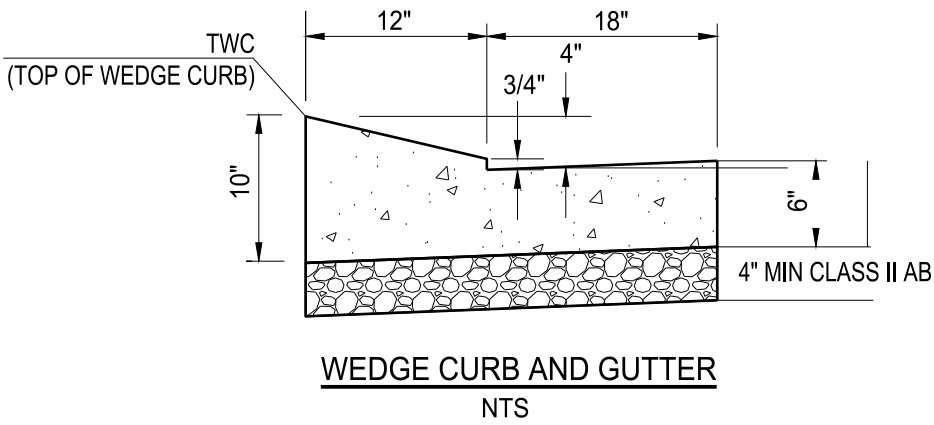
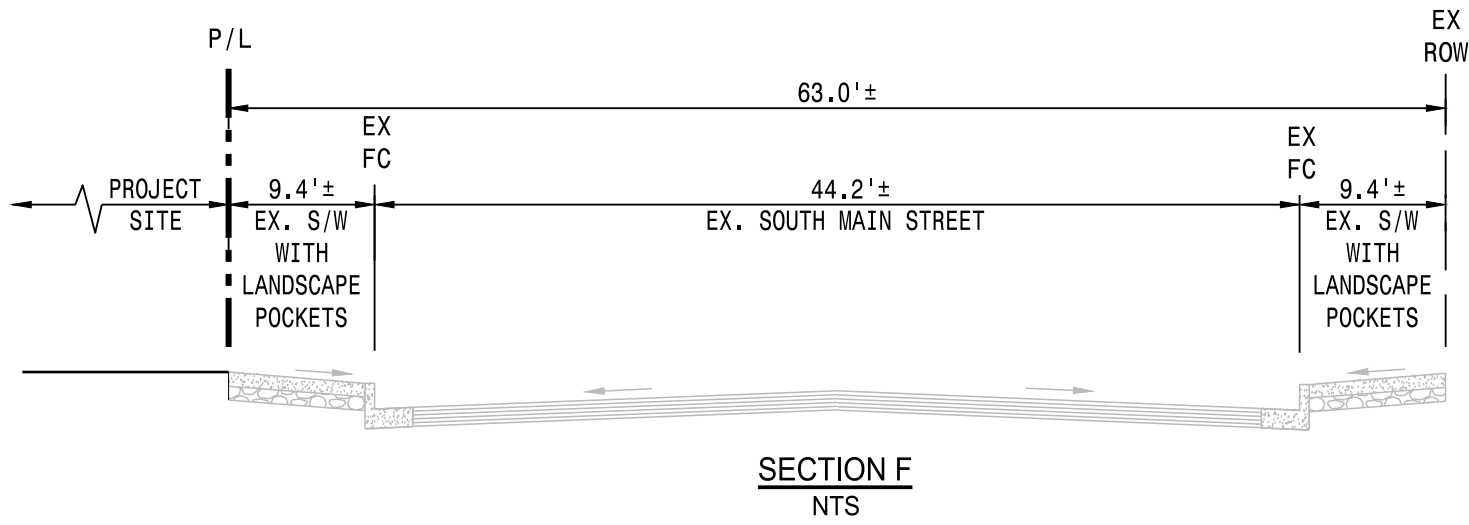
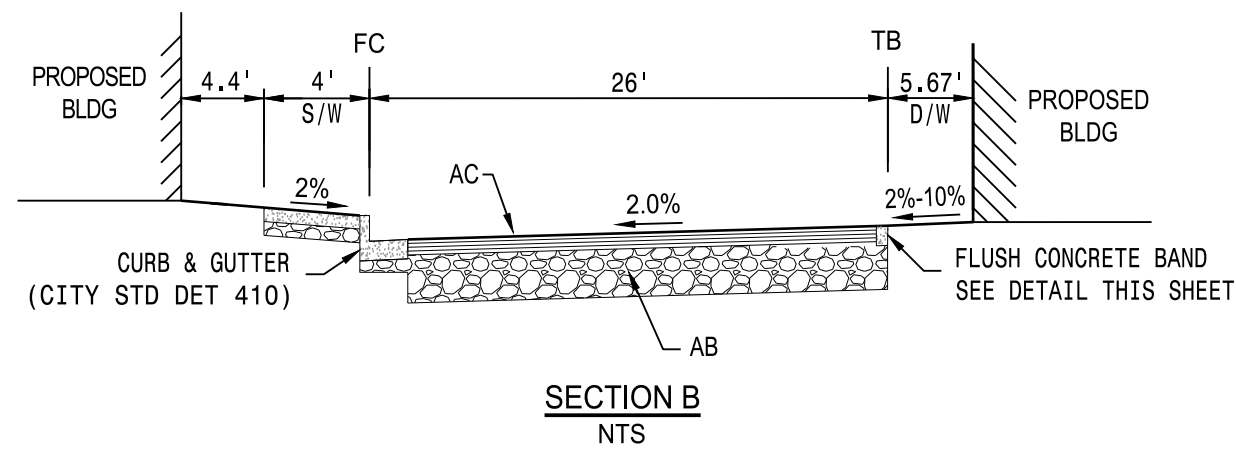
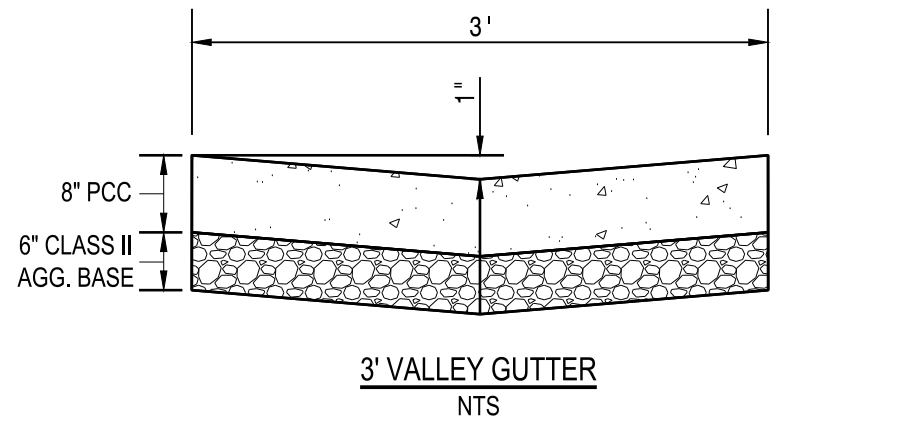
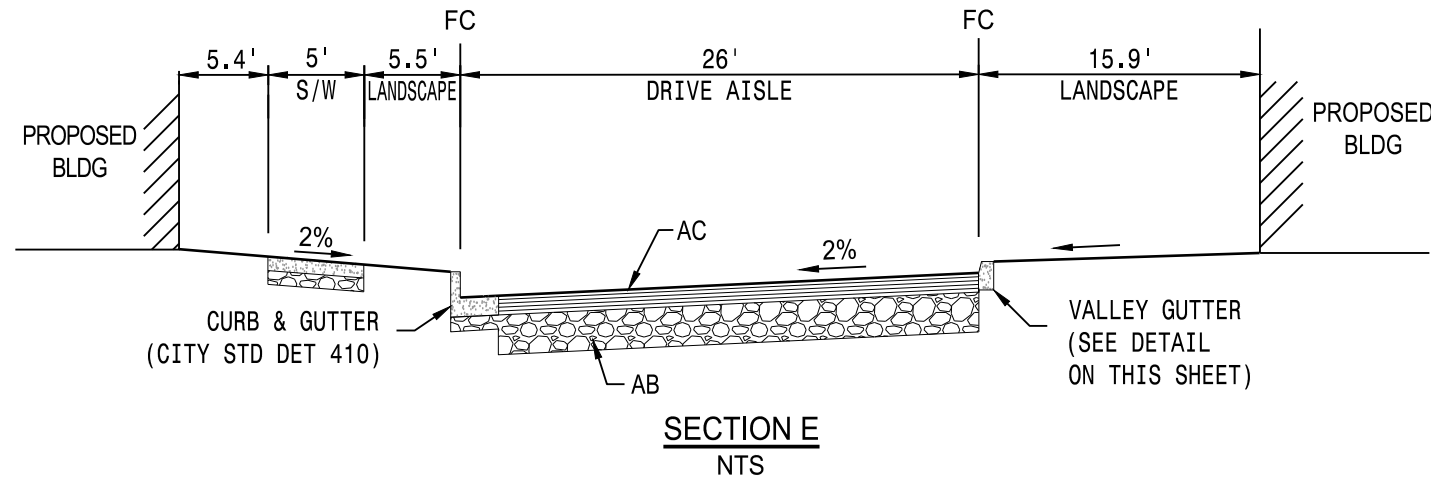
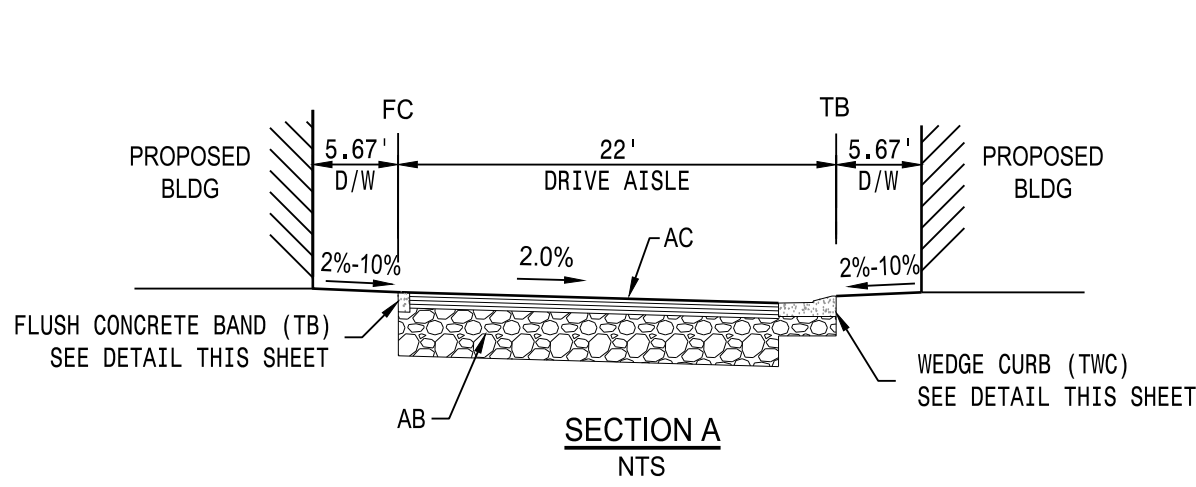


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PRELIMINARY SITE PLAN
C2.0

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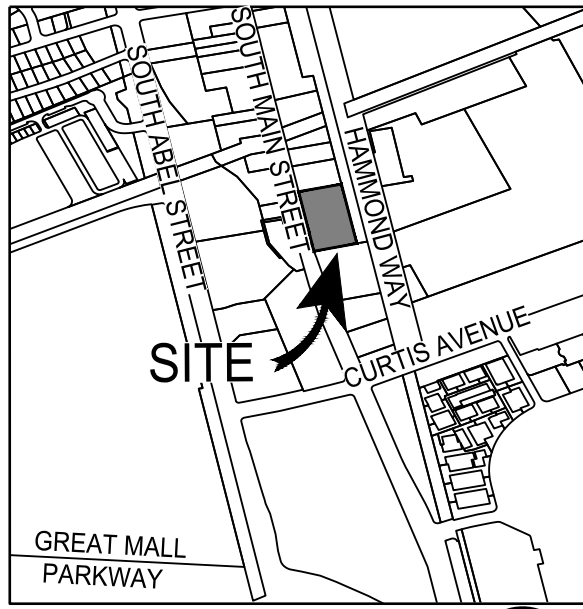
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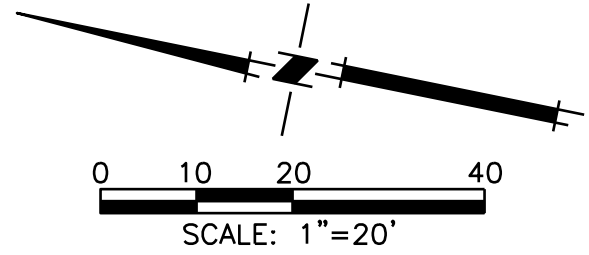
SITE PLAN SECTIONS
C2.1

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VICINITY MAP
(NOT TO SCALE)



ABBREVIATIONS:

- BNDY - BOUNDARY
EX - EXISTING
EVAE - EMERGENCY VEHICLE ACCESS ENTRANCE
PRAE - PRIVATE ACCESS EASEMENT
PSE - PUBLIC SERVICE EASEMENT
PUE - PUBLIC UTILITY EASEMENT
SDE - STORM DRAIN EASEMENT

LEGEND:

- EXISTING PROPERTY BOUNDARY
--- EXISTING PROPERTY LINE
--- EXISTING LOT LINE OR RIGHT-OF-WAY
--- EXISTING EASEMENT
--- PROPERTY LINE
--- FEMA FLOOD ZONE DELINEATION LINE
--- PROPOSED PUE TO SERVE SS LINE

BASIS OF ELEVATIONS:

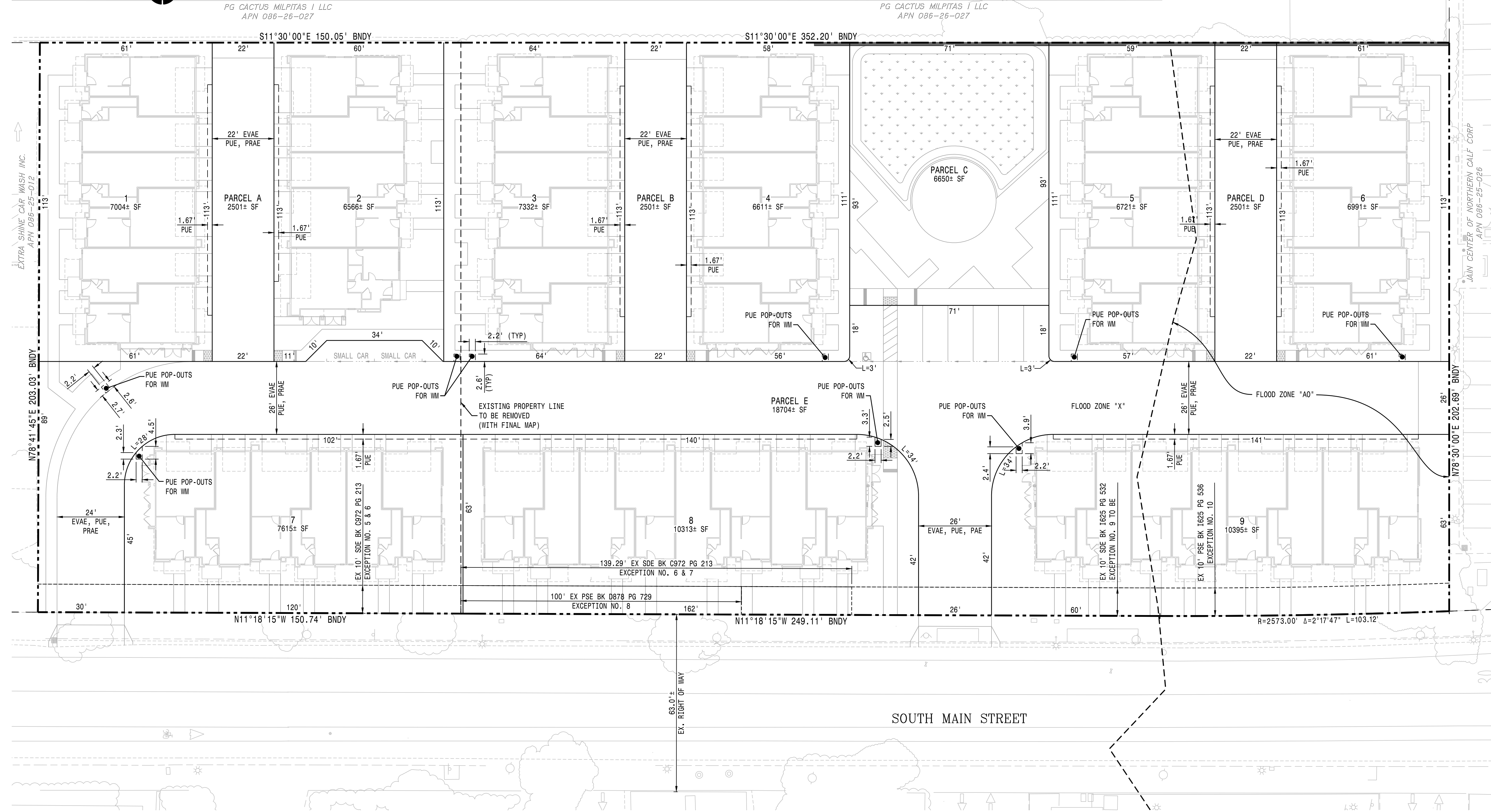
CITY OF MILPITAS BENCHMARK ABE-CUR FOUND BRASS DISK SET IN MONUMENT WELL AT THE INTERSECTION OF SOUTH ABEL STREET AND CURTIS AVENUE. ELEVATION = 24.147' (NAVD88)

BASIS OF BEARINGS:

N18°47'48"E BETWEEN FOUND STREET MONUMENTS IN SOUTH MAIN STREET. PER PARCEL MAP RECORDED IN BOOK 345 OF MAPS, AT PAGE 43, SANTA CLARA COUNTY RECORDS.

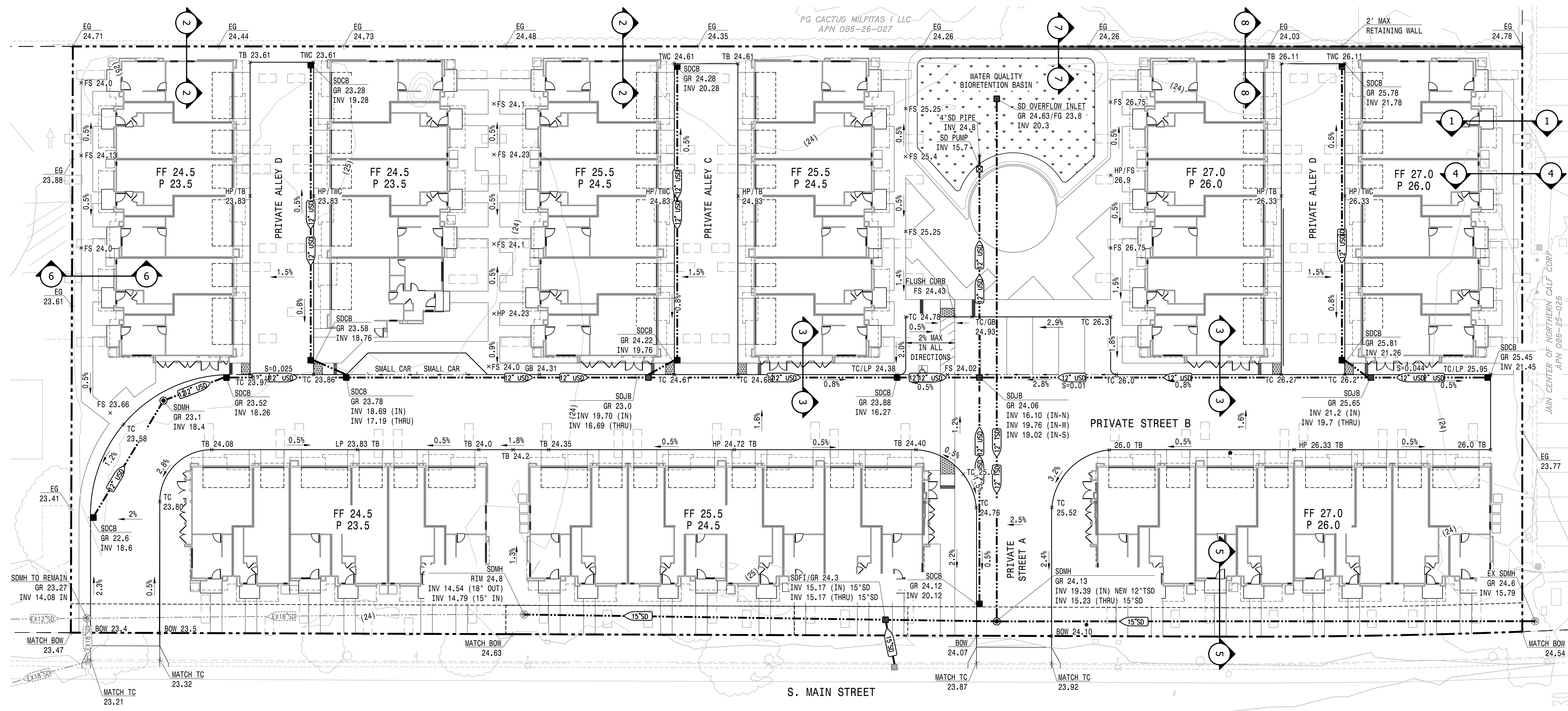
TENTATIVE MAP NOTES:

- OWNER (610 S. MAIN STREET): NATWARLAL M. PANCHAL & GITA N. PANCHAL LIVING TRUST
MILPITAS, CA 95035
- OWNER (612 S. MAIN STREET): DJP ENTERPRISES, LLC.
1895 ZENATO PL
PLEASANTON, CA 94566
- APPLICANT: TTLC MANAGEMENT, INC.
12647 ALCOSTA BOULEVARD, SUITE 470
SAN RAMON, CA 94583
CONTACT: LEAH BENISTON
PHONE (925) 380-1699
- ENGINEER: MACKAY & SOMPS
5142 FRANKLIN DR, SUITE B
PLEASANTON, CA 94588-3355
CONTACT: CHRIS GUENTHER/ MARIANA MENA
PHONE: (925) 225-0690
- PROJECT ADDRESS: 610 & 612 S. MAIN STREET, CA 94535
- SUBDIVIDED AREA: 2.35± ACRES
- DENSITY: 24 DWELLING UNITS/ACRE
- NUMBER OF LOTS/UNITS: 6 UNITS EACH FOR BUILDING 1, 3-7
8 UNITS EACH FOR BUILDING 8-9
5 UNITS FOR BUILDING 2
YIELD 57 TOWNHOME UNITS
LOT A - B AND D-E ARE FOR PRIVATE STREETS
AND LOT C FOR COMMON PLACE
- MINIMUM LOT SIZE: BLDG LOT 4 - 6,742 SF AND STREET PARCEL
A,B & D - 2,629 SF
- EXISTING ZONING/USE: MIXED-USE (MXD)/SERVICE COMMERCIAL
RETAIL
- PROPOSED ZONING/USE: MIXED-USE (MXD)/RESIDENTIAL
- ASSESSOR'S PARCEL NUMBER: 086-25-027 & 086-25-028
- PARK DISTRICT: MILPITAS RECREATION SERVICES DIVISION
- FIRE PROTECTION: MILPITAS FIRE DEPARTMENT
- SEWER SYSTEM: CITY OF MILPITAS
- WATER SYSTEM: CITY OF MILPITAS
- STORM DRAIN: CITY OF MILPITAS
- GAS & ELECTRICITY: PG&E
- TELEPHONE: AT&T COMCAST
- CABLE: AT&T COMCAST
- FLOOD ZONE: PER THE SHAAF & WHEELER MEMORANDUM DATED JUNE 16, 2021 THE SITE IS PARTIALLY IMPACTED BY ZONE "A0", FIRM MAP 06085C0067J DATED FEBRUARY 19, 2014. A CLOMR SHALL BE PROCESSED TO CONFIRM SITE CAN BE REMOVED FROM FLOOD PLAIN WITH A LOMR PROCESSED AFTER GRADING IS COMPLETE. REFER TO THE REPORT FOR MORE INFORMATION.
- UNLESS OTHERWISE SPECIFICALLY STATED IN THE CONDITIONS OF APPROVAL LOCAL AGENCY APPROVAL OF THIS MAP SHALL CONSTITUTE AN EXPRESS FINDING THAT THE PROPOSED DIVISION AND DEVELOPMENT OF THE SUBJECT PROPERTY WILL NOT UNREASONABLY INTERFERE WITH THE FEE AND COMPLETE EXERCISE OF RIGHTS DESCRIBED IN GOVERNMENT CODE SECTION 66438(a)(3)(A)(i).
- UTILITY SIZES AND LOCATION, STREET GRADES AND LOT DIMENSIONS ARE PRELIMINARY AND SUBJECT TO FINAL ENGINEERING DESIGN AND HOUSE PLOTTING.
- ALL SEWER AND POTABLE WATER MAINS ARE PUBLIC. STORM DRAIN LINES IN THE STREET ARE PUBLIC AND THE OTHERS ARE PRIVATE.
- THE DEVELOPER INTENDS TO FILE AIRSPACE CONDOMINIUM PLANS FOR CONDOMINIUM UNITS AFTER THE FINAL MAP APPROVAL, UP TO 57 CONDOMINIUM UNITS MAY BE CREATED ON LOTS 1-9.
- PUBLIC UTILITY EASEMENTS WILL BE GRANTED OVER PRIVATE STREETS, AND EACH ALLEY, TO ALLOW ACCESS TO THE PUBLIC AND INSTALLATION OF PUBLIC UTILITIES. ADDITIONAL EASEMENTS WILL BE ADDED TO THE FINAL MAP.
- THE PROJECT SITE HAS A GENERAL PLAN DESIGNATION OF MILPITAS GATEWAY SPECIFIC PLAN (MGSP), AND IS ALSO WITHIN THE MIDTOWN SPECIFIC PLAN AREA.
- THERE IS AN EXISTING EASEMENT AFFECTING THE SUBJECT PROPERTY THAT IS NON-PLOTTABLE. THE EASEMENT IS IN FAVOR OF PACIFIC TELEPHONE & TELEGRAPH CO., FOR INSTALLATION AND MAINTENANCE OF ELECTRICAL POLES AND INCIDENTAL PURPOSES, RECORDED JULY 18, 1948 AS BOOK 1815, PAGE 523 OF OFFICIAL RECORDS.



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Milpitas, CA
December 20, 2022

VESTING TENTATIVE TRACT MAP FOR CONDOMINIUM PURPOSES
C3.0

**EARTHWORK SUMMARY:**

THE EARTHWORK SUMMARY IS PROVIDED AS A COURTESY AND CONVENIENCE TO THE CONTRACTOR. THE EXCESSES OR SHORTAGES SHOWN ARE APPROXIMATE CALCULATED QUANTITIES BASED ON THE DIFFERENCES BETWEEN EXISTING GROUND ELEVATIONS AND ROUGH GRADE ELEVATIONS. THE VOLUME OF DIRT MOVED IN THE FIELD WILL IN ALL LIKELIHOOD DEVIATE TO SOME EXTENT FROM THE CALCULATED VOLUME. THE EARTHWORK SUMMARY DOES NOT RELIEVE THE CONTRACTOR OF HIS RESPONSIBILITY REQUIRED TO DETERMINE FOR HIMSELF THE QUANTITY OF EARTHMOVING THAT WILL BE REQUIRED TO ROUGH GRADE THIS JOB. IT IS UNDERSTOOD THAT THE CONTRACTOR'S BID PRICE FOR ROUGH GRADING THIS JOB IS BASED ON THE CONTRACTOR'S OWN EARTHWORK ESTIMATE AND INCLUDES PROVISION FOR ANY GRADE ADJUSTMENTS REQUIRED TO BRING THE JOB TO THE ROUGH GRADE, AS DEFINED ON THE PLANS.

AREA	ESTIMATED CUT (CY)	ESTIMATED FILL (CY)
RAW COMPUTER RESULTS	1660	1560
TRENCH SPOILS (SEE NOTE 1)	450	0
LOT SPOILS (SEE NOTE 2)	900	0
OFFHAUL (SEE NOTE 3)	-850	0
TOTALS	2160	1560
	600 CY TO IMPORT	

THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE IMPORT/OFFHAUL TO BALANCE THE SITE.

NOTES:

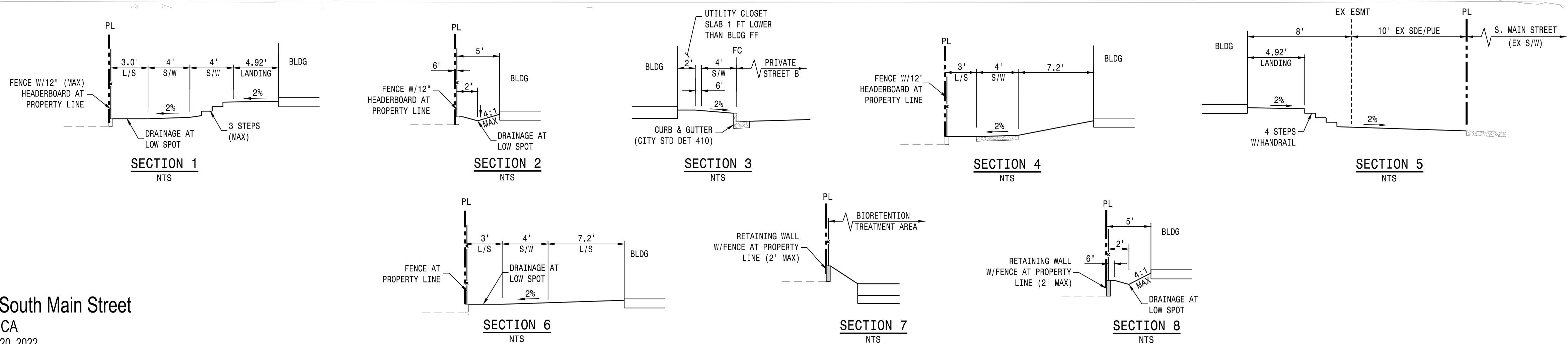
- TRENCH SPOILS ARE CALCULATED FOR GRAVITY PIPES ONLY AND ANTICIPATE A TRENCH SECTION OF THE PIPE DIAMETER PLUS 6" ON EITHER SIDE NON-NATIVE BACKFILL TO THE PIPE CROWN AND NON-NATIVE BACKFILL WILL BE USED TO SUBGRADE.
- ASSUMES LOT SPOILS OF 100/CY PER BUILDING.
- EARTHWORK ASSUMES THAT THE BUILDING SLAB (6" PCC) AND THE PARKING LOT (3" AC) WILL BE OFF-HAULED. SHOULD THIS MATERIAL BE REUSED ONSITE, EARTHWORK QUANTITIES SHOULD BE ADJUSTED ACCORDINGLY.
- PAD GRADES AS SHOWN WERE CALCULATED ASSUMING A DIFFERENCE BETWEEN FINISH FLOOR AND PAD OF 12" TO ACCOUNT FOR THE FOUNDATION (INCLUSIVE OF CONCRETE, IMPERVIOUS BARRIER, SAND AND THE LIKE). ANY DIFFERENCE IN THIS SLAB THICKNESS MUST BE BROUGHT TO THE ATTENTION OF THE DESIGN ENGINEER IMMEDIATELY. THIS PLAN SET AND THE PAD GRADES SHOWN MAY NEED TO BE REVISED IF THE FINAL SLAB THICKNESS DIFFERS FROM ABOVE, WHICH MAY IMPACT EARTHWORK CALCULATIONS.

ABBREVIATIONS:

BOW	BACK OF WALK
EG	EXISTING GROUND
INV	INVERT
FF	FINISH FLOOR
FG	FINISH GROUND
GR	GRATE ELEVATION
HP	HIGH POINT
LP	LOW POINT
P	PAD
SDMH	STORM DRAIN MANHOLE
SDCB	STORM DRAIN CATCH BASIN
SDJB	STORM DRAIN JUNCTION BOX
TB	TOP OF CONCRETE BAND
TC	TOP OF CURB
TSD	TREATED STORM DRAIN
TWC	TOP OF WEDGE CURB
USD	UNTREATED STORM DRAIN

NOTE:

- ALL SD PIPES SHALL SLOPE AT S=0.005 UNLESS OTHERWISE NOTED.

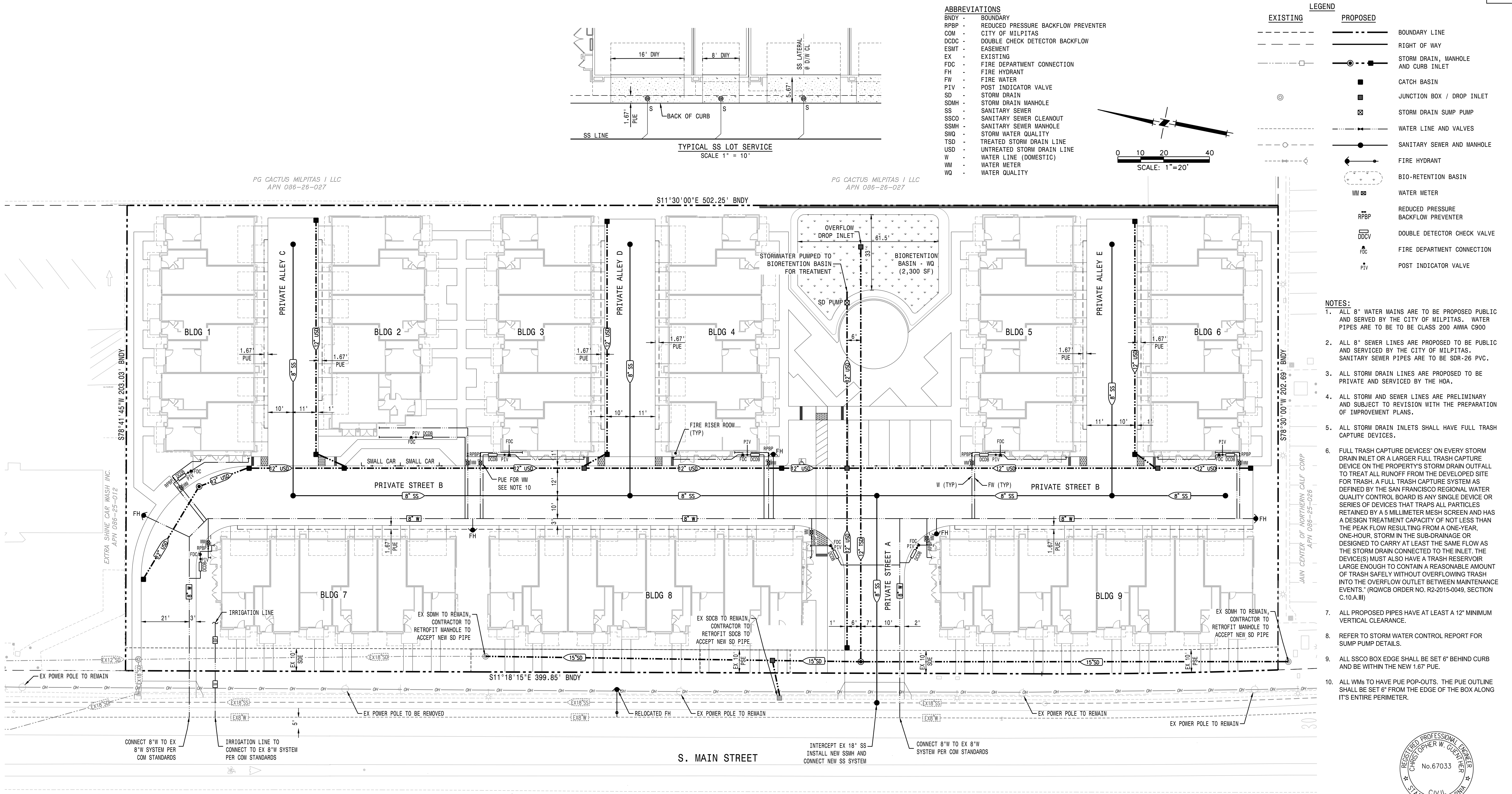


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PRELIMINARY GRADING AND DRAINAGE PLAN
C4.0

MACKAY & SOMPS
ENGINEERS PLANNERS SURVEYORS
5142B FRANKLIN DR., PLEASANTON, CA 94588 (925)225-0590

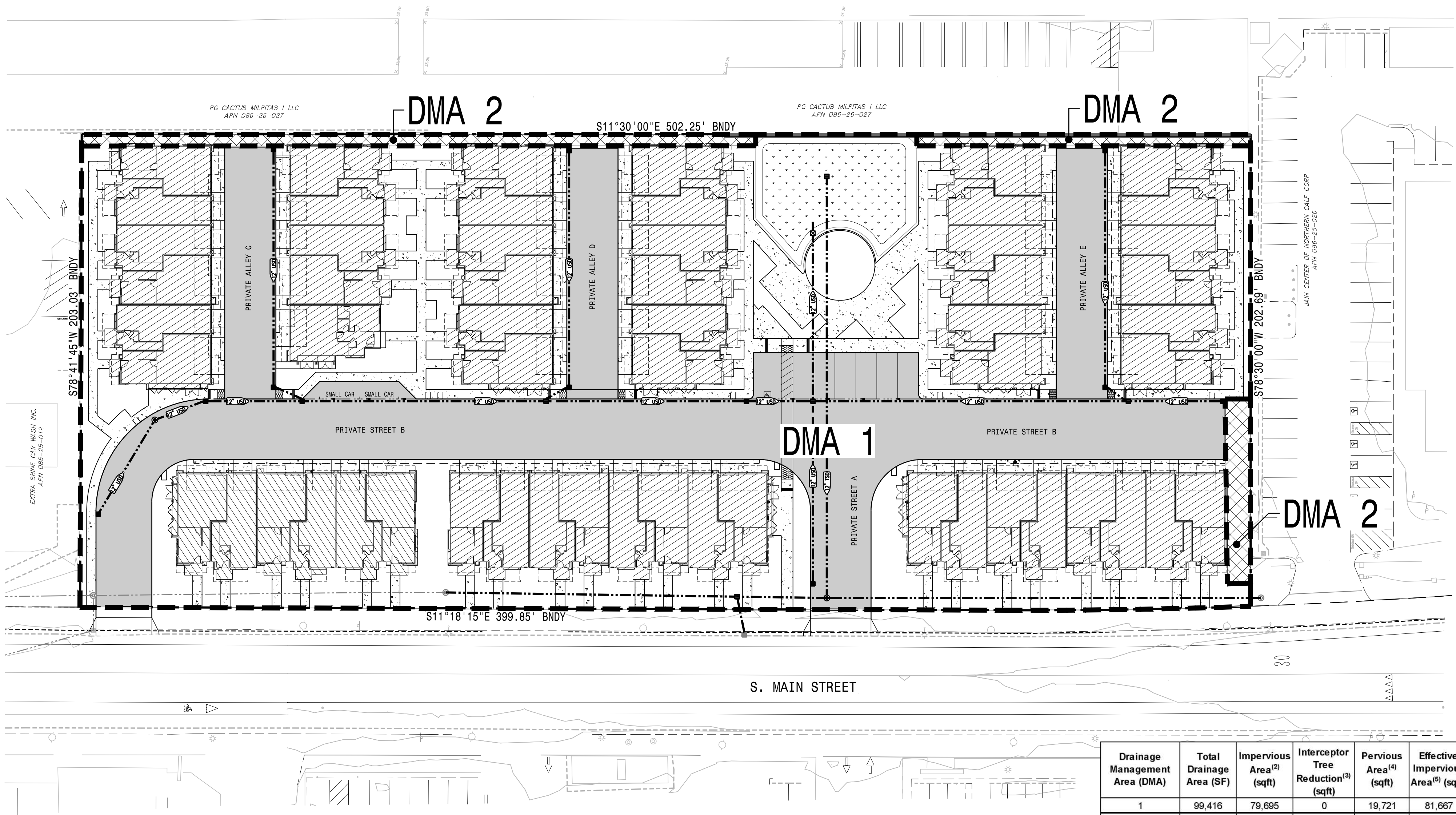


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December 20, 2022

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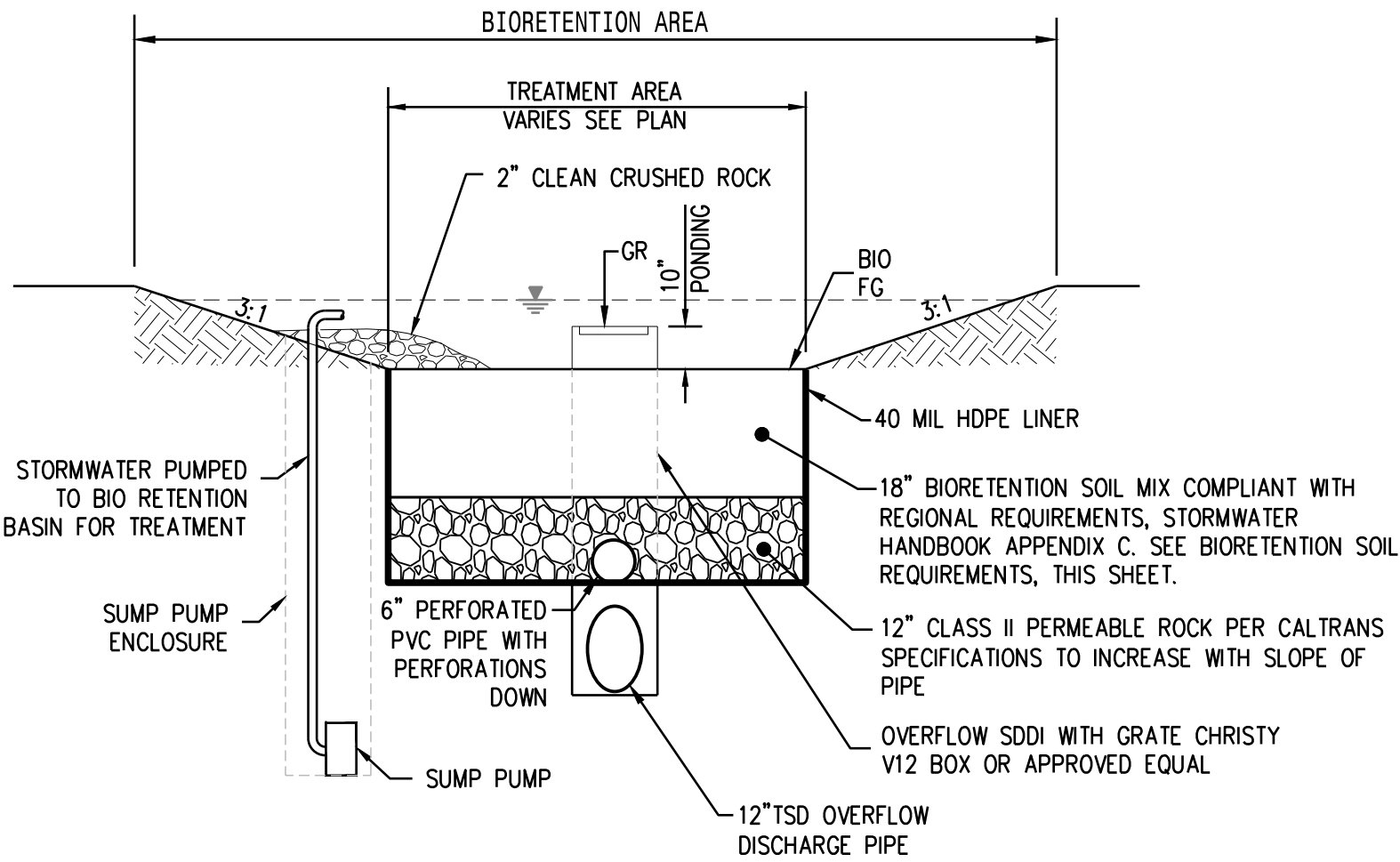
PRELIMINARY MASTER UTILITY PLAN
C5.0

MACKAY & SOMPS
ENGINEERS PLANNERS SURVEYORS
51428 FRANKLIN DR., PLEASANTON, CA 94588 (925)225-0690



LEGEND:

- TREATMENT AREA - BIORETENTION BASIN
- SELF TREATING AREA
- IMPERVIOUS AREA - PAVEMENT
- IMPERVIOUS AREA - BUILDING INCLUDING PORCHES
- IMPERVIOUS AREA - WALKWAY AND DRIVEWAYS
- DRAINAGE SHED BOUNDARY
- DRAINAGE MANAGEMENT AREA NUMBER



BIOTREATMENT SOIL REQUIREMENTS

PRIOR TO ORDERING THE BIOTREATMENT SOIL MIX OR DELIVERY TO THE PROJECT SITE, CONTRACTOR SHALL PROVIDE A BIOTREATMENT SOIL MIX SPECIFICATION CHECKLIST, COMPLETED BY THE SOIL MIX SUPPLIER AND CERTIFIED TESTING LAB.

