



MILPITAS CITY COUNCIL AGENDA
TUESDAY, MARCH 17, 2015
455 EAST CALAVERAS BOULEVARD, MILPITAS, CA



6:00 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)

SUMMARY OF CONTENTS

- I. CALL TO ORDER by the Mayor (6:00 p.m.)**
- II. ADJOURN TO CLOSED SESSION**
 - 1. CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**

Pursuant to California Government Code Section 54956.9

 - a) City of Milpitas appeal of City of San Jose's approval of Planned Development Permit PD 14-014 for Newby Island, before the City of San Jose Planning Commission
 - b) City of Milpitas Petition for Hearing on issuance of Solid Waste Facility Permit for Newby Island, before the City of San Jose Local Enforcement Agency
 - 2. CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION**

Pursuant to California Government Code Section 54956.9

City of Milpitas as plaintiff
 - 3. CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**

Pursuant to California Government Code Section 54956.9

SCS Development Co., et al. v. City of Milpitas, et al.; Santa Clara County Superior Court Case No. 115CV277803
- III. CLOSED SESSION ANNOUNCEMENTS:** Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote or abstention of each member present
- IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- V. INVOCATION (Councilmember Giordano)**
- VI. APPROVAL OF COUNCIL MEETING MINUTES – March 3, 2015**
- VII. SCHEDULE OF MEETINGS – COUNCIL CALENDARS – March and April 2015**
- VIII. PUBLIC FORUM**

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an item not listed on the agenda, no response is required from City staff or the Council and no action can be taken. However, the Council may instruct the City Manager to place the item on a future meeting agenda.

- IX. ANNOUNCEMENTS**
- X. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**
- XI. APPROVAL OF AGENDA**
- XII. CONSENT CALENDAR (Items with asterisks*)**

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 member of the City Council, 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. If removed, this item will be discussed in the order in which it appears on the agenda.

XIII. PUBLIC HEARING

- 1. Conduct a Public Hearing and Adopt a Resolution for a General Plan Amendment, Zoning Amendment, Environmental Impact Assessment and Introduce Ordinance No. 38.820 Prohibiting All New Residential Uses from Town Center Zoning District (Staff Contact: Adam Petersen, 408-586-3274)**

XIV. UNFINISHED BUSINESS

- 2. Receive Update of the Odor Control Report (Staff Contact: Steven Machida, 408-586-3355)**
- 3. Receive Oral Report on Current Crime Data for the City of Milpitas (Staff Contact: Steve Pangelinan, 408-586-2426)**
- 4. Receive Update on the Objectives and Services of the Request for Proposals for Operation of the Community Access Television Channel 26 (Staff Contact: Mike Luu, 408-586-2706)**

XV. REPORTS OF MAYOR & COMMISSIONS

- * 5. Consider Mayor's Recommendations for Appointment and Re-Appointment to Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**
- * 6. Approve Recommendation from the Parks, Recreation and Cultural Resources Commission to Install a Memorial Plaque Near Milpitas Sports Center Little League Farm Field for Christian Dalugdug (Staff Contact: Renee Lorentzen, 408-586-3409)**
- 7. Receive Presentation and Approve the 2015 Work Plan of the Veterans Commission (Staff Contact: Carmen Valdez, 408-586-3086)**

XVI. NEW BUSINESS

- 8. Receive Construction Progress Report from Santa Clara Valley Transportation Authority Staff on an Update of the Bay Area Rapid Transit Extension Project (Staff Contact: Steve Machida, 408-586-3355)**

XVII. RESOLUTIONS

- * 9. Adopt a Resolution Granting Final Acceptance of and Releasing Warranty Bond for South Main Street Median Improvements – Paragon, Project No. 3204 (Staff Contact: Ahmed Aly, 408-586-3325)**
- * 10. Adopt a Resolution Annexing Certain Real Property into Community Facilities District No. 2005-1, Approve a Subdivision Improvement Agreement (Lennar Homes), Final Map and Improvement Plans for 1494 California Circle (Waterstone Subdivision), Project No. 2830 (Staff Contact: Ahmed Aly, 408-586-3325)**

XVIII. AGREEMENTS

- * 11. Approve Environmental Assessment for Addendums to the Transit Area Specific Plan Final Environmental Impact Report and the Joint Use Agreement between City of Milpitas**

and Santa Clara Valley Water District for Trail Improvements and Pedestrian Overcrossing on the Lower and East Penitencia Creeks West of McCandless and between Montague Expressway and Canal Street (Staff Contact: Steve Machida, 408-586-3355)

- * 12. Approve a New Capital Improvement Program Project No. 2005 for Lower Penitencia Creek Pedestrian Trail Bridge, Approve a Budget Appropriation, and Approve Amendment No. 1 to the Agreement with Biggs Cardosa Associates, Inc. (Staff Contact: Steve Erickson, 408-586-3301)
- * 13. Consider Approval of Assignment and Assumption Agreement related to the McCarthy Development Agreement (Staff Contact: Michael Ogaz, 408-586-3040)
- * 14. Authorize City Manager to Execute Amendment No. 3 to the Agreement with CSG for Fire Department Plan Review & Inspection Services per Fiscal Year 2014-15 for an additional amount of \$75,000 (Staff Contact: Albert Zamora, 408-586-3371)

XIX. DEMAND

- * 15. Authorize Payment to Burton Fire for Invoices Totaling \$28,162.65 for the Ladder Truck TK86 repairs (Staff Contact: Steve Machida, 408-586-3355)

XX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, APRIL 7, 2015**

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 agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the 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: mogaz@ci.milpitas.ca.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.ci.milpitas.ca.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 the City website.

All City Council agendas and related materials can be viewed online here:
www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp (select meeting date)

APPLY TO SERVE ON A CITY COMMISSION

Current vacancies on:

Community Advisory Commission

Sister Cities Commission

Commission application forms are available online at www.ci.milpitas.ca.gov or at Milpitas City Hall.

Contact the City Clerk's office at 408-586-3003 for more information.

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, call the City Clerk at (408) 586-3001 or send an e-mail to mlavelle@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the City Council Chambers for all meetings.

AGENDA REPORTS

XIII. PUBLIC HEARING

- 1. Conduct a Public Hearing and Adopt a Resolution for a General Plan Amendment, Zoning Amendment, Environmental Impact Assessment and Introduce Ordinance No. 38.820 Prohibiting All New Residential Uses from Town Center Zoning District (Staff Contact: Adam Petersen, 408-586-3274)**

Background: The Town Center land use designation and zoning district applies to the central part of the City, generally located along Calaveras Boulevard between Interstate 680 and the Union Pacific railroad corridor. As described in the City's General Plan and Zoning Code, the intent of the Town Center land use designation and zoning district is to support a wide range of administrative, business, entertainment, residential, dining and cultural activities in the geographic center of the City.

In 2010, the Town Center designation was amended and expanded to include parcels south of Calaveras Boulevard. The purpose of the amendment was to make the existing uses on these parcels (offices, cultural centers, religious institutions, medical offices, financial institutions, gasoline station, retail) conforming and allow for the flexibility of integrating other commercial and residential uses for future development. Since the rezoning of these parcels to Town Center, several land use conversions to residential development have occurred. A map of the Town Center zone area is included as part of the Planning Commission staff report (in agenda packet).

On May 21, 2013, the City Council approved an amendment to the Zoning Code to allow live/work units as a conditional use in the Town Center Zoning District.

On December 10, 2014, the City of Milpitas Planning and Neighborhood Services Department prepared an application pursuant to Section 57 of the Milpitas Zoning Ordinance for a General Plan Amendment and Zoning Amendment. The following is a summary of the request:

- *General Plan Amendment:* To modify the Milpitas General Plan, removing references to residential density, discussions and references of residential land uses and references to mixed-use residential development.
- *Zoning Amendment:* To modify the Milpitas Zoning Code, adding the words "mixed use" residential to the description of the Town Center zone, and prohibiting ground floor residential in the Town Center zone.

On February 3, 2015, the City Council conducted a public hearing to amend the Zoning Code to eliminate new ground floor residential uses to encourage commercial, retail, entertainment and restaurant type uses in the first floor of new or redevelopment in the Town Center Zone. During the hearing, the City Council expressed a desire to make the Town Center a distinct commercial district and directed staff to bring forward a General Plan Amendment and Zoning Code Amendment to prohibit new residential development of any type in the Town Center.

The Council also raised questions concerning the amount of acreage in the Town Center Zone and the number of residential units. The Town Center consists of 132 acres, and the following table lists the residential projects and number of units.

Project	Units
Town Center	181 units
Orchid	80 single family homes

Cobblestone	28 single family homes 4 live/work units
Sundrop	83 single family homes
Senior Housing	148 units
75 S. Milpitas	20 units 5 live work units
Total Units	549

The Planning Commission conducted a public hearing on February 25, 2015 and adopted a resolution by a 6 to 1 vote recommending the City Council adopt the proposed General Plan Amendment and Zoning Amendment to prohibit new residential development in the Town Center District.

Alternatives:

The City Council may consider the following alternatives:

- a) Adopt the proposed amendments as they are proposed; or
- b) May reconsider vertical mixed-use with no ground floor residential as proposed to the City Council on February 3, 2015; or
- c) Deny the proposed amendments.

Conclusion: Based on the analysis described above and within the Planning Commission staff report and resolution, the Planning Commission recommended the City Council adopt a Resolution amending the General Plan and introduce an Ordinance amending the Town Center Zone to prohibit new residential uses in the Town Center.

California Environmental Quality Act (CEQA):

The California Environmental Quality Act (Section 21000, et. seq. of the California Public Resources Code, hereafter CEQA) requires analysis of agency approvals of discretionary “projects.” A “project,” under CEQA, is defined as “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” The proposed project is a project under CEQA.

Staff reviewed the project to determine the required level of review under CEQA. An initial environmental assessment of the project was prepared in accordance with CEQA. A Negative Declaration was completed and circulated for public review and comment between February 5, 2015 and February 25, 2015. A Finding is proposed that the project will not have a significant effect on the environment because no significant impacts were identified in the Initial Study. The project will not expand the range of uses in the Town Center Zoning District and will not intensify the uses already prescribed by the Town Center Zone. Instead, it will minimize the amount of uses that can occur there and will therefore limit the range of environmental impacts.

Fiscal Impact: None.

Attachments (documents in agenda packet)

- A. Draft City Council Resolution
- B. Draft Ordinance No. 38.820 for first reading and introduction
- C. 02/25/2015 Planning Commission Agenda Report
- D. 02/25/2015 Planning Commission meeting minutes
- E. Adopted Planning Commission Resolution No. 15-009

Recommendations:

- 1. Open the public hearing to receive comments.

2. Move to close the public hearing following any comments.
3. Adopt a Resolution approving the General Plan Amendment to eliminate references to residential development, residential densities, and mixed-use development in the Town Center.
4. Following the City Attorney reading of the title of Ordinance No. 38.820, move to waive the first reading of the ordinance beyond the title.
5. Introduce Ordinance No. 38.820 amending the Town Center Zone prohibiting new residential uses while allowing existing and previously approved residential uses to continue.

XIV. UNFINISHED BUSINESS

2. Receive Update of the Odor Control Report (Staff Contact: Steven Machida, 408-586-3355)

Background: From January 12 through February 28, 2015, the Bay Area Air Quality Management District (BAAQMD) received 718 odor complaints originating in Milpitas.

BAAQMD has scheduled a public meeting at Milpitas City Hall Council Chambers on Thursday, April 23 from 6:00 to 8:00 PM regarding odors.

The City has been working with the City of San Jose, BAAQMD, Cal Recycle, and Republic Services to remediate the odor. Unfortunately to date, no progress has been made by these outside regulatory agencies sufficient to reduce or eliminate odor coming from Newby Island.

Fiscal Impact: The costs for staff, technical experts, and legal counsel are estimated at \$800,000.

Recommendation: Receive the odor report update from the City Engineer.

3. Receive Oral Report on Current Crime Data for the City of Milpitas (Staff Contact: Steve Pangelinan, 408-586-2426)

Background: Recently, Councilmember Giordano requested a report on crime from the Chief of Police, for the benefit of City Council and residents. She sought current crime statistics for 2014.

Recommendation: At the City Council meeting, receive a report on crime in Milpitas from the Chief of Police.

4. Receive Update on the Objectives and Services of the Request for Proposals for Operation of the Community Access Television Channel 26 (Staff Contact: Mike Luu, 408-586-2706)

Background: In April of 2009, Council approved an agreement with Milpitas Community Television (MCTV) for the operation of the Milpitas Public Access Channel and studio. The agreement was automatically renewed in April of 2012 for another three years. MCTV has been operating Channel 26 and the studio with funding from the City's franchise agreement with Comcast Inc. As part of the agreement, MCTV operates the studio and the City maintains and upgrades the equipment. The agreement will be up for renewal again in April of 2015. In November 18, 2014, staff presented to Council with the recommendation for staff to go through with an RFP process to obtain an operator for the management of the community access television channel and studio. The goals for the operator will be:

- Implement a community television solution that is financially and operationally stable.
- Provide techniques for assessing community needs and new opportunities.
- Provide opportunities for openness and transparency in the operation of the station.
- Increase community support.

- Provide innovations for advancing the station in the ever-changing technology of video and television production.
- Provide educational training programs, non-profit engagement and marketing that support community access television.
- Provide greater community station effectiveness to include independent art and cultural groups, entertainment groups, sports and recreation associations.

Fiscal Impact: The fiscal impact will depend upon which option Council directs staff to select. The fiscal impact ranges from \$15,000 to \$150,000. The fee schedule will also range from \$0 to \$100 per session cost to a resident wanting to use the studio.

Alternative: The alternative is to re-negotiate a new contract with MCTV by implementing the goals and scope of work requested by the City in the RFP. MCTV has been managing and running the channel and studio since its inception.

Recommendation: Receive the report on the Request for Proposals (RFP) objectives and direct staff to move forward with issuing of RFP or re-negotiate a new contract with Milpitas Community Television with the new goals and scope of work.

XV. REPORTS OF MAYOR & COMMISSIONS

*** 5. Consider Mayor's Recommendations for Appointment and Re-Appointment to Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**

Background: Mayor Esteves recommends the following:

Community Advisory Commission: newly appoint Adrian Morel as Alternate No. 2 to a term that will expire in January 2017. A copy of his Commission application is included in the agenda packet.

Senior Advisory Commission: re-appoint Melba Holliday as a regular member to a term that will expire in December 2016.

Recommendation: Receive Mayor's recommendations and approve the re-appointment of Melba Holliday to the Senior Advisory Commission and the new appointment of Adrian Morel to the Community Advisory Commission.

*** 6. Approve Recommendation from the Parks, Recreation and Cultural Resources Commission to Install a Memorial Plaque Near Milpitas Sports Center Little League Farm Field for Christian Dalugdug (Staff Contact: Renee Lorentzen, 408-586-3409)**

Background: Milpitas resident and Milpitas Little League player Christian Dalugdug passed away at the age of eight on December 27, 2014. A third grader at Weller Elementary, Christian loved playing baseball. He played on the Milpitas Sports Center's Farm fields for two years before his passing. Christian's family, friends and the President of Milpitas Little League, along with a recommendation from the Parks, Recreation and Cultural Resources Commission at its March 2, 2015 meeting, all request the installation of a memorial plaque in Christian's memory near the Milpitas Sports Center Little League Farm Field.

Fiscal Impact: None. There is sufficient funding in the Recreation Services budget to cover the cost of the plaque and installation.

Recommendation: Per recommendation of the PRCRC, approve a memorial plaque for installation near the Milpitas Sports Center Little League Farm Field in memory of 8-year-old Christian Dalugdug.

7. Receive Presentation and Approve the 2015 Work Plan of the Veterans Commission (Staff Contact: Carmen Valdez, 408-586-3086)

Background: The Milpitas City Council established the Veterans Commission on December 1, 2009 to work in an advisory capacity to the City Council on matters pertaining to Veterans in Milpitas. The Commission is comprised of seven voting members and two alternate members who are appointed by the Mayor. Since 2009, the Commission has been very active and has completed many tasks in honor of veterans in Milpitas. Some accomplishments include: selection of the Veteran of the Year, hosting an annual car show to raise funds for local veterans organizations, the installation of the Veterans Bench and the Henry Mattos plaque in the Veterans Plaza, a database with addresses of Milpitas veterans, a updated webpage for Milpitas veterans to get information on available services and participation in special events to promote awareness of services and events available for veterans.

Commissioners reviewed the proposed 2015 Work Plan at their February 4, 2015 meeting and now seek approval by the City Council. Included in the agenda packet is a copy of the proposed work plan for Council review and approval.

Recommendation: Hear an oral presentation at the City Council meeting, and approve the 2015 Veterans Commission Work Plan.

XVI. NEW BUSINESS

8. Receive Construction Progress Report from Santa Clara Valley Transportation Authority Staff on an Update of the Bay Area Rapid Transit Extension Project (Staff Contact: Steve Machida, 408-586-3355)

Background: The Program Manager from Santa Clara Valley Transportation Authority (VTA) will present a report on the progress of construction for Silicon Valley Bay Area Rapid Transit (BART) Extension project, the 10-mile extension from the Warm Springs station in Fremont, to the Milpitas station to be located near the Great Mall, and then on to the Berryessa station to be constructed in San Jose. The project is now into the third year of the four-year major construction phase. Construction activities include relocating municipal utilities, constructing street improvements, constructing the rail extension, and building the stations and campuses. This presentation will include a brief overall project overview as well as VTA's plan to temporarily close the Montague Light Rail Station on Capitol Avenue for approximately 4.5 months starting on March 23. Additionally, the VTA staff will discuss the revised aesthetic design of the new Parking Garage located on the Milpitas station campus.

Fiscal Impact: Staff time is reimbursed through the Master Agreement between Santa Clara Valley Transportation Authority and the City.

Recommendation: Receive a construction progress report from Santa Clara Valley Transportation Authority staff on an update of the Bay Area Rapid Transit Extension Project.

XVII. RESOLUTIONS

*** 9. Adopt a Resolution Granting Final Acceptance of and Releasing Warranty Bond for South Main Street Median Improvements – Paragon, Project No. 3204 (Staff Contact: Ahmed Aly, 408-586-3325)**

Background: The South Main Street Median Improvements were initially accepted by the City Council on November 19, 2013 and have passed the one-year warranty period. The project scope of work included construction of new median curbs, signing, striping, loop detectors, median street lighting, median landscaping and irrigation, and three banner poles on South Main Street between Montague Expressway and Cedar Way. A final inspection of the installed public

improvements was made and they were found to be satisfactory. The City Council is requested to adopt a resolution granting final acceptance of the project and release of the warranty bond.

Fiscal Impact: None.

Recommendation: Adopt a resolution granting final acceptance of and releasing the warranty bond for the South Main Street Improvements - Paragon Project No. 3204.

*** 10. Adopt a Resolution Annexing Certain Real Property into Community Facilities District No. 2005-1, Approve a Subdivision Improvement Agreement (Lennar Homes), Final Map and Improvement Plans for 1494 California Circle (Waterstone Subdivision), Project No. 2830 (Staff Contact: Ahmed Aly, 408-586-3325)**

Background: On November 19, 2013, the City Council approved General Plan Amendment No. GP12-0003, Zoning Amendment No. ZA12-0004, Site Development Permit No. SD12-00002, Planned Unit Development No. PD12-0001, and Major Vesting Tentative Map No. TM12-0001 to allow the conversion of industrial land to 84 detached single-family residential units along with ancillary lots for private streets and a park on 10.7 acres located at 1494 California Circle (hereafter referred to as “Waterstone”).

Lennar Homes of California, Inc. submitted a final tract map in substantial compliance with the approved tentative map and with the required supporting documents for the creation of 84 lots for single family residential use. Lennar Homes will construct 84 single family detached residential units on 10.7 acres located at 1494 California Circle. The development has on-site private utilities (potable water, sanitary sewer, storm drain, recycled water, etc.). The public improvements consist of frontage improvements along California Circle (sidewalk, landscaping, electrical, utility connections, overlay, curb ramps, decorative pavement, intersection improvements, etc.).

In addition to the final map, the developer also submitted public improvement plans for California Circle (2-1193) and executed a subdivision improvement agreement for the project. Staff reviewed the documents and found those satisfying the City’s requirements for this project. Public improvement plans and final map are available for review in the office of the City Engineer.

Lennar Homes is required to annex the subject property into the Community Facilities District 2005-1 (CFD 2005-1) as a condition of the tentative maps approved by the City Council on November 19, 2013. Resolution No. 7521, adopted by City Council on May 17, 2005 forming CFD 2005-1, authorizes the City to annex properties to CFD 2005-1, which will be assessed only for eligible public services, without further public hearing or formal election upon receipt of written consent from the owners. Lennar Homes has given written consent and approval that this property be annexed to CFD 2005-1. Lennar Homes also agreed that such consent and approval constitutes election to annex to CFD 2005-1 and approval of the authorization for the levy of the special tax on the subject properties.

Staff issued a notice of preparation and subsequently circulated a Draft Environmental Impact Report (EIR) between June 21, 2013 and August 5, 2013. A first amendment to the Draft EIR was completed and made public on September 27, 2013. The Draft EIR, the first amendment to the Draft EIR, and all the appendices to the Draft EIR were combined to comprise the Final EIR. On November 19, 2013, the City Council approved the Final EIR for this project (State Clearinghouse Number 2013032005).

Fiscal Impact: an annual increase into Community Facility District No. 2005-1 by approximately \$30,000 annually.

Attachments (documents in agenda packet):

- A. Subdivision Improvement Agreement for Waterstone project
- B. Title Sheet for Waterstone Tract Map
- C. Title Sheet for Public Street Improvements Plan
- D. Draft Resolution to annex property into Community Facilities District No. 2005-1

Recommendations:

- 1. Adopt a resolution annexing real properties located within Final Tract Map No. 10270 into Community Facilities District No. 2005-1.
- 2. Approve a Subdivision Improvement Agreement between the City of Milpitas and Lennar Homes of California, Inc. for public improvements associated with Final Tract Map No. 10270 (Waterstone).
- 3. Approve Final Tract Map No. 10270 (Waterstone) and Public Improvement Plans 2-1193, construction documents for the associated public improvements.

XVIII. AGREEMENTS

- * **11. Approve Environmental Assessment for Addendums to the Transit Area Specific Plan Final Environmental Impact Report and the Joint Use Agreement between City of Milpitas and Santa Clara Valley Water District for Trail Improvements and Pedestrian Overcrossing on the Lower and East Penitencia Creeks West of McCandless and between Montague Expressway and Canal Street (Staff Contact: Steve Machida, 408-586-3355)**

Background: The proposed trails are located within the Transit Area Specific Plan along Lower/ East Penitencia Creek Trail adjacent to the D.R. Horton and Taylor Morrison residential Developments that are each located along McCandless Drive. Trails will extend north from Montague Expressway along the DR Horton project (Harmony) north to Canal Street at the northern edge of the Taylor Morison project (Avenue). The trail will also connect to the east along East Penitencia Creek to McCandless Drive. In addition to the trails, a new pedestrian bridge is proposed to extend across the East Penitencia Creek and at the confluence of Lower Penitencia Creek. Attachment A indicates the location of the proposed trails and bridge. The proposed bridge would provide a direct north/south connection between the Harmony and Avenue residential projects. A Joint Use Agreement (JUA) is required to allow the construction of trails and associated facilities on SCVWD property. The JUA will allow the construction of the trails and subsequent construction of the bridge. The proposed JUA is for a 10 year term and can be extended by the City for another 10 years. It establishes that the City will be solely responsible for the construction, repair, relocation, and maintenance of the trail and bridge, including repairs to the trail resulting from general public use and SCVWD maintenance vehicles.

Environmental The City Council adopted the Transit Area Specific Plan Final Environmental Impact Report on June 3, 2008 (TASP EIR). Addendums to the TASP EIR were prepared for the trail and the bridge and determined the existing TASP EIR remains sufficient to address the potential impacts resulting from the trail and bridge projects. Both Addendums found that there are no substantial changes proposed by the revised project or in the circumstances in which the project will be undertaken that require major revisions of the existing EIR, or preparation of a new subsequent or supplemental EIR, due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. Both the trail and the bridge projects are consistent with the TASP EIR and would involve only minor changes to the previously approved project. A copy of the addendums and supporting documents are attached to the staff report.

Conclusion In summary, the proposed trail and bridge on the Lower and East Penitencia Creek are consistent with the Transit Area Specific Plan and Final Environmental Impact Report and the JUA is consistent with similar agreements between the City and the Santa Clara Valley Water District for similar trails in the community.

Alternatives: 1) Approve the two TASP EIR Addendums and Joint Use Agreement; or 2) deny the Proposed TASP EIR Addendums and Joint Use Agreement.

Fiscal Impact: The environmental assessments were funded by the applicants.

Attachments (documents in agenda packet):

- A. Trail and Bridge Location Map
- B. Lower/East Penitencia Creek Trails Project –Taylor Morrison plans
- C. Lower/East Penitencia Creek Trails Project –DR Horton plans
- D. Lower/East Penitencia Creek Pedestrian Bridge plan
- E. Joint Use Agreement between the City and Santa Clara Valley Water District
- F. Initial Study EIR Addendum - Lower/East Penitencia Creek Trails/Bridge
- G. Final Initial Study EIR Addendum - Lower/East Penitencia Creek Trails/Bridge

Recommendation: Approve the Environmental Assessment No. EA 14-0005 for two Addendums to the Transit Area Specific Plan Final Environmental Impact Report for the Lower/East Penitencia Creek trails and proposed bridge, and approve the Joint Use Agreement between the City of Milpitas and the Santa Clara Valley Water District.

- * 12. **Approve a New Capital Improvement Program Project No. 2005 for Lower Penitencia Creek Pedestrian Trail Bridge, Approve a Budget Appropriation, and Approve Amendment No. 1 to the Agreement with Biggs Cardosa Associates, Inc. (Staff Contact: Steve Erickson, 408-586-3301)**

Background: On September 14, 2014, the City entered into a consultant agreement with Biggs Cardosa Associates, Inc. in the amount of \$19,300 to provide 30% conceptual bridge design services for a new pedestrian bridge over Lower Penitencia Creek near McCandless Drive. The term of the agreement is from September 14, 2014 to September 4, 2015. Biggs Cardosa was selected through the City's standard operating procedure for professional consultants to provide these services. The scope of work included providing a 30% conceptual bridge design and construction estimate to determine the feasibility of installing a 10-foot wide steel bridge that will connect developer constructed levee trails. The 30% conceptual design is now complete, and staff recommends moving forward with a new project to complete the final construction plans and specifications.

City Council is requested to approve a new Capital Improvement Project (CIP) for the final design and construction of the new pedestrian bridge. The Harmony and Taylor-Morrison development projects will construct new levee trails, and have contributed a total of \$500,000 in funding for the construction of the bridge. An additional \$150,000 in funding is required for final bridge design services, project administration, City Building Department review and permitting, and for special construction inspection. Transit Area Specific Plan (TASP) impact fees are proposed for this additional funding.

City Council is also requested to approve Amendment No. 1 to the agreement with Biggs Cardosa Associates Inc. for the final bridge design, construction support, and construction inspection services to complete construction of the new bridge. Staff negotiated a scope and fee for these additional services not to exceed \$184,500. The agreement will also be extended to March 18, 2016.

Fiscal Impact: A budget appropriation is requested in the amount of \$150,000 from the Transit Area Specific Plan (TASP) impact fees fund and \$500,000 from the developers contributions for the Lower Penitencia Pedestrian Bridge, Project No. 2005. Annual maintenance costs are estimated at \$20,000.

Recommendations:

1. Approve a new Capital Improvement Program Project No. 2005 for the Lower Penitencia Creek Pedestrian Bridge Project.
2. Approve a budget appropriation of \$150,000 from Transit Area Specific Plan (TASP) impact fees and \$500,000 from developer contributions.
3. Approve Amendment No. 1 to the Agreement with Biggs Cardosa Associates, Inc. in the amount of \$184,500 and for a term until March 18, 2016 for the Lower Penitencia Creek Pedestrian Bridge.

*** 13. Consider Approval of Assignment and Assumption Agreement related to the McCarthy Development Agreement (Staff Contact: Michael Ogaz, 408-586-3040)**

Background: On March 21, 2000, the City entered into a Development Agreement with Muriel M. Harris and Joseph A. McCarthy, each as Trustee of the MGM Revocable Trust dated December 14, 1982, as amended, and of the RIM Revocable Trust dated February 12, 1982, as amended (“McCarthy”). The Development Agreement involved approximately 139 acres owned by McCarthy along North McCarthy Boulevard between Ranch Drive (“McCarthy Ranch”) behind the existing Best Buy and WalMart. The Development Agreement vested certain permitted uses, maximum height and size of buildings, location of public improvements, taxes, fees and exactions, and guidelines, rules, and ordinances in effect at that time.

Under the Development Agreement, McCarthy may sell McCarthy Ranch or any portions thereof and assign the rights and obligations under the Development Agreement to a successor-in-interest with written consent of the City. The City has approved three prior assignments. Shortly after executing the Development Agreement in March 2000, McCarthy sold 65 acres (“Veritas Parcel”) of McCarthy Ranch to Veritas Operating Corporation (“Veritas”) and with the City’s consent, assigned its rights and obligations relating to the Veritas Parcel under the Development Agreement to Veritas. Veritas in conjunction with its lender constructed the first phase of the development consisting of three office buildings of approximately 469,464 square feet, which is currently occupied by Cisco at the south end of North McCarthy Boulevard and Ranch Drive. The remaining part of the Veritas Parcel is vacant.

On September 19, 2006, Veritas sold the 65 acre Veritas Parcel to BRE/Milpitas LLC (“Blackstone”) and with the City’s consent, Veritas assigned its rights and obligations relating to the Veritas Parcel to Blackstone. Blackstone is currently in escrow to sell the 65 acre Veritas Parcel to Hudson Campus Center, LLC. (“Hudson”) and is seeking the City’s written consent to assign the rights and obligations under the Development Agreement to Hudson. Hudson is a full service, vertically integrated real estate investment company headquartered in Los Angeles, California. Hudson was founded in 2006 and had an initial public offering in 2009. It currently owns 27 commercial/retail/office properties in the west coast totaling more than 6.4 million square feet. Hudson is in the process of buying Blackstone’s real estate portfolio of properties totaling over six million square feet, including the Veritas Parcel.

Staff reviewed Hudson’s background and believes it is a growing and reputable company that will hopefully further develop the Veritas Parcel pursuant to the Development Agreement. The term of the Veritas Development Agreement relating to the 65-acre Veritas Parcel expires on April 21, 2025. The Development Agreement vested certain rights for the development of up to 1,415,814 square feet of industrial space of which approximately 469,464 square feet have been constructed to date. Hudson informed staff that the company has no plans in the near future to develop the vacant Veritas Parcel. However, Hudson is conducting market studies to determine viability of future development.

Fiscal Impact: None.

Recommendation: Approve the Assignment and Assumption Agreement between the City, BRE/Milpitas LLC and Hudson Campus Center LLC relating to the 65 acres along North McCarthy Boulevard between Ranch Drive.

- * 14. **Authorize City Manager to Execute Amendment No. 3 to the Agreement with CSG for Fire Department Plan Review & Inspection Services per Fiscal Year 2014-15 for an additional amount of \$75,000 (Staff Contact: Albert Zamora, 408-586-3371)**

Background: On May 20, 2014, the City Council approved the City's Final Budget for Fiscal Year 2014-15, which includes \$163,200 for plan review and inspection services within the Fire Prevention Division. The additional amount of \$75,000 is necessary due to the additional heavy workload in the Hazardous Materials Unit of the Fire Prevention Division.

Fiscal Impact: None. Sufficient funding is available in the Fire Prevention operating budget.

Recommendation: Authorize the City Manager to execute Amendment No. 3 to the agreement with CSG for fire inspection and plan review services for a total amount-not-to-exceed \$238,200 for Fiscal Year 2014-15.

XIX. DEMAND

- * 15. **Authorize Payment to Burton Fire for Invoices Totaling \$28,162.65 for the Ladder Truck TK86 repairs (Staff Contact: Steve Machida, 408-586-3355)**

Background: When responding to a service call, Fire Ladder Truck TK86 was involved in a traffic collision with an inattentive driver. As a result, TK86 sustained damage to the right side of the cab but fortunately, no one was hurt in the collision. The City received the following two quotes to repair the damage to front of the cab:

Burton Fire	\$12,520.73
Hi-Tech E.V.S. Inc.	\$21,484.42

A contract was awarded to Burton Fire based on this initial estimate. As Burton Fire was preparing TK86 for the repair or "tear down," that company discovered additional damages that were hidden behind the body panels and the chassis. The additional damages could not be determined during the initial assessment until the actual tear down occurred. Subsequently, Burton Fire submitted a quote of \$11,366.92 to repair the additional damages. Since TK86 was already partially disassembled at Burton Fire, Staff could not obtain another quote, thus, Burton Fire was authorized to proceed with the work. The cost of the repair to TK86 is \$28,162.65. The insurance company from the driver who caused the collision will pay for the repairs.

California Environmental Quality Act (CEQA): Exempt from CEQA as there will be no physical change to the environment.

Fiscal Impact: None. The insurance company from the driver who caused the collision will pay for the repairs.

Recommendation: Authorize payment of invoices to Burton Fire totaling \$28,162.65 for the Ladder Truck TK86 repairs.

XX. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, APRIL 7, 2015**

March 2015						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
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May 2015						
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MILPITAS CITY COUNCIL CALENDAR

April 2015

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1 7:30 AM -VTA Northeast Group (JE) 5:30 PM -Veterans Commission (DG) 8:00 PM -Community Advisory Commission (CM)	2 5:30 PM -VTA Board of Directors (JE)	3	4
5	6 10:00 AM -SVRT Program Working Committee (JE) 7:00 PM -Parks, Recreation & Cultural Resources Commission (GB)	7 6:00 PM -Closed Session 7:00 PM -City Council	8 4:00 PM -Milpitas Oversight Board 7:00 PM -Planning Commission	9 4:00 PM -VTA Policy Advisory Committee (CM) 4:30 PM -Treatment Plant Advisory Committee (JE) (San Jose) 7:00 PM -Youth Advisory Commission (DG) 7:00 PM -Cities Assoc of SCC (JE)	10	11
12	13 6:00 PM -Economic Development Commission (CM) 7:00 PM -Arts Commission (DG)	14	15	16 12:00 PM -Santa Clara VTA Congestion Management Program & Planning Committee (JE)	17	18
19	20 7:00 PM -Telecommunications Commission (GB)	21 6:00 PM -Closed Session 7:00 PM -City Council	22 7:00 PM -Planning Commission	23 1:30 PM -County Library JPA Board (CM) 5:30 PM -Milpitas Chamber of Commerce Board (DG) 6:00 PM -Sister Cities Commission (MG) 6:00 PM -BAAQMD Public Meeting on Odor	24	25 11:30 AM -2015 Commissioner's Recognition Lunch
26	27	28 1:30 PM -Senior Advisory Commission (JE) 6:00 PM -Recycling & Source Reduction Adv. Comm. (GB)	29	30 12:00 PM -Terrace Gardens Board of Directors (DG)		

February 2015						
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Milpitas City Council Calendar

MARCH 2015

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2 7:00 PM -Parks, Recreation & Cultural Resources Commission (GB)	3 7:00 PM -City Council	4 7:30 AM -VTA Northeast Group (JE) 7:00 PM -Community Advisory Commission (CM)	5 5:30 PM -VTA Board of Directors (JE) 7:00 PM -Bicycle Pedestrian Advisory Commission (CM)	6	7
8	9 6:00 PM -Economic Development Commission (CM)	10	11 7:00 PM -Planning Commission	12 4:00 PM -VTA Policy Advisory Committee (CM) 4:30 PM -Treatment Plant Advisory Committee (JE) (San Jose) 7:00 PM -Cities Assoc of SCC (JE) 7:00 PM -Youth Advisory Commission (DG)	13	14
15	16 6:00 PM Campaign Finance Reform Committee 7:00 PM -Telecommunications Commission (GB) 7:00 PM -Library Advisory Commission (CM)	 17 6:00 PM -Closed Session 7:00 PM -City Council	18	19 12:00 PM -Santa Clara Congestion Management Program & Planning Committee (JE) 7:00 PM -Bay Area Water Supply Consrv. Agency 7:00 PM -Emergency Preparedness Commission (MG)	20	21
22	23	24	25 7:00 PM -Planning Commission	26 3:30 PM Council Finance Subcommittee (JE, CM) 5:30 PM -Milpitas Chamber of Commerce Board (DG) 6:00 PM -Sister Cities Commission (MG)	27	28
29	30	31				

February 2015						
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April 2015						
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Milpitas City Council Calendar

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May 2015						
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MILPITAS CITY COUNCIL CALENDAR

April 2015

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Minutes of: **Joint Meeting of Milpitas City Council and the Housing Authority Commission**

Date: **Tuesday, March 3, 2015**

Time: **7:00 PM**

Location: **Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas**

Mayor Esteves called the meeting to order at 7:00 PM. The City Clerk noted the roll.

PRESENT: Mayor Esteves, Vice Mayor Montano, Councilmembers Giordano and Grilli

ABSENT: Councilmember Barbadillo

Boy Scouts Troop No. 92 presented the flags and led the pledge of allegiance.

Councilmember Giordano said a prayer to start the meeting.

Motion: to approve the minutes of February 7 (as submitted) and 17 (as amended), 2015 City Council meetings

Vice Mayor Montano requested several edits to the February 17 meeting minutes, which the City Clerk noted.

Motion/Second: Vice Mayor Montano/Councilmember Giordano

Motion carried by a vote of:

	AYES: 4
	NOES: 0
	ABSENT: 1 (Barbadillo)

Motion: to approve Council Calendar/Schedule of Meetings for March 2015

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of:

AYES:	4
NOES:	0
ABSENT:	1 (Barbadillo)

Voltaire Montemayor, Milpitas resident, spoke of a problem on deliberation amd his desire for housing, a need for water, and ease of approval.

Robert Marini, Milpitas resident, was happy that the City was following some ordinances, and would uphold some regarding new developments making changes. He referred to the state constitution. He had comments on a calendar, distributed by the Milpitas Post.

City Manager Williams asked the Recreation Services Manager to the podium. She announced an Award of Excellence from the California Parks & Recreation Association given to City of Milpitas Recreation for its Pumpkins in the Park event held last fall.

Councilmember Giordano highlighted that three years ago, Milpitas Cares.org was launched and was doing various events to allow folks to volunteer throughout the city. It was sponsored by

several pastors of the Christian church community. Vice Mayor Montano replied that the group had an affiliation with the City's Community Advisory Commission.

**ANNOUNCEMENT OF
CONFLICT OF INTEREST
AND CAMPAIGN
CONTRIBUTIONS**

City Attorney Ogaz asked the Mayor and Councilmembers if they had any personal conflicts of interest or reportable campaign contributions. No conflicts or contributions were reported.

APPROVAL OF AGENDA

Motion: to approve the agenda, with one change

Mayor Esteves asked to move item no. 11 (Kids & Adults Day) to be heard after the public hearing.

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Barbadillo)

CONSENT CALENDAR

Motion: to approve the Consent Calendar items (noted by *asterisk)

Councilmember Giordano requested items to be moved onto consent, however the Mayor and Vice Mayor wished to discuss those, so no changes were made.

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES:
NOES: 0
ABSENT: 1 (Barbadillo)

- *6. Sports Field Maintenance Approved the Long Term Sports Field Maintenance Plan as recommended by the Parks, Recreation & Cultural Resources Commission.
- *8. FEMA Grant to Fire Dept. Approved the grant agreement with the Federal Emergency Management Agency (FEMA) and the Department of Homeland Security (DHS) in the amount of \$48,713 with a local match of \$5,412.00 for purchase of a new breathing air compressor for the Fire Dept.
- *12. Resolution – Sports Center Locker Room Renovations Adopted Resolution No. 8454 granting initial acceptance of the Milpitas Sports Center Locker Room Renovation Project No. 3408, subject to a one year warranty period; authorizing the City Manager to reduce the faithful performance bond to 10% of the final contract value; and, authorizing City Engineer to file the Notice of Final Acceptance after the one-year warranty period and to discharge the performance bond without further Council action.
- *14. Agreement with Swati Shaw Approved Recreation agreement with Swati Shaw doing business as Bay Area Gurukul for Pre-K Enrichment and Youth Program classes in the amount not to exceed \$30,000.
- *15. Amendment to Agreement with BFGC Architects for Project No. 3408 Approved Amendment No. 1 to the agreement with BFGC Architects Planners, Inc. doing business as IBI Group Architecture Planning to increase the agreement amount by \$75,115 for the additional design work related to the Milpitas Sports Center Pool Repairs.
- *16. Agreement with Peckham & McKenney Authorized the City Manager to execute an agreement with Peckham & McKenney, subject to approval as to form by the City Attorney, in an amount not to exceed \$45,000 for the administration of recruitment and selection for a Financial Services Director and a Public Works Director. Approved budget appropriation of \$45,000.
- *17. Agreement with M-Group Approved a consultant agreement with M-Group, Inc. for design review services on an as-needed basis for the term from March 4, 2015 to June 30, 2016 in the amount of \$140,000.

Approved an appropriation in the amount of \$140,000 to the Planning and Neighborhood Services Department Fiscal Year 2014-15 and 2015-16 Operating Budget.

*18. Amendment to Agreement with attorney Kelly Smith

Approved Amendment No. to the agreement with Kelly Smith doing business as The Smith Firm for consulting services.

PUBLIC HEARINGS

1. Springhill Suites Hotel

Planning Director Steve McHarris explained the background on this project to build a new hotel at 1201 Cadillac Court. Usually, this type of development would be approved solely at the Planning Commission level and the Milpitas Planning Commission did recommend the City Council approve the hotel. The hotel project was before the City Council due to the developer's request for exemption from the new ordinance requiring use of non-potable water for landscaping. Springhill Suites would include a swimming pool and spa.

Councilmember Giordano asked if this was considered a gateway and staff replied yes. She felt that made it even more exciting, coming to the City of Milpitas.

Vice Mayor Montano asked about a trail planned behind this site that was part of a nearby approved residential project in this area. Staff explained the plan for that trail, which was not adjacent to the hotel site. The Vice Mayor suggested a signal light be added in order to cross safely from the hotel to get to the trail. Mr. McHarris described improvements at California Circle nearby already underway. A flashing pedestrian crossing was suggested along with palm trees on site.

Councilmember Grilli wanted to know the timeline for the project. Staff replied that the developer would like to get both of these hotels open on time for the Superbowl in 2016.

Vice Mayor Montano inquired about additional details of the planned hotel.

Mayor Esteves asked about landscape plans and design and sought a visual. He asked for and received information on specific type of trees as part of the landscape plan. He wondered if public art was incorporated into these plans.

Next, Mr. Saahil Khandwala from the Alps Group of Hotels in the San Diego area, addressed the Council stating his firm owned five properties now and hoped to add two new ones here in Milpitas.

Councilmember Grilli said she loved the living wall feature of the outdoor design. She wanted to clarify with the developer the location of the water wall.

Vice Mayor Montano inquired further about outside or inside for the water wall. The developer explained that it would be inside the building, as viewed from outside, while the living wall would be outside, outdoors. The developer commented further that Springhill Suites was a Marriott Hotels property, and that meant it had strict guidelines on how it must be built.

Next, Mayor Esteves opened the public hearing and invited speakers.

Robert Marini, Milpitas resident, asked what Council was going to do about a traffic increase due to the new hotel. He wanted to know about storage of water for the hotel. He remarked on the number of 200 employees.

Voltaire Montemayor, Milpitas resident, was a 49ers fan so he liked the new building coming to the City for the Superbowl. New buildings should be approved, he said.

Bob Nunez, Milpitas resident nearby this site, said he favored this type of building in his neighborhood, and would like it built by the time of the next Superbowl.

(1) Motion: to close the public hearing, after hearing three speakers

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Barbadillo)

(2) Motion: to adopt Resolution No. 8452 approving Site Development Permit No. SD14-0015 and Conditional Use Permit No. UP14-0016 to allow for a partial demolition of an existing industrial building and permit construction of a 124-room, five-story Springhill hotel, site improvements, sale of all types of alcohol in the hotel bar, exceed 35-foot height limit and an increase the maximum permitted total Floor Area Ratio from 50% to 61% and exemption from the Water Conservation Ordinance, as requested

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Councilmember Giordano stated that added to her motion was that the developer shall come back after checking the hotel's guidelines, with a condition requiring an art piece on the exterior of the building near the front. The developer could work with staff on this new required condition.

Mr. Sharad Khandwala (Alps Group President) came to the podium to explain the living wall which would be a large outside piece of art.

Mayor Esteves was happy with the living wall art piece, as shown and it was green. Ms. Giordano said one more art piece (not in lieu of the living wall) was needed, while the Mayor commented that it did not have to be expensive.

Councilmember Grilli favored that wall and asked the developer to keep it up (maintained) over the years.

Vice Mayor Montano suggested perhaps a small waterfall or spring outside near the wall.

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Barbadillo)

2. Holiday Inn Suites Hotel

Planning Director Steve McHarris explained the background on this project to build a new hotel at 1100 Cadillac Court which was currently a vacant site, nearby the Springhill Suites hotel approved (above item). Usually this type of development would be approved solely at the Planning Commission level and the Milpitas Planning Commission did recommend the City Council approve the new hotel. It was before the Council due to the developer's request for exemption from the new ordinance requiring use of non-potable water for landscaping. It would include a swimming pool and spa. There was a planned view deck for special events also. He displayed the modern architecture for this hotel.

Vice Mayor Montano got up to view details on boards featuring hotel renderings on display in council chambers, and she encouraged those in the audience to view the details.

Vice Mayor Montano referred to the architecture. It was excellent and she wanted to allow for the excess height. She inquired about types of trees to be installed, and staff replied that some would be jacaranda. The Vice Mayor specifically asked not to place any ginkgo biloba trees while she sought palm trees at the site.

Mr. Sharad Khandwala, Alps Group President, came to the podium and said there would be a water element at the entrance of this hotel.

Mr. Saahil Khandwala, also from the Alps Group, referred to the excitement about Silicon Valley at his company, and with Milpitas being a part of that.

Next, Mayor Esteves opened the public hearing and invited speakers.

Robert Marini, Milpitas resident, said the Council did not answer questions he asked about the last building, and said the same about this one. He wanted to know about water conservation on site and commented on the number of employees for the hotel.

Voltaire Montemayor, Milpitas resident, was in favor of the project.

(1) Motion: to close the public hearing, after hearing two speakers

Motion/Second: Councilmember Grilli/Councilmember Giordano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Barbadillo)

(2) Motion: to adopt Resolution No. 8453 approving Site Development Permit No. SD14-0016, Conditional Use Permit No. UP14-0017, Variance No. VA14-0001, and exemption from the Water Conservation Ordinance to construct a 128-room, four-story hotel with various site improvements on a 3.29 acre site, and to allow for the hotel use with a restaurant and a bar serving all types of alcohol, a Floor Area Ratio (FAR) and building height increase and a deviation from the setback requirements at 1100 Cadillac Court

Motion/Second: Councilmember Grilli/Vice Mayor Montano

Vice Mayor Montano liked the living art with the water feature as public art.

Mayor Esteves wanted to confirm the hotel's name and stationary would refer to Milpitas, as he had similarly inquired about the Springhill Suites Hotel.

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Barbadillo)

UNFINISHED BUSINESS

3. Street Tree Master Plan and Our City Forest

Steven McHarris provided history on the street tree plan and vision of the Community Advisory Commission (CAC). A landscape architect contract was presented to City Council, and the architect from R3 Studios was present. Mr. McHarris described the Our City Forest (OCF) grant, and how that organization's work would aid in planting up to 200 trees in Milpitas. Planting of the trees in the fall was planned with CAC and OCF.

Rhonda Berry, CEO of Our City Forest, came to the podium to describe her organization and its services, serving Santa Clara County especially San Jose.

Vice Mayor Montano asked her if the infrastructure was already in place, when OCF planted trees. She wanted to know how trees would get watered and Ms. Berry said that would happen via agreement with property owners, who had to water trees planted on or in front of their property. The City would water in the right-of-way city areas, where the Milpitas trees would be planted.

Costs were discussed. The City Manager clarified the street tree plan and separately, the OCF grant for 200 trees to be planted in the southwest area of the City.

Mayor Esteves asked for a map with all city trees on it and wished to know how many trees were in the city presently (an inventory essentially). He wanted to know the long

term costs for maintenance of the trees and also asked about planting of jacaranda trees in the City.

Ms. Berry commented that no one species should be more than 10% of the inventory in a City. From her experience, jacaranda trees were not recommended for city street trees because they were not capable to survive freezing weather.

Vice Mayor Montano responded to comments about ginko biloba trees, when Ms. Berry explained that it made a difference whether the male or female species was planted. The Vice Mayor also asked about Caltrans land and planting trees there in Milpitas.

Councilmember Giordano thanked the members of the Community Advisory Commission for bringing the tree issue forward. She strongly supported this effort and more trees being planted in the city.

Motion: to authorize the City Manager to execute an agreement with R3 Studio, Inc. in the amount not to exceed \$20,000 to prepare a Street Tree Master Plan; and, to authorize the City Manager to execute an agreement with the non-profit Our City Forest in the amount not to exceed \$10,000 for 200 trees

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Barbadillo)

4. Odor Control Update This item was not heard.

5. Possible RFP For MCTV This item was not heard.

REPORT OF COMMISSION

7. Economic Development Commission Workplan This was heard following item no. 3 (prior to hearing No 4)

Economic Development Manager Edesda Bitbadal spoke along with Economic Development Chair Warren Wettenstein. She described the Commission's Special Projects Subcommittee, and the Business Attraction and Retention Subcommittee. EDC's workplan contained three main sections. She highlighted marketing and branding that was needed, especially for social media including LinkedIn and Facebook. Mr. Wettenstein highlighted special projects including Green City, Milpitas Super Community Committee (Super Bowl 50) to capture tax dollars around the upcoming 2016 game.

Councilmember Giordano noticed that she did not see the Milpitas Chamber of Commerce weaved into the plan so she would like to see that organization included. She also asked how to measure results of the work plan. Ms. Bitbadal described an active relationship between the City and the Chamber, noting that the Chamber would be part of the Super Community Committee also. Staff would provide performance measures for retention of businesses, bike share program, etc.

Mayor Esteves mentioned the City's Bicycle Commission and urged EDC to work with that group about the bike share program. He asked for update on the Super Committee efforts and accomplishments every four months, in advance of the Superbowl.

Vice Mayor Montano was glad to be the Council liaison to EDC, with such a creative group and effective subcommittees. She agreed that marketing and branding were needed. She urged inclusion of ads at light rail and BART stations.

Motion: to accept the oral report provided at the meeting and to approve the 2015 Economic Development Commission Work Plan

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Barbadillo)

NEW BUSINESS

9. Crime Report

This item was not heard.

10. Mayor's Challenge for Water Conservation

City Engineer Steven Machida explained this program offered by a private foundation, designed to foster competition between residents across the U.S. to save water. Milpitas would compete with other similar sized cities in southwestern states. Residents could make a commitment online and enter a drawing to win a prize at the conclusion.

Motion: to receive the Mayor's report on the 2015 National Mayor's Challenge for Water Conservation and direct staff to enroll the City as a participant in Wyland Foundation program

Motion/Second: Mayor Esteves/Councilmember Giordano

Councilmember Grilli wondered about accountability and asked how the city would measure progress. Staff replied that the Foundation would compile a report and provide that to cities at the end.

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Barbadillo)

11. Co-Sponsor Kids & Adults Day event on April 25

This item was heard following the public hearings.

Recreation Manager Renee Lorentzen explained the event put on by Milpitas Executive Lions Club to host special needs adults and kids on April 25 at the Community Center, with a total cost for co-sponsorship by the City. Staff was supportive of the full co-sponsorship requested by Lions Club.

Mayor Esteves asked for a speaker from the Lions Club, and Thelma Batilo came forward. She explained the program that would be similar to a Special Olympics-type event.

Councilmember Grilli inquired about staff time. Ms. Lorentzen said part time staff would monitor the building, and if co-sponsored, would monitor the event. Ms. Grilli supported the City being co-sponsor.

Mayor Esteves asked if the City was covered liability wise, and staff replied that the Lions Club had its own insurance as did the city. Ms. Batilo explained the group was spending funds on media already and sought city co-sponsorship to cover costs of the facility rental.