FIGURE 6-5 OF THE SCVURPPP C.3 GUIDANCE DOCUMENT DATED JUNE 2016
TYPICAL BIO-RETENTION CELL INSTALLATION DETAIL
NTS

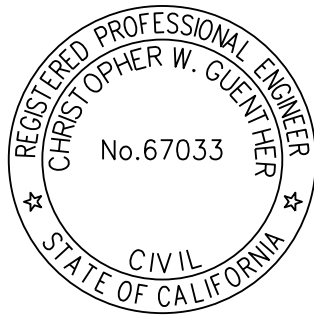
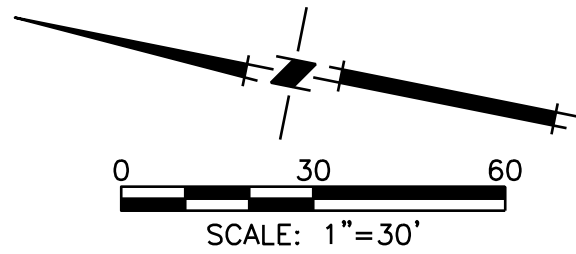
Drainage Management Area (DMA)	Total Drainage Area (SF)	Impervious Area ⁽²⁾ (sqft)	Interceptor Tree Reduction ⁽³⁾ (sqft)	Pervious Area ⁽⁴⁾ (sqft)	Effective Impervious Area ⁽⁵⁾ (sqft)	Water Quality Design Volume ⁽⁶⁾ (cuft)	Estimated Surface Area w/Sizing Factor 0.03 (sqft)	Treated Runoff Volume (cuft)	Volume in Ponding Area (cuft)	Provided Treatment Area ⁽⁸⁾ (sqft)	Ponding Depth ⁽⁹⁾ (in)	Treatment Type	Lined or Unlined Treatment Measure
1	99,416	79,695	0	19,721	81,667	4,678	2,450	2,835	1,759	2,300	10"	Bioretention Basin	Lined
2	2,989	0	0	2,989	0	0	0	0	0	0		Self Treating Area	

Notes:

- Mean Annual Precipitation (MAP) determined using the Figure B-1 Soil Texture and Mean Annual Precipitation Depths for the Santa Clara Basin of the C.3 Stormwater Handbook SCVURPPP June 2016.
- Impervious Surfaces includes all impervious surfaces (Roof Areas, Porches, Pavement, Driveways, Landscape walkway area, and Sidewalks)
- Interceptor trees were not included in planning calculation but are anticipated during the design phase.
- Pervious surfaces (Landscaping)
- Effective Impervious area includes the total Impervious Surfaces - Interceptor Tree credit + (0.1) * Pervious Surfaces
- WQD Volume is the required treatment volume using Adapted CASQA Stormwater BMP Handbook Approach of Section II.B
- Rain Event Duration assumes an intensity of 0.2 in/hr, the Adjusted Unit Basin Volume is divided by the intensity.
- The Treatment Area provided on the site design. For dimensions of the irregular shaped treatment area refer to the Preliminary Site plan sheet of the VTM plans.
- The depth of ponding the provided Treatment Area will have in the design event

NOTES:

- BIORETENTION BASIN SIZING IS PER THE SANTA CLARA VALLEY URBAN RUNOFF POLLUTION PREVENTION PROGRAM(SCVURPPP) C.3 STORMWATER HANDBOOK DATED JUNE 2016 APPENDIX B - BIORETENTION BASIN SIZING SECTION IV.B SIZING FOR FLOW AND VOLUME BASED TREATMENT MEASURES BASED ON UNIFORM INTENSITY APPROACH.
- PER THE SCVURPPP C.3 DATA FORM, THE PROJECT IS EXEMPT FROM HYDROMODIFICATION SINCE THE PROJECT IS LOCATED OUTSIDE THE HM APPLICABILITY MAP (GREEN AREA) .

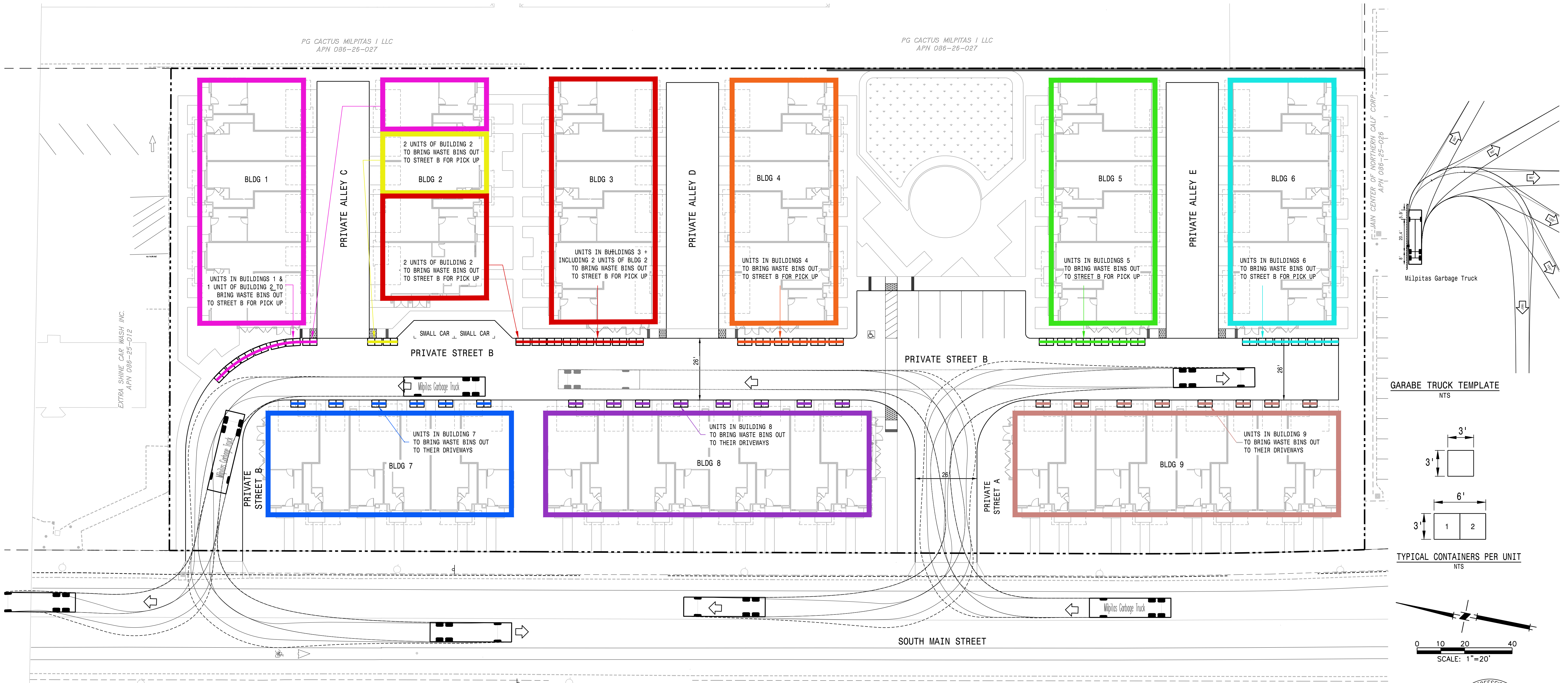


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December 20, 2022

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CONCEPTUAL STORM WATER MANAGEMENT PLAN
C6.0

MACKEY & SOMPS
ENGINEERS PLANNERS SURVEYORS
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- GENERAL NOTES:
GARBAGE/RECYCLING COLLECTION
1. ALL WASTE CARTS WILL BE PLACED ALONG CURB.
 2. THE GREEN CART USED FOR YARD TRIMMINGS IS NOT INCLUDED SINCE THIS IS A TOWNHOME PROJECT AND ALL LANDSCAPE WORK WILL BE HANDLED BY THE HOA.
 3. WASTE CARTS ARE ASSUMED TO BE 3'x3' MAX IN PLAN DIMENSION. (MANY CARTS ARE SMALLER).
 4. IT IS ASSUMED THAT ALL CARTS ARE COLLECTED ON THE SAME DAY, ONE TIME PER WEEK

- LEGEND:
- ② DENOTES NUMBER OF 3'x3' WASTE CARTS
- 1st CART - GARBAGE (SOLID WASTE/FOOD SCRAPS)
- 2nd CART - RECYCLING (FIBER/METALS, PLASTIC AND GLASS)

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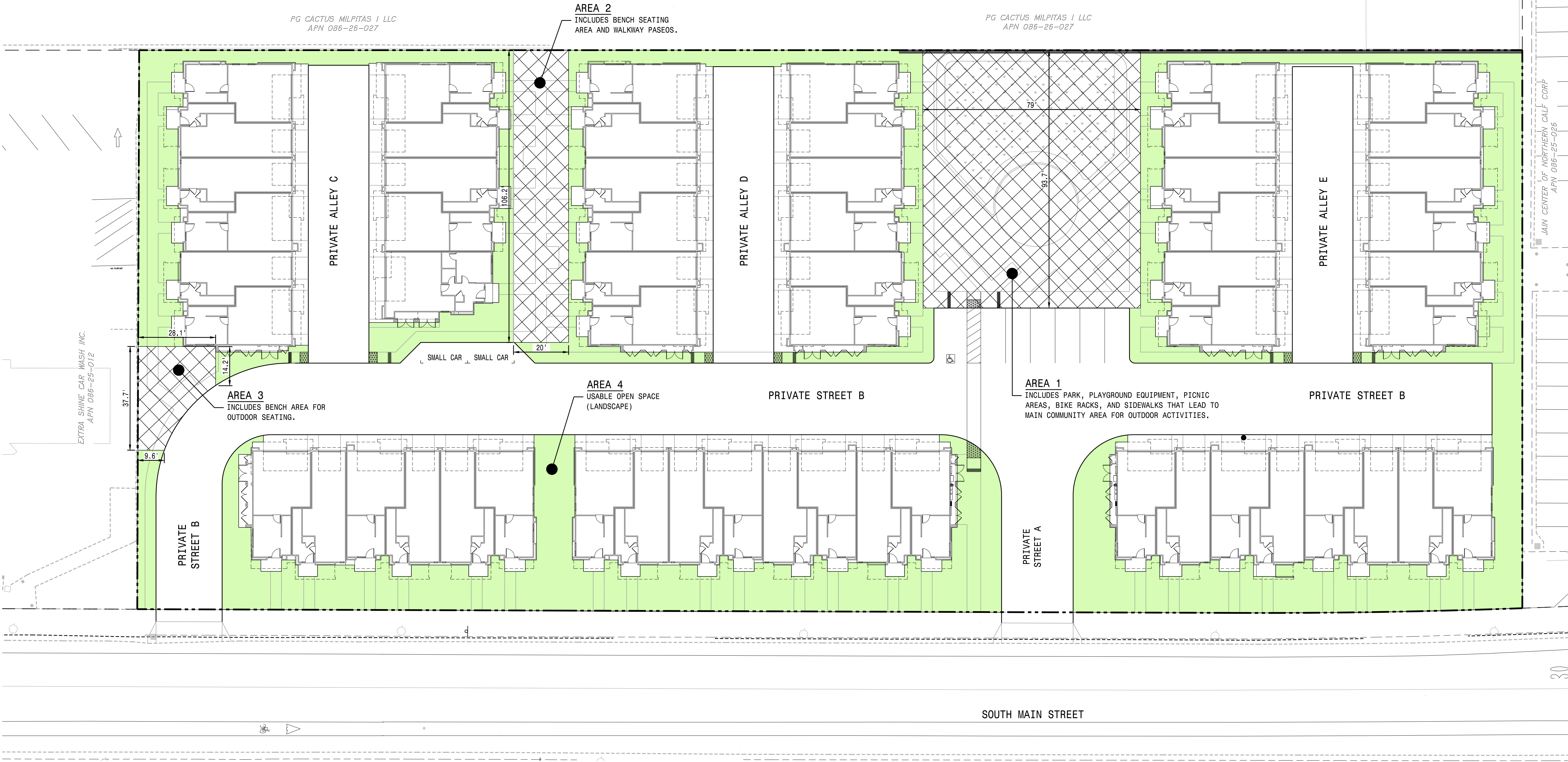
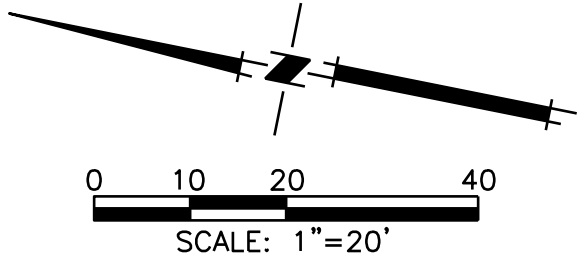
PRELIMINARY SOLID WASTE HANDLING PLAN
C8.0

MACKEY & SOMPS
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LEGEND:

- USABLE OPEN SPACE
AREA 4 = 19,602 SF/0.45 AC
- PRIVATE RECREATIONAL AREA
AREA 1 = 7,400 SF/0.17 AC
AREA 2 = 2,124 SF/0.049 AC
AREA 3 = 796 SF/0.018 AC
TOTAL = (10,320 SF/0.24 AC)

OPEN SPACE SUMMARY			
DESCRIPTION	MUNI CODE/MIDTOWN SPECIFIC PLAN REQUIREMENT	REQUIRED PARKS AND OPEN SPACE (AC)	PROVIDED PARKS AND OPEN SPACE (AC)
RESIDENTIAL OPEN SPACE REQUIREMENT	A MINIMUM OF 25 PERCENT OF THE TOTAL SITE SHALL BE USABLE OPEN SPACE OR RECREATIONAL FACILITIES. BALCONIES, PORCHES, OR ROOF DECKS MAY BE CONSIDERED USABLE OPEN SPACE WHEN PROPERLY DEVELOPED FOR WORK, PLAY, OR OUTDOOR LIVING AREAS.	25% X 2.35 = 0.59 AC	USABLE OPEN SPACE = 0.45 AC
			PRIVATE RECREATIONAL AREA = 0.24 AC
			TOTAL RESIDENTIAL OPEN SPACE = 0.69 AC
PARK AND OPEN SPACE (MUNI CODE XI-10-6.04C)	3.5 ACRES OF PARKLAND PER 1000 POPULATION. UP TO 1½ OF EACH ¾ TOTAL PARK ACRES REQUIRED (43%) MAY BE SATISFIED BY THE PROVISION OF PRIVATE RECREATIONAL AREAS. THE REMAINING PARK LAND REQUIREMENT MUST BE SATISFIED BY EITHER DEDICATION OF LAND TO THE CITY FOR PUBLIC PARKS AND OPEN SPACE, OR PAYMENT OF AN IN-LIEU FEE.	POPULATION = #UNITS X 2.49 PERSONS/UNIT POPULATION = 57 X 2.49 = 141.9 PERSONS PARK ACREAGE REQUIRED = 3.5 141.9/1000 = 0.50 AC PRIVATE RECREATION AREA CREDIT ALLOWED = 0.50 X 0.43 = 0.22 AC	PRIVATE RECREATION AREA = 0.24 CREDIT REQUESTED = 0.22 AC



342.043 TTLC South Main Street
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December 20, 2022

OPEN SPACE EXHIBIT
C9.0



PLAN VIEW
Scale: 1"=20'-0"
0' 10' 20' 40'

400-108
TTLC South Main Street
Milpitas, CA
December 20, 2022

Illustrative Site Plan
L-1.1

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PLANNING URBAN DESIGN
LANDSCAPE ARCHITECTURE
248 3rd street suite 202, oakland, ca 94607
phone: 510.452.4190 www.r3studios.com





400-108

TTLC South Main Street
Milpitas, CA
December 20, 2022

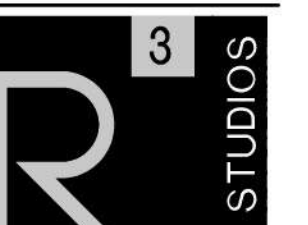


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Preliminary Landscape Plan
L-1.2

PLANNING URBAN DESIGN
LANDSCAPE ARCHITECTURE
248 3rd street suite 202, oakland, ca 94607
phone: 510.452.4190 www.r3studios.com





WOOD FENCE:
REFER TO DETAIL/IMAGE 3 SHEET L-4.3

EVERGREEN SCREEN TREE:
REFER TO PROPOSED PLANT PALETTE SHEET L-6

LADDER PAD:
(TYPICAL SYMBOL)
REFER TO PLANS PREPARED BY SDG ARCHITECTS

4'-0" WIDE WALKWAY:
(TYPICAL SYMBOL)
REFER TO CONCRETE PAVING DETAIL 1 SHEET L-4.1

FLOWERING ACCENT TREE:
REFER TO PROPOSED PLANT PALETTE SHEET L-6

PLANTING AREA:
(TYPICAL SYMBOL)
REFER TO PROPOSED PLANT PALETTE SHEET L-6

PERGOLA:
REFER TO DETAIL/IMAGE 1 SHEET L-4.4

MAILBOX STATION:
REFER TO DETAIL/IMAGE 2 SHEET L-4.4

DINING TABLE AND BENCHES:
(TYPICAL SYMBOL)
REFER TO DETAIL/IMAGE 1 SHEET L-4.2

WATER TREATMENT SHRUBS AND GRASSES:
REFER TO THE PROPOSED PLANT PALETTE SHEET L-6

WOOD FENCE OVER RETAINING WALL:
REFER TO DETAIL/IMAGE 4 SHEET L-4.3

SYNTHETIC TURF WITH CONCRETE BAND:
REFER TO DETAIL/IMAGE 2 SHEET L-4.1

LARGE FLOWERING ACCENT TREE:
REFER TO PROPOSED PLANT PALETTE SHEET L-6

BICYCLE RACKS:
(TYPICAL SYMBOL)
6 BICYCLE RACKS WITH PARKING FOR 12 BICYCLES
REFER TO DETAIL/IMAGE 3 SHEET L-4.2

PLAYGROUND EQUIPMENT:
REFER TO IMAGE 3 SHEET L-4.4

TABLE AND CHAIRS:
(TYPICAL SYMBOL)
REFER TO DETAIL/IMAGE 4 SHEET L-4.2

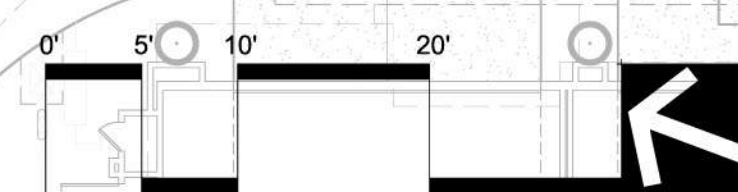
AIR CONDENSER SCREEN:
(TYPICAL SYMBOL)
REFER TO DETAIL/IMAGE 2 SHEET L-4.3

WASTE RECEPTACLE:
(TYPICAL SYMBOL)
REFER TO DETAIL/IMAGE 1 SHEET L-4.3

BENCH:
(TYPICAL SYMBOL)
REFER TO DETAIL/IMAGE 2 SHEET L-4.2

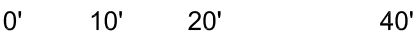
PLAN VIEW

Scale: 1"=10'-0"



SOUTH MAIN STREET

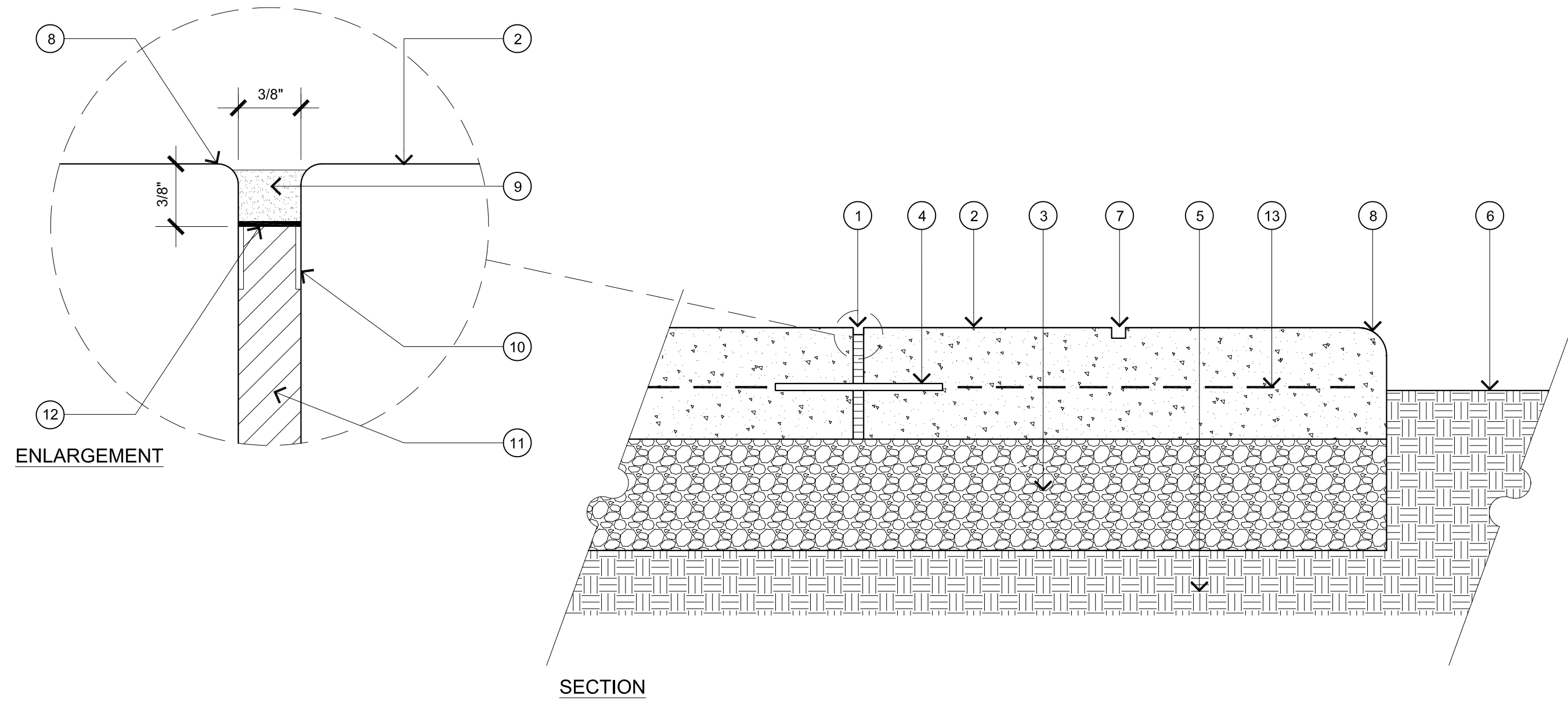
KEY MAP NTS



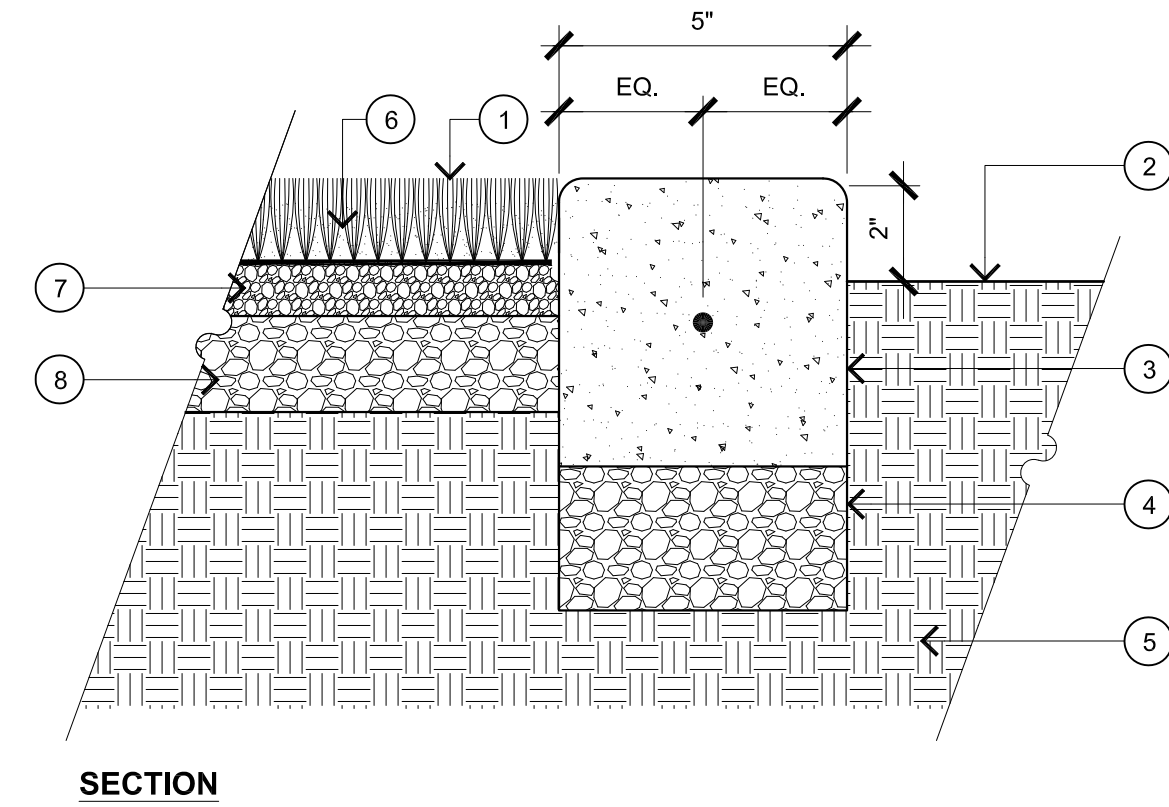
 EXISTING TREE TO REMAIN

 EXISTING TREE TO BE REMOVED

 PROPOSED 24" BOX TREE



- 1 3/8" EXPANSION JOINT WITH SEALANT & BACKER ROD. EXPANSION JOINTS SHALL OCCUR EVERY 25' C.C. EACH WAY. REFER TO PLAN FOR LOCATIONS.
 - 2 4" THICK CONCRETE PAVING - REFER TO CONSTRUCTION LEGEND FOR COLOR AND FINISH
 - 3 4" THICK CLASS II AGGREGATE SUB BASE
 - 4 #4 X 24" LONG DOWELS @ 24" O.C.
 - 5 90% COMPACTED SUB GRADE
 - 6 FINISH GRADE AT PLANTING AREA 1" BELOW AT TURF AREAS, 2" AT SHRUB AND GROUND COVER AREAS
 - 7 SAWCUT JOINT- 1" DEEP X 1/4" WIDE SAWCUT @ LOCATIONS (TYP.)
 - 8 RADIUSED EDGE
 - 9 SEALANT - ALSO INSTALL WHERE PAVING ABUTS TO BUILDING FOUNDATIONS.
 - 10 PVC CAP
 - 11 EXPANSION MATERIAL
 - 12 BOND BREAKER TAPE
 - 13 #3 REBAR @ 18" O.C. BOTH WAYS
- NOTE:
CONCRETE MIX SHALL BE LOW SHRINK.



- 1 SYNTHETIC TURF: INSTALL PER MANUFACTURER'S RECOMMENDATIONS
- 2 FINISH GRADE (PLANTING AREA)
- 3 5" WIDE CONCRETE MOWBAND
- 4 3" LAYER CLASS II AGGREGATE SUBBASE
- 5 COMPACTED SUBGRADE OR ENGINEERED FILL REFER TO SOILS REPORT
- 6 SAND INFILL
- 7 1" - 1-1/2" DECOMPOSED GRANITE OR CLASS II AGGREGATE
- 8 2" - 2-1/2" DRAIN ROCK

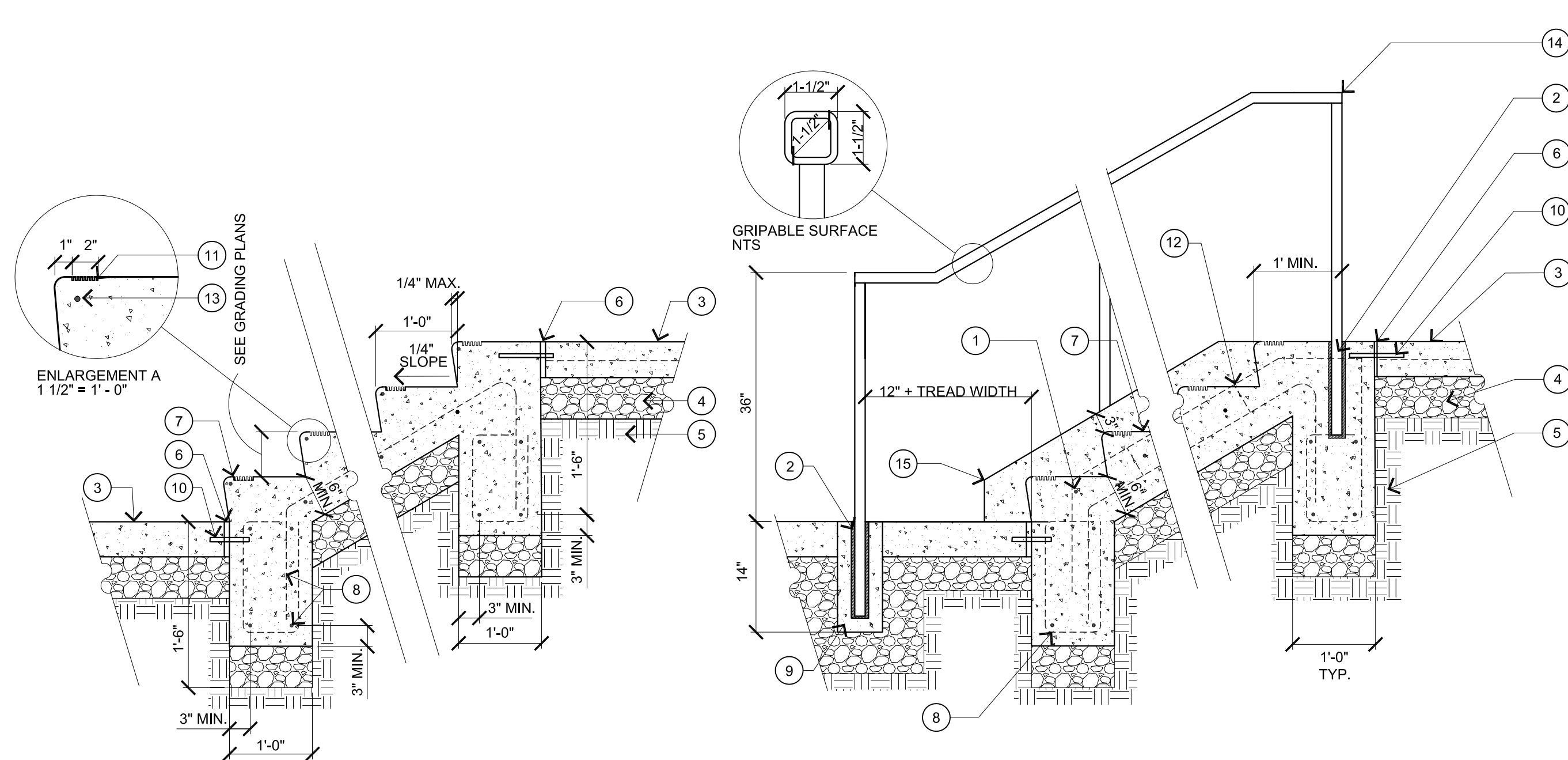


1 CONCRETE PAVING

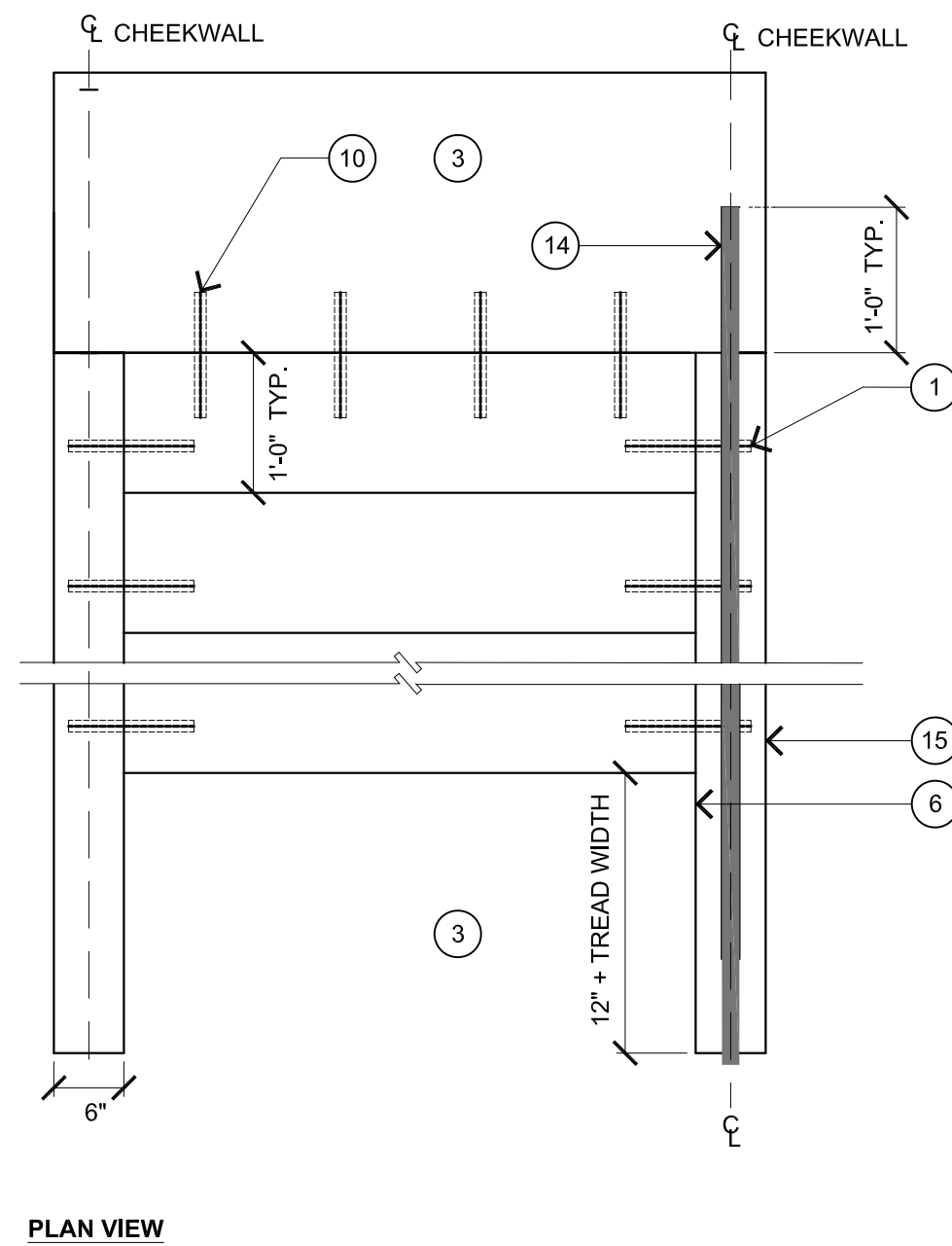
SCALE : 3"=1'-0"

2 SYNTHETIC TURF WITH CONCRETE BAND

SCALE : 3"=1'-0"



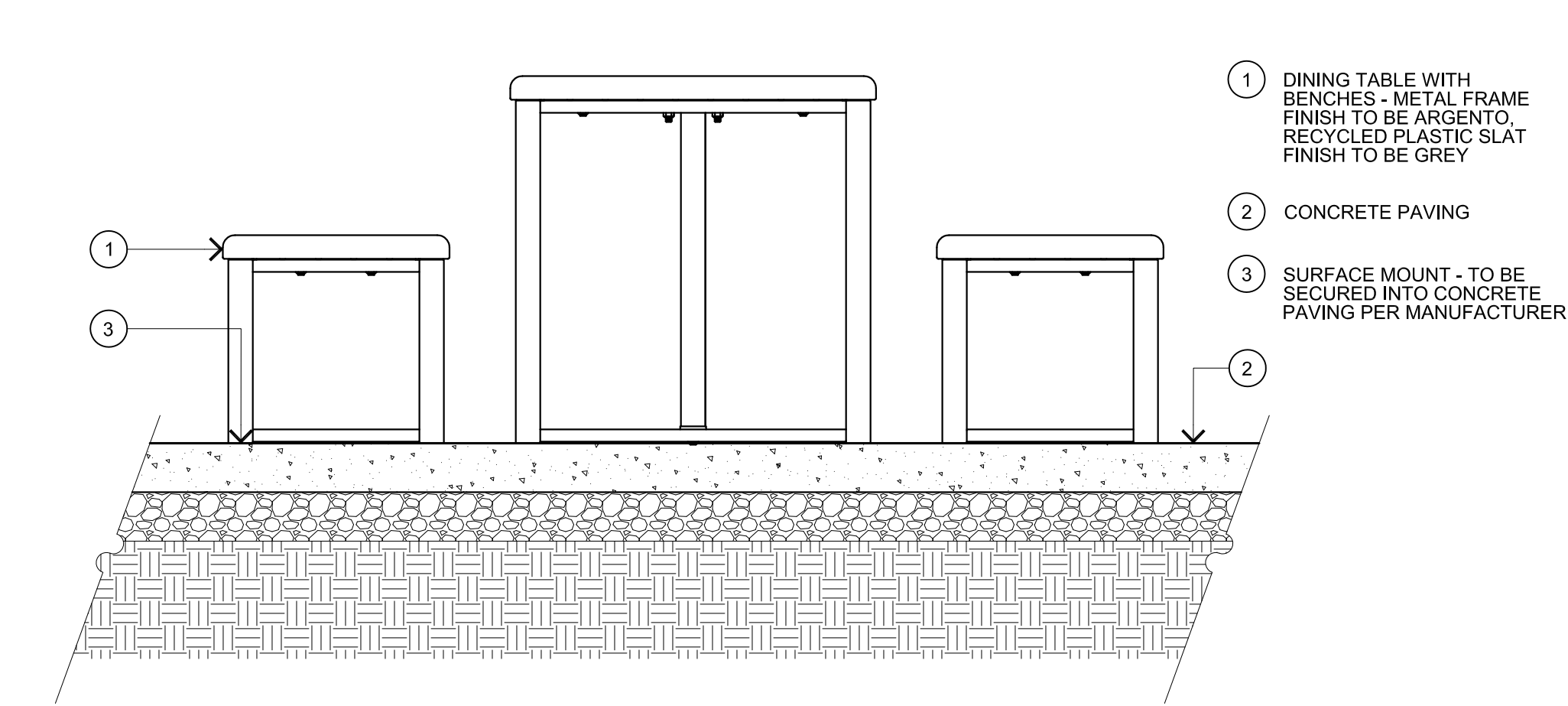
SECTION - CONCRETE STEPS WITH CHEEKWALL



- 1 #4 REBAR @ 12" O.C. CENTERED IN TREADS/RISERS AND AS ILLUSTRATED IN FOOTING
 - 2 3" X 12" CAN FORM, POUR ROCK SOLID.
 - 3 CONCRETE PAVING
 - 4 CALTRANS CLASS II AB AT 95% RELATIVE COMPACTION - THICKNESS PER SOILS REPORT
 - 5 COMPACTED SUBGRADE OR ENGINEERED FILL PER SOILS REPORT
 - 6 3/8" PREMOLDED EXPANSION JOINT - REFER TO DETAIL 1 THIS SHEET
 - 7 REINFORCED CONCRETE STEPS, ALL STEPS SHALL BE SLIP-RESISTANT.
 - 8 #4 REBAR @ CONTINUOUS.
 - 9 THICKENED CONCRETE TO SUPPORT POST - 18" DEEP X 6.5" Ø
 - 10 12" GREASED #4 STEEL DOWEL @ 18" O.C. AT ALL CONSTRUCTION JOINTS.
 - 11 1/4" WARNING GROOVES CUT INTO NOSING OR 2" INLAY WARNING STRIP WITH CONTRASTING COLOR, ALL TREADS (TYP.).
 - 12 #3 REBAR TIES @ 18" O.C.
 - 13 #4 NOSE BAR 3" FROM EDGE.
 - 14 HANDRAIL - REFER TO PLAN FOR LOCATION, CONSTRUCTION LEGEND FOR SPECIFICATION
 - 15 CONCRETE CHEEKWALL
- NOTE: REFER TO LOCAL CODES FOR HANDRAILS AS REQUIRED

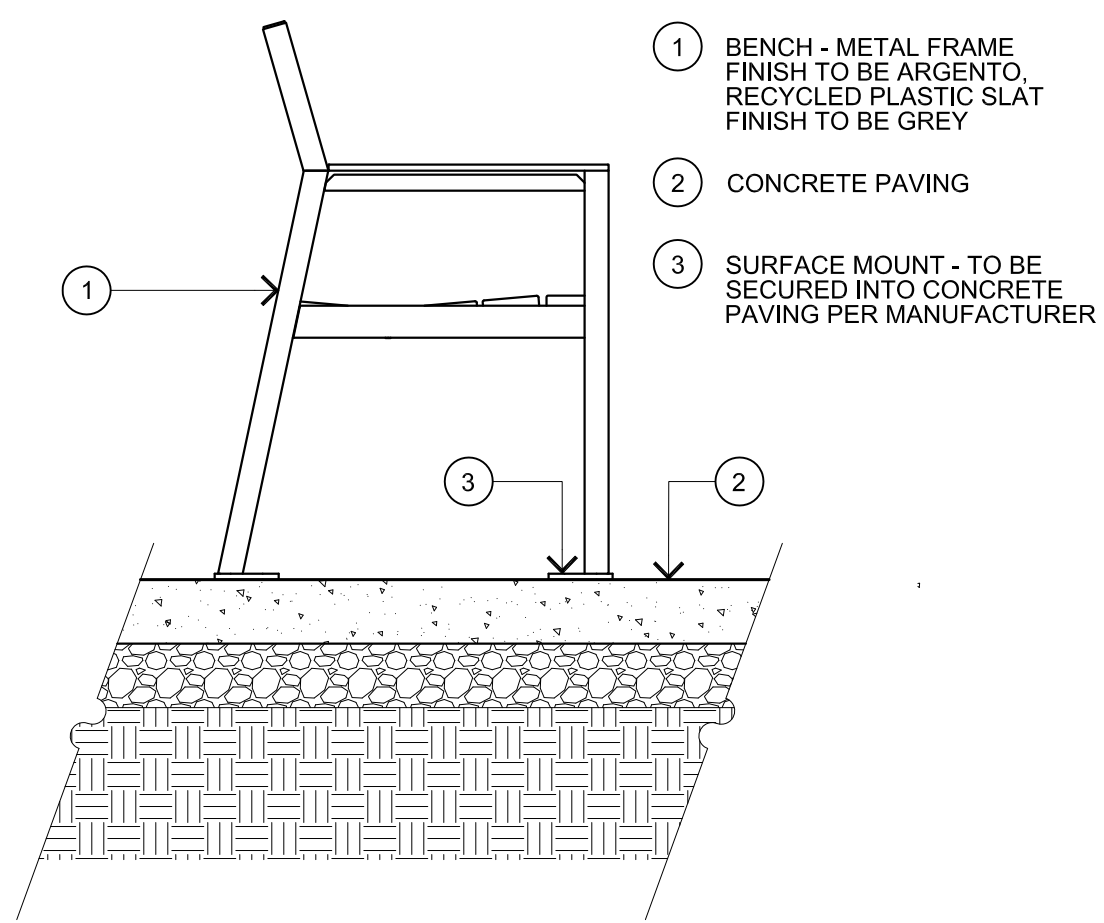
3 CONCRETE STEPS WITH CHEEK WALL AND HANDRAIL (IF NECESSARY)

SCALE : 3/4"=1'-0"



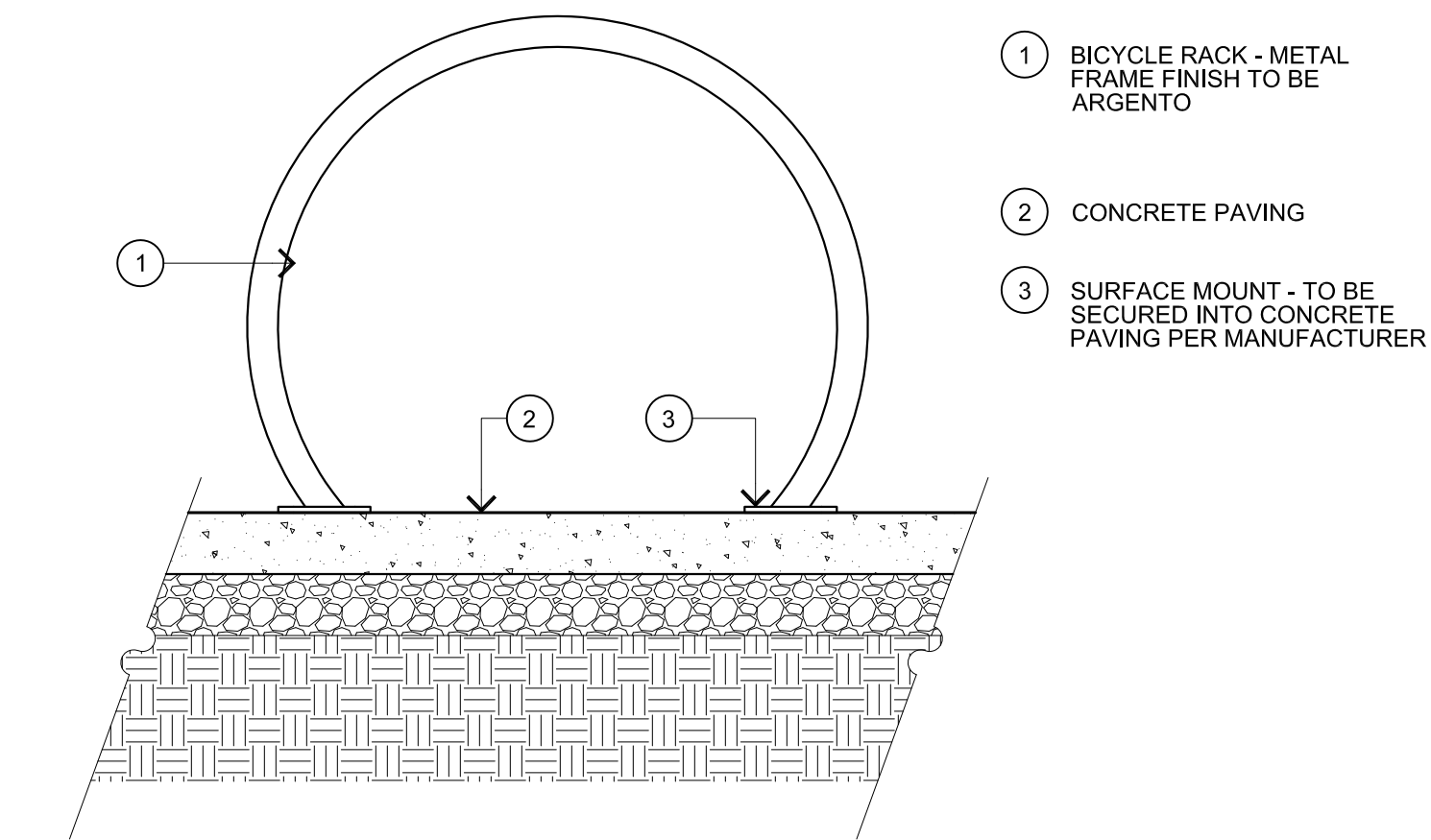
1 DINING TABLE WITH BENCHES

SCALE : 1"=1'-0"



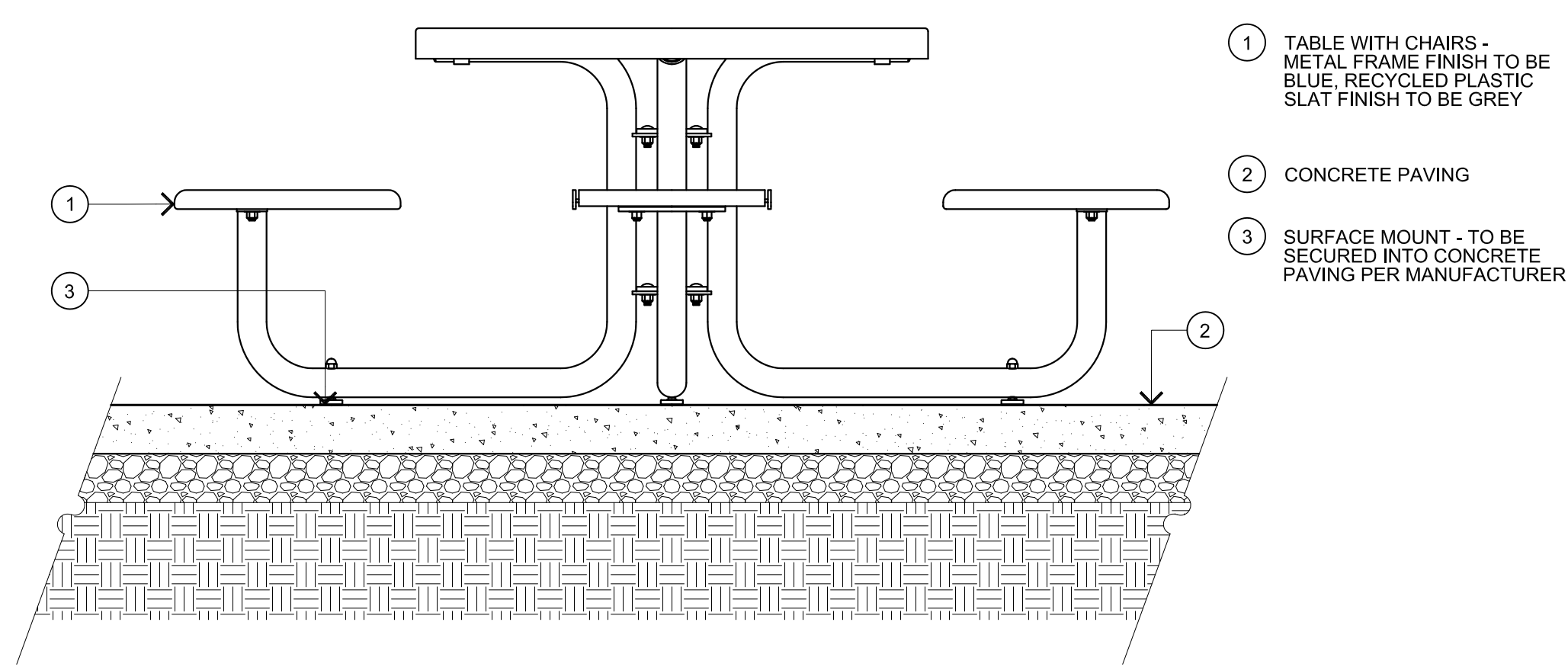
2 BENCH

SCALE : 1"=1'-0"



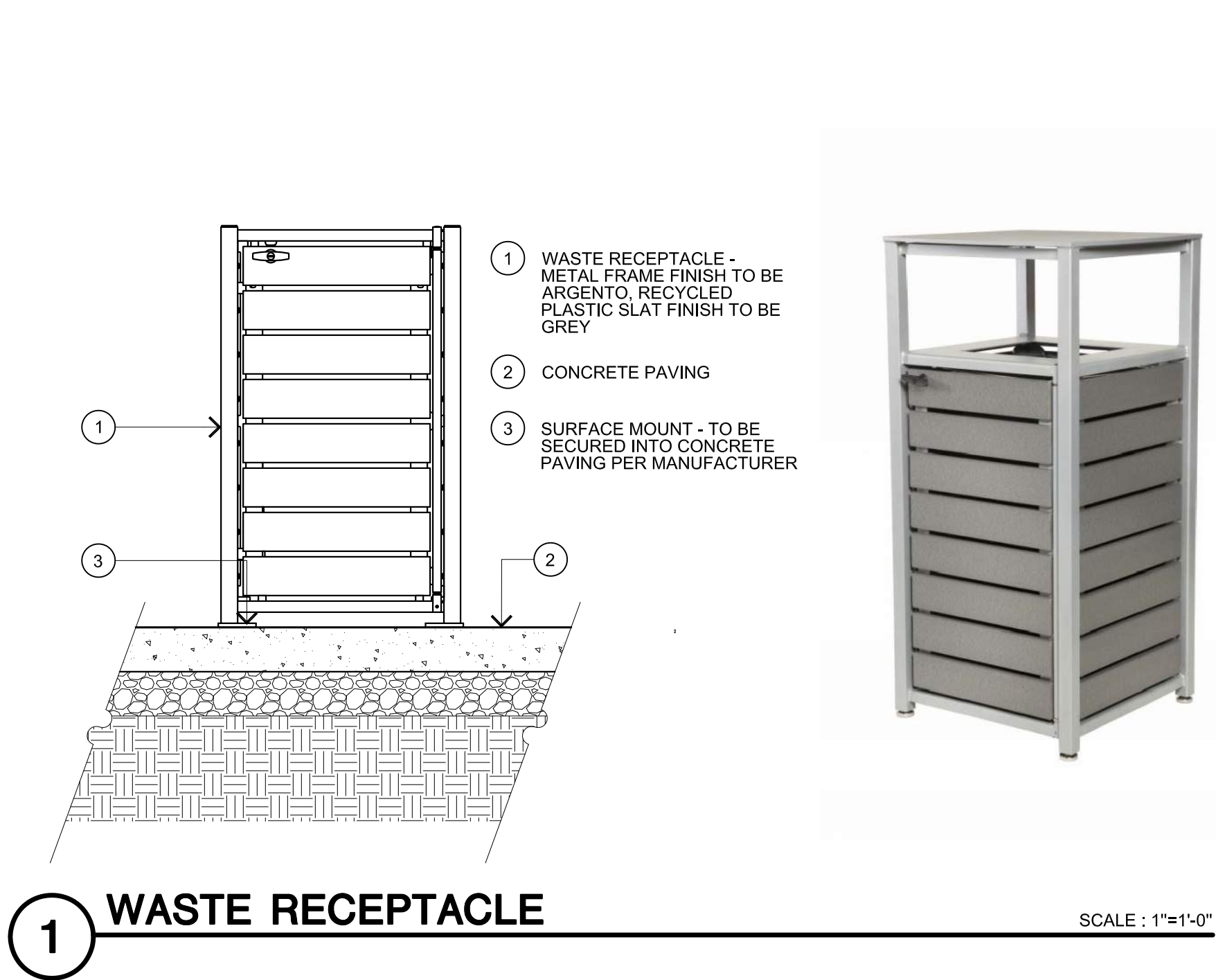
3 BICYCLE RACK

SCALE : 1"=1'-0"



4 TABLE WITH CHAIRS

SCALE : 1"=1'-0"

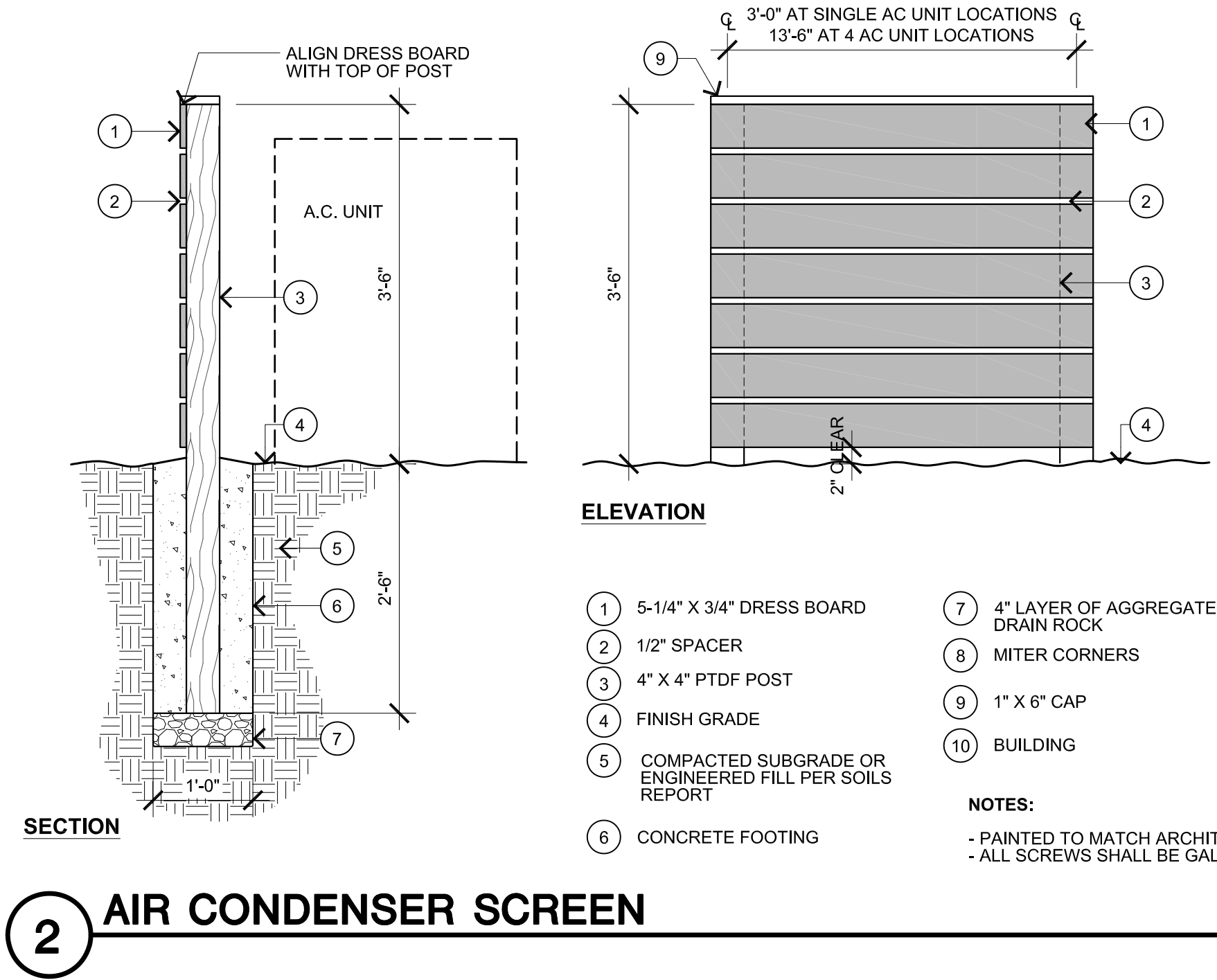


1 WASTE RECEPTACLE - METAL FRAME FINISH TO BE ARGENTO, RECYCLED PLASTIC SLAT FINISH TO BE GREY

2 CONCRETE PAVING

3 SURFACE MOUNT - TO BE SECURED INTO CONCRETE PAVING PER MANUFACTURER

SCALE : 1"=1'-0"



ALIGN DRESS BOARD WITH TOP OF POST

A.C. UNIT

3'-6"

2'-6"

1'-0"

3'-6"

2'-6"

2'-0" CLEAR

ELEVATION

SECTION

1 5-1/4" X 3/4" DRESS BOARD

2 1/2" SPACER

3 4" X 4" PTDF POST

4 FINISH GRADE

5 COMPACTED SUBGRADE OR ENGINEERED FILL PER SOILS REPORT

6 CONCRETE FOOTING

7 4" LAYER OF AGGREGATE DRAIN ROCK

8 MITER CORNERS

9 1" X 6" CAP

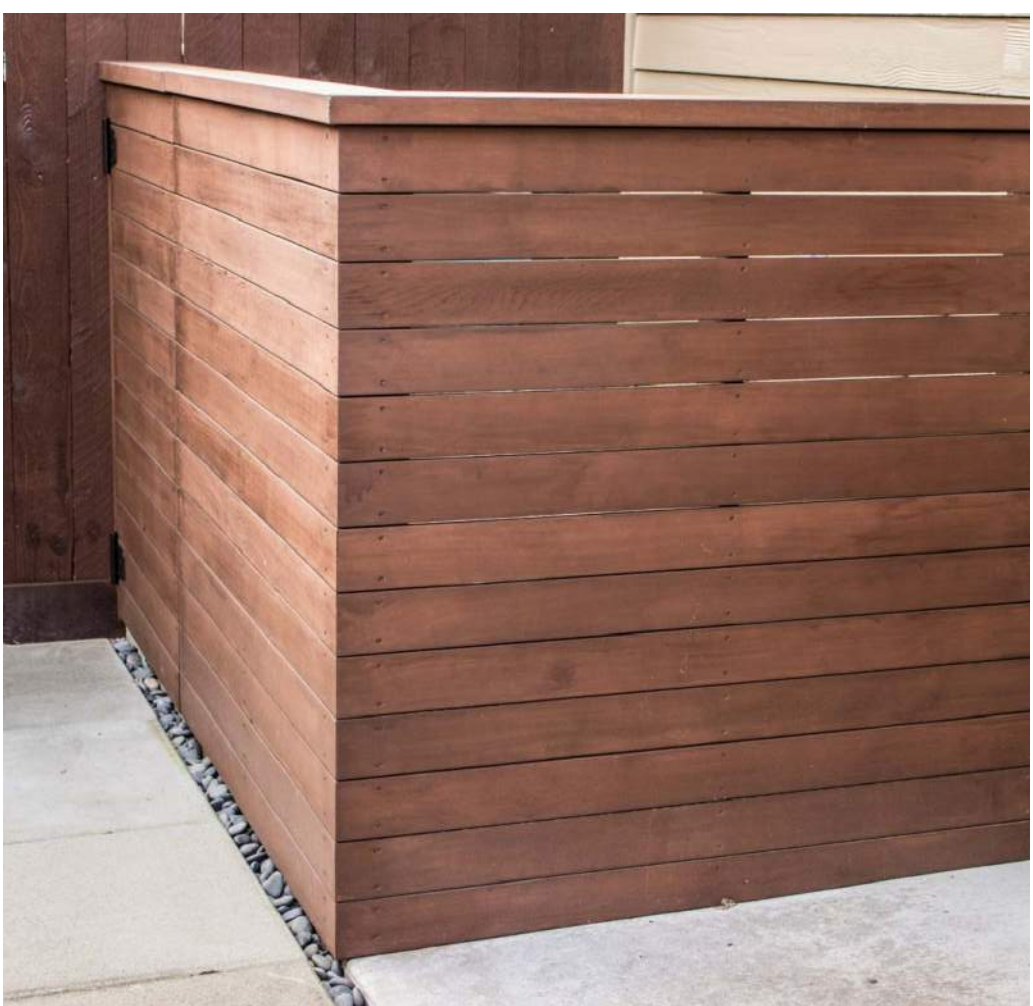
10 BUILDING

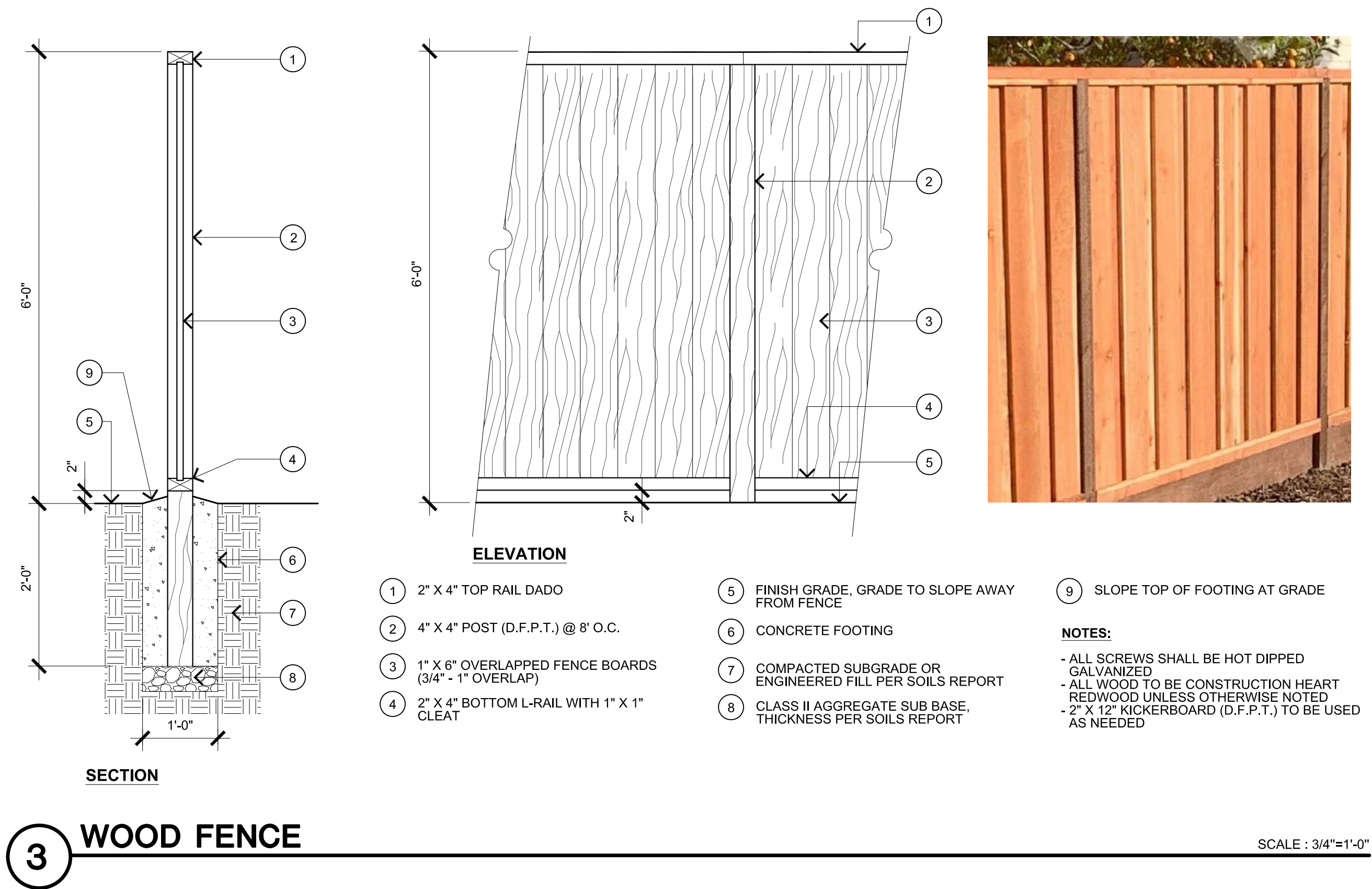
NOTES:

- PAINTED TO MATCH ARCHITECTURE FIELD COLOR

- ALL SCREWS SHALL BE GALVANIZED

SCALE : 3/4"=1'-0"





6'-0"

2'-0"

1'-0"

2"

ELEVATION

SECTION

1 2" X 4" TOP RAIL DADO

2 4" X 4" POST (D.F.P.T.) @ 8' O.C.

3 1" X 6" OVERLAPPED FENCE BOARDS (3/4" - 1" OVERLAP)

4 2" X 4" BOTTOM L-RAIL WITH 1" X 1" CLEAT

5 FINISH GRADE, GRADE TO SLOPE AWAY FROM FENCE

6 CONCRETE FOOTING

7 COMPACTED SUBGRADE OR ENGINEERED FILL PER SOILS REPORT

8 CLASS II AGGREGATE SUB BASE, THICKNESS PER SOILS REPORT

9 SLOPE TOP OF FOOTING AT GRADE

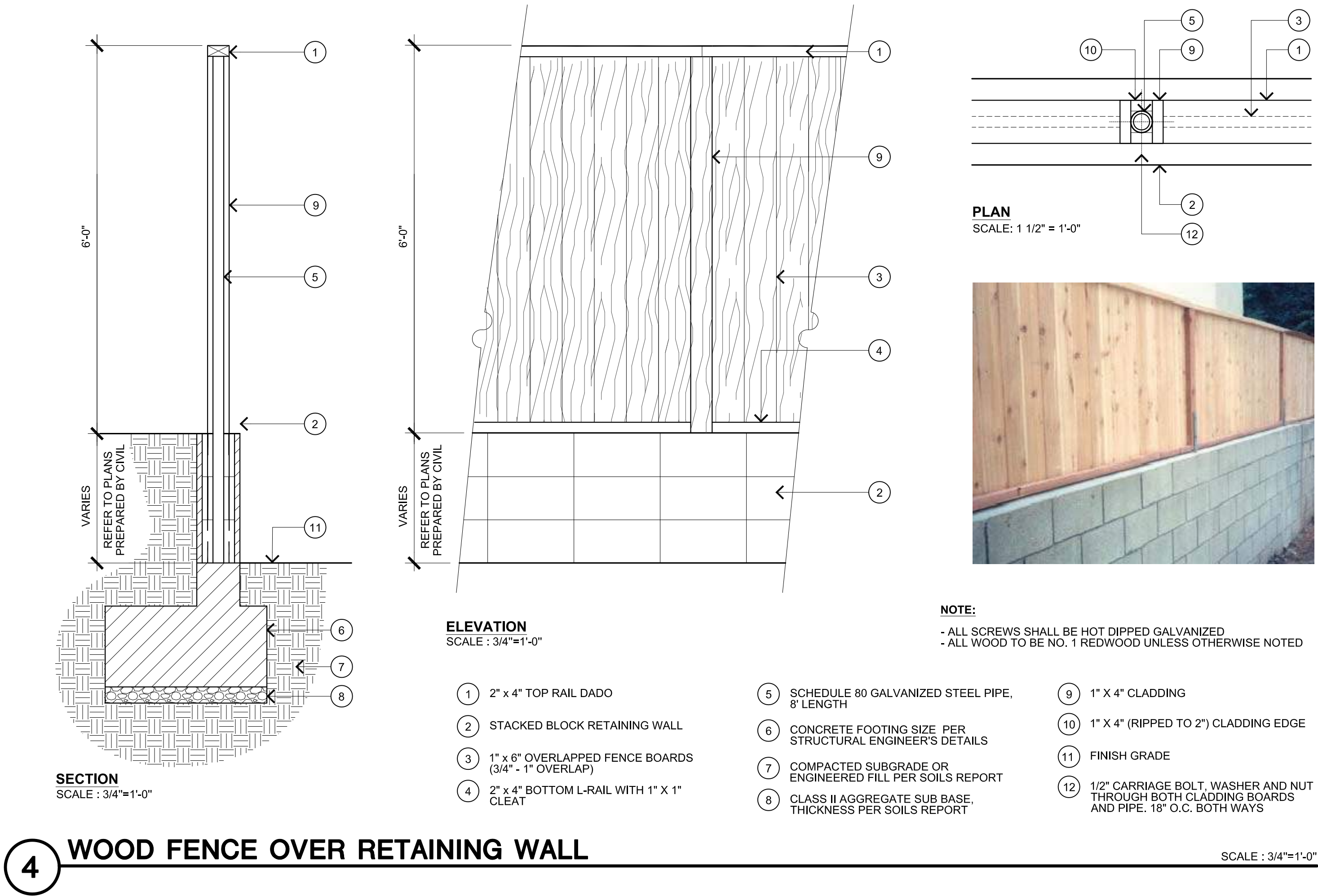
NOTES:

- ALL SCREWS SHALL BE HOT DIPPED GALVANIZED

- ALL WOOD TO BE CONSTRUCTION HEART REDWOOD UNLESS OTHERWISE NOTED

- 2" X 12" KICKERBOARD (D.F.P.T.) TO BE USED AS NEEDED

SCALE : 3/4"=1'-0"



6'-0"

VARIES

REFER TO PLANS PREPARED BY CIVIL

6'-0"

VARIES

REFER TO PLANS PREPARED BY CIVIL

ELEVATION

SCALE : 3/4"=1'-0"

SECTION

SCALE : 3/4"=1'-0"

1 2" X 4" TOP RAIL DADO

2 STACKED BLOCK RETAINING WALL

3 1" X 6" OVERLAPPED FENCE BOARDS (3/4" - 1" OVERLAP)

4 2" X 4" BOTTOM L-RAIL WITH 1" X 1" CLEAT

5 SCHEDULE 80 GALVANIZED STEEL PIPE, 8' LENGTH

6 CONCRETE FOOTING SIZE PER STRUCTURAL ENGINEER'S DETAILS

7 COMPACTED SUBGRADE OR ENGINEERED FILL PER SOILS REPORT

8 CLASS II AGGREGATE SUB BASE, THICKNESS PER SOILS REPORT

9 1" X 4" CLADDING

10 1" X 4" (RIPPED TO 2") CLADDING EDGE

11 FINISH GRADE

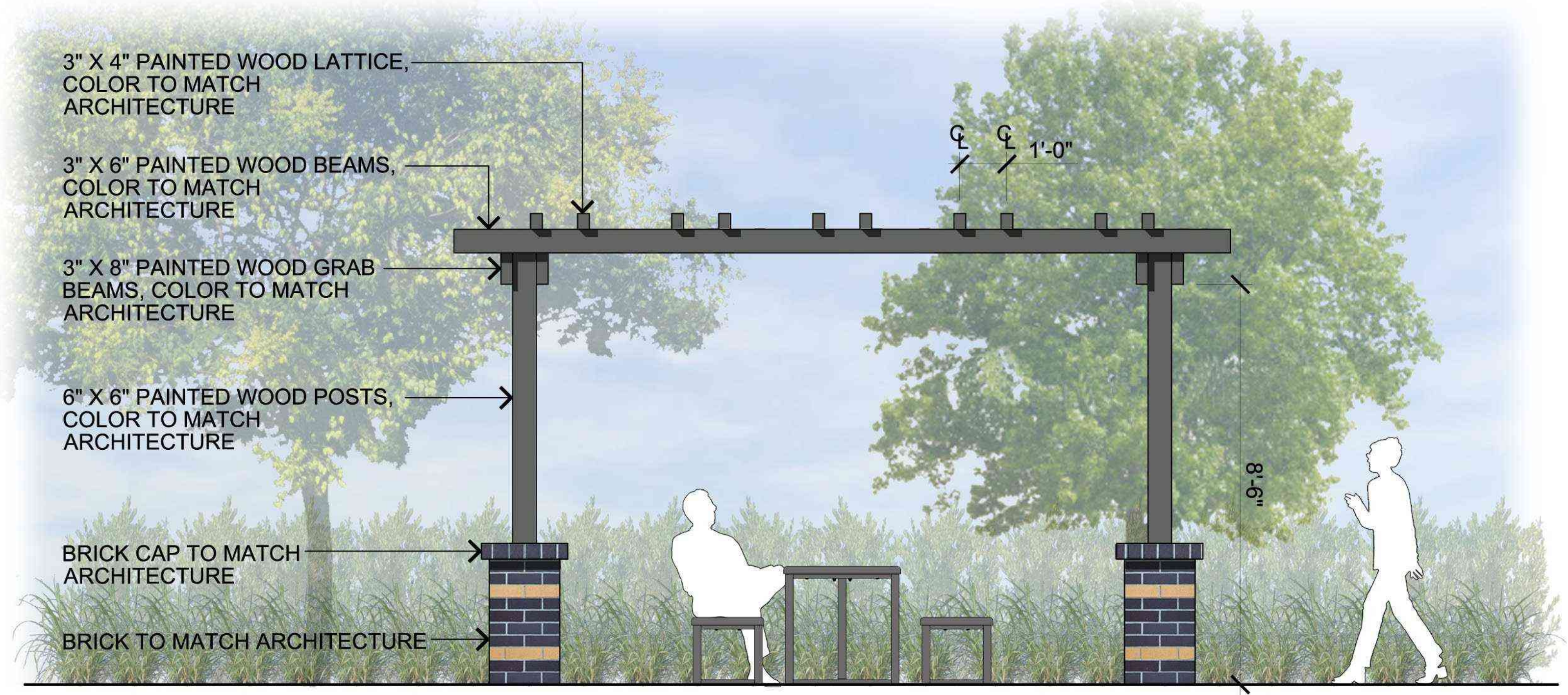
12 1/2" CARRIAGE BOLT, WASHER AND NUT THROUGH BOTH CLADDING BOARDS AND PIPE, 18" O.C. BOTH WAYS

NOTE:

- ALL SCREWS SHALL BE HOT DIPPED GALVANIZED

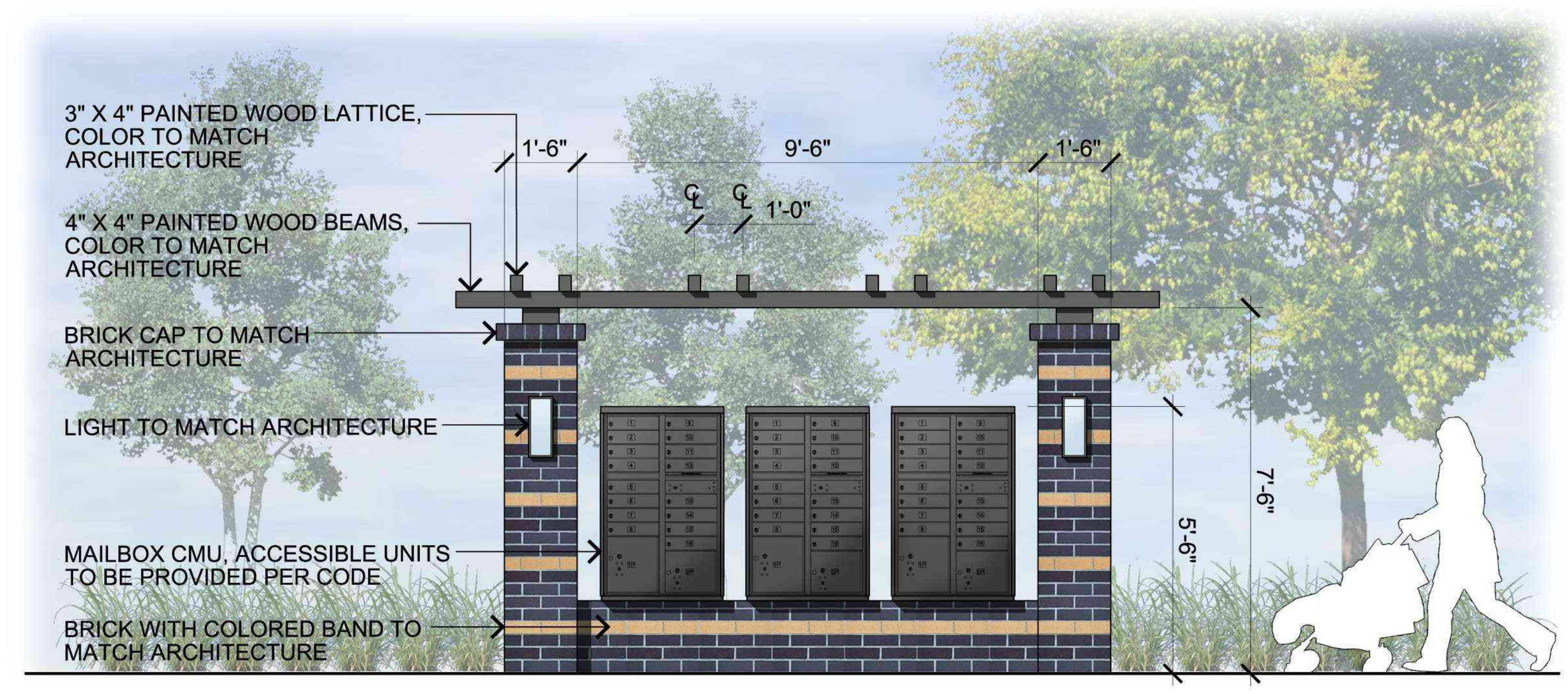
- ALL WOOD TO BE NO. 1 REDWOOD UNLESS OTHERWISE NOTED

SCALE : 3/4"=1'-0"



1 PERGOLA

SCALE : 1/2"=1'-0"



2 MAILBOX STATION

SCALE : 1/2"=1'-0"



CONCEPT

3 PLAYGROUND EQUIPMENT

400-108
TTLC South Main Street
Milpitas, CA
December 20, 2022

TRUE LIFE COMPANIES
TTLC Management, Inc. an Arizona Corp.
12647 Alcosta Blvd., Suite 470 San Ramon CA 94583
925.824.4300

Construction Details
L-4.4

PLANNING URBAN DESIGN
LANDSCAPE ARCHITECTURE
248 3rd street suite 202, oakland, ca 94607
phone: 510.452.4190 www.r3studios.com

R3 STUDIOS

IRRIGATION NOTES

1. THESE IRRIGATION DRAWINGS ARE DIAGRAMMATIC AND INDICATIVE OF THE WORK TO BE INSTALLED. ALL PIPING, VALVES, AND OTHER IRRIGATION COMPONENTS MAY BE SHOWN WITHIN PAVED AREAS FOR GRAPHIC CLARITY ONLY AND ARE TO BE INSTALLED WITHIN PLANTING AREAS. DUE TO THE SCALE OF THE DRAWINGS, IT IS NOT POSSIBLE TO INDICATE ALL OFFSETS, FITTINGS, SLEEVES, CONDUIT, AND OTHER ITEMS WHICH MAY BE REQUIRED. IN THE EVENT OF FIELD DISCREPANCY WITH CONTRACT DOCUMENTS, PLAN THE INSTALLATION WORK ACCORDINGLY BY NOTIFICATION AND APPROVAL OF THE OWNER'S AUTHORIZED REPRESENTATIVE AND ACCORDING TO THE CONTRACT SPECIFICATIONS. NOTIFY AND COORDINATE IRRIGATION CONTRACT WORK WITH APPLICABLE CONTRACTORS FOR THE LOCATION AND INSTALLATION OF PIPE, CONDUIT OR SLEEVES THROUGH OR UNDER WALL, ROADWAYS, PAVING AND STRUCTURES BEFORE CONSTRUCTION. IN THE EVENT THESE NOTIFICATIONS ARE NOT PERFORMED, THE CONTRACTOR ASSUMES FULL RESPONSIBILITY FOR REQUIRED REVISIONS.
2. THE CONTRACTOR SHALL COMPLY WITH ALL APPLICABLE CODES, STANDARDS, AND REGULATIONS. ALL WORK AND MATERIALS SHALL BE IN FULL ACCORDANCE WITH THE LATEST RULES AND REGULATIONS OF THE NATIONAL ELECTRIC CODE; THE UNIFORM PLUMBING CODE, PUBLISHED BY THE WESTERN PLUMBING OFFICIALS ASSOCIATION; AND OTHER STATE OR LOCAL LAWS OR REGULATIONS. NOTHING IN THESE DRAWINGS IS TO BE CONSTRUED TO PERMIT WORK NOT CONFORMING TO THESE CODES OR REGULATIONS. THE CONTRACTOR SHALL FURNISH WITHOUT ANY EXTRA CHARGE, ANY ADDITIONAL MATERIAL AND LABOR WHEN REQUIRED BY THE COMPLIANCE WITH THESE CODES AND REGULATIONS.
3. THE CONTRACTOR SHALL COORDINATE INSTALLATION OF IRRIGATION SYSTEM WITH LAYOUT AND INSTALLATION OF THE PLANT MATERIALS TO INSURE THAT THERE WILL BE COMPLETE AND UNIFORM IRRIGATION COVERAGE OF PLANTING IN ACCORDANCE WITH THESE DRAWINGS, AND CONTRACT DOCUMENTS. THE IRRIGATION LAYOUT SHALL BE CHECKED BY THE CONTRACTOR AND OWNER'S AUTHORIZED REPRESENTATIVE PRIOR TO CONSTRUCTION TO DETERMINE IF ANY CHANGES, DELETIONS, OR ADDITIONS ARE REQUIRED. IRRIGATION SYSTEM SHALL BE INSTALLED AND TESTED PRIOR TO INSTALLATION OF PLANT MATERIAL.
4. THE INTENT OF THIS IRRIGATION SYSTEM IS TO PROVIDE THE MINIMUM AMOUNT OF WATER REQUIRED TO SUSTAIN GOOD PLANT HEALTH.
5. IT IS THE RESPONSIBILITY OF THE MAINTENANCE CONTRACTOR AND/OR OWNER TO PROGRAM THE IRRIGATION CONTROLLER(S) TO PROVIDE THE MINIMUM AMOUNT OF WATER NEEDED TO SUSTAIN GOOD PLANT HEALTH. THIS INCLUDES MAKING ADJUSTMENTS TO THE PROGRAM FOR SEASONAL WEATHER CHANGES, PLANT MATERIAL, WATER REQUIREMENTS, MOUNDS, SLOPES, SUN, SHADE AND WIND EXPOSURE.
6. IT IS THE RESPONSIBILITY OF A LICENSED ELECTRICAL CONTRACTOR TO PROVIDE 120 VOLT A.C. (2.5 AMP DEMAND PER CONTROLLER) ELECTRICAL SERVICE TO THE CONTROLLER LOCATION(S). IT IS THE RESPONSIBILITY OF THE IRRIGATION CONTRACTOR TO COORDINATE THE ELECTRICAL SERVICE STUB-OUT TO THE CONTROLLER(S), PROVIDE PROPER GROUNDING PER CONTROLLER MANUFACTURER'S INSTRUCTIONS AND IN ACCORDANCE WITH LOCAL CODES.
7. PROVIDE EACH IRRIGATION CONTROLLER WITH ITS OWN INDEPENDENT LOW VOLTAGE COMMON GROUND WIRE.
8. INSTALL NEW BATTERIES IN THE IRRIGATION CONTROLLER(S) TO RETAIN PROGRAM IN MEMORY DURING TEMPORARY POWER FAILURES. USE QUANTITY, TYPE AND SIZE REQUIRED AS PER CONTROLLER MANUFACTURER'S INSTRUCTIONS.
9. IRRIGATION CONTROL WIRES: SOLID COPPER WITH U.L. APPROVAL FOR DIRECT BURIAL IN GROUND. COMMON GROUND WIRE: SIZE #12-1 WIRE WITH A WHITE INSULATING JACKET. CONTROL WIRE SERVICING REMOTE CONTROL VALVES: SIZE #14-1 WIRE WITH INSULATING JACKET OF COLOR OTHER THAN WHITE. SPLICES SHALL BE MADE WITH 3M-DBY SEAL PACKS OR APPROVED EQUAL.
10. INSTALL TWO SPARE CONTROL WIRES OF A DIFFERENT COLOR ALONG THE ENTIRE MAIN

11. SPlicing OF LOW VOLTAGE WIRES IS PERMITTED IN VALVE BOXES ONLY. LEAVE A 36" LONG, 1" DIAMETER COIL OF EXCESS WIRE AT EACH SPLICE AND A 36" LONG EXPANSION LOOP EVERY 100 FEET ALONG WIRE RUN. TAPE WIRES TOGETHER EVERY TEN FEET. DO NOT TAPE WIRES TOGETHER WHERE CONTAINED WITHIN SLEEVING OR CONDUIT.
12. INSTALL BLACK PLASTIC VALVE BOXES WITH BOLT DOWN, NON HINGED COVER MARKED "IRRIGATION". BOX BODY SHALL HAVE KNOCK OUTS. ACCEPTABLE VALVE BOX MANUFACTURER'S INCLUDE NDS, CARSON OR APPROVED EQUAL.
13. INSTALL REMOTE CONTROL VALVE BOXES 12" FROM WALK, CURB, BUILDING OR LANDSCAPE FEATURE. AT MULTIPLE VALVE BOX GROUPS, INSTALL EACH BOX AN EQUAL DISTANCE FROM THE WALK, CURB, BUILDING OR LANDSCAPE FEATURE AND PROVIDE 12" BETWEEN BOX TOPS. ALIGN THE SHORT SIDE OF RECTANGULAR VALVE BOXES PARALLEL TO WALK, CURB, BUILDING OR LANDSCAPE FEATURE.
14. VALVE LOCATIONS SHOWN ARE DIAGRAMMATIC. INSTALL IN GROUND COVER/SHRUB AREAS (AVOID LAWN AREAS WHERE POSSIBLE).
15. THE CONTRACTOR SHALL LABEL CONTROL LINE WIRE AT EACH REMOTE CONTROL VALVE WITH A 2 1/4" X 2 3/4" POLYURETHANE I.D. TAG, INDICATING IDENTIFICATION NUMBER OF VALVE (CONTROLLER AND STATION NUMBER), ATTACH LABEL TO CONTROL WIRE. THE CONTRACTOR SHALL PERMANENTLY STAMP ALL VALVE BOX LIDS WITH APPROPRIATE IDENTIFICATION AS NOTED IN CONSTRUCTION DETAILS.
16. INSTALL A GATE VALVE TO ISOLATE EACH REMOTE CONTROL VALVE OR GROUP OF RCVS LOCATED TOGETHER. GATE VALVE SIZE SHALL BE SAME AS THE LARGEST REMOTE CONTROL VALVE IN MANIFOLD.
17. FLUSH AND ADJUST IRRIGATION OUTLETS AND NOZZLES FOR OPTIMUM PERFORMANCE AND TO PREVENT OVER SPRAY ONTO WALKS, ROADWAYS, AND/OR BUILDINGS. SELECT THE BEST DEGREE OF THE ARC AND RADIUS TO FIT THE EXISTING SITE CONDITIONS AND THROTTLE THE FLOW CONTROL AT EACH VALVE TO OBTAIN THE OPTIMUM OPERATING PRESSURE FOR EACH CONTROL ZONE.
18. SET SPRINKLER HEADS PERPENDICULAR TO FINISH GRADE.
19. INSTALL NON POP-UP ROTARY SPRINKLERS 24" FROM WALKS AND CURBS.
20. LOCATE EMITTER OUTLETS ON UPHILL SIDE OF PLANT OR TREE.
21. LOCATE BUBBLERS ON UPHILL SIDE OF PLANT OR TREE.
22. INSTALL A HUNTER HCV SERIES, KBI CV SERIES, OR APPROVED EQUAL SPRING LOADED CHECK VALVE IN SPRINKLER RISER ASSEMBLIES WHERE LOW OUTLET DRAINAGE WILL CAUSE EROSION AND/OR EXCESS WATER.
23. WHERE IT IS NECESSARY TO EXCAVATE ADJACENT TO EXISTING TREES, USE CAUTION TO AVOID INJURY TO TREES AND TREE ROOTS. EXCAVATE BY HAND IN AREAS WHERE TWO (2) INCH AND LARGER ROOTS OCCUR. BACK FILL TRENCHES ADJACENT TO TREE WITHIN TWENTY-FOUR (24) HOURS. WHERE THIS IS NOT POSSIBLE, SHADE THE SIDE OF THE TRENCH ADJACENT TO THE TREE WITH WET BURLAP OR CANVAS.
24. NOTIFY LOCAL JURISDICTIONS FOR INSPECTION AND TESTING OF INSTALLED BACKFLOW PREVENTION DEVICE.
25. THE SPRINKLER SYSTEM DESIGN IS BASED ON THE MINIMUM OPERATING PRESSURE SHOWN ON THE IRRIGATION DRAWINGS. VERIFY WATER PRESSURE PRIOR TO CONSTRUCTION. REPORT ANY DIFFERENCE BETWEEN THE WATER PRESSURE INDICATED ON THE DRAWINGS AND THE ACTUAL PRESSURE READING AT THE IRRIGATION POINT OF CONNECTION TO THE OWNER'S AUTHORIZED REPRESENTATIVE.