City Manager Williams mentioned the freeway sign at I-880 where City was allocated 5% use of the sign and thus could advertise on there if coordinated.

Vice Mayor Montano supported Option 2 to co-sponsor this event.

Motion: to approve the City serving as a co-sponsor of the Milpitas Executive Lions Club's "Kids & Adult Day" on Saturday, April 25, 2015 at the Community Center and waive City fees in the amount of \$1,847

Motion/Second: Councilmember Grilli/Councilmember Giordano

Motion carried by a vote of:

AYES: 4
NOES: 0
ABSENT: 1 (Barbadillo)

AGREEMENTS

Five items were approved on the consent calendar.

13. Skate Park Feasibility

This topic was heard prior to Unfinished Business.

City Engineer Steve Machida summarized steps taken to date on the proposal for a new skateboard park in Milpitas, in concert with the contractor Stantec. Mr. Kanten Russell, Designer/Project Manager from Stantec would present the feasibility study. The best choice site was determined to be at the Milpitas Sports Center, with a combination type Street Plaza Flow layout. A Light-Structure green system was suggested for the lighting at the skate park and \$1.5 million was the cost estimate to build the skate park.

Mr. Machida stated the plans were brought to the Parks, Recreation and Cultural Resources Commission on January 25, where Commissioners provided comment on the skate park and recommended the Council approve it.

Councilmember Giordano referred to the first skate park at Gill Park in 1990s, which only lasted about one year. She wanted to know how negative impacts would be dealt with, at the new location. Mr. Machida replied it was a better location. Nowadays, kids had cell phones to call parents, and there was access to the bus stop at Milpitas Sports Center, along with adequate parking. All of those were better than previous site.

Vice Mayor Montano inquired if tournaments would be held there. Staff replied that it was possible. The Vice Mayor remarked on the need for more activities for youth in Milpitas. The proposed skate park would be a controlled environment and she liked that.

Councilmember Grilli felt it would be a good gathering place for youth. It was disappointing that the park would not be available to the kids who'd done so much good work to get this going, if it did not actually get built until 2021.

Mayor Esteves asked what would be the ongoing cost for maintenance and operation of the park. Mr. Russell responded that it would be an average of \$5000 per year. Security cameras were used effectively at some skate parks in the U.S. The Mayor asked about how many people would use the skate park. Mr. Russell replied approximately 60-80 per day might use it, based on his experience in San Diego and around the country.

City Manager Tom Williams offered to bring back to City Council the cost per user, with 300 users on the estimated cost of \$1.5 million, with more detail.

Mayor Esteves asked further about the opportunity for more soccer fields and Mr. Russell responded that it was part of the study. \$1.8 million was the estimated total cost for field re-design at the Milpitas Sports Center, including skate park and soccer fields.

Vice Mayor Montano asked the Mayor for clarification on his view, on what was included in the study and including soccer fields. She asked how many there were in the Bay Area (number of skate boarders).

Councilmember Grilli thanked Councilmember Montano for bringing this item forward, while it fit into Milpitas being a "family friendly" city and to help make a place for young people to go. She believed waiting until 2020 was far too late and urged building it sooner.

Next, Mayor Esteves invited speakers on this item.

Robert Marini, Milpitas resident, wanted a clear understanding on how this skate park was going to work. He asked if it was to be fenced in and if not, it would be used 24 hours a

day. The park needed to be supervised at the site. He was uncertain about liability, and asked if there would be a charge for admission to the skate park.

Next, sixteen people – many youngsters from Milpitas – spoke in favor of the proposed skate park, the location, and its value to the lives of youth in town.

Vice Mayor Montano said she was a public school teacher and worked with youngsters every day. Skate boarding was a good sport and gave them freedom. Milpitas was a good place to raise a family, so the city should do all it could to provide a skate park for youth.

Motion: after receiving the presentation on Milpitas Skate Park Feasibility Study, Project No. 5100, to direct staff to prepare an expedited funding plan for the design and construction of the Skate Park, and approve Amendment No. 1 to the Agreement with Stantec Consulting Services, Inc. in the amount of \$5000 for the Skate Park Feasibility Study, Project No. 5100

Motion/Second: Vice Mayor Montano/Councilmember Giordano

Councilmember Grilli wanted to direct staff to make an “aggressive,” or rather as suggested by Councilmember Giordano, an “expedited” funding plan, which was accepted by motion maker and second.

Mayor Esteves asked Mr. Russell how many accidents could be expected at such a skate park. The consultant did not have an exact number but could include the injury rate in the final study.

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Barbadillo)

JOINT MEETING

CITY COUNCIL and HOUSING AUTHORITY

HA1. Call to Order

The Joint Meeting was called to order at 11:07 PM with four members present and Authority Board Member Barbadillo absent.

HA2. Approve Agenda

Motion: to approve the agenda of the joint meeting and consent calendar item

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 4
NOES: 0
ABSENT: 1 (Barbadillo)

* HA3. Milpitas Food Pantry Rent

Approved Amendment to the Lease Agreement with the Milpitas Food Pantry to reduce the monthly rent from \$1,600 per month to \$1.00 only per month.

ADJOURNMENT

Mayor Esteves adjourned the joint meeting at 11:08 PM.

*Meeting minutes drafted and respectfully submitted by
Mary Lavelle, City Clerk*

List of Attachments for Public Hearing No. 01

– Town Center Zoning District

Conduct a Public Hearing and Adopt a Resolution for a General Plan Amendment, Zoning Amendment, Environmental Impact Assessment, and Introduce Ordinance No. 38.820 Prohibiting All New Residential Uses from Town Center Zoning District (Staff Contact: Adam Petersen, 408-586-3274)

Attachments:

- 01-A Draft Council Resolution
- 01-B Draft Ordinance No. 38.820 for first reading and introduction
- 01-C 02-25-2015 Planning Commission Agenda Report
- 01-D 02-25-2015 Planning Commission Meeting Minutes
- 01-E Adopted Planning Commission Resolution No. 15-009

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS
APPROVING GENERAL PLAN AMENDMENT NO. 15-0001 AND ENVIRONMENTAL
IMPACT ASSESSMENT NO. 15-0001 TO PROHIBIT ALL NEW RESIDENTIAL USES
IN THE TOWN CENTER ZONING DISTRICT**

WHEREAS, on December 11, 2014, an application was submitted by the City of Milpitas Planning and Neighborhood Services Department to amend the Milpitas Zoning Code to add “mixed use” residential to the Town Center Zoning description and to prohibit ground floor residential uses in the Town Center zone. The properties subject to the amendment are located within the Town Center Zoning District; and

WHEREAS, on January 14, 2015, the Planning Commission conducted a duly noticed public meeting and adopted Resolution No. 15-001 recommending the City Council amend the Milpitas Zoning Code to add “mixed use” residential to the Town Center Zoning description and to prohibit ground floor residential uses in the Town Center zone; and

WHEREAS, on February 3, 2015, the City Council conducted a duly noticed public hearing to consider the recommendation from the Planning Commission to add “mixed use” residential to the Town Center Zoning description and to prohibit ground floor residential uses in the Town Center zone; and

WHEREAS, during the City Council meeting on February 3, 2015, the City Council expressed a desire to make the Town Center a distinct commercial district and directed staff to bring forward a General Plan Amendment and Zoning Code Amendment to prohibit new residential development of any type in the Town Center; and

WHEREAS, Planning staff has prepared a proposed General Plan Amendment and Zoning Code Amendment consistent with the City Council’s direction to prohibit new residential development of any type in the Town Center for City Council review and consideration; and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA) and the Planning Commission recommends that the City Council determine this project will not have a significant effect on the environment; and

WHEREAS, on February 25, 2015, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties and adopted a resolution by a 6-1 vote recommending that the City Council approve a General Plan amendment and Zoning Code amendment to prohibit all new residential uses in the Town Center.

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

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

2. The City Council has reviewed and exercised its independent judgment on the environmental review for the General Plan Amendment (“the proposed Amendment”) to prohibit any new residential uses from the Town Center Land Use Designation and Zone, in accordance with the requirements of CEQA, and State and local guidelines implementing CEQA, and determined that the proposed Amendment will not have a significant effect on the environment under CEQA and State and local guidelines implementing CEQA. The General Plan Amendment was subject to CEQA review and an Initial Study/Negative Declaration (IS/ND) was prepared for the project. The IS/ND demonstrated that the subject project will not have a significant effect on the environment. There is no possibility that the proposed Amendment will have a significant impact on the environment because the proposed Amendment will not expand the range of uses permitted in the TC Zone, nor will it increase the development intensity of uses in the TC Zone. The proposed Amendment does not directly authorize any individual project, and any subsequent project that will have a physical change in the environment will require environmental review and clearance. Additionally, there are no current projects under review that would be affected by the proposed Amendment. Subsequent activities will require further analysis by the City in order to determine the potential impacts from development.

The City Council has reviewed the Initial Study and Negative Declaration, all supporting evidence and documentation, and considered public comments provided at or before the hearing of this matter. The Initial Study and Negative Declaration reflect the City Council’s independent judgment and analysis as to the effects of the project on the environment. Based on the review of the entire record therein, including the Negative Declaration, the Initial Study, all supporting, referenced, and incorporated documents and all comments received, the City Council finds that there is no substantial evidence that the project will have a significant effect on the environment, and that the Negative Declaration, Initial Study and supporting documents provide an adequate description of the impacts of the project and comply with the CEQA and CEQA Guidelines.

3. ***General Plan Amendment (Section XI-10-57.02.G.1a)*** – The City Council makes the following findings based on the evidence in the public record in support of General Plan Amendment No. GP15-0001:

- a. The proposed Amendment is internally consistent with those portions of the General Plan which are not being amended.*

The proposed Amendment is internally consistent with other elements of the General Plan. Removing the residential density provisions, description of residential uses, and the words mixed-use from Policy 2.a-I-27 from the Town Center Land Use Designation will not affect other portions of the General Plan. The Housing Element has anticipated residential growth in other land use designations throughout the City. Properties in the Town Center land use designation are not located in the Regional Housing Needs Allocation List or on the list of potential housing sites. There are no other references to residential uses in the Town Center located in the General Plan. The vision for the Town Center, as expressed by Council, is for a thriving commercial, office, entertainment, and cultural district. The proposed Amendment focuses these types of uses in the Town Center and therefore promotes economic development in the City of Milpitas. Therefore, the proposed Amendment is internally consistent.

- b. *The proposed Amendment will not adversely affect the public health, safety, and welfare.*

The proposed Amendment will not adversely affect the public health, safety, and welfare. As previously discussed, the Housing Element identifies numerous sites throughout the City to accommodate residential development. Similarly, previously approved permitted and conditionally permitted residential uses will continue to be allowed. The proposed Amendment will facilitate commercial, office, entertainment and cultural uses in the Town Center district. Therefore, the general well-being of Milpitas residents will be maintained since the Town Center zone will continue to facilitate a broad range of land uses, but will encourage more commercial development to provide economic opportunities for the City and residents.

4. The City Council of the City of Milpitas hereby adopts this Resolution approving General Plan Amendment No. GP15-0001 and Environmental Impact Assessment No. 15-0001 to remove the words residential from the Town Center land use designation in the General Plan as outlined in **Exhibit A** attached hereto and incorporated fully herein by reference, subject to the findings herein.

PASSED AND ADOPTED this _____ day of _____ 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

Exhibit “A” **Town Center General Plan Amendment**

GENERAL PLAN AMENDMENT – LAND USE ELEMENT, PAGE 2-9

Table 2-3 - Standards for Density and Development Intensity

General Plan Land Use Designations	Zoning Districts																
	R1-H	R1-6	R1-5	R1-4	R1-3	R1-2.5	R2	R3	CO	C1	C2	HS	TC	M1	M2	MP	A
HILLSIDE																	
Very Low Density	●																
Low Density	● ³																
Medium Density	● ³																
VALLEY FLOOR																	
S.F. ¹ Low Density		● ⁽⁵⁾															● ³
S.F. Moderate Density			● ⁽⁸⁾	● ⁽⁸⁾	● ⁽¹⁰⁾	○ ⁽¹⁵⁾											● ⁵
M.F. ² Medium Density							● ⁽¹⁴⁾										● ³
M.F. High Density								● ⁽²⁰⁾ ● ⁽⁴⁰⁾									● ⁵
Mobil Home Park		● ⁽⁷⁾					● ⁽⁷⁾	● ⁽⁸⁾				● ⁴ ● ⁽⁸⁾					● ³
Prof/Admin. Office									●								● ³
Retail Subcenter										●							● ⁵
General Commercial											●						● ³
Highway Service												●		●			● ⁵
Industrial Park																●	● ³
Manufacturing														●	●		● ⁵
Town Center													● ⁽⁴⁰⁾				● ⁵

<40> Maximum number of dwelling units per gross acre when specific findings are made.

GENERAL PLAN AMENDMENT – LAND USE ELEMENT, PAGE 2-10

Table 2-4 - Standards for Density and Development Intensity

Land Use Designation	Residential Density (units/ gross acre)	Maximum Permitted Floor-Area Ratio — FAR	Residential Population	
			Persons/ Housing Unit	Persons/ Acre
Commercial-Town Center	up to 40 n.a.	0.85	Varies ⁶ n.a.	Varies ⁶ n.a.

⁶ Depends on the density of housing provided.

Town Center: This designation provides for a variety of commercial, and civic ~~and residential~~ uses appropriate to the Center's role as the functional and visual focus of Milpitas. The Town Center is a meeting place and a market place, the home of commercial and professional firms, an entertainment area and a place for restaurants and hotels. ~~Because of this unique and relatively intensive mix of activities, very high density residential developments (i.e., up to 40 units per acres) may be permitted within the Town Center because of the increased economic support the residents would offer to the commercial uses.~~

Implementing Policy 2.a-I-27 Develop the Town Center as an architecturally distinctive ~~mixed-use~~ complex which will add to Milpitas' identity and image.

PLEASE NOTE:

This copy of Ordinance No. 38.820 is a “redlined” version for your convenience. Text additions are designated by an underline and text deletions are designated with a strikethrough.

REGULAR

NUMBER: 38.820

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING CHAPTER 10 OF TITLE XI OF THE MILPITAS MUNICIPAL CODE PROHIBITING ALL NEW RESIDENTIAL USES IN THE TOWN CENTER ZONING DISTRICT

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 _____. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

RECITALS:

WHEREAS, Title XI, Chapter 10, Section 5 entitled “Commercial Zones and Standards” of the Milpitas Municipal Code sets forth the permitted, conditionally permitted, and prohibited uses in the Town Center Zoning district; and

WHEREAS, on January 14, 2015, the Planning Commission conducted a duly noticed public meeting and adopted Resolution No. 15-001 recommending the City Council amend the Milpitas Zoning Code to add “mixed use” residential to the Town Center Zoning description and to prohibit ground floor residential uses in the Town Center zone; and

WHEREAS, on February 3, 2015, the City Council conducted a duly noticed public hearing to consider the recommendation from the Planning Commission to add “mixed use” residential to the Town Center Zoning description and to prohibit ground floor residential uses in the Town Center zone; and

WHEREAS, during the City Council meeting on February 3, 2015, the City Council expressed a desire to make the Town Center a distinct commercial district and directed staff to bring forward a General Plan Amendment and Zoning Code Amendment to prohibit new residential development of any type in the Town Center; and

WHEREAS, on February 25, 2015, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties and adopted a resolution by a 6-1 vote that the City Council approve a General Plan amendment and Zoning Code amendment to prohibit all new residential uses in the Town Center; and

WHEREAS, on March 17, 2015, the City Council conducted a duly noticed public hearing to consider the recommendation from the Planning Commission to prohibit all new residential uses in the Town Center.

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 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. FINDINGS

Zoning Text Amendment (Section XI-10-57.02(G)) - The City Council makes the following findings based on the evidence in the public record in support of Zoning Text Amendment No. ZA14-0011:

1. The proposed Amendment is consistent with the General Plan.

Prohibiting new residential uses and encouraging more commercial development meets the intent of the Town Center designation. The Town Center Zoning District is intended as the functional and visual focus of Milpitas while providing a meeting and market place for commercial, professional and entertainment uses. Prohibiting new residential uses will ensure land is available for the continued focus of a commercial district that provides identity for the City while allowing the surrounding residential development to support the commercial uses.

The project is also consistent with the following General Plan Guiding Principles and Policies:

Guiding Principle 2.a-G-2 – Maintain a relatively compact urban form.

Guiding Principle 2.a-G-4 – The Town Center will be the “heart” of Milpitas’ civic, cultural, business and professional life.

Guiding Principle 2.a-G-10 – Consider long term planning and strong land use policy in managing the City’s fiscal position.

The modification of the Town Center use table is consistent with the General Plan because it furthers the identified principles and policy by using land more efficiently and will allow for additional commercial and other tax-generating uses at the street level, thereby strengthening the City’s fiscal position while achieving a commercial district in the heart of Milpitas.

2. *The proposed Amendment will not adversely affect the public health, safety and welfare of the residents of Milpitas.*

The proposed Zoning Code Amendment will result in a more efficient use of land. The land use regulations will not affect the range of uses permitted or conditionally permitted. Commercial uses already allowed in the Town Center zone will continue to be allowed. Similarly, previously approved permitted and conditionally permitted residential uses will continue to be allowed. Therefore, the general well-being of Milpitas residents will be maintained since the Town Center zone will still facilitate a broad range of land uses, but will encourage more commercial development to provide economic opportunities for the City and residents.

SECTION 3. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10

Section XI-10-5.01.E entitled “Purpose and Intent” of the Milpitas Municipal Code is hereby amended to read as follows:

Town Center (TC) Zone. The purpose and intent of this zone is to provide for an area that supports a wide range of administrative, business, entertainment, dining, and cultural activities in the geographic center of the City to suit the varying lifestyles of residents and visitors alike. The area is easily accessible via the City's transportation network.

Section XI-10-5.02.B entitled “Prohibited Uses” of the Milpitas Municipal Code is hereby amended to read as follows:

Prohibited Uses. The following uses are prohibited:

1. Uses where the symbol "NP" appears within Table 5.02-1.
2. Uses that have been excluded from Table 5.02-1, unless they are found by the City to be similar to permitted or conditionally permitted uses in accordance with C below.
3. Any residential uses in the Town Center Zone shall strictly be prohibited provided residential uses constructed on or before February 17, 2015 or any project securing an approved tentative map or site development permit for construction of residential uses on or before February 17, 2015 shall be exempt from this prohibition and Milpitas Zoning Code Section 56, Nonconforming Buildings and Uses.

Table XI-10-5.02-1 entitled “Commercial Zone Uses” of the Milpitas Municipal Code is amended to read as follows:

**Table XI-10-5.02-1
Commercial Zone Uses**

Use	CO	C1	C2	HS	TC
1. Commercial Uses					
Alcoholic beverage sales	C ⁶	C	C	NP	C
Art/photography studio or gallery	NP	P	P	P	P
Bookstore	NP	P	P	P	P
Commercial services ¹	P	P	P	NP	P
Funeral home or mortician	NP	NP	C	C	NP

Furniture sales	NP	P	P	P	P
Grocery store (supermarkets)					
Within 1,000 ft. of residential zone	NP	C	C	C	C
Not within 1,000 ft. of residential zone	NP	P	P	P	P
Head/smoke/tobacco shop	NP	C	C	NP	C
Home improvement (hardware, blinds, interior decorating, etc.)	NP	P	P	C	P
Not fully enclosed operation	NP	C	C	C	C
Household appliance store ⁷	NP	NP	P	P	NP
Small appliance repair	NP	NP	MCS	P	NP
Large appliance repair	NP	NP	NP	P	NP
Janitorial services	NP	NP	P	P	NP
Newsstand					
Indoor	P	P	P	NP	P
Outdoor	C	C	C	NP	C
Nursery (flower or plant)					
Indoor	NP	NP	P ²	P	P
Outdoor	NP	NP	C	P	NP
Office supply sales (stationary, equipment)	P	P	P	P	P
Paint and wallpaper stores	NP	NP	P	P	P
Pawnshops	NP	NP	C	NP	NP
Pet stores	NP	NP	P	P	P
Printing (newspaper, publishing)	NP	NP	P	P	P
Rentals (medical supplies, costumes, party equipment, office equipment)	NP	NP	P	P	P
Retail stores, general merchandise	NP	P	P	NP	P
Tanning salon	NP	NP	P	NP	P
Thrift store ³	NP	C	P	P	P
2. Entertainment and Recreation					
Adult business ⁴	NP	NP	NP	P	NP

Bowling alley	NP	NP	P	P	P
Commercial athletic facilities					
Indoor	NP	C	P	P	P
Outdoor	NP	NP	NP	C	NP
Motion picture theater (See 7 below)					
Recreation or entertainment facility	NP	C	C	C	C
Shooting range, indoor	NP	NP	NP	C	NP
3. Health and Veterinarian Uses					
Animal grooming (no boarding)	NP	P	P	P	P
Hospital	C	NP	C	C	C
Kennel	NP	NP	C	NP	NP
Massage establishment	NP	NP	C	C	C
Medical and dental office	P	P	P	NP	P
Medical and dental clinic	P	C	C	NP	P
Medical support laboratories	P	C	C	C	C
Optician and optometrist shop	P	P	P	NP	P
Pharmacy or drug store	NP	P	P	P	P
Sauna and steam bath	NP	NP	NP	P	NP
Veterinary clinic	NP	NP	P	P	P
4. Industrial Uses⁵					
Assembly from pre-processed materials	NP	NP	C	NP	NP
Commercial fueling facility	NP	NP	NP	C	NP
Commercial laboratory	NP	NP	C	P	NP
Contractor's yards and offices	NP	NP	C	C	NP
Disinfection and extermination business	NP	NP	C	P	NP
Dry cleaning plant	NP	NP	NP	P	NP
Food storage locker	NP	NP	NP	P	NP
Landscape contractor	NP	NP	C	P	NP

Lumberyards	NP	NP	C	C	NP
Mini-storage complex	NP	NP	C	C	NP
Plumbing, metalworking, glassworking or woodworking	NP	NP	C	C	NP
Research & development	NP	NP	C	NP	NP
Sign sales and fabrication (Electric and neon sign, sign painting)	NP	NP	C	P	NP
Warehousing and wholesale	NP	NP	C	NP	NP
5. Lodging					
Hotel and motel	NP	NP	C	C	C
6. Professional Offices, Financial Institutions and Related Uses					
Automatic teller machines (freestanding) ⁶	NP	P	P	P	P
Financial institutions (banks, savings and loans, etc.)	P	P	P	P	P
General offices (administrative and business services, real estate, travel agencies, etc.)	P	P	P	P	P
7. Public, Quasi-Public and Assembly Uses					
Auction hall	NP	NP	C	C	C
Child care					
Child care center	C	C	C	C	C
Day care school	C	C	C	C	C
Large family child care home	NP	NP	NP	NP	C
Small family child care home	NP	NP	NP	NP	C
Club or social organization, religious assembly	C	C	C	C	C
Cultural center	NP	NP	C	C	C
Educational institutions					
Schools, private (elementary, middle, high)	NP	NP	C	NP	C
Trade and vocational school	C	NP	P	P	C
Farmer's market (not including flea market)	NP	C	C	C	C
Instruction					
Group ⁸	MCS	MCS	MCS	MCS	MCS

Private	P	P	P	P	P
Motion picture theater					
Indoor	NP	C	C	C	C
Outdoor	NP	NP	NP	C	NP
Parking facility, storage garage	NP	P	P	C	C
Public utilities	C	C	C	C	C
Transportation facility (taxi, limousine, etc.)	NP	NP	C	C	C
8. Restaurants or Food Service					
Banquet hall	NP	NP	C	C	C
Bar or nightclub	NP	NP	C	C	C
Catering establishment	NP	NP	P	P	P
Restaurants	C ⁷	P	P	P	P
With live entertainment/dancing	NP	NP	C	C	C
With drive-in or drive-through	NP	C	C	C	C
With ancillary on-premise beer & wine with no separate bar	NP	MC	PMC	MC	MC
9. Residential Uses					
Caretaker (in conjunction with contractor's yard or mini-storage complex)	NP	NP	C	C	NP
Emergency shelters ⁹	NP	NP	NP	P/C	NP
Single-room occupancy residences ¹⁰	NP	NP	NP	C	NP
10. Vehicle Related Uses					
Auto repair (tire, oil change, smog check, etc.)	NP	NP	C	C	NP
Auto sales and rental, outdoor (new and used cars, RV and truck)	NP	NP	C	C	NP
Auto broker (wholesale, no vehicles on site)	MCS	MCS	MCS	MCS	MCS
Car wash	NP	NP	C	C	NP
Service stations (with or without repair or retail) ¹¹	C	C	C	C	C
Drive through uses (restaurants, pharmacies, etc.)	NP	C	C	C	C

11. Unclassified Uses					
Accessory structures ¹²	P	P	P	P	P
Model home complex ¹³	NP	NP	NP	NP	P
Mortuary or crematory	NP	NP	NP	C	NP
Radio or television station	NP	NP	C	P	NP
Temporary seasonal sales ¹⁴	NP	P	P	P	P

¹ Refer to the definition for "Commercial Services" in Section 2, Definitions, of this Chapter.

² Provided that all incidental equipment and supplies, including fertilizer and empty cans, are kept within a building.

³ Refer to XI-10-5.04, Commercial Zone Special Development Standards, of this Chapter.

⁴ In accordance with the Title III, Chapter 4, Adult Business Ordinance, and Subsection 13.04, Adult Businesses, of this Chapter.

⁵ For conditionally permitted uses, refer to Subsection 57.04(C) (9), Certain Industrial Uses within Commercial Districts, of this Chapter.

⁶ Refer to Subsection 57.03, Site Development Permits and Minor Site Development Permits, of this Chapter.

⁷ When intended to serve the occupants and patrons of the permitted use (office, etc.) and conducted and entered from within the building and provided there is no exterior display of advertising.

⁸ Refer to Subsection 5.02-1, Commercial Zone Special Uses, of this Section.

⁹ Refer to XI-10-13.14, Special Uses, Emergency Shelters, of this Chapter.

¹⁰ Refer to XI-10-13.13, Special Uses, Single Room Occupancy Residences, of this Chapter.

¹¹ Refer to Subsection XI-10-6.02-2, Special Uses, of this Chapter, for standards. Service stations shall follow the "General development policy: Gasoline service stations, and automotive service centers" adopted by the City Council on December 19, 1995.

¹² Not including warehouses on the same site as the permitted use.

¹³ No tract sign shall be permitted within 600 feet of a Santa Clara County Expressway.

¹⁴ Refer to Section 13.11, Temporary Uses and Structures, of this Chapter.

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. EFFECTIVE DATE AND POSTING

In accordance with Section 36937 of the Government Code of the State of California, 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.



MILPITAS PLANNING COMMISSION AGENDA REPORT

February 25, 2015

APPLICATION: TOWN CENTER GENERAL PLAN AMENDMENT, ZONING AMENDMENT, AND ENVIRONMENTAL IMPACT ASSESSMENT – GP15-0001, ZA14-0011, and EA15-0001 – A request for a General Plan Amendment, Zoning Text Amendment and Environmental Impact Assessment to prohibit all new residential uses in the Town Center Zoning District.

RECOMMENDATION: Staff recommends that the Planning Commission:
Conduct the public hearing and adopt Resolution No. 15-009 recommending the City Council adopt General Plan Amendment No. GP15-0001, Zoning Amendment No. ZA14-0011, and approving Environmental Impact Assessment EA15-0001 to prohibit all new residential uses from the Town Center Zoning District.

LOCATION:
Address/APN: Town Center Zoning District

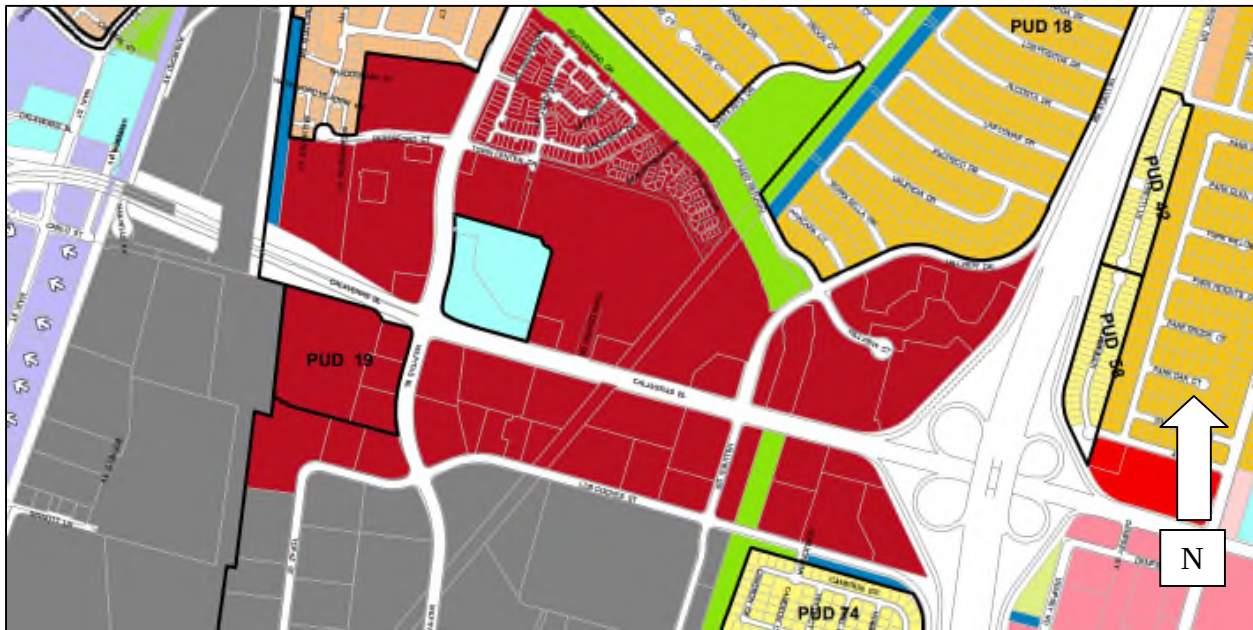
PEOPLE:
Project Applicant: City of Milpitas
Consultant: NA
Property/Business Owners:
Project Planner: Adam Petersen, Senior Planner

LAND USE:
General Plan Designation: Town Center (TC)
Zoning District: Town Center (TC)
Overlay District: Site and Architectural Overlay (-S)

ENVIRONMENTAL: The project is subject to the California Environmental Quality Act and an Initial Study/Negative Declaration have been prepared and determined that the project will not have an impact on the environment.

Map 1

Project Location



Town Center Zoning District

Not to Scale

BACKGROUND

History

On February 3, 2015, the City Council conducted a duly noticed public hearing to amend the Zoning Code to eliminate new first floor residential uses, and direct commercial, retail, entertainment and restaurant type uses in the first floor of new or redevelopment in the Town Center Zone. The City Council expressed a desire to make the Town Center a distinct commercial district and directed staff to bring forward a General Plan Amendment and Zoning Code Amendment to prohibit new residential development of any type in the Town Center.

The Town Center land use designation and zoning district applies to the central part of the City, generally focused along Calaveras Boulevard between Interstate 680 and the Union Pacific railroad corridor. The Town Center comprises 132 acres, of which currently 26.9 acres consist of residential uses with 408 residences. The 408 residential units does not include the 25 approved, but not constructed, units in the 75 South Milpitas project. The intent of the Town Center land use designation and zoning district is to support a wide range of administrative, business, entertainment, residential, dining and cultural activities in the geographic center of the City.

In 2010, the Town Center designation was amended and expanded to include a collection of parcels to the south of Calaveras Boulevard. The purpose of the amendment was to make the existing uses on these parcels (offices, cultural centers, religious institutions, medical offices, financial institutions, gasoline station, retail) conforming and allow for the flexibility of

February 25, 2015

integrating other commercial and residential uses for future development. Since the redesignation of these parcels to Town Center some land use conversion to single-family residential development has occurred.

On May 21, 2013, the City Council approved an amendment to Zoning Code to allow live/work units as a conditional use in the Town Center Zoning District.

PROJECT DESCRIPTION

Overview

The project includes a General Plan Amendment, Zoning Text Amendment, and associated Environmental Impact Assessment to remove and prohibit new residential uses in the Town Center. Existing residential uses would be allowed to continue in the Town Center as a previously permitted use. Additionally, any residential projects with City Council entitlements on or before February 17, 2015 will be grandfathered and exempt from the General Plan and Zoning changes. The City Council approved the 75 South Milpitas project on January 6, 2015. The project consists of 25 residential units, with five live-work units that has not been constructed at the time of this report. Two other projects will also fall under the proposed grandfathering provisions. The City Council approved the Cobblestone project on May 7, 2013. The project is currently under construction and consists of 28 single family residential units and four live-work units. The City Council approved the Orchid project on January 15, 2013. It consists of 80 single family homes and is currently under construction. The proposed grandfathering provisions will apply to the Orchid, Cobblestone, and 75 South Milpitas Boulevard projects, as well as all existing and built residential units in the Town Center district.

The current Town Center General Plan description and Zoning provisions authorize residential uses and redevelopment of vacant or underutilized lands to residential uses. These residential uses include low density single-family residential, mixed-use, and live-work development. Single family and live-work projects have been approved in the Town Center, as evidenced by the conversion of commercial and industrial properties along the south side of Calaveras Boulevard. The current trend of converting commercial and industrial properties to single family residential subdivisions or other types of residential developments are inconsistent with the intent and purpose of the Town Center zone. The Town Center Zone is intended to support a wide range of uses, including, but not limited to, commercial, business and entertainment uses. Amendments to the General Plan and Zoning Code will prohibit any new residential uses in the Town Center Zoning District.

Location and Land Use

The proposed amendment applies to the Town Center zoning district, the areas of which are coterminous. The Town Center zoning district is located in central Milpitas, generally along Calaveras Boulevard between Interstate 680 and the Union Pacific railroad corridor as shown in Map 1. Existing uses include the Town Center retail shopping center, restaurants, a variety of professional office buildings, banks and financial institutions, City Civic Center, hotels, and single- and multi-family residential uses.

PROJECT ANALYSIS

Proposed Amendments

The proposed amendment affects four portions of the General Plan, which are as follows:

1. Table 2-3 on page 2-8: Remove footnote on residential density in Town Center.
2. Table 2-4 on page 2-10: Remove discussions on residential density in Town Center.
3. Town Center Land Use Designation on Pages 2-13 and 2-14: Remove references to residential uses.
4. Implementing Policy 2.a-I-27 on page 2-33: Remove references to mixed-use developments.

The amendment would also affect three portions of the Zoning Ordinance, which are as follows:

1. Section XI-10-5.01.E: Remove references to “residential uses” in the Purpose and Intent description of the Town Center Zone.
2. Section XI-10-5.02.B: Adding language to prohibiting new residential uses in Town Center.
3. Table XI-10-5.02-1: Remove live-work and residential uses from the land use table in Town Center.

The proposed changes are redlined and attached to the draft resolution as part of the Planning Commission packet and shown below:

GENERAL PLAN AMENDMENT – LAND USE ELEMENT, PAGE 2-9

Table 2-3 - Standards for Density and Development Intensity

General Plan Land Use Designations	Zoning Districts																
	R1-H	R1-6	R1-5	R1-4	R1-3	R1-2.5	R2	R3	CO	C1	C2	HS	TC	M1	M2	MP	A
HILLSIDE																	
Very Low Density	●																
Low Density	● ³																
Medium Density	● ³																
VALLEY FLOOR																	
S.F. ¹ Low Density		● ⁽⁵⁾															● ⁵
S.F. Moderate Density			● ⁽⁵⁾	● ⁽⁵⁾	● ⁽¹⁰⁾	○ ⁽¹⁵⁾											● ⁵
M.F. ² Medium Density							● ⁽¹⁰⁾										● ⁵
M.F. High Density								● ⁽²⁰⁾ ○ ^{<40>}									● ⁵
Mobil Home Park		● ⁽⁷⁾					● ⁽⁷⁾	● ⁽⁵⁾				● ⁴ ○ ⁽⁴⁰⁾					● ⁵
Prof/Admin. Office									●								● ⁵
Retail Subcenter										●							● ⁵
General Commercial											●						● ⁵
Highway Service												●		●			● ⁵
Industrial Park																●	● ⁵
Manufacturing														●	●		● ⁵
Town Center													●				● ⁵

<40> Maximum number of dwelling units per gross acre when specific findings are made.

GENERAL PLAN AMENDMENT – LAND USE ELEMENT, PAGE 2-10

Table 2-4 - Standards for Density and Development Intensity

Land Use Designation	Residential Density (units/gross acre)	Maximum Permitted Floor-Area Ratio — FAR	Residential Population	
			Persons/Housing Unit	Persons/Acre
Commercial-Town Center	up to 40 n.a.	0.85	Varies ⁶ n.a.	Varies ⁶ n.a.

⁶ Depends on the density of housing provided.

GENERAL PLAN AMENDMENT – LAND USE ELEMENT, PAGE 2-13 – 2-14

Town Center: This designation provides for a variety of commercial, and civic and residential uses appropriate to the Center's role as the functional and visual focus of Milpitas. The Town Center is a meeting place and a market place, the home of commercial and professional firms, an entertainment area and a place for restaurants and hotels. Because of this unique and relatively intensive mix of activities, very high density residential developments (i.e., up to 40 units per acres) may be permitted within the

February 25, 2015

~~Town Center because of the increased economic support the residents would offer to the commercial uses.~~

GENERAL PLAN AMENDMENT – LAND USE ELEMENT, PAGE 2-33

Implementing Policy 2.a-I-27 Develop the Town Center as an architecturally distinctive ~~mixed-use~~ complex which will add to Milpitas' identity and image.

ZONING TEXT AMENDMENT – MILPITAS CODE OF ORDINANCES, TITLE XI – ZONING, PLANNING AND ANNEXATION. CHAPTER 10 – ZONING, SECTION 5 COMMERCIAL ZONES AND STANDARDS.

XI-10-5.01 – Purpose and Intent

- E. Town Center (TC) Zone. The purpose and intent of this zone is to provide for an area that supports a wide range of administrative, business, entertainment, ~~residential~~, dining, and cultural activities in the geographic center of the City to suit the varying lifestyles of residents and visitors alike. The area is easily accessible via the City's transportation network.

ZONING TEXT AMENDMENT – MILPITAS CODE OF ORDINANCES, TITLE XI – ZONING, PLANNING AND ANNEXATION. CHAPTER 10 – ZONING, SECTION 5 COMMERCIAL ZONES AND STANDARDS.

XI-10-5.02.B – Prohibited Uses. The following uses are prohibited:

1. Uses where the symbol "NP" appears within Table 5.02-1.
2. Uses that have been excluded from Table 5.02-1, unless they are found by the City to be similar to permitted or conditionally permitted uses in accordance with C below.
3. Any residential uses in the Town Center Zone shall strictly be prohibited provided residential uses constructed on or before February 17, 2015 or any project securing an approved tentative map or site development permit for construction of residential on or before February 17, 2015 shall be exempt from this prohibition and Milpitas Zoning Code Section 56, Nonconforming Buildings and Uses.

ZONING TEXT AMENDMENT – MILPITAS CODE OF ORDINANCES, TITLE XI – ZONING, PLANNING AND ANNEXATION. CHAPTER 10 – ZONING, SECTION 5 COMMERCIAL ZONES AND STANDARDS.

Table XI-10-5.02-1 Commercial Zone Uses

Use	CO	C1	C2	HS	TC
9. Residential Uses					
Caretaker (in conjunction with contractor's yard or mini-storage complex)	NP	NP	C	C	NP
Live-Work Units	NP	NP	NP	NP	C
Residential dwellings (between 1 and 40 d.u. per gross acre)	NP	NP	NP	NP	C
Single-room occupancy residences ¹⁰	NP	NP	NP	C	NP

Nonconforming Uses

Section 56 of the Milpitas Zoning Code would place limits on the amount a structure could be rebuilt in the event of a disaster as well as limits on additions to structures with ground floor residential uses. In order to avoid any potential for existing residential uses being designated legal nonconforming uses, under Section 56 of the Zoning Code, staff considered an exemption to this portion of the Code.

Staff received feedback at the community meeting on January 5, 2015 that residents were concerned about the ability to acquire and maintain adequate insurance should their homes become legal nonconforming uses. Staff has addressed this concern by proposing that the existing and approved residential uses be exempt from the new changes to the Zoning Code prohibiting residential and Section 56 of the Milpitas Zoning Code relating to Legal Nonconforming Uses. The proposed exemption would ensure that existing and approved residential uses can continue to enjoy the same rights and privileges prior to the text amendment. Additionally, if there is a natural disaster that requires redevelopment of an entire existing subdivision, it will not be impacted by the restrictions in the nonconforming provisions of the Zoning Code.

FINDINGS

Pursuant to Section 57 of the Zoning Code, the Planning Commission is required to make specific Findings before recommending approval of a General Plan and Zoning Amendments. Findings shall identify the rationale behind the decision to take a certain action. Each code-required Finding is analyzed below.

General Plan Amendment (Section XI-10-57.02.G.1a)

- 1. The proposed amendment is internally consistent with those portions of the General Plan which are not being amended.*

The proposed amendment is internally consistent with other elements of the General Plan. Removing the residential density provisions, description of residential uses, and the words mixed-use from Policy 2.a-I-27 from the Town Center Land Use Designation will not affect other portions of the General Plan. The Housing Element has anticipated residential growth in other land use designations throughout the City. Properties in the Town Center land use designation are not located the Regional Housing Needs Allocation List or on the list of potential housing sites. There are no other references to residential uses in the Town Center located in the General Plan. The vision for the Town Center, as expressed by Council, is for a thriving commercial, office, entertainment, and cultural district. The proposed amendment focuses these types of uses in the Town Center and therefore promotes economic development in the City of Milpitas. Therefore, the proposed amendment is internally consistent.

2. *The proposed amendment will not adversely affect the public health, safety, and welfare.*

The proposed amendment will not adversely affect the public health, safety, and welfare. As previously discussed, the Housing Element identifies numerous sites throughout the City to accommodate residential development. Similarly, previously approved permitted and conditionally permitted residential uses will continue to be allowed. The proposed amendments will facilitate commercial, office, entertainment and cultural uses in the Town Center district. Therefore, the general well-being of Milpitas residents will be maintained since the Town Center zone will still facilitate a broad range of land uses, but will encourage more commercial development to provide economic opportunities for the City and residents.

Zoning Text Amendment (Section XI-10-57.02.G.3)

1. *The proposed amendment is consistent with the General Plan.*

Prohibiting residential uses and encouraging more commercial development meets the intent of the Town Center designation. The Town Center Zoning District is intended as the functional and visual focus of Milpitas while providing a meeting and market place for commercial, professional and entertainment uses. Prohibiting new residential uses will ensure land is available for the continued focus of a commercial district that provides identity for the City while allowing the surrounding residential development to support the commercial uses.

The project is also consistent with the following General Plan Guiding Principles and Policies:

Guiding Principle 2.a-G-2 – Maintain a relatively compact urban form.

Guiding Principle 2.a-G-4 – The Town Center will be the “heart” of Milpitas’ civic, cultural, business and professional life.

Guiding Principle 2.a-G-10 – Consider long term planning and strong land use policy in managing the City’s fiscal position.

The modification of the Town Center use table is consistent with the General Plan because it furthers the identified principles and policy by using land more efficiently and will allow for additional commercial and other tax-generating uses at the street level, thereby strengthening the City’s fiscal position while achieving a commercial district in the heart of Milpitas.

2. *The proposed amendment will not adversely affect the public health, safety and welfare of the residents of Milpitas.*

The proposed zoning amendment will result in a more efficient use of land. The land use regulations will not affect the range of uses permitted or conditionally permitted. Commercial uses already allowed in the Town Center zone will continue to be allowed. Similarly, previously approved permitted and conditionally permitted residential uses will

continue to be allowed. Therefore, the general well-being of Milpitas residents will be maintained since the Town Center zone will still facilitate a broad range of land uses, but will encourage more commercial development to provide economic opportunities for the City and residents.

ENVIRONMENTAL REVIEW

The California Environmental Quality Act (Section 21000, et. seq. of the California Public Resources Code, hereafter CEQA) requires analysis of agency approvals of discretionary “projects.” A “project,” under CEQA, is defined as “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” The proposed project is a project under CEQA.

Staff has reviewed the project to determine the required level of review under CEQA. The Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). A Negative Declaration was prepared and circulated from February 5, 2015 to February 25, 2015. A Finding is proposed that the project will not have a significant effect on the environment because no significant impacts were identified in the Initial Study. The project will not expand the range of uses in the TC area of the City and will not intensify the uses already prescribed by the Town Center Zone. Instead, it will minimize the amount of uses that can occur there and will therefore limit the range of environmental impacts.

PUBLIC COMMENT/OUTREACH

Staff conducted a community meeting on January 5, 2015 to discuss the initially proposed Zone Text Amendment. Two citizens expressed concerns regarding the proposed amendment’s effect on existing residential uses. Those concerns were alleviated when the provision to continue to allow existing residential was included with the amendment. The project was subsequently heard at the January 14, 2015 Planning Commission meeting and at the February 3, 2015 City Council meeting.

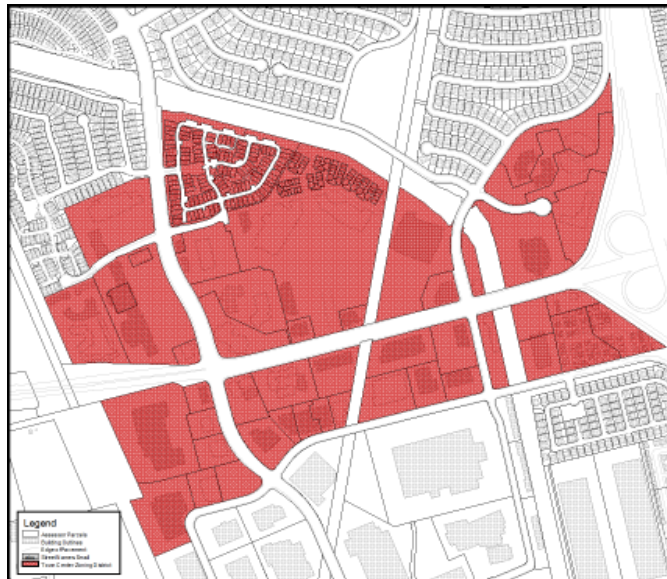
At the February 3, 2015 City Council meeting, staff received direction to prepare an amendment that would prohibit new residential uses in the Town Center, and to bring the project back to Council at the next available meeting. Subsequent to that meeting, staff received an email from a member of the public opposing the proposed General Plan and Zoning Text Amendment. The citizen supported mixed-use residential development in the Town Center as a way to distinguish the area. The email is included in Attachment B.

Staff publicly noticed the application in accordance with City and State law. As of the time of writing this report, there have been no inquiries from the public. The table below provides a summary of the City’s public noticing efforts for this project.

Public Noticing Summary

Notice of Public Hearing	Agenda
▪ Public hearing notice posted in the Milpitas Post (<i>14 days prior to the hearing</i>) ▪ 450 notices mailed to affected property owners and residents within Town Center designation (<i>10 days prior to the hearing</i>) ▪ Posted on the City's official notice bulletin board (<i>10 days prior to the hearing</i>)	▪ Posted on the City's official notice bulletin board (<i>5 days prior to the hearing</i>) ▪ Posted on the City of Milpitas's Web site (<i>one week prior to the hearing</i>)

The map below illustrates the extent of the mailed notices.



CITY COUNCIL REVIEW

This item is scheduled as a public hearing by the City Council on March 17, 2015.

CONCLUSION

The proposed General Plan Amendment and Zoning Text Amendment will update the General Plan and Municipal Code to reflect the desired uses for the Town Center district. The prohibition of residential uses in an area intended for a dense compact form and a vibrant commercial and retail district is consistent with the General Plan and Zoning Ordinance and supports the City principles of a Town Center as the “heart” of Milpitas. Staff recommends that the Planning Commission adopt Resolution No. 15-009 recommending approval by the City Council.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission:

1. Open the public hearing to receive comments;
2. Close public hearing;
3. Adopt Resolution No. 15-009 recommending the City Council adopt **General Plan Amendment No. GP15-0001, Zoning Amendment No. ZA14-0011, and approving Environmental Impact Assessment EA15-0001 to prohibit all new residential uses from the Town Center Zoning District, based on the above findings.**

ATTACHMENTS

- A. Resolution No.15-009
 - a. Exhibit A: Draft Revisions to General Plan
 - b. Exhibit B: Draft Ordinance

MEETING MINUTES

MILPITAS PLANNING COMMISSION
Milpitas City Hall, Council Chambers
455 E. Calaveras Blvd., Milpitas, CA

Wednesday, February 25, 2015

- | | |
|--|--|
| I. PLEDGE OF ALLEGIANCE | Chair Mandal called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance. |
| II. ROLL CALL/ SEATING OF ALTERNATE | <p>Commissioners</p> <p>Present: Chair Sudhir Mandal, Vice Chair Larry Ciardella, Commissioners Gurdev Sandhu, Rajeev Madnawat, Demetress Morris, Hon Lien, Ray Maglalang, Alternate Member Zeya Mohsin</p> <p>Absent: All commissioners present</p> <p>Staff: Steven McHarris, Johnny Phan, Felix Reliford, Tracy Tam, Adam Petersen</p> |
| III. PUBLIC FORUM | Chair Mandal invited members of the audience to address the Commission and there was one speaker who spoke about earthquakes and broken water pipes. |
| IV. APPROVAL OF MEETING MINUTES | <p>Chair Mandal called for approval of the February 11, 2015 meeting minutes of the Planning Commission.</p> <p>Motion to approve Planning Commission meeting minutes as submitted.</p> <p>Motion/Second: Commissioner Sandhu/Vice Chair Ciardella</p> <p>AYES: 7</p> <p>NOES: 0</p> <p>ABSTAIN: 0</p> |
| V. ANNOUNCEMENTS | <p>Planning Director Steven McHarris announced that the Milpitas Vision Plans for California Circle and Main at Serra received the 2015 American Institute of Certified Planners (AICP) National Award for outstanding student project that contributes to advances in the field of planning.</p> <p>Mr. McHarris said staff has been working with St. Elizabeth Church on their Parish Hall project that the Planning Commission approved last year and there was a condition that the applicant review the possible relocation of the trash enclosure. He said staff has been working with the applicant and is having difficulty finding an ideal location and it is staff's recommendation to have the enclosure remain at its present location. He added that the enclosure will be updated with a solid concrete block wall, and the truck operations will cause less noise for the neighbors at this location.</p> <p>Chair Mandal said that since upper staff reviewed the request and determined this to be the best location, and since there have been no complaints made, he has no objections to leaving the trash enclosure where it is.</p> |

Vice Chair Ciardella reminded everyone that next Friday is the Milpitas Chamber of Commerce Crab Feed. He also reported that he received a presentation through the Chamber about a month ago regarding the Serra Center.

Commissioner Madnawat announced that MUSD and Milpitas Community Educational Endowment (MCEE) will hold the third annual Tech Symposium on Saturday, March 14 from 9:00 am to noon at 1285 Escalon Parkway and all are invited to attend.

Commissioner Mohsin announced that on Saturday, February 28th the Milpitas Democratic Club will host a resident forum in the Milpitas Police Community Room from 2:00-4:00 and all are welcome.

VI. CONFLICT OF INTEREST

Assistant City Attorney Johnny Phan asked if any member of the Commission had any personal or financial conflict of interest related to any of the items on the agenda.

There were no reported conflicts.

VII. APPROVAL OF AGENDA

Chair Mandal asked if staff or Commissioners had changes to the agenda. Mr. McHarris requested exchanging Public Hearing item number IX-1 with IX-3 so that the Town Center Amendment item could be heard first.

Motion to approve the February 25, 2015 agenda with requested change.

Motion/Second: Commissioner Madnawat/Commissioner Sandhu

AYES: 7

NOES: 0

VIII. CONSENT CALENDAR

No Items

IX. PUBLIC HEARING

IX-3

TOWN CENTER AMENDMENT – ALL TOWN CENTER DESIGNATED PARCELS – GP15-0001; ZA14-0011 and EA15-0001: A General Plan Amendment, Zoning Text Amendment and Environmental Impact Assessment to the Town Center land use designation and zoning district that would prohibit any new residential uses.

Project Planner Adam Petersen provided a PowerPoint presentation.