26. IRRIGATION DEMAND: REFER TO PLANS.
27. PIPE SIZING SHOWN ON THE DRAWINGS IS TYPICAL. AS CHANGES IN LAYOUT OCCUR DURING STAKING AND CONSTRUCTION THE SIZE MAY NEED TO BE ADJUSTED ACCORDINGLY.
28. PIPE THREAD SEALANT COMPOUND SHALL BE RECTOR SEAL #5.
29. THE LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR MINOR CHANGES IN THE IRRIGATION LAYOUT DUE TO OBSTRUCTIONS NOT SHOWN ON THE IRRIGATION DRAWINGS SUCH AS LIGHTS, FIRE HYDRANTS, SIGNS, ELECTRICAL ENCLOSURES, ETC.
30. WHEN WORK OF THIS SECTION HAS BEEN COMPLETED AND SUCH OTHER TIMES AS MAY BE DIRECTED, REMOVE ALL TRASH, DEBRIS, SURPLUS MATERIALS AND EQUIPMENT FROM SITE.

IRRIGATION LEGEND

SYMBOL	MODEL NUMBER	DESCRIPTION	NOZZLE GPM	OPERATING PSI	OPERATING RADIUS (FEET)
	570Z-6P-PRX-COM/ O-T-15-F,H,Q	TORO POP-UP SPRAY SPRINKLER (TURF)	2.3,1.16, 0.58	30	12–15
	570Z-6P-PRX-COM/ O-T-12-F,H,Q	TORO POP-UP SPRAY SPRINKLER (TURF)	1.5,0.75,.37	30	10–12
	570Z-6P-PRX-COM/ O-T-10-F,H,Q	TORO POP-UP SPRAY SPRINKLER (TURF)	1.03,0.51, 0.23	30	8–10
	570Z-12P-PRX-COM/ O-T-15-F,H,Q	TORO POP-UP SPRAY SPRINKLER (SHRUB)	2.3,1.16, 0.58	30	12–15
	570Z-12P-PRX-COM/ O-T-12-F,H,Q	TORO POP-UP SPRAY SPRINKLER (SHRUB)	1.5,0.75,.37	30	10–12
	570Z-12P-PRX-COM/ O-T-10-F,H,Q	TORO POP-UP SPRAY SPRINKLER (SHRUB)	1.03,0.51, 0.23	30	8–10
	570S/FB-25-PC	TORO BUBBLER, 1 PER SHRUB	0.25	30	TRICKLE
	570S/FB-50-PC	TORO BUBBLER, 2 PER TREE	0.5	30	TRICKLE
	T-YD-500-34	TORO AIR RELIEF VALVE			
	FCH-H-FIPT	TORO FLUSH VALVE			
	T-DL-MP9	TORO DRIP ZONE INDICATOR			
	P-220-26-6	TORO MASTER VALVE (NORMALLY CLOSED)			
	TFS-150	TORO FLOW SENSOR			
	P-220-26 SERIES	TORO REMOTE CONTROL VALVE			
	P220-27-04/ T-ALFD10150-L	TORO REMOTE CONTROL VALVE WITH A PRESSURE REGULATOR (SET TO 45 PSI) AND A 1" DISC FILTER			
	33 DNP	RAIN BIRD QUICK COUPLING VALVE			
	T113-K	NIBCO GATE VALVE (LINE SIZE)-2.5" AND SMALLER.			
	975XLSEU-2"	WILKINS REDUCED PRESSURE BACKFLOW ASSEMBLY			
	MC-30E/CL-R1	IRRITROL MC-E CONTROLLER IN A PEDESTAL ENCLOSURE WITH MAINTENANCE REMOTE. USE IN CONJUNCTION WITH CLIMATE LOGIC WEATHER SENSING SYSTEM.			
	CL-100-WIRELESS	IRRITROL CLIMATE LOGIC WEATHER SENSING SYSTEM. AUTOMATICALLY GATHERS ON-SITE WEATHER INFORMATION AND CALCULATES WATER REQUIREMENTS AND WATERING SCHEDULES.			
		CONTROLLER AND STATION NUMBER			
		FLOW (GPM)			
		REMOTE CONTROL VALVE SIZE (IN INCHES)			
		ASSOCIATED REMOTE CONTROL VALVE			
		CONTROLLER AND STATION NUMBER			
		AREA (SQ. FT.)			
		FLOW (GPM)			
		REMOTE CONTROL VALVE SIZE (IN INCHES)			
		ASSOCIATED REMOTE CONTROL VALVE			
		MAIN LINE: 2 1/2" AND SMALLER: 1120-SCHEDULE 40 PVC PLASTIC PIPE WITH SCHEDULE 40 PVC SOLVENT WELD FITTINGS. 18" COVER.			
		LATERAL LINE: 3/4" AND LARGER: 1120-SCHEDULE 40 PVC PLASTIC PIPE WITH SCHEDULE 40 PVC SOLVENT WELD FITTINGS. 12" COVER.			
		SLEEVING: SCHEDULE 40 PVC PLASTIC PIPE. COVER TO BE AS INDICATED IN SPECIFICATIONS OR AS INDICATED ABOVE FOR PIPE DEPTH OF COVER.			
		DRIP ZONE: TORO DL2000 SERIES DRIPLINE WITH LOC-EZE FITTINGS, PART #RGP-212. TUBING TO BE INSTALLED 4" BELOW GRADE IN A 12" O.C. GRID ACCORDING TO DETAILS. MINIMUM PIPE SIZE OF PVC LATERAL LINE WITHIN DRIP AREAS TO BE 1". EXTEND PVC HEADERS TO THE ENDS OF ALL DRIP ZONES TO BALANCE FLOW. SEE DETAILS FOR FURTHER INFORMATION.			
		DRIP ZONE: TORO BLUE STRIPE POLYETHYLENE HOSE. INSTALL ON-GRADE AS DETAILED. SEE DETAILS FOR INSTALLATION AND PART NUMBERS. INSTALL A END CLAMP AT THE END OF EACH DRIP ZONE REGION.			
		FLOW SENSOR/ MASTER CABLE: APPROXIMATE ROUTING OF FLOW SENSOR AND MASTER VALVE WIRES IN SEPARATE 1" CONDUITS. REFER TO DETAILS FOR MORE INFORMATION.			

NOTE:
IRRIGATION DETAILS SHALL COMPLY WITH THE ENGINEERING PLANS AND MAP PROCEDURES AND GUIDELINES SECTION XVI - LANDSCAPE PLANS, INCLUDING WELO REQUIREMENTS.

Irrigation Notes & Legend (Privately Maintained Landscape Areas)

L-5.1

400-108

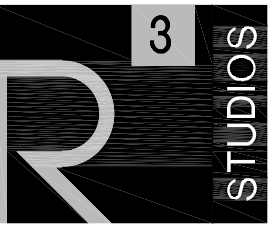
TTLC South Main Street
Milpitas, CA
December 20, 2022

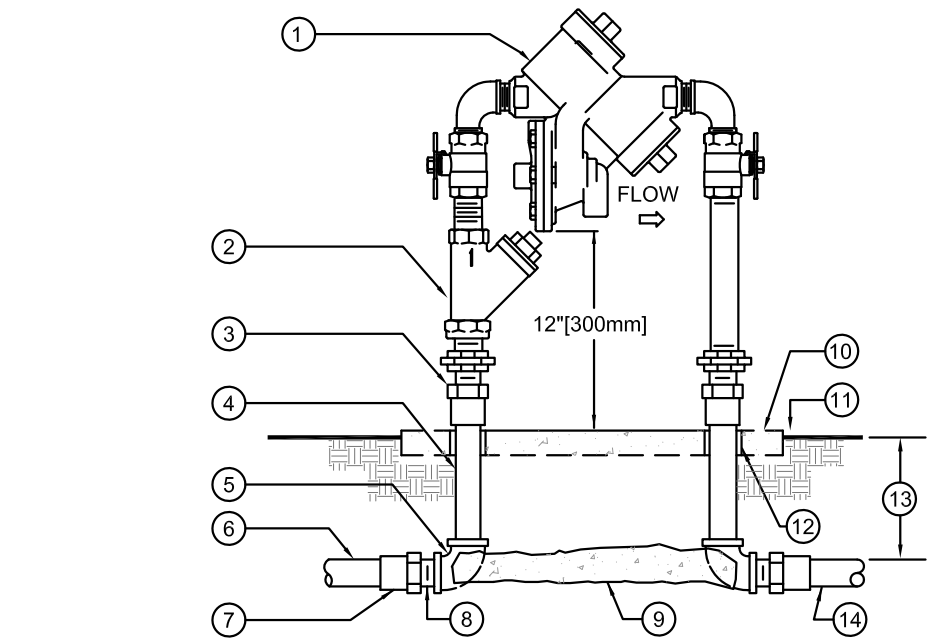


TTLC Management, Inc. an Arizona Corp.

12647 Alcosta Blvd., Suite 470 San Ramon CA 94583
925.824.4300

PLANNING URBAN DESIGN
LANDSCAPE ARCHITECTURE
248 3rd street suite 202, oakland, ca 94607
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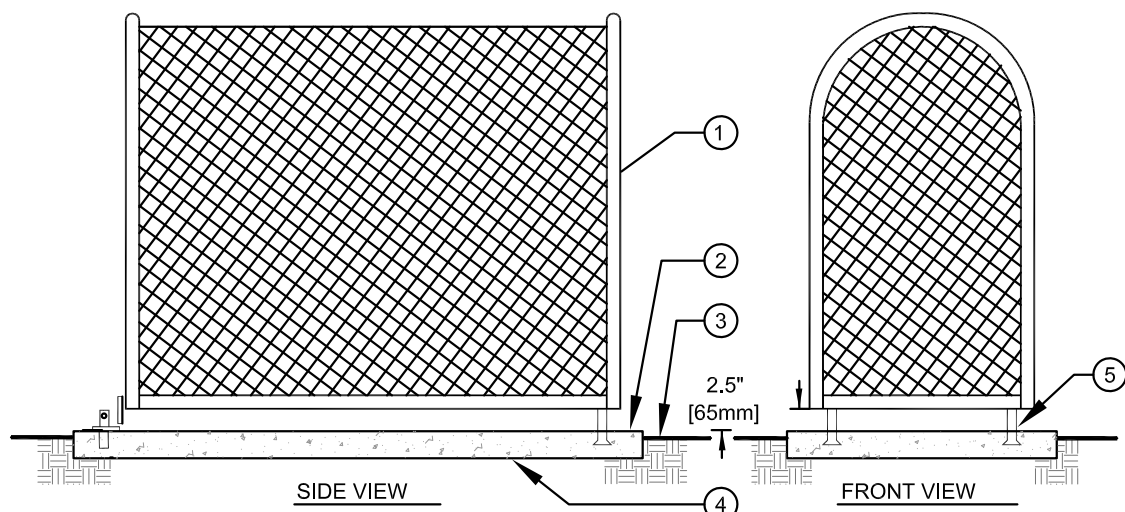




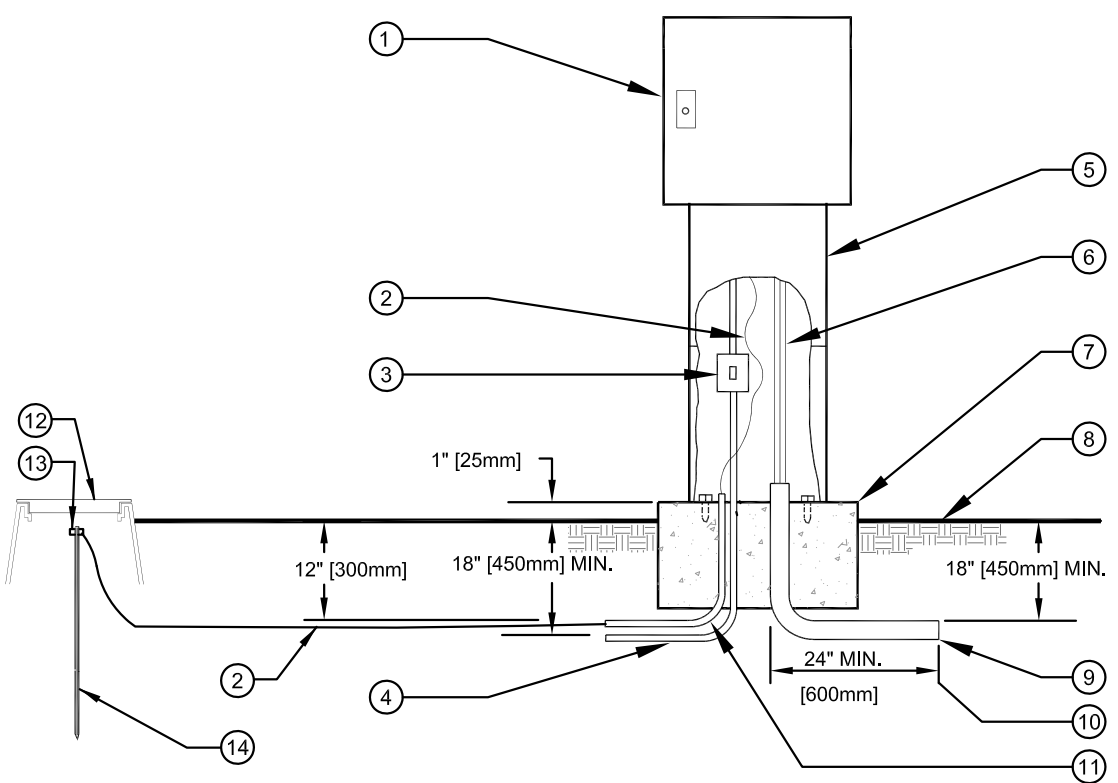
- 1 REDUCED PRESSURE BACKFLOW ASSEMBLY.
- 2 YB "Y" STRAINER SYSTEM (AS REQUIRED).
- 3 WROUGHT COPPER MALE ADAPTER-2 TOTAL (SOLDER x THREAD CONNECTION).
- 4 COPPER TYPE "K" PIPE (LENGTH AS REQUIRED).
- 5 WROUGHT COPPER 90° ELBOW-2 TOTAL (SOLDER x THREAD CONNECTION).
- 6 PVC MAIN LINE TO POINT OF CONNECTION.
- 7 BUSH AS NECESSARY FOR SIZE TRANSITION.
- 8 SCHEDULE 40 PVC MALE ADAPTER- 2 TOTAL.
- 9 CONCRETE SUPPORT BLOCK.
- 10 CONCRETE PAD-SEE ENCLOSURE DETAIL.
- 11 FINISH GRADE.
- 12 PVC SLEEVE BOTH SIDES.
- 13 REFER TO IRRIGATION LEGEND
- 14 PVC MAIN LINE TO IRRIGATION SYSTEM.

NOTES:

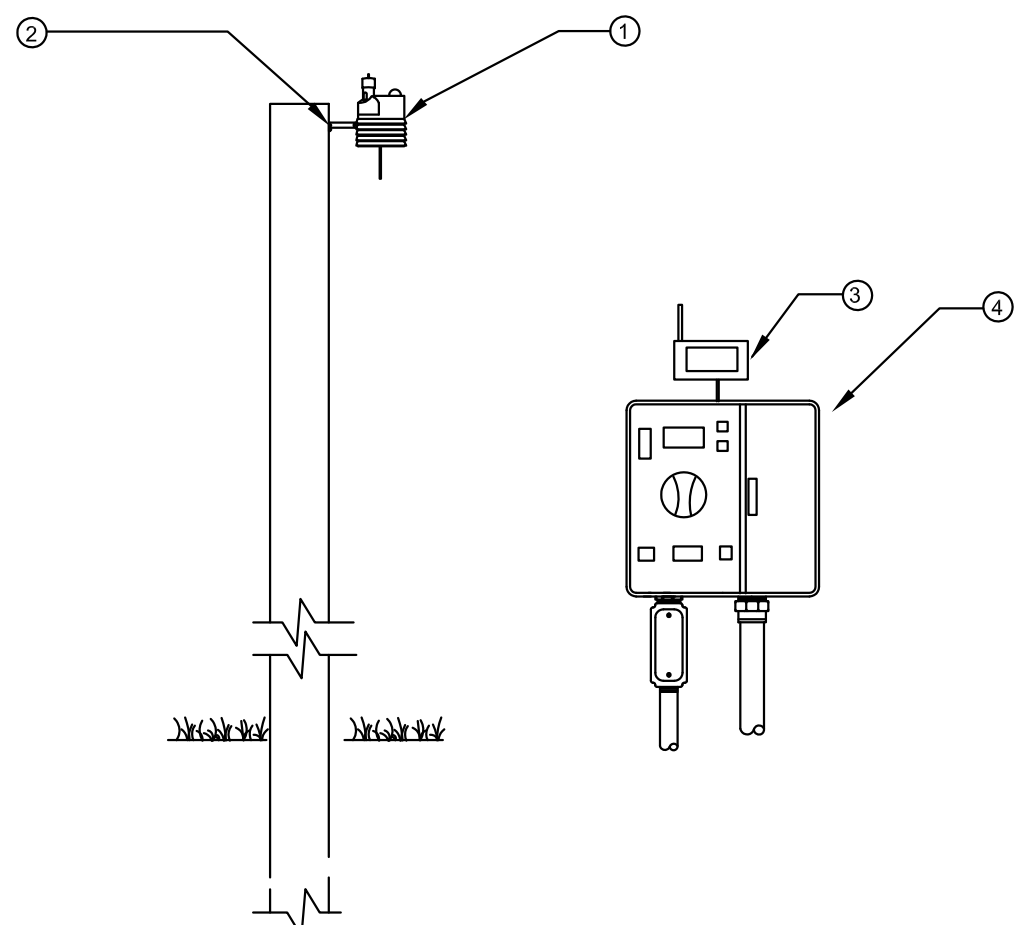
1. INSTALL A FREEZE PREVENTATIVE BLANKET AROUND BACKFLOW ASSEMBLY. BLANKET SHALL BE GREEN.
2. DO NOT SOLDER CONNECT FITTINGS WHILE THREADED INTO BACKFLOW ASSEMBLY. THIS MAY CAUSE DAMAGE TO DEVICE.
3. NIPPLES AND FITTINGS TO BE SAME IPT SIZE AS BACKFLOW ASSEMBLY.
4. PROVIDE A STAINLESS STEEL ENCLOSURE TO COMPLETELY ENCLOSE DEVICE. INSTALL ENCLOSURE TO CONCRETE BASE AS DIRECTED BY MANUFACTURER.



- 1 STAINLESS STEEL ENCLOSURE TO COMPLETELY ENCLOSE DEVICE
- 2 SET PAD 1/2" [13mm] ABOVE FINISH GRADE
- 3 FINISH GRADE
- 4 6" [150mm] THICK CONCRETE PAD FOR ENCLOSURE SUPPORT TO EXTEND 6" [150mm] BEYOND ENCLOSURE ON ALL SIDES. CONCRETE TO HAVE MEDIUM BROOM FINISH.
- 5 MOUNTING BRACKETS (STANDARD WITH ENCLOSURE) TO BE SET INTO CONCRETE PAD. PROVIDE LOCKING TAB TO ACCEPT PADLOCK PER MANUFACTURER'S INSTRUCTION.

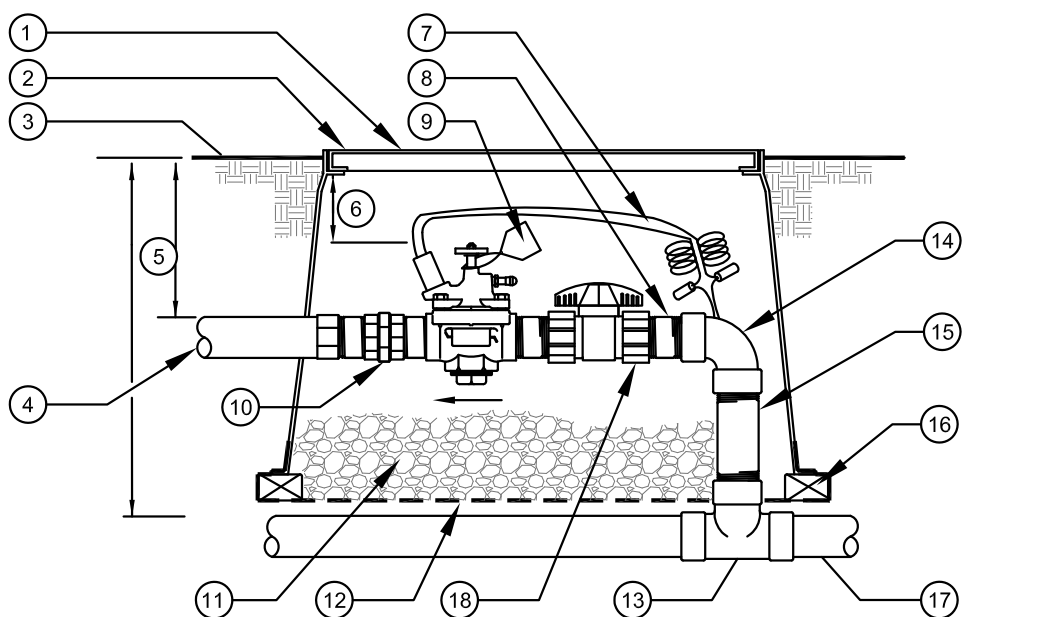


- 1 IRRIGATION CONTROLLER.
- 2 #6 BARE COPPER GROUND WIRE.
- 3 120 VOLT LOCKABLE WEATHERPROOF ON/OFF SWITCH PROVIDED UNDER IRRIGATION CONTRACT.
- 4 120 VOLT A.C. ELECTRICAL SERVICE FROM SOURCE TO CONTROLLER LOCATION PROVIDED BY CONTRACTOR. IRRIGATION CONTRACTOR TO PROVIDE RIGID STEEL CONDUIT FROM SERVICE STUB-OUT TO CONTROLLER GCFI SWITCH AND COMPLETE ELECTRICAL SERVICE TO CONTROLLER.
- 5 PEDESTAL ENCLOSURE.
- 6 LOW VOLTAGE CONTROL WIRING.
- 7 CONCRETE PAD-5" [150mm] THICK (MIN.) EXTEND 6" [150mm] BEYOND EACH SIDE AND BACK, 24" [600mm] IN FRONT AND 1" [25mm] ABOVE FINISH GRADE.
- 8 FINISH GRADE.
- 9 SCHEDULE 40 GREY PVC ELECTRICAL CONDUIT WITH SWEEP ELL FOR LOW VOLTAGE WIRE.
- 10 24" MIN. [600mm] AND OR 12" [300mm] BEYOND HARDSCAPE.
- 11 1 1/2" [40mm] PVC SWEEP ELL FOR GROUND WIRE.
- 12 6" ROUND BLACK PLASTIC BOX WITH T-LID FOR GROUND ROD.
- 13 CADIWELD CONNECTIONS
- 14 8" LONG COPPER GROUND ROD. LOCATE A MINIMUM OF 10' AWAY FROM CONTROLLER.



NOTE: MAXIMUM LINE OF SIGHT FROM SENSOR TO RECEIVER IS 1000 FT. DISTANCE IS LESS IF OBSTRUCTIONS EXIST. SENSOR MUST BE INSTALLED IN "CLEAR SPACE" WHERE IT IS EXPOSED TO UNOBSTRUCTED RAINFALL AND IS CLEAR OF IRRIGATION SPRAY.

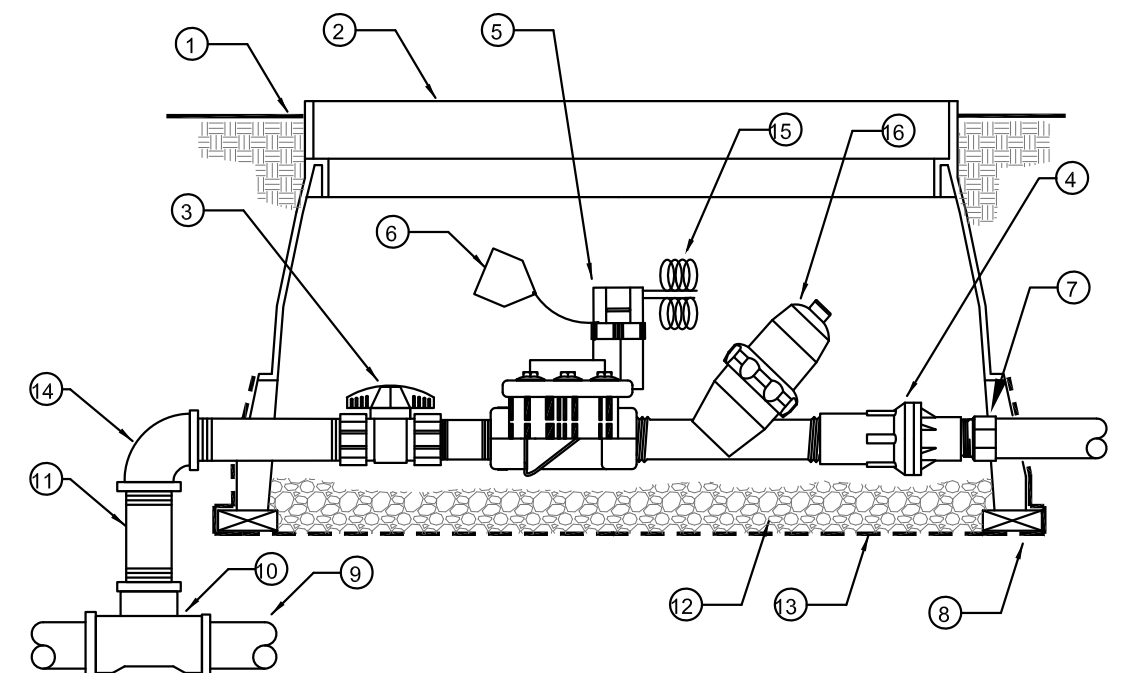
- 1 WIRELESS CLIMATE SENSOR TRANSMITTER
- 2 SUITABLE POST. POLE. OR GUTTER MOUNT. MOUNT IN LOCATION WHERE SENSOR CAN RECEIVE FULL SUN. IS OPEN TO RAINFALL AND OUT OF SPRINKLER SPRAY PATTERN
- 3 SENSOR RECEIVER
- 4 CONTROLLER



- 1 REMOTE CONTROL VALVE WITH FLOW CONTROL AND MANUAL BLEED (PRESSURE REGULATOR WHERE SHOWN ON PLANS).
- 2 USE A 14" X 19" RECTANGULAR PLASTIC VALVE BOX WITH BOLT DOWN LID FOR 1" VALVES. FOR 1.5" AND LARGER VALVES INSTALL BALL VALVE WITHIN A SEPARATE 10" ROUND BOX OR ONE BALL VALVE PER MANIFOLD OF VALVES. GATE VALVE SIZE SHALL BE SAME AS LARGEST VALVE WITHIN MANIFOLD. ONE VALVE PER BOX- NO EXCEPTIONS. INSTALL BOX AS SHOWN IN BOX INSTALLATION DETAIL.
- 3 FINISH GRADE.
- 4 PVC LATERAL LINE.
- 5 REFER TO IRRIGATION SPECS.
- 6 3" [75mm] MIN. 6" [150mm] MAX.
- 7 VALVE CONTROL WIRE.-PROVIDE SEAL PACKS AT ALL SPLICES AND 3' [1m] OF EXCESS UF WIRE IN A 1" [25mm] DIAMETER COIL.
- 8 SCHEDULE 80 PVC NIPPLE (4 TOTAL).
- 9 VALVE I.D. TAG (CONTROLLER AND STATION NUMBER).
- 10 SCHEDULE 80 PVC THREADED UNION.
- 11 PEA GRAVEL OR 3/4" DRAIN ROCK- 4" [100mm] DEEP BELOW VALVE (NO SOIL IN VALVE BOX).
- 12 19 GAUGE 1/2" [12mm] SQUARE WIRE MESH.
- 13 UPC APPROVED SCHEDULE 40 PVC TEE.
- 14 SCHEDULE 80 PVC 90° ELBOW (TXT).
- 15 SCHEDULE 80 PVC NIPPLE- LENGTH AS REQUIRED.
- 16 BRICK-1 EACH CORNER.
- 17 PVC MAIN LINE.
- 18 SCHEDULE 80 PVC UNION BALL VALVE (ONE PER VALVE).

1 REDUCED PRESSURE BACKFLOW ASSEMBLY

SCALE: NONE



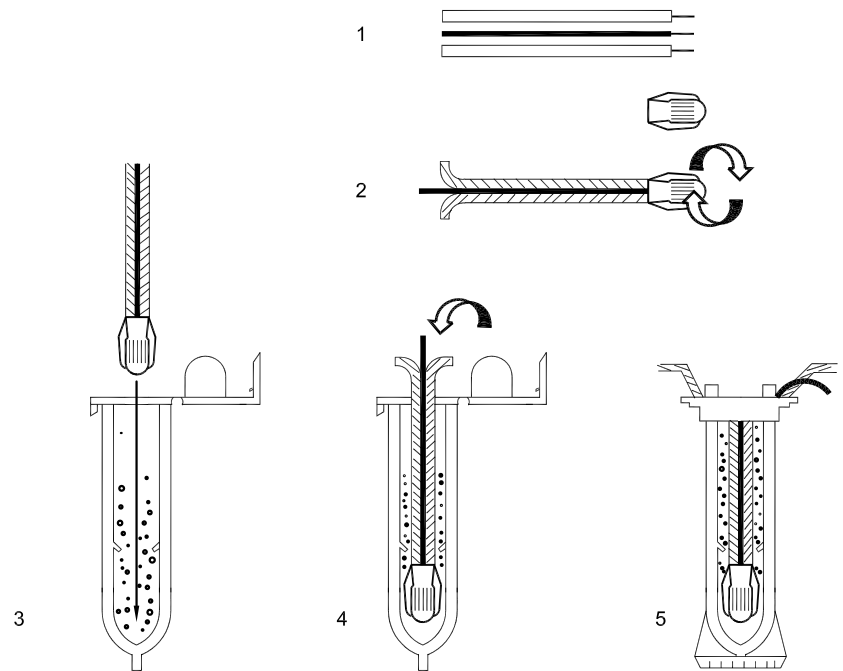
- 1 FINISH GRADE
- 2 JUMBO RECTANGULAR PLASTIC VALVE BOX WITH BOLT DOWN LID. ONE VALVE PER BOX- NO EXCEPTIONS. INSTALL BOX AS SHOWN IN BOX INSTALLATION DETAIL.
- 3 SCHEDULE 80 PVC UNION BALL VALVE (ONE PER VALVE)
- 4 PRESSURE REGULATOR (INCLUDED IN DRIP ZONE KIT)
- 5 REMOTE CONTROL VALVE DRIP ZONE KIT. (SHALL INCLUDE VALVE, FILTER AND A 40 PSI PRESSURE REDUCING VALVE)
- 6 VALVE I.D. TAG (CONTROLLER AND STATION NUMBER).
- 7 SCHEDULE 40 MALE ADAPTER
- 8 BRICK-1 EACH CORNER.
- 9 PVC MAIN LINE.
- 10 UPC APPROVED SCHEDULE 40 PVC TEE.
- 11 SCHEDULE 80 PVC NIPPLE-(4-TOTAL) LENGTH AS REQUIRED.
- 12 PEA GRAVEL OR 3/4" [20mm] DRAIN ROCK - 4" [102mm] DEEP BELOW VALVE (NO SOIL IN VALVE BOX).
- 13 19 GAUGE 1/2" [13mm] SQUARE WIRE MESH.
- 14 SCHEDULE 80 PVC 90° ELBOW (TXT).
- 15 VALVE CONTROL WIRE.- PROVIDE 3M-DBY SEAL PACKS AT ALL SPLICES AND 3' [1m] OF EXCESS UF WIRE IN A 1" [25mm] DIAMETER COIL.
- 16 Y-FILTER (INCLUDED IN DRIP ZONE KIT)

INSTRUCTIONS:

1. STRIP WIRES APPROXIMATELY 1/2" (13 mm) TO EXPOSE WIRE.
2. TWIST CONNECTOR AROUND WIRES CLOCKWISE UNTIL HAND TIGHT, DO NOT OVERTIGHTEN.
3. INSERT WIRE ASSEMBLY INTO PLASTIC TUBE UNTIL WIRE CONNECTOR SNAPS PAST LIP IN BOTTOM OF TUBE.
4. PLACE WIRES WHICH EXIT TUBE IN WIRE EXIT HOLES AND CLOSE CAP UNTIL IT SNAPS.
5. INSPECT FINAL SPLICE ASSEMBLY TO BE SECURE AND FINISHED.

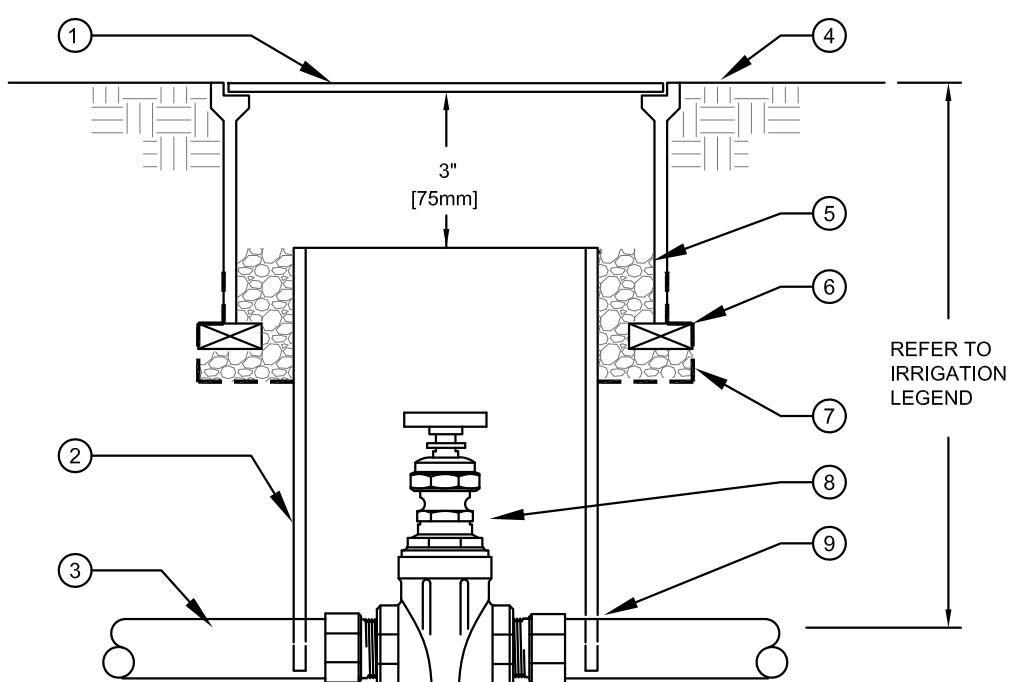
2 BACKFLOW ASSEMBLY ENCLOSURE

SCALE: NONE



3 CONTROLLER - PEDESTAL MOUNT

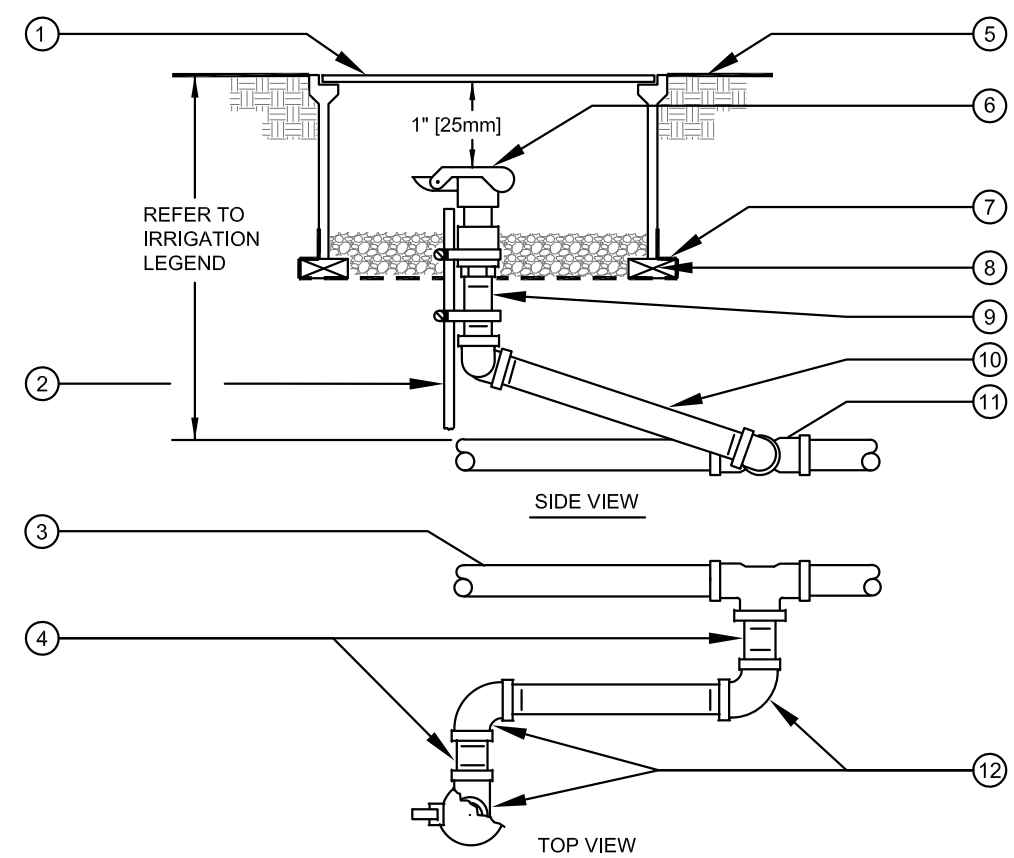
SCALE: NONE



- 1 10" ROUND PLASTIC VALVE BOX WITH BOLT DOWN LID.
- 2 8" [200mm] CLASS 160 OR SCHEDULE 40 PVC PIPE (NOTCH TO FIT OVER MAIN LINE PIPE).
- 3 PVC MAIN LINE.
- 4 FINISH GRADE.
- 5 PEA GRAVEL OR 3/4" [20mm] DRAIN ROCK - 4" [100mm] DEEP (NO SOIL IN VALVE BOX).
- 6 BRICK-2 TOTAL.
- 7 19 GAUGE 1/2" [13mm] SQUARE WIRE MESH.
- 8 GATE VALVE.
- 9 MALE ADAPTER, REFER TO LEGEND FOR FITTING TYPE.

4 WIRELESS WEATHER SENSOR

SCALE: NONE



- 1 10" ROUND PLASTIC VALVE BOX WITH BOLT DOWN LID.
- 2 1 1/4" x 1 1/4" x 3/16" [30mm x 30mm x 5mm] ANGLE IRON 30° [760mm] LONG W/2 STAINLESS STEEL STRAPS (ONE AROUND QCV).
- 3 PVC MAIN LINE.
- 4 3" [75mm] LONG SCHEDULE 80 PVC THREADED NIPPLE.
- 5 FINISH GRADE.
- 6 QUICK COUPLING VALVE.
- 7 19 GAUGE 1/2" [13mm] SQUARE WIRE MESH.
- 8 BRICK - 2 TOTAL.
- 9 SCHEDULE 80 PVC THREADED NIPPLE.
- 10 10" [250mm] LONG SCHEDULE 80 PVC THREADED NIPPLE.
- 11 UPC APPROVED SCHEDULE 40 PVC TEE OR ELBOW.
- 12 SCHEDULE 80 PVC THREADED 90° ELL.

NOTE: NIPPLES AND FITTINGS TO BE SAME SIZE AS VALVE IPT INLET THREAD SIZE.

6 REMOTE CONTROL VALVE (DRIPZONE)

SCALE: NONE

7 WEATHERPROOF WIRE SPLICE ASSEMBLY

SCALE: NONE

8 GATE VALVE

SCALE: NONE

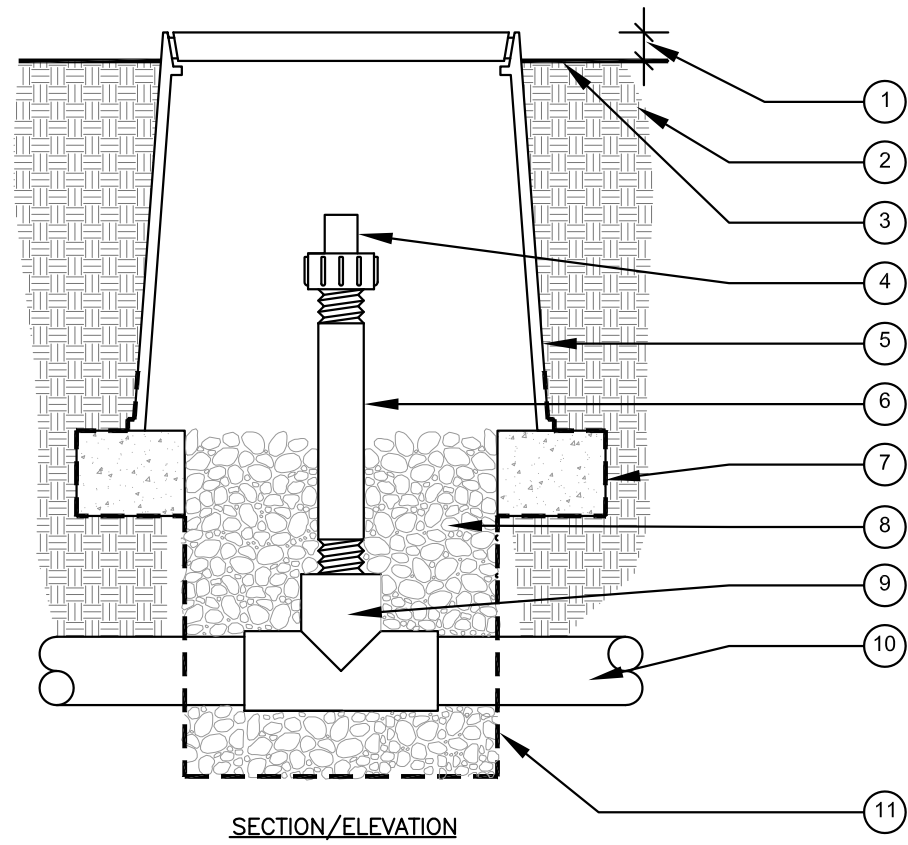
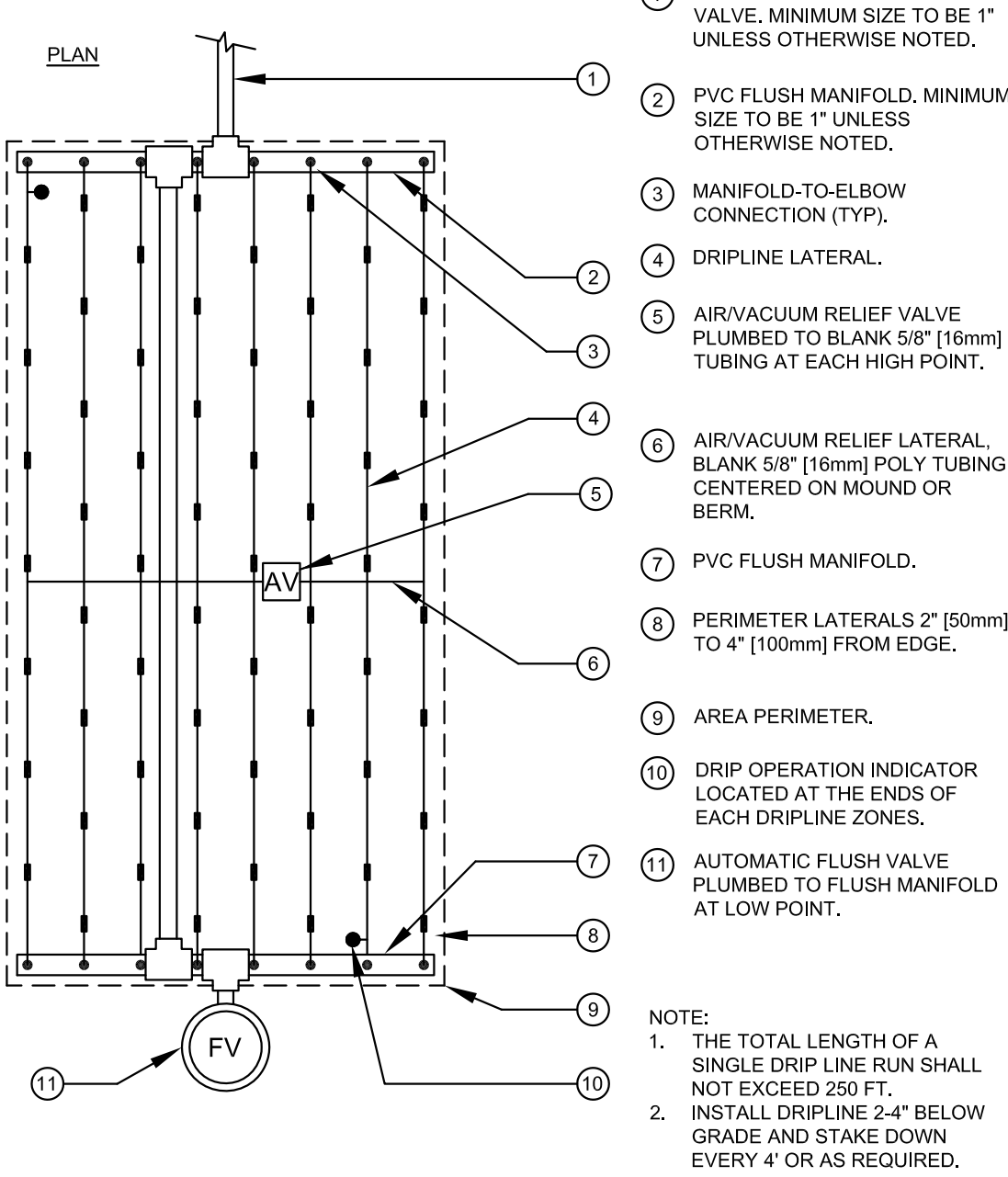
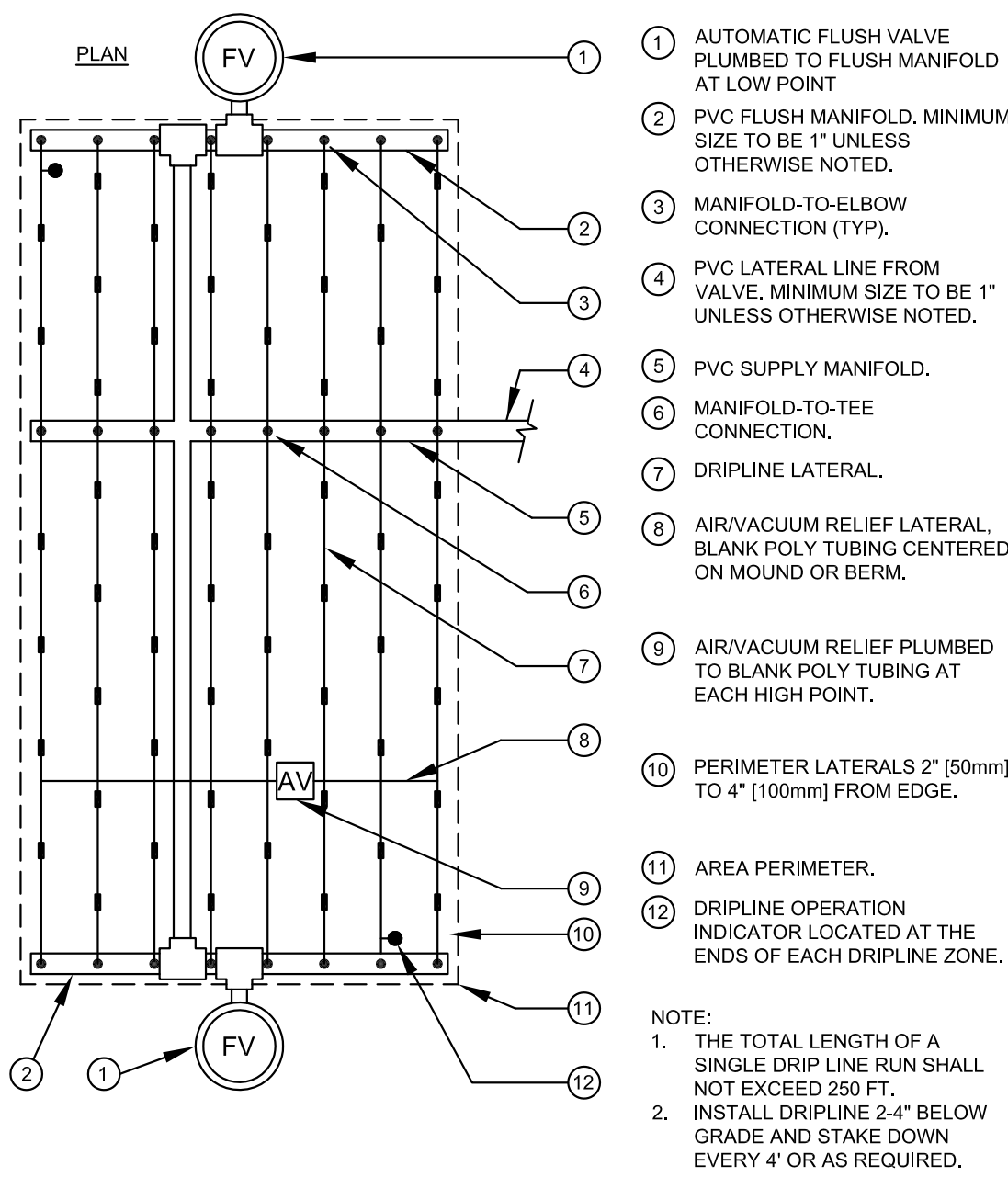
9 QUICK COUPLING VALVE

SCALE: NONE

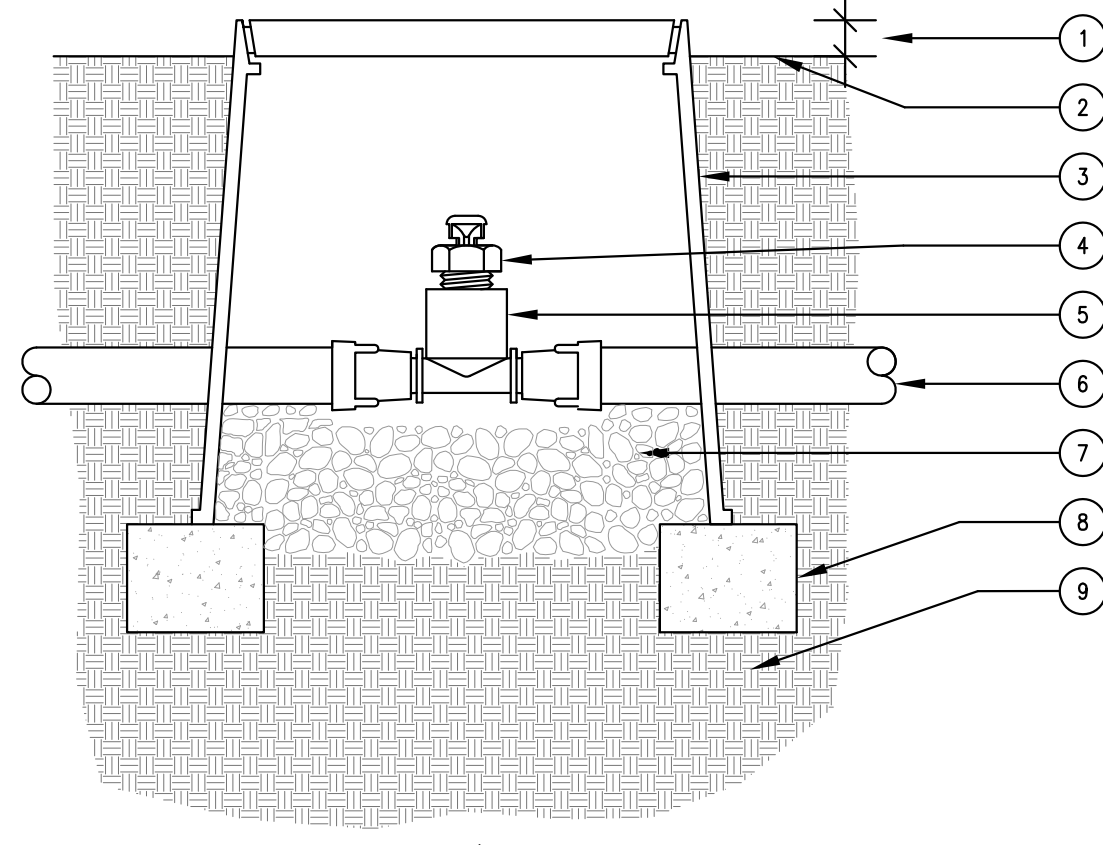
10 VALVE BOX INSTALLATION

SCALE: NONE

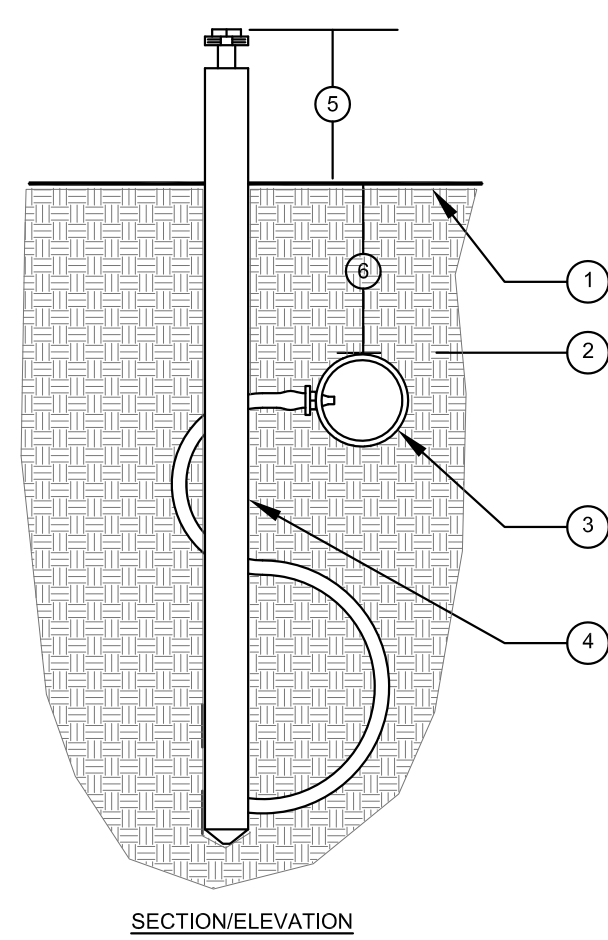
NOTE: IRRIGATION DETAILS SHALL COMPLY WITH THE ENGINEERING PLANS AND MAP PROCEDURES AND GUIDELINES SECTION XVI - LANDSCAPE PLANS, INCLUDING WELO REQUIREMENTS.



- 1 1" [25mm] ABOVE FINISH GRADE.
2 NATIVE SOIL.
3 FINISH GRADE.
4 FLUSH VALVE.
5 ROUND PLASTIC VALVE BOX, REFER TO IRRIGATION SPECS FOR BOX SIZE. HEAT BRAND "RV" ON LID IN 2" [50mm] HIGH CHARACTERS.
6 3/4" [20mm] SCH 80 PVC NIPPLE (LENGTH AS REQUIRED).
7 BRICK - 2 TOTAL.
8 PEA GRAVEL 18" [450mm] DEEP.
9 PVC TEE (SxSxT) WITH 3/4" [20mm] THREADED OUTLET.
10 PVC PIPING.
11 19 GAUGE 1/2" [13mm] SQUARE WIRE MESH.
- NOTE: USE ONE FLUSH VALVE FOR EVERY 7 GPM PER ZONE. LOCATE AT LOW POINTS. FLUSH RATE IS 0.8 GPM. FLUSH PRESSURE IS 2 PSI.



- 1 1" ABOVE FINISH GRADE.
2 FINISH GRADE.
3 6" ROUND PLASTIC VALVE BOX, HEAT BRAND "AR" ON LID IN 1" HIGH CHARACTERS.
4 TORO DL2000 AIR/VACUUM RELIEF VALVE (YD-500-34).
5 TORO LOC-EZE X 1/2" FPT TEE (FTF16).
6 TORO DL2000 TUBING (RGP-XX-XXX) OR TORO BLUE STRIPE POLY TUBING (EHD1645-XXX) AIR-RELIEF LATERAL.
7 PEA GRAVEL SUMP (6" DEEP).
8 BRICK SUPPORTS (2 COMMON BRICKS REQUIRED).
9 NATIVE SOIL PER SPECIFICATIONS.
- NOTE: USE ONE AIR/RELIEF VALVE FOR EVERY 7 GPM PER ZONE. LOCATE AT HIGH POINTS.



- 1 FINISH GRADE.
2 SOIL BACKFILL.
3 DRIPLINE.
4 OPERATION INDICATOR. USE ONE PER ZONE AND LOCATED AT FLUSH END OF ZONE.
5 2"-3" [50mm - 75mm] ABOVE FINISH GRADE.
6 REFER TO IRRIGATION LEGEND.

1 TORO DL 2000 CENTER FEED LAYOUT

SCALE: NONE

2 TORO DL 2000 END FEED LAYOUT

SCALE: NONE

3 TORO DL 2000 FLUSH VALVE (PVC TEE)

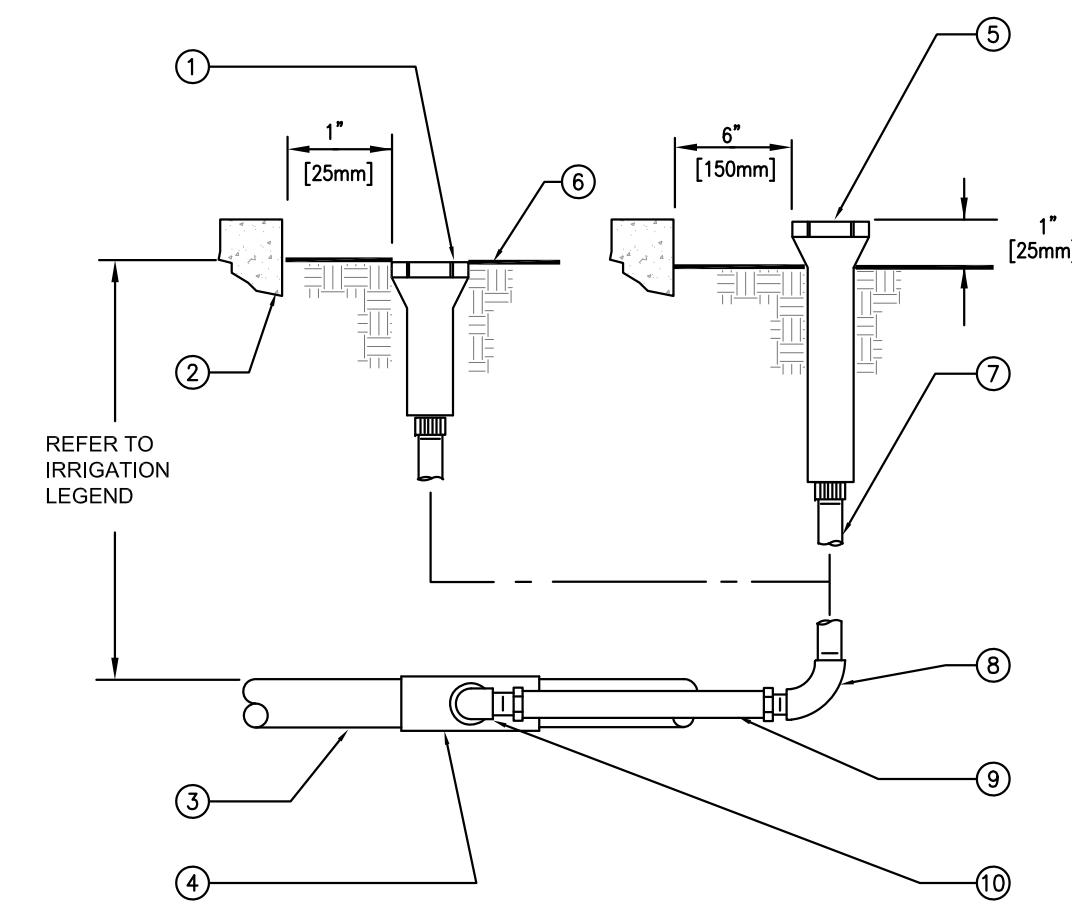
SCALE: NONE

4 TORO DL 2000 AIR VACUUM RELIEF VALVE

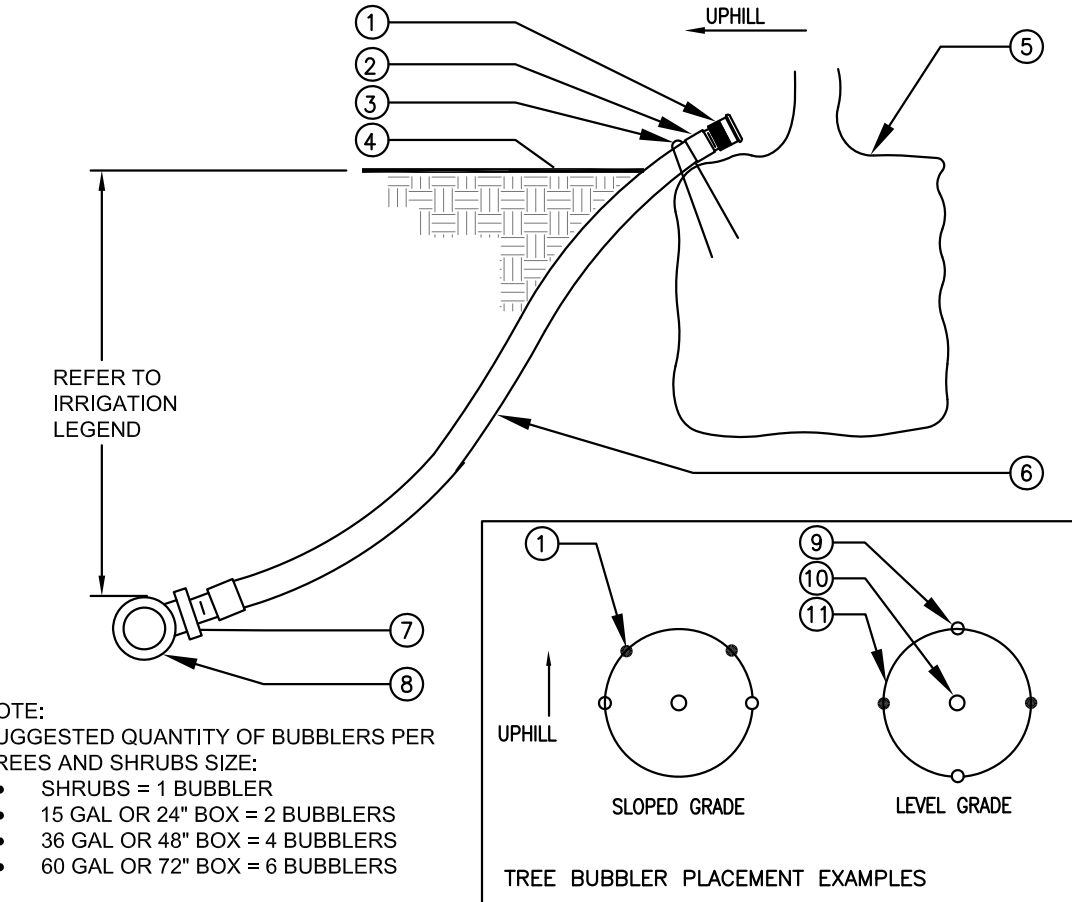
SCALE: NONE

5 TORO DL 2000 OPERATION INDICATOR

SCALE: NONE

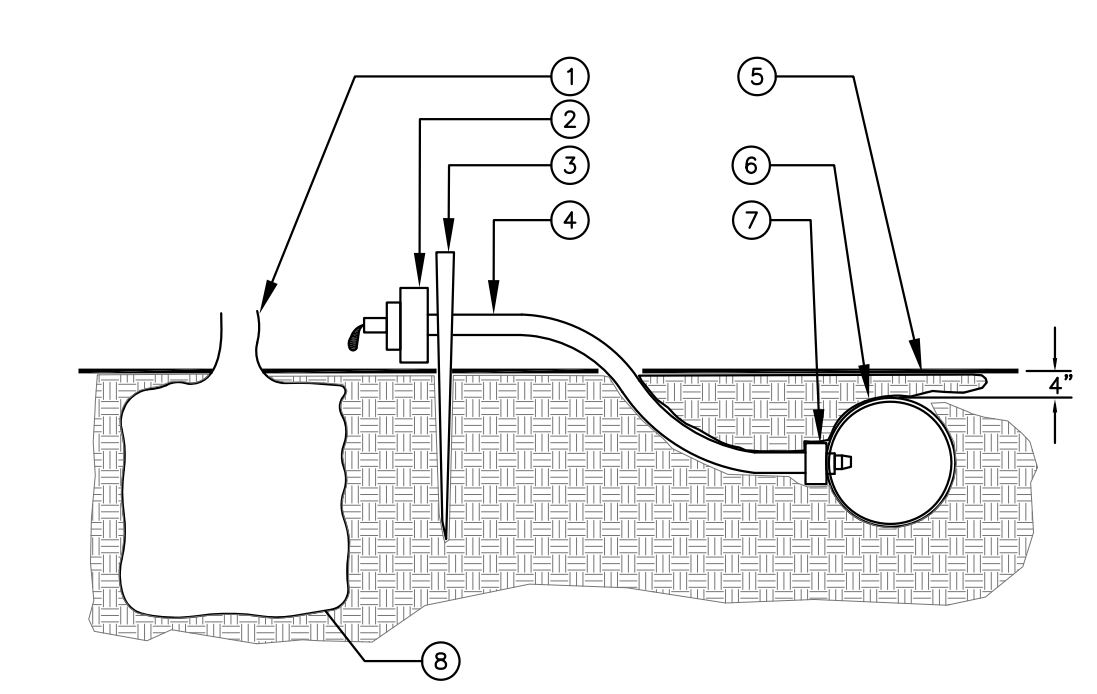
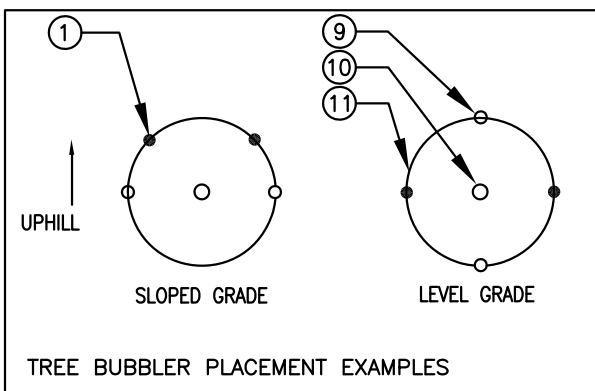


- 1 POP-UP LAWN SPRAY SPRINKLER
2 WALL, WALK, CURB OR BUILDING
3 PVC LATERAL LINE
4 UPC APPROVED SCHEDULE 40 PVC TEE OR ELBOW
5 POP-UP SHRUB SPRAY SPRINKLER OR BUBBLER
6 FINISH GRADE
7 1/2" [13mm] SCHEDULE 80 PVC THREADED NIPPLE (LENGTH AS REQUIRED).
8 1/2" [13mm] SCHEDULE 40 PVC THREADED 90° ELL.
9 1/2" [13mm] FLEXIBLE IPS HOSE 6" [150mm] LONG WITH MALE ADAPTERS OR 1/2" [13mm] FLEXIBLE SWING JOINT (1/2" x 6") [13mm x 150mm] WITH A MINIMUM PRESSURE RATING OF 100 PSI [690kPa].
10 1/2" [13mm] SCHEDULE 40 PVC STREET ELL.



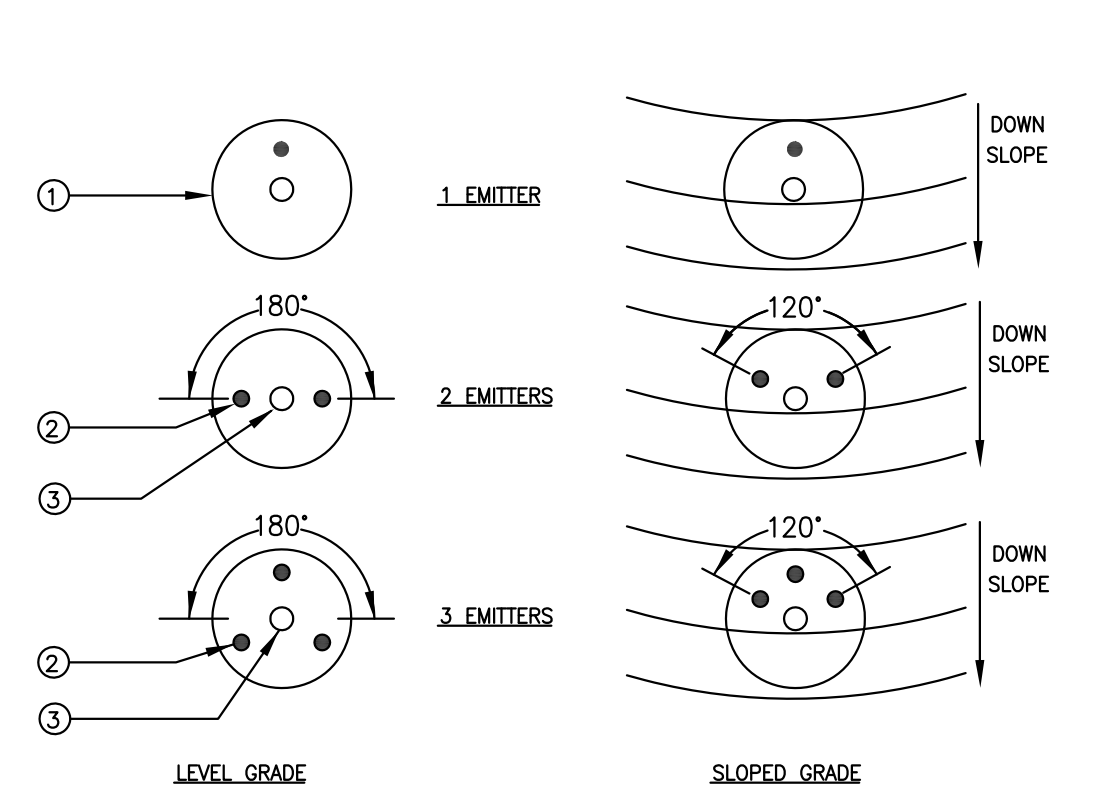
NOTE: SUGGESTED QUANTITY OF BUBBLERS PER TREES AND SHRUBS SIZE:

- SHRUBS = 1 BUBBLER
- 15 GAL OR 24" BOX = 2 BUBBLERS
- 36 GAL OR 48" BOX = 4 BUBBLERS
- 60 GAL OR 72" BOX = 6 BUBBLERS



NOTE: TO INSERT BARBED CONNECTOR INTO POLYETHYLENE TUBING, USE INSERTION TOOL, WHERE POLYETHYLENE TUBING CAN BE PLACED ADJACENT TO SHRUB ROOTBALL, A BARBED EMITTER MAY BE INSTALLED DIRECTLY INTO POLYETHYLENE TUBING AND DISTRIBUTION TUBING ELIMINATED, POINT OF WATER EMISSION FROM BARBED EMITTER MUST DRIP WATER DIRECTLY ON ROOTBALL.

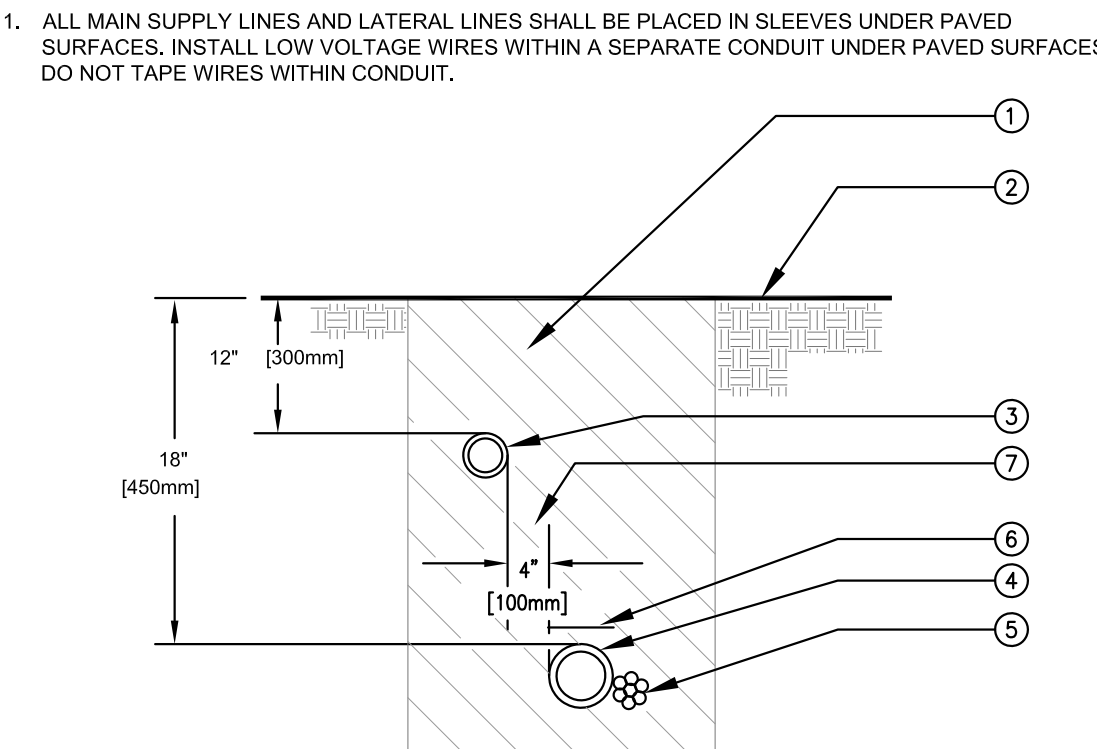
- 1 SHRUB STEM.
2 EMITTER REFER TO EMITTER SCHEDULE FOR QUANTITY OF EMITTERS PER PLANT.
3 TUBING SUPPORT STAKE (SALCO DTS-200-400)
4 1/4" TUBING DO NOT EXCEED 3' [1m] IN LENGTH.
5 FINISH GRADE.
6 SALCO PVC FLEX HOSE, INSTALL 4" [100mm] BELOW FINISH GRADE.
7 BARBED MALE ADAPTER.
8 EDGE OF ROOTBALL.



- 1 EDGE OF ROOTBALL (TYPICAL)
2 EMITTER OR DISTRIBUTION TUBE OUTLET (TYPICAL)
3 SHRUB STEM (TYPICAL)

EMITTER SCHEDULE			
PLANT SIZE	EMITTER SPECIFACATION	FLOW (GPH)/PER EMITTER OR OUTLET	QUANTITY OF EMITTERS PER SHRUB/TREE
1 GALLON SHRUBS	USE SLV-PS-CV-1	1 GPH	2
5 GALLON SHRUBS	USE SLV-PS-CV-2	2 GPH	2
15 GALLON	USE SLV-PS-CV-2	2 GPH	3

MAXIMUM AMOUNT OF FLOW PER DRIP TUBING RUN IS 240 GPH



- 1 CLEAN BACKFILL MATERIAL.
2 FINISH GRADE.
3 LATERAL LINE.
4 MAIN LINE.
5 LOW VOLTAGE CONTROL WIRE. TAPE AND BUNDLE TUBING OR WIRING AT 10 FT. INTERVALS. WIRING SHALL BE LAID OUT LOOSELY IN THE TRENCH.
6 DETECTABLE WARNING TAPE OVER MAIN LINE - 3" [75mm] ABOVE PIPE.
7 TYPICAL DISTANCE BETWEEN PIPES.

6 POP-UP SPRAY SPRINKLER RISER

SCALE: NONE

7 TREE AND SHRUB BUBBLER

SCALE: NONE

8 SALCO FLEX TUBING EMITTER PLACEMENT

SCALE: NONE

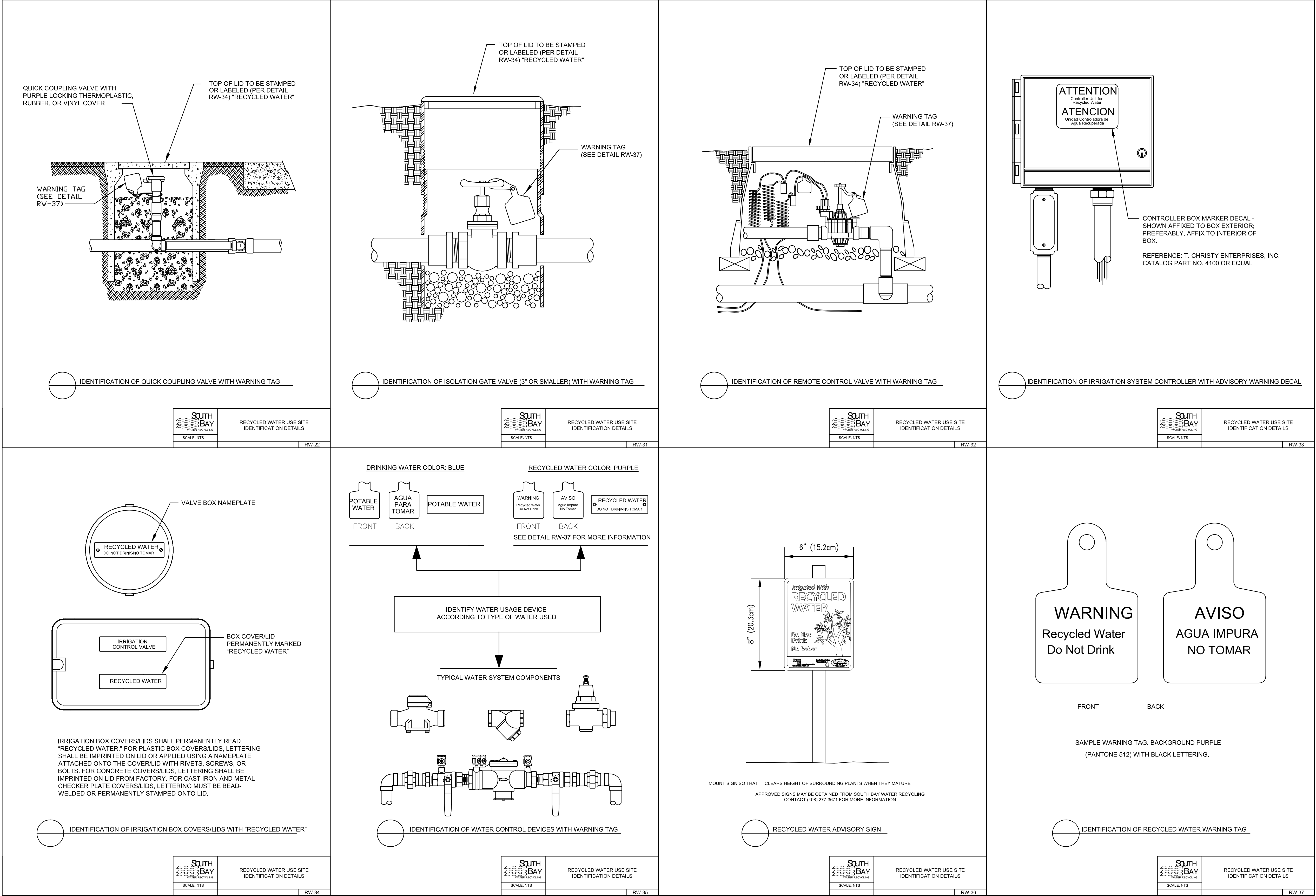
9 SALCO EMITTER PLACEMENT AND

SCALE: NONE

10 TRENCHING

SCALE: NONE

NOTE: IRRIGATION DETAILS SHALL COMPLY WITH THE ENGINEERING PLANS AND MAP PROCEDURES AND GUIDELINES SECTION XVI - LANDSCAPE PLANS, INCLUDING WELO REQUIREMENTS.



PROPOSED PLANT PALETTE

BOTANICAL NAME	COMMON NAME	MINIMUM CONTAINER SIZE	EXPOSURE	COMMENTS	WUCOLS
STREET TREES:					
PISTACIA CHINENSIS	CHINESE PISTACHE	24" BOX	SUN	STANDARD	M
NARROW EVERGREEN TREES:					
ARBUTUS 'MARINA'	NCN	24" BOX	N/A	STANDARD	M
* CALODENDRUS DECURRENS	CALIFORNIA INCENSE CEDAR	24" BOX	N/A	STANDARD	M
MAGNOLIA GRANDIFLORA 'TEDDY BEAR'	MAGNOLIA	36" BOX	SUN/SHADE	STANDARD	M
MAGNOLIA 'LITTLE GEM'	LITTLE GEM MAGNOLIA	24" BOX	N/A	STANDARD	L
TRISTANIA LAURINA	NCN	24" BOX	N/A	STANDARD	L
SMALL FLOWERING ACCENT TREES:					
CHIONANTHUS RETUSUS	NCN	24" BOX	SUN/SHADE	STANDARD	L
CERCIS CANADENSIS 'FOREST PANSY'	EASTERN REDBUD	24" BOX	N/A	STANDARD	M
LAGERSTROEMIA INDICA 'MUSKOGEE'	LAVENDER CRAPE MYRTLE	24" BOX	SUN	STANDARD	L
MALUS SPECIES	CRABAPPLE	24" BOX	SUN	STANDARD	L
FOUNDATION SHRUBS:					
* ARCTOSTAPHYLOS SPECIES	MANZANITA	5 GALLON	SUN		L
COLEONEMA PULCHRUM	PINK BREATH OF HEAVEN	5 GALLON	SUN		L
CORREA SPECIES	AUSTRALIAN FUCHSIA	5 GALLON	SUN/ PART SHADE		L
HIMALAYACALAMUS FALCONERI 'DAMARAPA'	CANDY STRIPE BAMBOO	5 GALLON	SUN/ PART SHADE		L
LOROPETALUM 'CHINESE	NCN	5 GALLON	PART SHADE		M
RAPHIOLEPIS INDICA 'SPRING RAPTURE'	INDIAN HAWTHORN	5 GALLON	SUN/ PART SHADE		L
ROSMARINUS 'BLUE SPIRES'	UPRIGHT ROSEMARY	5 GALLON	SUN/ PART SHADE		L
OSMANTHUS FRAGRENS	NCN	5 GALLON	SUN/ PART SHADE		L
INTERMEDIATE SHRUBS:					
CORREA SPECIES	AUSTRALIAN FUCHSIA	5 GALLON	SHADE/SUN		L
DIETES VEGETA	FORTNIGHT LILY	5 GALLON	SHADE/SUN		L
LAVANDULA SPECIES	LAVENDER	5 GALLON	SUN		L
LIRIOPE GIGANTEA	LIRIOPE	5 GALLON	SHADE/SUN		L
* MAHONIA SPECIES	NCN	5 GALLON	SHADE/SUN		L
NANDINA DOMESTICA	HEAVENLY BAMBOO	5 GALLON	SHADE/SUN		M
PHORMIUM SPECIES	NEW ZEALAND FLAX	5 GALLON	SUN		L
PITTIOSPORUM TOBIRA 'WHEELER'S DWARF'	PITTIOSPORUM	5 GALLON	SUN/SHADE		L
ROSA SPECIES	SHRUB ROSE	5 GALLON	SUN		M
FOREGROUND SHRUBS:					
AGAPANTHUS SPECIES	LILY OF THE NILE	1 GALLON	SHADE/SUN		M
HEMEROCALLIS HYBRIDS	EVERGREEN DAYLILY	1 GALLON	SUN		M
'ORANGE/YELLOW MIX 50/50'					
KNIPHOFIA SPECIES	RED-HOT POKER	1 GALLON	SUN		L
LAVANDULA 'MUNSTEAD'	ENGLISH LAVENDER	1 GALLON	SUN		L
LIRIOPE MUSCARI 'BIG BLUE'	BIG BLUE LILY	1 GALLON	SHADE		M
ANIGOZANTHOS	KANGAROO PAW	1 GALLON	SUN		L
PHORMIUM SPECIES (DWARF)	NEW ZEALAND FLAX	1 GALLON	SUN		L
SEDUM SPECIES	NCN	1 GALLON	SUN		L
SENECIO SPECIES	NCN	1 GALLON	SUN		L
* CAREX SPECIES	CAREX	1 GALLON	SUN/SHADE		L
PITTIOSPORUM SPECIES	TOBIRA	5 GALLON	SUN		L
GROUNDCOVERS:					
* ARCTOSTAPHYLOS SPECIES	MANZANITA	1 GALLON	SUN		L
GREVILLEA LANIGERA 'COASTAL GEM'	NCN	1 GALLON	SUN/SHADE		L
ROSA 'PEACH DRIFT'	PEACH DRIFT	2 GALLON	SUN		M
ROSA 'PINK DRIFT'	PINK GROUNDCOVER ROSE	2 GALLON	SUN		L
* ZAUSCHNERIA SPECIES	CALIFORNIA FUCHSIA	1 GALLON	SUN		L
GRASSES:					
* CALOMOGROTIS SPECIES	REED GRASS	1 GALLON	SUN		L
FESTUCA MAIREI	ATLAS FESCUE	1 GALLON	SUN		L
LOMANDRA	LOMANDRA	1 GALLON	SUN		L
* MUHLENBERGIA SPECIES	DEER GRASS	1 GALLON	SUN		L
* PENNisetum SPECIES	FOUNTAIN GRASS	1 GALLON	SUN		L
VINES:					
FICUS PUMILA	CREEPING FIG	5 GALLON	SUN/SHADE		M
PARTHENOCEISSUS TRICUSPIDATA	BOSTON IVY	5 GALLON	SUN/SHADE		M
JASMINUM SPECIES	JASMINE	5 GALLON	SUN/SHADE		M
STORM WATER TREATMENT SHRUBS AND GRASSES:		1 GALLON	MIX EVENLY		
SPECIES/COMMON NAME					
* ARISTIDA PURPUREA - PURPLE THREE-AWN	JUNCUS PATENS - BLUE RUSH				
* BOUTELOUA GRACIS - BLUE GRAMA	LEYMUS CONDENSATUS - GIANT WILD RYE				
* CAREX TEMULICOLA - BERKELEY SEDGE	MELICA CALIFORNICA - CALIFORNIA MELIC				
CHONDRPETALUM TECTORUM - CAPE RUSH	* MIMULUS SPECIES - MONKEY FLOWER				

NOTE:

SEVERAL TREE SPECIES ARE LISTED PER TREE TYPE TO ALLOW FOR FLEXIBILITY IN THE EVENT THAT A SPECIFIC SPECIES IS UNAVAILABLE AT INSTALLATION OR PLANTING AREA IS LIMITED BY UTILITIES. NOT ALL SPECIES OF TREES, SHRUBS, GROUNDCOVERS OR GRASS WILL BE PROPOSED FOR CONSTRUCTION DOCUMENTS.