Commissioner Sandhu asked why the change is coming now and Mr. Petersen said this is the direction of the City Council. Mr. McHarris provided background information, stating that the last action in the Town Center was to expand the Town Center zoning district south of Calaveras and that action introduced the potential for residential use with no minimum density. This resulted in several single-family residential subdivisions along the south side of Calaveras. Staff reviewed residential uses that would be consistent with the Town Center zone and recommended mixed-use with no ground floor residential to the Planning Commission, whom in turn made the same

recommendation to the City Council. The City Council directed staff to remove residential altogether so the item has returned to the Planning Commission for their consideration.

Vice Chair Ciardella asked if commercial can be located on the bottom floor and office space above and Mr. Petersen said he believes this would be allowed.

Commissioner Madnawat asked about dry cleaning not being permitted in the town center and Mr. McHarris said dry-cleaning businesses are permitted however dry cleaning plants where chemical cleaning is done is not permitted in the Town Center.

Chair Mandal opened the public hearing and there were two speakers.

The owner at 500 E Calaveras believes mixed use should be acceptable but ruling out residential is something the commission should think twice about. He believes it should be kept mixed use.

A gentleman referred to pages 7 of the staff report regarding natural disasters and suggested adding “or man caused disaster” to the text. He also commented that higher buildings in the downtown area can be accomplished if one looks at how other cities have done it.

Motion to close the public hearing.

Motion/Second: Commissioner Sandhu/Vice Chair Ciardella

AYES: 7

NOES: 0

Motion to adopt Resolution No. 15-009 recommending the City Council adopt General Plan Amendment No. GP15-0001, Zoning Amendment No. ZA14-0011, and approving Environmental Impact Assessment EA15-0001 to prohibit all new residential uses from the Town Center Zoning District.

Motion/Second: Commissioner Madnawat/Commissioner Morris

AYES: 6

NOES: 1 Lien

IX-2

GENIUS KIDS CUP – 487 & 495 Jacklin Road – UP14-0014: A request for a Conditional Use Permit to operate a daycare and afterschool tutoring facility with a total of 75 children within an existing commercial building.

Project Planner Tracy Tam provided a PowerPoint presentation reviewing the project.

Chair Mandal asked about the lighting in the play area and Ms. Tam said the applicant has expressed interest in including lighting in that area and Chair Mandal said he feels this is important for the safety of the children. Chair Mandal also asked about the surface of the play area and Ms. Tam said it will be engineered bark which has been compressed to a certain level so that dust is not produced when the children play outdoors.

Vice Chair Ciardella asked about the play equipment and Ms. Tam said that during the review process there was a proposal for play equipment but it is no longer proposed due to staff's concern with the surrounding residential uses. The applicant will be providing

art easels and sand boxes.

Rennu Dhillon, Genius Kids franchise owner, was present to discuss the project. Chair Mandal asked her for clarification on the ground material being used in the play area and she said there are different choices available, including engineered wood chips or rubber mulch, and what is allowed in a public park is different than that allowed in a preschool, but added that they do not have a preference as long as it meets Department of Social Services standards.

Chair Mandal asked Ms. Dhillon about the lighting and she said there are some lights in the back of the building but not enough for the playground, so they are open to adding more lighting and feels using solar powered lights would be a good idea.

Commissioner Mohsin asked what time of play equipment will be included if there are no play structures and Ms. Dhillon said they will have picnic tables and the school is focused on science and plans to have a lot of hands on learning and projects outside, including gardening.

Chair Mandal opened the public hearing and there were no speakers.

Motion to close the public hearing.

Motion/Second: Commissioner Morris/Commissioner Sandhu

AYES: 7

NOES: 0

Motion to adopt Resolution No. 15-011 approving Conditional Use Permit No. UP14-0014 to operate a daycare and an afterschool tutoring facility with a total of 75 children within an existing commercial building located at 487 and 495 Jacklin Road, subject to findings and Conditions of Approval, and an amendment to include a condition that the outdoor play area will have rubberized ground material.

Motion/Second: Commissioner Sandhu/Vice Chair Ciardella

AYES: 7

NOES: 0

IX-1

HOUSING ELEMENT, SEISMIC/SAFETY ELEMENT, AND OPEN SPACE/ENVIRONMENTAL CONSERVATION OF THE GENERAL PLAN – EA14-0007 and GP14-0004: A request for Adoption of a Negative Declaration and a General Plan Amendment Approving the Draft Housing Element 2015-2023, and revisions to the Seismic/Safety Element and Open Space/Environmental Conservation Element of the General Plan.

Principal Planner Felix Reliford provided a PowerPoint presentation.

Commissioner Madnawat asked about fees for affordable housing and there was discussion about the Nexus study and City Council's decision not to pursue it. Commissioner Madnawat asked how many affordable housing units were provided in Milpitas last year and Mr. Reliford said approximately 65 units. Commissioner Madnawat feels this is an insignificant amount of housing and the City is not creating fees to provide affordable housing which is contradictory to what state law requires. Mr. Reliford said staff is researching incentives, such as density bonuses.

Commissioner Maglalang referenced page six of the Draft Housing Element which states that the City did not meet its RHNA goals for very low to low moderate income households and asked the reason for this. Mr. Reliford said that no city meets 100% of their RHNA number and most cities seldom meet 50%.

Chair Mandal opened the public hearing and there were no speakers.

Motion to close the public hearing.

Motion/Second: Commissioner Sandhu/Vice Chair Ciardella

AYES: 7

NOES: 0

Commissioner Morris suggests revisiting the subject of a Nexus study and returning to the City Council.

Commissioner Madnawat feels the City has not achieved any of its affordable housing targets and has only provided 2% affordable housing. He believes the City is required to have some policies to try to achieve these goals and he does not see any policies to support this.

Motion to adopt Resolution No. 15-0008 recommending the City Council adopt a Negative Declaration (Environmental Assessment No. EA14-0007) and approve General Plan Amendment No. GP14-0004 relating to the Draft Housing Element 2015-2023 and revisions to the Seismic/Safety Element and Open Space/Environmental Conservation Element of the General Plan with an amendment to return to City Council with a recommendation for a Nexus study for affordable housing and setting aside funding for affordable housing.

Motion/Second: Commissioner Madnawat/Commissioner Morris

AYES: 7

NOES: 0

X. NEW BUSINESS

X-1 SERRA CENTER STUDY SESSION

Senior Planner Adam Petersen said the study session would consist of two purposes, a review of City policies and zoning designation for the Serra Center, and a discussion on future development potential of the center, and showed a PowerPoint presentation reviewing the Serra Center.

Chair Mandal feels this is the main entrance into Milpitas and the center currently gives him the wrong impression about the city, and he said this is an opportunity to have an area that is an icon of the city. He asked how much input the Economic Development Commission (EDC) has had on the project thus far.

Mr. McHarris said the EDC has not been agendized as this is the first City commission review of this center. Chair Mandal feels it is important that the EDC review the development of this center and that input is received from them.

Commissioner Maglalang said he prefers one straight building similar to Santana Row with underground parking.

Commissioner Madnawat commented that the Cal Poly students had great plans in their study and he would like to see them incorporated into this project.

Gary Wong said the Serra Center was previously presented to the Planning Commission and City Council but it did not go far due to the recession; however, it is being brought back to reality with his team and the Serra way partners. He said in the past they were given the concept that mixed use was allowed, then they were sidetracked because residential was not allowed in the new General Plan policy, and the design plans they are showing are based on mixed use, which they want to introduce into this project.

Mr. Wong showed a PowerPoint of the proposed project and reviewed their future plans for the site.

Commissioner Madnawat asked about the timeline of the project. Mr. Wong said there are a number of leases that do not end for some time so they are proposing starting development on the east side working toward the west when those leases expire. He said they hope to break ground some time next year and that development will happen in four phases.

The latter part of their presentation was to receive input from the commissioners and below is a summary of comments received from the Planning Commission:

- Take item to Economic Development Commission
- Enhance Economic Support of City
- Obtain ideas from an economic team
- Do not underestimate Milpitas
- Look at Fremont Pacific Commons Center as example
- Provide staff with experience in similar past project examples
- Incorporate Cal Poly vision study
- Work with Cal Poly to further the concept
- Santana Row style activity
- Revisit Floor Area Ratio
- Gateway to the City
- Residential will be above commercial (no ground floor residential)
- Iconic appearance needed
- Affordable commercial and residential rents
- Serra Center theme, historic.
- Look at Alviso Park for history
- Attractive, enjoyable spaces and experience
- Incorporate alternative energy solutions
- Beautify and orient toward adjacent creek channel
- Emphasize pedestrian design
- Design for convertible internal street(s) (can be closed for festivals, events)
- Not in favor of residential along Junipero
- Consider moving parking structure closer to Junipero, no residential
- Work on Serra/Calaveras “pork chop” for gateway design

Serra Center owner Sam Ying thanked the commission for their time and said their goal is to build a place where families can spend time and a center that Milpitas will be proud of.

XI. ADJOURNMENT

The meeting was adjourned at 11:10 PM to the next meeting scheduled on Wednesday, March 11, 2015.

Motion to adjourn to the next meeting.

Motion/Second: Commissioner Madnawat/Commissioner Sandhu

AYES: 7

NOES: 0

*Meeting Minutes submitted by
Planning Secretary Elia Escobar*

RESOLUTION NO. 15-009**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS
RECOMMENDING THE CITY COUNCIL TO ADOPT GENERAL PLAN
AMENDMENT NO. 15-0001, ZONING AMENDMENT NO. 14-0011 AND
ENVIRONMENTAL IMPACT ASSESSMENT NO. 15-0001 TO PROHIBIT ALL NEW
RESIDENTIAL USES IN THE TOWN CENTER ZONING DISTRICT**

WHEREAS, on December 11, 2014, an application was submitted by the City of Milpitas Planning and Neighborhood Services Department to amend the Milpitas Zoning Code to add “mixed use” residential to the Town Center Zoning description and to prohibit ground floor residential uses in the Town Center zone. The properties subject to the amendment are located within the Town Center Zoning District; and

WHEREAS, on January 14, 2015, the Planning Commission conducted a duly noticed public meeting and adopted Resolution No. 15-001 recommending the City Council amend the Milpitas Zoning Code to add “mixed use” residential to the Town Center Zoning description and to prohibit ground floor residential uses in the Town Center zone; and

WHEREAS, on February 3, 2015, the City Council conducted a duly noticed public hearing to consider the recommendation from the Planning Commission add “mixed use” residential to the Town Center Zoning description and to prohibit ground floor residential uses in the Town Center zone; and

WHEREAS, during the City Council meeting on February 3, 2015, the City Council expressed a desire to make the Town Center a distinct commercial district and directed staff to bring forward a General Plan Amendment and Zoning Code Amendment to prohibit new residential development of any type in the Town Center; and

WHEREAS, Planning staff has prepared a proposed General Plan Amendment and Zoning Code Amendment consistent with the City Council’s direction to prohibit new residential development of any type in the Town Center for Planning Commission review and consideration; and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA) and recommends that the Planning Commission determine this project will not have a significant effect on the environment; and

WHEREAS, on February 25, 2015, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

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

SECTION 1: The Planning Commission 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 Planning Commission. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2: The Planning Commission has reviewed and exercised its independent judgment on the environmental review for the General Plan Amendment and Zoning Amendment to remove residential uses from the Town Center Land Use Designation and Zone, in accordance with the requirements of CEQA, and State and local guidelines implementing CEQA, and determined that the Amendment will not have a significant effect on the environment under CEQA and State and local guidelines implementing CEQA. The General Plan Amendment and Zoning Amendment was subject to CEQA review and Initial Study/Negative Declaration (IS/ND) was prepared for the project. The IS/ND demonstrated that the subject project will not have a significant effect on the environment. There is no possibility that the amendment in question may have a significant impact on the environment because the proposed amendment will not expand the range of uses permitted in the TC Zone, nor will it increase the development intensity of uses in the TC Zone. The proposed amendment does not directly authorize any individual project and any subsequent project that will have a physical change in the environment will require environmental review and clearance. Additionally, there are no current projects under review that would be affected by the proposed amendment. Subsequent activities will require further analysis by the City in order to determine the potential impacts from development.

The Planning Commission has reviewed the Initial Study and Negative Declaration, all supporting evidence and documentation, and considered public comments provided at or before the hearing of this matter. The Initial Study and Negative Declaration reflects the Planning Commission's independent judgment and analysis as to the effects of the project on the environment. Based on the review of the entire record therein, including the Negative Declaration, the Initial Study, all supporting, referenced, and incorporated documents and all comments received, the Planning Commission finds that there is no substantial evidence that the project will have a significant effect on the environment, and that the Negative Declaration, Initial Study and supporting documents provide an adequate description of the impacts of the project and comply with the CEQA and CEQA Guidelines.

SECTION 3: General Plan Amendment (Section XI-10-57.02.G.1a) – The Planning Commission makes the following findings based on the evidence in the public record in support of General Plan Amendment No. GP15-0001:

1. *The proposed amendment is internally consistent with those portions of the General Plan which are not being amended.*

The proposed amendment is internally consistent with other elements of the General Plan. Removing the residential density provisions, description of residential uses, and the words mixed-use from Policy 2.a-I-27 from the Town Center Land Use Designation will not affect other portions of the General Plan. The Housing Element has anticipated residential growth in other land use designations throughout the City. Properties in the Town Center land use

designation are not located the Regional Housing Needs Allocation List or on the list of potential housing sites. There are no other references to residential uses in the Town Center located in the General Plan. The vision for the Town Center, as expressed by Council, is for a thriving commercial, office, entertainment, and cultural district. The proposed amendment focuses these types of uses in the Town Center and therefore promotes economic development in the City of Milpitas. Therefore, the proposed amendment is internally consistent.

2. The proposed amendment will not adversely affect the public health, safety, and welfare.

The proposed amendment will not adversely affect the public health, safety, and welfare. As previously discussed, the Housing Element identifies numerous sites throughout the City to accommodate residential development. Similarly, previously approved permitted and conditionally permitted residential uses will continue to be allowed. The proposed amendments will facilitate commercial, office, entertainment and cultural uses in the Town Center district. Therefore, the general well-being of Milpitas residents will be maintained since the Town Center zone will still facilitate a broad range of land uses, but will encourage more commercial development to provide economic opportunities for the City and residents.

SECTION 4: Zoning Text Amendment (Section XI-10-57.02.G.3) – The Planning Commission makes the following findings based on the evidence in the public record in support of Zoning Amendment No. ZA14-0011:

1. The proposed amendment is consistent with the General Plan.

Prohibiting residential uses and encouraging more commercial development meets the intent of the Town Center designation. The Town Center Zoning District is intended as the functional and visual focus of Milpitas while providing a meeting and market place for commercial, professional and entertainment uses. Prohibiting new residential uses will ensure land is available for the continued focus of a commercial district that provides identity for the City while allowing the surrounding residential development to support the commercial uses.

The project is also consistent with the following General Plan Guiding Principles and Policies:

Guiding Principle 2.a-G-2 – Maintain a relatively compact urban form.

Guiding Principle 2.a-G-4 – The Town Center will be the “heart” of Milpitas’ civic, cultural, business and professional life.

Guiding Principle 2.a-G-10 – Consider long term planning and strong land use policy in managing the City’s fiscal position.

The modification of the Town Center use table is consistent with the General Plan because it furthers the identified principles and policy by using land more efficiently and will allow for additional commercial and other tax-generating uses at the street level,

thereby strengthening the City's fiscal position while achieving a commercial district in the heart of Milpitas.

2. *The proposed amendment will not adversely affect the public health, safety and welfare of the residents of Milpitas.*

The proposed zoning amendment will result in a more efficient use of land. The land use regulations will not affect the range of uses permitted or conditionally permitted. Commercial uses already allowed in the Town Center zone will continue to be allowed. Similarly, previously approved permitted and conditionally permitted residential uses will continue to be allowed. Therefore, the general well-being of Milpitas residents will be maintained since the Town Center zone will still facilitate a broad range of land uses, but will encourage more commercial development to provide economic opportunities for the City and residents.

SECTION 5: The Planning Commission of the City of Milpitas hereby adopts this Resolution No. 15-009 recommending the City Council adopt General Plan Amendment No. GP15-0001, Zoning Amendment No. ZA14-0011, and Environmental Impact Assessment No. 15-0001 to remove the words residential from the Town Center land use designation in the General Plan and to prohibit new residential uses in the Town Center zoning description as outlined in the attachments attached hereto and incorporated fully herein by reference, subject to the findings herein.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Milpitas on February 25, 2015.


Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on February 25, 2015 and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Sudhir Mandal	✓			
Larry Ciardella	✓			
Hon Lien		✓		
Demetress Morris	✓			
Rajeev Mandnawat	✓			

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Gurdev Sandhu	✓			
Ray Maglalang	✓			
Zeya Mohsin (alternate)				



CITY OF MILPITAS

455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479
GENERAL INFORMATION: 408-586-3000, www.ci.milpitas.ca.gov

3/17/2015

Agenda Item No. 1



ATTACHMENT RELATED TO AGENDA ITEM AFTER AGENDA PACKET DISTRIBUTION



**CITY OF MILPITAS, CALIFORNIA
REQUEST FOR PROPOSALS (RFP)
FOR OPERATION OF THE COMMUNITY ACCESS TELEVISION CHANNELS**

Introduction

The City of Milpitas (City) wishes to solicit proposals from qualified operators for the operation and management of the City's public television channel in accordance with this RFP. Award resulting from this RFP is expected to result in a three-year contract and one (1) three-year option to renew.

In addition to the scope of work itemized within this RFP document, the City encourages proposals to identify sustainable best practices and appropriate practical innovations that uniquely serve the goals of the community.

Background

Local public, educational and governmental (PEG) access channels began in the early 1970s, as a "tradeoff" offered to cities by the emerging cable television industry during franchise negotiations. PEG channels would be locally operated cable channels that would take advantage of the new medium's potential to become an "electronic soapbox" to encourage expression of a wide range of local viewpoints. As the channels evolved, the "E" (education) and "G" (government) channels focused on those respective topic areas, while the "P" channels provided free airtime and access to video production facilities to any member of the public, regardless of the speaker's message.

Public Access in Milpitas

The City has had an agreement with Milpitas Community Television 26 (MCTV26), to operate the community access channel, with the public access channel currently on Comcast system Channel 26. In addition to operating the community access channels, MCTV provides video production services to local government agencies and non-profit organizations.

The City, through this Request for Proposals (RFP), is seeking proposals from qualified non-profit 501(c)(3) organizations for the continued operation of the City's public access cable television channel and the studio located inside City Hall at 455 E. Calaveras Blvd, Milpitas, CA.

GOALS AND OBJECTIVES

The following goals and objectives have been identified for this project:

- Implement a community television operation solution that is financially stable.
- Provide techniques for assessing community needs and new opportunities.
- Provide techniques for openness and transparency in the operation of the station.

- Provide greater community television station effectiveness to independent art and cultural groups, entertainment groups, sports and recreation associations.
- Increase community support.
- Provide innovations for advancing the station in the ever-changing technology of video and television production.
- Provide educational training programs, business and non-profit engagement, marketing and grant awards that support community access television.

The City seeks proposals that demonstrate a realistic and achievable plan for immediately assuming channel operations. In addition, the successful proposer should demonstrate that it has the capacity to raise nongovernmental revenues or volunteer support to expand the existing services of the operation.

The successful proposer will provide quality services with the existing PEG funded equipment currently in the possession of and under the control of MCTV26 and will determine the future needs of the public access television facility.

The contract shall have an original term of five (3) years. However, the City, at its sole and absolute discretion, may terminate the contract at any time if the applicant fails to raise adequate funding or provide the specified services as agreed. In addition, the City shall have an option to agree to extend the term for one (1) **additional three-year** period, which the City may exercise in its sole and absolute discretion.

SCOPE OF WORK

The successful proposer will provide services for the operation and management of the City's Public channel:

General Management:

1. Provide access to equipment, facilities, channel, and services provided hereunder to the City, nonprofit organizations, and any resident of the City for non-commercial programming purposes, nonprofits and residents on a first-come, first-served non-discriminatory basis, pursuant to operating rules promulgated by operator.
2. Create and maintain operating policies and procedures. Maintain policies and guidelines for use and operation of the access equipment, facilities, and channel, and make modifications as necessary.
3. Properly maintain and make public the bylaws of the non-profit 501(c)(3) organization.
4. Manage one (1) PEG access channel and facilities in compliance with applicable laws, rules, and regulations.
5. Maintain an accurate inventory of all equipment, including a subcategory of inventory consisting of all equipment.
6. Provide financial reports to the City on a biannual basis.
7. Participate in public input workshops on an annual basis.

8. It is anticipated that there will be a period of transition when a new operator takes over. The successful proposer must be prepared to immediately operate the channels within 30 days of award of the contract, with specific attention to public access producers, community based organizations and public access viewers.

Services

Services include, but are not necessarily limited to, the following:

1. Operation of one community access channel.
2. Provide video production services for governmental and non-profit agencies.
3. Manage a video production facility which shall be available for public use at such hours and times as determined by operator and reasonable to ensure user access. Access to equipment and facilities shall be open to all those who satisfactorily complete training class(es) provided by operator. Cost of such training shall be reasonable and available to individuals with limited incomes.
4. Train interested local residents in the techniques of video production and provide technical advice regarding the execution of productions.
5. Scheduling of the channel and playback of programs produced by public access producers, including basic maintenance of related equipment.
6. Coordinate to include schedule of programs on Comcast's on-screen channel guide.
7. Organize and regularly schedule training for producers.
8. Check-out/in of equipment and reservation of facilities used by community producers.
9. Ensure adequate staff or volunteer personnel are available to operate the studio and control room facilities as needed by producers or other users of the community access television station.
10. Preventive and corrective maintenance of facilities and equipment provided for use by community producers.
11. Outreach to and recruitment of community organizations and individuals.
12. Promotion of the services provided by the public access facility and the programming airing on the access channel.
13. Retention of certified producers and assistance in producing initial and subsequent Public Access Programming.
14. Implement a marketing program for the television studio to engage the public and to identify and reach target audiences.

15. Create a menu of services offered and the associated professional fees/rates schedule. Fee schedule should include tiers for public, governmental and non-profit users.
16. Create and maintain a website.
17. Post and maintain office hours.
18. Present an annual "State of Community Access Television Report" to the Milpitas City Council.

The successful proposer will be a private 501(c)(3) nonprofit organization that is governed by a Board of Directors completely independent from the City. The Board is not to be considered as created by or under the control of the City. State laws such as the Brown Act and the Public Records Act do not apply, however, it is expected that board meetings will be open to the **public** with meeting schedules at least seven (7) days in advance. Agendas **will** be posted in a conspicuous place at the studio visible to the public or on a public web site at least 72 hours in advance of any scheduled meeting. The Board of Directors **shall** be responsible for fiduciary and operational oversight. Proposals are expected to address how proposed bylaws for the organization will incorporate a methodology for selection and removal of Board members that will ensure the Board is responsive to the mission and vision of community access television, the users of the facility and the public at large. The City encourages proposers to consider proposing a governance structure that includes in the bylaws a formal Advisory Council of external advisors, key staff and key partners with regular meetings focused on providing support, guidance and recommendations to the Board with respect to operations, programming and community interactions.

Funding Sources:

Please include the cost to manage the Public Channel and studio in proposal. The City will evaluate based on cost and services provide.

Equipment:

Operator shall keep in good condition. The City will provide the maintenance and repair of **all** equipment purchased through the use of PEG fees allowable through its budget.

Upon termination or expiration of the contract, all such equipment purchased through the use of PEG fees shall become the property of City.

Upon the expiration or the termination of the contract, the operator shall, transfer **all** assets of the operator representing City funded equipment, and/or the proceeds of either to the City, or at the City's option, to such organization or organizations designated by the City to manage PEG access, which shall at the time qualify as a tax exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (or the corresponding provisions of any future United States Internal Revenue Law).

PROPOSAL FORMAT AND SUBMITTAL REQUIREMENTS

Proposals without sufficient submittal data to provide a complete evaluation will not be considered. Proposals must fully address the evaluation criteria, references and data to verify qualifications and experience.

The proposal shall include, as a minimum, the following information:

1. Cover/Transmittal Letter — Letter is to be signed by a member of the organization having the authority to negotiate and execute contracts on behalf of the organization. Cover letter must acknowledge receipt of any and all addenda, if any were issued.
2. Project Understanding - This section should outline the proposer's basic understanding of the project. It should identify key issues to be addressed during the project and any insights or innovative ideas the proposer can provide in addressing those issues. Items that should be included are:
 - a. Identify a plan for transitioning from the current operator to the new operator, if applicable.
 - b. Education - Provide a detailed explanation of programs to be implemented currently as well as proposed future programs.
3. Scope of Work—Describe how you will accomplish the items in the Scope of Work and how you will meet the stated Goals and Objectives.
4. Related Experience — Include all experience that demonstrates your ability to operate a public access television station.
 - a. Describe your experience with providing operation and management of a public access television station. If proposer has no experience, please provide relevant experience that shows an ability to perform this project.
 - b. What examples do you have of keeping up-to-date with technologies, especially those that affect the ability of citizens to utilize the station?
6. Responsible Personnel — Provide a list of personnel (staff or volunteers) who will be involved with this project.

EVALUATION OF PROPOSALS AND NEGOTIATIONS

A panel, comprised of people knowledgeable of public access channel operations and/or who have acceptable knowledge of the goals of a community access channel, will review all proposals submitted and select the top proposals. These top proposers may then be asked to provide additional information to the evaluation panel. Based on the initial proposals the panel will select the proposal which best fulfills the requirements and is the best value to the City. The City will negotiate with that contractor to determine final contract form.

Overall responsiveness to the Request for Proposals is an important factor in the evaluation process. Evaluation of the proposals is expected to be completed within twelve days after their receipt due date of April 20, 2015.

Evaluation Criteria

The proposals will be evaluated, generally, in accordance with the criteria itemized below. The panel will review how closely an applicant's proposal is to meeting all the requirements set forth in the RFP.

Category Maximum Points Allowed

1.	Experience in public access operations and financial management	10
2.	Management plan for efficiency and innovation	10
3.	Plan for retention and development of producers and volunteers	15
4.	Plan for channel administration, oversight and governance	10
5.	Plan to develop partnerships with community groups, non-profit groups and government	15
6.	Outreach and marketing plan for public access services and programming	10
7.	Cost of operation	30
Total possible points		100

All agreement negotiations will be handled by the City of Milpitas. Award will be by the City Council. No other officer or agents may obligate or bind the City. Proposers will designate, by name, the representative who will negotiate. The person named will be an authorized agent of the organization who will be able to conduct negotiations or written offers in good faith.

ATTACHMENTS

1. Current Agreement with MCTV26

CITY OF MILPITAS COMMISSION/COMMITTEE APPLICATION

APR 28 2014

PROVIDE COMPLETE INFORMATION (in black ink)

COMMUNITY ADVISORY (REGULAR)

COMMISSION APPLYING FOR ↑

☒ Mr.☐ Mrs./Ms./Miss

ADRIAN MOREL

Name: First Middle Last

1102 S. ABEL ST, APT 131 MILPITAS, CA 95035

Address: Number Street (apt. # if needed) City & Zip Code

408-300-7945 ADRIAN_MOREL@YAHOO.COM

Telephone Number(s) e-mail address

LEOTEK ELECTRONICS USA LLC 408-334-4018

Present Employer Business Telephone

1955 LUNDY AVE, SAN JOSE, CA 95131 GENERAL MANAGER - LATAM

Business Address Occupation

Education: If Youth Advisory Commission applicant, indicate your grade/school: _____

College, Professional, Vocational, or other schools attended	Major Subject	Date	Degree
<u>ENPC PARIS TECH, FRANCE</u>	<u>MBA</u>	<u>1997</u>	<u>MBA</u>
<u>UNIVERSITY OF BUENOS AIRES</u>	<u>PUBLIC ADMINISTRATION</u>	<u>1991</u>	<u>B.S.</u>

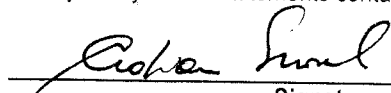
List community organizations to which you belong or have belonged (additional information may be attached). If application is for **Veterans Commission**, indicate branch and service in any U.S. military organization (retired or active duty).

Date	Name of Organization or Branch of Military	Officer / Member

Briefly describe the personal qualifications you possess which you believe would be an asset (additional information may be attached):

CURRENT COMMISSIONER AT SANTA CLARA COUNTY FOR SOCIAL SERVICE ADVISORY COMMISSION APPOINTED BY SUPERVISOR KEN YEAGER

I have sufficient time to devote to this responsibility and will attend the required meetings if I am appointed to fill a future vacancy. I hereby certify that all statements contained in this application are true.


Signature

4-28-14
Date

Appointments to Commissions or Committees are made by the Mayor with the concurrence of the City Council. Applications not acted upon will expire after one year from the date submitted unless renewed by the applicant.

NOTE: ALL COMMISSION APPLICATIONS ARE PUBLIC RECORD

Mail, email or drop off your completed application to:

City Clerk, 455 E. Calaveras Blvd., Milpitas, CA 95035, email: mlavelle@ci.milpitas.ca.gov

City of Milpitas Veterans Commission Work Plan 2015

Veterans Commission Mission Statement:

The Veterans Commission is established by the City Council and works in an advisory capacity to the City Council on matters pertaining to Veterans in Milpitas.

Work Plan Summary:

- Awareness to Veterans of Milpitas on possible resources
- Participation in Special Events related to Veterans
- Fundraising – monies to be used for the upkeep of the Veteran Memorial site, purchasing and selling flags for those interested in buying, make donations to various local agencies on behalf of the Commission.

Goals:

- 1) Assist in planning Memorial Day, Fourth of July and Veterans Day celebrations; promote Veterans events to the residents; have a gallery art show at the Senior Center featuring art produced by Veterans of Milpitas and/or patients in VA Hospitals; host a dinner or lunch to honor a local veteran who is also a senior citizen (try to coincide with Older Americans Month).
- 2) Work collaboratively with Santa Clara County Veterans Service Office (SCCVSO) on all events that are sponsored by the Commission.
- 3) Work with Green Thumb Garden Club of Milpitas in cooperation with the Blue Star Memorial Program on a potential memorial marker for our Veteran Plaza.
- 4) Work to identify Milpitas Veterans in need during the holidays and work with food drives to assist veteran families.
- 5) Work with other veterans groups on strengthening common veteran's causes and ensuring that the community is aware of veteran's rights and needs.
- 6) Assist military veterans along with the SCCVSO who are returning to civilian life as residents of Milpitas in their economic, educational, and personal endeavors.
- 7) Serve as a knowledge base for Veterans by maintaining and updating the online webpage on the Veterans webpage for the City, to include items such as: policies, burial benefits, shelter, hospitals, programs, resources and events.
- 8) Preserve Veterans monuments and memorials within the City.
- 9) Work with Milpitas schools in regards to teaching students on how to properly raise and lower the flag; work directly with the Milpitas Jr. ROTC and involve NJROTC Cadets from MHS.
- 10) Continue to organize the third Annual Veterans Car Show to be held October 17, 2015.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS GRANTING FINAL
ACCEPTANCE OF SOUTH MAIN STREET MEDIAN IMPROVEMENTS (PARAGON)
PROJECT NO. 3204 AND RELEASE OF THE DEVELOPER’S WARRANTY BOND**

WHEREAS, the City Council of the City of Milpitas on February 21, 2012, approved the plans and specifications for the South Main Street Median Improvements, Project No. 3204 (the “Project”) to be completed by Western Pacific Housing, Inc., a Delaware Corporation (“Developer”) as part of its residential development on South Main Street; and

WHEREAS, the City of Milpitas entered into a subdivision improvement agreement on February 6, 2007 with Western Pacific Housing, Inc. for the Paragon Townhomes Project; and

WHEREAS, said Developer, as principal, and the Developer’s Bonding and Insurance Company, as surety, executed a certain faithful performance bond conditioned upon the faithful performance of the provisions of said improvement agreement and upon the faithful performance of all improvement work required thereunder; and

WHEREAS, said improvements were completed, finally inspected by the City Engineer of the City of Milpitas, and accepted; and

WHEREAS, a period of one year or more has expired after the date of said acceptance of said improvements; and

WHEREAS, the City Engineer has advised the City Council that Developer has remedied, restored, repaired, or replaced at its sole expense and to the satisfaction of said City Engineer all defects, damages, or imperfections, if any there were, due to or arising from faulty materials or workmanship and appearing within said period of one year from the date of acceptance; and

WHEREAS, said City Engineer recommends to the City Council that said faithful performance bond be released.

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

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City of Milpitas does finally accept said improvements. That certain performance bond furnished by the above-named Developer, as Principal, and the above-named Surety in connection with those certain improvements for the above-designated project, are hereby released and discharged; provided, however, that nothing herein contained shall in any way be deemed to be a waiver, release or relinquishment by City of any obligations imposed upon the Developer or its surety, or sureties, by law or by the above-referenced improvement contract, save and except those obligations specifically mentioned herein.

PASSED AND ADOPTED this ____ day of _____, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM

Michael J. Ogaz, City Attorney

List of Attachments for Agreements No. 10

– Waterstone Subdivision Project

Adopt a Resolution Annexing Certain Real Property into Community Facilities District No. 2005-1, Approve a Subdivision Improvement Agreement (Lennar Homes), Final Map and Improvement Plans for 1494 California Circle (Waterstone Subdivision), Project No. 2830 (Staff Contact: Ahmed Aly, 408-586-3325

Attachments:

- *10-A** Subdivision Improvement Agreement for Waterstone project
- *10-B** Title Sheet for Waterstone Tract Map
- *10-C** Title Sheet for Public Street Improvements Plan
- *10-D** Draft Resolution to annex property into Community Facilities District No. 2005-1

Subdivider: Lennar Homes of California, Inc

Project Name: Waterstone (Lennar)

File No. :

Private Job Account No.: 2830

Improvement Plan No.: 2-1193

Tract Map No.: 10270

Council Approval Date: 03/17/15

CITY OF MILPITAS

SUBDIVISION IMPROVEMENT AGREEMENT

THIS AGREEMENT, executed this ____ day of _____ 2015, at Milpitas, California, by and between the CITY OF MILPITAS, a municipal corporation of the State of California, (hereafter referred to as "CITY"); and

Lennar Homes of California, Inc, a California Corporation

(hereafter referred to as "SUBDIVIDER"):

RECITALS

- A. SUBDIVIDER desires to subdivide certain land in the CITY in accordance with a final map filed with the Milpitas City Council, marked and designated as Tract No. 10270, (the "Project").
- B. Said map shows certain easements which are offered for dedication for public use.

NOW, THEREFORE, in consideration of the mutual covenants terms and conditions herein contained, and for other valuable consideration, the receipt of which is hereby acknowledged, the parties do hereby agree as follows:

- 1. SUBDIVIDER agrees that it will construct at its sole cost and expense, all those certain improvements listed in **Improvement Plan No. 2-1193** and specifications, which includes setting survey monuments and identified by **Project Job Account No. 2830** (and any subsequent accounts created for this Project, hereby referred to and made a part hereof the same as if set forth at length herein), and as set forth in the conditions of approval for the Project. SUBDIVIDER agrees that any design changes to the Improvement Plan may necessitate lot line adjustments or other CITY approval.
- 2. SUBDIVIDER, at its sole cost and expense, agrees to the following subject to the sole satisfaction of the CITY:
 - a. Pursuant to Final Condition of Approval No. 11 of City Council Resolution No. 8319 dated November 19, 2013 and subsequent City Letter of Final Conditions of Approval dated January 9, 2014, SUBDIVIDER shall design and construct the gateway enhancement to the satisfaction of the City Engineer and Planning Director as shown in

Exhibit "B". SUBDIVIDER shall obtain an encroachment permit for any work with in the public right-of-way as required by CITY. If the SUBDIVIDER is unable to obtain the necessary approvals for the gateway enhancements, the SUBDIVIDER shall pay a monetary contribution to the City equivalent to the value of the construction cost estimate for said gateway enhancements.

- b. Pursuant to Final Condition of Approval No. 9 of City Council Resolution No. 8319 dated November 19, 2013 and subsequent City Letter of Final Conditions of Approval dated January 9, 2014, SUBDIVIDER shall design and construct an enhanced pedestrian path within the public easement fronting Lot G to the satisfaction of the City Engineer and Planning Director as shown in **Exhibit "C"**. SUBDIVIDER shall obtain an encroachment permit for any work with the public right-of-way as required by CITY.
3. No improvement work shall be undertaken by SUBDIVIDER until all plans and specifications have been submitted to the City Engineer and have been approved by him/her in writing nor shall any change be made in said plans and specifications or in the work of improvement to be done under them without the prior written approval of CITY.
4. SUBDIVIDER agrees that said improvements will be constructed under and subject to the inspection of and to the satisfaction of the CITY.
5. SUBDIVIDER agrees that it will construct said improvements in accordance with the requirements set forth in said "Improvement Plans and Specifications" referred to above, all applicable local, state, and federal codes, ordinances, resolutions and orders of CITY enacted or adopted by said City Council as amended or revised as of the date hereof, and governing statutes of the State of California or of the United States of America.
6. SUBDIVIDER agrees that it will carry out and shall cause its contractors to carry out construction of the said improvements in conformity with all applicable laws and regulations, including without limitation, all applicable federal and state labor laws and standards. To the extent applicable to **Lennar Homes of California, Inc, a California Corporation** and its subcontractors and agents, shall comply with California Labor Code Section 1720 et seq. and regulations adopted pursuant thereto ("**Prevailing Wage Laws**") and shall be responsible for carrying out the requirements of such provisions.

SUBDIVIDER shall, and hereby agrees to indemnify, defend (with counsel approved by CITY), protect and hold harmless the Indemnitees from and against any and all Claims whether known or unknown, and which directly or indirectly, in whole or in part, are caused by, arise from, or relate to, or are alleged to be caused by, arise from, or relate to, the payment or requirement of payment of prevailing wages, the failure to comply with any state or federal labor laws, regulations or standards in connection with this Agreement, including but not limited to the Prevailing Wage Laws, or any act or omission of CITY or Developer related to this Agreement with respect to the payment or requirement of payment of prevailing wages, whether or not any insurance policies shall have been determined to be applicable to any such Claims. It is further agreed that CITY does not, and shall not, waive any rights against Developer which they may have by reason of this indemnity and hold harmless agreement because of the acceptance by CITY, or Developer's deposit with CITY of any of the insurance policies described in this Agreement.

7. All said improvements shall be completed and ready for final inspection by the CITY **within 36 months** of the date of execution of this Agreement or **prior to first Certificate of Occupancy** (temporary or final) for the Project, whichever comes first. If SUBDIVIDER shall fail to

complete the work required by this Agreement within same time, CITY may, at its option, and after giving ten (10) days written notice thereof to SUBDIVIDER, complete the same and recover the full cost and expense thereof from SUBDIVIDER. Additionally, CITY may contact the surety bond companies and seek enforcement of any bonds securing this AGREEMENT.

8. Upon the execution of this Agreement, SUBDIVIDER shall file and submit security to CITY as obligee in the penal sum of **One Million Nine Hunderd Thousand Dollars (\$1,900,000.00)**, conditioned upon the full and faithful performance of each of the terms, covenants, and conditions of this Agreement and conditioned upon the full and faithful performance of any and all public improvement work required hereunder.
9. In the event that SUBDIVIDER fails to perform any obligation on its part to be performed hereunder, SUBDIVIDER agrees to pay all costs and expenses incurred by CITY in securing performance of such obligation, and if suit be brought by CITY to enforce this Agreement, SUBDIVIDER, agrees to pay costs of suit and reasonable attorney's fees to be fixed by the Court.
10. Upon the execution of this Agreement, SUBDIVIDER shall file and submit security to CITY, as obligee, in the penal sum of **One Million Nine Hunderd Thousand Dollars (\$1,900,000.00)** inuring to the benefit of any contractor, his subcontractors and to persons renting equipment or furnishing labor or materials to them for the cost of labor and materials furnished in connection with any and all improvement work required hereunder.
11. SUBDIVIDER agrees to pay all costs for labor or materials in connection with the work of improvement hereunder.
12. Any faithful performance security required hereunder shall be reduced to ten percent (10%) of the security's original value for one (1) year after the date of final completion and initial acceptance of said work to fulfill the one-year maintenance guarantee period for said improvements.
13. Prior to commencing any work, SUBDIVIDER, agrees to obtain an Encroachment Permit from the Engineering Division and at SUBDIVIDER's sole cost and expense, provide CITY with a duplicate public general liability and automobile liability insurance policy with endorsements showing the CITY as additional insured which insures CITY, its officers and employees against liability for injuries to persons or property (with minimum coverage of \$1,000,000 for each person and \$1,000,000 for each occurrence and \$1,000,000 for property damage for each occurrence) in connection with work performed by, for or on behalf of SUBDIVIDER. Said Policy shall: (a) be issued by an insurance company authorized to transact business in the State of California; (b) be written on the Standard California Comprehensive General Liability Policy Form which includes, but not limited to property damage, and bodily injury; (c) be written on an occurrence basis; (d) require thirty (30) days prior written notice to CITY of cancellation or coverage reduction; (e) provide that it is full primary coverage so that if said CITY, its officers and employees have other insurance covered by said policy, said other insurance shall be excess insurance; (f) provide that said CITY; its officers and employees shall not be precluded from claim against other insured parties thereunder; (g) be maintained in effect until final acceptance of SUBDIVIDER's improvements. If SUBDIVIDER does not comply with the provisions of this paragraph, CITY may (at its election and in addition to other legal remedies) take out the necessary insurance, and SUBDIVIDER shall forthwith repay CITY the premium therefor.
14. SUBDIVIDER agrees that any general contractor engaged by the SUBDIVIDER for any work of improvement under this Agreement will have:

- a. In full force and effect, a Worker's Compensation Insurance as shown by a Certificate of Worker's Compensation Insurance issued by an admitted insurer. Said Certificate shall state that there is in existence a valid policy of Worker's Compensation Insurance in a form approved by the California Insurance Commissioner. The certificate shall show the expiration date of the policy, that the full deposit premium on the policy has been paid and that the insurer will give CITY at least thirty (30) days prior written notice of the cancellation or coverage reduction of the policy.

or
 - b. In full force and effect, a Certificate of Consent to Self-Insure issued by the Director of Industrial Relations and certified by him to be current, together with a Declaration under penalty of perjury in a form satisfactory to the City Attorney that said Certificate is in full force and effect and that the SUBDIVIDER or its general contractor shall immediately notify the CITY in writing in the event of its cancellation or coverage reduction at any time prior to the completion of all work of improvement.
15. SUBDIVIDER agrees to indemnify and save harmless CITY, City Council, City Engineer or any other officer or employee or agent of CITY from any and all costs, expenses, claims, liabilities or damages, known or unknown, to persons or property heretofore or hereafter arising out of or in any way connected with the act, omission or negligence of SUBDIVIDER, its officers, agents, employees, contractors or subcontractors or any officer, agent or employee thereof.
16. SUBDIVIDER agrees to comply with all conditions and notes of approval for this development, pay all fees, and costs and expenses incurred by CITY in connection with said subdivision (including, but not limited to: office check of maps and improvement plans, field checking, staking and inspection of street monuments, construction water, wet taps, testing and inspection of improvement). SUBDIVIDER shall maintain **Project/Private Job Account No. 2830** (and any subsequent accounts created for this project) for this purpose with additional deposits as required by CITY.

A. Estimated Fees to be paid upon execution of this Agreement are as follows:

	Type of Fees and Deposits	City Account No.	Calculated Fee
1	Plan Review, Map Review and Inspection Deposit (10% of Engineers Estimate)	PJ2830-13-2500	\$190,000.00
2	Improvement Reimbursement Fee	310-3614-xx70	N/A
3	Public Benefit in lieu of Pedestrian Bridge	xxxx-xx-xxx	500,000.00
4	Public Benefit in lieu of Gateway Enhancement*	xxxx-xx-xxx	TBD
	*only applicable if Gateway Enhancements cannot be constructed	Total =	\$590,000.00

B

B. Estimated Fees to be paid at the time of building permit issuance:

	Type of Fee	City Account No.	Calculated Fee
1	Water Connection Fee: \$160,440 (84 parcels @ \$1,910 per parcel)	402-3715	\$160,440.00
2	Water Connection Fee Credit: (based on 10.7 acres @ 14,328 per acre credit for previous use)		- \$153,310.00
3	Sewer Connection Fee: \$160,272 (84 parcels @ \$1,908 per parcel)	452-3715	\$160,272.00
4	Sewer Connection Fee Credit: (based on 10.7 acres @ 20,448 per acre credit for previous use)		- \$218,794.00
5	Sewer Treatment Plant Fee: (based on 84 units @ \$880 per unit)	452-3714	\$73,920.00
6	Storm Drain Connection Fee: \$111,568 (\$92,400 for 84 parcels @ \$1,100; \$19,168 for 4 acres @ \$4,792 per acre park)	340-3711	\$111,568.00
7	Water System Capacity Impact Fee: (As of Dec 2012; to be adjusted per ENR Cost Index at payment)	402-3718	\$16,776.00
8	Sewer System Capacity Impact Fee: (As of Dec 2012; to be adjusted per ENR Cost Index at payment)	452-3718	\$92,789.00
9	Sewer Pumping Capacity Impact Fee (Main Sewage Pump Station): (As of Dec 2012; to be adjusted per ENR Cost Index at payment)	452-3718	\$28,208.00
10	Calaveras Blvd Widening Traffic Impact Fee: (based on 84 residential units @ \$266)	312-3718	\$22,344
11	Park site Fee 1. Park Dedication In-Lieu Fee 2. PUD Park Fee	320-3712	\$3,880,522
12	Permit Automation Fee (2.5% of total fees above)	505-3601	\$7,355
		Total =	\$4,182,090

The above fees set forth in Section 16.A and Section 16.B are estimates only. The amount of fee to be paid in Section 16.A and Section 16.B shall be the amount in effect as approved by the City Council, at the time that full payment is made to the City. Full payment is due to the City at time of building permit issuance unless otherwise stated in this Agreement. There is no vesting of any fees or charges under this Agreement.

17. Upon completion of the work and before City Initial Acceptance of the work thereof, SUBDIVIDER shall provide the City a complete original mylar of "Record Drawing" showing all the changes from the original plan.

18. Any easement or right-of-way necessary for the completion of any of the improvements required of SUBDIVIDER shall be acquired by SUBDIVIDER at its sole cost and expense. In the event that eminent domain proceedings are necessary for the acquisition of any easement or right-of-way, SUBDIVIDER agrees that it will pay all engineering fees and costs, legal fees and costs, and other incidental costs sustained by CITY in connection with said eminent domain proceedings and any condemnation award and damages (including all costs awarded in said eminent domain proceedings). SUBDIVIDER further agrees that prior to the institution of any eminent domain proceedings and upon ten (10) days written notice from CITY, SUBDIVIDER will deposit such sums as are determined by City Council to be necessary to defray said fees, costs, awards, and damages.
19. CITY will accept on behalf of the public, the dedication of the streets, and easements offered for dedication, and will supply water for sale to and within said subdivision, provided however, that as a condition precedent to said initial acceptance and to supplying water, SUBDIVIDER shall perform the covenants, terms and conditions of this Agreement.
20. SUBDIVIDER shall provide an approved Letter of Map Revision (LOMR) and a complete elevation certificate (or floodproofing certificate if applicable) based on finished construction, prior to every issuance of Certificate of Occupancy.
21. SUBDIVIDER shall have a City-approved Storm Water Control Plan (SWCP), including an Operation and Maintenance Plan (O&M Plan), prior to issuance of first building permit. SUBDIVIDER agrees to execute an Operation and Maintenance Agreement (O&M Agreement) and establish a Project/Private Job Account in accordance with the O&M Agreement prior to issuance of the last Certificate of Occupancy for the Project.
22. SUBDIVIDER hereby irrevocably offers to convey title of the water mains and lines, and appurtenances constructed in or for said subdivision for public use to CITY. Upon final acceptance of said improvements by CITY, said title will be deemed to be accepted by CITY in the event that title has not previously passed to CITY by operation by law.
23. SUBDIVIDER agrees to comply with all requirements set forth on Exhibit "A" (attached hereto, hereby referred to and made a part hereof).
24. This Agreement shall be deemed to include any final conditions imposed by CITY upon the approval of the tentative and final maps related to public improvements of said subdivision. All Public and Private Improvements shall be constructed to the satisfaction of the City Engineer and Planning Director prior to issuance of the first Certificate of Occupancy for any residential unit in the Project (temporary or final).
25. SUBDIVIDER agrees that, upon ten (10) days written notice from CITY, it will immediately remedy, restore, repair or replace, at its sole expense and to the satisfaction of City Engineer, all defects, damages or imperfections due to or arising from faulty materials or workmanship appearing within a period of one-year after the date of initial acceptance of all said improvements. If SUBDIVIDER shall fail to remedy, restore, repair, or replace said defects, damages or imperfections as herein required, CITY may at its option, do so and recover the full cost and expense thereof from SUBDIVIDER.
26. This Agreement shall bind the heirs, administrators, executors, successors, assigns and transferees of SUBDIVIDER. It is agreed and understood that the covenants in this Agreement shall run with the land and are for the benefit of the other lands in the CITY OF MILPITAS, and

are made by SUBDIVIDER expressly, its heirs, administrators, executors, successors, assigns and transferees and to the CITY, its successors and assigns.

27. Nothing contained in this Agreement shall be construed to be a waiver, release or extension of any provision heretofore required by ordinance, resolution or order of the City Council of the CITY.
28. Time shall be of the essence of this Agreement. All covenants herein contained shall be deemed to be conditions. The singular shall include the plural; the masculine gender shall include the feminine and neuter gender. All comments presented by SUBDIVIDER hereunder shall be subject to approval of the City Attorney as to form.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the day and year first above written.

*Signed and Sealed this _____ day of _____, 2015.

CITY OF MILPITAS

SUBDIVIDER:

By: _____
Thomas C. Williams, City Manager

Lennar Homes of California, Inc, a California Corporation

**By: _____
Name:
Title:

APPROVED AS TO FORM THIS

_____ day of _____, 2015

By: _____
Michael J. Ogaz, City Attorney

APPROVED AS TO SUFFICIENCY THIS

_____ day of _____, 2015

By: _____
City Engineer

* Date should be same as date on Page 1 of 6.

** It is essential that the signatures be acknowledged before a California Notary Public and attach proper acknowledgment.

EXHIBIT “A”

1. Subdivider agrees to complete and execute necessary Water Service Agreements, and pay the connection fees prior to any Building Permit issuance.
2. Subdivider agrees to execute a petition to annex and establish, with respect to the property, the Special taxes levied by a Community Facility District (CFD) for the purpose of maintaining the public services, upon execution of this Agreement.
3. Subdivider agrees to all fees outlined in this agreement and mandated by the City of Milpitas municipal code and fee schedules.
4. Subdivider agrees to pay the City 2.5% Permit Automation Fee for the applicable fees.
5. Subdivider agrees to comply with all Conditions of Approval, special conditions and notes of approval for this Subdivision.