* NATIVE CALIFORNIA PLANT SPECIES

TREE MITIGATION:

TOTAL REQUIRED MITIGATION TREES: 26 24" BOX TREES
TOTAL PROPOSED MITIGATION TREES: 157 24" BOX TREES
REFER TO TREE MITIGATION PLAN SHEET L-3

MINIMUM TREE CLEARANCE NOTE:

1. SMALL TREES (15' TALL/WIDE) SHALL BE PLACED A MINIMUM OF 6' FROM BUILDINGS AND A MINIMUM OF 2' FROM EDGES OF PAVING, CURBS OR WALLS.
2. MEDIUM TREES (25' TALL/WIDE) SHALL BE PLACED A MINIMUM OF 10' FROM BUILDINGS AND A MINIMUM OF 3' FROM PAVING, CURBS OR WALLS.
3. LARGE TREES (ABOVE 25' TALL/WIDE) SHALL BE PLACED A MINIMUM OF 15' FROM BUILDINGS AND A MINIMUM OF 3' FROM PAVING, CURBS OR WALLS.
4. 5' MINIMUM FROM JOINT TRENCH, WATER LINES, WATER METERS AND FIRE HYDRANTS.
5. 8' MINIMUM FROM SANITARY SEWER AND STORM DRAINS.

WATER CONSERVATION CONCEPT STATEMENT:

THE IRRIGATION SYSTEM SHALL BE DESIGNED TO MEET CURRENT WATER EFFICIENCY STANDARDS AND STATE MODEL WATER EFFICIENT LANDSCAPE ORDINANCE AB1881 AS REQUIRED BY LOCAL JURISDICTIONS WHILE ACHIEVING THE FOAL OF EFFECTIVELY AND EFFICIENTLY PROVIDING THE LANDSCAPE WITH WATER BY MEANS OF HIGH EFFICIENCY SPRAY IRRIGATION TO THE TURN AND GROUNDCOVER AREAS AND DRIP IRRIGATION BUBBLERS TO RESTRICTED SHRUB PLANTING AND SHRUB MASS PLANTING AREAS AS APPLICABLE.

IRRIGATION SYSTEMS SHALL BE DESIGNED TO ACCOMMODATE RECYCLED WATER WHERE AVAILABLE EITHER CURRENTLY OR IN THE FUTURE AS DIRECTED BY THE LOCAL WATER PURVEYOR. RECYCLED WATER SYSTEMS SHALL BE DESIGNED IN ACCORDANCE WITH LOCAL AND STATE CODES.

IRRIGATION SYSTEMS FOR LANDSCAPES GREATER THAN 5,000 S.F. SHALL HAVE A DEDICATED WATER METER FOR IRRIGATION.

A WATER EFFICIENT LANDSCAPE WORKSHEET SHALL BE INCLUDED WITH HYDROZONE INFORMATION TABLE, WATER BUDGET CALCULATIONS AND IRRIGATION OPERATION SCHEDULES.

A STATE OF THE ART ET BASED SELF ADJUSTING IRRIGATION CONTROLLER SHALL BE SPECIFIED FOR THIS PROJECT TO AUTOMATICALLY CONTROL THE WATER ALLOCATED TO EACH VALVE GROUPED PER INDIVIDUAL HYDROZONE (BASED ON PLANT TYPE AND EXPOSURE). THIS SHALL INCLUDE RAIN AND FLOW SENSORS AS APPLICABLE FOR A HIGHER LEVEL OF WATER CONSERVATION.

TREE BUBBLERS SHALL BE INCLUDED ON SEPARATE CIRCUITS TO ISOLATE THE IRRIGATION TO THE TREES AND PROVIDE DEEP WATERING TO PROMOTE A DEEPER ROOT STRUCTURE.

SPRAY IRRIGATION SYSTEMS FOR GROUNDCOVER AREAS GREATER THAN 8' WIDE IN ANY DIRECTION SHALL BE DESIGNED WITH COMMERCIAL SERIES SPRAY HEADS WITH HIGH EFFICIENCY NOZZLES THAT INCLUDE INTERNAL CHECK VALVES AND RPRESSURE COMPENSATION DEVICES. THE HEADS SHALL BE DESIGNED IN A HEAD TO HEAD LAYOUT TO ACHIEVE AN EVEN LEVEL OF PRECIPITATION THROUGHOUT THE IRRIGATION SYSTEM. THE NOZZLES DELIVER WATER AT A MINIMUM 70% EFFICIENCY WITH A LOW PRECIPITATION RATE THAT MATCHES THE INFILTRATION RATE OF THE SOIL.

THE DRIP SYSTEM SHALL INCORPORATE PRESSURE COMPESATING DRIP BUBBLERS WITH 1/4" DRIP TUBES TO EACH PLANT WHICH DELIVERS WATER AT 90% EFFICIENCY AT AN APPLICATION RATE THAT MATCHES THE SOIL TYPE.

WATER USE RATING LEGEND:

EBMUD CATEGORIES OF WATER NEEDS FROM:
PLANTS & LANDSCAPES FOR SUMMER DRY CLIMATES OF THE SAN FRANCISCO BAY REGION BY THE EAST BAY MUNICIPAL UTILITY DISTRICT, 2004

MOD	MODERATE WATER
OCC	OCCASIONAL WATER
INF	INFREQUENT WATER
NONE	NO ADDITIONAL WATER

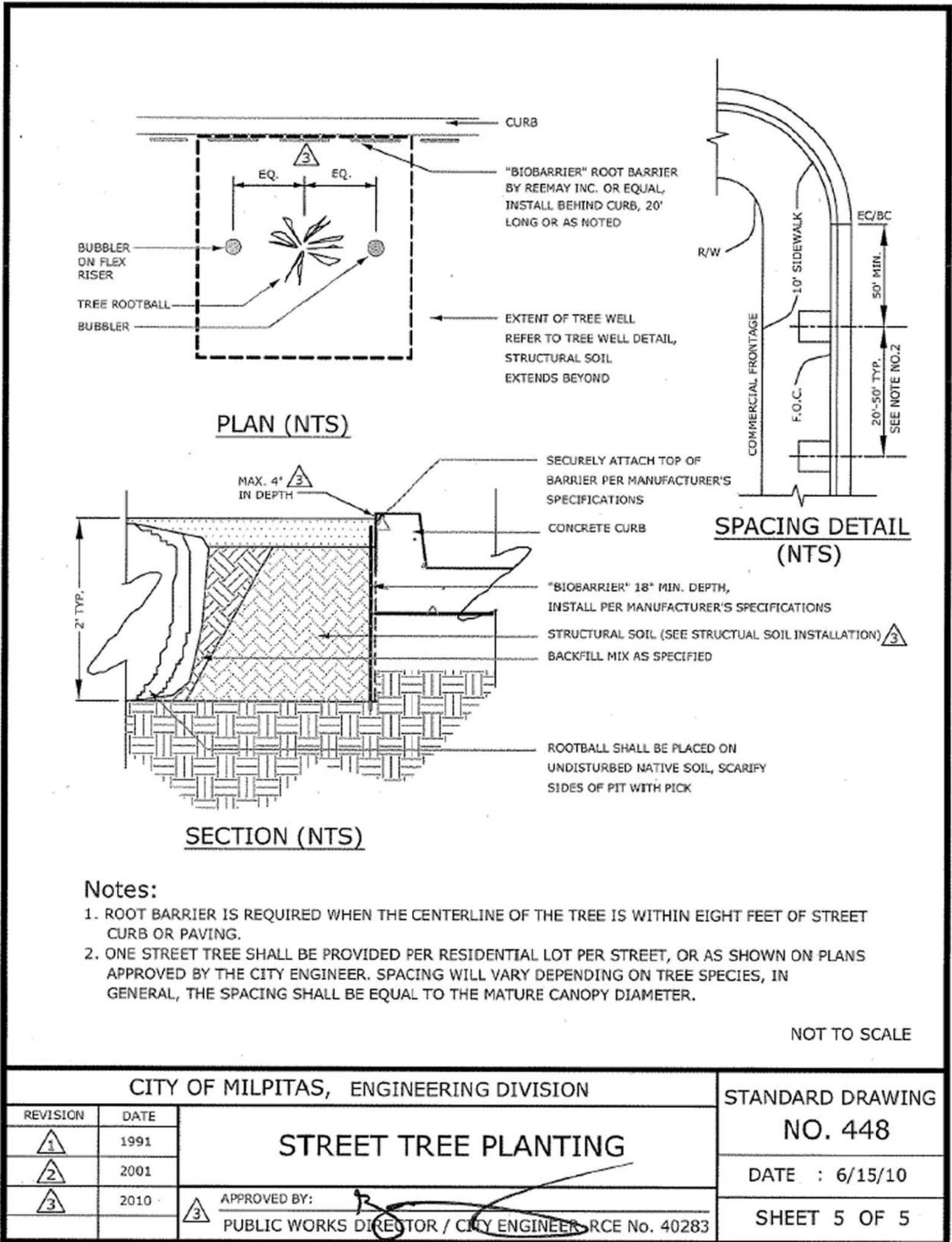
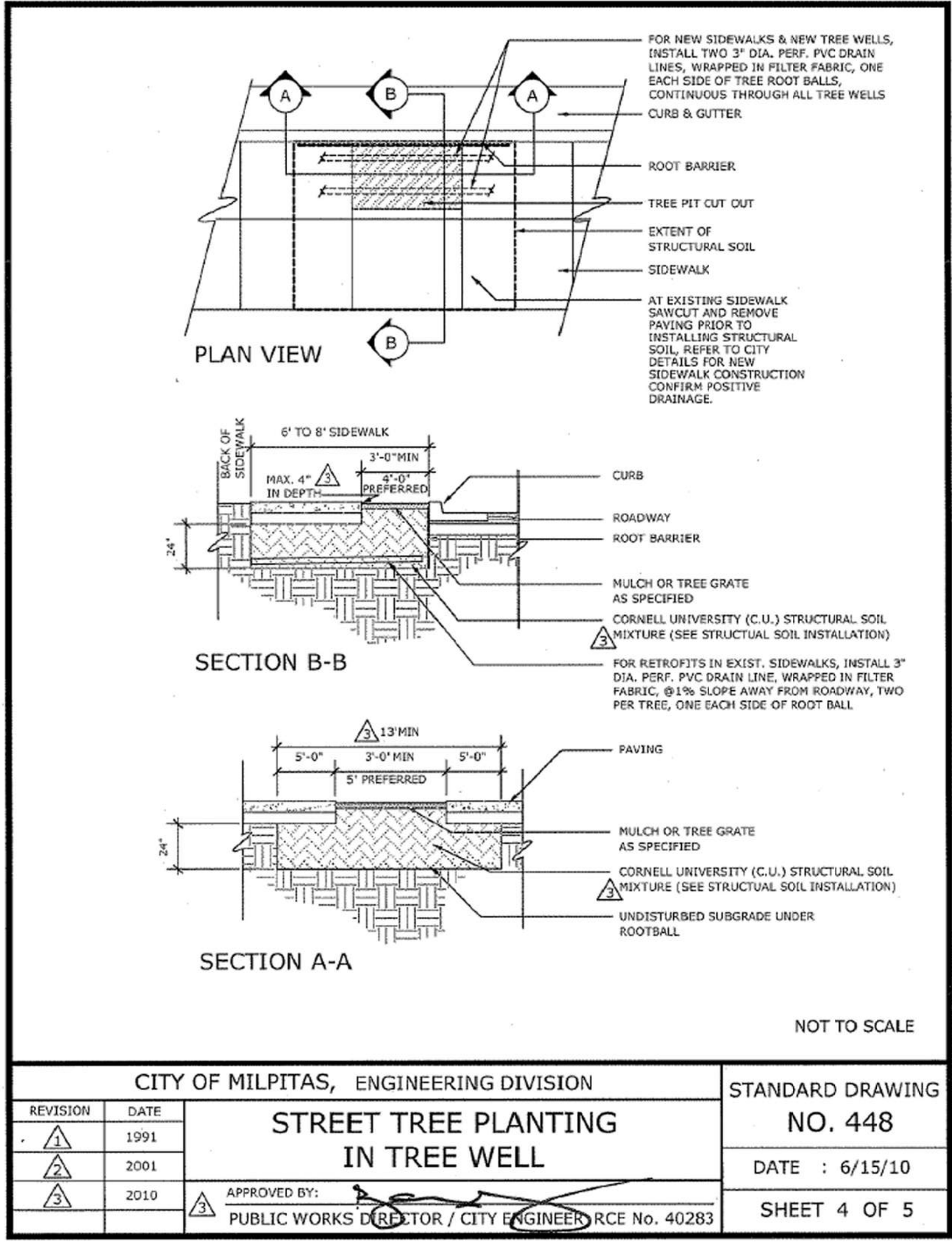
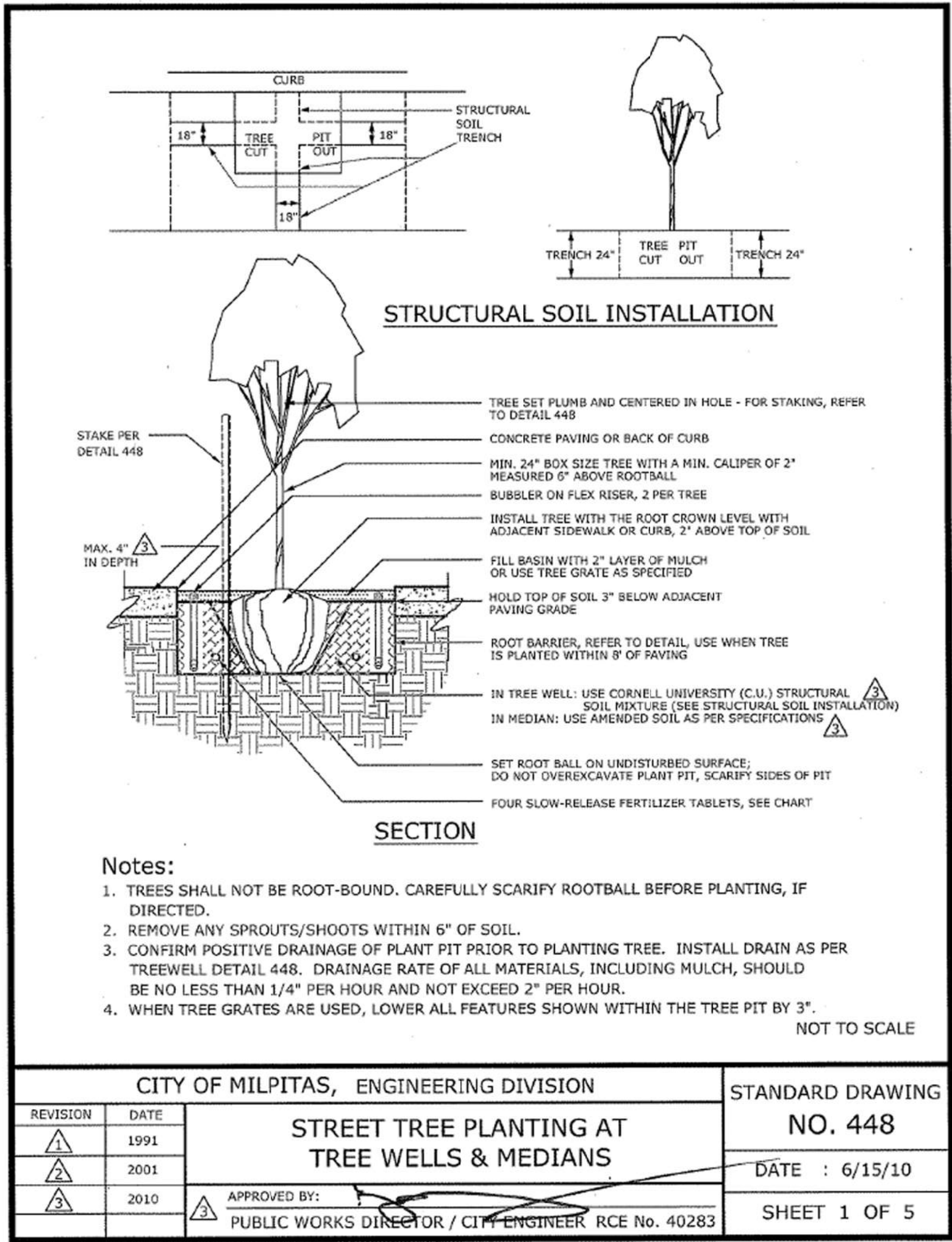
WUCOLS III CATEGORIES OF WATER NEEDS FROM:
UNIVERSITY OF CALIFORNIA COOPERATIVE EXTENSION, CALIFORNIA DEPARTMENT OF WATER RESOURCES, UNITED STATES BUREAU OF RECLAMATION

H	HIGH
M	MODERATE
L	LOW
VL	VERY LOW

CALIFORNIA NATIVE PLANTS (CNP) FOR THE GARDEN BY CAROL BORNSTEIN, DAVID FROSS, BART O'BRIEN

MOD	MODERATE WATER
OCC	OCCASIONAL WATER
INF	INFREQUENT WATER

ON-SITE	TOTAL PLANTS	SUBTOTAL PLANTS WITH OCC/INF/NONE/ LOW/VERY LOW WATER REQUIREMENTS
PERCENTAGE OF PLANTS MEETING LOW WATER REQUIREMENTS: 94.7% MORE THAN 75% REQUIRED		



From: [REDACTED]
To: [City Clerk](#)
Cc: [REDACTED] [Kristina Phung](#)
Subject: Objection to City Planning Commission Recommendation for approval of Housing Development at 612 S Main Street
Date: Monday, March 6, 2023 3:53:17 PM
Attachments: [Letter to Milpitas City Council Signed.pdf](#)

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links.

Dear Ms. Guzzetta,

Thank you for giving us an opportunity for providing information on how we may appeal the recommendation/decision of Commission by writing a letter of appeal.

Jain Center of Northern California (JCNC-a non-profit religious organization located at 722 S Main Street, Milpitas) has been very concerned about the subject development recommendation by Commission. The project development became known to JCNC only two days before Planning Commission meeting on February 22, 2023. We have expressed our concerns and impacts in person at this meeting.

As the Commission has moved the subject item forward to City Council, JCNC is objecting/protesting their decision in the attached letter to City Council.

As I understand, the subject item is anticipated to be placed on City Council meeting agenda dated April 4, 2023. Please confirm.

Once again thanks for giving us an opportunity to hear our concerns and present them through this objection letter and at the City Council meeting.

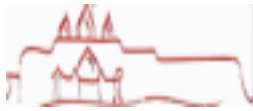
This letter is also cc'd to City Planner Ms. Phung for information.

Your acknowledgement of receiving this letter is highly appreciated.

Please let me know if you have any questions.

Regards,

Kirit Bavishi
JCNC Volunteer



Jain Center of Northern California

722 South Main Street, Milpitas, CA 95035

(408) 262-6242 ♦ <http://www.jcnc.org>

(A California Non-Profit Religious Corporation Federal Tax ID 94-277-8859)

March 6, 2023

To:

City Council

City of Milpitas

455 E. Calaveras Blvd.

Milpitas, CA 95035

Attn: Suzanne Guzzetta, City Clerk's Office (email: CityClerk@milpitas.gov)

RE: Objection to City Planning Commission's Recommendation for Approval of
Housing Development on Main Street

Dear Milpitas City Council:

This letter is sent on behalf of the Jain Center of Northern California ("JCNC") located at 722 S. Main Street in Milpitas in follow up to the City Planning Commission Meeting on February 22, 2023 in which the City Planning Commission recommended (4 approving to 2 denying) to go forward with a housing development on Main Street by True Life Townhomes at 612 S. Main Street in Milpitas adjacent to the Jain Center. This potential development has numerous concerns for JCNC and for the Milpitas community overall and we request that the City Council put this project on hold until all concerns are addressed and resolved.

In the Milpitas Gateway – Main Street Specific Plan (a link provided below), it is provided that "the (Main Street) area is home to a mix of religious, cultural, educational, and public uses that converge along Main Street" and that "these anchors (including the Jain Center of Northern California) are key to what makes Main Street a diverse, unique center, and will be important to the planning process." See page 31 from the Community Workshop #1 and pages 20 and 21 from the Workshop #1 held on June 29, 2022 which is attached herein as **Exhibit 1 and 2**.

The City of Milpitas has supported JCNC since its inauguration and it has been declared a landmark by multiple past Mayors and City officials who have visited JCNC. This new proposed development with its 37 feet height structure and close proximity to JCNC will overshadow and obstruct the unique beauty of JCNC and take away from the uniqueness of Main Street overall.

While we are mindful of what the City wishes to do in the Milpitas Gateway – Main Street Specific Plan and what this developer proposes, we are asking for more time and a town hall meeting to discuss this project in more detail. We learned about this project for the first time, 2 days prior to the City Planning Commission meeting, which is insufficient time to provide our concerns and potential ramifications of such a development. We were astonished that no town hall meeting was conducted nor had anyone come to discuss this proposal with us as being a very next-door neighbor, and part of the surrounding businesses that would be most impacted by this proposed large development. Notices in front of the proposed development and a postcard sent out 10 days prior to the City Planning meeting is inadequate. We did not receive the postcard until 2 days prior. Other owners on Main Street did not even get a postcard. It is our understanding that public meetings and notices are conducted periodically for public comments and concerns during the project planning and approval process. Thus, we require more time to understand and assess the issues and potentially come up with solutions for mutual benefit

We are also concerned about this project being exempted from an environmental study due to CEQA since this proposed project will have grave impact on JCNC, surrounding businesses and to the Milpitas Community causing increased traffic in the area, parking problems (as seen in other prior housing developments near that area), air quality issues especially during construction, increased noise, etc. JCNC already struggles with parking during its larger religious and community events, which generally occur during the weekend and bring in more than 1500 to 3000 people to Milpitas from Milpitas and the surrounding cities all over the Bay Area. In addition, many people come from other counties, states, and countries. During those events, JCNC feeds more than 3000 to 6000 people for free. There is also a period over 20 days known as “Paryushan festival” when Jains follow a period of fasting and austerity in their daily life. During this auspicious religious meditation time, Jains are introspective in prayer and require silence. Noise during Paryushan would be problematic. Besides, it may impose restrictions on routine religious activities and hurt religious freedom. The project cumulative impacts must be assessed for the CEQA.

JCNC is a unique, one of a kind temple which has brought Milpitas on the map of the Jain communities all over the world and which brings in visitors from all over the US and the world. Multiple well known educational institutions have also come to tour JCNC and learn more about Jainism, which believes in non-injury to any living being, peace, and inclusivity.

The required impact of this proposed development has not been fully studied and discussed with JCNC and its neighbors. Traffic analysis needs to be done appropriately taking into account not only traffic during the weekdays but also during the weekends. Consider a situation on a weekend when hundreds of cars are passing on Main Street where the 57 residents of the new development are moving to perform personal chores during the day and whilst a major event is occurring at JCNC. The traffic will be unbearable for all, causing potentially more deaths like the one that occurred a while ago with an elderly mother of a Milpitas resident who was crossing the street in front of JCNC to come to pray at the temple and a commuter who was in a rush just sped through the street without seeing the elderly mother causing her unfortunate and unnecessary death.

Ned Thomas, City of Milpitas Planning Director, has said that in order to meet the City's RENA (housing) numbers, they wanted to be visionary and creative and that at the end of the day, they want everything (in whatever is developed on Main Street) to work together efficiently including transportation, the land use, historical resources, etc. and that they are optimistic and idealistic that they can achieve this. With this proposed development, at this time, this is not being achieved with everything not working together efficiently with transportation and historical resources including the JCNC that have been on Main Street for more than two decades ~~years~~ being overshadowed and not considered prior to recommending such development.

We respectfully ask the City Council to reconsider and take additional time to review, analyze, and assess this proposal, and give JCNC the opportunity to better understand the issues and potential resolutions through town hall meetings and workshops prior to approving it.

Best Regards

M. C. Kothari

Mittal Kothari
President of JCNC

cc:

Kristina Phung (408-586-3278)
City Of Milpitas Project Planner
kphung@milpitas.gov

EXHIBIT 1

MILPITAS GATEWAY - MAIN STREET SPECIFIC PLAN

Main Street Focus Area



EXHIBIT 2



MILPITAS GATEWAY - MAIN STREET SPECIFIC PLAN

Social, Cultural, and Community Anchors

1. The area is home to a mix of religious, cultural, educational, and public uses that converge along Main Street.
2. These anchors are key to what makes Main Street a diverse, unique center, and will be important to the planning process.



Workshop #1 | JUNE 29, 2022 // 21

Link below for: Milpitas Gateway – Main Street Specific Plan

<https://drive.google.com/file/d/1aLoJ-1NZQUf8mUf3nluwk0ToGq81bxXA/view>

From: [Jason Miguel](#)
To: [Kristina Phung](#)
Cc: [Kevin Thai](#)
Subject: Re: 612 S Main St Development SD22-0007 Comments (File 34883)
Date: Tuesday, March 28, 2023 11:28:23 AM
Attachments: [image017.png](#)
[image018.png](#)
[image019.png](#)
[image020.png](#)
[image006.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)
[image.png](#)

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links.

Hi Kristina,

The Santa Clara Valley Water District (Valley Water) has reviewed the plans for the development of a multi-family residential project with 57 townhomes, received on February 15, 2023 for the subject site located at 612 S Main St in Milpitas.

According to Federal Emergency Management Agency's (FEMA) current Flood Insurance Rate Map No. 06085C0067J dated February 19, 2014, the northerly portion of the site is located in Zone D which is areas in which flood hazards are undetermined, but possible and the southerly portion of the site is located within a Special Flood Hazard Area (SFHA) Zone AO and would be subject to flood depths of 1 foot (usually sheet flow on sloping terrain). To comply with federal flood insurance regulations, the lowest floor and highest adjacent grade of any building, must be above the 1 percent water surface elevation. We recommend the lowest flood be a minimum of 2 feet above the 1 percent water surface elevation.

In accordance with Valley Water's Water Resources Protection Ordinance, any work proposed which affects Valley Water's facilities or work which takes place on Valley Water's fee title property or easement will require review and approval for the issuance of a Valley Water encroachment permit. The proposed work does not occur on Valley Water property and therefore, will not require a Valley Water encroachment permit.

If you have any questions, or need further information, you can reach me at (408) 630-2976, or by email at JMiguel@valleywater.org.

Thanks,

JASON MIGUEL

ASSISTANT ENGINEER I - CIVIL
Community Projects Review Unit
Tel. (408) 630-2976 / Cell. (408) 761-5789



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Receive Housing Report and Presentation (Staff Contact: Alex Andrade, Director of Economic Development, 408-586-3046; and Robert Musallam, Housing and Neighborhood Services Administrator, 408-586-3275)
Category:	Community Development
Meeting Date:	4/4/2023
	<u>Recommendation:</u> Receive Housing Report and presentation.

BACKGROUND:

With the dissolution of the state's Redevelopment Agencies in 2011, California began experiencing a growing lack of adequate housing options to meet the demands of its population. Soaring housing prices combined with inadequate housing have contributed to a housing crisis across the state, and especially so in the San Francisco Bay Area, which has among the highest median home prices in the nation.

The lack of affordable housing options has led to an increased number of individuals and families being unhoused or at risk of being unhoused. Although the County is the primary entity tasked with providing access to affordable housing and supportive services to the unhoused in Santa Clara County, it is unable to meet the demands of all those that need these services. Thus, each city is having to develop solutions at the local level to meet the various housing needs.

As the housing crisis has continued to escalate, the State has attempted to resolve it through a multitude of legislative bills and funding for various housing related efforts. Additionally, cities are also tasked with meeting the Regional Housing Needs Allocation (RHNA), updating their Housing Elements every eight years to demonstrate how they will meet their housing goals, and satisfying other reporting requirements associated with various state funding programs. Although the state actions have not yet visibly delivered the desired outcomes, they have resulted in a significant amount of additional work for each city.

Milpitas, like many other cities in Santa Clara County, is unable to provide comprehensive services or housing for all those that need it. However, addressing housing issues continues to be a high priority for the City. Since 2019, the City has invested over \$1,800,000 and garnered \$6,400,000 in external funding and adopted policies and established programs to support efforts targeted to help vulnerable residents access comprehensive services. The investment to date reflects the following programs: Homeless Engagement and Access Team, WeHOPE Dignity on Wheels Mobile Shower and Laundry, Tiny Homes Village Feasibility Study, American Rescue Plan Act (ARPA) Rent and Mortgage Relief Program, and the Community Development Block Grant (CDBG) program.

ANALYSIS:

This Housing Report provides the City Council a comprehensive overview of the City's work in the past 3 years related to housing, including facilitating affordable housing, preventing homelessness, and providing services to the unhoused in Milpitas. The report also provides information on staffing, reporting requirements, and state programs and mandates such as the CDBG Program and the Housing Element.

Unhoused Services

The COVID-19 pandemic greatly exacerbated the need for unhoused resources in Milpitas. In fall 2020, in accordance with City Council direction, staff conducted extensive research and explored homeless outreach and basic needs services that may improve quality of life for Milpitas unhoused residents including outreach and assessment through the County, mobile shower and laundry services, emergency motel vouchers, and wraparound services offered by non-profit partners.

Homeless Engagement and Access Team (HEAT)

On [November 10, 2020](#), City Council approved and directed staff to enter into an agreement for homeless outreach, assessment, and street-based case management services with Santa Clara County Office of Supportive Housing. On March 1, 2021, the County's Homeless Engagement and Access Team (HEAT), via Abode Services, began conducting outreach to engage and provide resources to the City's unhoused residents. A new contract funded by the ARPA was executed in December 2022.

Every individual connected to HEAT is given a vulnerability assessment known as the Vulnerability Index – Service Prioritization Decision Assistance Tool (VI-SPDAT). This survey is administered to both individuals and families to determine the level of vulnerability and to help inform decision makers on the type of support and housing intervention that may be most beneficial to the individual. It also helps inform the priority in which people should be served. This process, known regionally as Coordinated Entry, is a consistent, community-wide intake process to match people experiencing homelessness to existing resources that best benefit the individual's situation. As individuals are entered into the system, they are then placed in the community queue, which determines who gets placed into a permanent housing program. Individuals from Milpitas may be administered the VI-SPDAT and entered into the community queue at any regional coordinated entry location, such as a homeless shelter, and not just from HEAT's assessment efforts.

From March 2021 through December 2022, the HEAT team has made 263 outreach contacts, assessed 229 individuals, and enrolled 212 clients. In 2021, the County reports that 63 Milpitas households enrolled in permanent supportive housing programs have been housed. Staff provides information on these outcomes to City Council on a quarterly basis.

Housing staff serve as the primary service point and work with other departments as needed, for all unhoused services needs in Milpitas. Through the [MyMilpitas](#) app and an internal referral system, staff sends referrals to Abode Services. The average turnaround time from referral to first contact is less than 48 hours.

WeHOPE - Dignity on Wheels

On [December 1, 2020](#), City Council directed staff to implement a six-month pilot program with WeHOPE to provide weekly hot shower and laundry services for unhoused residents in Milpitas. WeHOPE is a nonprofit agency based in Santa Clara County that offers various services to meet the needs of the unhoused. Dignity on Wheels is a program managed by WeHOPE.

The Dignity on Wheels program provides a mobile trailer with shower, laundry, and restroom. Additionally, staff worked with HEAT to provide case management services to further connect clients with a countywide network of services. At each session, WeHOPE provides supplies that include towels, laundry pods, hair and body wash, and hygiene kits. Often there are clothing donations available as well. With City Council direction this pilot was converted to an ongoing program with funding through Spring 2023.

From March 2021 through December 2022, WeHOPE provided shower and laundry services in Milpitas to 177 unduplicated clients. WeHOPE has provided 91 sessions to the unhoused community, serving over 754 clients, totaling 1,601 showers and 567 loads of laundry. Staff provides information on these outcomes to City Council on a quarterly basis.

Supportive Services

Supportive services are services meant to help individuals at-risk of being unhoused remain in their current housing situation. The City has significantly increased the level of supportive services it offers its residents.

Rent and Mortgage Relief

On [October 15, 2019](#), City Council authorized the creation of a Pilot Rent Relief Program. The program was established to serve low- and moderate-income residents, families with dependent children, seniors, disabled individuals, victims of domestic violence, emancipated foster youth, and any resident occupying a subsidized unit. Each family can access up to \$5,000 in rent relief, per year, for items such as rent, security deposit, domestic violence relocation, child and family homelessness relief, and Section 8 good faith deposits. As the COVID-19 pandemic began to impact the community in spring 2020, the City's existing program and established processes provided much needed assistance to at-risk Milpitas residents.

In [September 2021](#), City Council authorized the modification of the Rent Relief Program to the Rent and Mortgage Relief Program funded by ARPA. In [December 2022](#), the City officially launched the rent portion of the Rent and Mortgage Relief Program. To be eligible for rent relief, applicants must be a resident for at least 6 months, have experienced an economic hardship due to COVID-19, and be at or below 120% Area Median Income (AMI). The table below provides the income limits by household size for a family at 120% AMI.

Household Size	1	2	3	4	5	6
120% AMI	\$141,500	\$161,750	\$182,000	\$202,000	\$218,400	\$234,500

In [March 2023](#), the City officially launched the mortgage portion of the Rent and Mortgage Relief Program. To be eligible for mortgage relief, households must have experienced an economic hardship due to COVID-19, currently own one residential property and it must be primary residence of homeowner(s), has not received other forms of governmental or private assistance for the same period requested, and be at or below the 150% AMI limit for Santa Clara County. The table below provides the income limits by household size for a family at 150% AMI.

Household Size	1	2	3	4	5	6
150% AMI	\$176,950	\$202,200	\$227,500	\$252,750	\$273,000	\$293,200

The original rent relief program provided aid to over 100 Milpitas families and over 300 individuals. The Rent and Mortgage Relief Program is estimated to benefit 130 households with rental assistance and 14 households with mortgage assistance.

Permanent Local Housing Allocation (PLHA)

On [November 1, 2022](#), City Council adopted a Resolution authorizing the 2019, 2020, and 2021 funding application and approving a Five-Year (2019-2023) Plan. In February 2023, the City received its award letter from HCD. The City was approved to designate 5% to program administration. The remaining balance will be split with 20% for HEAT funding, and 80% for a Workforce Housing Rental Assistance Program (WHRAP).

The WHRAP would operate similarly to a Section 8 voucher system in that these funds would be used to offset a specific amount of rent paid by the tenant but not necessarily the entire rent. Per PLHA guidelines, rental assistance must help individuals who are at or below 30% of the AMI. The table below provides the income limits by household size for a family at 30% AMI.

Household Size	1	2	3	4	5	6
30% AMI	\$35,400	\$40,450	\$45,500	\$50,550	\$54,600	\$58,650

Using a lottery system for transparency, eligible individuals will be randomly selected. The following preferences will be given to increase the likelihood of selection:

- Employed by the Milpitas Unified School District
- Employed by the City of Milpitas
- Employed by the Hospitality Industry
- Currently live in Milpitas
- And any other areas of City Council interest

The PLHA guidelines require providing rent relief for a minimum period of six months. Housing staff is in the process of finalizing the program details and will return to the City Council to receive further guidance and approval. Depending on the final structure of the program, WHRAP is anticipated to benefit between 20-50 families.

Community Development Block Grant

The Community Development Block Grant (CDBG) Program supports community development activities to build stronger and more resilient communities. Federal funds provided by the Department of Housing and Urban Development (HUD) under the CDBG entitlement program are primarily concerned with activities that benefit low-and moderate-income (LMI) households whose incomes do not exceed 80% of AMI, as established by HUD, with adjustments for smaller or larger families.

The CDBG activities funded address the following priority needs:

Maintain and Preserve Existing Housing

- | | |
|---|--|
| <ul style="list-style-type: none"> • New Affordable Housing • Affordable Housing Rental Rehabilitation • Community Funding/Public Services • Public services for low- and moderate-income residents at risk of eviction • Fair Housing | <ul style="list-style-type: none"> • Public Services for Children and Youth • Public Services for Seniors • Public services for Domestic Violence Support • Public Improvements including accessibility and improving public facilities • Microenterprise |
|---|--|

Affordable Housing

The key to solving the housing crisis is the creation and availability of more affordable housing. Although the City is not funded for housing production it can incentivize, facilitate, and mandate some level of affordable housing through its policies and programs.

Affordable Housing Ordinance No. 297

On [June 19, 2018](#), the City Council adopted an Affordable Housing Ordinance that requires new residential developments with 10 or more units to provide 15% of those units for affordable housing. The Ordinance sets the conditions of approval for all developments in the city. For affordable housing, the Ordinance requires that all ownership projects be affordable to either moderate- or low-income households. Rental projects must be affordable to either very-low- or low-income households. A minor update to the Ordinance was recently adopted by the City Council in January 2022 to provide the development community more clarity on how to navigate the requirements of the Ordinance.

Although the Ordinance has been in effect since 2018, the City's first development under the Ordinance was completed in June 2022. The development provided the City with four (4) new affordable housing units, sold at moderate-income to eligible applicants. As of the writing of this Housing Report, the City estimates that 200+ rental units and 50+ ownership units are currently under development. As new developments are completed, the affordable units become a part of the City's Below Market Rate Housing stock.

Below is a table with the proposed developments:

Project	Total Affordable Units	Tenure
600 Barber Lane	56	Rental
1380-1400 S. Main Street	220	Rental
1504 S. Main Street	38	Rental
308 Sango Court	84	Rental
355 Sango Court	101	Rental
1724 Sunnyhills Drive	7	Rental
1300 S. Main Street	114	Rental
91 Montague Expressway	5	Ownership
1005 N. Park Victoria Drive	4	Ownership
2001 Tarob Court	6	Ownership
612 S Main Street	9	Ownership
675 Trade Zone Boulevard	12	Ownership
1752 Houret Court	8	Ownership

Number of affordable units are subject to change

Below Market Rate Housing

The City of Milpitas offers a Below Market Rate (BMR) program to assist very-low, low-, and moderate-income households in becoming homeowners. The City's BMR inventory consists of dwelling units acquired through the City's Affordable Housing Ordinance. The City's basic eligibility requirements to participate include being a first-time homebuyer, having the ability to provide at least a 10% required down payment, and for a household's income to not exceed very-low, low-, and moderate-income as defined by HCD.

The City currently manages over 200 BMR ownership units and 1,200 rental units and expects to have another 50 BMR ownership units to become a part of the City's portfolio over the next three years. Managing the expanded BMR program will require a significant amount of staffing with the requisite skillsets. Current staffing levels would need to increase to accommodate this additional work. Many other cities use an external vendor to manage their BMR programs and staff will be recommending doing the same in the Proposed Fiscal Year 2023-2024 Budget. Staff will continue to be responsible for monitoring the program administration of the BMR ownership units and ensuring compliance with the program requirements.

Funding

The following section summarizes all City funding and external funding related to housing programs and services.

Unhoused Services

Homeless Engagement and Access Team (HEAT)

The County's Homeless Engagement and Access Team (HEAT), via Abode Services, began in March 2021 and was funded with \$200,000 from the Housing Authority Fund. A new contract of \$100,000 with (ARPA funding was executed in December 2022.

WeHOPE - Dignity on Wheels

WeHOPE's Dignity on Wheels program (weekly mobile shower and laundry services for unhoused residents) began in March 2021. The current contract has a total-not-to-exceed amount of \$86,552. Of the \$86,552, \$71,552 was funded through the California Board of State and Community Corrections Grant and \$15,000 was funded through the Affordable Housing Fund. The current contract has an end date of June 30, 2023 with funding expected to run out in April. In the Proposed Fiscal Year 2023-2024 Budget, \$300,000 from Assemblymember Alex Lee's Office one-time state funding will go towards the Dignity on Wheels Program. In the interim and if approved, additional funding in the amount of \$10,000 from the California Board of State and Community Corrections Grant will be used to bridge the funding need through the end of this fiscal year. This agenda item will be up for City Council's consideration as a consent item on the April 4, 2023, City Council agenda.

Additional State Funding

In March 2022, the City requested support of one-time funding as part of the fiscal year 2022-2023 State budget through Assemblymember Alex Lee's Office. As part of the request, the allocation seeks to support the continuation and expansion of the City's mobile shower and laundry services, for a period of 3 years (\$300,000), establish a Milpitas Resource Center as a 2-year pilot program (\$500,000) and provide rent relief to vulnerable Milpitas residents (\$700,000). At the [September 6, 2022](#) meeting, City Council accepted Assemblymember Lee's one-time state funding request, including \$1,500,000 for homelessness prevention and unhoused services. In fall 2022, the City received notification of the award of state funding, through Assemblymember Lee's Office, in the amount of \$1.5 million for housing related programs and services. This funding will be incorporated in the Proposed Fiscal Year 2023-2024 Budget.

Unhoused Program Data

The table below presents a breakdown of each program, the amount of funding allocated, the year the dollars were funded, the number of *actual* residents the program served, and the funding source.