EXHIBIT "B"

GATEWAY ENHANCEMENT

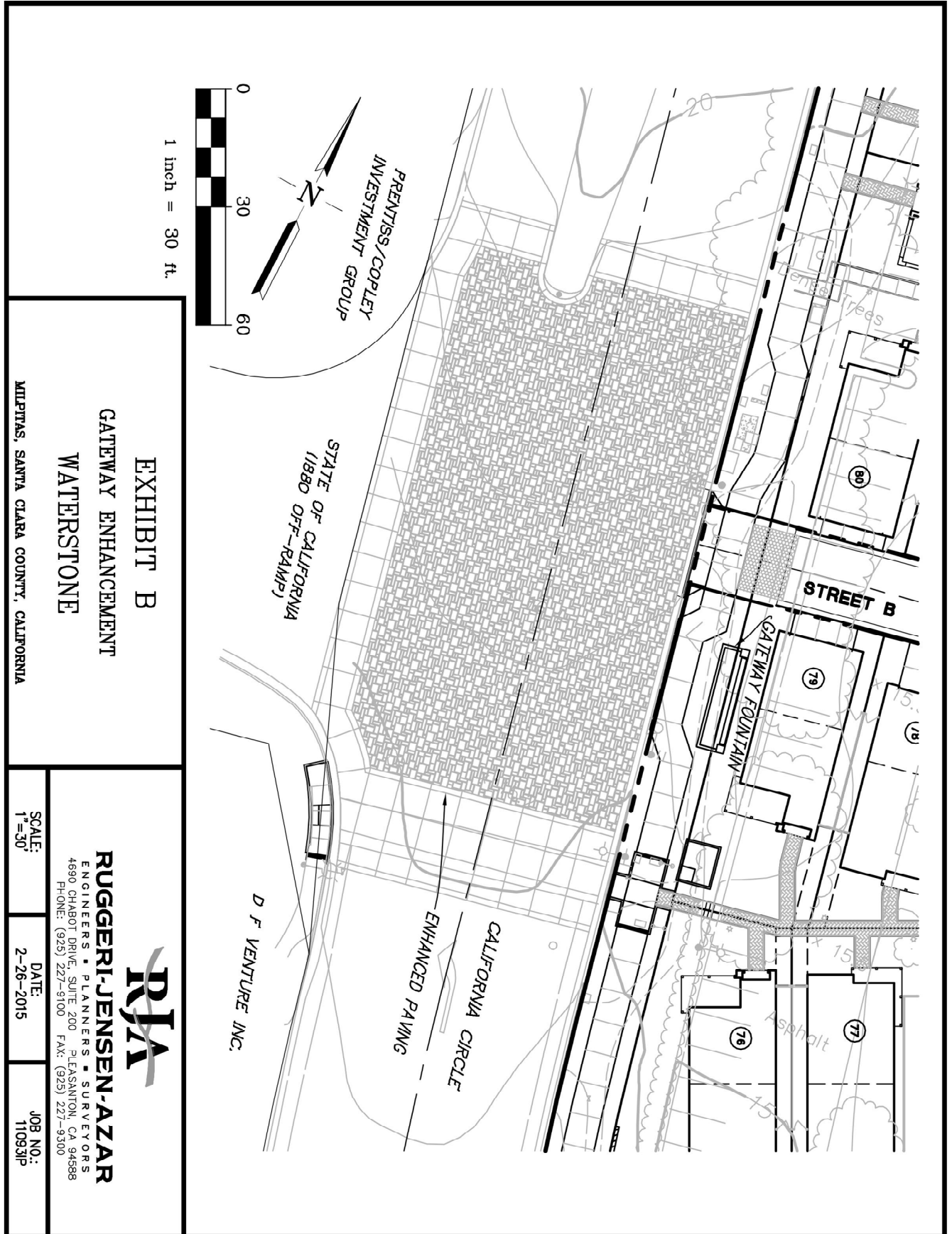


EXHIBIT B

GATEWAY ENHANCEMENT

WATERSTONE

MILPITAS, SANTA CLARA COUNTY, CALIFORNIA

RUGGERI-JENSEN-AZAR

ENGINEERS • PLANNERS • SURVEYORS

4690 CHABOT DRIVE, SUITE 200 MILPITAS, CA 94588

PHONE: (925) 227-9100 FAX: (925) 227-9300

SCALE: 1"=30'	DATE: 2-26-2015	JOB NO.: 11093P
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EXHIBIT "C" PEDESTRIAN PATH

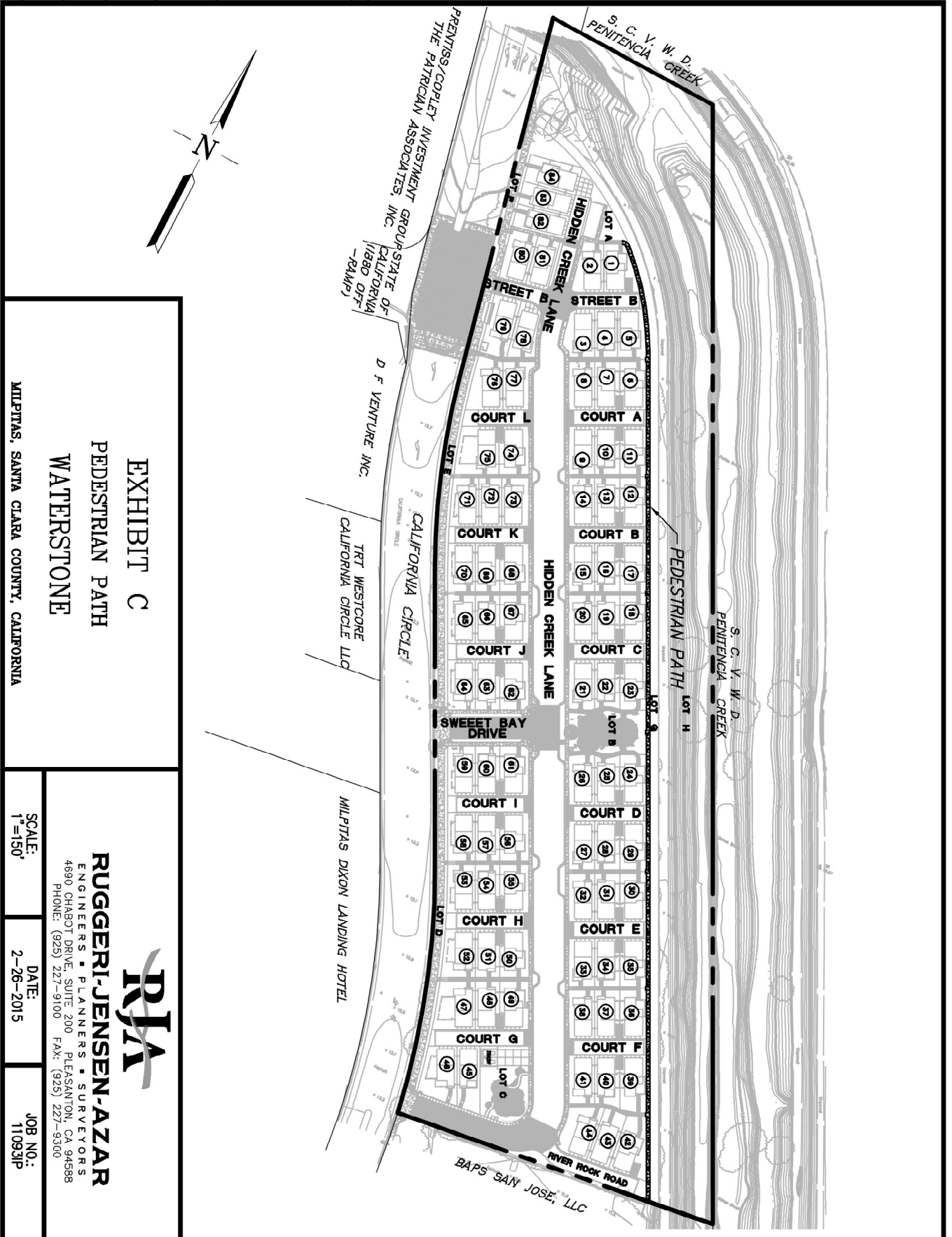


EXHIBIT C
PEDESTRIAN PATH
WATERSTONE

MILPITAS, SANTA CLARA COUNTY, CALIFORNIA

RUGGERI-JENSEN-AZAR
ENGINEERS • PLANNERS • SURVEYORS
4690 CHABOT DRIVE, SUITE 200 PLEASANTON, CA 94588
PHONE: (925) 227-9100 FAX: (925) 227-9300



SCALE:
1"=150'

DATE:
2-26-2015

JOB NO.:
110931P

Principal: Lennar Homes of California, Inc
Project Name: Waterstone (Lennar)

Project No. PJ 2830
Bond No. _____

**CITY OF MILPITAS
FAITHFUL PERFORMANCE BOND**

WHEREAS, the Principal has entered into a contract with the City of Milpitas to perform the following work, to wit: _____

WHEREAS, said contract (and any City approved plans and specifications in connection therewith) is hereby referred to and made a part hereof, with like force and effect as it herein at length set forth:

NOW, THEREFORE, we the Principal and _____, as surety, are held and firmly bound unto the City of Milpitas, California, in the penal sum of **One Million Nine Hundred Thousand Dollars (\$1,900,000.00).**, lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

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

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

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

IN WITNESS WHEREOF, this instrument has been duly executed by the principal and surety above named on _____, 2015.

NOTE: BE SURE BOND DATE DOES NOT PRE-DATE CONTRACT.

SUBDIVIDER: _____

SURETY: _____

BY: _____
(write name)

BY: _____
(write name)

BY: _____
(type name and office)

BY: _____
(type name and office)

Address of Surety: _____

VERIFICATION

I declare under the penalty of perjury that I have authority to execute this bond on behalf of the above-named surety.

Executed at _____, California, on the _____ day of _____, 2015.

(Name)

(Type Name)

Address: _____

Subscribed and sworn to before me, a)
Notary Public, this _____ day of)
_____, 2015.)

THIS JURAT MUST BE COMPLETED
BY A NOTARY IF THE VERIFICATION
IS EXECUTED OUTSIDE OF CALIFORNIA

(Sign)

(Type)

ACKNOWLEDGMENT

NOTE: A Notary acknowledgment must be completed for signatures of both principal and surety. Use correct form.
A power of attorney is not enough.

Form Approved:

Principal: Lennar Homes of California, Inc
Project Name: Waterstone (Lennar)

Project No. PJ 2830
Bond No. _____

**CITY OF MILPITAS
LABOR AND MATERIALS BOND**

WHEREAS, the Principal has entered into a contract with the City of Milpitas to perform the following work, to wit:

WHEREAS, said contract (and any City approved plans and specifications in connection therewith) is hereby referred to and made a part hereof, with like force and effect as it herein at length set forth:

NOW, THEREFORE, said Principal and the undersigned as corporate surety, their heirs, successors, executors and administrators, are held firmly bound, jointly and severally, unto the City of Milpitas California, and all contractors, subcontractors, laborers, materialmen, and other persons employed in the performance of the aforesaid agreement in the sum of **One Million Nine Hunderd Thousand Dollars (\$1,900,000.00)**, for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that said surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the fact amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, to be awarded and fixed by the Court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

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

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

IN WITNESS WHEREOF, this instrument has been duly executed by the principal and surety above named on _____, 2015.

NOTE: BE SURE BOND DATE DOES NOT PRE-DATE CONTRACT.

SUBDIVIDER: _____

SURETY: _____

BY: _____
(write name)

BY: _____
(write name)

BY: _____
(type name and office)

BY: _____
(type name and office)

Address of Surety: _____

VERIFICATION

I declare under the penalty of perjury that I have authority to execute this bond on behalf of the above-named surety.

Executed at _____, California, on the _____ day of _____, 2015.

(Name)

(Type Name)

Address: _____

Subscribed and sworn to before me, a)
Notary Public, this _____ day of)
_____, 2015.)

THIS JURAT MUST BE COMPLETED
BY A NOTARY IF THE VERIFICATION
IS EXECUTED OUTSIDE OF CALIFORNIA

(Sign)

(Type)

ACKNOWLEDGMENT

NOTE: A Notary acknowledgment must be completed for signatures of both principal and surety. Use correct form.
A power of attorney is not enough.

Form Approved:

Principal: Lennar Homes of California, Inc
Project Name: Waterstone (Lennar)

Project No. PJ 2830
Bond No. _____

**CITY OF MILPITAS
SURVEY MONUMENTATION BOND**

WHEREAS, the Principal has entered into a contract with the City of Milpitas to install and complete certain designated public improvements, including setting of survey monuments by an engineer or surveyor prior to a certain date.

WHEREAS, said contract (and any City approved plans and specifications in connection therewith) is hereby referred to and made a part hereof, with like force and effect as it herein at length set forth:

NOW, THEREFORE, we the Principal and _____, as surety, are held and firmly bound unto the City of Milpitas, California, and that Engineer or Surveyor, who set said survey monuments in the penal sum of Ten Thousand Dollars (\$10,000.00), lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

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

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

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

IN WITNESS WHEREOF, this instrument has been duly executed by the principal and surety above named on _____, 2015.

NOTE: BE SURE BOND DATE DOES NOT PRE-DATE CONTRACT.

SUBDIVIDER: _____

SURETY: _____

BY: _____
(write name)

BY: _____
(write name)

BY: _____
(type name and office)

BY: _____
(type name and office)

Address of Surety: _____

VERIFICATION

I declare under the penalty of perjury that I have authority to execute this bond on behalf of the above-named surety.

Executed at _____, California, on the _____ day of _____, 2015.

(Name)

(Type Name)

Address: _____

Subscribed and sworn to before me, a)
Notary Public, this _____ day of)
_____, 2015.)

THIS JURAT MUST BE COMPLETED
) BY A NOTARY IF THE VERIFICATION
) IS EXECUTED OUTSIDE OF CALIFORNIA
)
)

(Sign)

(Type)

ACKNOWLEDGMENT

NOTE: A Notary acknowledgment must be completed for signatures of both principal and surety. Use correct form.
A power of attorney is not enough.

Form Approved:

CITY OF MILPITAS

**CERTIFICATE RELATING TO WORKER'S COMPENSATION
INSURANCE PURSUANT TO LABOR CODE SECTION 3800**

(Subdivision)

I, THE UNDERSIGNED, HEREBY CERTIFY that at all times during the performance of any work of improvement under agreement with the City of Milpitas. (Check one of the following):

_____ Any general contractor engaged by me for said work will have in full force and effect Worker's Compensation Insurance pursuant to the attached certificate of Worker's Compensation Insurance issued by an admitted insurer. Said Certificate shall state that there is in existence a valid policy of Worker's Compensation Insurance in a form approved by the California Insurance Commissioner. The certificate shall show the expiration date of the policy, that the full deposit premium on the policy has been paid and that the insurer will give City at least ten days advance notice of the cancellation of the policy (an exact copy or duplicate of the Certificate of Worker's Compensation Insurance certified by the Director of Industrial Relations or the insurer may be attached).

_____ Or has in full force and effect and have attached hereto a Certificate of Consent to Self-insure issued by the Director of Industrial Relations or the insurer may be attached).

I declare under penalty of perjury that the foregoing is true and correct and executed on _____
at _____.
(Date) (City)

By: _____

Official Title

On behalf of: _____
Contractor

NOTE: YOUR CERTIFICATE OF WORKER'S COMPENSATION INSURANCE MUST BE ATTACHED AND
MUST MEET THE REQUIREMENTS SET FORTH ABOVE.

PLEASE NOTE THAT IF YOU HAVE ANYONE WORKING FOR OR WITH YOU, YOU MAY BE REQUIRED TO HAVE WORKER'S COMPENSATION INSURANCE. FOR FURTHER INFORMATION, CONTACT THE OFFICE OF THE DIRECTOR OF INDUSTRIAL RELATIONS.

Principal: Lennar Homes of California, Inc
Project Name: Waterstone (Lennar)

Project No. PJ 2830

CITY OF MILPITAS
CERTIFICATE OF WORKER'S COMPENSATION INSURANCE

Pursuant to California Labor Code Section 3800, the undersigned Insurer certifies that it is an admitted Worker's Compensation Insurer, that it has issued a valid policy of Worker's Compensation Insurance in a form approved by the California Insurance Commissioner (bearing policy number _____) to _____ in connection with the above project, title and subdivider. Said policy is now in full force and effect and the full deposit premium has been paid. At least 10 days advance notice of the cancellation of said policy will be given to the City of Milpitas. The expiration date on said policy is _____.

Dated: _____

INSURANCE COMPANY

AUTHORIZED REPRESENTATIVE (Signature)

Address: _____

AUTHORIZED REPRESENTATIVE (Type Name)

Address: _____

VERIFICATION

I declare under the penalty of perjury that I am authorized to sign this Certificate on behalf of the above-named insurer.
Executed at _____, California, on the _____ day of _____, 2015. **

Authorized Signatory (Sign)

(Type Name)

SUBSCRIBED AND SWORN TO BEFORE ME, a
Notary Public, this _____ day of _____, 2015.

(Sign)

(Type Name)

Principal: Lennar Homes of California, Inc
Project Name: Waterstone (Lennar)

Project No. PJ 2830

CERTIFICATE OF GENERAL LIABILITY AND AUTOMOBILE LIABILITY INSURANCE

The undersigned insurance company certifies to the City of Milpitas, California, that it has issued a general public liability insurance policy, policy number _____ to _____ in connection with a work of improvement generally described as Street and underground improvement on _____. The policy names the City of Milpitas, its officers and employees (as additional insured) and insures said City, officers and employees against liability arising out of activities, including but not limited to, coverage for all work performed by or on behalf of permittee, products and completed operations of the permittee; the premises owned, occupied or used by the permittee; or automobiles owned, leased, hired or borrowed by the permittee in the following minimum amounts and for the following periods:

<u>COVERAGE</u>	<u>POLICY NUMBER</u>	<u>POLICY PERIOD</u>	<u>MINIMUM LIMITS OF LIABILITY</u>
(1) Bodily Injury			\$1,000,000 each person) \$1,000,000 each occurrence))*
(2) Property Damage			\$1,000,000 each occurrence) \$1,000,000 aggregate)

This policy provides: (1) primary coverage for additional insured parties; if said additional insured have other insurance against loss covered by this policy, the other insurance shall be excess insurance only; (2) that said additional insured parties are not precluded from claim under this policy against other insured parties; and (3) each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City Clerk.

Insurance Company

Authorized Signature (Sign)

Authorized Signature (Type)

Address of Signatory:

* If project involves less than \$50,000, City will accept \$300,000/\$50,000

VERIFICATION

I declare under the penalty of perjury that I am authorized to sign this Certificate on behalf of the above-named insurer. Executed at _____, California, on the _____ day of _____, 2015. **

Authorized Signatory (Sign)

SUBSCRIBED AND SWORN TO BEFORE ME, a
Notary Public, this _____ day of _____, 2015.

(Type Name)

(Sign)

(Type Name)

** If this certificate is executed outside of California, it must be sworn to before a Notary Public.

FORM APPROVED: _____, 2015, by _____

OWNER'S STATEMENT

WE HEREBY STATE THAT WE ARE THE OWNERS OF OR HAVE SOME RIGHT, TITLE, OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN HEREON; THAT WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS A CLEAR TITLE TO SAID REAL PROPERTY; AND THAT WE CONSENT TO THE MAKING AND RECORDING OF THIS SUBDIVISION MAP AS SHOWN WITHIN THE DISTINCTIVE BORDER LINE.

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED TO THE CITY OF MILPITAS AS EASEMENTS FOR PUBLIC PURPOSES: FOR USE FOR OPERATION, ALTERATION, RELOCATION, MAINTENANCE, REPAIR, AND REPLACEMENT OF ALL PUBLIC SERVICE FACILITIES AND APPURTENANCES THERETO, OVER, UNDER, ALONG AND ACROSS THE FOLLOWING:

1. EASEMENTS FOR EMERGENCY VEHICLE ACCESS EASEMENT PURPOSES (EVAE).
2. EASEMENTS FOR PUBLIC SERVICE UTILITY EASEMENT PURPOSES (PSUE).
3. EASEMENTS FOR PUBLIC ACCESS PURPOSES (PAE).
4. EASEMENTS FOR SANITARY SEWER PURPOSES (SSE).

THE ABOVE MENTIONED EASEMENTS (EVAE), (PSUE), (PAE), AND (SSE), SHALL REMAIN OPEN AND FREE FROM BUILDINGS AND STRUCTURES OF ANY KIND EXCEPT UTILITY SERVICE AND UTILITY STRUCTURES, CURBS, SIDEWALKS, AND APPURTENANCES THERETO, AND ALL LAWFUL UNSUPPORTED BUILDING OVERHANGS. UNOBSTRUCTED CONTINUOUS ACCESS SHALL BE MAINTAINED AT ALL TIMES.

AND WE HEREBY RETAIN FOR THE PRIVATE USE OF THE LOT OWNERS WITHIN THIS SUBDIVISION, THEIR LICENSEES, VISITORS AND TENANTS, WITH MAINTENANCE BY THE HOMEOWNERS ASSOCIATION AS STATED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS CREATED FOR "TRACT 10270, WATERSTONE", THE FOLLOWING:

1. LOT I (ALSO DESIGNATED AS: RIVER ROCK ROAD, SWEET BAY DRIVE, AND HIDDEN CREEK LANE), COURT A, COURT B, COURT C, COURT D, COURT E, COURT F, COURT G, COURT H, COURT I, COURT J, COURT K, AND COURT L, FOR PRIVATE STREETS. SAID PRIVATE STREETS WILL BE OWNED AND MAINTAINED BY THE HOMEOWNERS ASSOCIATION AS STATED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS CREATED FOR "TRACT 10270, WATERSTONE".
2. LOT A, LOT B, LOT C, LOT D, LOT E, LOT F, AND LOT G ARE FOR RECREATION AND PRIVATE OPEN SPACE. SAID LOTS SHALL REMAIN FREE FROM HABITABLE STRUCTURES.
3. LOT H IS FOR RECREATION, OPEN SPACE, AND FLOOD CONTROL FACILITIES, INCLUDING, BUT NOT LIMITED TO, THE CONSTRUCTION AND MAINTENANCE OF CREEK SLOPE BANKS, PIPES, AND APPURTENANCES THERETO BY SANTA CLARA VALLEY WATER DISTRICT (SCVWD).
4. EASEMENTS FOR PRIVATE SERVICES AND UTILITY PURPOSES (PRUE), INCLUDING, BUT NOT LIMITED TO, THE CONSTRUCTION AND MAINTENANCE OF CONDUITS FOR STORM DRAINS, SANITARY SEWERS, WATER LINES, SIDEWALKS, AND APPURTENANCES THERETO.
5. EASEMENTS FOR PRIVATE ACCESS AND DRAINAGE PURPOSES (PADE).
6. EASEMENTS FOR PRIVATE VEHICLE ACCESS AND PARKING PURPOSES (PVAE).
7. EASEMENTS FOR PRIVATE DRAINAGE PURPOSES (PDE).
8. EASEMENTS FOR RECIPROCAL YARD AND DRAINAGE PURPOSES (RYE), AS STATED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS CREATED FOR "TRACT 10270, WATERSTONE". IF THERE IS ANY CONFLICT BETWEEN THE LOCATION OF SAID EASEMENT AS SHOWN ON THIS MAP AND THE LOCATION OF THE EASEMENT AS DEFINED BY THE FENCES AND BUILDINGS ENCLOSING THE EASEMENT AREA INSTALLED AS PART OF THE ORIGINAL CONSTRUCTION OF THE RESIDENCES ON THE LOTS, THE LOCATION AS DEFINED BY THE FENCES AND BUILDINGS WILL CONTROL.
9. EASEMENTS RESERVED FOR RECIPROCAL ACCESS PURPOSES (RAE) INTENDED FOR FUTURE AGREEMENT WITH THE ADJOINING SOUTHERLY LAND OWNER.

SAID EASEMENTS SHALL REMAIN OPEN AND FREE FROM BUILDINGS AND STRUCTURES AND APPURTENANCES THERETO, EXCEPT FOR IRRIGATION SYSTEMS AND APPURTENANCES, LAWFUL FENCES, WALKWAYS, AND ALL LAWFUL UNSUPPORTED BUILDING OVERHANGS. UNOBSTRUCTED CONTINUOUS ACCESS SHALL BE MAINTAINED AT ALL TIMES.

THIS MAP SHOWS ALL EASEMENTS ON THE PREMISES OR OF RECORD.

IN WITNESS WHEREOF,
THE UNDERSIGNED HAVE EXECUTED THIS STATEMENT ON THE 10th DAY OF Feb., 2015

OWNER: LENNAR HOMES OF CALIFORNIA, INC., A CALIFORNIA CORPORATION

BY: Gordon D. Jones
GORDON D. JONES, VICE PRESIDENT

ACKNOWLEDGMENT

STATE OF California SS.
COUNTY OF Contra Costa

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

ON Feb. 10, 2015 BEFORE ME, L. Bitzer, A NOTARY PUBLIC, PERSONALLY APPEARED Gordon D. Jones, WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ ~~ARE~~ SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/ ~~SHE/ THEY~~ EXECUTED THE SAME IN HIS/ ~~HER/ THEIR~~ AUTHORIZED CAPACITY(IES), AND THAT BY HIS/ ~~HER/ THEIR~~ SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND

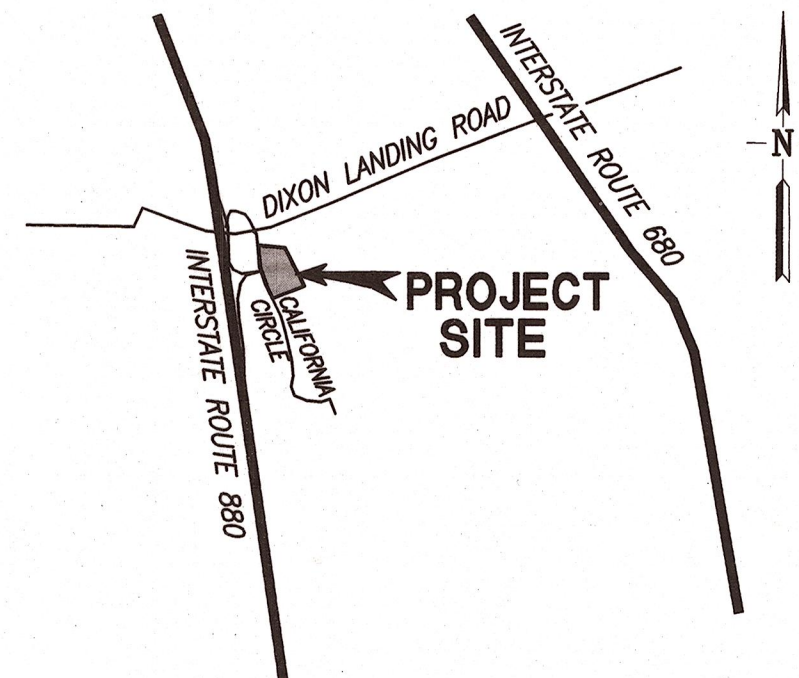
NOTARY'S SIGNATURE: L. Bitzer

PRINTED NOTARY'S NAME: L. Bitzer

NOTARY'S PRINCIPAL PLACE OF BUSINESS: Contra Costa

NOTARY'S COMMISSION NUMBER: 1951289

EXPIRATION OF NOTARY'S COMMISSION: Oct. 5, 2015



VICINITY MAP
NOT TO SCALE

COUNTY RECORDER'S STATEMENT

FILE NO. _____ FEE \$ _____ PAID. ACCEPTED FOR
RECORD AND FILED THIS _____ DAY OF _____, 2015, AT _____ M. IN
BOOK _____ OF MAPS AT PAGE(S) _____, SANTA CLARA COUNTY
RECORDS, AT THE REQUEST OF NORTH AMERICAN TITLE COMPANY.

REGINA ALCOMENDRAS, COUNTY RECORDER
SANTA CLARA COUNTY, CALIFORNIA

BY: _____
DEPUTY

TRACT 10270
WATERSTONE

CITY OF MILPITAS
SANTA CLARA COUNTY, CALIFORNIA

BEING A SUBDIVISION OF "PARCEL A" AND "PARCEL B",
AS SHOWN ON THE PARCEL MAP FILED JUNE 6, 1983
IN BOOK 513 OF MAPS AT PAGES 31-32
SANTA CLARA COUNTY RECORDS

RUGGERI-JENSEN-AZAR
CIVIL ENGINEERS, PLANNERS, SURVEYORS
PLEASANTON, CALIFORNIA
DECEMBER 2014

PUBLIC STREET IMPROVEMENT PLANS

WATERSTONE

TRACT NO. 10270 - OFF-SITE IMPROVEMENTS

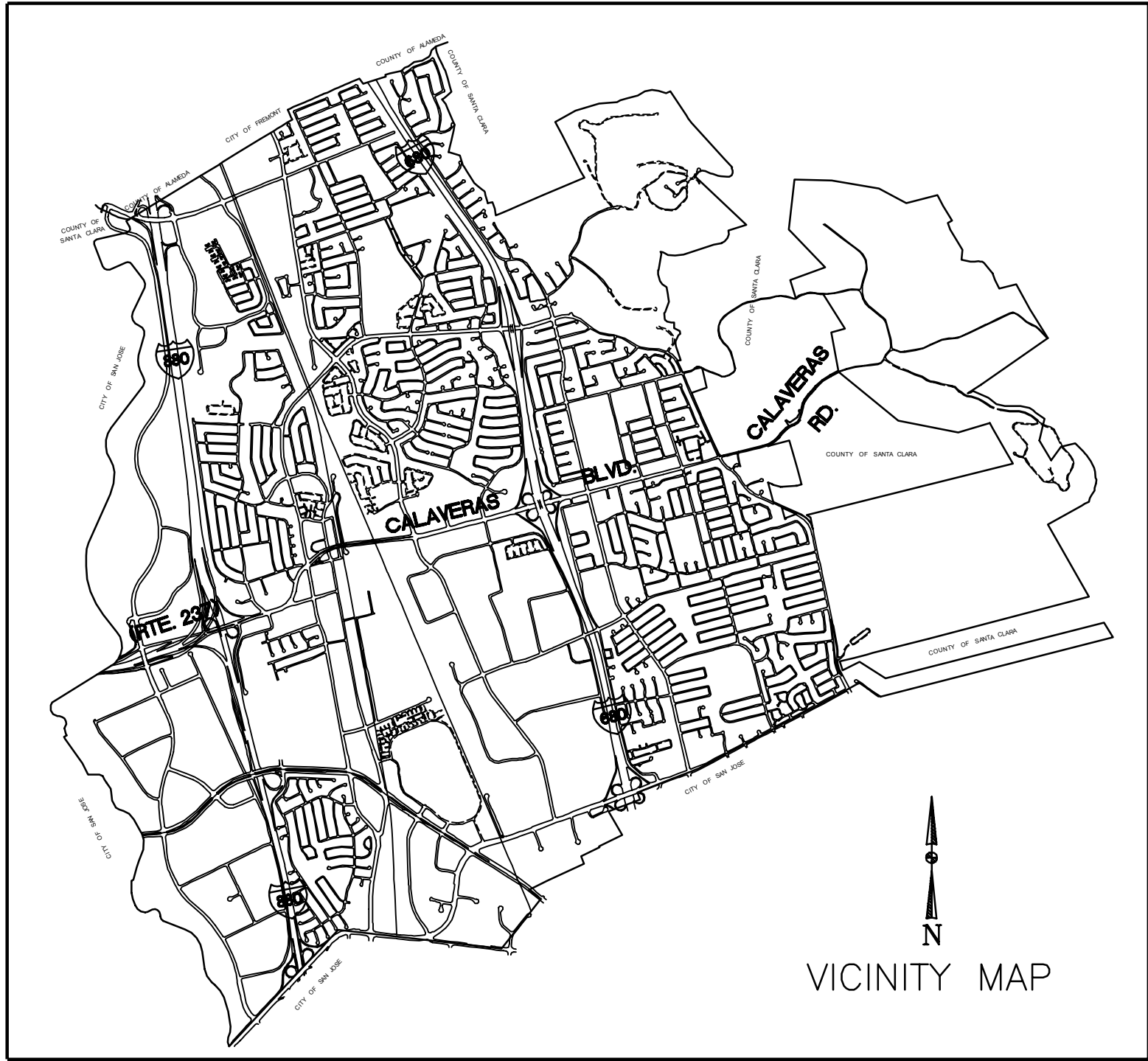
CITY OF MILPITAS, SANTA CLARA COUNTY, CALIFORNIA

CITY OF MILPITAS ENCROACHMENT PERMIT # E-EN14-0177



CITY OF MILPITAS

ENGINEERING DIVISION



INDEX OF DRAWINGS

SEE SHEET C1.2 FOR SHEET INDEX

FEMA FLOOD ZONE:

PORTION OF THIS PROPERTY LIES WITHIN FLOOD ZONE X (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN), AND PORTION IS WITHIN ZONE AH (FLOOD DEPTHS OF 1 TO 3 FEET, USUALLY AREAS OF PONDING; BASE FLOOD ELEVATIONS DETERMINED, ELEVATION 15, BASED ON NAV88 DATUM), AS SHOWN ON FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 58 OF 830, MAP NO. 06085C0058J AND WITHIN ZONE A (AREAS DETERMINED WITHIN 1% ANNUAL FLOOD; 100-YEAR FLOOD; THIS SPECIAL FLOOD HAZARD ZONE IS SUBJECT TO 1% ANNUAL CHANCE OF FLOODING. ZONE A LIES WITHIN LOWER PENITENCIA CREEK PROTECTED BY A LEVEE.



IMPROVEMENT PLANS GENERAL NOTES

GENERAL

- All work and materials shall comply with standard specifications, construction details, and standard drawings (listed on this sheet) of the City of Milpitas available in the City Engineer's office. It is the responsibility of the contractor to obtain permits necessary to perform the improvements in these plans from the appropriate agencies and to comply with the agencies' requirements. All plans shall be prepared on City's Improvements Title Block. The contractor must comply with all applicable national, state and local laws.
- Plans used for construction of public facilities purposes must be signed by the City Engineer or his representative. Any subsequent changes shall be approved by the City Engineer or his representative prior to their construction.
- The official copy of these plans are on file in the office of the City Engineer in Milpitas.
- This plan is subject to review and subsequent approval in the event the work has not commenced within six (6) months of the date of plan approval.
- All utilities and improvements that become damaged during construction shall be completely restored to the satisfaction of the City Engineer.
- A \$2,000 deposit shall be made to the City of Milpitas and a construction water meter shall be obtained for incidental water used during grading and roadway construction. Water meter(s) shall be installed for incidental water use during building (s) construction and pressure test of water line within the building (s).
- The contractor shall notify Underground Service Alert (U.S.A.) at (800) 642-2444 48 hours prior to any construction activities, and obtain a reference number.
- Prior to any construction or installation of public facilities, the developer's engineer shall arrange a pre-construction conference between the contractors and the City Public Works Inspector. This shall take place a minimum of 7 days prior to the scheduled start of work. At the conference, the developer's engineer shall present the Public Works Inspector with a certified copy of a material list and specifications for installation. Prior to the installation, approval by the City Engineer is required of any non-standard materials. Any non-standard materials shall be demonstrated by the developer's engineer and contractor to equal or exceed City standards.
- The contractor shall call City of Milpitas Public Works Facilities Inspection at (408) 586-2884 to schedule inspections, 48 hours prior to start of construction.
- Prior to any work, the contractor shall obtain a City Business license and a Public Works Construction or Encroachment Permit.
- The Contractor is responsible for the preservation and or perpetuation of all existing monuments and stakes within the Contractor's area of work. The Contractor shall not disturb or remove any monuments or stakes without the permission of the City Engineer, and he shall bear the expense of resetting any monuments or stakes which may be disturbed or removed with or without permission. The Contractor shall provide a minimum of 15 Working days notice to the City Engineer prior to disturbance or removal of existing monuments or stakes. The Contractor shall utilize the services of a California Licensed Land Surveyor to reset all disturbed or removed monuments and stakes or provide witness monuments, and file the required documentation with the County Surveyor pursuant to the Business and Professions Code Section 8771.
- When it is found that field conditions are not as shown on the plans, the consulting engineer shall make revisions and/or adjustments to the satisfaction of the City Engineer prior to further construction.
- Upon completion of improvements, the developer's engineer shall submit a letter to the City Engineer certifying that those privately maintained improvements (street, lighting, utilities, etc.) have been constructed per the improvement plans.
- Developer shall coordinate with Pacific Gas and Electric Company for the design and installation of all gas and electric facilities.
- Developer shall coordinate with Pacific Bell for the design and installation of all Telephone facilities.
- Construction shall not begin until 7 AM and shall end by 7 PM, weekdays and weekends, except holidays.
- A National Pollution Discharge Elimination System Permit (NPDES construction permit) is required prior to commencement of construction activity related to this site and shall be obtained by the owner and/or owner's contractor as appropriate. Any discharge (during construction) of groundwater into the downstream storm system must be uncontaminated. The contractor shall make this determination prior to any discharge.
- If archaeological materials are uncovered during grading, trenching or other excavation, earthwork within 100' of this area shall be stopped until a professional archaeologist who is certified by the Society of California archaeologist (SCA) or the Society of Professional Archaeologist (SOPA) has had an opportunity to evaluate the significance of the find and suggest appropriate mitigation measures, if they are deemed necessary.
- Record drawings original plans, including a copy of the AutoCAD files (digital format) shall be furnished to the City Engineer within 60 days of the completion of construction and prior to initial acceptance of public improvements.
- All grading shall comply with City of Milpitas Grading Ordinance, this plan, and the Preliminary Soils Report prepared by _____ dated _____ and all subsequent addendums.
- City approval of plans does not relieve the developer from his/her responsibility to correct errors and omissions discovered during construction. Upon request, any required plan revisions shall be promptly submitted to the City Engineer for approval.
- A water valve shall be installed for each residential unit after the meter and prior to entry of the building such that it is accessible to homeowner and City Meter Reader.

23. The following entities shall be responsible for inspection and maintenance / ownership of the listed facilities and completion certificate by design engineer (state ownership's name and inspection by P.W. inspection or Build. Div.):

Facilities	Ownership	Inspection	Design Engineer
Water	*	**	***
Sewer	*	**	***
Storm	*	**	***
Street	*	**	***
Street Light	*	**	***
Park	*	**	***
Common Area Homeowner's Association Build. Div. Required			

- * "City of Milpitas" or "Homeowner's Association/Homeowners"
- ** "P.W. inspection" or "Build. Division"
- *** Design Engineer completion certificate "Required" if inspection by Build. Div., "Not required" if inspection by P.W. inspection.

24. Each parcel shall have separate solid waste enclosure and BFI service. Unless, necessary agreements have been recorded to provide for joint use of enclosure and or BFI services for more than one parcel.

STREET SURFACE NOTES

- Upon completion of rough grading, actual thickness (structural section) of the base material and AC pavement shall be determined based on the results of R-values, Sand equivalents laboratory testing. Geotechnical/Soil Engineer shall recommend the structural sections of streets to the City Engineer for review and approval.
- The contractor shall not order or place any Portland cement concrete or asphalt concrete paving until the forms and subgrade and/or aggregate base have been inspected by the City Public Works Inspector and approved by the engineer in charge of construction.
- Edge of existing pavement shall be tack coated prior to constructing new pavement.
- Standard street monuments shall be installed on all street intersections and other locations shown on this plan in conformance with City Standard Drawing No. 446.
- Driveway locations shall be set by owner's engineer in compliance with City Standard Drawing No. 430 or 432, unless locations are shown on these plans.
- One street name sign assembly shall be installed in conformance with City Standard Drawing No. 440 at each intersection, and where shown on plans.
- All fire hydrants, electroliers and meter boxes shall clear driveways and other facilities by 5', 5' and 1' respectively.
- All existing facilities shall be adjusted to finish grade as directed by City Public Works Inspector. Manholes, water valve boxes, clean out frames and covers shall be brought to finished grade by the contractor after paving is completed.
- Minimum 24" box size tree with a caliper of 2" measure 6" above rootball shall be installed, one per lot per street for residential developments and at 20'-50' separation for non-residential developments in conformance with the Approved Street Tree List and according to the City Standard Drawing No. 448.
- Mailboxes shall be provided as required by U. S. Postal Services, but will not be inspected by the Public Works Inspector.
- The final or surface layer of asphalt concrete shall not be placed until all on-site improvements have been completed, including all grading, and until all unacceptable concrete work has been removed and replaced, unless otherwise approved by the City Engineer.

UNDERGROUND

- The letter "W" shall be impressed in the face of curb where each water service crosses the curb, the letter "S" shall be impressed in the face of curb where each sewer lateral crosses the curb and the letter "R" shall be impressed in the face of curb where each recycled water service crosses the curb.
- The location, depth and existence of underground improvements are shown in their approximate positions based upon information available to the engineer. The contractor shall excavate inspection holes "pot holes" and determine the location and depth of all underground structures and utilities that are in the vicinity of and/or may be affected by the proposed improvement work prior to any construction work which could damage or conflict with said structures and/or utilities.
- Minimum cover for utilities in roadway (from top of pipe to roadway surface) shall be provided (60" sanitary sewer, 42" water line in street, 48" water line in easement, 24" storm line in street). Where the minimum cover cannot be achieved, such locations shall be specifically identified on the plans and the method of protecting the pipe and valve stems shall be indicated. The following solutions shall be subject to the City Engineer's approval:
 - a) Use of ductile iron pipe and butterfly valves.
 - b) Concrete cap.
 - c) Any other solution devised by the Engineer and Contractor.
- Water services and mains are to be separated a minimum of 10' horizontal distance and 1' vertical distance from sewer and recycled water laterals and mains. Potable water lines shall be above all storm drain, sanitary sewer and recycle water lines.

WATERSTONE

OFFSITE IMPROVEMENT

TITLE SHEET

MILPITAS, CALIFORNIA

FOR: LENNAR

FEBRUARY 26, 2014

Record Drawings

To be completed prior to acceptance of work by the City

Signature + Seal Date

P.E. No. Exp.

Public Works Inspector

Revisions

Nurm.	Date	By	Description	City Engr.	Aprv.	Date

CITY OF MILPITAS ENGINEERING DIVISION

Approved: _____ Project No. _____

City Engineer _____ Date _____ File No. _____

Any changes to public improvements shall be approved by the City engineer

Recommended for approval: _____ E.P. No. _____

Fire Dept. _____ Date _____

Engineering _____ Date _____

Sheet 1 of 69

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS ANNEXING CERTAIN
REAL PROPERTY COMMONLY KNOWN AS TRACT 10270 WATERSTONE
(PROJECT NO. 2830) INTO CITY OF MILPITAS COMMUNITY
FACILITIES DISTRICT NO. 2005-1, ANNEXATION NO. 15**

WHEREAS, Lennar Homes, Inc., a California Corporation, is the owner of certain real property commonly known as Tract 10270 – Waterstone (APN Nos. 022-37-011 and 022-37-012), more specifically described in the annexation map attached as **Exhibit 1.A** to this Resolution; and

WHEREAS, on November 19, 2013, the City Council approved the General Plan Amendment, Zoning Amendment, Vesting Tentative Map, Site Development Permit, and Planned Unit Development for Tract 10270 – the Waterstone Project, a residential subdivision with 84 single family residential units, and associated off-site improvements on 10.7 acres located at 1494 California Circle; and

WHEREAS, on May 17, 2005 the City Council created by resolution the City of Milpitas Community Facilities District No. 2005-1 (“CFD 2005-1”) pursuant to the Mello-Roos Community Facilities Act of 1982, California Government Code Section 53311 *et seq.* Each fiscal year, a special tax is levied on all assessor’s parcels of residential property in CFD 2005-1 in an amount determined by the Council, as described in the attached **Exhibit 1.B** to this Resolution; and

WHEREAS, pursuant to the Mello-Roos Community Facilities Act, the City Council also established a procedure to allow and provide for the annexation of parcels within the boundaries of CFD 2005-1 in the future without additional hearings, upon the unanimous approval of the owner or owners of each parcel or parcels at the time that parcel or those parcels are annexed, pursuant to Government Code Section 53339.7; and

WHEREAS, Lennar Homes, Inc, a California Corporation, now voluntarily seeks to annex its property to CFD 2005-1 and to be subject to the levy of a special tax thereunder.

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. Legally valid and unanimous consent to the annexation of real property identified as Assessor’s Parcel Nos. 022-37-011 and 022-37-012 into CFD 2005-1 has been given, as set forth in the Consent and Election to Annex Real Property To An Existing Community Facilities District, attached as **Exhibit 1**. All prior proceedings and actions taken by the City Council pursuant to the Mello-Roos Community Facilities Act and this Resolution were and are valid and in conformity with State and local law.
3. The City Council hereby declares and determines that the territory comprising Annexation No. 15, as described in **Exhibit 1.A**, is now added to and becomes a part of CFD 2005-1. City staff is hereby directed to include the property in the annual assessment. In no event shall the annual per-lot assessment exceed the maximum amount authorized by the engineer’s report for the CFD 2005-1 in any given fiscal year. **Exhibit 2** attached hereto is provided to show all parcels that have been annexed to the CFD 2005-1.

4. The City Clerk is hereby directed to record an amendment to the Notice of Special Tax Lien within fifteen (15) days of the adoption of this Resolution in the Office of the County Recorder. The City Clerk is further directed to file a certified copy of the map, attached as **Exhibit 2**, within fifteen (15) days of the adoption of this Resolution in the Office of the County Recorder.
5. The City Clerk shall certify the adoption of this Resolution.
6. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this ____ day of _____, 2015 by the City Council by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

EXHIBIT 1

CONSENT AND ELECTION TO ANNEX REAL PROPERTY TO AN EXISTING COMMUNITY FACILITIES DISTRICT CITY OF MILPITAS COMMUNITY FACILITIES DISTRICT NO. 2005-1 (PUBLIC SERVICES)

To: CITY COUNCIL OF THE CITY OF MILPITAS IN ITS CAPACITY AS THE LEGISLATIVE BODY OF THE ABOVE ENTITLED COMMUNITY FACILITIES DISTRICT:

1. The undersigned is the owner (the "Owner"), or the duly authorized representative of the Owner, of the real property as described in **Exhibit 1.A** attached hereto and incorporated herein by reference (the "Property"), and in such capacity, possesses all legal authority necessary to execute this Consent and Election as and on behalf of the Owner in connection with the annexation of the Property to the District (as defined below).

The Owner is: **LENNAR HOMES OF CALIFORNIA, INC.**, a California Corporation

2. The Owner is aware of and understands the following:
 - A. The City of Milpitas has conducted proceedings pursuant to the "Mello-Roos Community Facilities Act of 1982", (Government Code Section 53311 and following) (the "Act") to form a community facilities district known and designated as **COMMUNITY FACILITIES DISTRICT NO. 2005-1 (PUBLIC SERVICES)** (the "District") to finance the increased demand for public services (the "Services") resulting from new development within the District. The services to be financed by the CFD comprise services ("Services") authorized to be financed pursuant to Section 53313 and 53313.5 of the Government Code. CFD 2005-01 shall finance Services only to the extent they are in addition to those provided in the territory of CFD 2005-1 before the CFD was created and such Services may not supplant services already available within CFD 2005-1 when the CFD was created. For a full and complete description of the public services, reference is made to the final CFD Report, a copy of which is on file in the Office of the City Clerk. For all particulars, reference is made to said CFD Report.
 - B. The City has also undertaken proceedings pursuant to Article 3.5 of the Act to provide for the future annexation of certain territory, including the Property, to the District. On May 17, 2005, the City held a public hearing as required by the Act, to consider the future annexation of such territory, including the Property, to the District. Notice of such hearing was given in the form and manner as required by law. A protest to such future annexation was not received from 50% or more of the registered voters, or six registered voters, whichever is more, residing in the territory proposed to be annexed in the future or the owners of one-half or more of the area of land in the territory proposed to be annexed in the future. At the conclusion of such public hearing, the legislative body of the City did approve and provide for the annexation in the future upon the unanimous approval of the owner or owners of each parcel or parcels at the time that such parcel or parcels are annexed, without additional hearings.

THE UNDERSIGNED DOES HEREBY CERTIFY UNDER PENALTY OF PERJURY AS FOLLOWS:

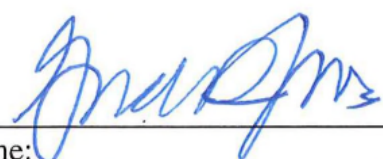
3. The Owner consents and elects to and expressly approves annexation of the Property to the District and the authorization for the levy of the Special Tax within the Property without further public hearing and without an election conducted pursuant to the provisions of Government Code Section 53339.7 and Article 2 of the Act and the Elections Code of the State of California. Owner agrees and intends that such consent and approval constitutes Owner's election to annex the Property to the District and to approve the authorization for the levy of the Special Tax within the Property.
4. The Owner waives any right, which the Owner may have to make any protest or complaint or undertake any legal action challenging the validity of the proceedings of the City or the District to authorize the future annexation of the Property to the District or the authorization for the levy of the Special Tax within the Property, any necessity, requirement, right or entitlement for further public hearing or election pertaining to the annexation of the Property to the District and the levy of the Special Tax within the Property.
5. The Owner specifically authorizes the levy of the Special Tax on the Property pursuant to the rate and method of apportionment set forth in **Exhibit 1.B** to pay for the authorized Public Services.

EXECUTED this 27 day of February, 2015 in San Ramon, California.

LENNAR HOMES OF CALIFORNIA, INC,

a California Corporation

By:

By: 

Name: _____

Title: _____

Note:

1. Signatures of property owner(s) or representatives must be notarized.
2. Proof of Authorization to sign is required for Corporations, Partnerships, Limited Liability Companies, Trusts, etc.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**CIVIL CODE § 1189**

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

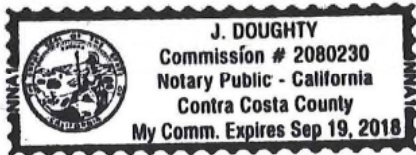
State of California)

County of Contra Costa)On February 27, 2015 before me, J. Doughty, Notary Public,
Date Here Insert Name and Title of the Officerpersonally appeared Gordon D. Jones
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

Signature J. Doughty
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer — Title(s): _____☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: _____

Signer Is Representing: _____

Signer's Name: _____

☐ Corporate Officer — Title(s): _____☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: _____

Signer Is Representing: _____

**CERTIFICATION OF ADEQUACY OF CONSENT AND ELECTION TO ANNEX REAL
PROPERTY TO AN EXISTING COMMUNITY FACILITIES DISTRICT**

CITY OF MILPITAS

**COMMUNITY FACILITIES DISTRICT NO. 2005-1
(PUBLIC SERVICES)**

ANNEXATION NO. 15

The undersigned is the duly appointed CITY CLERK for the proceedings relating to the annexation of property to the District.

On the _____ day of _____, 20____, at MILPITAS, California.

CITY CLERK
CITY OF MILPITAS
STATE OF CALIFORNIA

EXHIBIT 1.A

CONSENT AND ELECTION TO ANNEX REAL PROPERTY TO AN EXISTING COMMUNITY FACILITIES DISTRICT

CITY OF MILPITAS

COMMUNITY FACILITIES DISTRICT NO. 2005-1
(PUBLIC SERVICES)

ANNEXATION NO. 15

Assessor's Parcel No.

022-37-011

022-37-012

Name of the Owner

LENNAR HOMES OF CALIFORNIA, INC.,
A California Corporation

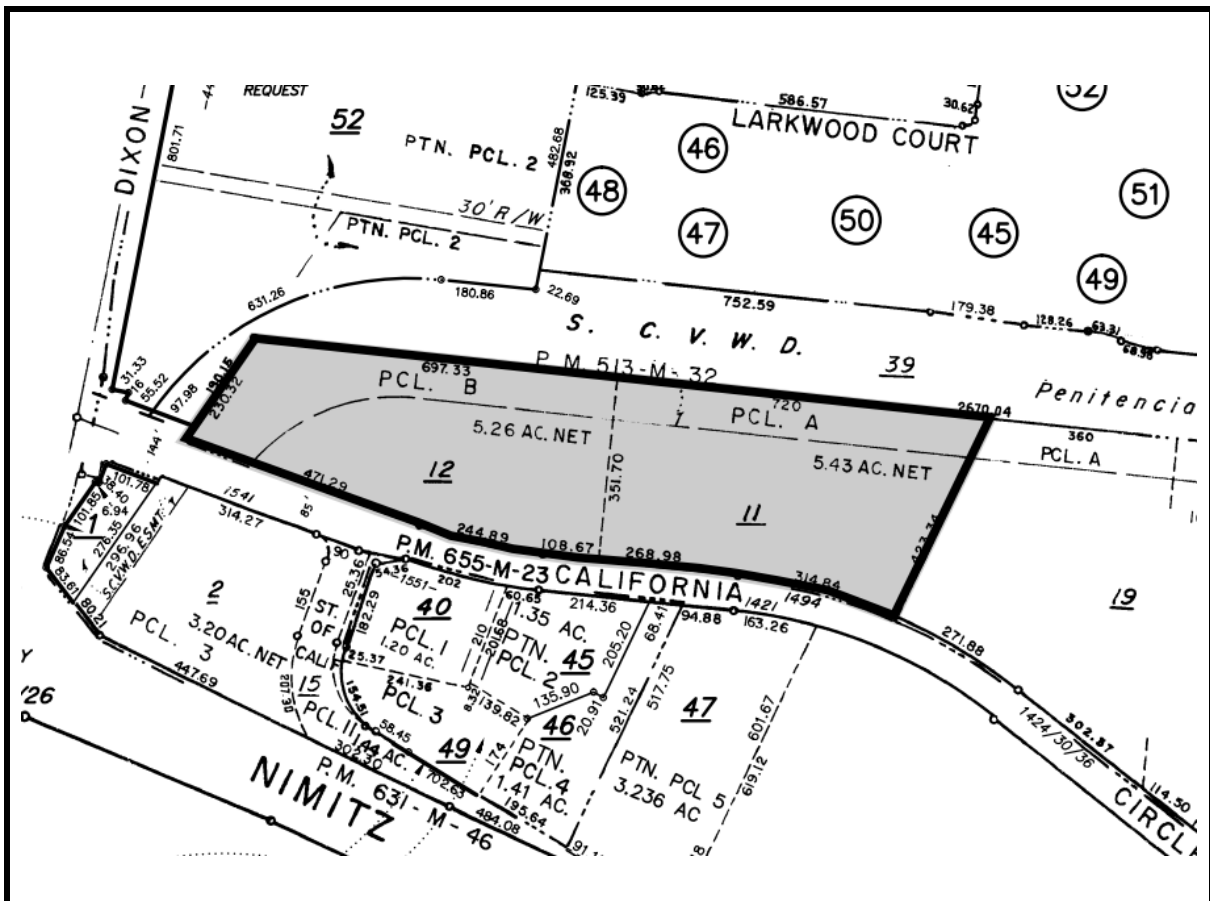


EXHIBIT 1.B

CONSENT AND ELECTION TO ANNEX REAL PROPERTY TO AN EXISTING COMMUNITY FACILITIES DISTRICT

CITY OF MILPITAS

COMMUNITY FACILITIES DISTRICT NO. 2005-1
(PUBLIC SERVICES)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels of Residential Property in City of Milpitas Community Facilities District No. 2005-1 (Public Services) ("CFD No. 2005-1"), and collected each Fiscal Year commencing in Fiscal Year 2005-06 an amount determined by the Council through the application of the appropriate Special Tax, as described below. All of the real property in CFD No. 2005-1, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Division 2 of Title 5 of the Government Code of the State of California.

"Administrative Expenses" means the following actual or reasonably estimated costs directly related to the administration of CFD No. 2005-1: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or any designee thereof or both); the costs of collecting the Special Taxes (whether by the City or otherwise); the costs to the City, CFD No. 2005-1 or any designee thereof of complying with City, CFD No. 2005-1 or obligated persons disclosure requirements associated with the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City, CFD No. 2005-1 or any designee thereof related to an appeal of the Special Tax; and the City's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the City or CFD No. 2005-1 for any other administrative purposes of CFD No. 2005-1, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

"Affordable Housing" means any Dwelling Units located on Residential Property that are subject to deed restrictions, resale restrictions and/or regulatory agreements recorded on the

property that provide housing for persons that meet the Low, Very Low, and/or Extremely Very Low income levels pursuant to, as applicable, California Health & Safety Code Sections 50093, 50079.5, 50105, or 50106. The Fiscal Year after the January 1 following the termination of the agreement containing covenants or similar instrument, a Dwelling Unit shall no longer be considered Affordable Housing.

"Assessor's Parcel" means a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the Assessor of the County designating parcels by Assessor's Parcel number.

"Certificate of Occupancy" means a certificate issued by the City that authorizes the actual occupancy of a Dwelling Unit for habitation by one or more residents.

"CFD Administrator" means an official of the City, or any designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Taxes.

"CFD No. 2005-1" means City of Milpitas Community Facilities District No. 2005-1 (Public Services).

"City" means the City of Milpitas.

"Consumer Price Index" means, for each Fiscal Year, the Consumer Price Index published by the U.S. Bureau of Labor Statistics for All Urban Consumers in the San Francisco-Oakland-San Jose Area, measured as of the month of February in the calendar year that ends in the previous Fiscal Year. In the event this index ceases to be published, the Consumer Price Index shall be another index as determined by the CFD Administrator that is reasonably comparable to the Consumer Price Index for the San Francisco-Oakland-San Jose Area.

"Council" means the City Council of the City, acting as the legislative body of CFD No. 2005-1.

"County" means the County of Santa Clara.

"County Median Income" means the current median income for the County of Santa Clara as determined by the U.S. Department of Housing and Urban Development.

"Developed Property" means, for each Fiscal Year, all Assessor's Parcels of Residential and Non-Residential Property for which a Certificate of Occupancy, or equivalent certificate, was issued before February 1 of the prior Fiscal Year, but not earlier than February 1, 2005.

"Dwelling Unit" means a building or portion thereof designed for and occupied in whole or part as a residence or sleeping place, either permanently or temporarily, by one family and its guests, with sanitary facilities and one kitchen provided within the unit. Boarding or lodging houses, dormitories, and hotels shall not be defined as Dwelling Units unless the land use permit specifies a residential use.

“Extremely Low-Income Affordable Housing” means Affordable Housing suitable for households with incomes at or below 30% of the County Median Income.

"Fiscal Year" means the period starting July 1 and ending on the following June 30.

“Land Use Class” means the land use class into which an Assessor’s Parcel of Residential Property has been assigned.

“Low-Income Affordable Housing” means Affordable Housing suitable for households with incomes at or below 80% of the County Median Income.

"Maximum Special Tax" means, for each Fiscal Year, the maximum Special Tax, determined in accordance with Section C, below, that can be levied on any Assessor’s Parcel of Residential Property.

“Market-Priced Residential Property” means Residential Property not classified as Affordable Housing.

"Non-Residential Property" means, for each Fiscal Year, any Assessor’s Parcel of Developed Property which is not a Residential Property.

"Property Owner Association Property" means, for each Fiscal Year, any Assessor’s Parcel within the boundaries of CFD No. 2005-1 that is owned by or irrevocably offered for dedication to a property owner association, including any master or sub-association.

"Proportionately" means that the ratio of the actual annual Special Tax levy to the Maximum Special Tax is equal for all Assessor’s Parcels of Residential Property.

"Public Property" means, for each Fiscal Year, (i) any property within the boundaries of CFD No. 2005-1 that is owned by or irrevocably offered for dedication to the federal government, the State, the City or any other public agency; provided however that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act, as such section may be amended or replaced, shall be taxed and classified in accordance with its use; or (ii) any property within the boundaries of CFD No. 2005-1 that is encumbered by an unmanned utility easement making impractical its utilization for other than the purpose set forth in the easement.

"Residential Property" means, for each Fiscal Year, any Assessor’s Parcel of Developed Property for which a Certificate of Occupancy has been issued for purposes of allowing residents to inhabit one or more residential Dwelling Units.

“Services” means services that CFD No. 2005-1 is authorized to fund. CFD No. 2005-1 shall finance Services only to the extent that they are in addition to those provided in the territory of CFD No. 2005-1 before CFD No. 2005-1 was created and such Services may not supplant services already available within CFD No. 2005-1 when CFD No. 2005-1 was created.

"Special Tax" means the special tax to be levied in each Fiscal Year on each Assessor’s Parcel of Residential Property to fund the Special Tax Requirement.

"Special Tax Requirement" means that amount to be collected in any Fiscal Year for CFD No. 2005-1 to pay for certain costs as required to meet the needs of CFD No. 2005-1 in that Fiscal Year. The costs to be covered shall be the costs of (i) Services, and (ii) Administrative Expenses; less (iii) a credit for funds available to reduce the annual Special Tax levy, if any, as determined by the CFD Administrator.

"State" means the State of California.

"Undeveloped Property" means, for each Fiscal Year, all property not classified as Residential Property, Non-Residential Property, Public Property, or Property Owner Association Property.

"Very Low-Income Affordable Housing" means Affordable Housing suitable for households with incomes at or below 50% of the County Median Income.

B. ASSIGNMENT TO LAND USE CATEGORIES

Each Fiscal Year, all Assessor's Parcels, as applicable within CFD No. 2005-1, shall be classified as Residential Property, Non-Residential Property, Undeveloped Property, Public Property, or Property Owner Association Property. However, only Residential Property shall be subject to annual Special Taxes in accordance with the rate and method of apportionment determined pursuant to Sections C and D below. Residential Property shall be assigned to Land Use Classes 1-4, as listed in Table 1, below.

C. MAXIMUM SPECIAL TAX RATE

1. Developed Property

a. Maximum Special Tax

The Maximum Special Taxes for Fiscal Year 2005-06 for Residential Property are shown below in Table 1, based on the Land Use Class in which such Residential Property has been assigned. Under no circumstances shall a Special Tax be levied on Non-Residential Property, or for renovations to an existing Dwelling Unit located on Residential Property.

TABLE 1

**Maximum Special Taxes for Developed Property
For Fiscal Year 2005-06
Community Facilities District No. 2005-1**

Land Use Class	Land Use Type	Maximum Special Tax Per Dwelling Unit
1	Market-Priced Residential Property	\$310.61 per Dwelling Unit
2	Low- Income Affordable Housing	\$248.48 per Dwelling Unit
3	Very Low-Income Affordable Housing	\$155.30 per Dwelling Unit
4	Extremely Low-Income Affordable Housing	\$0.00 per Dwelling Unit

b. Increase in the Maximum Special Tax

On each July 1, commencing on July 1, 2006, the Maximum Special Taxes set forth above shall be increased annually by the greater of the change in the San Francisco-Oakland-San Jose Area Urban Consumer Price Index during the twelve months prior to February of the previous Fiscal Year, or two percent (2%).

2. Undeveloped Property, Non-Residential Property, Public Property or Property Owner Association Property

No Special Taxes shall be levied on Undeveloped Property, Non-Residential Property, Property Owner Association Property, Public Property or Residential Property assigned to Land Use Class 4.

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Commencing with Fiscal Year 2006-07 and for each following Fiscal Year, the Council or its designee shall levy the annual Special Tax Proportionately for each Assessor's Parcel of Residential Property at up to 100% of the applicable Maximum Special Tax, until the amount of Special Taxes equals the Special Tax Requirement.

E. EXEMPTIONS

No Special Tax shall be levied on Undeveloped Property, Non-Residential Property, Public Property, Property Owner Association Property or Residential Property assigned to Land Use Class 4. However, should an Assessor's Parcel no longer be classified as Non-Residential Property, Public Property, Property Owner Association Property, or Residential Property assigned to Land Use Class 4, such Assessor's Parcel, if reclassified as Residential Property

assigned to Land Use Classes 1, 2 or 3, shall be subject to the Special Tax. Furthermore, an Assessor's Parcel of Residential Property assigned to Land Use Classes 1, 2 or 3, if reclassified as belonging to a different Land Use Class, shall be subject to the Special Tax associated with its new Land Use Class.

Furthermore, no Special Tax shall be levied on the portion of Santa Clara County Assessor's Parcel Number 086-050-09 encompassed by the metes and bounds listed on Attachment 1.

F. APPEALS AND INTERPRETATIONS

Any landowner or resident may file a written appeal of the Special Tax on his/her property with the CFD Administrator, provided that the appellant is current in his/her payments of Special Taxes. During the pendency of an appeal, all Special Taxes previously levied must be paid on or before the payment date established when the levy was made. The appeal must specify the reasons why the appellant claims the Special Tax is in error. The CFD Administrator shall review the appeal, meet with the appellant if the CFD Administrator deems necessary, and advise the appellant of its determination. If the CFD Administrator agrees with the appellant, the CFD Administrator shall eliminate or reduce the Special Tax on the appellant's property and/or provide a refund to the appellant. If the CFD Administrator disagrees with the appellant and the appellant is dissatisfied with the determination, the appellant then has 30 days in which to appeal to the Council by filing a written notice of appeal with the City Clerk, provided that the appellant is current in his/her payments of Special Taxes. The second appeal must specify the reasons for the appellant's disagreement with the CFD Administrator's determination. The decision by the Council shall be final. The CFD Administrator may charge the appellant a reasonable fee for processing the appeal.

Interpretations may be made by the Council by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment.

G. MANNER OF COLLECTION

The annual Special Tax shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that CFD No. 2005-1 may directly bill the Special Tax, may collect Special Taxes at a different time or in a different manner if necessary to meet its financial obligations. In particular, the Special Tax for Affordable Housing may be collected off of the tax roll, to facilitate payment of the Special Tax by a party other than the property owner.

H. TERM OF SPECIAL TAX

The Special Tax shall be levied in perpetuity as necessary to meet the Special Tax Requirement.

ATTACHMENT 1

All that real property situated in the City of Milpitas, County of Santa Clara, State of California, described as follows:

A portion of "Parcel B", as said Parcel is shown on that certain Record of Survey Map filed March 7, 1963, for record in Book 157 of Maps, at Page 56, Santa Clara County Records, being more particularly described as follows:

Commencing at the point of intersection of the centerline of Abel Street, 90.00 feet wide, as shown on said Map, with the prolongation of the northerly line of "Parcel B", as shown on said Map; thence running along said northerly line and the prolongation thereof

- 1.) S64°01'00"W, a distance of 1,825.87 feet to the TRUE POINT OF BEGINNING; said point also being the beginning of a curve to the right, from which the radius point bears S25°59'00"E, a radial distance of 45.50 feet; thence leaving said northerly line
- 2.) Easterly and Southerly along said curve to the right, through a central angle of 142°55'16", a distance of 113.50 feet; to the beginning of a reverse curve to the left having a radius of 25.00 feet; thence
- 3.) Southerly along said curve, through a central angle of 39°49'17", a distance of 17.38 feet; thence
- 4.) S12°53'01"E, a distance of 413.45 feet to the beginning of a curve to the left having a radius of 370.00 feet; thence
- 5.) Southeasterly along said curve, through a central angle of 2°39'10", a distance of 17.13 feet to the southerly line of said "Parcel B", thence along said southerly line
- 6.) S66°02'30"W, a distance of 622.12 feet to the westerly line of said "Parcel B", said line also being the easterly line of State Highway "Interstate 880"; thence leaving said southerly line and running along said westerly and easterly line
- 7.) N14°19'57"W, a distance of 229.41 feet to the southerly line of the Lands of State of California as described in the deed recorded July 3, 1970 in Book 8975, Page 149, Official Records of Santa Clara County, California; thence running along said southerly line
- 8.) N75°40'03"E, a distance of 14.00 feet to the easterly line of said Lands of the State of California; thence leaving said southerly line and running along said easterly line
- 9.) N14°19'57"W, a distance of 140.47 feet; thence continuing along said easterly line
- 10.) N09°27'34"W, a distance of 139.91 feet to the northerly line of said "Parcel B"; thence leaving said easterly line and running along said northerly line
- 11.) N64°01'00"E, a distance of 572.58 feet to the TRUE POINT OF BEGINNING.

Containing 315,187.25 square feet or 7.2357 acres, more or less.

SHEET 1 OF 1

Filed in the office of the City Clerk of the City of Milpitas this ____ day of _____, 2015.

City Clerk, City of Milpitas

I hereby certify Annexation Map No. 15 as shown within the boundaries of City of Milpitas Community Facilities District No. 2005-1 (Public Services), County of Santa Clara, State of California, was approved by the City Council of the City of Milpitas at a regular meeting thereof, held on the ____ day of _____, 2015, by its Resolution No. _____.

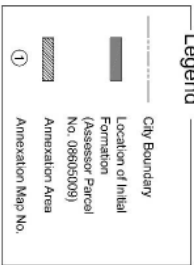
City Clerk, City of Milpitas

Filed this ____ day of _____, 2015, at the hour of ____ o'clock ____ m., in Book ____ of Assessment and Community Facilities Districts at Page ____ in the office of the County Recorder in the County of Santa Clara, State of California.

County Recorder,
County of Santa Clara

The territory included in the Community Facilities District shall include only Santa Clara County Assessor's for the following Annexation Maps :
Initial formation CFD 2005-1 : 08657001-08657104, 08659012-08659072,
08660001-08660058, 08662001-08662050, 08665001-08665095
Map No.1 : 08661001-08661105, 08664001-08664105
Map No.2 : 08667001-08667137
Map No.3 : 02834001-02834029
Map No.4 : 02208045
Map No.5 : 08634028-08634034, 08666001-08666024
Map No.6 : 02835001-02835085
Map No.7 : 08816081-08816085
Map No.8 : 08622043-08622045
Map No.9 : 08601041, 08601042
Map No.10 : 08629049, 08629050
Map No.11 : 08629042, 08629061, 08629062, 08629075, 08629076
Map No.12 : 08616100
Map No.13 : 08628041, 08639003
Map No.14 : 08639001, 08639002
Map No.15 : 02237011, 02237012
and all publicly owned areas in the City of Milpitas landscaped or capable of being landscaped, such as parks, parkways, street medians, interchange areas, light rail areas, open space and all similar areas. All other areas depicted on this map indicate territory that may be annexed to the Community Facilities District in the future.

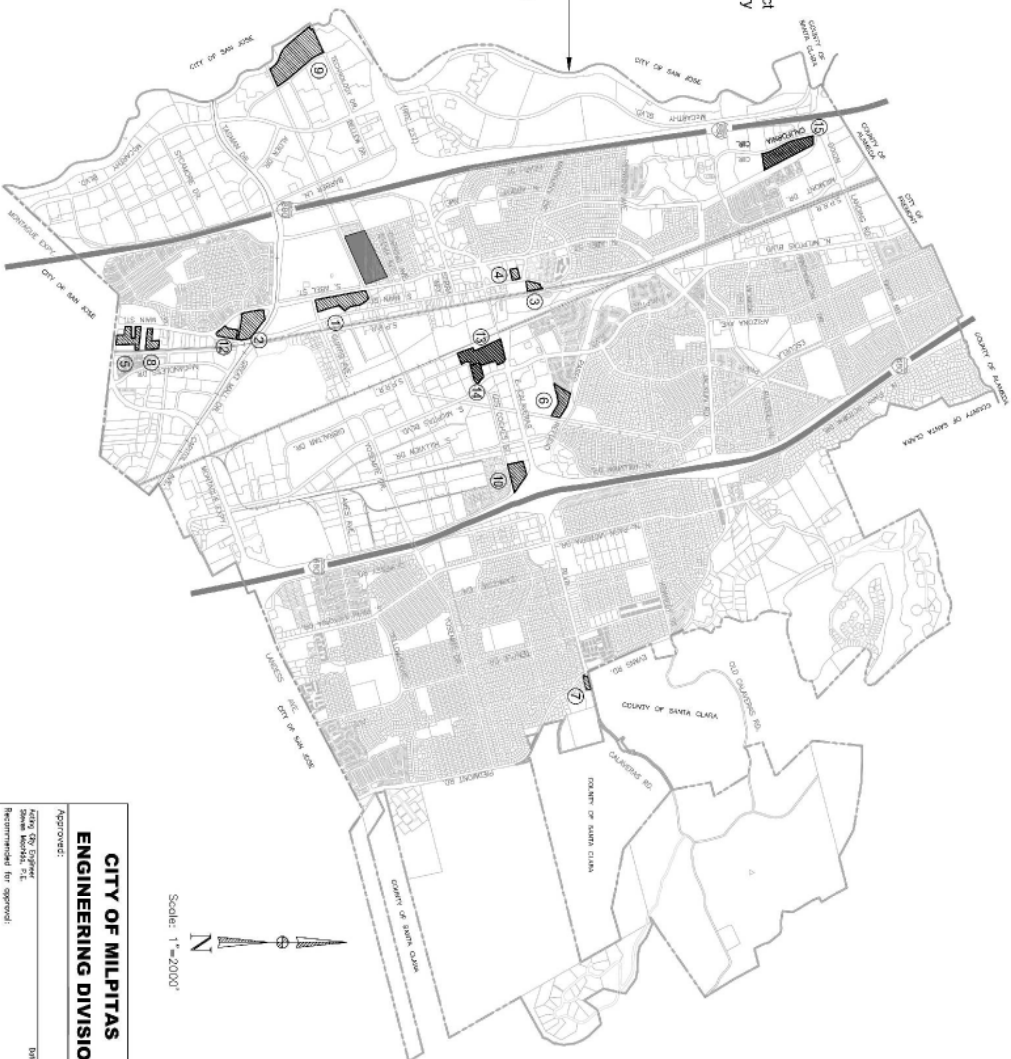
Legend



The boundary of Community Facilities District No. 2005-1 is co-terminous with the boundary of the City of Milpitas in _____, 2015.

Reference is hereby made to the Assessor maps of the County of Santa Clara for an exact description of the lines and dimensions of each lot and parcel.

Boundaries of the
City of Milpitas
Community Facilities
District No. 2005-1



ANNEXATION MAP NO. 15 AND UPDATE OF ANNEXATION MAP NO. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, AND 14 OF CITY OF MILPITAS COMMUNITY FACILITIES DISTRICT NO. 2005-1 (PUBLIC SERVICES), COUNTY OF SANTA CLARA STATE OF CALIFORNIA AS RECORDED IN BOOK 41 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE 3 O.R. SANTA CLARA COUNTY

EXHIBIT 2

CITY OF MILPITAS
ENGINEERING DIVISION

Approved:	_____ Date: _____
Checked By: P.E.	_____ Date: _____
Reviewed By: P.E.	_____ Date: _____
Drawn By: P.E.	_____ Date: _____

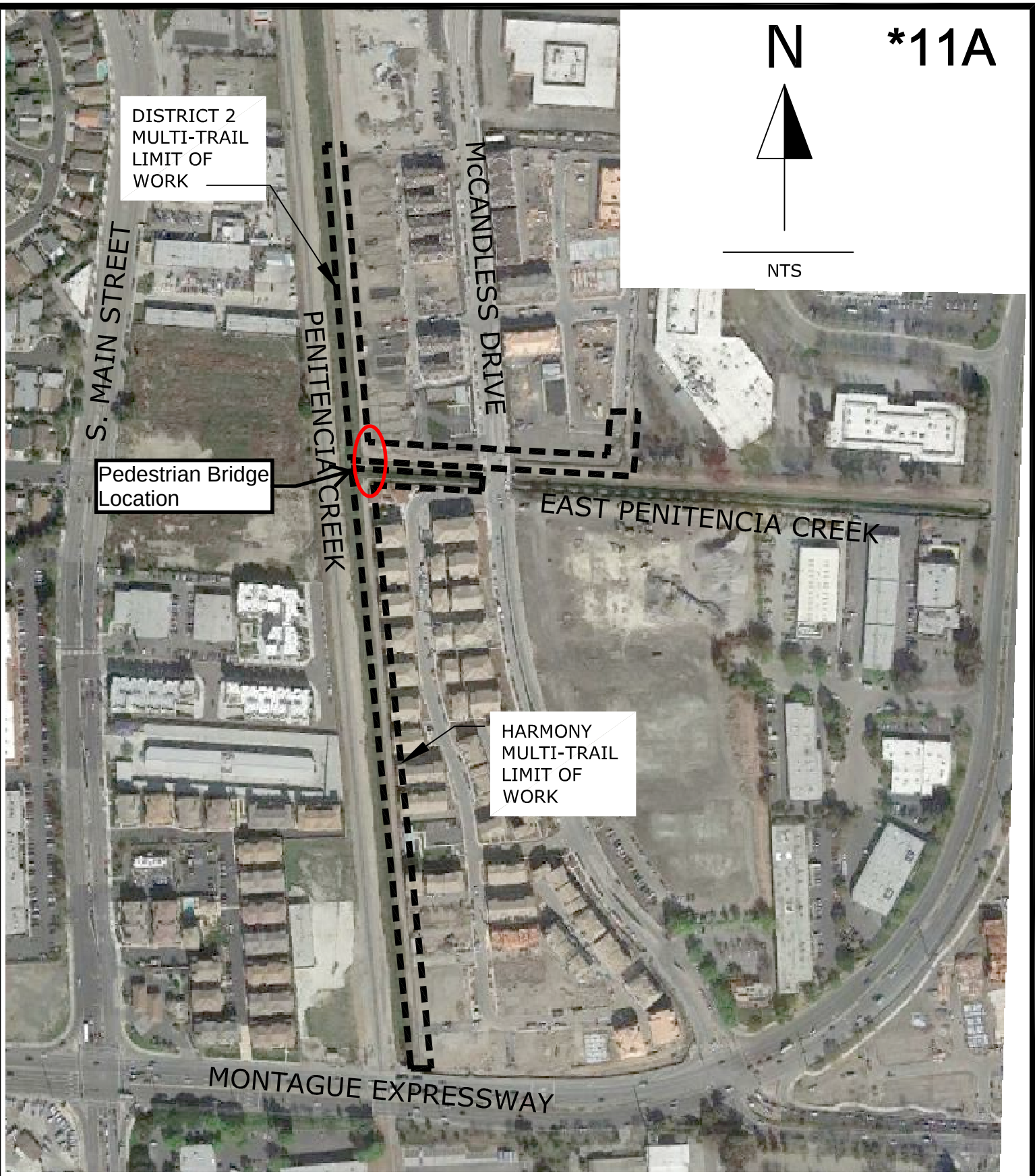
List of Attachments for Agreements – Item No. 11

– Joint Use Agreement: Lower and East Penitencia Creeks

Approve Environmental Assessment for Addendums to the Transit Area Specific Plan Final Environmental Impact Report and the Joint Use Agreement between City of Milpitas and Santa Clara Valley Water District for Trail Improvements and Pedestrian Overcrossing on the Lower and East Penitencia Creeks West of McCandless and between Montague Expressway and Canal Street (Staff Contact: Steve Machida, 408-586-3355)

Attachments:

- *11-A** Trail and Bridge Location Map
- *11-B** Lower / East Penitencia Creek Trails Project – Taylor Morrison plans
- *11-C** Lower / East Penitencia Creek Trails Project – DR Horton plans
- *11-D** Lower / East Penitencia Creel Pedestrian Bridge plan
- *11-E** Joint Use Agreement between the City and Santa Clara Valley Water District
- *11-F** Initial Study EIR Addendum – Lower / East Penitencia Creek Trails / Bridge
- *11-G** Final Initial Study EIR Addendum – Lower / East Penitencia Creek / Bridge



HARMONY/DISTRICT 2
MULTI-USE TRAIL AND BRIDGE EXHIBIT
MILPITAS, SANTA CLARA COUNTY, CALIFORNIA

BENCHMARK

SOUTHERLY DISK IN MONUMENT WELL AT THE INTERSECTION OF ABEL STREET AND CORNING AVENUE, ELEVATION = 17.124' NGVD29 (19.864' NAVD88)

EXISTING UTILITY NOTE:

EXISTING UNDERGROUND UTILITIES AND IMPROVEMENTS ARE SHOWN IN THEIR APPROXIMATE LOCATIONS BASED UPON RECORD INFORMATION AVAILABLE TO THE ENGINEER AT THE TIME OF PREPARATION OF THESE PLANS. LOCATIONS MAY NOT HAVE BEEN VERIFIED IN THE FIELD AND NO GUARANTEE IS MADE AS TO THE ACCURACY OR COMPLETENESS OF THE INFORMATION SHOWN. THE CONTRACTOR SHALL NOTIFY UTILITY COMPANIES AT LEAST 2 WORKING DAYS IN ADVANCE OF CONSTRUCTION TO FIELD LOCATE UTILITIES. CALL UNDERGROUND SERVICE ALERT (U.S.A.), AT 1-800-227-2600. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO DETERMINE THE EXISTENCE AND LOCATION

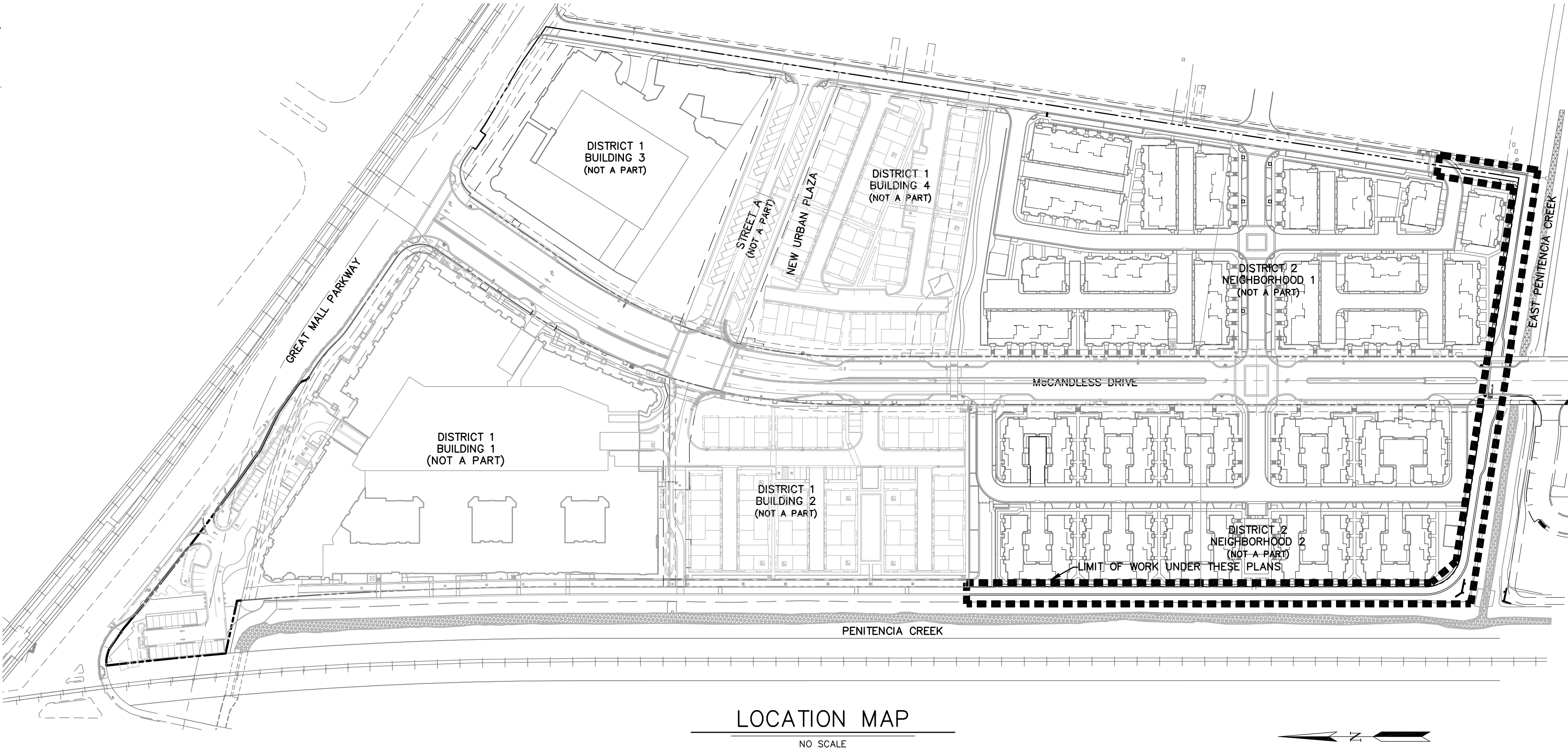
LEGEND

PROPOSED	DESCRIPTION	EXISTING
	TRACT BOUNDARY	
	LOT LINE	
	CONTOUR	
SD	PERFORATED STORM DRAIN	
	WATER	
	RECYCLED WATER	
	MANHOLE	● OR ○
	CATCH BASIN/FIELD INLET	
	FIRE HYDRANT	
	WATER VALVE	
	AIR RELEASE VALVE	
	CONCRETE CURB/GUTTER/SIDEWALK	
2.5%	SLOPE AND DIRECTION	
	BUILDING LINE	
	ELECTROLIER	
	DIRECTION OF FLOW	
	RAILROAD TRACKS	
	CREEK	

ABBREVIATIONS

AB	AGGREGATE BASE	NTS	NOT TO SCALE
AC	ASPHALT CONCRETE	O.C.	ON CENTER
ACP	ASBESTOS CEMENT PIPE	PAD	PAD ELEVATION
AD	AREA DRAIN	PAV	PAVEMENT
ARV	AIR RELIEF VALVE	PCC	PORTLAND CEMENT CONCRETE
BNDRY	BOUNDARY	PL or R	PROPERTY LINE
BC	BEGIN CURVE	PRC	POINT OF REVERSE CURVATURE
B/C	BACK OF CURB	PRUE	PRIVATE UTILITY EASEMENT
BW	BACK OF WALK	PSI	PER SQUARE INCH
C&G	CURB & GUTTER	PSUE	PUBLIC SERVICE UTILITY EASEMENT
CL	CENTERLINE	PT	POINT
CLF	CHAIN LINK FENCE	PVC	POLYVINYL CHLORIDE PIPE
CO	CLEAN OUT	PVI	POINT OF VERTICAL INTERSECTION
DIA	DIAMETER	R	RIGHT or RADIUS
DWG	DRAWING	RCP	REINFORCED CONCRETE PIPE
DWY	DRIVEWAY	RW or R/W	RIGHT OF WAY
(E)	EAST	RET	RETURN
EC	END CURVE	S	SLOPE
ELECT	ELECTROLIER	(S)	SOUTH
ELEV	ELEVATION	(SE)	SOUTHEAST
EP	EDGE OF PAVEMENT	(SW)	SOUTHWEST
EVA	EMERGENCY VEHICLE ACCESS	SCVWD	SANTA CLARA VALLEY WATER DISTRICT
EX	EXISTING	SD	STORM DRAIN
FC	FACE OF CURB	SDAD	STORM DRAIN AREA DRAIN
FF	FINISH FLOOR	SDMH	STORM DRAIN MANHOLE
FFGF	FINISH FLOOR FRONT OF GARAGE	SD	SEE ARCHITECTS DRAWINGS
FGI	FLAT GRATE INLET	SLD	SEE LANDSCAPE DRAWINGS
FH	FIRE HYDRANT	SPD	SEE PLUMBING DRAWINGS
FI	FIELD INLET	SSD	SEE STRUCTURAL DRAWINGS
FL	FLOW LINE	SS	SANITARY SEWER
GB	GRADE BREAK	SSLAT	SANITARY SEWER LATERAL
GR	GRATE	SSMH	SANITARY SEWER MANHOLE
HCA	HOMECOMERS' ASSOCIATION	STA	STATION
HP	HIGH POINT	STD	STANDARD
IMP	IMPROVEMENTS	SWK	SIDEWALK
INV	INVERT	TC	TOP OF CURB
IRR	IRRIGATION	TCO	TOP OF DEPRESSED CURB
JT	JOINT TRENCH	TFC	TOP FLUSH CURB
L	LEFT	TSC	TOP OF CURB & SPILL GUTTER
LF	LINEAR FEET	TVC	TOP OF VERTICAL CURB
LP	LOW POINT	TYP	TYPICAL
MAX	MAXIMUM	VC	VERTICAL CURB
MIN	MINIMUM	W	WATER
(N)	NORTH	(W)	WEST
(NE)	NORTHEAST	WSER or WM	WATER SERVICE
NO.	NUMBER		

IMPROVEMENT PLANS FOR
DISTRICT 2 MULTI-USE TRAIL
TAYLOR MORRISON
MILPITAS, CALIFORNIA



SCOPE OF WORK

- DISTRICT 2 MULTI-USE TRAIL GRADING AND SURFACE IMPROVEMENTS.

CITY OF MILPITAS STANDARD DETAILS

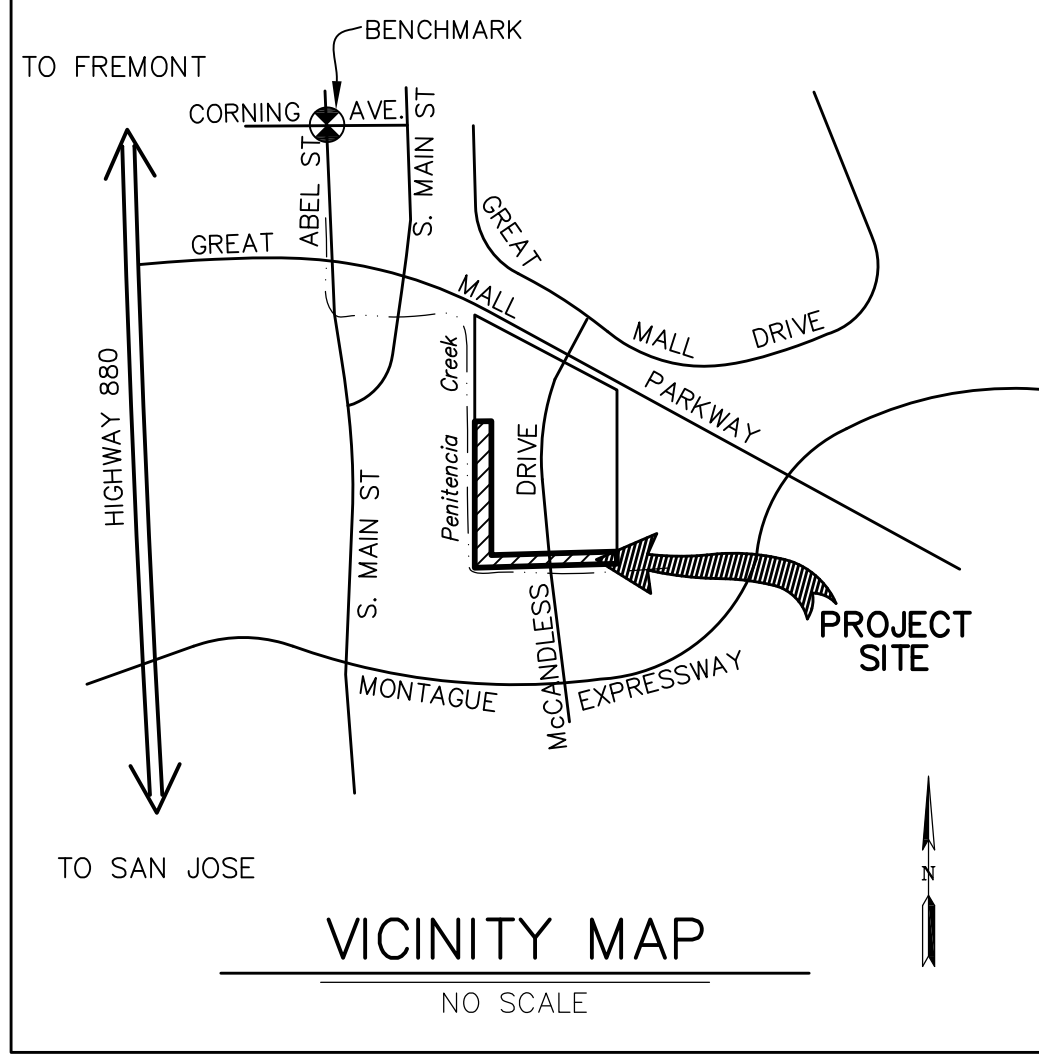
DWG. NO. 464 CITY OF MILPITAS DESIGN STANDARD FLAT GRATE STORM INLET



LOCATION OF UTILITIES

LOCATION OF UTILITIES SHOWN IS ONLY APPROXIMATE. DETERMINATION OF THE ACTUAL LOCATION IS THE RESPONSIBILITY OF THE CONTRACTOR.

U.S.A. 1-800-227-2600



CIVIL SHEET INDEX

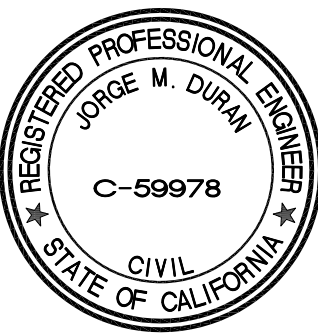
SHEET NO	TITLE
1	TITLE SHEET
2	CITY GENERAL NOTES
3	MULTI-USE TRAIL PLAN
4	MULTI USE TRAIL SECTIONS
5	MULTI USE TRAIL SECTIONS
6	MULTI USE TRAIL SECTIONS
7	MULTI USE TRAIL SECTIONS
8	EROSION CONTROL
9	BEST MANAGEMENT PRACTICES

SOILS ENGINEER: These plans have been reviewed and found to be in substantial conformance with the intent and purpose of the geotechnical exploration report dated _____, prepared by _____.

Firm: _____
Address: _____
Telephone: _____

CIVIL ENGINEER: I hereby declare that I am the engineer of work for this project, that I have exercised responsible charge over the design of the project as defined in section 6703 of the business and professions codes, and that the design is consistent with current standards. The design shown hereon is necessary and reasonable and does not restrict any historic drainage flows from adjacent properties nor increase drainage to adjacent properties. The design includes principles and techniques to reduce quantity and improve the quality of storm water runoff, as required by NPDES. I understand that the check of project drawings and specifications by the City of Milpitas is confined to a review only and does not relieve me, as engineer of work, of my responsibilities for project design.

SIGNATURE _____ DATE _____ FIRM _____
Address: _____
Telephone: _____



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

RECOMMENDED FOR APPROVAL:

Planning _____ Date _____
Fire _____ Date _____
Building _____ Date _____

Record Drawings

To be completed prior to acceptance of work by the City

Signature + Seal _____ Date _____
P.E. No. _____ Exp. _____
Public Works Inspector: _____

NOT FOR CONSTRUCTION
2nd SUBMITTAL
NOVEMBER 12, 2014

CITY OF MILPITAS
ENGINEERING DIVISION

Approved: _____
City Engineer _____ Date _____
Any changes to this plan shall be approved by the City Engineer
Project No. 072030-5000
Sheet 1 of 9

GENERAL NOTES

CITY OF MILPITAS STANDARD GENERAL NOTES

- All work and materials shall comply with standard specifications, construction details, and standard drawings (listed on sheet 1) of the City of Milpitas available in the City Engineer's office. It is the responsibility of the contractor to obtain permits necessary to perform the improvements in these plans from the appropriate agencies and to comply with the agencies' requirements. All plans shall be prepared on City's Improvements Title Block. The contractor must comply with all applicable national, state and local laws.
- Plans used for construction of public facilities purposes must be signed by the City Engineer or his representative. Any subsequent changes shall be approved by the City Engineer or his representative prior to their construction.
- The official copy of these plans are on file in the office of the City Engineer in Milpitas.
- This plan is subject to review and subsequent approval in the event the work has not commenced within six (6) months of the date of plan approval.
- All utilities and improvements that become damaged during construction shall be completely restored to the satisfaction of the City Engineer.
- A \$2000 deposit shall be made to the City of Milpitas and a construction water meter shall be obtained for incidental water used during grading and roadway construction. Water meter(s) shall be installed for incidental water use during building(s) construction and pressure test of water line within the building(s).
- The Contractor shall notify Underground Service Alert (U.S.A.) at (800) 227-2600 48 hours prior to any construction activities, and obtain a reference number.
- Prior to any construction or installation of public facilities, the developer's engineer shall arrange a pre-construction conference between the contractors and the City Public Works Inspector. This shall take place a minimum of seven (7) days prior to the scheduled start of work. At the conference, the developer's engineer shall present the Public Works Inspector with a certified copy of a material list and specifications for installation. Prior to the installation, approval by the City Engineer is required of any non-standard materials. Any non-standard materials shall be demonstrated by the developer's engineer and contractor to equal or exceed City standards.
- The contractor shall call City of Milpitas Public Works Facilities Inspection at (408) 586-2884 to schedule inspections, 48 hours prior to the start of construction.
- Prior to any work, the contractor shall obtain a City Business license and a Public Works Construction or Encroachment Permit.
- The Contractor is responsible for the preservation and/or perpetuation of all existing monuments and stakes within the Contractor's area of work. The Contractor shall not disturb or remove any monuments or stakes without the permission of the City Engineer, and he shall bear the expense of resetting any monuments or stakes which may be disturbed or removed with or without permission. The Contractor shall provide a minimum of 15 Working days notice to the City Engineer prior to disturbance or removal of existing monuments or stakes. The Contractor shall utilize the services of a California Licensed Land Surveyor to reset all disturbed or removed monuments and stakes or provide witness monuments, and file the required documentation with the County Surveyor pursuant to the Business and Professions Code Section 8771.
- When it is found that field conditions are not as shown on the plans, the Consulting Engineer shall make revisions and/or adjustments to the satisfaction of the City Engineer prior to further construction.
- Upon completion of improvements, the developer's engineer shall submit a letter to the City Engineer certifying that those privately maintained improvements (street, lighting, utilities, etc.) have been constructed per the improvement plans.
- Developer shall coordinate with Pacific Gas and Electric Company for the design and installation of all gas and electric facilities.
- Developer shall coordinate with AT&T for the design and installation of all Telephone facilities.
- Construction shall not begin until 7 AM and shall end by 7 PM, weekdays and weekends. No work is allowed on official City holidays.
- A National Pollution Discharge Elimination System Permit (NPDES construction permit) is required prior to commencement of construction activity related to this site and shall be obtained by the Owner and/or Owner's Contractor as appropriate. Any discharge (during construction) or groundwater into the downstream storm system must be uncontaminated. The Contractor shall make this determination prior to any discharge.
- If archaeological materials are uncovered during grading, trenching or other excavation, earthwork within 100' of this area shall be stopped until a professional archaeologist who is certified by the Society of California Archaeologist (SCA) or the Society of Professional Archaeologist (SOPA) has had an opportunity to evaluate the significance of the find and suggest appropriate mitigation measures, if they are deemed necessary.
- Record drawings original plans, including a copy of the AutoCAD files (digital format) shall be furnished to the City Engineer within sixty (60) days of the completion of construction and prior to initial acceptance of public improvements.
- All grading shall comply with City of Milpitas Grading Ordinance, this plan, the Geotechnical Report "Multi-Use Trail - District 2," prepared by ENGEO, Incorporated dated August 23 2013. The recommendation letter "Decomposed Granite Trail Surface Recommendations" prepared by ENGEO, Incorporated dated October 31, 2014 and all subsequent addendums.
- City approval of plans does not relieve the developer from his/her responsibility to correct errors and omissions discovered during construction. Upon request, any required plan revisions shall be promptly submitted to the City Engineer for approval.
- A water valve shall be installed for each residential or commercial area after the meter and prior to entry of the building such that it is accessible to homeowner and City Meter Reader. Ownership/Maintenance by City of Milpitas. Plan Check and inspection by City of Milpitas and Santa Clara Valley Water District (SCVWD).
- The following entities shall be responsible for inspection and maintenance/ownership of the listed facilities and completion certificate by design engineer(state ownership's name and inspection by P.W. inspection or Build. Div.):
- Each parcel shall have separate solid waste enclosure and Allied Waste service. Unless, necessary agreements have been recorded to provide for joint use of enclosure and or Allied Waste services for more than one parcel.

GRADING NOTES

- Permittee shall notify the City of Milpitas 2 working days before the start of grading. (408) 586-2884
- The permittee must maintain the streets, sidewalks, and any other public rights-of-way in a clean, safe, and usable condition. Any spill of soil, rock or construction debris must be removed from publicly owned property during construction and upon completion of the project.
- All grading shall comply with City of Milpitas Grading Ordinance, this plan, and the Geotechnical Report "Multi-Use Trail - District 2" prepared by ENGEO, Incorporated dated August 23, 2013. The recommendation letter "Decomposed Granite Trail Surface Recommendations," prepared by ENGEO, Incorporated dated October 31 2014 and all subsequent addendums. All grading work shall be done under the observation of the Geotechnical Engineer. The Geotechnical Engineer shall be notified 48 hours before the start of any grading. (408) 574-4900.
- All deleterious materials, i.e., lumber, logs, brush, or any other organic materials or rubbish shall be removed from all areas to receive compacted fill.
- Unsuitable materials, such as topsoil, weathered bedrock, etc., shall be removed as required by soils engineer (and engineering geologist, where employed) from all areas to receive compacted fill or drainage structure.
- All fill areas shall be cleaned of all vegetation and debris, scarified to a minimum depth of 12 inches and inspected by the soils engineer prior to the placing of fill.
- All existing creek bank and new cut slopes shall be investigated, both during and after grading by the soils engineering, to determine if any slope stability problem exists. Should excavation disclose any geological hazards, the soils engineer shall recommend necessary treatment to the City Engineer for approval.
- All cut and fill slopes are 3:1 max (H:V) unless shown otherwise on this plan.
- The existing topography shown on these plans is based on an aerial/ground survey prepared by Aerogeodetic Corporation dated May 2006 and supplemented with field surveys. The contours shown on this plan represent ground elevations as determined at the time of said surveys.
- The Contractor shall be responsible to confirm ground elevation and overall topography of the site prior to the start of construction. Based on his field reconnaissance, these plans, and the geotechnical report, the Contractor shall estimate the earthwork quantities to his satisfaction prior to the start of construction, and shall dispose of excess material or provide for the acquisition of import material as required to complete the grading as shown on this plan. No additional compensation will be made for any export or import required, except as provided in the bid documents.
- Should additional revisions to the grading plans be required to facilitate the Contractor's operation, Ruggeri-Jensen-Azar shall be compensated for such additional revisions.
- During final grading for trail subgrade, the Contractor shall compact the subgrade to 90% R.C. at a moisture content of at least 3% above optimum per ASTM D 1557. Aggregate base shall be compacted to 95% R.C. per ASTM D 1557, and per the Geotechnical Engineer's recommendations.
- Any abandoned underground pipes exposed during construction shall be removed or adequately plugged, or a combination of both in accordance with the requirements of the City of Milpitas Building Division, and Geotechnical recommendations.
- All exposed or disturbed soil surfaces shall be watered as necessary, but not less than twice daily to control dust. Areas of digging and grading operations shall be consistently watered to control dust. Grading or other dust-producing activities shall be suspended during periods of high wind when dust is readily visible in the air. Stockpiles of soil, debris, sand, or other dust-producing materials shall be watered or covered. The construction area and the surrounding streets shall be swept (no water) as necessary, but not less than twice daily.
- Earthwork quantities shown on this plan are approximate estimated quantities and are furnished for information only. The quantities have been calculated from existing ground elevations, based on the topography referenced above, to the grades shown on these plans. The actual amount of earth moved will vary depending on compaction, consolidation, stripping, and the Contractor's method of operation.

Earthwork Summary

Item	Estimated Quantity
Site Cut	950± CY
Site Fill	40± CY
Export	910±CY

- Compaction, consolidation and shrinkage factors for on-site materials are not incorporated in the above quantities. Actual quantities moved in the field for this project will vary depending on the actual soils encountered, the Contractor's method of operation, etc. Earthwork calculations are based on approximate existing ground to bottom of base section, scary section is excluded.

PROJECT NOTES

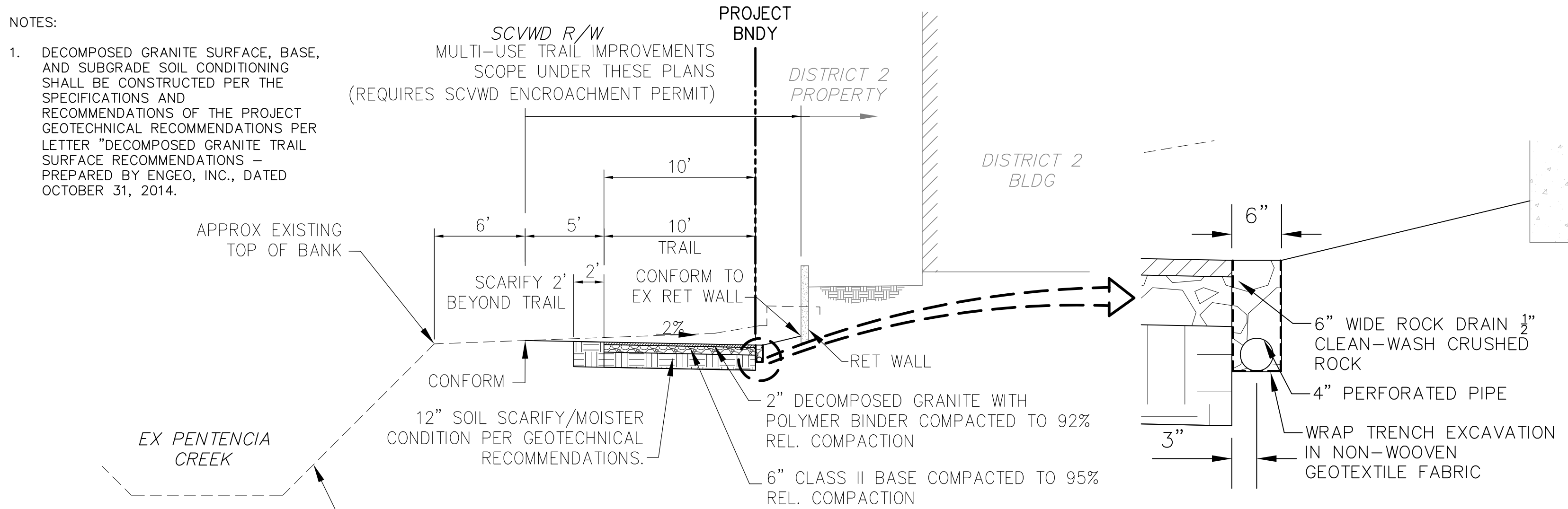
- Developer: Taylor Morrison - Bay Area Division
5000 Executive Parkway, Ste. 175
San Ramon, CA 94583
(916) 932-0980
Contact: Jay Pawlek
City of Milpitas: Engineering Department
455 E. Calaveras Blvd.
Milpitas, California 95035
(408) 586-3329
Fax (408) 586-3293
Contact: Patrick Dobbins
Civil Engineer: Ruggeri-Jensen-Azar & Associates
8055 Camino Arroyo
Gilroy, California 95037
(408) 848-0300
Fax (408) 848-0302
Contact: Jorge Duran
Geotechnical Engineer: ENGEO Incorporated
6399 San Ignacio Ave., Suite 150
San Jose, CA 95119
(408) 574-4900
Fax (888) 279-2698
Contact: Andrew Firmin
- The Contractor shall notify Ruggeri-Jensen-Azar & Associates two working days prior to the need for construction survey stakes. Cut sheets are to be supplied to the Public Works Department or Engineering Department 24 hours prior to construction relating to the cut sheets.
- The Contractor shall be held responsible for any field changes made without written authorization from the City Engineer.
- Benchmark: The southern disk in monument well at the intersection of Abel Street and Corning Avenue, levation=17.124' NGVD29 (19.864' NAVD88)
- The Contractor is responsible for matching existing streets, surrounding landscape, and other improvements with a smooth transition in paving, curbs, gutters, sidewalks, and grading. Abrupt or apparent changes in grades or cross slopes shall ne avoided.
- The location, depth and existence of underground improvements are shown in their approximate positions based upon information available to the engineer. The contractor shall excavate inspection holes "pot holes" and determine the location and depth of all underground structures and utilities that are in the vicinity of and/or may be affected by the proposed improvement work prior to any construction work.
- The contractor is responsible for performing locate services for those facilities installed by the contractor until such time as the work has been officially accepted by the City of Milpitas. The marking, labeling, and timing of such locates shall be in conformance with the requirements of Underground Service Alert.