Program	Funding Allocated	Year	Actual Individuals Served	Fund
HEAT	\$200,000	2021-2022	265	Housing Authority Fund
WeHOPE	\$21,372	2020	184	California Board of State and Community Corrections Grant
WeHOPE	\$50,180	2021-2022	461	California Board of State and Community Corrections Grant

The table below presents a breakdown of each program, the amount of funding allocated, the year the dollars are expected to be funded, the number of residents the program is *expected* to serve, and the funding source.

Program	Funding Allocated	Year	Expected Individuals Served	Fund
---------	-------------------	------	-----------------------------	------

HEAT	\$271,998	2024+	90	Permanent Local Housing Allocation
HEAT	\$100,000	2023	50	ARPA
WeHOPE	\$15,000	2022-2023	130	Affordable Housing Fund
WeHOPE	\$300,000	2024+	1,200	Additional State Funding
Tiny Homes Village Feasibility Study	\$130,000	2022-2023	TBD	Affordable Housing Fund
Milpitas Resource Center	\$500,000	TBD	TBD	Additional State Funding

Supportive Services

Rent and Mortgage Relief

Prior to the approval of ARPA dollars, the City allocated \$1,010,696 in rent relief from the Affordable Housing and Community Benefit fund, CDBG funding, and the competitive grant awards secured from the Santa Clara County Emergency Food and Shelter Program. In September 2021, the City Council approved the use of \$1,100,000 in ARPA dollars to expand the program to include mortgage relief. Of the \$1,100,000 appropriated, \$150,000 will be used to partially fund a 3-year limited term Administrative Analyst. The remaining \$950,000 will cover the cost of program administration (\$85,500). Per City Council direction, the remaining balance will be distributed with 75% (\$648,375) for rent relief and 25% (\$216,125) for mortgage relief.

Permanent Local Housing Allocation (PLHA)

In 2017, Governor Brown signed a 15-bill housing package aimed at addressing the state's housing shortage and high housing costs. This included Senate Bill 2 Building Homes and Jobs Act (SB-2), which created a recording fee on real estate documents to increase the supply of affordable homes in California. SB-2 established that 70% of the revenue collected, beginning in calendar year 2019, will go to locally administered affordable housing, otherwise known as PLHA. The funding will help cities and counties increase the supply of housing for households at or below 60% of AMI; increase assistance to affordable owner-occupied workforce housing; assist persons experiencing or at risk of homelessness; facilitate housing affordability, particularly for lower-and moderate-income households; promote projects and programs to meet the local government's unmet share of regional housing needs allocation; and ensure geographic equity in the distribution of the funds.

The California Department of Housing and Community Development (HCD) released the 2022 Notice of Funding Availability (NOFA) on August 17, 2022. The allocation spans five years, 2019-2023. HCD requirements state applicants must submit a five-year plan for the period of 2019-2023 and cannot apply for more than three years of allocation in one year. Housing staff applied for the City's 2019, 2020, and 2021 entitlement in the amount of \$1,017,554. On [November 1, 2022](#), City Council adopted a Resolution authorizing the funding application to the PLHA Program and approving a Five-Year Plan for the PLHA Program Formula Allocation of an Estimated \$1,431,570.00. In February 2023, the City of Milpitas received its award letter from HCD.

Of the City's estimated entitlement of \$1,431,570, the City was approved to designate 5% (\$71,578.50) to program administration. The remaining balance will be split with 20% (\$271,998.30) HEAT funding, and 80% (\$1,087,993.20) for a Workforce Housing Rental Assistance Program (WHRAP). Through PLHA, the HEAT

team will be funded from fiscal year 2023-2024 through most of fiscal year 2025-2026. This will allow the HEAT team to continue providing their assessment services for approximately the next three fiscal years.

Community Development Block Grant (CDBG)

In total, 1,876 Milpitas residents were assisted in fiscal year 2021-2022 with a total CDBG allocation of \$1,282,240.45. This amount includes additional CDBG funding received to respond to the COVID-19 pandemic. These funds are referred to in the table below as CDBG-CV funds. HUD has announced that no further CDBG-CV funding will be appropriated in the future. Out of the 1,876 Milpitas residents served, 570 were seniors, 464 were children and youth, and 103 were survivors of domestic violence. A table of the organizations that received an allocation and their respective accomplishments for fiscal year 2021-2022 is available as Attachment 1.

Regional Early Impact Planning Grant Program (REAP)

In July 2022, the Association of Bay Area Governments announced a suballocation award of \$142,718 of REAP funding to the City of Milpitas. The Department of Housing and Community Development's REAP Grant Program was created to accelerate housing production and facilitate compliance in implementing the 6th cycle of the Regional Housing Needs Assessment (RHNA). The funds were requested to procure a consultant to create an Assessment of Fair Housing for the Housing Element and to partially fund Raimi and Associates as the consultant for the Housing Element.

Supportive Services and CDBG Program Data

The table below shows the funding allocated to the various supportive services. Full explanations of each program are provided below the table.

Program	Funding Allocated	Year	Expected Served	Fund
Rent and Mortgage Relief	\$950,000	2023	144	ARPA
Rent Relief	\$700,000	TBD	140	Additional State Funding
WHRAP	\$1,087,993	2023-2025	20-50	Permanent Local Housing Allocation
CDBG	\$700,004.45	2021-2022	1,239*	HUD
CDBG-CV	\$582,236	2021-2022	637*	HUD
CDBG	\$660,871	2022-2023	733	HUD
CDBG	\$647,982	2023-2024	700	HUD

*Actuals Served

Reporting Requirements

Housing Element

Since 1969, California has required that all local governments adequately plan to meet the housing needs of everyone in the community. California's local governments meet this requirement by adopting housing plans as part of their "general plan" (also required by the state). General plans serve as the local government's "blueprint" for how the city and/or county will grow and develop and include eight elements: land use, transportation, conservation, noise, open space, safety, environmental justice, and housing.

California's Housing Element Law acknowledges that, in order for the private market to adequately address the housing needs and demand of Californians, local governments must adopt plans and regulatory systems that provide opportunities for (and do not unduly constrain) housing development. As a result, housing policy in California rests largely on the effective implementation of local general plans and local Housing Elements.

On [January 24, 2023](#), the City Council adopted a Resolution for the 6th Cycle draft Housing Element, approved an Addendum to the Milpitas 2040 General Plan Environmental Impact Report, adopted General Plan Amendment GP23-0001 to update the Housing Element, and adopted the Draft Milpitas General Plan Housing Element Update as substantially compliant by state law. The content of the 6th Cycle draft Housing Element is structured for consistency with the requirements set forth in state law. In addition to responding to requirements of state law, the Housing Element also demonstrates the City's strategy to meeting the local housing needs, and that these needs are addressed through policies and programs outlined within the Housing Element. Public review and input have been a critical component of this 6th Cycle Housing Element Update. Staff met with HCD representatives in February 2023 and received minor comments on March 4, 2023. Staff is awaiting HCD's response to the latest minor comments which are expected the week of March 27th. The next step in the draft Housing Element process is to publicly post the latest draft for a minimum of seven days once staff receives HCD's comments and resubmit to HCD for final compliance and certification.

The Housing division has various reporting responsibilities to state and federal agencies. Below is a high-level overview of the various agencies that the City is required to report to.

Housing Element Associated Reports

Each jurisdiction must maintain compliance with their Housing Element by preparing an Annual Progress Report (APR) on the jurisdiction's status and progress in implementing its Housing Element. Each jurisdiction's APR must be submitted to HCD and the Governor's Office of Planning and Research (OPR) by April 1 of each year. The report covers the previous calendar year of progress towards the Housing Element's goals.

Along with the APR, each jurisdiction must submit a Housing Successor Annual Report. The Housing Successor Annual Report addresses the requirements of California Health and Safety Code Section 34176.1(f) regarding the Low- and Moderate-Income Housing Asset Fund ("LMIHAF"). This Report outlines the financial and housing covenant details of the Milpitas Housing Authority ("Housing Successor") for the prior fiscal year. The purpose of the report is to provide the governing body of the Housing Successor an annual report on the housing assets and activities of the Housing Successor under Part 1.85, Division 24 of the California Health and Safety Code, in particular sections 34176 and 34176.1 ("Dissolution Law").

The report includes discussion on the deposits to, ending balance of, and expenditures from the LMIHAF. A description of the Housing Successor's assets, and any transfers of assets to other housing successor agencies

are addressed as well. The report also discusses the Housing Successor's current projects, acquisitions or any real property since February 1, 2012, or any outstanding obligations. Finally, as required by law, three separate tests are discussed – the income test, senior housing test, and excess surplus test. On [March 21, 2023](#), City Council authorized the submittal of the 2022 APR and Housing Successor Agency Report.

Department of Finance

At the beginning of a calendar year, the Housing division submits a report to the California Department of Finance (DOF). Article XIIB of the California Constitution requires the DOF to prepare population estimates for the purpose of calculating the appropriation limits for the state, counties, cities, and special districts. DOF uses annual housing unit change data to produce the new calendar year's population estimate for a jurisdiction. As part of the population estimates process, DOF requests information on all housing unit change activity in a jurisdiction for the past calendar year.

Community Development Block Grant (CDBG)

The Housing division administers the CDBG program. The following reports are mandated by HUD:

- Consolidated Plan
- Annual Action Plan
- Consolidated Annual Performance and Action Report
- Citizen Participation
- Integrated Disbursement and Information System (IDIS)
- Annual Audits

A brief description of each category is provided below.

Consolidated Plan and Annual Action Plan

Every three to five years the City must prepare a Consolidated Plan outlining the strategies used to meet a variety of housing and non-housing community needs. For each of the 3 years covered by the Consolidated Plan, HUD requires the City to prepare a One-Year Action Plan which identifies programs, projects, and CDBG funding levels undertaken during any given year. The current 2022-2025 Five-Year Consolidated Plan and 2022-2023 Action Plan were adopted by the City Council after citizen input on [June 14, 2022](#).

Consolidated Annual Performance and Action Report

The Consolidated Annual Performance and Action Report (CAPER) reports on the success of the City's Annual Action Plan. It helps the City assess its annual performance in relation to meeting its overall three- to five-Year Consolidated Plan priorities. A CAPER is required for measuring the success of each CDBG program year in order to be eligible for future CDBG allocations. Each year's CAPER is prepared at the end of a program year and is made available for public review in September of each year. The City Council approved the 2022 CAPER at the [September 2022](#) meeting. The City Council will hold a public hearing to review the CAPER in September 2023, prior to submitting the CAPER to HUD.

Citizen Participation

The City of Milpitas must develop and follow a Citizen Participation Plan to receive federal funds for the CDBG program. The Citizen Participation Plan covers the three- to five-year Consolidated Plan, each subsequent Annual Action Plan, each year's Consolidated Annual Performance and Evaluation Report, and any amendments to any of the aforementioned documents.

IDIS Administration

The Integrated Disbursement and Information System (IDIS) is a management information system used for the CDBG program. The information is entered into IDIS and is available to HUD. City staff submits all the required HUD documents (Consolidated Plan, Action Plan, CAPER) through the IDIS portal. Additionally, staff enters the accomplishments and number of residents served through the portal.

Annual Audits

Housing and Finance staff facilitate annual CDBG audits with HUD or other third-party auditors. The purpose of the audits is to determine if the City is administering the CDBG program in compliance with HUD guidelines. Furthermore, auditors verify whether the City is compliant in collecting complete, accurate, and timely information from the grantees as well as maintaining records in a manner consistent with the uniform administrative requirements. Timely adherence to these audits is required and ensures the City continues to receive its formula allocation.

Unhoused Services

The Housing division reports out to City Council quarterly about the updated status of the Dignity on Wheels program (mobile trailer with shower and laundry services), and the HEAT team (Homeless Engagement and Access Team that conducts outreach to engage and provide resources to the city's unhoused residents).

Housing Advisory Committees and Task Forces

As stated earlier, Housing continues to be a high priority for the City, region, and State and there are several local and regional advisory bodies that deliberate this complex topic. Staff either directly supports or acts as a liaison to these advisory bodies including an Ad Hoc Council Housing Subcommittee, Santa Clara County Unhoused Taskforce, Community Advisory Commission, and a Tenant Protection Taskforce. In the past the City has also supported a Homelessness Taskforce and an Ad-Hoc CDBG Subcommittee.

The Ad Hoc Council Housing Subcommittee was established in 2019 to address the continuing need for innovative housing solutions in the City. Since its inception, the Housing Subcommittee has recommended the following programs and initiatives to the City Council, all of which have been adopted:

- Rent Relief Program
- Urgency Rent Review Ordinance
- Urgency Just Cause Eviction Ordinance
- Created a comprehensive Housing Resources Guide for Milpitas residents
- Created a Housing Resources website
- Created a public utility assistance program to qualifying families through the Milpitas Assistance Program
- Partnering with Milpitas Unified School District to provide opportunities for foster youth and students experiencing homelessness in the Milpitas community

The Community Advisory Commission (CAC) is one of the City's longstanding Commissions. Its role is to provide guidance to the City Council. The CAC hosts 3-5 events per year, including but not limited to, Affordable Housing and Building Safety Month, National Night Out, and Spring Cleaning. They are also responsible for making recommendations to the City Council on the annual CDBG allocation.

The Tenant Protection Taskforce was created to provide a forum for tenants and landlords to address their respective concerns around the various tenant-landlord issues. Under this taskforce, and through the work of the Housing Subcommittee, the City Council approved an Urgency Rent Review Ordinance and an Urgency Just Cause Eviction Ordinance to provide short term relief to Milpitas tenants.

In January 2021, a Homelessness Taskforce was established for residents to brainstorm on low cost but impactful solutions to homelessness. The Taskforce presented its recommendations to City Council on [February 1, 2022](#). The City Council directed staff to proceed with a Tiny Homes Village Feasibility Study. Additional support for the unhoused was approved and allocated by City Council via the work of this Taskforce. Currently, the consultants are finalizing stakeholder interviews, which include Councilmembers, City and County staff, and other relevant members of the homeless response community. The feasibility study is expected to be presented to City Council in mid-late 2023.

FISCAL IMPACT:

There is no fiscal impact associated with receiving this report.

California Environmental Quality Act (CEQA):

The action being considered has no potential for causing a significant effect on the environment and is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3).

RECOMMENDATION:

1. Receive Housing Report and presentation.

Attachment(s):

1. Community Development Block Grant Fiscal Year 2021- 2022 Accomplishments

Attachment 1 – Community Development Block Grant Fiscal Year 2021- 2022 Accomplishments

Organization	Amount Funded	Residents Served
Catholic Charites	\$20,500	312
Child Advocates of Silicon Valley	\$12,500	7
Filipino American Chamber of Commerce	\$15,000	15
LifeMoves-Villa Shelter	\$100,000	21
LifeMoves-Meal Delivery	\$40,000	21
Lighthouse of Hope Counseling Center	\$5,000	7
The Milpitas Senior Center (Technology)	\$10,000	3
Next Door Solutions to Domestic Violence	\$36,681.22	47
Next Door Solutions to Domestic Violence	\$23,960	Capital Project Completed
Project Sentinel	\$56,290	20
Pragnya	\$40,000	132
Rebuilding Together Silicon Valley	\$173,970	24
Senior Adults Legal Assistance	\$12,000	22
Silicon Valley Independent Living Center	\$12,716	71
Silicon Valley Independent Living Center	\$327,696	280
Sourcewise	\$39,000	66
Terrace Gardens Senior Housing	\$11,000	148
Terrace Gardens Senior Housing	\$65,000	148
The Health Trust's Meals on Wheels Program	\$20,000	19
YWCA Silicon Valley	\$26,158.23	56
YWCA Silicon Valley	\$40,000	457



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Receive Calendar Year 2022 Controlled Equipment Annual Report, Take Public Comment and Questions for the Purpose of Community Engagement, and Approve Proposed Acquisitions for Calendar Year 2023 (Staff Contact: Jared Hernandez, Chief of Police, 408-586-2406; and Frank Morales, Assistant Chief of Police, 408-586-2521)
Category:	Public Hearings-Public Safety
Meeting Date:	4/4/2022
	<u>Recommendation:</u> Receive Calendar Year 2022 Controlled Equipment Annual Report, take public comment and questions for the purpose of community engagement, and approve proposed acquisitions for Calendar Year 2023.

BACKGROUND:

On September 30, 2021, California Governor Gavin Newsom approved Assembly Bill 481, requiring California law enforcement agencies to obtain approval of a Military Equipment Use Policy from their applicable governing body (City Council) before taking actions related to the funding, acquisition, or use of controlled equipment. Assembly Bill 481 allows the governing body to approve the funding, acquisition, and use of controlled equipment ("Military Equipment") within its jurisdiction if the equipment meets specified standards.

The Controlled Equipment Use Policy and an Annual Controlled Equipment Use Report are subject to annual review to affirm that the criteria outlined in Assembly Bill 481 have been met. In addition, Assembly Bill 481 requires the publication of the Controlled Equipment Use Policy and a Controlled Equipment Use Report on the Department's website annually and at least thirty (30) days before a mandated publicly available meeting.

California Government Code section 7072 requires an annual report within a year of the policy approval and annually after that for as long as the controlled equipment is in use. The Annual report must contain the following information: (1) A summary of how the equipment was used and the purpose of its use. (2) A summary of any complaints or concerns from members of the public about the equipment. (3) The results of an internal audit, including any information about violations of the equipment use policy and any actions taken in response. (4) The total annual cost for each type of equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing expenses; and from what source funds will be provided for the controlled equipment in the calendar year following submission of the annual report. (5) The quantity possessed for each type of controlled equipment. (6) If the law enforcement agency intends to acquire additional controlled equipment in the next year, and the quantity sought for each type of qualifying equipment.

ANALYSIS:

The Milpitas Police Department is committed to protecting lives and property by working with the Milpitas community and providing professional and responsive police services. To accomplish its mission effectively and safely, the Milpitas Police Department possesses and utilizes specific specialized equipment (controlled equipment) to safeguard the Milpitas community and protect the City's first responders. While the City's inventory of controlled equipment varies, the mere possession of this equipment does not warrant its use. The merits and the totality of the circumstances of each unique incident are considered before controlled equipment is utilized in compliance with department policy and law.

The term "military equipment," as used in Assembly Bill 481, does not necessarily indicate that the equipment is or has been used by the military. Many items defined as "military equipment" by the bill are often used by law enforcement to preserve life and enhance public and officer safety while remaining prepared to handle the various lethal and non-lethal challenges facing our communities. The Milpitas Police Department's use of

controlled equipment is consistent with overall best practices employed by police departments nationwide. Items used by the Milpitas Police Department that are considered controlled equipment under Assembly Bill 481 include, but are not limited to, emergency response equipment such as command vehicles and armored rescue vehicles, less lethal shotguns, less lethal 40mm projectile launchers, precision weapons such as rifles, unmanned aircraft systems, and other select items.

The 2022 Annual Controlled Equipment Use Report outlines a summary of the equipment usage guidelines, inventory, fiscal impact, complaints, and reported community concerns for calendar year 2022 (January 1, 2022, through December 31, 2022). Although controlled equipment was deployed during the year, it was rarely utilized. The Milpitas Police Department received no complaints from the community about its controlled equipment or policies related to its use. Furthermore, an internal audit of the controlled equipment revealed no policy violations for the storage or use of controlled equipment. The impact of controlled equipment related expenses on the operating budget was negligible. The total annual costs related to controlled equipment for 2022 were approximately \$42,089.42, or 0.12% of the overall operating budget.

To continue providing adequate police services and maximize the Department's ability to keeping the community and officers safe, the Milpitas Police Department is seeking to purchase the following controlled equipment for calendar year 2023:

- (1) DJI Matrice 30 Series UAS
- (1) DJI Plus Remote Control
- (1) BRINC Lemar 2 UAS
- (1) AARDVARK KBT breaching tool
 - (200) .45 caliber blank rounds
- (9) Sionics Weapons Systems (AR-15 type rifle)
- (9) Ti-Fighter 5.56mm Thread Suppressors (for AR-15 type rifle)
- (1) Masterpiece Arms, Model PMR Pro .308 Rifle (employee owned)

The continued access to and use of this equipment is vital in ensuring our officers have the appropriate tools to de-escalate situations, preserve life, ensure safety for all people, and protect civil liberties.

POLICY ALTERNATIVE(S):

Alternative 1: Accept the 2022 Annual Controlled Equipment Use Report but deny the requested acquisitions for calendar year 2023.

Pros: The City would not incur the cost of the requested controlled equipment acquisitions for calendar year 2023.

Cons: Denying the requested equipment acquisitions for calendar year 2023 will impact the Department's ability to effectively respond to critical incidents, therefore negatively impacting public safety. In addition, not procuring the requested controlled equipment will hinder the effectiveness of the Milpitas Police Department in preventing and addressing crime in the City, thus placing the health, safety, and welfare of citizens and officers at increased risk.

Reason for Not Recommending: The Department's use of controlled equipment is consistent with overall best practices employed by police departments nationwide. Not accepting the request for acquisition of additional equipment would prohibit the use of such essential public safety tools and would therefore jeopardize public and officer safety in the City of Milpitas.

FISCAL IMPACT:

There is no fiscal impact associated with the approval of the proposed acquisition of additional controlled equipment. The cost of the controlled equipment is planned to be funded by the Police Department's operating budget and, as applicable, through grant funding. Any additional appropriation action needed related to the acquisition of the controlled equipment will be brought forward to Council separately.

California Environmental Quality Act (CEQA):

The action being requested is not a project as defined by CEQA (CEQA Guidelines exemption 15378(b)(2)).

RECOMMENDATION:

Receive Calendar Year 2022 Controlled Equipment Annual Report and Approve Proposed Acquisitions for Calendar Year 2023.

Attachment(s):

1. 2022 Controlled Equipment Annual Report



Milpitas Police Department

Controlled Equipment Annual Report

January 1, 2022 to December 31, 2022





Table of Contents

Executive Summary	2
Introduction	4
Summary of Controlled Equipment Usages	5
Current Inventory of Controlled Equipment	6
Controlled Equipment Categories	7
Unmanned Aerial Systems (UAS).....	8
Robots	12
Armored Vehicle	14
Mobile Incident Command Vehicle	16
40 MM Less-Lethal Launchers and Munitions	18
Less-Lethal Shotgun and Munitions.....	24
Diversionary Devices	26
Rifles and Munitions	29
Chemical Agents and Smoke Canisters	37
Breaching Tools.....	41
Training Summary.....	45
Training Costs	45
Equipment Costs.....	46
Fiscal Impact.....	47
Projected Acquisitions for 2023.....	48
Consumable Controlled Equipment	48
Non-Consumable Controlled Equipment	49
Department Transparency.....	53
Controlled Equipment Coordinator Report	54
Conclusion	55
Appendix	56
Definitions.....	56
Policy - Controlled Equipment (Military Equipment).....	57



Executive Summary

On September 30, 2021, California Governor Gavin Newsom approved Assembly Bill 481 requiring California law enforcement agencies to obtain approval of a Military Equipment Use Policy by their applicable governing body (City Council) prior to taking certain actions related to the funding, acquisition, or use of controlled equipment.

Assembly Bill 481 allows the governing body to approve the funding, acquisition, and use of controlled equipment ("Military Equipment") within its jurisdiction if the equipment meets specified standards. The Controlled Equipment Use Policy and an Annual Controlled Equipment Use Report is subject to annual review to affirm the criteria outlined in Assembly Bill 481 have been met.

Assembly Bill 481 requires the publication of the Controlled Equipment Use Policy and a Controlled Equipment Use Report on the Department's website annually and at least thirty (30) days prior to a mandated publicly available meeting.

California Government Code section 7072 requires an annual report within a year of the policy approval and annually after that for as long as the controlled equipment is in use. The Annual report must contain the following information:

- (1) A summary of how the equipment was used and the purpose of its use.
- (2) A summary of any complaints or concerns from members of the public about the equipment.
- (3) The results of an internal audit, including any information about violations of the equipment use policy, and any actions taken in response.
- (4) The total annual cost for each type of equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing expenses; and from what source funds will be provided for the controlled equipment in the calendar year following submission of the annual report.
- (5) The quantity possessed for each type of controlled equipment.
- (6) If the law enforcement agency intends to acquire additional controlled equipment in the next year, and the quantity sought for each type of qualifying equipment.



The Police Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the public may discuss and ask questions regarding the annual report, the law enforcement agency's funding, acquisition, and/or the use of the controlled equipment.

The Milpitas Police Department recognizes the public's ongoing interest in how controlled equipment is used to protect our community and is committed to maintaining our community's trust in providing professional and responsive police services. As such, the Milpitas Police Department has authored the following comprehensive Annual Controlled Equipment Use Report to remain transparent with our community and in accordance with annual reporting requirements set forth by applicable California Law.





Introduction

The Milpitas Police Department is committed to the protection of lives and property by working with our community and providing professional and responsive police services. To accomplish our mission effectively and safely, the Milpitas Police Department possesses and utilizes certain specialized equipment (controlled equipment) to safeguard the citizens of Milpitas and protect our first responders. While our inventory of controlled equipment varies, the mere possession of this equipment does not warrant its use. The merits and a totality of the circumstances of each unique incident are considered before controlled equipment is utilized in compliance with department policy and law.

The term “military equipment,” as used in Assembly Bill 481, does not necessarily indicate the equipment is, or has been used, by the military. Many items defined as “military equipment” by the bill are more often used by law enforcement to preserve life and enhance public and officer safety while remaining prepared to handle the various lethal and non-lethal challenges facing our communities. The Milpitas Police Department’s use of controlled equipment is consistent with overall best practices employed by police departments throughout the country.

Items used by the Milpitas Police Department that are considered controlled equipment under Assembly Bill 481 include, but are not limited to, emergency response equipment such as command vehicles and armored rescue vehicles, less lethal shotguns, less-lethal 40mm projectile launchers, precision weapons such as rifles, unmanned aircraft systems, and other select items. The continued access to, and use of, this equipment is vital in ensuring our officers have the appropriate tools necessary to de-escalate situations, preserve life, ensure safety for all people, and protect civil liberties.

This Annual Controlled Equipment Use Report outlines a summary of the equipment usage guidelines, inventory, fiscal impact, complaints, and reported community concerns for calendar year 2022 (January 1, 2022, through December 31, 2022).



Summary of Controlled Equipment Usages

The Milpitas Police Department provides law enforcement services twenty-four hours a day, seven days a week, serving a city population of over 80,000. The daytime population of Milpitas increases to over 130,000 people. The Department is committed to de-escalating situations, and using force is reserved for instances where less intrusive options are not feasible. In 2022, the Milpitas Police Department responded to approximately 83,000 calls for service. Of those calls for service, officers used force on only five (5) occasions, representing .006% of the total calls for service. Officers did not utilize controlled equipment in any of the cases involving the use of force.

Police events and critical incidents are unpredictable and often very dynamic. The availability and use of specific equipment are necessary for incident commanders, officers, and specialized units to resolve incidents safely and effectively. It is incumbent upon incident commanders, supervisors, individual officers, and specialized teams to recognize the circumstances wherein specialized equipment should be deployed and to utilize the equipment within the confines of department policy and State law. Each use of controlled equipment is reviewed to ensure it was used properly and justly based on the totality of the circumstances, public safety, officer safety, civil rights, State law, and information available at the time of use.



Current Inventory of Controlled Equipment

The Milpitas Police Department is committed to remaining transparent about the Department's controlled equipment inventory and the sharing of the equipment's capabilities, uses, and other related information with our community and elected officials. The data provided in this report is accurate as of January 2023 however, inventory may have fluctuated by the time of this report's publication.

The inventory of controlled equipment, particularly consumable material (ammunition, diversionary devices, munitions, etc.) may fluctuate due to a variety of factors including but not limited to operational usage, operational deterioration, training, maintenance, expiration and replenishment guidelines.

The following is a list of the various types, descriptions, and guidelines for usage of controlled equipment currently employed by the Department:

(*NOTE: The descriptions and source photos contained in this report are for controlled equipment descriptive purposes only and are not an endorsement by the City of Milpitas or the Milpitas Police Department of a product or vendor.)



Controlled Equipment Categories

Assembly Bill 481 created Government Code 7070 which designated 15 categories of items deemed “military” or more accurately defined as controlled equipment:

*	Category 1:	Unmanned, remotely piloted, powered aerial or ground vehicles
*	Category 2:	Mine-resistant ambush-protected vehicles or armored personnel carriers
*	Category 3:	High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached
	Category 4:	Tracked armored vehicles that provide ballistic protection to their occupants
*	Category 5:	Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units
	Category 6:	Weaponized aircraft, vessels, or vehicles of any kind
*	Category 7:	Battering rams, slugs, and breaching apparatuses that are explosive in nature
	Category 8:	Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition
*	Category 9:	Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code §30515, with the exception of standard-issue handguns
*	Category 10:	Any firearm or firearm accessory that is designed to launch explosive projectiles
*	Category 11:	Noise-flash diversionary devices and explosive breaching tools
*	Category 12:	Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray
	Category 13:	TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices
*	Category 14:	Kinetic energy weapons and munitions
	Category 15:	Any other equipment as determined by a governing body or a state agency to require additional oversight

* Indicates a category of controlled equipment previously approved by the governing body and utilized by the Milpitas Police Department.



Unmanned Aerial Systems (UAS) (Category 1)

An unmanned aerial system of any type that can sustain direct flight, whether remotely controlled or via pre-programming, and all the attached systems are designed for gathering information via photography, recording, or any other means.

Capability: The Milpitas Police Department uses UAS of varying sizes and capabilities to enhance public safety. The UAS can be deployed when an overhead view would assist officers or incident commanders with planning and responding to a situation. Types of situations include but are not limited to, infrastructure damage assessments, major traffic collision investigations, search for missing persons, natural disaster management, crime scene photography, SWAT, tactical or other public safety and life-preservation missions, and/or in response to specific requests from local, State, or Federal fire authorities for fire response and/or prevention. All UAS used by the Department is used in compliance with all federal, state, and local laws.

Usage: Use is established under Milpitas Policy Manual Section 456 and FAA Regulation 14 CFR Part 107. It is the policy of the Milpitas Police Department to utilize UAS only for official law enforcement purposes, and in a manner that respects the privacy of our community, pursuant to State and Federal law. UAS usages include collection of evidence in the form of aerial photography/video in support of an investigation (i.e., shooting scenes, homicide scenes); support of SWAT and Patrol during high-risk, tactical, or other public safety life preservation missions (i.e., interior visual assessments of structures or outdoor areas to gain intelligence prior to officers entering a dwelling or contacting a potentially armed or a resistive subject that may be hiding); to conduct aerial searches for missing persons; and provide aerial observation to assist in managing natural disasters (i.e., fires, floods, storms) or in any other manner to preserve life and enhance public safety.

Training Requirements: All Department UAS operators are licensed by the Federal Aviation Administration for UAS operation. Although not required by POST or the FAA, officers attend a 20-hour internal training course. Course topics include nomenclature, proper and safe flying techniques, privacy concerns, laws, and review of the Department's UAS policy.





The Department currently utilizes the following UAS:

DJI Mavic Mini

Cost	\$500 each
Quantity	2
Lifespan	3-5 Years
Funding Source	Grant Funding



Manufacturer: DJI

Manufacturer Description: Miniature UAS that weighs approximately 249 grams and is able to record video and audio with approximately 30 minutes of flight time. This is a remotely operated battery-powered aircraft designed to be operated within sight of the operator or a spotter. Each aircraft is equipped with a camera capable of relaying a real-time image back to the operator.

DJI Mavic Enterprise Duals

Cost	\$3,500 each
Quantity	4
Lifespan	3-5 Years
Funding Source	Grant Funding



Manufacturer: DJI

Manufacturer Description: UAS that has a color and inferred camera as well as audible speaker and light. Capable of video recording and weighs 899 grams, approx. 30 minutes of flight time. This is a remotely operated battery-powered aircraft designed to be operated within sight of the operator or a spotter. Each aircraft is equipped with a camera capable of relaying a real-time image back to the operator.

**DJI Matrice 210 V2**

Cost	\$10,410
Quantity	1
Lifespan	3-5 Years
Funding Source	Grant Funding



Manufacturer: DJI

Manufacturer Description: UAS that has a color and infrared camera as well as audible speaker and light. Capable of video recording and weighs 899 grams, approx. 30 minutes of flight time. This is a remotely operated battery-powered aircraft designed to be operated within sight of the operator or a spotter. Each aircraft is equipped with a camera capable of relaying a real-time image back to the operator.

DJI Matrice 300 RTK

Cost	\$11,349
Quantity	1
Lifespan	3-5 Years
Funding Source	Grant Funding



Manufacturer: DJI

Manufacturer Description: UAS that is foul weather capable and has dual gimbal, has an IR camera, zoom camera and light. Has video recording capabilities and is approx. 14 pounds. Has 55 minutes of flight time. This is a remotely operated battery-powered aircraft designed to be operated within sight of the operator or a spotter. Each aircraft is equipped with a camera capable of relaying a real-time image back to the operator.

**Autel Robotics EVO II Dual 640 - Refurbished**

Cost	\$0
Quantity	1
Lifespan	3-5 Years
Funding Source	N/A



Manufacturer: Autel Robotics

Manufacturer Description: The EVO II Dual has about 32-34 minutes of flight time per battery. The Orange color of the Dual is great for functionality and ease of operation and is easier to see in the sky. This is a remotely operated battery-powered aircraft designed to be operated within sight of the operator or a spotter. Each aircraft is equipped with a camera capable of relaying a real-time image back to the operator.



Robots (Category 1)

A machine that is capable of being controlled remotely and can be deployed in-lieu of a human to gather visual and auditory intelligence, as well as conduct limited physical manipulation of items.

Capability: Robots can be used to reduce risk to human life in dangerous or potentially volatile situations. They are also used in tactical support of special operations and can be used to acquire visual/audio intelligence, deliver de-escalation tools such as a Crisis Negotiation Team phone, open doors, and clear buildings without risk to human life.

Usage: It is the policy of the Milpitas Police Department to utilize a robot only for official law enforcement purposes, and in a manner that respects the privacy of our community, pursuant to State and Federal law. Use is authorized by the Division Captain or designee.

Training Requirements: Only assigned operators who have completed the in-house required training shall be permitted to operate the robots. Training topics include nomenclature, operation techniques, and practical exercises.



The Department currently utilizes the following Robots:

Robotex Avatar II

Cost	\$19,406
Quantity	1
Lifespan	8-10 Years
Funding Source	Grant Funding



Manufacturer: Robotex

Manufacturer Description: The AVATAR II enables law enforcement to remotely inspect dangerous situations and gather video and audio intelligence, including direct-to-unit video and audio recording, a touchscreen display, increased durability, and secure Wi-Fi networking. With these capabilities' officers will be better equipped to remotely gather intelligence and keep themselves and their teams safe from harm.

ICOR Mini Caliber

Cost	\$48,500
Quantity	1
Lifespan	8-10 Years
Funding Source	General Funds



Manufacturer: ICOR

Manufacturer Description: The Mini Caliber is a lightweight, modular portable robot designed for rapid deployment, it is simple to operate and quick to deploy for searching rooms, hallways, stairwells, and confined spaces. It also includes an extendible rotating claw arm that simplifies opening door handles, providing protection and safety to their operators.



Armored Vehicle (Categories 2 & 3)

Commercially produced 4-wheel drive vehicle designed for law enforcement that provides protection against bullets, shell fragments, and other projectiles.

Capability: The Medevac is primarily used by the Special Weapons and Tactics Team (SWAT) to safely transport personnel to and from critical incidents, extract citizens from volatile situations, high-risk rescue operations, training, provide emergency medical staff and/or Tactical Emergency Medicine (TEM) personnel a safe working environment, and to delivering equipment in high-risk environments. The Medevac can also be used to conduct rescue missions during disasters. Additionally, the vehicle is utilized for community engagement efforts and other applications deemed appropriate.

Usage: Use is established under Milpitas Policy Manual Section 707. It is the policy of the Department to utilize the armored vehicle only for official law enforcement purposes, and pursuant to State and Federal law.

Training Requirements: All drivers/operators shall attend formalized instruction and be trained in vehicle operations and practical driving techniques. POST certified driving instructors provide training consisting of safe driving practices and proper operation of the vehicle's equipment.



The Department currently utilizes the following Armored Vehicle:

2018 Lenco Bearcat MEDEVAC, G2

Cost	\$388,800
Quantity	1
Lifespan	25 Years
Funding Source	Capital Improvement



Manufacturer: Lenco

Manufacturer Description: The Lenco BearCat Medevac, also known as the MedCat, was designed to meet the combined requirements of SWAT & Tactical Emergency Medical Service Teams. The Medevac can be used as an armored Response & Rescue SWAT truck for dangerous callouts and is equipped to provide Tactical EMS with a safe & effective environment to deal with trauma cases. It seats 10-12 personnel with open floor plan that allows for rescue of down personnel. It can stop various projectiles, which provides greater safety to citizens and officers beyond the protection level of shield and personal body armor.



Mobile Incident Command Vehicle (Category 5)

A completely self-contained command post designed to provide shelter, access to department computers, and restroom facilities for extended events. This vehicle can also be used to manage/facilitate pre-planned or significant events, which require on-site planning and incident command personnel.

Capability: As a mobile base of operation, this vehicle contains specialized command, control, and communications equipment that can be used during critical incidents, large events, natural disasters, and community events. The replacement command vehicle (anticipated delivery December 2023) will be equipped to function as a fully operational mobile Public Safety Answering Point (PSAP) and will serve as a backup to the existing Dispatch Center in the Police Department.

Usage: The command vehicle shall be used by trained personnel in a manner consistent with Department policy and training. Furthermore, only personnel who have completed the Departmental Training and who are properly licensed will be allowed to drive the command vehicle.

Training Requirements: All drivers/operators shall attend formalized instruction and be trained in vehicle operations and practical driving techniques. POST certified driving instructors provide training consisting of safe driving practices and proper operation of the vehicle's equipment.



The Department currently operates the following MIC's:

Mobile Incident Command Vehicle

Cost	\$133,166
Quantity	1
Lifespan	Expired
Funding Source	Unknown



Manufacturer: Winnebago

Manufacturer Description: 1998 Winnebago Adventurer (custom built) vehicle The MIC can also be utilized for SWAT/HNT and other critical incidents, preplanned large events, searching for missing persons, natural disasters, and community events. This vehicle is scheduled to be decommissioned and replaced in December of 2023.

Cost	\$1,250,000
Quantity	1
Lifespan	25 Years (Chassis) 6 Years (IT Systems)
Funding Source	Capital Improvement

No image
available

Manufacturer: LDV, Inc.

Manufacturer Description: The Mobile Emergency Operations Center (MEOC) will be a fully functioning Mobile Public Safety Answering Point (PSAP) and serve as a backup to our existing Dispatch Center. The MEOC will also be a shared asset used by the Police and Fire Departments during critical incidents, preplanned large events, searching for missing persons, natural disasters, and community events. This vehicle is under construction and delivery is expected in December of 2023.



40 MM Less-Lethal Launchers and Munitions (Categories 10, 12, & 14)

A single-shot impact launcher capable of firing an array of less-lethal 40mm rounds.

Capability: De-escalate situations using less-lethal force and gain compliance from a safe distance. 40MM Less-Lethal Launchers have an effect range of up to 20 yards.

Usage: The 40mm less-lethal launcher may be deployed to gain compliance or de-escalate conflicts to help prevent a situation from becoming a lethal force situation. The system's effectiveness provides time and distance between officers and a suspect, reducing the immediacy of the threat and allows opportunity for further de-escalation. This system can be used to address self-destructive/suicidal, dangerous, and/or combative individuals; to gain a tactical advantage from a distance (i.e., breaking a window to get an unobstructed view of an individual or disabling a security camera); against potentially vicious animals; and for riot/crowd control and/or civil unrest incidents where the use of the 40mm is objectively reasonable.

Training Requirements: Sworn members utilizing 40MM less-lethal chemical agents or impact rounds are trained in their use by POST-Certified less-lethal chemical agent's instructors. Training includes a review of the Departments Use of Force Policy, nomenclature, familiarization of the system and a qualification course.



The Department utilizes the following 40 MM Less-Lethal Launcher and Munitions:

Defense Technologies 40 MM Single Shot Launcher #1425

Cost	\$810 each
Quantity	6
Lifespan	25 Years
Funding Source	General Funds



Manufacturer: Defense Technology

Manufacturer Description: The 40MM Single Launcher is a tactical single-shot launcher that features an adjustable Integrated Front Grip (IFG) with a rail-mounted holographic sight. It will fire standard 40mm less lethal ammunition, up to 4.8 inches in cartridge length. It will launch a 40MM less lethal round up to 131 feet and is only authorized to be used by trained personnel.

The Department currently possesses the following 40mm munitions:

Defense Technology 40mm Exact Impact Sponge Round #6325

Cost	\$18 each
Quantity	6 of 20
Lifespan	5 Years
Funding Source	General Funds



Manufacturer: Defense Technology

Manufacturer Description: A less-lethal 40mm lightweight plastic and foam projectile fired from a single or multi-round purpose built 40mm launcher with a rifled barrel at 325 FPS. The 30-gram foam projectile delivers 120 ft/lbs. of energy on impact. The 40mm Exact Impact Sponge Round provides accurate and effective performance when fired from the approved distance of not less than five (5) feet and as far as 131 feet from the target.

**Defense Technology 40MM Direct Impact Marking Round #6326**

Cost	\$30 each
Quantity	7 of 7
Lifespan	5 Years
Funding Source	General Funds



Manufacturer: Defense Technology

Manufacturer Description: A less-lethal 40MM lightweight plastic and crushable foam projectile fired from a single or multi-round purpose-built 40mm launcher with a rifled barrel at 295 FPS. The green foam nose indicates that the round contains a marking agent.

Defense Technology 40MM Direct Impact Reloadable Training Kit #6530

Cost	\$1300 each
Quantity	1
Lifespan	No Expiration
Funding Source	General Funds



Manufacturer: Defense Technology

Manufacturer Description: The 250-piece Direct Impact Reloadable Training Kit allows realistic training to be conducted at a fraction of the cost of using operational rounds. These reusable projectiles can be reloaded by hand in the field in less than 10 seconds without the need for presses or other reloading equipment. These rounds are not for use on humans.

**Defense Technology Spede-Heat 40MM Long Range, CS, Round #6182**

Cost	\$30 each
Quantity	40 of 40
Lifespan	5 Years
Funding Source	General Funds



Manufacturer: Defense Technology

Manufacturer Description: The SPEDE-HEAT CS Long-Range Munitions delivers one chemical canister of CS agent from a 40 mm launcher down range up to 150 yards. The Spede-Heat is a pyrotechnic round designed specifically for outdoor use in riot situations with a high-volume continuous burn that expels its payload in approximately 20-40 seconds from a single source. The Spede-Heat family may be used to conceal tactical movement.

Defense Technology Ferret 40MM Powder Barricade Round CS #2292

Cost	\$30 each
Quantity	1 of 25
Lifespan	5 Years
Funding Source	General Funds



Manufacturer: Defense Technology

Manufacturer Description: A less lethal 40MM round used to penetrate barriers, such as windows, hollow core doors, wallboard, and thin plywood. Upon impacting the barrier, the nose cone ruptures and instantaneously delivers a small chemical payload inside of a structure or vehicle. In a tactical deployment situation, the 40mm Ferret is primarily used to dislodge barricaded subjects from confined areas. Its purpose is to minimize the risks to all parties through pain compliance, temporary discomfort, and/or incapacitation of potentially violent or dangerous subjects.

**Defense Technology Ferret 40MM Powder Barricade Training Round Inert #2293**

Cost	\$23 each
Quantity	10 of 10
Lifespan	5 Years
Funding Source	General Funds

Manufacturer: Defense Technology



Manufacturer Description: An inert training less-lethal 40MM round used to penetrate barriers, such as windows, hollow core doors, wallboard and thin plywood. Upon impacting the barrier, the nose cone ruptures and instantaneously delivers an inert payload inside of a structure or vehicle. The 40mm inert Ferret round is primarily used to train personnel in the proper use of its deployment.