DECOMPOSED GRANITE (DG) PAVEMENT NOTES

- The DG is installed in a manner similar to that for hot mix asphalt mixtures using asphalt paving equipment and tools. Binder Emulsion: DG using the RPBE shall have a record of Marshall Stability test results where mixtures exceeded 10,000 pound stabilities when tested at 140F (60°C) temperature, TSRST test results where finished mixtures demonstrated all of the low temperature performance criteria down to a temperature of -18.4F (-28°C), and Resilient Modulus test results in accordance with ASTM D-4123 test methods demonstrating layer equivalency equal or better than conventional hot mix asphalt. See "Decomposed Granite Trail Surface Recommendations," prepared by ENGEO, Incorporated dated October 31, 2014 for DG recommendations.
- The DG shall be NaturalPAVE® XL Resin Pavement™ Mixture as manufactured by Soil Stabilization Products Company, Inc., (SSPCo), Merced, CA (209) 383- 3296 or (800) 523-9992, no known acceptable equal.
- The DG shall be cold-manufactured, cold-applied, display the natural coloration and texture of the aggregate material used in the mix formulation, and be suitable for vehicular and pedestrian traffic and with high strength such as that exhibited by hot mix asphaltic concrete mixtures. The DG shall have a documented record of having performed as well or better than asphalt pavement in both wet and dry Rotational Penetrometer test evaluation of Firmness and Stability for use as an accessible outdoor surface.
- Tack Coat: Same as NaturalPAVE XL Resin Pavement Binder Emulsion for DG. Uniformly mix 1 part RPFS with 4 parts water.
- DG shall not be applied when it is raining or when rain is expected. Weather forecasts should indicate no rain during application procedures and for at least 24 hours following application. The ambient temperature must be above 16 degrees C (60 degrees F) for application of DG unless otherwise approved in writing by the DG manufacturer. The same weather limitations apply to the application of fog seal.
- The DG shall be placed using a self-propelled mechanized spreading and finishing machine equipped with a screed or strike off assembly. The DG shall be compacted with a self-propelled tandem smooth drum. It is the responsibility of the installer to review the suitability of all compaction equipment for project specific requirements and to operate the equipment so as not to damage the pavement mat during installation procedures.
- For areas where the finished compacted depth of the RP is 3 inches or less, place DG in one lift. If tack coat is required, clean surface of first DG or hot mix asphalt placement lift of any debris or track on and apply tack coat no more than 10 minutes ahead of DG placement operations. Apply tack coat at rate of 0.05 gallon RPFC per square yard.
- Perform initial compaction with self-propelled tandem smooth drum rollers of 1 to 2 tons capable of operation in both static and vibratory modes. Compaction shall be done similar to AC pavement placement.
- Perform final compaction with self-propelled tandem smooth drum rollers. Make no less than 5 complete rolling passes, forwards and backwards on all areas of pavement installation, while moving continuously across and overlapping each previous pass. Do not over roll the pavement installation. Once final compaction effort has produced a pavement mat that is compressed, uniformly shaped and textured, free of roller marks and surface deformities, and meeting grade and smoothness specifications, no further compaction is required. The minimum number of compaction passes to achieve these goals is specified.
- Apply fog seal to surface of completed RP surface course not earlier than 24 hours and not later than 48 hours following final compaction. The contractor shall verify the newly placed pavement is adequately cured to support the fog seal distribution equipment before commencing the fog seal application. Protect pavement surface against track on of dirt and mud until fog coat application has been completed.
- Apply fog seal at rate of 0.02 to 0.04-gallon of RPFS per square yard. Protect pavement surface against track on of dirt and mud until fog coat application has been completed.
- Allow fog sealed surface to dry for at least 48 hours prior to allowing traffic on pavement. Wind, temperature, humidity, and pavement surface absorberncy affect drying and curing rates.
- Restrict access following fog seal application until pick-up on tires will not occur.
- Finished Surface Smoothness of RP surface course: Maximum ¼ inch variation from a 10-foot long straight edge laid parallel to the road center lines, except at intersections, grade breaks and tie-in points to adjacent pavements and hard surfaced pedestrian walking paths.

NOTES:

- DECOMPOSED GRANITE SURFACE, BASE, AND SUBGRADE SOIL CONDITIONING SHALL BE CONSTRUCTED PER THE SPECIFICATIONS AND RECOMMENDATIONS OF THE PROJECT GEOTECHNICAL RECOMMENDATIONS PER LETTER "DECOMPOSED GRANITE TRAIL SURFACE RECOMMENDATIONS - PREPARED BY ENGEO, INC., DATED OCTOBER 31, 2014.

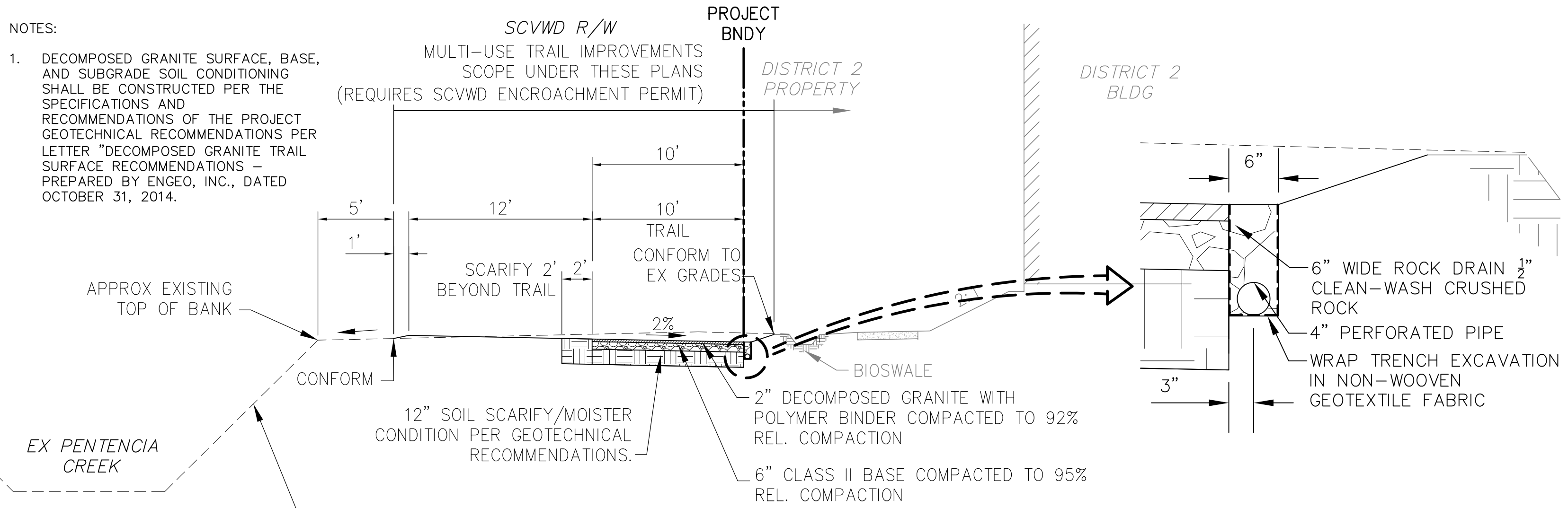


TYPICAL SECTION STATION (10+49±-17+60±, 18+59-19+09±)

NO SCALE

NOTES:

- DECOMPOSED GRANITE SURFACE, BASE, AND SUBGRADE SOIL CONDITIONING SHALL BE CONSTRUCTED PER THE SPECIFICATIONS AND RECOMMENDATIONS OF THE PROJECT GEOTECHNICAL RECOMMENDATIONS PER LETTER "DECOMPOSED GRANITE TRAIL SURFACE RECOMMENDATIONS - PREPARED BY ENGEO, INC., DATED OCTOBER 31, 2014.

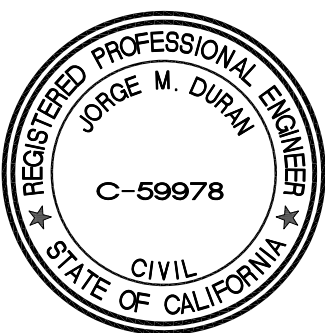


TYPICAL SECTION STA (17+60-18+59, 19+09-24+04)

NO SCALE



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



Record Drawings

To be completed prior to acceptance of work by the City

Signature & Seal	Date
P.E. No. _____ Exp. _____	
Public Works Inspector: _____	
Public Improvements initially Accepted by the City Council on: _____	

NOT FOR CONSTRUCTION
2nd SUBMITTAL
NOVEMBER 12, 2014

CITY OF MILPITAS

ENGINEERING DIVISION

APPROVED:	
CITY ENGINEER	DATE
ANY CHANGES TO PUBLIC IMPROVEMENTS SHALL BE APPROVED BY THE CITY ENGINEER	
RECOMMENDED FOR APPROVAL:	
FIRE DEPT.	DATE:
ENGINEERING	DATE:

DISTRICT 2 MULTI-USE TRAIL

IMPROVEMENTS AND GRADING PLANS

CITY GENERAL NOTES

MILPITAS, CALIFORNIA

FOR: TAYLOR MORRISON

NOVEMBER 12, 2014

JOB NO. 072030-5000

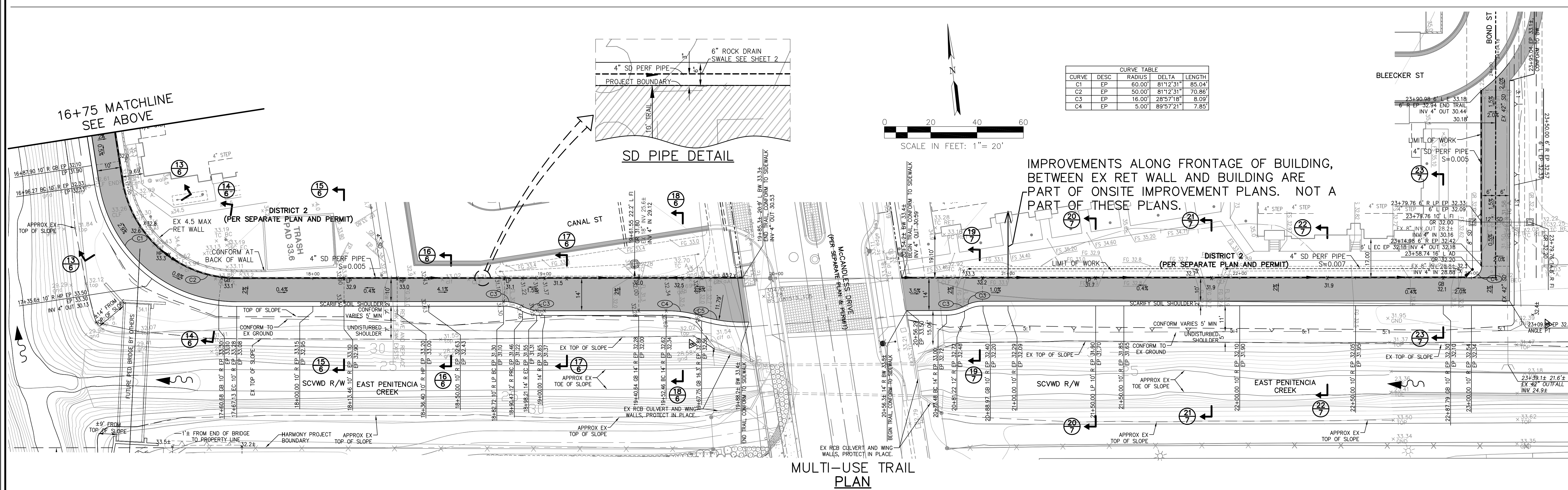
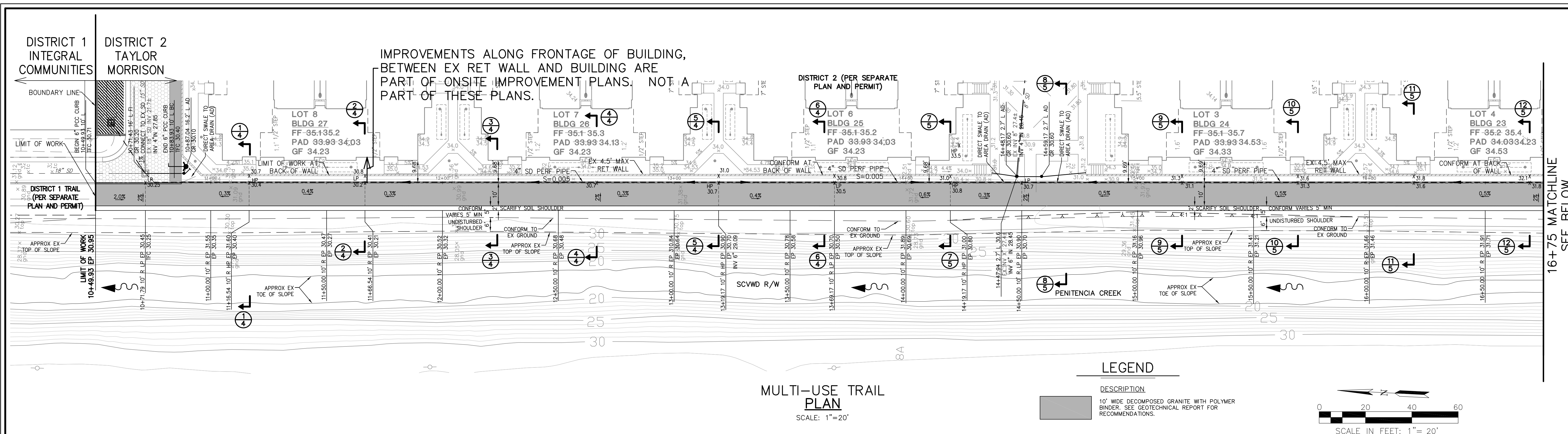
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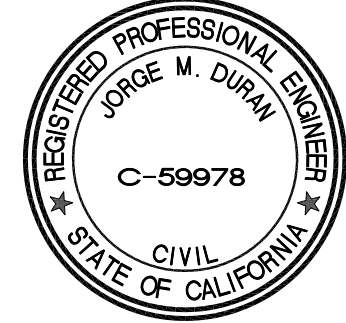
2

OF 9 SHEETS





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



REGISTERED PROFESSIONAL ENGINEER
JORGE M. DURAN
C-59978
CIVIL
STATE OF CALIFORNIA

Record Drawings
To be completed prior to acceptance of work by the City

Signature & Seal _____ Date _____
P.E. No. _____ Exp. _____

Public Works Inspector: _____

Public Improvements initially Accepted by the City Council on: _____

NOT FOR CONSTRUCTION
2nd SUBMITTAL
NOVEMBER 12, 2014

CITY OF MILPITAS
ENGINEERING DIVISION

APPROVED: _____ DATE _____
CITY ENGINEER
ANY CHANGE TO PUBLIC IMPROVEMENTS SHALL BE APPROVED BY THE CITY ENGINEER
RECOMMENDED FOR APPROVAL: _____ DATE _____
FIRE DEPT. _____ DATE _____
ENGINEERING _____ DATE _____

DISTRICT 2 MULTI-USE TRAIL
IMPROVEMENTS AND GRADING PLANS

MULTI-USE TRAIL PLAN - 10+50 TO 16+75

MILPITAS, CALIFORNIA

FOR: TAYLOR MORRISON

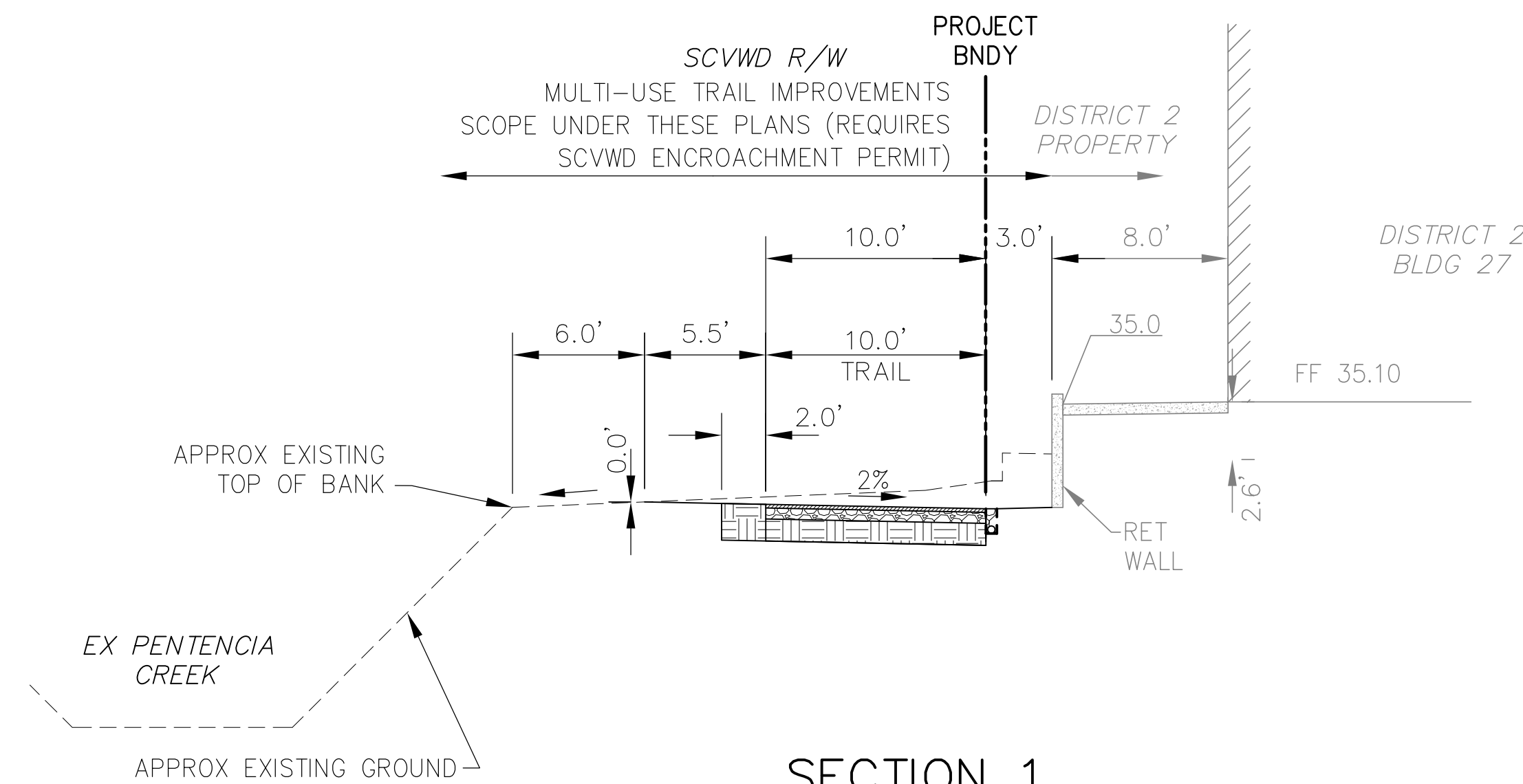
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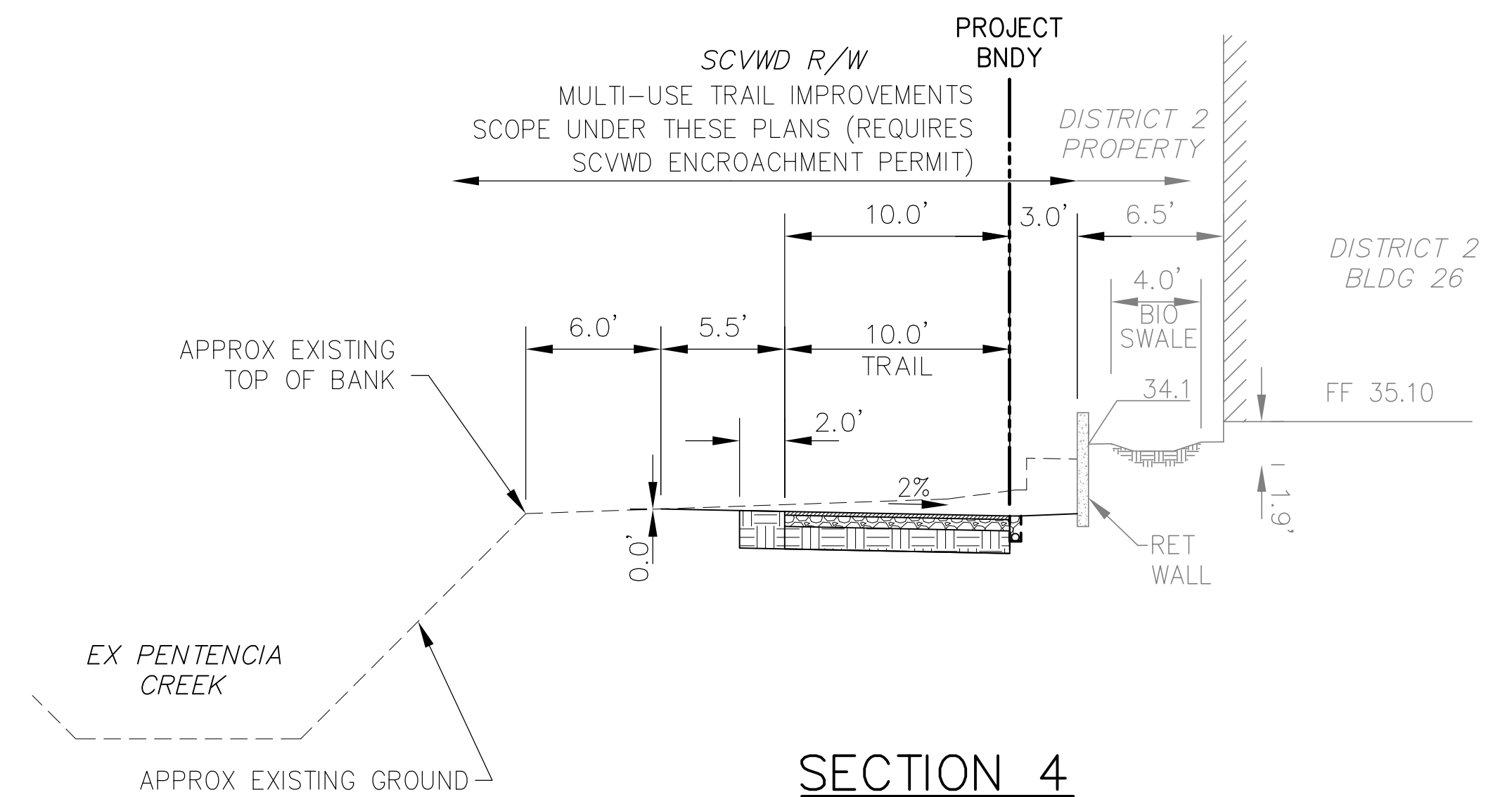
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SHEET **3**

OF 9 SHEETS

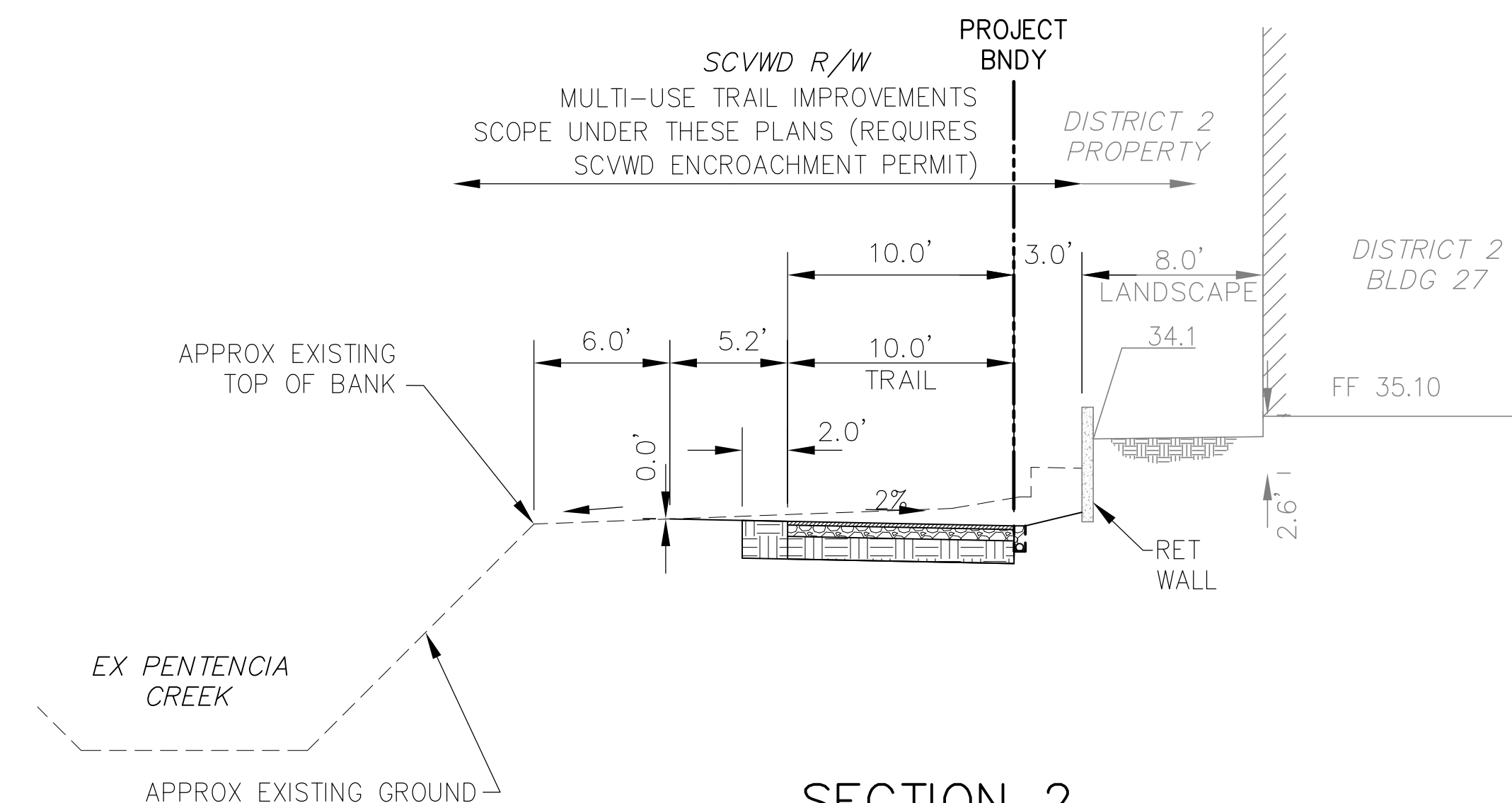


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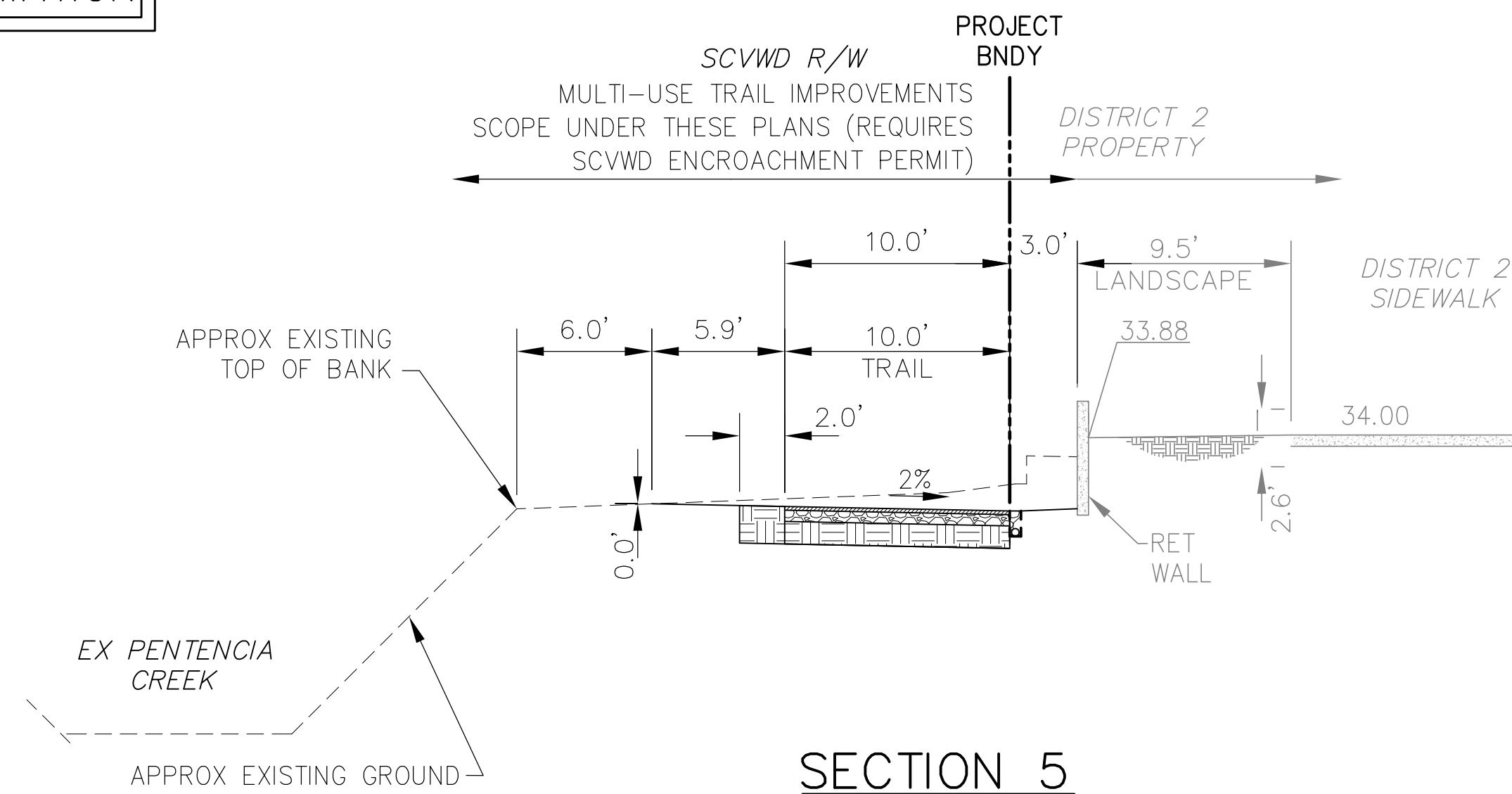


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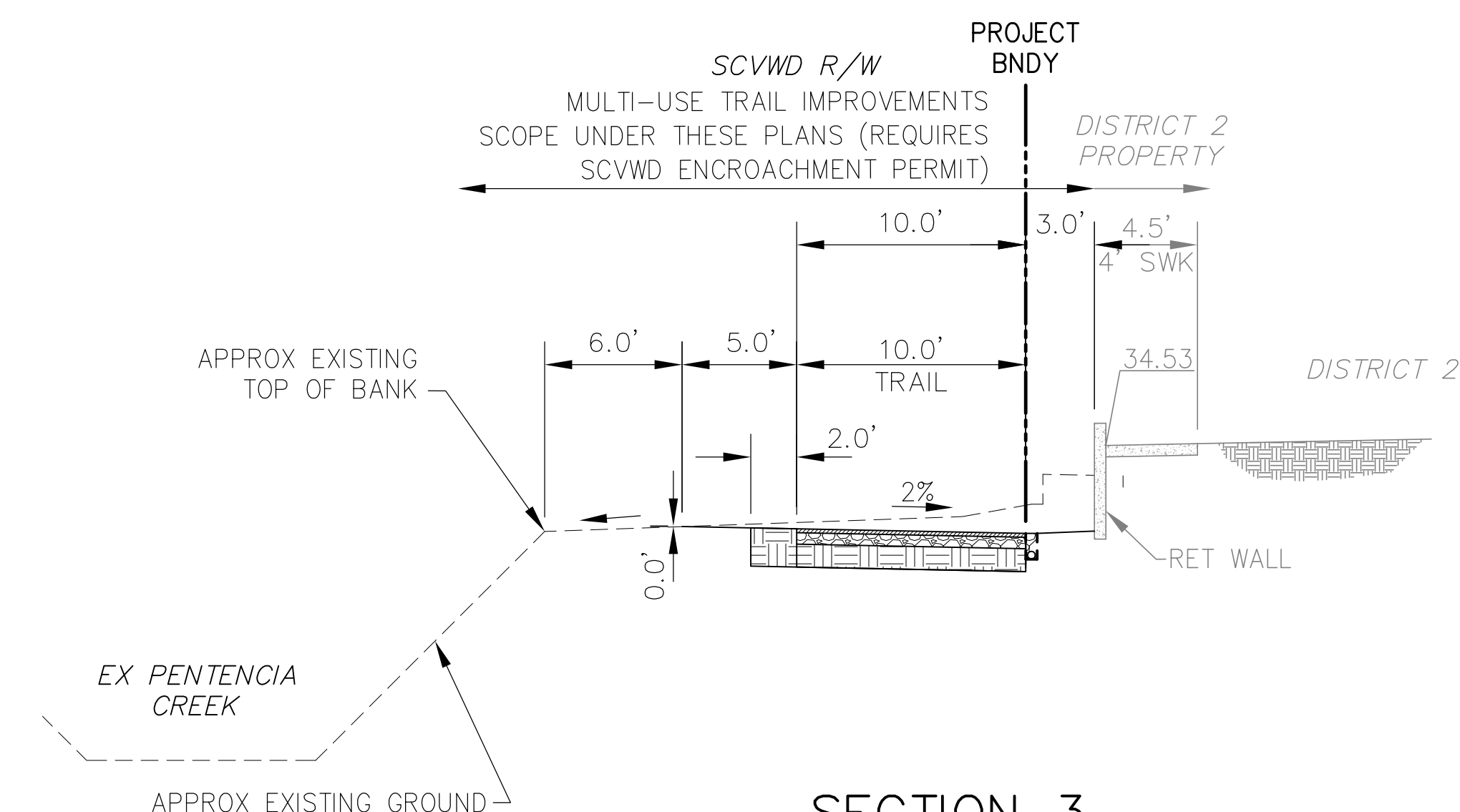
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FOR SECTION INFORMATION



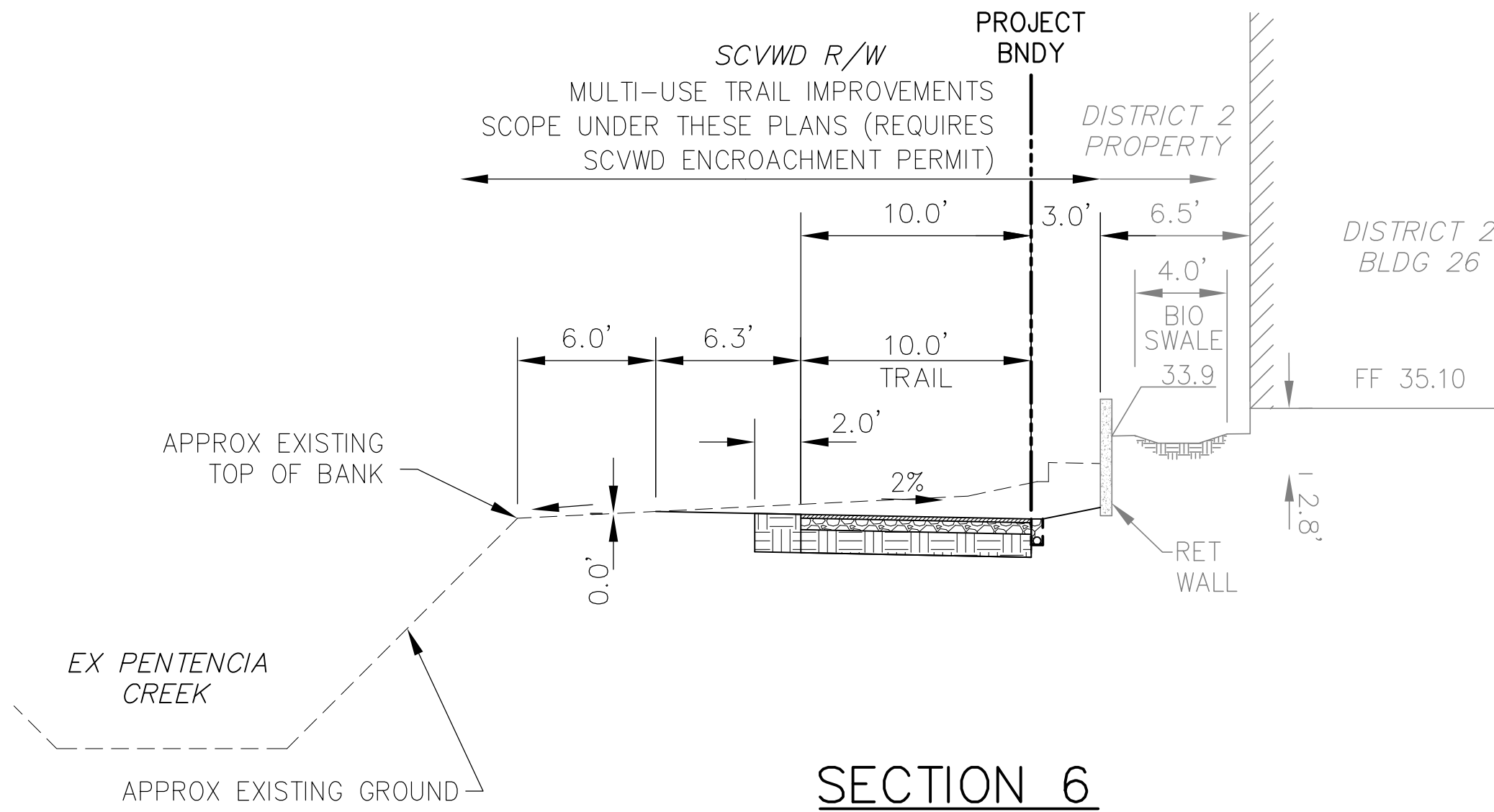
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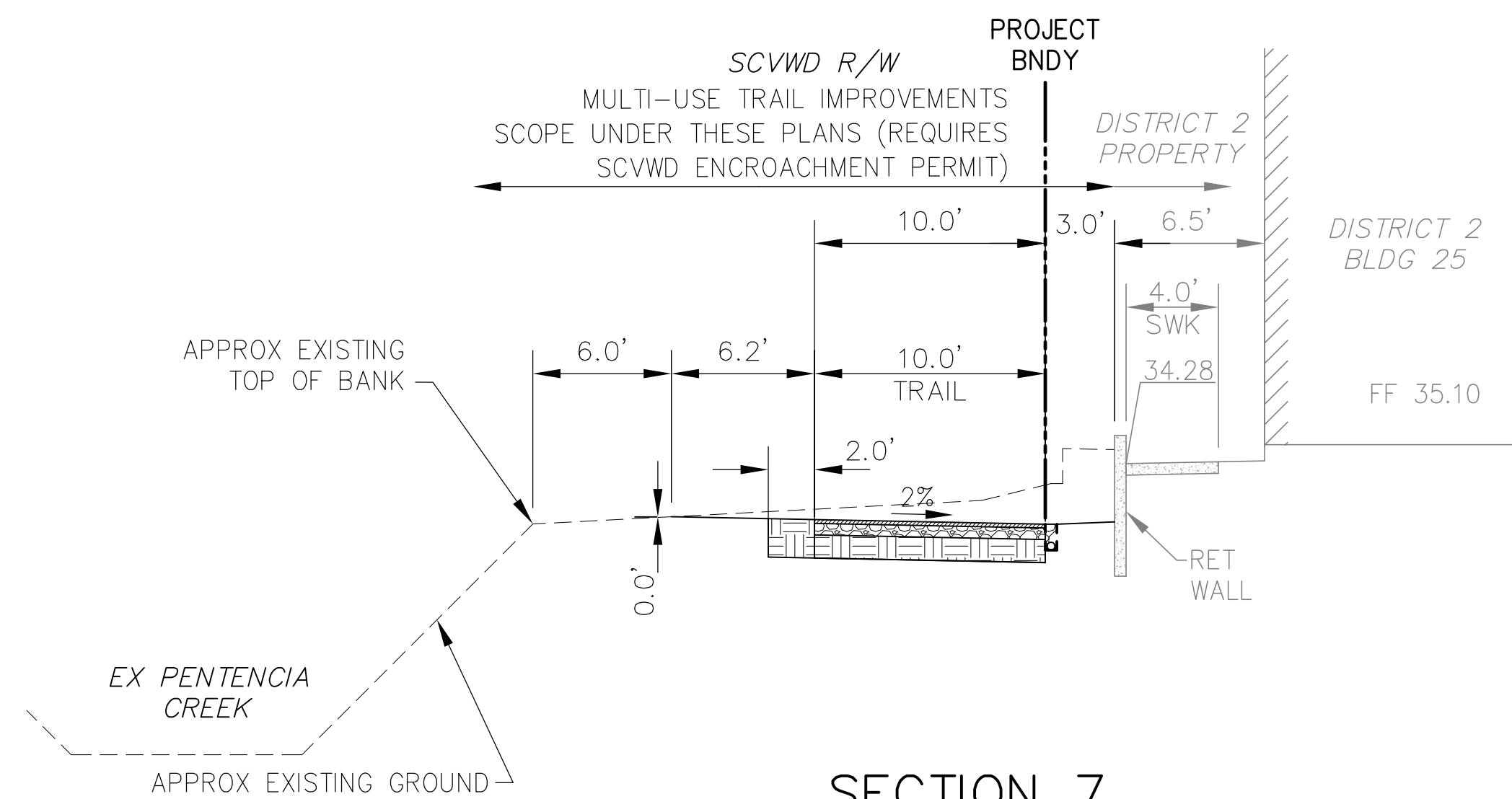
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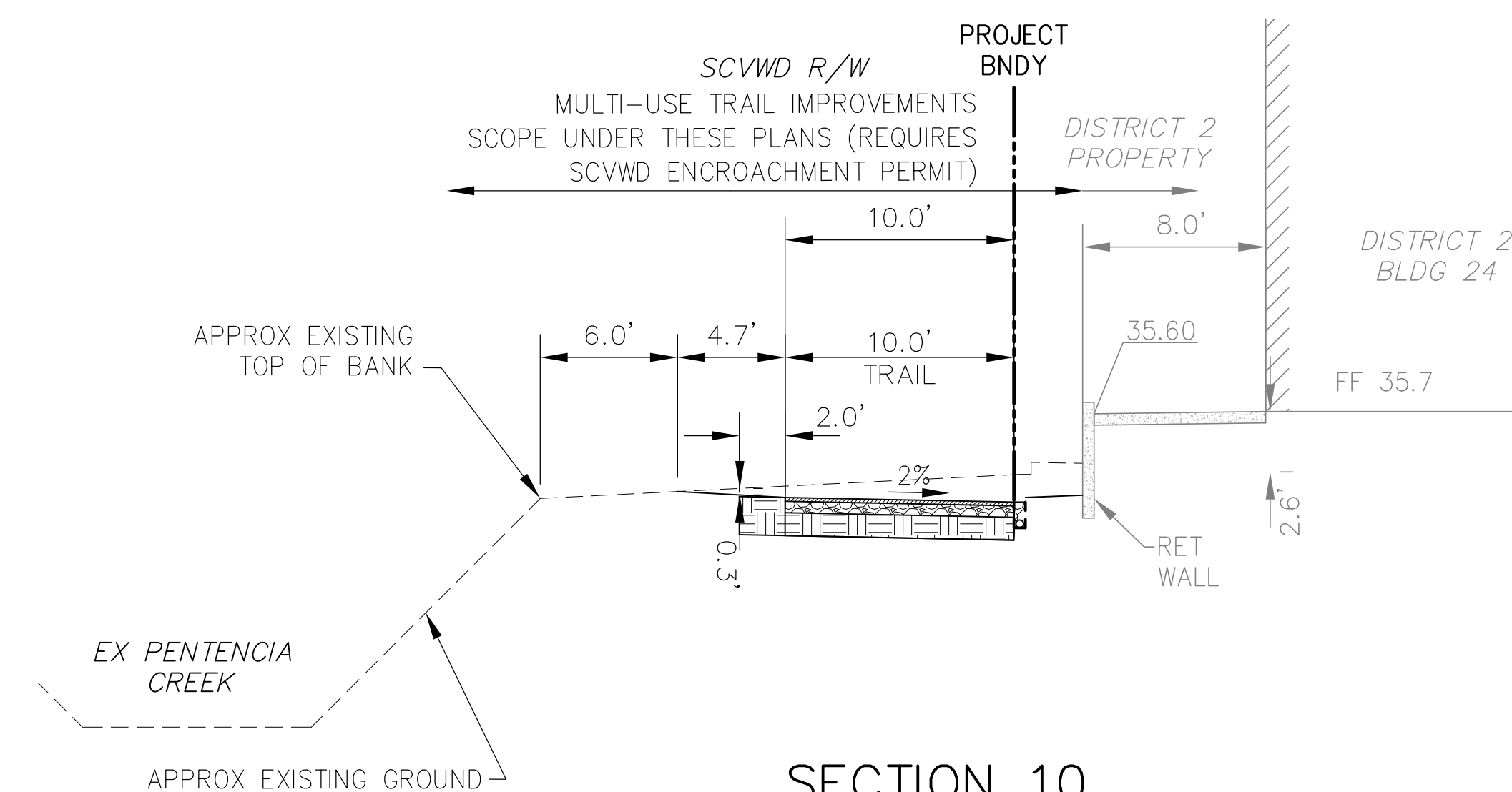
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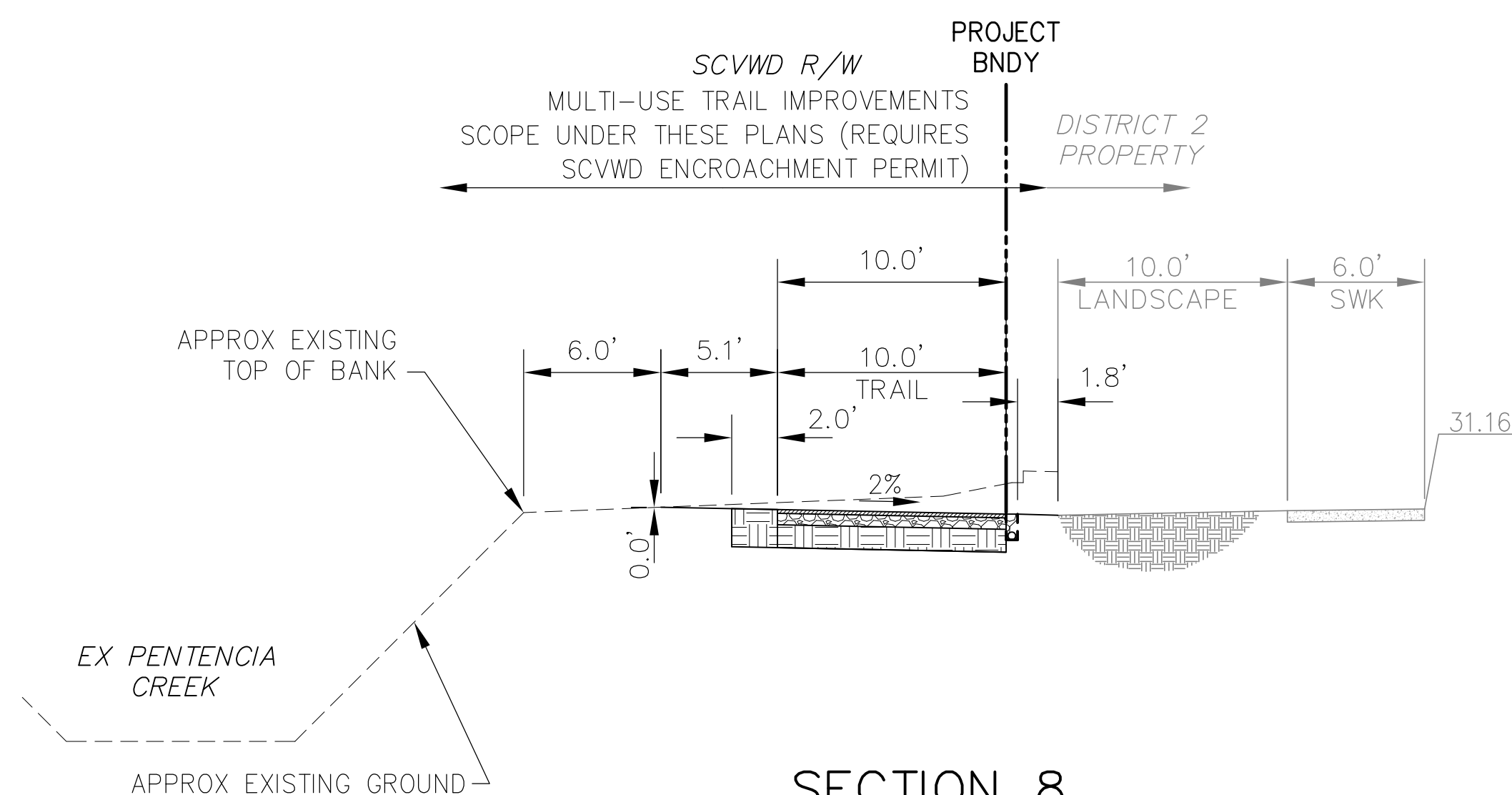
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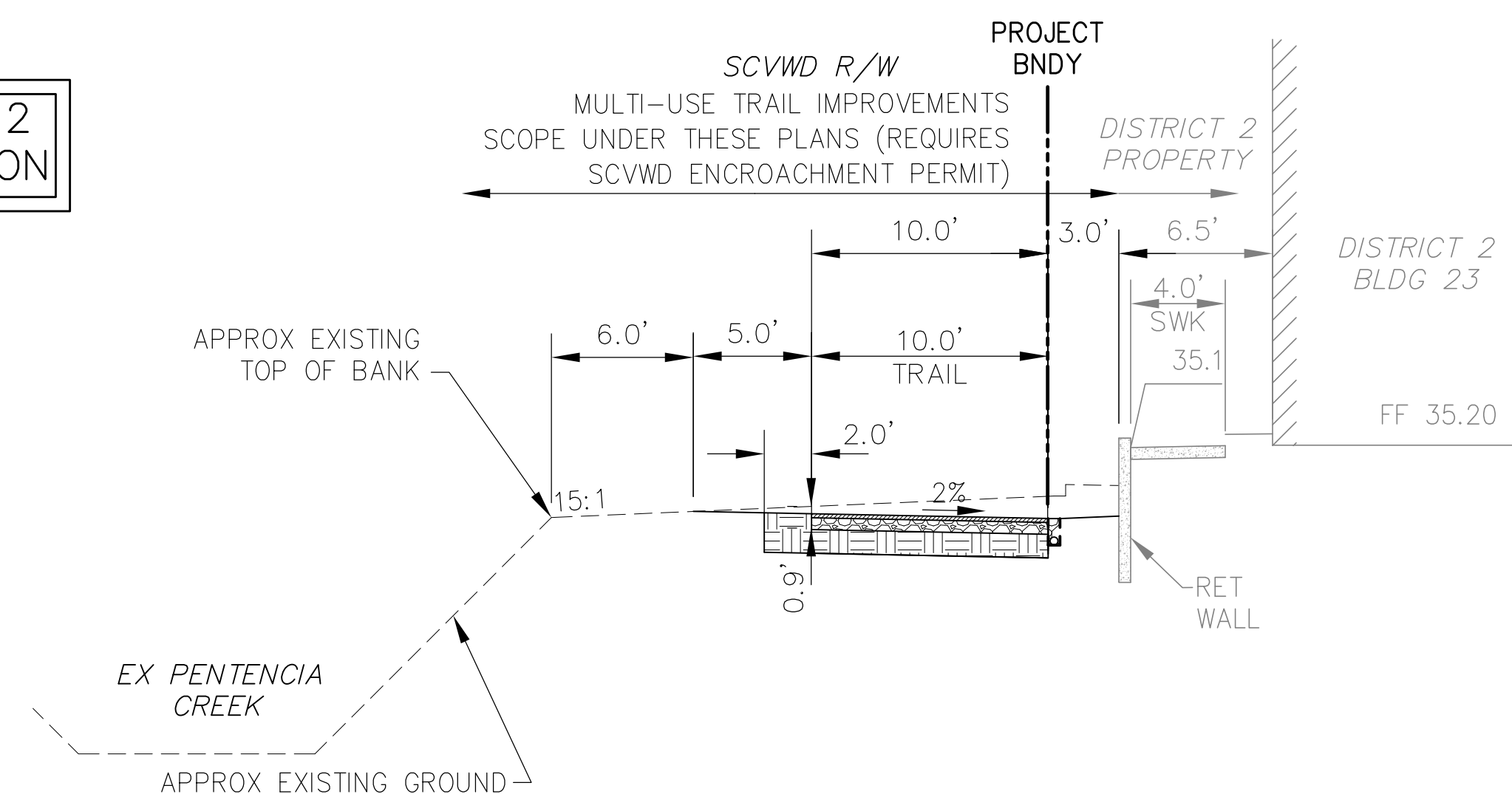
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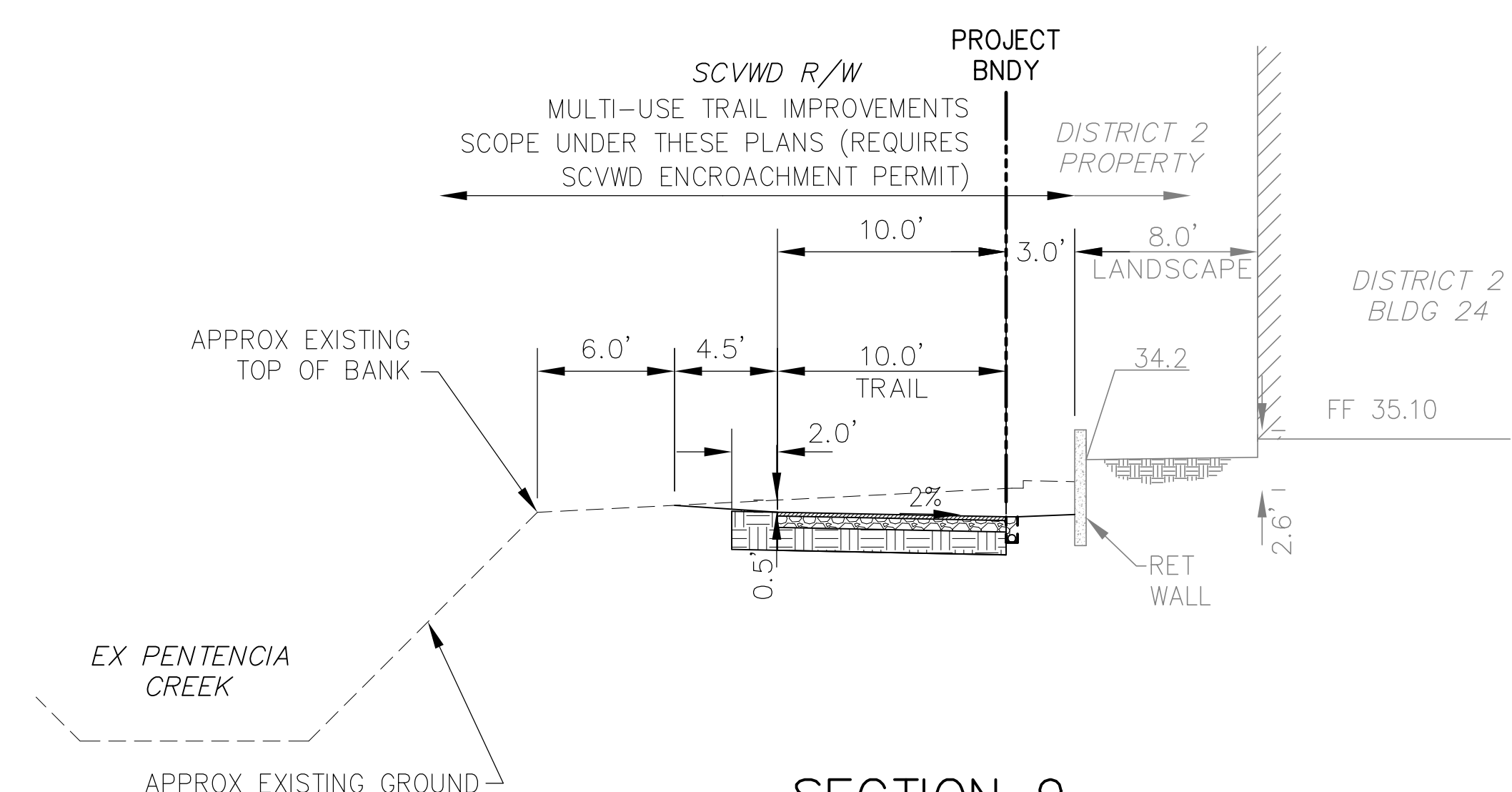
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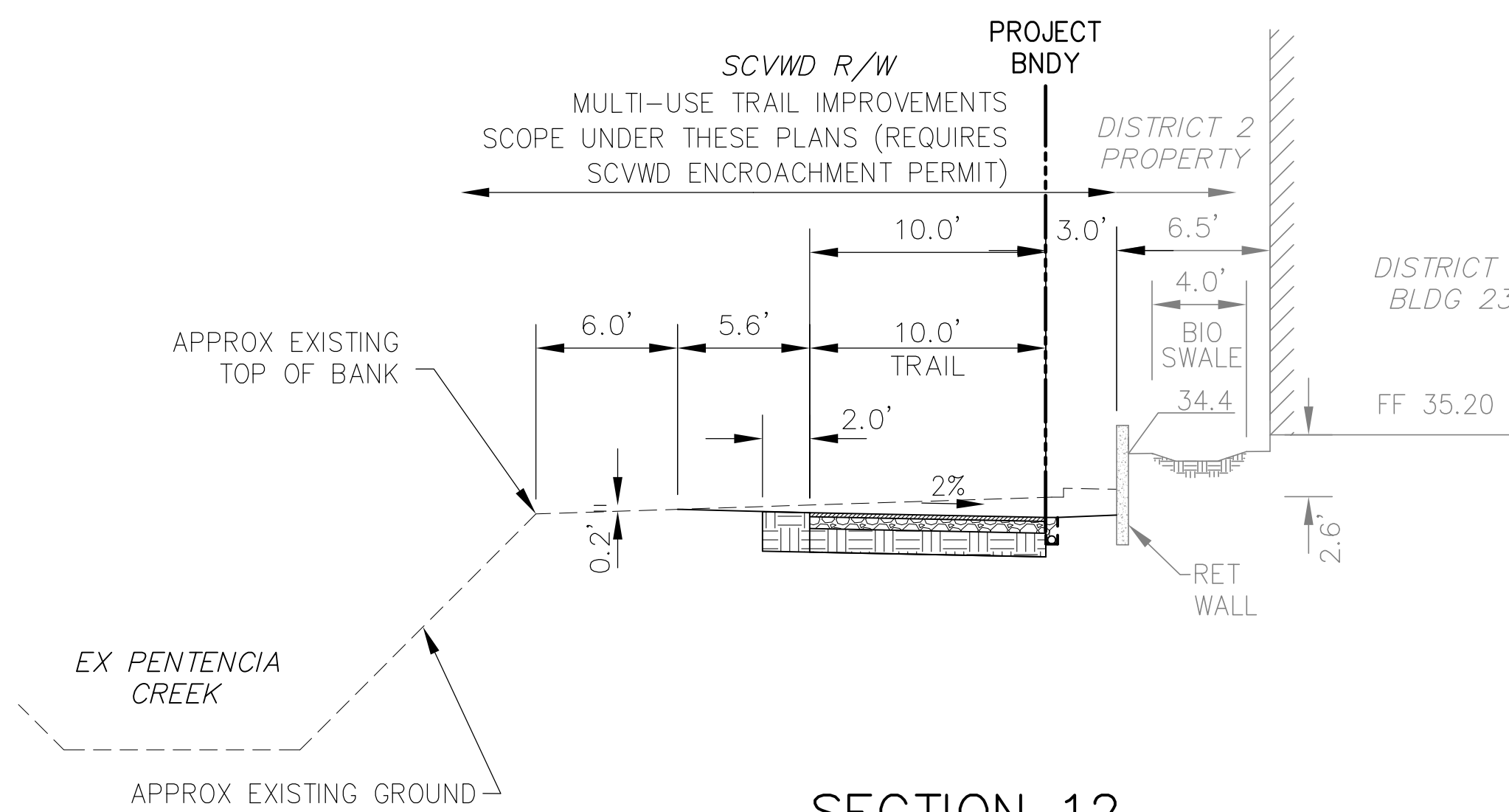
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SECTION 11
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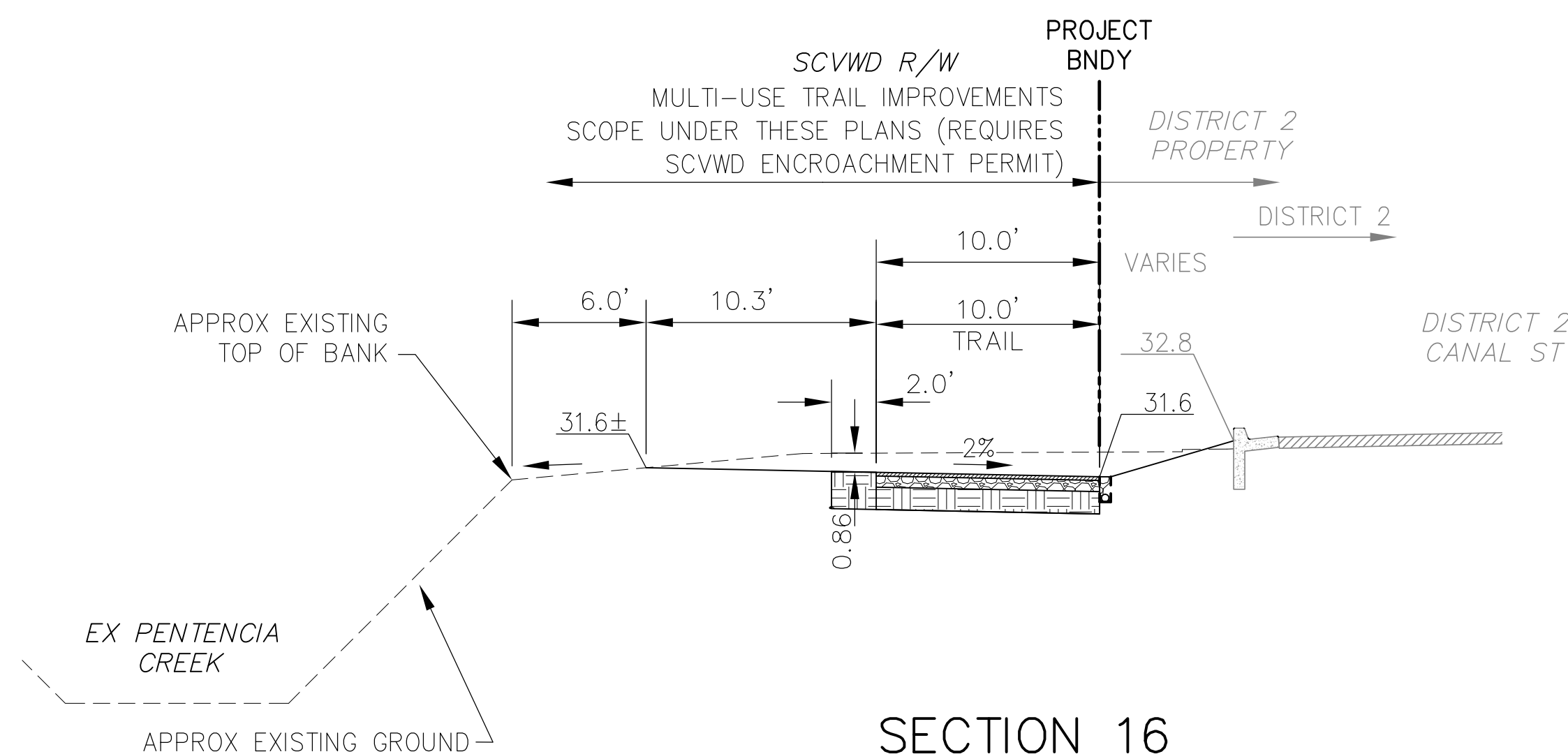
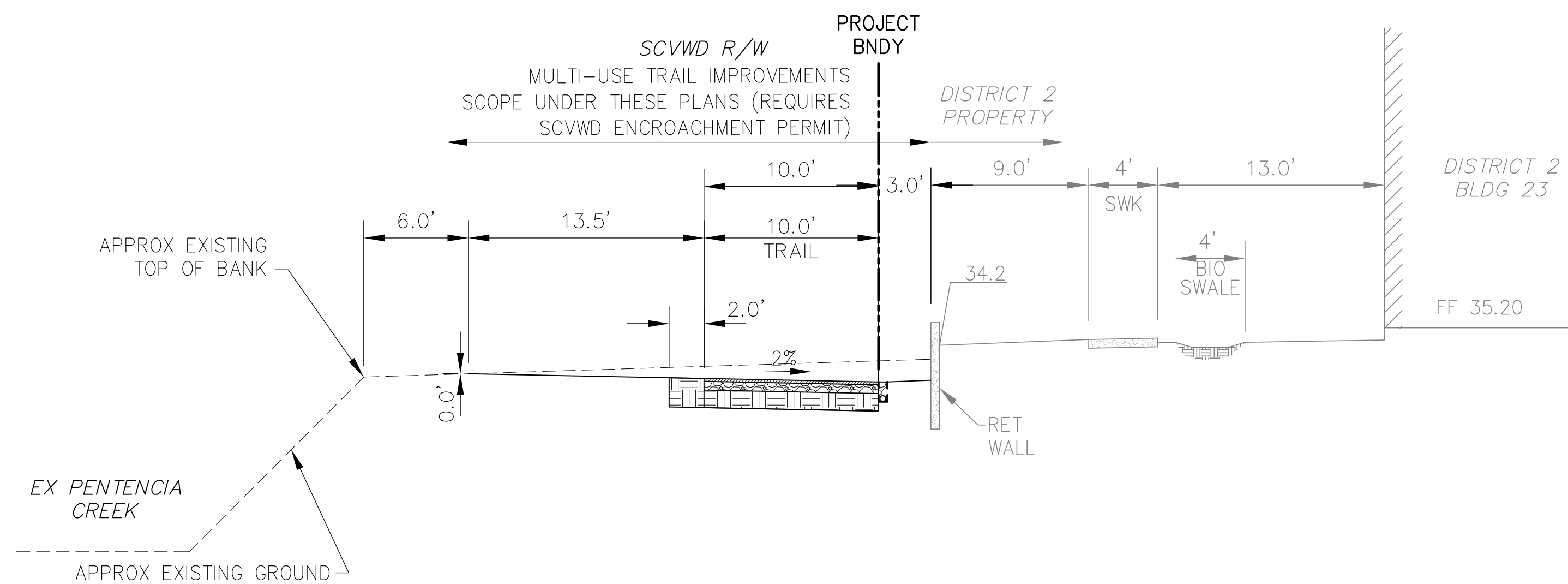


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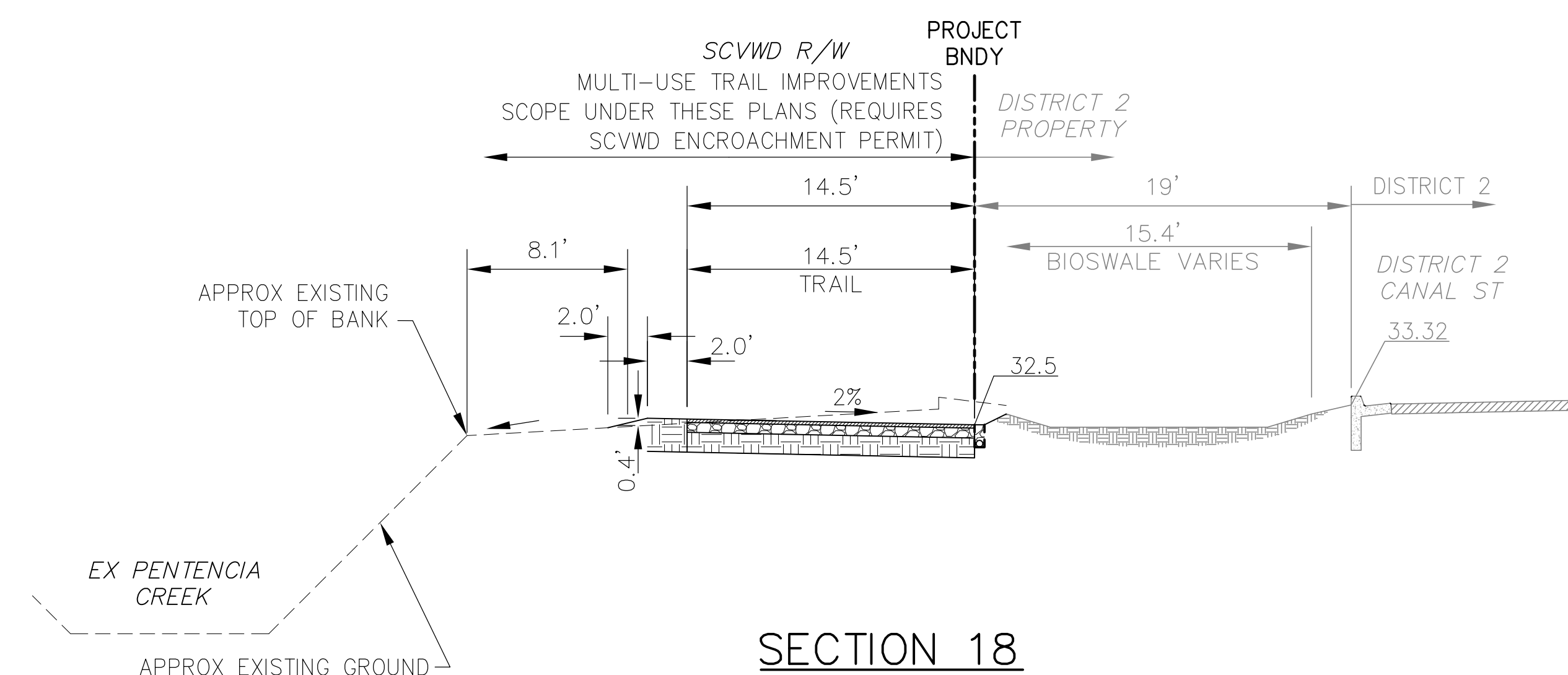
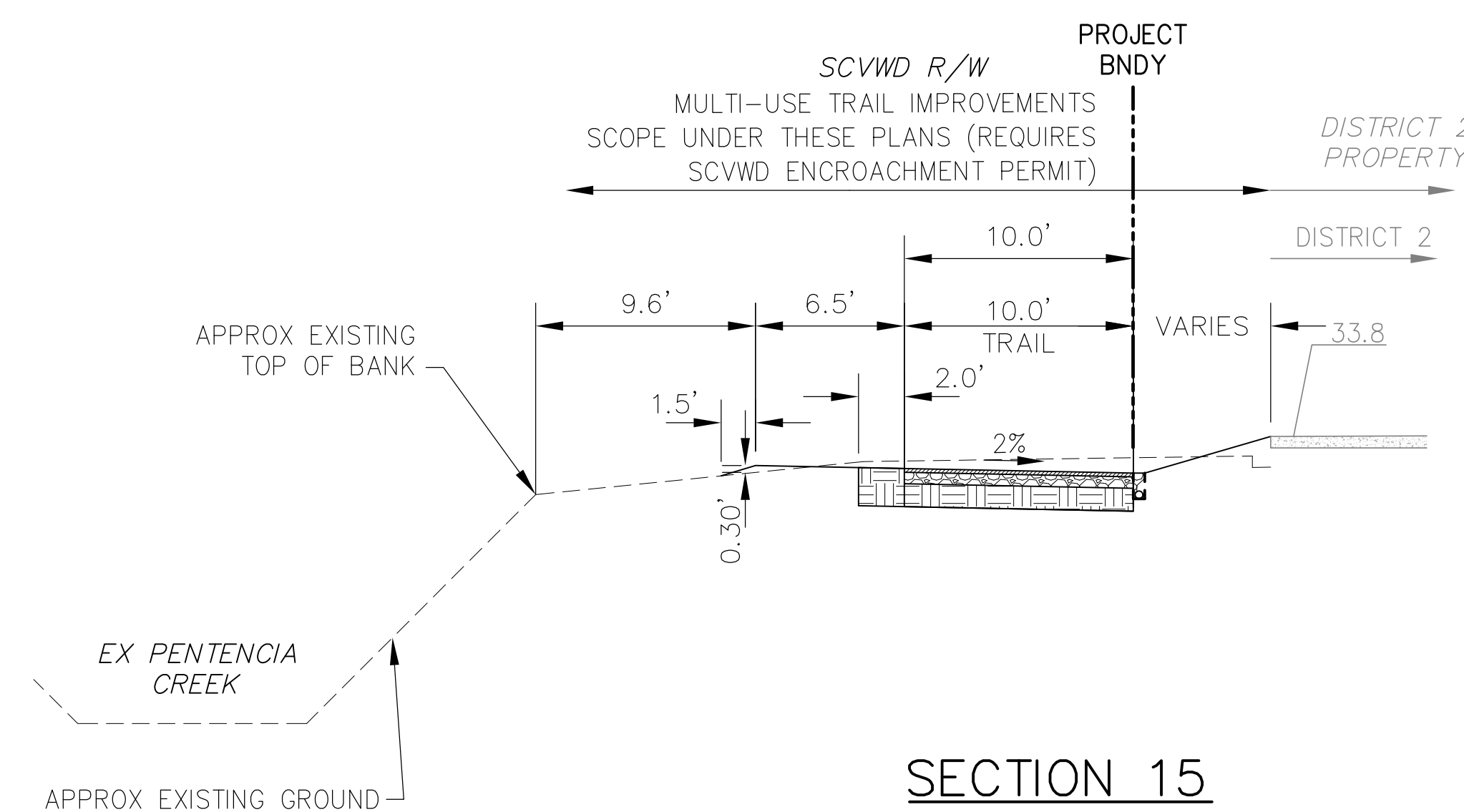
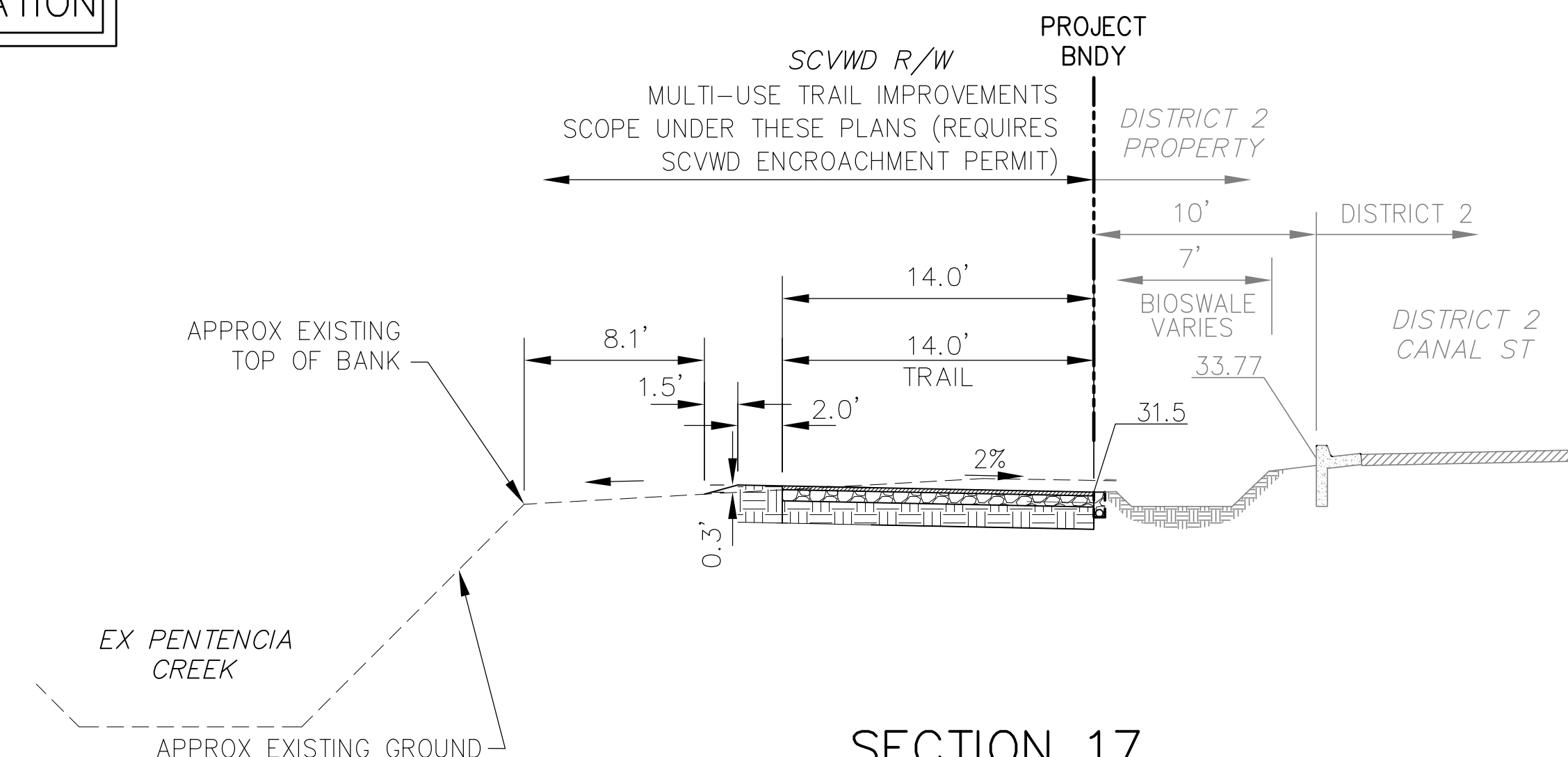
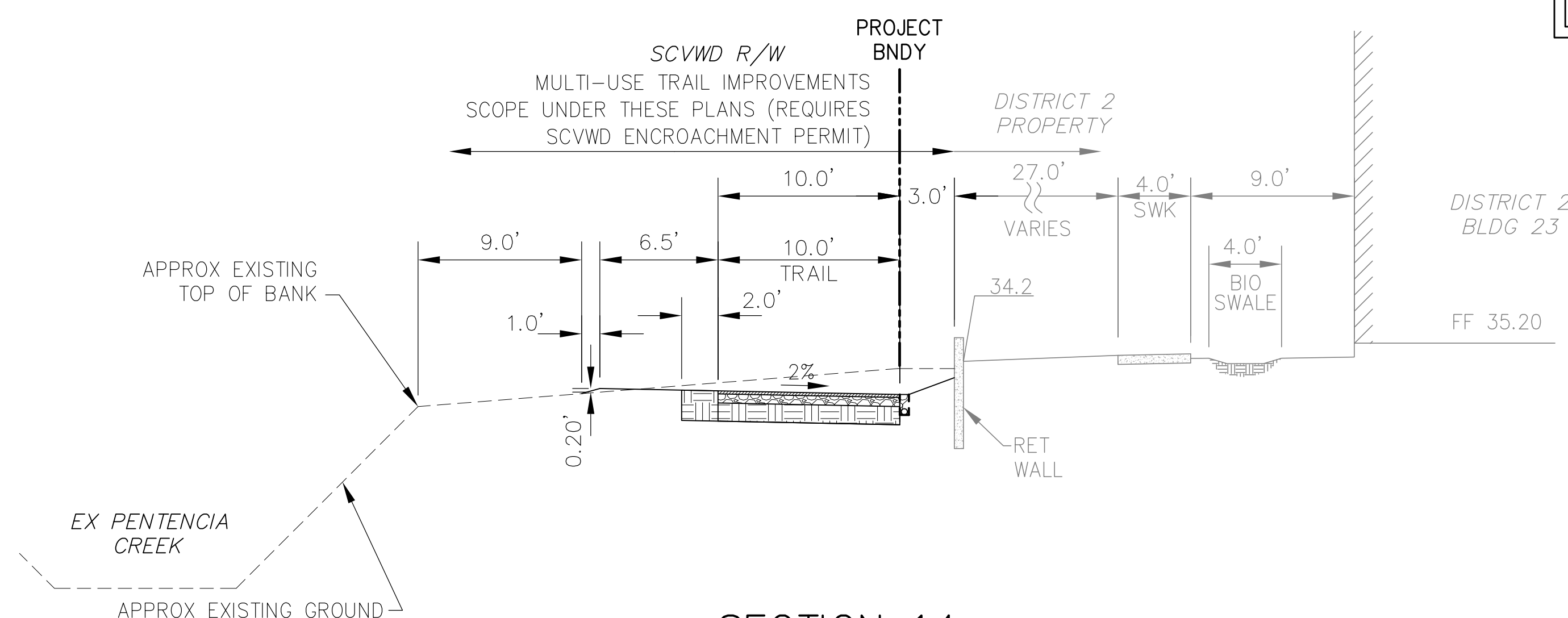


SECTION 12
NO SCALE

SEE DETAILS ON SHEET 2
FOR SECTION INFORMATION



SEE DETAILS ON SHEET 2
FOR SECTION INFORMATION



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



Record Drawings
To be completed prior to acceptance of work by the City

Signature & Seal _____ Date _____
P.E. No. _____ Exp. _____
Public Works Inspector: _____
Public Improvements initially Accepted by the City Council on: _____

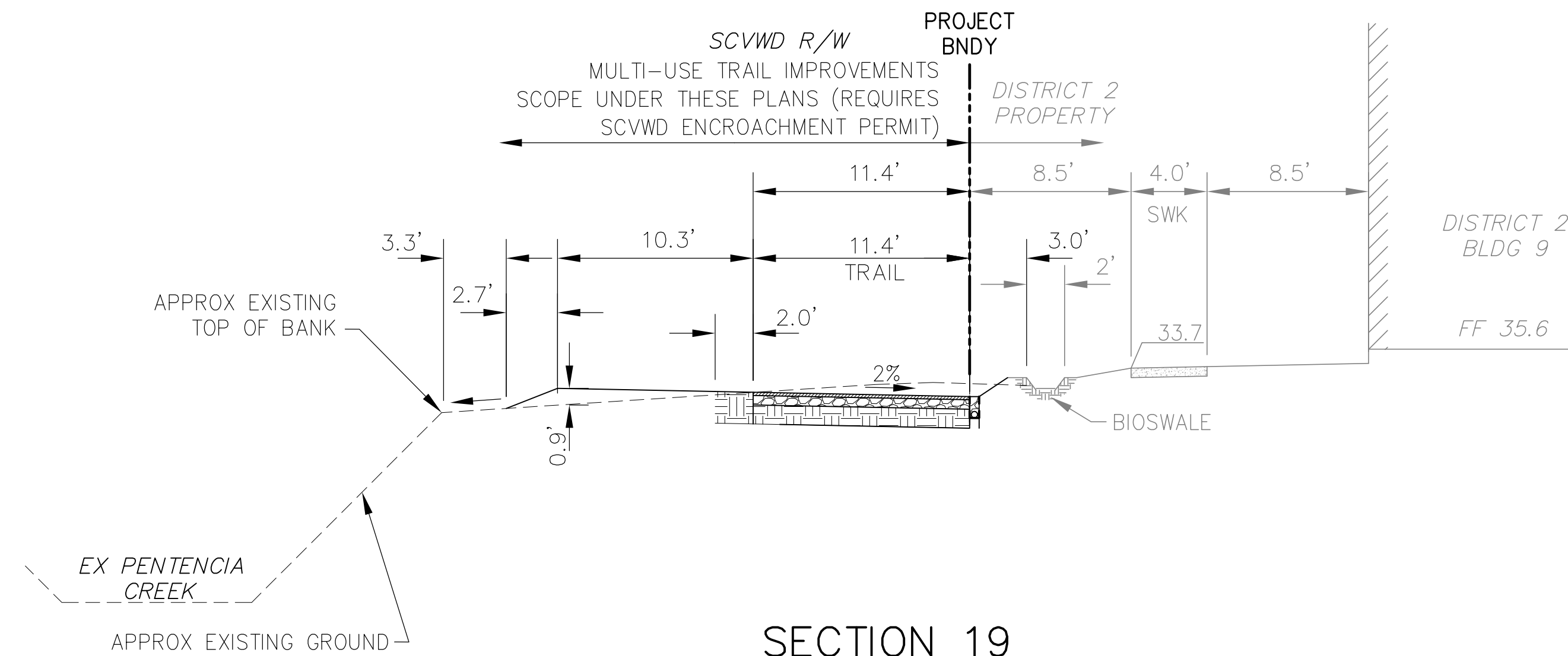
NOT FOR CONSTRUCTION
2nd SUBMITTAL
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CITY OF MILPITAS
ENGINEERING DIVISION

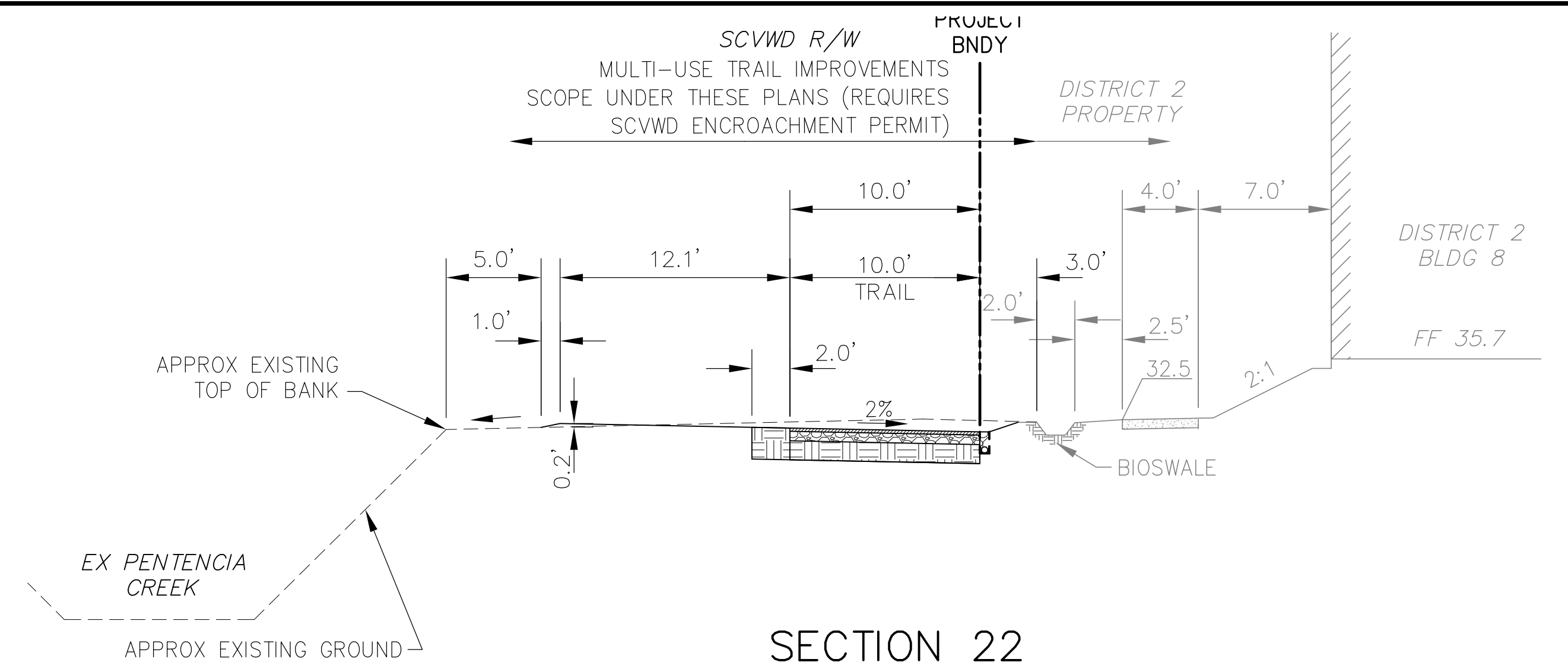
APPROVED: _____
CITY ENGINEER DATE _____
ANY CHANGES TO PUBLIC IMPROVEMENTS SHALL BE APPROVED BY THE CITY ENGINEER
RECOMMENDED FOR APPROVAL: _____
FIRE DEPT. DATE: _____
ENGINEERING DATE: _____

DISTRICT 2 MULTI-USE TRAIL
IMPROVEMENTS AND GRADING PLANS
MULTI USE TRAIL SECTIONS
MILPITAS, CALIFORNIA
FOR: TAYLOR MORRISON NOVEMBER 12, 2014

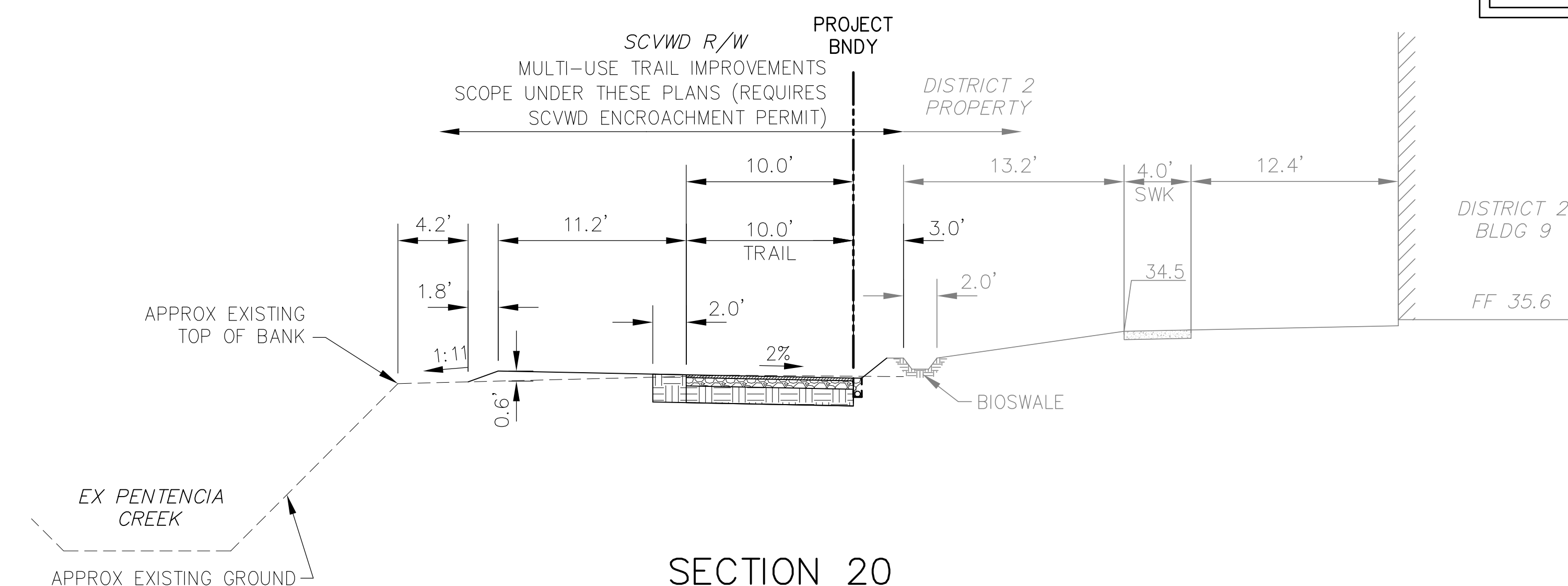
JOB NO. 072030-5000
FILE NO. _____
SCALE: NONE
SHEET
6
OF 9 SHEETS



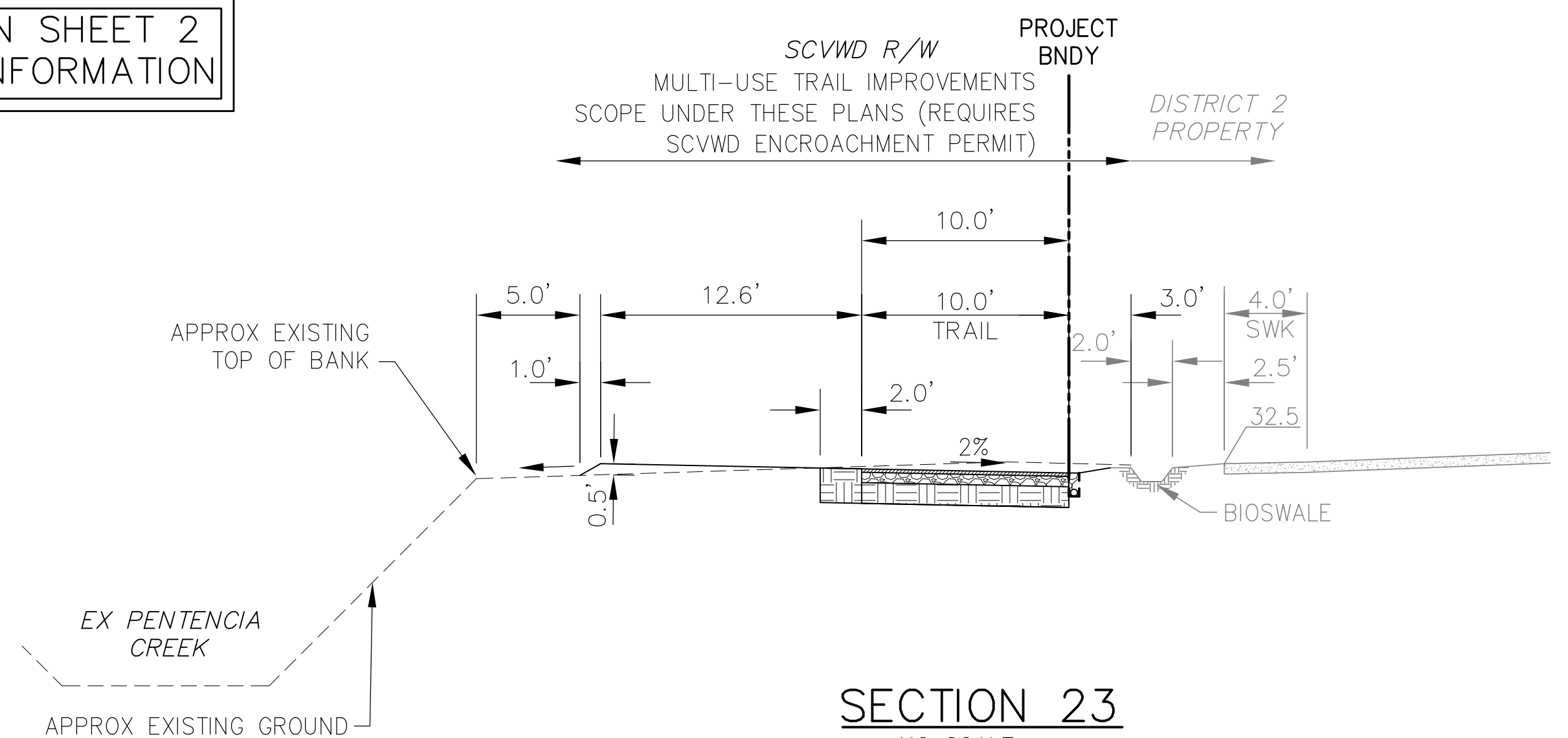
SECTION 19
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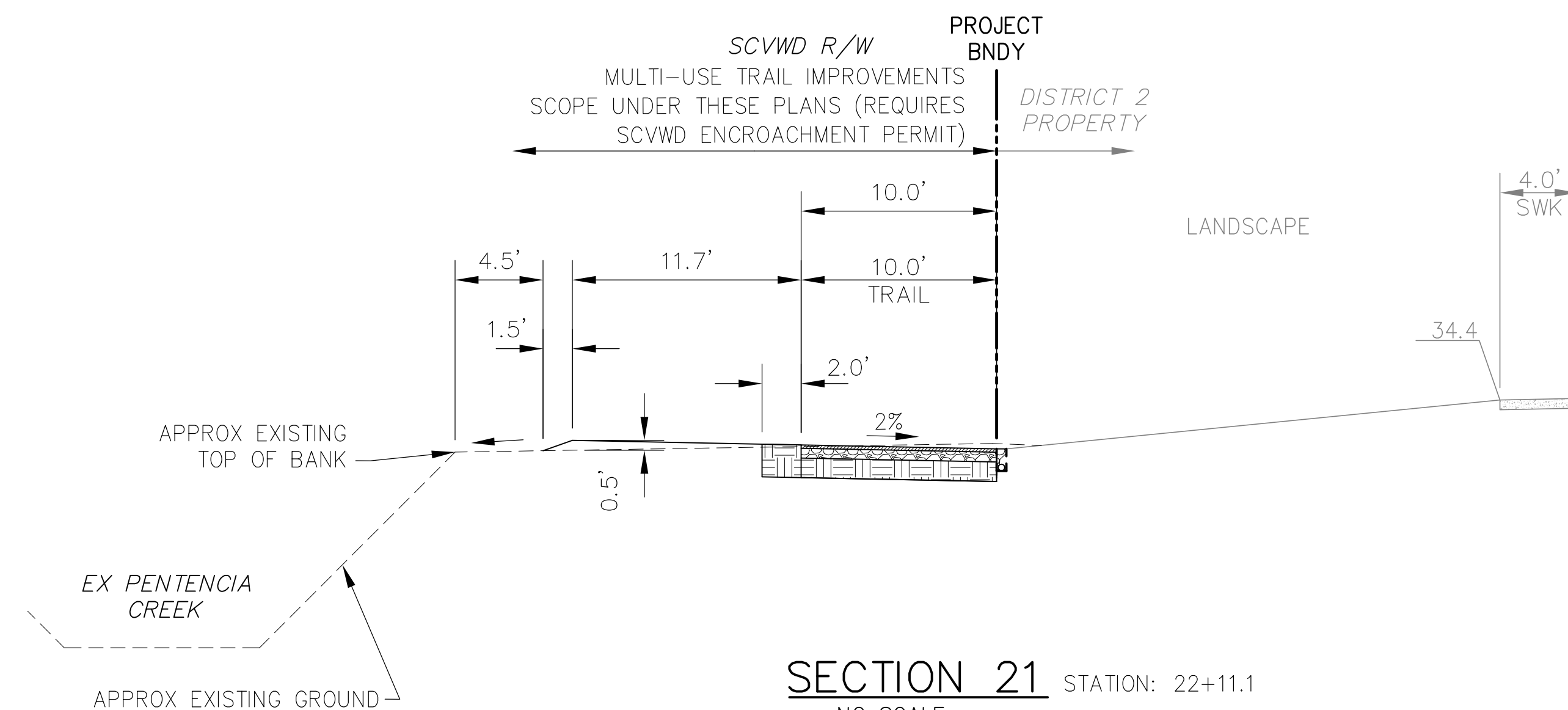
SECTION 22
NO SCALE



SECTION 20
NO SCALE



SECTION 23
NO SCALE



SECTION 21
NO SCALE

SEE DETAILS ON SHEET 2
FOR SECTION INFORMATION

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



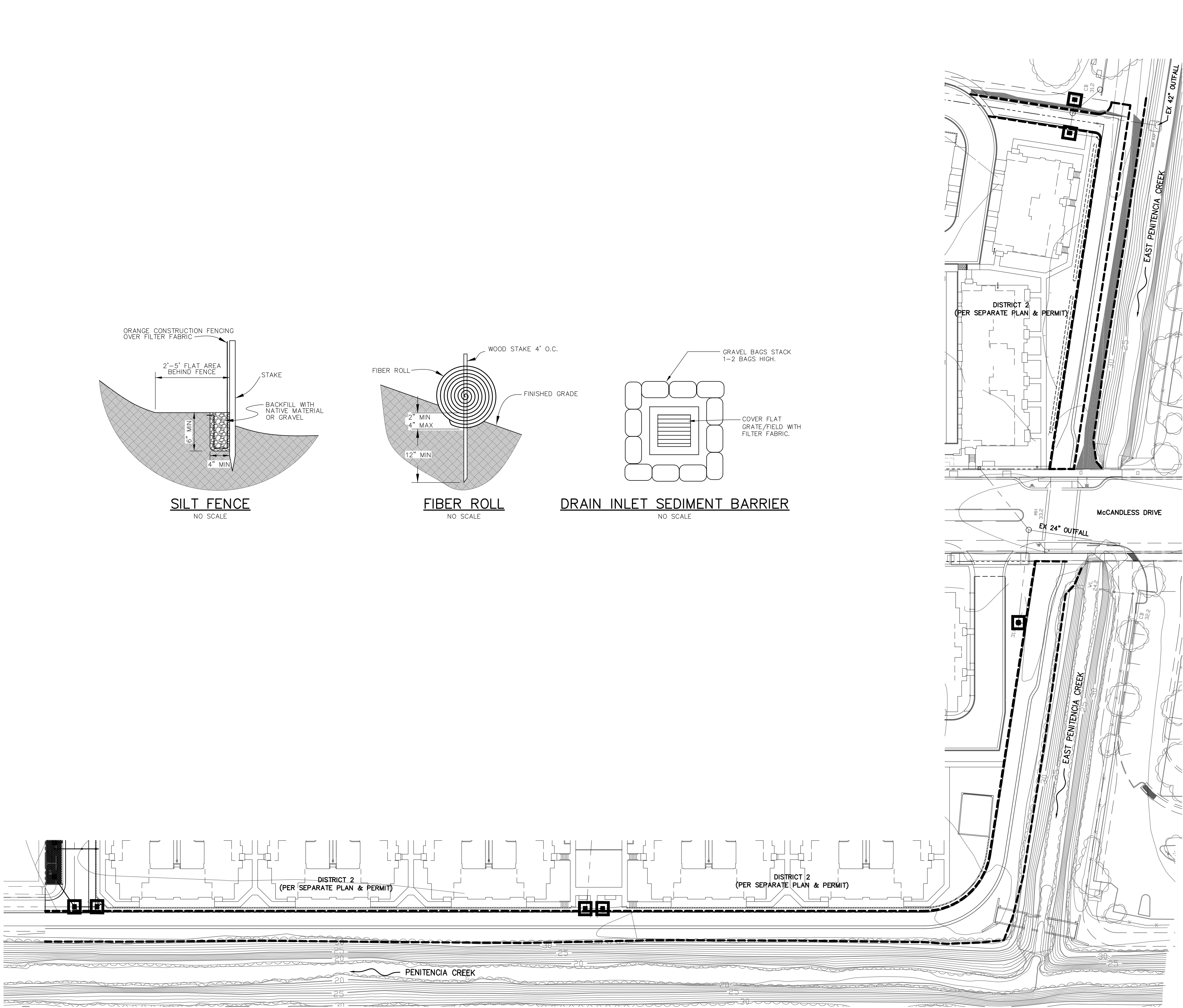
Record Drawings
To be completed prior to acceptance of work by the City
Signature & Seal _____ Date _____
P.E. No. _____ Exp. _____
Public Works Inspector: _____
Public Improvements initially Accepted by the City Council on: _____

NOT FOR CONSTRUCTION
2nd SUBMITTAL
NOVEMBER 12, 2014

CITY OF MILPITAS
ENGINEERING DIVISION
APPROVED: _____
CITY ENGINEER _____ DATE _____
ANY CHANGES TO PUBLIC IMPROVEMENTS SHALL BE APPROVED BY THE CITY ENGINEER
RECOMMENDED FOR APPROVAL: _____
FIRE DEPT. _____ DATE: _____
ENGINEERING _____ DATE: _____

DISTRICT 2 MULTI-USE TRAIL
IMPROVEMENTS AND GRADING PLANS
MULTI USE TRAIL SECTIONS
MILPITAS, CALIFORNIA
FOR: TAYLOR MORRISON
NOVEMBER 12, 2014

JOB NO. 072030-5000
FILE NO. _____
SCALE: NONE
SHEET
7
OF 9 SHEETS



LEGEND

----- LINEAR SEDIMENT CONTROL-
FIBER ROLL, SILT FENCE, OR SIMILAR

□ DRAIN INLET SEDIMENT BARRIER

■ SLOPE EROSION PROTECTION
(HYDROSEED W/ EROSION BLANKET
AND FIBER ROLLS OR EQUAL)

REFER TO DISTRICT 2 SWPPP FOR
STABILIZED CONSTRUCTION ENTRANCE,
CONCRETE WASHOUT, AND STAGING
AREAS.