Defense Technology Ferret 40MM Liquid Barricade Training Round Inert #2263

Cost	\$23 each
Quantity	2 of 10
Lifespan	5 Years
Funding Source	General Funds

Manufacturer: Defense Technology



Manufacturer Description: A less-lethal 40mm lightweight plastic and foam projectile fired from a single or multi-round purpose-built 40mm launcher with a rifled barrel at 325 FPS. The 30-gram foam projectile delivers 120 ft/lbs. of energy on impact. The 40mm Exact Impact Sponge Round provides accurate and effective performance when fired from the approved distance of not less than five (5) feet and as far as 131 feet from the target.

**Combined Systems Inc. 40MM Sponge, Smokeless Spin Stabilized Round #4577**

Cost	\$30 each
Quantity	261 of 600
Lifespan	5 Years
Funding Source	General Funds

Manufacturer: Combined Systems Inc.



Manufacturer Description: A spin-stabilized projectile delivering blunt trauma effect. Although it is extremely accurate and consistent, accuracy is dependent on the launcher. Effectiveness depends on many variables, such as distance, clothing, stature, and the point where the projectile impacts. Its purpose is to minimize the risks to all parties through pain compliance and/or incapacitation of potentially violent or dangerous subjects.



Less-Lethal Shotgun and Munitions (Categories 9 & 14)

The less-lethal shotgun is a standard Remington Model 870, 12-gauge shotgun that has been converted to fire bean bag rounds as an alternative to lethal force when appropriate. The less-lethal shotgun has a distinctive, orange-colored stock and foregrip to distinguish it from lethal weapons.

Capability: The less-lethal shotgun can fire a 12-gauge Super-Sock Bean Bag Round with a maximum effective range of seventy-five (75) feet. The range of the weapon system helps to maintain space between officers and a suspect reducing the immediacy of the threat, which is a principle of de-escalation.

Usage: The less-lethal shotguns can be deployed to de-escalate conflict and reduce the need for lethal force. The system's effective allows time and distance between officers and a suspect, reducing the immediacy of the threat and allows opportunity for further de-escalation. This system can be used to address self-destructive/suicidal, dangerous, and/or combative individuals, to gain a tactical advantage from a distance (i.e., breaking a window to get an unobstructed view of an individual or disabling a security camera), against potentially vicious animals, riot/crowd control and/or civil unrest incidents where the use of the 40mm is objectively reasonable.

Training Requirements: All officers must successfully complete a minimum of two hours of department training before they can deploy the less lethal shotgun. Training includes a review of the Departments Use of Force Policy, nomenclature, familiarization of the system, and a qualification course.



The Department possesses the following Less Lethal Shotguns and Munitions:

Remington 870 Less Lethal 12 Gauge Shotgun

Cost	\$946 each
Quantity	35
Lifespan	25 Years
Funding Source	General Funds



Manufacturer: Remington

Manufacturer Description: The Remington 870 Less Lethal Shotgun is used to deploy the less lethal 12-gauge Super-Sock Beanbag Round up to a distance of 75 feet. The range of the weapon system helps to maintain space between officers and a suspect reducing the immediacy of the threat which is a principle of De-escalation.

Combined Systems Inc. Super-Sock Bean Bag Round #2581

Cost	\$32/ Box
Quantity	100 of 150 Boxes
Lifespan	No Expiration
Funding Source	General Funds



Manufacturer: Combined Systems Inc.

Manufacturer Description: A less lethal 2.4-inch 12-gauge shotgun round firing a ballistic fiber bag filled with 40 grams of lead shot at a velocity of 270-290 feet per second (FPS). CTS Super-Sock rounds are discharged from a dedicated 12-gauge shotgun that is distinguishable by an orange butt stock and fore grip. This round provides accurate and effective performance when fired from the approved distance of not fewer than five (5) feet. The maximum effective range of this munition is up to 75 feet from the target.



Diversiónary Devices (Category 11)

A handheld device that can be deployed to emit a flash, sound, and/or smoke.

Capability: To produce atmospheric overpressure and brilliant white light that can cause short-term (6 to 8 seconds) physiological/psychological, sensory deprivation to give officers a tactical advantage. A diversionary device is ideal for distracting dangerous suspects during apprehensions, hostage rescues, room entry, or other high-risk arrest situations.

Usage: Diversionary devices shall only be used by officers who have been trained in the proper use. These devices can be deployed in hostage and barricaded subject situations; in high-risk (search/arrest) warrant services where there may be hazards to officers; during other high-risk situations where the use would be advantageous in preserving life and/or increase officer safety; and during training exercises.

Training Requirements: Prior to using this equipment, officers must attend diversionary device training. Training is provided by POST certified instructors in the safe handling, deployment, and documentation of the use of this equipment.

Note: Some orders of Diversionary Devices can only be ordered in minimum quantities. As a result, some inventories may occasionally exceed needed amounts.



The Department currently possesses the following Diversionary Devices:

Combined Tactical Systems Inc. #7290-2 Noise Flash Device

Cost	\$52 each
Quantity	17 of 24
Lifespan	No Expiration
Funding Source	General Funds



Manufacturer: Combined Systems Inc.

Manufacturer Description: A non-bursting, non-fragmenting multi-bang device that produces a thunderous bang with an intensely bright light. Ideal for distracting dangerous suspects during assaults, hostage rescue, room entry, or other high-risk arrest situations.

Combined Tactical Systems Inc. #7290-9 Noise Flash Device Multi Burst

Cost	\$60 each
Quantity	6 of 6
Lifespan	No Expiration
Funding Source	General Funds



Manufacturer: Combined Systems Inc.

Manufacturer Description: A multi-bang, non-bursting, non-fragmenting multi-bang device that produces a thunderous bang with an intensely bright light. Ideal for distracting dangerous suspects during assaults, hostage rescue, room entry, or other high-risk arrest situations.

**Defense Technology #8902 Noise Flash Device Low Role**

Cost	\$55 each
Quantity	3 of 24
Lifespan	No Expiration
Funding Source	General Funds



Manufacturer: Defense Technology

Manufacturer Description: A non-bursting, limited movement and rolling, non-fragmenting device that produces a thunderous bang with an intensely bright light. Ideal for distracting dangerous suspects during assaults, hostage rescue, room entry, or other high-risk arrest situations.



Rifles and Munitions (Category 9)

The rifle is a long-barreled firearm designed for greater accuracy over a long distance.

Capability: The rifle provides officers the ability to engage hostile suspects from distances far greater than their handguns. The standard issued rifles can have an effective range of 600 yards and offer increased accuracy over a handgun. However, rifles are not appropriate for every situation.

Usage: Officers may deploy the rifle in any circumstance where the officer can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the rifle may include, but are not limited to, the following:

- a) Situations where the officer reasonably anticipates an armed encounter.
- b) When an officer is faced with a situation that may require the delivery of accurate and effective shot placement at long range.
- c) Situations where an officer reasonably expects the need to meet or exceed a suspect's weaponry.
- d) When an officer reasonably believes there may be a need to deliver accurate shot placement on a barricaded suspect or a suspect with a hostage.
- e) When an officer reasonably believes a suspect may be wearing body armor.
- f) When needed to euthanize an animal.

Training Requirements: Prior to deploying a rifle, officers must successfully complete a 16-hour POST approved training course. The course is taught by POST certified instructors. Officers are required to pass a qualification course annually.



The Department currently possesses the following rifles:

Colt Tactical Carbine Model AR-15A3

Cost	\$800 each
Quantity	100
Lifespan	No Expiration
Funding Source	General Funds



Manufacturer: Colt

Manufacturer Description: A rifle that fires an intermediate-power cartridge (.223) which is more powerful than a standard pistol but less powerful than a standard rifle. Rifle and has a 16" barrel. The magazine holds 30 rounds of ammunition, and the rifle has a collapsible stock. The carbine provides officers the ability to engage hostile suspects at distances generally greater than the effective distance of their handguns. Additionally, AR-15 rifles offer advantages over handguns, such as increased accuracy potential and the ability to defeat soft body armor but are not appropriate for every situation.

Colt Tactical Carbine Model M16

Cost	\$800 each
Quantity	4
Lifespan	No Expiration
Funding Source	General Funds



Manufacturer: Colt

Manufacturer Description: A rifle that fires an intermediate-power cartridge (.223) which is more powerful than a standard pistol but less powerful than a standard rifle. Rifle and has a 16" barrel. The magazine holds 30 rounds of ammunition, and the rifle has a collapsible stock. The carbine provides officers the ability to engage hostile suspects at distances generally greater than the effective distance of their handguns. Additionally, AR-15 rifles offer advantages over handguns, such as increased accuracy potential and the ability to defeat soft body armor but are not appropriate for every situation.

**Sionics Weapons Systems Model Short Barrel Rifle (SBR) LE**

Cost	\$1500 each
Quantity	7
Lifespan	No Expiration
Funding Source	General Funds



Manufacturer: Sionics Weapons Systems

Manufacturer Description: A rifle that fires an intermediate-power cartridge (.223) which is more powerful than a standard pistol but less powerful than a standard rifle. Rifle and has a 16" barrel. The magazine holds 30 rounds of ammunition, and the rifle has a collapsible stock. The carbine provides officers the ability to engage hostile suspects at distances generally greater than the effective distance of their handguns. Additionally, AR-15 rifles offer advantages over handguns, such as increased accuracy potential and the ability to defeat soft body armor but are not appropriate for every situation.

Heckler and Koch Model MP5A3

Cost	\$1000 each
Quantity	7
Lifespan	No Expiration
Funding Source	General Funds



Manufacturer: Heckler and Koch

Manufacturer Description: A submachine gun chambered in 9mm it is universally applicable making it useable in all areas and under all conditions. The magazine holds 30 rounds of ammunition and allows officers the ability to engage hostile suspects at distances generally greater than the effective distance of their handguns. Used by the Special Weapons and Tactics Team.

**Remington Model 700 P Bolt Action Rifle**

Cost	\$0 each
Quantity	3
Lifespan	No Expiration
Funding Source	Donation

**Manufacturer:** Remington

Manufacturer Description: A semi-automatic shoulder-fired rifle with precision optics that fires a .308 Winchester cartridge. The .308 rifle provides SWAT Snipers the ability to engage hostile suspects at great distances with accuracy. The .308 rifles are used exclusively by officers assigned to the SWAT Sniper Team. These rifles are typically deployed with the SWAT Sniper Team during high-risk SWAT operations and special events or instances wherein Sniper Over Watch Teams are needed.

Remington Model 700 SPS Bolt Action Rifle

Cost	\$0 each
Quantity	1
Lifespan	No Expiration
Funding Source	Personal Rifle

**Manufacturer:** Remington

Manufacturer Description: A semi-automatic shoulder-fired rifle with precision optics that fires a .308 Winchester cartridge. The .308 rifle provides SWAT Snipers the ability to engage hostile suspects at great distances with accuracy. The .308 rifles are used exclusively by officers assigned to the SWAT Sniper Team. These rifles are typically deployed with the SWAT Sniper Team during high-risk SWAT operations and special events or instances wherein Sniper Over Watch Teams are needed.

**Remington Model 700 PSS Bolt Action Rifle**

Cost	\$0 each
Quantity	1
Lifespan	No Expiration
Funding Source	Personal Rifle



Manufacturer: Remington

Manufacturer Description: A semi-automatic shoulder-fired rifle with precision optics that fires a .308 Winchester cartridge. The .308 rifle provides SWAT Snipers the ability to engage hostile suspects at great distances with accuracy. The .308 rifles are used exclusively by officers assigned to the SWAT Sniper Team. These rifles are typically deployed with the SWAT Sniper Team during high-risk SWAT operations and special events or instances wherein Sniper Over Watch Teams are needed.

Ruger Precision Rifle Model 18028 Bolt Action Rifle

Cost	\$0 each
Quantity	1
Lifespan	No Expiration
Funding Source	Personal Rifle



Manufacturer: Ruger

Manufacturer Description: A semi-automatic shoulder-fired rifle with precision optics that fires a .308 Winchester cartridge. The .308 rifle provides SWAT Snipers the ability to engage hostile suspects at great distances with accuracy. The .308 rifles are used exclusively by officers assigned to the SWAT Sniper Team. These rifles are typically deployed with the SWAT Sniper Team during high-risk SWAT operations and special events or instances wherein Sniper Over Watch Teams are needed.

**Colt M16A1 Rifle**

Cost	\$0 each
Quantity	15
Lifespan	No Expiration
Funding Source	1033/ LESO Program



Manufacturer: Colt

Manufacturer Description: Received from the military and converted to semi-automatic AR-15. (4) are currently in use in the Traffic Safety Unit. The traffic safety unit utilizes converted rifles to enhance the tactical capabilities when on their motorcycles to augment their service pistols when needed. (7) are in use by the Honor Guard for ceremonial display. Honor Guard members are sworn peace officers who have been specially chosen from all divisions of the department. Duties include providing funeral honors for officers who have been killed in the line of duty or other ceremonial duties as assigned. (4) are currently not in use.

The Department currently possesses the following rifle munitions:

Federal American Eagle 9MM Luger 147 GR Full Metal Jacket

Cost	\$183/ Case
Quantity	9.5 of 20 Cases
Lifespan	No Expiration
Funding Source	General Fund



Manufacturer: Federal

Manufacturer Description: This Federal American Eagle 9mm Luger ammunition is loaded with a 147-grain Full Metal Jacket bullet. The Full Metal Jacket bullet is for range practice and reducing fouling in the barrel. The jacket extends from the nose to the base, preventing bullet expansion and barrel leading. This ammunition is new production, non-corrosive, ammo, featuring brass cases, boxer primed, and is reloadable.

**Federal Gold Medal .223 55 Grain (GR) Rifle Round (Training)**

Cost	\$236/ Case
Quantity	15 of 150 Cases
Lifespan	No Expiration
Funding Source	General Fund



Manufacturer: Federal

Manufacturer Description: Federal 223 Remington ammo features a lead core 55 Grain Full Metal Jacket bullet that is nonmagnetic, non-corrosive boxer primer and new virgin brass casing that can be reloaded up to seven times for those high volume 223 ammo shooters that love to reload their 223 Remington ammunition. The Federal American Eagle 223BL ammo offers muzzle velocity of 3240 feet per second and muzzle energy of 1282 ft lbs.

Hornady 9MM Critical Duty 135 GR

Cost	\$290/ Case
Quantity	24 of 25 Cases
Lifespan	No Expiration
Funding Source	General Fund



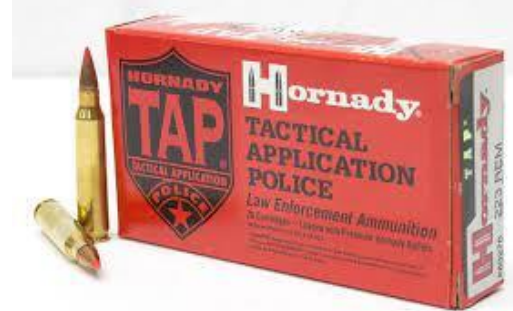
Manufacturer: Hornady

Manufacturer Description: This law enforcement cartridge offers match accuracy with a high ballistic coefficient providing superior long-range performance. The patented design eliminates clogging and aids in bullet expansion. A large mechanical jacket to core band works to keep the bullet and core from separating for maximum weight retention, excellent expansion, consistent penetration, and terminal performance through all FBI tactical handgun ammunition tests. The bright nickel-plated case simplifies chamber checks in reduced light and is loaded with low flash propellant to help preserve night vision in low light firing.



Hornady .223 55GR Tap Urban Rifle Round (Duty)

Cost	\$160/ Case
Quantity	45 of 300 Cases
Lifespan	No Expiration
Funding Source	General Fund



Manufacturer: Hornady

Manufacturer Description: Federal 223 Remington ammo features a lead core 55 Grain Full Metal Jacket bullet that is nonmagnetic, non-corrosive boxer primer and new virgin brass casing that can be reloaded up to seven times for those high volume 223 ammo shooters that love to reload their 223 Remington ammunition. The Federal American Eagle 223BL ammo offers a muzzle velocity of 3240 feet per second and muzzle energy of 1282 ft-lbs.

Hornady .308 Winchester A-Max Tap Rifle Round

Cost	\$250/ Case
Quantity	16 of 60 Cases
Lifespan	No Expiration
Funding Source	General Fund



Manufacturer: Hornady

Manufacturer Description: This law enforcement cartridge offers match accuracy with a high ballistic coefficient providing superior long-range performance. This load demonstrates expansion and fragmentation similar to the 110-gr. load, but with a noticeable increase in penetration and retained bullet weight. This bullet penetrates glass with minimal deflection and exhibits excellent expansion and fragmentation characteristics.



Chemical Agents and Smoke Canisters (Category 12)

Canisters containing non-lethal chemical agents and/or smoke that are released when deployed.

Capability: Chemical agent and smoke canisters have a variety of individual capabilities and applications. Chemical agent and smoke canisters carry the agent into the environment in a variety of methods, including but not limited to powder, a liquid mist, smoke, pyrotechnic devices, and vapor aerosols. Exposure to chemical agents normally causes no lasting effects. This equipment has indoor and outdoor capabilities and uses.

Usage: The use of chemical agents causes mucous membranes and exposed skin to become inflamed resulting in a burning sensation. It provides a temporary respiratory effect and induces discomfort on the skin. Smoke canisters are used to create a diversion or conceal the movement of a tactical team. Chemical agents and smoke canisters may be utilized during confrontations with violent or potentially violent suspects, as a less lethal option to assist with dispersing violent crowds, and/or for the arrest of suspects.

Training Requirements: Sworn members utilizing chemical agent canisters are certified by POST less lethal and chemical agent instructors. Sworn members are trained in the proper use of chemical agent canisters and smoke canisters, nomenclature, and documentation for the use of this equipment.



The Department currently possesses the following chemical agent and smoke canisters:

Defense Technology Flameless Tri-Chamber Safe-Smoke Canister #1033

Cost	\$40 each
Quantity	1 of 10
Lifespan	5 Years
Funding Source	General Fund



Manufacturer: Defense Technology

Manufacturer Description: The design of the Tri-Chamber Flameless Saf-Smoke allows for the contents to burn within an internal can and disperse the agent safely with reduced risk of fire. Primary designed for indoor tactical situations will deliver about 20-25 seconds of burn time. Was designed for barricaded situations in mind to primarily detect and or dislodge a barricades subject. The purpose of the Tri-Chamber Flameless Saf-Smoke is to minimize the risk to all parties through pain compliance and or incapacitation of potentially violent or dangerous subjects.

Defense Technology Military Style Saf-Smoke Canister #1063

Cost	\$22 each
Quantity	11 of 15
Lifespan	5 Years
Funding Source	General Fund



Manufacturer: Defense Technology

Manufacturer Description: The Saf-Smoke canister was designed for training but may also be used in operations. The Saf-Smoke offers the same burn times as other smoke canisters making it an appropriate choice for training or simulation deployment of chemical agent canisters.

**Defense Technology Maximum HC Smoke Military Style Canister #1083**

Cost	\$30 each
Quantity	8 of 10
Lifespan	5 Years
Funding Source	General Fund



Manufacturer: Defense Technology

Manufacturer Description: The Maximum HC Smoke is designed specifically for outdoor use in criminal riotous situations with a high-volume continuous burn that expels its payload in approximately 20-40 seconds through four gas ports located on the top of the canister. The smoke can be used to conceal tactical movement. The volume of smoke and agent is vast and obtrusive.

Defense Technology Han-Ball Grenade CN #1091

Cost	\$40 each
Quantity	5 of 5
Lifespan	5 Years
Funding Source	General Fund



Manufacturer: Defense Technology

Manufacturer Description: The Han-Ball Grenade is a launchable grenade and is a maximum effect device that delivers three stimuli for psychological and physiological effects: light, sound and CS. This grenade is a launchable and combines loud report and flash with effects of chemical agents making it suitable for riot control situations.

**Defense Technology Han-Ball Grenade CS #1092**

Cost	\$40 each
Quantity	50 of 50
Lifespan	5 Years
Funding Source	General Fund



Manufacturer: Defense Technology

Manufacturer Description: The Han-Ball Grenade is a launchable grenade and is a maximum effect device that delivers three stimuli for psychological and physiological effects: light, sound and CS. This grenade is a launchable and combines loud report and flash with effects of chemical agents making it suitable for riot control situations.

Defense Technology Flameless Expulsion Grenade Inert #2043

Cost	\$40 each
Quantity	3 of 3
Lifespan	5 Years
Funding Source	General Fund



Manufacturer: Defense Technology

Manufacturer Description: The Inert Flameless Expulsion Grenade is a training device that will allow team members to deploy the grenade without effecting roll players. This compact, non-pyrotechnic, inert powder device provides safe expulsion without risk of fire. Unlike pyrotechnical grenades, this device's contents are expelled upon actuation of a CO2 cartridge that will affect a confined area of approximately 1500 square feet.



Breaching Tools (Categories 7/9)

Tools that are used to gain entry into structures by defeating locks and/or fortifications. These tools include breaching shotguns and explosive breaching equipment.

Capability: A breaching shotgun can defeat lightly fortified or locked doors. Explosive breaching tools can defeat heavily fortified doors and structures. The listed breaching tools are utilized by SWAT operators and are capable of breaching glass, metal doors, wood doors, deadbolts, locks, and hinges.

Usage: Breaching (or forced entry) is used to rapidly access a locked or fortified room or structure to preserve life, affect and arrest, or to conduct a search when lawfully able to do so. Forced entry is strictly regulated and may only be done when legal parameters are met.

Training Requirements: Sworn members are trained in the proper use of the breaching shotgun. Explosive breacher(s) shall be licensed as a Blaster by Cal/OSHA. Explosive Breachers will attend an approved "Tactical Energetic Breaching" course.



The Department currently possesses the following explosive breaching tools:

Remington 870 Short Barrel Breaching Shotgun

Cost	\$810 each
Quantity	2
Lifespan	25 Years
Funding Source	General Fund



Manufacturer: Remington

Manufacturer Description: This weapon allows breachers to safely utilize shotgun breaching rounds in order to destroy deadbolts, locks, and hinges. The stand-off that is attached to the end of the barrel allows for positive placement of the gun into the correct position and vents gases to prevent overpressure.

Combined Tactical Systems 12 Gauge Breaching Munition #2570

Cost	\$7/ Box
Quantity	24 of 24 Boxes
Lifespan	No Expiration
Funding Source	General Fund



Manufacturer: Remington

Manufacturer Description: 12-gauge frangible slug to disrupt locking mechanisms and hinges, defeat and breach external and internal doors.

**Defense Technology TKO 12 Gauge Breaching Round #3105**

Cost	\$7/ Box
Quantity	3 of 3 Boxes
Lifespan	No Expiration
Funding Source	General Fund



Manufacturer: Defense Technology

Manufacturer Description: The 12-Gauge **TKO** Breaching Round is a 12-Gauge shell loaded with a compressed zinc slug, utilizing smokeless powder as a propellant. The TKOP is capable of defeating door lock mechanisms, doorknobs, hinges, deadbolts safety chains and pad locks on both wooden or hollow core doors. Upon impact the zinc slug disintegrates into a fine powder eliminating fragmentation.

Dyno Noble Inc. Primacord (UN0065)

Cost	\$2/ Foot
Quantity	3000 Feet
Lifespan	10 Years
Funding Source	General Fund



Manufacturer: Dyno Nobel Inc.

Manufacturer Description: PRIMACORD is a detonating cord that is a thin, flexible plastic tube usually filled with pentaerythritol tetranitrate (PETN, pentrite). With the PETN exploding at a rate of approximately 6400m/s, any common length of detonation cord appears to explode instantaneously. It is a highspeed fuse which explodes, rather than burns, and is suitable for detonating high explosives. Explosive entry is a non-lethal force option, but it should only be used when you can justify that spending any length of time in front of a door with a mechanical breach would be too dangerous for the officer conducting the breach or that mechanical breaching would fail on a reinforced objective.

**Nonel Lead Line (UN0349)**

Cost	\$1/ Foot
Quantity	5,000 Feet
Lifespan	10 Years
Funding Source	General Fund



Manufacturer: Dyno Nobel Inc.

Manufacturer Description: NONEL LEAD LINE provides maximum flexibility to the blaster in choosing a position of safety from which to initiate nonelectric blast rounds in either underground or surface applications. LEAD LINE propagates a low energy signal, similar to a dust explosion, at approximately 6500 ft/sec (2000 m/sec) along the tubes length with minimal disturbance to the outside of the tube.

Nonel Detonator Assembly Non-Elelctric (UN0361)

Cost	\$15/ each
Quantity	120
Lifespan	10 Years
Funding Source	General Fund



Manufacturer: Dyno Nobel Inc.

Manufacturer Description: A detonator assembly is a small sensitive primary explosive device generally used to detonate a larger, more powerful and less sensitive secondary explosive such as a plastic explosive. Detonator assemblies come in a variety of types, including non-electric caps, electric caps, and fuse caps.



Training Summary

The safe use of certain controlled equipment requires ongoing training to maintain proficiency and required certifications. While the department conducts most ongoing training internally through the Personnel and Training Division, external training courses and services are often also necessary. Training courses can vary each year depending on operational needs and State or Federal mandates. Consumable and non-consumable equipment are often used during training to ensure competency during actual operational use. Funding sources for training include the Police Department's operating budget and/or grants.

Training Costs

The personnel cost of training is absorbed into the Department's operating budget. The estimated cost for staff to attend externally hosted training for 2022 was approximately \$7,623.00.

The below table reflects the expended controlled equipment used during training in calendar year 2022.

Item	Used	Cost
Defense Technology Flameless Tri-Chamber Saf-Smoke Canister #1033	3	\$120
Defense Technology Military Style Saf-Smoke Canister #1063	1	\$22
Defense Technology Ferret Liquid Barricade Training Round Inert #1293	4	\$92
Defense Technology Ferret Powder Barricade CS #1292/2292	14	\$420
Federal American Eagle 9mm Luger, 147 Grain (Gr) FMJ	6 Cases	\$1,100
Hornady 9mm Luger 135 Grain Hollow Point	5 Cases	\$1,450
Federal .223 55gr Rifle Round	17 Cases	\$4,000
Hornady .223 55gr Rifle Round, Tap Urban	4 Cases	\$700
Hornady .308 Winchester 155gr Rifle Round, A-Max Tap	12 Cases	\$3,300
Combined Systems Inc. Super-Sock Beanbag Round #2581	140 Boxes	\$5,040
TOTAL:		\$16,244



Equipment Costs

The following table summarizes equipment related expenditures for calendar year 2022 and the projection of expenses in calendar year 2023. Equipment expenditures include the acquisition of new equipment, the replacement of damaged equipment, and the ongoing maintenance of the controlled equipment.

Equipment Type	Annual Maintenance (2022)	Projections (2023)
Unmanned Aircraft System	\$6,857.21	\$2,500
Robots	\$0	\$0
Armored Vehicles	\$1,231.64	\$2000
Mobile Incident Command	\$1,383.57	\$2,000
40 mm Less-Lethal Launchers	\$300	\$300
Less-Lethal Shotguns	\$1,750	\$1,750
Diversionary Devices	\$0	\$1,320
Rifles	\$6,700	\$7,000
Chemical Agents and Smoke Canisters	\$0	\$0
Breaching Tools	\$0	\$0
TOTAL	18,222.42	\$16,870



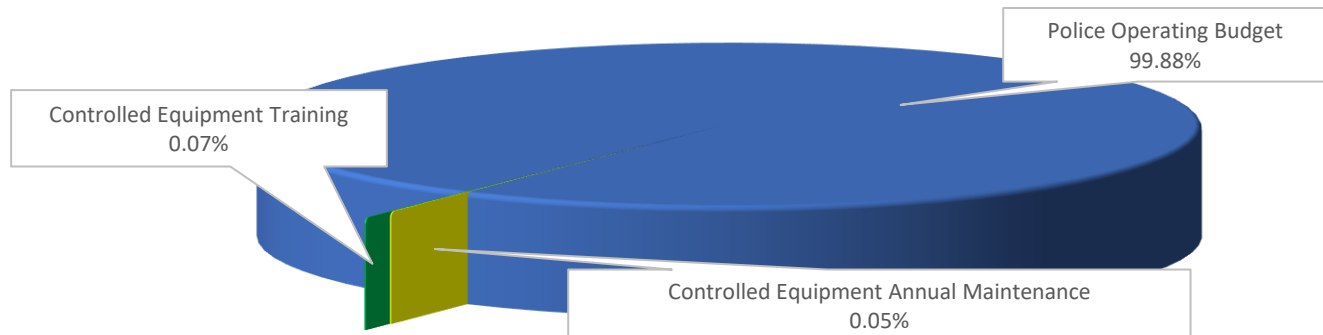
Fiscal Impact

The Milpitas Police Department is budgeted for 127 full-time employees which includes 93 full-time sworn officer positions and 34 non-sworn full-time professional staff positions. During Fiscal Year 2021/2022 the Police Department had an operating budget of \$35,666,904.

Although the City of Milpitas adopts its operating budget on a fiscal year basis (beginning July 1st) the cost of controlled equipment expenditures is reflected in this report for calendar year 2022 as required by Assembly Bill 481.

During 2022, the Milpitas Police Department spent approximately \$42,089.42 for controlled equipment and associated training. Some expenditures for controlled equipment were funded through State and/or Federal grants reducing the impact of acquiring, utilizing, maintaining, and training with controlled equipment to the Department's operating budget. Although a portion of these expenditures were paid for with grant funding, the total expenditures represent only 0.12% of the Police Department's operating budget.

Controlled Equipment Expenditures



■ Police Operating Budget ■ Controlled Equipment Annual Maintenance ■ Controlled Equipment Training



Projected Acquisitions for 2023

Although most acquisitions can be anticipated, the unanticipated replacement of existing controlled equipment may be necessary due to loss or damage. Replacement of these items will be handled on a case-by-case basis dependent on operational need, and in compliance with department policy for acquisition of controlled equipment.

Consumable Controlled Equipment

Consumable controlled equipment acquisitions for 2023 will remain consistent with current replenishment schedules and policies. Acquisitions will only restore quantities previously approved by the governing body.

Categories of consumable controlled equipment include:

- Ammunition – all calibers
- Chemical Agent and Smoke Canisters
- Specialty Munitions (40mm Munitions and Less Lethal Munitions)
- Diversionary Devices



Non-Consumable Controlled Equipment

Unmanned Aircraft Systems (UAS)

The Department is seeking to purchase a DJI Matrice 30 Series UAS. The UAS would enhance our service delivery capabilities and increase safety for our officers and the public. Our current UAS fleet cannot function during harsh weather events, whereas the DJI 30 Series UAS can. Funding for this purchase will come from a grant.

If grant funding is secured, the Department is seeking to purchase a DJI Plus remote control. The new remote will be an upgrade from the current controller in use and is weather-resistant than can be operated in inclement weather. The controller has a seven (7) inch screen and is ergonomically designed. The controller will also allow for extended range and a redundant fail-safe system to work with our current UAS.

If grant funding is secured, the Department is seeking to purchase a BRINC Lemur S UAS. The BRINC Lemur S UAS has unique capabilities that are advantageous during a tactical mission. The UAS can right itself if it collides with an object and can be used as an observation platform for up to 10-hours.

Manufacturer Name and Model	Category	Quantity	Cost
DJI Matrice 30 Series	1	1	\$30,000
DJI Plus Remote Control	N/A	1	\$1,500
BRINC Lemur S	1	1	\$30,000
TOTAL:			\$61,500

Lifespan:

All UAS equipment, 3-5 years

Fiscal Impact:

No annual maintenance costs are expected.

Training:

All Department UAS operators are licensed by the Federal Aviation Administration for UAS operation. In addition, each operator must attend on going department training.

**Breaching Tools**

The Department is seeking to purchase an AARDVARK KBT (Kinetic Breaching Tool). The KBT was purpose-built to fill the gap between manual forced entry and explosive breaching. The KBT employs the best of physics in the form of a self-contained impact ram with powder-actuated cartridges that go directly into a door or entryway. The device captures the force of the ram within the tool so there is no projectile or explosive energy leaves the device. The KBT is designed to increase operator safety by allowing operators to breach from behind a shield or to the side of the door.

The KBT operates by using .45 caliber blanks and an eight (8) round cylinder for multiple breaches. The KBT uses a hardened impact steel ram delivering 850-foot pounds of force to breach metal security screen doors and is capable of porting cinder block walls.

Funding for acquisition of the KBT and munitions will be from grant funding. Projected cost for the equipment is listed below:

Manufacturer Name and Model	Category	Quantity	Cost
AARDVARK KBT (Breaching Tool)	14	1	\$10,750
.45 Caliber Blank Rounds	14	200 @ \$2.97 each	\$595
TOTAL:			\$11,345

Lifespan:

Aardvark KBT – 10 or more years

.45 Caliber Blank Rounds – No Listed Expiration

Fiscal Impact:

Annual maintenance is approximately \$50.

Training:

Prior to use, officers must be trained in the proper use of the AARDVARK KBT by the manufacturer or by a department authorized trainer.

**Rifles and Accessories**

The Department is seeking to obtain Sionics Weapons Systems Short Barrel LE Rifles. The rifle features a 11.5" SIONICS premium barrel and 10.8" SIONICS handguard with an M-LOK 5-Slot rail piece. The Mil-Spec upper and lower receivers are forged from durable aluminum and assembled with an ambidextrous safety selector and Raptor Ambidextrous charging handle.

The Department is also seeking to obtain suppressors as an attachment to the entry rifles utilized by the Departments SWAT Team. The benefits of suppressors include noise reduction, reduced muzzle flash, reduced recoil, increased accuracy, and minimization of concussion impact. The suppressors are also capable of bringing rifle fire into approved OSHA standards.

Funding for acquisition of the Sionic Rifles and the suppressors will be from grant funding. Projected cost for the equipment is listed below:

Manufacturer Name and Model	Category	Quantity	Cost
Sionics Weapons Systems,(SBR) LE	9	8 @ \$1,099.95	\$8,799.60
Ti-Fighter 5.56mm Thread on Suppressor	9	15 @ \$1,195	\$17,925
TOTAL:			\$26,724.60

Lifespan:

Sionic Weapons System SBR LE – No Listed Expiration

Ti-Fighter Threaded Suppressor – No Listed Expiration

Fiscal Impact:

Annual maintenance is approximately \$50.

Training:

Prior to using a rifle, officers must be certified by POST instructors in the operation of the rifle. Additionally, all members that operate any rifle are required to pass a range qualification at least once a year.

**Precision Rifle**

The Department is seeking the addition of a Masterpiece Arms, Model PMR Pro .308 precision rifle (personally owned rifle, OAN: SRL328-1). The rifle is a semi-automatic shoulder-fired rifle with precision optics that fires a .308 cartridge. The rifle provides SWAT Snipers the ability to engage hostile suspects at great distances with accuracy. The .308 rifles are used exclusively by officers assigned to the SWAT Sniper Team. These rifles are typically deployed with the SWAT Sniper Team during high-risk SWAT operations and special events or instances wherein Sniper Over Watch Teams are needed.

Manufacturer Name and Model	Category	Quantity	Cost
Masterpiece Arms, Model PMR Pro .308 rifle	9	1	\$0
TOTAL:			\$0

Lifespan:

Masterpiece Arms, Model PMR Pro .308 precision rifle – No Listed Expiration

Fiscal Impact:

Personal weapons are maintained at owner's cost.

Training:

Prior to using a rifle, officers must be certified by POST instructors in the operation of the rifle, be a member of the SWAT team, and be assigned as a sniper.



Department Transparency

In some instances, the application and use of controlled equipment may prompt questions or cause concern for community members.

The Milpitas Police Department strives to provide transparency on police activities, department policies, agency practices, and the use of controlled equipment. Remaining accountable to our community builds trust, confidence, and enhances community relationships. Prior to Assembly Bill 481, the Milpitas Police Department regularly presented equipment purchases and policies to the Public Safety and Emergency Preparedness Commission and utilizes various community engagement events to introduce our community to select controlled equipment including our Unmanned Aircraft Systems, Armored Rescue Vehicle, Mobile Incident Command Vehicle, and specialized SWAT equipment. We continue to use community events to create public awareness, transparency, and education.





Controlled Equipment Coordinator Report

Although the Department remains transparent with our community, we may occasionally receive complaints about our policies, practices, and/or the use of controlled equipment. The Milpitas Police Department is committed to completing thorough and fair investigations of complaints. Resolving complaints in a fair, impartial, and expeditious manner helps maintain community trust and ensures the Milpitas Police Department will continue to provide superior service to our community.

The Milpitas Police Department has a designated Controlled Equipment Coordinator that is responsible for conducting controlled equipment inspections and audits to ensure compliance with Assembly Bill 481. The Controlled Equipment Coordinator is also the designated point of contact for receiving citizen complaints as well as tracking policy violations related to the use of controlled equipment.

Inventory

The Controlled Equipment Coordinator conducted an inventory check and identified controlled equipment that was not included in the inventory itemization reported on April 19, 2022. The inventory itemization in this report has been corrected to reflect the equipment not previously included.

Complaints

The Milpitas Police Department did not receive any citizen complaints about the use or possession of controlled equipment for calendar year 2022.

Policy Violations

The Milpitas Police Department did not identify any policy violations related to the deployment or use of controlled equipment for calendar year 2022.



Conclusion

The equipment, resources, and training outlined in this report allows the Milpitas Police Department to protect our community by enhancing public and officer safety. The use of controlled equipment aids us in resolving critical incidents safely and effectively. Although controlled equipment is utilized infrequently, it is crucial that the equipment be readily available in rapidly evolving and dynamic situations where such equipment can be used to effectively respond to threats of public safety.

When deciding how controlled equipment is funded, acquired, or used, the Milpitas Police Department considers the public's welfare, safety, and civil liberties. This annual controlled equipment report reaffirms the department's commitment to providing transparency and information to our communities and elected officials in addition to ensuring compliance with the law.

The department places high regard to meaningful public input in using controlled equipment in our community. Inquires, complaints or concerns can be submitted to the Milpitas Police Department's Controlled Equipment Coordinator via email at,

controledequipmentcoordinator@milpitas.gov

For more information, please visit the police department's website at,

<https://www.milpitas.gov/milpitas/departments/police>





Appendix

Definitions

1. Governing Body- The legislative body of the City of Milpitas.
2. Controlled Equipment- Includes items defined by California Government Code section 7070, subsections (c)(1) through (c)(16).
3. "Controlled Equipment Impact Statement" means a publicly released, written document that includes, at a minimum, all of the following:
 - (a) Description: A description of each type of Controlled Equipment, the quantity sought, its capabilities, expected lifespan, intended uses and effects, and how it works, including product descriptions from the manufacturer of the Controlled Equipment.
 - (b) Purpose: The purposes and reasons for which the Milpitas Police Department (hereinafter, "Police Department") proposes to use each type of Controlled Equipment.
 - (c) Fiscal Cost: The fiscal cost of each type of Controlled Equipment, including the initial costs of obtaining the equipment, the estimated or anticipated costs of each proposed use, the estimated or anticipated costs of potential adverse impacts, and the estimated or anticipated annual, ongoing costs of the equipment, including operating, training, transportation, storage, maintenance, and upgrade costs.
 - (d) Impact: An assessment specifically identifying any potential impacts that the use of Controlled Equipment might have on the welfare, safety, civil rights, and civil liberties of the public, and what specific affirmative measures will be implemented to safeguard the public from potential adverse impacts.
 - (e) Mitigations: Specific, affirmative technical and procedural measures that will be implemented to safeguard the public from such impacts.
 - (f) Alternatives: Alternative method or methods by which the Police Department can accomplish the purposes for which the Controlled Equipment is proposed to be used, the annual costs of alternative method or methods, and the potential impacts of alternative method or methods on the welfare, safety, civil rights, and civil liberties of the public.



Appendix

Policy - Controlled Equipment (Military Equipment)

708.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting of use requirements of controlled equipment, also defined as “military equipment” pursuant to Assembly Bill 481 (Government Code § 7070; Government Code § 7071; Government Code § 7072).

708.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

Governing body – The elected or appointed body that oversees the Department.

Controlled Equipment – Includes items defined in California Government Code section 7070, subsections (c)(1) through (c)(16); and any other item deemed to be controlled equipment by the governing body.

708.2 POLICY

It is the policy of the Milpitas Police Department that members of this department comply with the provisions of Government Code § 7071 with respect to controlled equipment.

708.3 CONTROLLED EQUIPMENT COORDINATOR

The Chief of Police, or designee, shall act as the controlled equipment coordinator. The responsibilities of the controlled equipment coordinator include but are not limited to:

- (a) Acting as a liaison to the governing body to meet the requirements of this policy.
- (b) Identifying equipment currently owned or used by the Milpitas Police Department, and that equipment the Department intends to acquire or use, that qualifies as controlled equipment and ensuring compliance with legislative mandates.
- (c) Conducting an annual inventory of all controlled equipment.
- (d) Collaborating with any allied agency that may use controlled equipment within the City of Milpitas (Government Code § 7071).
- (e) Preparing for, scheduling, and coordinating an annual community engagement meeting to include:
 1. Publicly noticing the meeting no less than 30 days in advance.
 2. Preparing for public inquiries regarding the department’s funding, acquisition, and use of equipment.



- (f) Preparing the annual controlled equipment report for submission to the Chief of Police and ensuring that the report is made available to the public on the department website (Government Code § 7072).
- (g) Establishing a procedure for the public to register a complaint or concern, submit a question about the use of controlled equipment, and identify how the Department will respond.

708.4 CONTROLLED EQUIPMENT INVENTORY

A list of equipment currently held by the department or in coordination with another local agency is attached to this policy as Exhibit 1 and incorporated into this policy by reference. The inventory list will be updated each year as part of the annual report required pursuant to AB 481.

708.5 APPROVAL

The Chief of Police or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting the controlled equipment policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed controlled equipment policy is submitted to the governing body and is available on the department website at least 30 days prior to any public hearing concerning the controlled equipment (Government Code § 7071). The controlled equipment policy must be approved by the governing body prior to engaging in any of the following (Government Code § 7071):

- (a) Requesting controlled equipment from the Federal Government pursuant to 10 USC § 2576a (Ex: 1033 Program)
- (b) Seeking funds for controlled equipment, including but not limited to applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- (c) Acquiring controlled equipment either permanently or temporarily, including by borrowing or leasing.
- (d) Collaborating with another law enforcement agency in the deployment or other use of controlled equipment within the jurisdiction of this department.
- (e) Using any new or existing controlled equipment for a purpose, in a manner, or by a person not previously approved by the governing body.
- (f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of controlled equipment.
- (g) Acquiring controlled equipment through any means not provided above.

**708.6 EXIGENCY- PROCUREMENT AND USE**

Nothing in this policy shall prohibit the procurement or use of controlled equipment when exigent circumstances exist. In rare circumstances, exigent circumstances may occur where the immediate procurement and use of controlled equipment may be necessary to preserve life, prevent physical harm to officers or other persons, prevent the destruction of relevant evidence, prevent the escape of the suspect, or maintain public safety. In the event such an event occurs, the Chief of Police or the authorized designee may authorize the procurement and use of controlled equipment. Any exigent procurement and/or use of controlled equipment will be reported to the governing body, in writing, unless such information is confidential or privileged under local, state, or federal law.

708.7 ANNUAL REPORT

Upon approval of a controlled equipment policy, the Chief of Police or their authorized designee shall submit a controlled equipment report to the governing body for each type of controlled equipment approved within one year of approval, and annually thereafter for as long as the controlled equipment is available for use (Government Code § 7072).

The Chief of Police or the authorized designee shall also make each annual controlled equipment report publicly available on the department website for as long as the controlled equipment is available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of controlled equipment in department inventory.

708.8 COMMUNITY ENGAGEMENT

Within 30 days of submitting and publicly releasing the annual report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the Department should discuss the report and respond to public questions regarding the funding, acquisition, or use of controlled equipment.

708.9 MAINTENANCE AND RESUPPLY OF CONTROLLED EQUIPMENT

In the event a previously approved supply of controlled equipment falls below the approved quantity, the Department may replenish the supply, as needed, without first obtaining additional approval from the Governing Body.