WATER POLLUTION CONTROL NOTES

1. General: Refer to the District 2 project SWPPP for more information regarding good site management "housekeeping", BMPs, and additional monitoring and reporting requirements. It is the responsibility of the Qualified SWPPP Practitioner (QSP) to ensure this Erosion Control Plan and the requirements of the SWPPP are properly implemented.
2. Revisions: This Erosion Control Plan may not cover all the situations that may arise during construction due to unanticipated field conditions. The QSP shall modify this plan as necessary to identify proper erosion and sediment controls for the current phase of work. Variations shall be properly reported, and amendments made to the SWPPP if necessary, according to the procedure outlined in the project SWPPP.
3. Drain Inlet Protection: Prior to beginning construction, install drain inlet sediment barriers per the detail on this plan on all drain inlets in the vicinity of construction operations.
4. Preserve Existing Property/Vegetative: Keep vehicles and equipment off exposed soil and preserve existing vegetation as much as possible.
5. Stockpile/Staging Management: All stockpiles and staging areas shown on this plan are conceptual. Actual stockpile and staging area locations will be dependent on the construction phase and work zone. The QSP shall identify actual staging areas on this plan. Cover all stockpiles with a plastic cover when not in use and prior to storm events. Store chemicals in watertight containers with appropriate secondary containments to prevent any spillage or leakage. Install and maintain sand bag barriers and/or fiber rolls around the base of all stockpiles at all times.
6. Sawcutting, Grinding, & Pavement Removal: The water used to cool the blade during sawcutting operations must be sucked up into a shop vacuum or other approved method and disposed of properly. The fluid cannot be discharged to the storm drain system per State and Federal regulations. Collect and remove all demolished pavement from the construction site and recycle when practical or dispose of in conformance with State regulations.
7. Pavement Operations: Do not allow loose sand or gravel to wash into storm drains. Drainage inlets and manholes should be covered with filter fabric during the application of seal/tack coats or slurry/fog seals. Pavement coating and sealing should not be applied during storm events.
8. Building Pads: Apply soil binder, erosion blanket, or plastic sheeting over exposed building pad areas prior to forecasted rain events.
9. Material Delivery: All haul and delivery trucks with loose material shall be covered or a minimum two feet of freeboard maintained.
10. Street Cleaning: All paved areas shall be kept free and clear of earth material and debris. Streets shall be cleaned with a sweep vacuum truck as needed.
11. Vehicle Maintenance, Cleaning & Fueling: Vehicle maintenance, cleaning, and fueling is not allowed at the construction site and shall take place at designated offsite locations.
12. Concrete Waste Management: Washout of concrete wastes shall take place at designated onsite locations and in accordance with CASQA Handbook BMP WM-8.
13. Port-a-Pottie: Port-a-Potties should be designated as far away from public access and storm drain inlets as possible. Inspect sanitation facilities regularly for leaks and spills and clean or replace as necessary to prevent discharges of pollutants to the storm water drainage system or receiving water.
14. Construction Traffic: Traffic speeds shall be limited to 15 mph.
15. Disturbed Area Management: Apply soil binder on disturbed areas where no work will commence within 14 days. Install and establish final stabilization measures (vegetation, pavement, etc.) as soon as possible on disturbed areas where work is complete. Utility trenches in existing streets that are not completely repaired to the final condition shall be covered with temporary pavement, plates, or other equivalent method.
16. BMP Inspection and Maintenance: Construction site BMPs shall be inspected weekly and once a day during extended storm events to ensure proper implementation and functionality. BMPs shall be repaired or replaced immediately after a deficiency has been identified. Refer to the project SWPPP for more information regarding BMP maintenance.
17. Dust Control: Water all active construction areas, unpaved access roads, and staging areas at least twice a day or more often as needed to prevent dust from becoming airborne and leaving the site.

Fresh Concrete and Mortar Application

Who should use this information?

- Masons and Bricklayers
- Sidewalk Construction Crews
- Patio Construction Workers
- Construction Inspectors
- General Contractors
- Home Builders
- Developers
- Concrete Delivery/Pumping Workers



Storm Drain Pollution from Fresh Concrete And Mortar Applications

Fresh concrete and cement-related mortars that wash into lakes, streams, or estuaries are toxic to fish and the aquatic environment. Disposing of these materials to the storm drains or creeks can block storm drains, causes serious problems, and is prohibited by law.

Doing the Job Right General Business Practices

- ❑ Wash out concrete mixers only in designated wash-out areas in your yard, away from storm drains and waterways, where the water will flow into a temporary waste pit in a dirt area. Let water percolate through soil and dispose of settled, hardened concrete as garbage. Whenever possible, recycle washout by pumping back into mixers for reuse.
- ❑ Wash out chutes onto dirt areas at site that do not flow to streets or drains.
- ❑ Always store both dry and wet materials under cover, protected from rainfall and runoff and away from storm drains or waterways. Protect dry materials from wind.
- ❑ Secure bags of cement after they are open. Be sure to keep wind-blown cement powder away from streets, gutters, storm drains, rainfall, and runoff.
- ❑ Do not use diesel fuel as a lubricant on concrete forms, tools, or trailers.

During Construction

- ❑ Don't mix up more fresh concrete or cement than you will use in a two-hour period.
- ❑ Set up and operate small mixers on tarps or heavy plastic drop cloths
- ❑ When cleaning up after driveway or sidewalk construction, wash fines onto dirt areas, not down the driveway or into the street or storm drain.
- ❑ Protect applications of fresh concrete and mortar from rainfall and runoff until the material has dried.
- ❑ Wash down exposed aggregate concrete only when the wash water can (1) flow onto a dirt area; (2) drain onto a burned surface from which it can be pumped and disposed of properly; or (3) be vacuumed from a catchment created by blocking a storm drain inlet. If necessary, divert runoff with temporary berms. Make sure runoff does not reach gutters or storm drains.
- ❑ When breaking up pavement, be sure to pick up all the pieces and dispose of properly. Recycle large chunks of broken concrete at a local recycling facility.
- ❑ Never bury waste material. Dispose of small amounts of excess dry concrete, grout, and mortar in the trash.
- ❑ Never dispose of washout into the street, storm drains, drainage ditches, or streams.

Spill Cleanup

- ❑ Clean up spills immediately when they happen.
- ❑ Never hose down "dirty" pavement or impermeable surfaces where fluids have spilled. Use dry cleanup methods (absorbent materials, cat litter, and/or rags) whenever possible and properly dispose of absorbent materials.
- ❑ Sweep up spilled dry materials immediately. Never attempt to "wash them away" with water, or bury them.
- ❑ Clean up spills on dirt areas by digging up and properly disposing of contaminated soil.
- ❑ Report significant spills to the appropriate local spill response agencies immediately. In Milpitas, dial 9-1-1 if hazardous materials might enter the storm drain.

Heavy Equipment Operation

Who should use this information?

- Vehicle and Equipment Operators
- Site Supervisors
- General Contractors
- Home Builders
- Developers



Stormwater Pollution from Heavy Equipment on Construction Sites

Poorly maintained vehicles and heavy equipment that leak fuel, oil, antifreeze or other fluids on the construction site are common sources of storm drain pollution. Prevent spills and leaks by isolating equipment from runoff channels, and by watching for leaks and other maintenance problems. Remove construction equipment from the site as soon as possible.

Doing the Job Right Site Planning and Preventive Vehicle Maintenance

- ❑ Designate one area of the construction site, well away from streams or storm drain inlets, for auto and equipment parking, refueling, and routine vehicle and equipment maintenance. Contain the area with berms, sand bags, or other barriers.
- ❑ Maintain all vehicles and heavy equipment. Inspect frequently for and repair leaks.
- ❑ Perform major maintenance, repair jobs, and vehicle and equipment washing off site where cleanup is easier.
- ❑ If you must drain and replace motor oil, radiator coolant, or other fluids on site, use drip pans or drop cloth to catch drips and spills. Collect all spent fluids, store in separate containers. Recycle them wherever possible, otherwise, dispose of them as hazardous wastes.
- ❑ Do not use diesel oil to lubricate equipment parts, or clean equipment. Use only water for any on-site cleaning.
- ❑ Cover exposed fifth wheel hitches and other oily or greasy equipment during rain events.
- ❑ Use as little water as possible for dust control. Ensure water used doesn't leave silt or discharge to storm drains.

Earth-Moving and Dewatering Activities

Who should use this information?



- Bulldozer, Back Hoe, and Grading Machine Operators
- Dump Truck Drivers
- Site Supervisors
- General Contractors
- Home Builders
- Developers

Storm Drain Pollution from Earth-Moving Activities

Soil excavation and grading operations loosen large amounts of soil that can flow or blow into storm drains when handled improperly. Sediments in runoff can clog storm drains, smother aquatic life, and destroy habitats in creeks and the Bay. Effective erosion control practices reduce the amount of runoff crossing a site and slow the flow with check dams or roughened ground surfaces.

Contaminated groundwater is a common problem in the Santa Clara Valley. Depending on soil types and site history, groundwater pumped from construction sites may be contaminated with toxics (such as oil or solvents) or laden with sediments. Any of these pollutants can harm wildlife in creeks or the Bay, or interfere with wastewater treatment plant operation. Discharging sediment-laden water from a dewatering site into any water of the state without treatment is prohibited.

Doing the Job Right General Business Practices

- ❑ Schedule excavation and grading work during dry weather.
- ❑ Perform major equipment repairs away from the job site.
- ❑ When refueling or vehicle/equipment maintenance must be done on site, designate a location away from storm drains.
- ❑ Do not use diesel oil to lubricate equipment parts, or clean equipment.
- ❑ Remove existing vegetation only when absolutely necessary. Plant temporary vegetation for erosion control on slopes or where construction is not immediately planned.
- ❑ Protect downslope drainage courses, streams, and storm drains with wattles, or temporary drainage swales. Use check dams or ditches to divert runoff around excavations. Refer to the Regional Water Quality Control Board's Erosion and Sediment Control

Field Manual For proper erosion and sediment control measures and California Stormwater Quality Association Stormwater Best Management Practice Handbook (Construction, 2003)

- ❑ Cover stockpiles and excavated soil with secured tarps or plastic sheeting.

Dewatering Operations Check for Toxic Pollutants

- ❑ Check for odors, discoloration, or an oily sheen on groundwater.
- ❑ Call your local wastewater treatment agency and ask whether the groundwater must be tested.
- ❑ If contamination is suspected, have the water tested by a certified laboratory.
- ❑ Depending on the test results, you may be allowed to discharge pumped groundwater to the storm drain (if no solvents present) or sanitary sewer. OR, you may be required to collect and haul pumped groundwater offsite for treatment and disposal at an appropriate treatment facility.

Check for Sediment Levels

- ❑ If the water is clear, the pumping time is less than 24 hours, and the flow rate is less than 20 gallons per minute, you may pump water to the street or storm drain.
- ❑ If the pumping time is more than 24 hours and the flow rate greater than 20 gpm, call your local wastewater treatment plant for guidance.
- ❑ If the water is not clear, solids must be filtered or settled out by pumping to a settling tank prior to discharge. Options for filtering include:
 - Pumping through a perforate pipe sunk part way into a small pit filled with gravel.
 - Pumping from a bucket placed below water level using a submersible pump.
 - Pumping through a filtering device such as a swimming pool filter or filter fabric wrapped around end of suction pipe.
- ❑ When discharging to a storm drain, protect the inlet using a barrier of burlap bags filled with drain rock, or cover inlet with filter fabric anchored under the grate. OR pump water through a grassy swale prior to discharge.

Detecting Contaminated Soil or Groundwater

Contaminated groundwater is a common problem in the Santa Clara Valley. It is essential that all contractors and subcontractors involved know what to look for in detecting contaminated soil or groundwater, and testing ponded groundwater before pumping. Watch for any of these conditions:

1. Unusual soil conditions, discoloration or odor.
2. Abandoned underground tanks.
3. Abandoned wells.
4. Buried barrels, debris or trash.

If any of these are found follow the procedures below.



BLUEPRINT FOR A CLEAN BAY

Best Management Practices for the Construction Industry

Remember: The property owner and the contractor share ultimate responsibility for the activities that occur on a construction site. You may be held responsible for any environmental damage caused by your subcontractors or employees.

Preventing Pollution: It's Up to Us

In the Santa Clara Valley, storm drains transport water directly to local creeks and San Francisco Bay without treatment. Stormwater pollution is a serious problem for wildlife dependent on our creeks and bays and for the people who live near polluted streams or bays. Common sources of the pollution include spilled oil, fuel, and fluids from vehicles and heavy equipment; construction debris; sediment created by erosion; landscaping runoff containing pesticides or weed killers; and materials such as used motor oil, antifreeze, and paint products that people pour or spill into a street or storm drain.



Santa Clara Valley Urban Runoff Pollution Prevention Program

Thirteen valley municipalities have joined together with Santa Clara County and the Santa Clara Valley Water District to educate local residents and businesses and fight stormwater pollution. This "blueprint" summarizes "Best Management Practices" (BMPs) for stormwater pollution prevention.

Spill Response Agencies:

1. Dial 911
2. Santa Clara County Environmental Health Services (408) 299-6930
3. Governor's Office of Emergency Services Warning Center (800) 852-7550 (24 hours).

Local Pollution Control Agencies

- Santa Clara County Office of Toxics and Solid Waste Management (408) 441-1195
- Santa Clara Valley Water District (408) 265-2600
- San Jose/Santa Clara Water Pollution Control Plant (408) 945-5300
- Serving Milpitas, Cupertino, Los Gatos, Milpitas, Monte Sereno, San Jose, Santa Clara and Saratoga

Small Business Hazardous Waste Disposal Program

Santa Clara County businesses that generate less than 27 gallons or 220 pounds of hazardous waste per month are eligible to use Santa Clara County's Small Business Hazardous Waste Disposal Program. Call (408) 299-7300 for a quote, more information or guidance on disposal.

General Construction and Site Supervision

Who should use this information?

- General Contractors
- Site Supervisors
- Inspectors
- Home Builders
- Developers
- Homeowners



Storm Drain Pollution from Construction Activities

Construction sites are common sources of storm water pollution. Materials and wastes that blow or wash into a storm drain, gutter, or street have a direct impact on local creeks and the Bay.

As a contractor, or site supervisor, owner or operator of a site, you may be responsible for any environmental damage caused by your subcontractors or employees.

Doing the Job Right General Principles

- ❑ Keep an orderly site and ensure good housekeeping practices are used.
- ❑ Maintain equipment properly.
- ❑ Cover materials when they are not in use.
- ❑ Keep materials away from streets, storm drains and drainage channels.
- ❑ Ensure dust control water doesn't leave site or discharge to storm drains.

Advance Planning To Prevent Pollution

- ❑ Schedule excavation and grading activities for dry weather periods. To reduce soil erosion, plant temporary vegetation or place other erosion controls before rain begins. Use the Erosion and Sediment Control Field Manual, available from the Regional Water Quality Control Board San Francisco Bay Region, as a reference.
- ❑ Control the amount of runoff crossing your site (especially during excavation) by using berms or temporary or permanent drainage ditches to divert water flow around the site. Reduce stormwater runoff velocities by constructing temporary check dams or berms where appropriate.
- ❑ Train your employees and subcontractors. Make these brochures available to everyone who works on the construction site. Inform subcontractors about the stormwater requirements and their own responsibilities.

Good Housekeeping Practices

- ❑ Designate one area of the site for auto parking, vehicle refueling, and routine equipment maintenance. The designated area should be well away from streams or storm drain inlets, bermed if necessary. Make major repairs off site.
- ❑ Keep materials out of the rain - prevent runoff contamination at the source. Cover exposed piles of soil or construction materials with plastic sheeting or temporary roofs. Before it rains, sweep and remove materials from surfaces that drain to storm drains, creeks, or channels.
- ❑ Keep pollutants off exposed surfaces. Place trash cans and recycling receptacles around the site to minimize litter.
- ❑ Clean up leaks, drips and other spills immediately so they do not contaminate soil or groundwater or leave residue on paved surfaces.
- ❑ Never hose down "dirty" pavement or surfaces where materials have spilled.
- ❑ Use dry cleanup methods whenever possible. If you must use water, use just enough to keep the dust down.
- ❑ Cover and maintain dumpsters. Check frequently for leaks. Place dumpsters under roofs or cover with tarps or plastic sheeting secured around the outside of the dumpster. Never clean out a dumpster by hosing it down on the construction site.

- ❑ Place portable toilets away from storm drains. Make sure portable toilets are in good working order. Check frequently for leaks.

Materials/Waste Handling

- ❑ Practice Source Reduction - minimize waste when you order materials. Order only the amount you need to finish the job.
- ❑ Use recyclable materials whenever possible. Arrange for pick-up of recyclable materials such as concrete, asphalt, scrap metal, solvents, degreasers, cleared vegetation, paper, rock, and vehicle maintenance materials such as used oil, antifreeze, batteries, and tires.
- ❑ Dispose of all wastes properly. Many construction materials and wastes, including solvents, water-based paints, vehicle fluids, broken asphalt and concrete, wood, and cleared vegetation can be recycled. Materials that cannot be recycled must be taken to an appropriate landfill or disposed of as hazardous waste. Never bury waste materials or leave them in the street or near a creek or stream bed.

Permits

- ❑ In addition to local grading and building permits, you will need to obtain coverage under the State's General Construction Activity Stormwater Permit if your construction site's disturbed area totals 1 acre or more. Information on the General Permit can be obtained from the Regional Water Quality Control Board.

Landscaping, Gardening, And Pool Maintenance

Who should use this information?

- Landscapers
- Gardeners
- Swimming Pool/Spa Service and Repair Workers
- General Contractors
- Home Builders
- Developers
- Homeowners



Storm Drain Pollution from Landscaping and Swimming Pool Maintenance

Many landscaping activities expose soils and increase the likelihood that earth and garden chemicals will run off into the storm drains during irrigation or when it rains. Swimming pool water containing chlorine and copper-based algaecides should never be discharged to storm drains. These chemicals are toxic to aquatic life.

Doing the Job Right General Business Practices

- ❑ Protect stockpiles (e.g. asphalt, sand, or soil) and landscaping materials from wind and rain by storing them under tarps or secured plastic sheeting.
- ❑ Store pesticides, fertilizers, and other chemicals indoors or in a shed or storage cabinet.
- ❑ Schedule grading and excavation projects during dry weather.
- ❑ Use temporary check dams or ditches to divert runoff away from storm drains.
- ❑ Protect storm drains with sandbags or other sediment controls.
- ❑ Revegetation is an excellent form of erosion control for any site. Replant as soon as possible with temporary vegetation such as grass seed.
- ❑ Landscaping/Garden Maintenance
 - ❑ Consider using Integrated Pest Management Techniques. Use pesticides sparingly, according to instructions on the label. Rinse empty containers, and use insecticide as product. Dispose of insecticide containers in the trash.
 - ❑ Dispose of unused pesticides as hazardous waste.

- ❑ Collect lawn and garden clippings, pruning waste, and tree trimmings. Chip if necessary, and compost if possible.
- ❑ Do not blow or rake leaves, etc. into the street, or place yard waste in gutters or on dirt shoulders. Sweep up any leaves, litter or residue in gutters or on street.

Pool/Fountain/Spa Maintenance Draining pools or spas

- ❑ When it's time to drain a pool, spa, or fountain, please be sure to call your local wastewater treatment plant before you start for further guidance on flow rate restrictions, backflow prevention, and handling special cleaning waste (such as acid wash). Discharge flows should be kept to the low levels typically possible through a garden hose. Higher flow rates may be prohibited by local ordinance.
- ❑ Never discharge pool or spa water to a street or storm drain; discharge to a sanitary sewer cleanout.
- ❑ If possible, when emptying a pool or spa, let chlorine dissipate for a few days and then recycle/reuse water by draining it gradually onto a landscaped area. OR

- ❑ San Jose/Santa Clara Water Pollution Control Plant (408) 945-5300. You may be able to discharge to the sanitary sewer by running the hose to a utility sink or sewer pipe clean-out.
- ❑ Do not use copper-based algaecides. Control algae with chlorine or other alternatives, such as sodium bromide.

Filter Cleaning

- ❑ Never clean a filter in the street or near a storm drain. Rinse cartridge and diatomaceous earth filters onto a dirt area, and spade filter residue into soil. Dispose of spent diatomaceous earth in the garbage.
- ❑ If there is no suitable dirt call San Jose/Santa Clara Water Pollution Control Plant (408) 945-5300 for instructions on discharging filter backwash or rinse water to the sanitary sewer.

Roadwork and Paving

Who should use this information?

- Road Crews
- Driveway/Sidewalk/Parking Lot Construction Crews
- Seal Coat Contractors
- Operators of Grading Equipment, Paving Machines, Dump Trucks, Concrete Mixers
- Construction Inspectors
- General Contractors
- Developers
- Home Builders



Storm Drain Pollution from Roadwork

Road paving, surfacing, and pavement removal happen right in the street, where there are numerous opportunities for asphalt, saw-cut slurry, or excavated material to illegally enter storm drains. Extra planning is required to store and dispose of materials properly and guard against pollution of storm drains, creeks, and the Bay.

Doing the Job Right General Business Practices

- ❑ Develop and implement erosion/sediment control plans for roadway embankments.
- ❑ Schedule excavation and grading work during dry weather.
- ❑ Check for and repair leaking equipment.
- ❑ Perform major equipment repairs at designated areas in your maintenance yard, where cleanup is easier. Avoid performing equipment repairs at construction sites.
- ❑ When refueling or when vehicle/equipment maintenance must be done on site designate a location away from storm drains and creeks.
- ❑ Do not use diesel oil to lubricate equipment parts or clean equipment.
- ❑ Recycle used oil, concrete, broken asphalt, etc. whenever possible, or dispose of properly.

During Construction

- ❑ Avoid paving and seal coating in wet weather, or when rain is forecast, to prevent fresh materials from contacting stormwater runoff.
- ❑ Cover and seal catch basins and manholes when applying seal coat, slurry seal, fog seal, or similar materials.
- ❑ Protect drainage ways by using earth dikes, sand bags, or other controls to divert or trap and filter runoff.
- ❑ After breaking up old pavement, be sure to remove all chunks and pieces. Make sure broken pavement does not come in contact with rainfall or runoff.
- ❑ When making saw cuts, use as little water as possible. Shovel or vacuum saw-cut slurry and remove from the site. Cover or protect storm drain inlets during saw-cutting. Sweep up, and properly dispose of, all residues.
- ❑ Sweep, never hose down streets to clean up tracked dirt. Use a street sweeper or vacuum truck. Do not dump vacuumed liquor in storm drains.
- ❑ Collect and recycle or appropriately dispose of excess abrasive gravel or sand.
- ❑ Avoid over-application by water trucks for dust control.
- ❑ Asphalt/Concrete Removal
 - ❑ Avoid creating excess dust when breaking asphalt or concrete.
 - ❑ After breaking up old pavement, be sure to remove all chunks and pieces. Make sure broken pavement does not come in contact with rainfall or runoff.
 - ❑ When making saw cuts, use as little water as possible. Shovel or vacuum saw-cut slurry and remove from the site. Cover or protect storm drain inlets during saw-cutting. Sweep up, and properly dispose of, all residues.
 - ❑ Sweep, never hose down streets to clean up tracked dirt. Use a street sweeper or vacuum truck. Do not dump vacuumed liquor in storm drains.
- ❑ Clean up all spills and leaks using "dry" methods (with absorbent materials and/or rags). Dig up, remove, and properly dispose of contaminated soil.

Paint Removal

- ❑ Paint chips and dust from non-hazardous dry stripping and sand blasting may be swept up or collected in plastic drop cloths and disposed of as trash.
- ❑ Chemical paint stripping residue and chips and dust from marine paints or paints containing lead, mercury or tributyl tin must be disposed of as hazardous wastes. Lead based paint removal requires a state-certified contractor.
- ❑ When stripping or cleaning building exteriors with high-pressure water, block storm drains. Direct wash water onto a dirt area to find out if you can collect (mop or vacuum) building cleaning water and dispose to the sanitary sewer. Sampling of the water may be required to assist the wastewater treatment authority in making its decision.

Painting Cleanup

- ❑ Never clean brushes or rinse paint containers into a street, gutter, storm drain, French drain, or stream.
- ❑ For water-based paints, paint out brushes to the extent possible, and rinse into a drain that goes to the sanitary sewer.

Never pour paint down a storm drain. Dispose of excess liquids and residue as hazardous waste.

- ❑ For oil-based paints, paint out brushes to the extent possible and clean with thinner or solvent in a proper container. Filter and reuse thinners and solvents. Dispose of excess liquids and residue as hazardous waste.
- ❑ When thoroughly dry, empty paint cans, used brushes, rags, and drop cloths may be disposed of as garbage in a sanitary landfill. Leave lids off paint cans so the refuse collector can see that they are empty. Empty, dry paint cans also may be recycled as metal.
- ❑ Dispose of empty aerosol paint cans as hazardous waste or at household hazardous waste collection events.

Recycle/Reuse Leftover Paints Whenever Possible

- ❑ Donate excess water-based (latex) paint for reuse.
- ❑ Reuse leftover oil-based paint. Dispose of non-recyclable thinners, sludge and unwanted paint, as hazardous waste.
- ❑ Unopened cans of paint may be able to be returned to the paint vendor. Check with the vendor regarding its "buy-back" policy.

Painting and Application of Solvents and Adhesives

Who should use this information?

- Painters
- Paperhangers
- Plasterers
- Graphic Artists
- Dry Wall Crews
- Floor Covering Installers
- General Contractors
- Home Builders
- Developers
- Homeowners



Storm Drain Pollution from Paints, Solvents, and Adhesives

All paints, solvents, and adhesives contain chemicals that are harmful to wildlife in local creeks, San Francisco Bay, and the Pacific Ocean. Toxic chemicals may come from liquid or solid products or from cleaning residues or rags. Paint material and wastes, adhesives and cleaning fluids should be recycled when possible, or disposed of properly to prevent these materials from flowing into storm drains and watercourses.

Doing the Job Right Handling Paint Products

- ❑ Keep all liquid paint products and wastes away from the gutter, street, and storm drains. Liquid residues from paints, thinners, solvents, glues, and cleaning fluids are hazardous wastes and must be disposed of as hazardous.
- ❑ Wash water from painted buildings constructed before 1978 contain high amounts of lead, even if paint chips are not present. Before you begin stripping paint or cleaning pre-1978 building exteriors with water under high pressure, test paint for lead by taking paint scrapings to a local laboratory. See Yellow Pages for a state-certified laboratory.
- ❑ If there is loose paint on the building, or if the paint tests positive for lead, block storm drains. Check with the wastewater treatment plant to determine whether you may discharge water to the sanitary sewer, or if you must send it offsite for disposal as hazardous waste.

Record Drawings

To be completed prior to acceptance of work by the City

Signature & Seal P.E. No. Exp. Date

Public Works Inspector:

Public Improvements initially Accepted by the City Council on:

NOT FOR CONSTRUCTION
2nd SUBMITTAL
NOVEMBER 12, 2014

CITY OF MILPITAS ENGINEERING DIVISION

APPROVED:

CITY ENGINEER DATE

ANY CHANGES TO PUBLIC IMPROVEMENTS SHALL BE APPROVED BY THE CITY ENGINEER

RECOMMENDED FOR APPROVAL: FIRE DEPT. DATE:

ENGINEERING DATE:

DISTRICT 2 MULTI-USE TRAIL IMPROVEMENTS AND GRADING PLANS

BEST MANAGEMENT PRACTICES

MILPITAS, CALIFORNIA

FOR: TAYLOR MORRISON

NOVEMBER 12, 2014

JOB NO. 072030-5000

FILE NO.

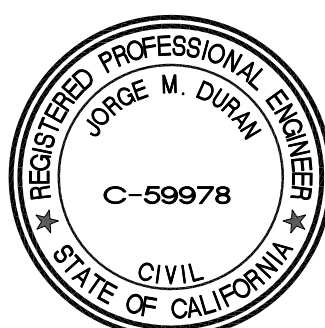
SCALE:

SHEET

9

OF 9 SHEETS

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

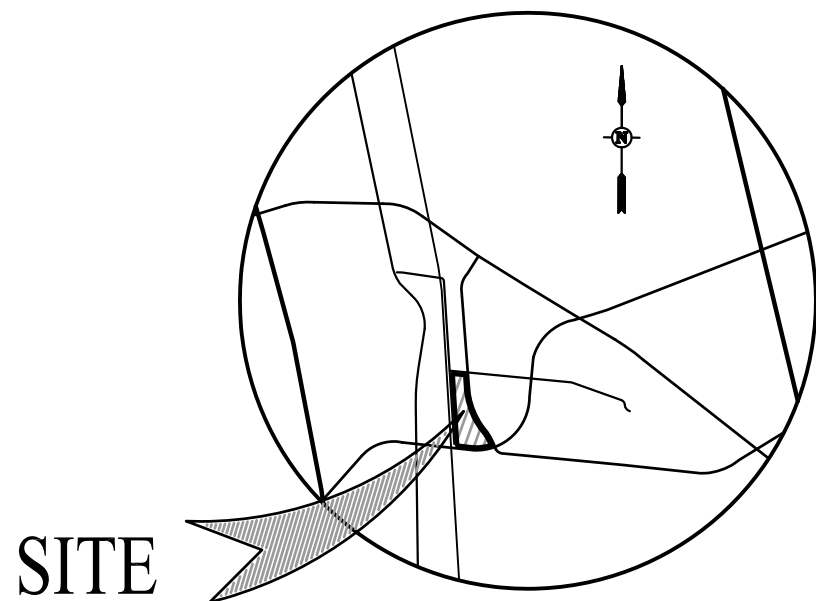


TRACT 10137

HARMONY - PUBLIC IMPROVEMENTS

IMPROVEMENT PLANS

CITY OF MILPITAS, SANTA CLARA COUNTY, CALIFORNIA



SITE

GENERAL NOTES:

- CIVIL ENGINEER: CARLSON, BARBEE & GIBSON, INC.
6111 BOLLINGER CANYON ROAD, SUITE 150
SAN RAMON, CA 94583
(925) 866-0322
CONTACT: JASON NERI, RCE 59136
- BENCHMARK: CITY OF MILPITAS BENCHMARK "CED-MAI," A BRASS DISK IN MONUMENT WELL AT THE INTERSECTION OF CEDAR WAY AND SOUTH MAIN STREET.
ELEVATION = 33.940 (NGVD 29).
CITY OF MILPITAS LEVEL GPS SURVEY (12/1999 TO 2/2000).
- THE CIVIL ENGINEER ASSUMES NO RESPONSIBILITY BEYOND THE ADEQUACY OF HIS DESIGN CONTAINED HEREIN.
- UNLESS OTHERWISE NOTED, ALL WORK AND MATERIALS SHALL COMPLY WITH STANDARD SPECIFICATIONS, CONSTRUCTION DETAILS, AND STANDARD DRAWINGS (LISTED ON SHEET 8) OF THE CITY OF MILPITAS AVAILABLE IN THE CITY ENGINEER'S OFFICE. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO OBTAIN PERMITS NECESSARY TO PERFORM THE IMPROVEMENTS IN THESE PLANS FROM THE APPROPRIATE AGENCIES AND TO COMPLY WITH THE AGENCIES' REQUIREMENTS. THE CONTRACTOR MUST COMPLY WITH ALL APPLICABLE NATIONAL, STATE AND LOCAL LAWS.
- PLANS USED FOR CONSTRUCTION OF PUBLIC FACILITIES PURPOSES MUST BE SIGNED BY THE CITY ENGINEER OR HIS REPRESENTATIVE. ANY SUBSEQUENT CHANGES SHALL BE APPROVED BY THE CITY ENGINEER OR HIS REPRESENTATIVE PRIOR TO CONSTRUCTION.
- CONSTRUCTION CONTRACTOR AGREES THAT IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, CONSTRUCTION CONTRACTOR SHALL BE REQUIRED TO ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THE PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY; THAT THIS REQUIREMENT SHALL BE MADE TO APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND CONSTRUCTION CONTRACTOR FURTHER AGREES TO DEFEND, INDEMNIFY AND HOLD OWNER AND DESIGN CIVIL ENGINEER HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPTING LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF CIVIL ENGINEER.
- CONTRACTOR SHALL POST EMERGENCY TELEPHONE NUMBERS AT THE JOB SITE FOR PUBLIC WORKS, AMBULANCE, POLICE, AND FIRE DEPARTMENTS, AND THOSE AGENCIES RESPONSIBLE FOR MAINTENANCE OF UTILITIES IN THE VICINITY OF THE JOB SITE.
- DURING CONSTRUCTION IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO PROVIDE FOR SAFE TRAFFIC CONTROL IN AND AROUND THE SITE, TO PROTECT THE GENERAL PUBLIC, AND TO PREVENT UNCONTROLLED ACCESS TO THE SITE AT ALL TIMES. THIS MAY INCLUDE BUT NOT BE LIMITED TO SIGNS, FLASHING LIGHTS, BARRICADES AND FLAG PERSONS.
- SHOULD IT APPEAR THAT THE WORK TO BE DONE, OR ANY MATTER RELATIVE THERETO, IS NOT SUFFICIENTLY DETAILED OR EXPLAINED ON THESE PLANS, THE CONTRACTOR SHALL CONTACT CARLSON, BARBEE & GIBSON, INC. AT (925) 866-0322 FOR SUCH FURTHER EXPLANATIONS AS MAY BE NECESSARY.
- CONTRACTOR SHALL PROVIDE PROPER SHORING IN ALL TRENCHES DEEPER THAN FIVE (5) FEET. ANY DAMAGE RESULTING FROM LACK OF SHORING SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR. THE CONTRACTOR SHALL COMPLY WITH ALL OSHA REQUIREMENTS.
- THE CONTRACTOR SHALL COMPLY WITH THE RULES AND REGULATIONS OF THE STATE CONSTRUCTION SAFETY ORDER.
- THE CONTRACTOR'S ATTENTION IS DIRECTED TO THE REQUIREMENTS OF THE DIVISION OF INDUSTRIAL SAFETY PERTAINING TO "CONFINED SPACES". ANY MANHOLE, CULVERT, DROP INLET OR TRENCH (WHICH COULD CONTAIN AIR), THAT IS NOT READILY VENTILATED, MAY BE CONSIDERED A "CONFINED SPACE".
- ENCROACHMENT PERMITS REQUIRED FOR WORK WITHIN EXISTING PUBLIC RIGHTS OF WAY SHALL BE OBTAINED BY THE CONTRACTOR.
- ALL PUBLIC UTILITIES AND IMPROVEMENTS THAT BECOME DAMAGED DURING CONSTRUCTION SHALL BE COMPLETELY RESTORED TO THE SATISFACTION OF THE CITY ENGINEER.
- THE CONTRACTOR SHALL CALL CITY OF MILPITAS PUBLIC WORKS FACILITIES INSPECTION AT (408) 586-2884 TO SCHEDULE INSPECTIONS, 48 HOURS PRIOR TO START OF CONSTRUCTION.
- PRIOR TO COMMENCEMENT OF ANY WORK ON ADJACENT PROPERTY, THE OWNER SHALL OBTAIN WRITTEN PERMISSION FROM AFFECTED PROPERTY OWNERS.
- EXISTING CURB, GUTTER AND SIDEWALK THAT ARE DAMAGED OR DISPLACED, EVEN THOUGH THEY WERE NOT TO BE REMOVED, SHALL BE REPAIRED OR REPLACED BY THE CONTRACTOR.
- THE ENGINEER ASSUMES NO RESPONSIBILITY FOR FINAL GRADE OF CONCRETE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR FINAL GRADE OF CONCRETE.

SHEET INDEX

21. THE OWNER'S CIVIL ENGINEER WILL PROVIDE CONSTRUCTION STAKES. THE NUMBER AND LOCATION OF STAKES REQUIRED SHALL BE DETERMINED BEFORE THE CONSTRUCTION BEGINS. ALL STAKING REQUESTS SHOULD BE DIRECTED TO THE ENGINEER A MINIMUM OF 48 HOURS PRIOR TO ACTUAL NEED. ANY ADDITIONAL STAKING OR RESTAKING WILL ONLY BE DONE AS DIRECTED AND AUTHORIZED BY THE OWNER OR HIS AUTHORIZED AGENT.	1	1 OF 49
	2	2 OF 49
	3	3 OF 49
	4	4 OF 49
	5	5 OF 49
	6	6 OF 49
	7	7 OF 49
	8	8 OF 49
	9	9 OF 49
	10	10 OF 49
	11	11 OF 49
	12	12 OF 49
	13	13 OF 49
	14	14 OF 49
	15	15 OF 49
	16	16 OF 49
	17	17 OF 49
	18	18 OF 49
	19	19 OF 49
	20	20 OF 49
	21	21 OF 49
22. ALL EXISTING ELEVATIONS SHOWN ARE AS MEASURED IN THE FIELD UNLESS OTHERWISE NOTED.		
23. OBSTRUCTIONS INDICATED ARE FOR INFORMATION ONLY. IT IS THE CONTRACTOR'S RESPONSIBILITY TO VERIFY THE LOCATION AND DEPTH WITH THE APPROPRIATE AGENCIES. THE CONTRACTOR SHALL NOTIFY UNDERGROUND SERVICE ALERT (U.S.A.) FOR UTILITY LOCATIONS PRIOR TO ANY CONSTRUCTION. PHONE 1-800-227-2600. NEITHER THE OWNER NOR THE CIVIL ENGINEER ASSUMES RESPONSIBILITY THAT THE OBSTRUCTIONS INDICATED WILL BE THE OBSTRUCTIONS ENCOUNTERED.		
24. THE CONTRACTOR IS RESPONSIBLE FOR THE PRESERVATION AND OR PERPETUATION OF ALL EXISTING MONUMENTS AND STAKES WITHIN THE CONTRACTOR'S AREA OF WORK. THE CONTRACTOR SHALL NOT DISTURB OR REMOVE ANY MONUMENTS OR STAKES WITHOUT THE PERMISSION OF THE CITY ENGINEER, AND HE SHALL BEAR THE EXPENSE OF RESETTING ANY MONUMENTS OR STAKES WHICH MAY BE DISTURBED OR REMOVED WITH OR WITHOUT PERMISSION. THE CONTRACTOR SHALL PROVIDE A MINIMUM OF 15 WORKING DAYS NOTICE TO THE CITY ENGINEER PRIOR TO DISTURBANCE OR REMOVAL OF EXISTING MONUMENTS OR STAKES. THE CONTRACTOR SHALL UTILIZE THE SERVICES OF A CALIFORNIA LICENSED LAND SURVEYOR TO RESET ALL DISTURBED OR REMOVED MONUMENTS AND STAKES OR PROVIDE WITNESS MONUMENTS, AND FILE THE REQUIRED DOCUMENTATION WITH THE COUNTY SURVEYOR PURSUANT TO THE BUSINESS AND PROFESSIONS CODE SECTION 8771.		
25. ALL GRADES SHOWN ARE FINISHED GRADES, UNLESS OTHERWISE NOTED.		
26. ALL GRADED SLOPES ARE MAXIMUM TWO (2) FEET HORIZONTAL TO ONE (1) FOOT VERTICAL.		
27. ALL GRADING SHALL COMPLY WITH CITY OF MILPITAS GRADING ORDINANCE, THIS PLAN, AND THE GEOTECHNICAL INVESTIGATION PREPARED BY RMA GROUP OF NORTHERN CALIFORNIA DATED APRIL 17, 2012 AND ALL SUBSEQUENT ADDENDUMS.		
28. UPON COMPLETION OF ROUGH GRADING, ACTUAL THICKNESS (STRUCTURAL SECTION) OF THE BASE MATERIAL AND AC PAVEMENT SHALL BE DETERMINED BASED ON THE RESULTS OF R-VALUES, SAND EQUIVALENTS LABORATORY TESTING. GEOTECHNICAL/SOIL ENGINEER SHALL RECOMMEND THE STRUCTURAL SECTIONS OF STREETS TO THE CITY ENGINEER FOR REVIEW AND APPROVAL.		
29. WHERE PAVEMENT IS TO BE EXTENDED, EXISTING IMPROVEMENT ENDS MUST BE SAW-CUT. A.C. OR P.C.C. PAVEMENT REMOVED MUST BE SAW-CUT OR REMOVED TO AN EXPANSION JOINT.		
30. THE CONTRACTOR IS RESPONSIBLE FOR THE REPAIR OF PUBLIC IMPROVEMENTS/ FACILITIES DAMAGED BY HIS OPERATIONS INCLUDING BUT NOT LIMITED TO MONUMENTS, BENCHMARKS, STREET PAVEMENT, PAVEMENT MARKINGS, TRAFFIC STRIPING AND SIGNAGE, TRAFFIC LOOPS, FIBER OPTIC, ETC.		
31. PROJECT GRADING AND CONSTRUCTION ACTIVITIES SHALL NOT OCCUR OUTSIDE THE HOURS OF 7:00 A.M. TO 7:00 P.M. ON WEEKDAYS AND WEEKENDS, AND SHALL NOT OCCUR ON THE FOLLOWING HOLIDAYS: NEW YEAR'S DAY, MEMORIAL DAY, INDEPENDENCE DAY, LABOR DAY, THANKSGIVING DAY, INCLUDING THE DAY AFTER (NOVEMBER 25), CHRISTMAS DAY, MARTIN LUTHER KING JR'S BIRTHDAY, LINCOLN'S BIRTHDAY, PRESIDENT'S DAY, AND VETERAN'S DAY, AS PER THE CITY OF MILPITAS NOISE ORDINANCE.		
32. TRAFFIC SPEEDS ON ALL UNPAVED AREAS SHALL BE LIMITED TO 15 MPH.		
33. A NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM PERMIT (NPDES CONSTRUCTION PERMIT) IS REQUIRED PRIOR TO COMMENCEMENT OF CONSTRUCTION ACTIVITY RELATED TO THIS SITE AND SHALL BE OBTAINED BY THE OWNER AND/OR OWNER'S CONTRACTOR AS APPROPRIATE. ANY DISCHARGE (DURING CONSTRUCTION) OF GROUNDWATER INTO THE DOWNSTREAM STORM SYSTEM MUST BE UNCONTAMINATED. THE CONTRACTOR SHALL MAKE THIS DETERMINATION PRIOR TO ANY DISCHARGE.		
34. IF ARCHAEOLOGICAL MATERIALS ARE UNCOVERED DURING GRADING, TRENCHING OR OTHER EXCAVATION, EARTHWORK WITHIN 100' OF THIS AREA SHALL BE STOPPED UNTIL A PROFESSIONAL ARCHAEOLOGIST WHO IS CERTIFIED BY THE SOCIETY OF CALIFORNIA ARCHAEOLOGIST (SCA) OR THE SOCIETY OF PROFESSIONAL ARCHAEOLOGIST (SOPA) HAS HAD AN OPPORTUNITY TO EVALUATE THE SIGNIFICANCE OF THE FIND AND SUGGEST APPROPRIATE MITIGATION MEASURES, IF THEY ARE DEEMED NECESSARY.		

SCOPE OF WORK:

- "TRACT 10137 - MCCANDLESS DRIVE - PUBLIC IMPROVEMENT PLANS" ARE FOR THE CONSTRUCTION OF THE:
 - PUBLIC RECYCLED WATER LINE
 - PUBLIC STORM DRAINAGE IMPROVEMENTS
 - MCCANDLESS DRIVE STREET IMPROVEMENTS
 - MONTAGUE EXPRESSWAY IMPROVEMENTS
(REQUIRE APPROVAL AND PERMITS FROM SANTA CLARA COUNTY)
 - PUBLIC LANDSCAPE IMPROVEMENTS
 - PUBLIC JOINT TRENCH IMPROVEMENTS
 - PUBLIC STREET LIGHTING
 - PUBLIC PENITENCIA CREEK TRAIL
(REQUIRE APPROVAL AND PERMITS FROM SCVMD)

CIVIL

TITLE, NOTES, SHEET INDEX & VICINITY MAP
NOTES & MAINTENANCE CHART
CONDITIONS OF APPROVAL
CONDITIONS OF APPROVAL
LEGEND, ABBREVIATIONS & INDEX SHEET
OVERALL SYSTEMS MAP
SECTIONS & PAVEMENT DESIGN CHART
DETAILS
C.3 MEDIA FILTRATION DETAILS
PLAN & PROFILE - MCCANDLESS DRIVE
PLAN & PROFILE - MCCANDLESS DRIVE
PLAN & PROFILE - MONTAGUE EXPRESSWAY
PLAN & PROFILE - MONTAGUE EXPRESSWAY
PLAN & PROFILE - PENITENCIA CREEK TRAIL
PLAN & PROFILE - PENITENCIA CREEK TRAIL
PLAN & PROFILE - PENITENCIA CREEK TRAIL
PLAN & PROFILE - PENITENCIA CREEK TRAIL
PLAN & PROFILE - PUBLIC STORM DRAIN
SIGNING AND STRIPING PLANS - MCCANDLESS DRIVE
SIGNING AND STRIPING PLANS - MCCANDLESS DRIVE

JT1 38 OF 49
JT2 39 OF 49
JT3 40 OF 49
JT4 41 OF 49
JT5 42 OF 49
JT6 43 OF 49
JT7 44 OF 49

JOINT TRENCH

JOINT TRENCH COMPOSITE TITLE SHEET
JOINT TRENCH GENERAL NOTES & DETAILS
JOINT TRENCH SECTIONS & DETAILS
JOINT TRENCH COMPOSITE PLAN
JOINT TRENCH COMPOSITE PLAN
JOINT TRENCH COMPOSITE PLAN
JOINT TRENCH COMPOSITE PLAN

STREET LIGHT

SL1 45 OF 49
SL2 46 OF 49
SL3 46A OF 49
PUBLIC STREET LIGHTING TITLE SHEET & DETAILS
PUBLIC STREET LIGHTING DETAILS
PUBLIC STREET LIGHTING DETAILS

FUTURE TRAFFIC SIGNAL PLANS

TS-1 47 OF 49
TS-2 48 OF 49
TS-3 49 OF 49
FUTURE TRAFFIC SIGNAL PLAN
CONDUCTOR, EQUIPMENT, AND POLE SCHEDULES
COORDINATION PLAN

49 TOTAL SHEETS

LANDSCAPE

SITE INDEX MAP
LANDSCAPE CONSTRUCTION PLANS - MCCANDLESS DRIVE
LANDSCAPE CONSTRUCTION PLANS - MCCANDLESS DRIVE
LANDSCAPE CONSTRUCTION PLANS - MONTAGUE EXPRESSWAY
LANDSCAPE CONSTRUCTION PLANS - TRAIL
LANDSCAPE CONSTRUCTION PLANS - TRAIL
LANDSCAPE IRRIGATION PLANS - MCCANDLESS DRIVE
LANDSCAPE IRRIGATION PLANS - MCCANDLESS DRIVE
LANDSCAPE IRRIGATION PLANS - MONTAGUE EXPRESSWAY
LANDSCAPE IRRIGATION NOTES & LEGEND
LANDSCAPE IRRIGATION DETAILS
LANDSCAPE IRRIGATION DETAILS
LANDSCAPE IRRIGATION DETAILS
LANDSCAPE PLANTING PLANS - MCCANDLESS DRIVE
LANDSCAPE PLANTING PLANS - MCCANDLESS DRIVE
LANDSCAPE PLANTING PLANS - MONTAGUE EXPRESSWAY

RECOMMENDED FOR APPROVAL:	RECORD DRAWINGS	REVISIONS	CITY OF MILPITAS ENGINEERING DIVISION	
PLANNING _____ DATE _____	TO BE COMPLETED PRIOR TO ACCEPTANCE OF WORK BY THE CITY	CITY DATE BY DESCRIPTION CITY ENGR. APPRO. DATE	APPROVED: _____	PROJECT NO. 104-2709
FIRE _____ DATE _____	SIGNATURE & SEAL DATE		ENGINEERING DATE	FILE NO. 2-1162
BUILDING _____ DATE _____	P.E. NO. _____ EXP. _____		ANY CHANGES TO THIS PLAN SHALL BE APPROVED BY THE CITY ENGINEER	
TRAFFIC _____ DATE _____	PUBLIC WORKS INSPECTOR _____			
ENGINEER _____ DATE _____				

TRACT 10137

PUBLIC IMPROVEMENTS

PUBLIC IMPROVEMENT PLANS

TITLE, NOTES, SHEET INDEX & VICINITY MAP

CITY OF MILPITAS

SANTA CLARA COUNTY

CALIFORNIA

DATE: 3/15/13

DRAWN BY: JPJ

PROJ. ENGR: ASA

PROJ. MGR: ASA

EXP. DATE 06/30/13

7 JUN 10/07/05 UPDATED TRAIL SECTION - ADD DG

6 JUN 10/07/05 UPDATED TRAIL SECTION - ADD AB

5 JUN 10/07/05 REDUCE MONTAGUE S/W TO 4'

4 ASA 1/13/14 WIDEN MCCANDLESS S/W TO 8.5'

3 ASA 1/13/14 ADD MCCANDLESS TREE WELLS

2 ASA 8/15/13 MONTAGUE EXPY STREET LIGHTS

1 ASA 7/8/13 PENITENCIA CREEK TRAIL

NO. BY DATE

REVISIONS

CITY APPROVAL

Carlson, Barbee & Gibson, Inc.

CIVIL ENGINEERS - SURVEYORS - PLANNERS

6111 Bollinger Canyon Road, Suite 150 San Ramon, CA 94583

925-866-0322 • fax 925-866-8575

www.cbng.com

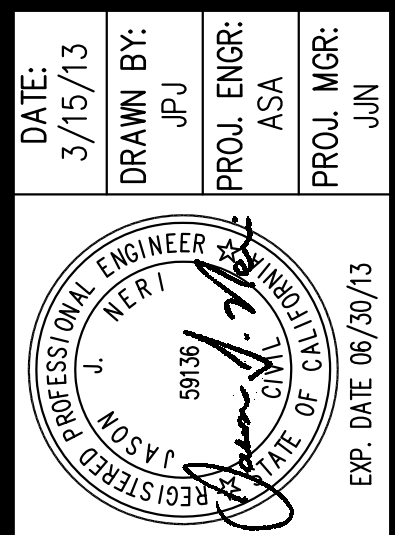
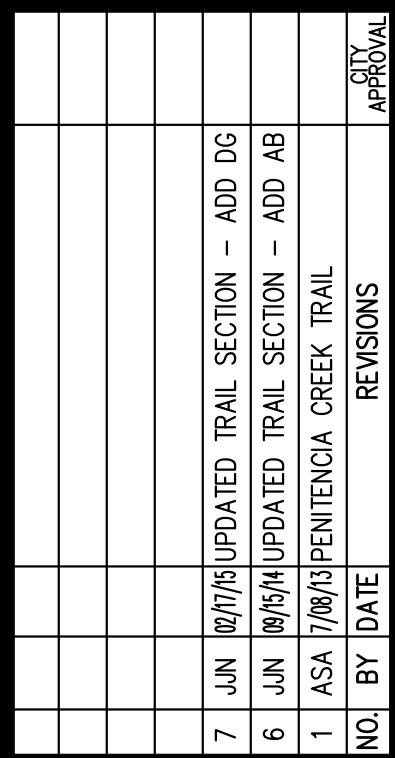
SHEET NUMBER

1

OF 49

JOB NUMBER

1933-00



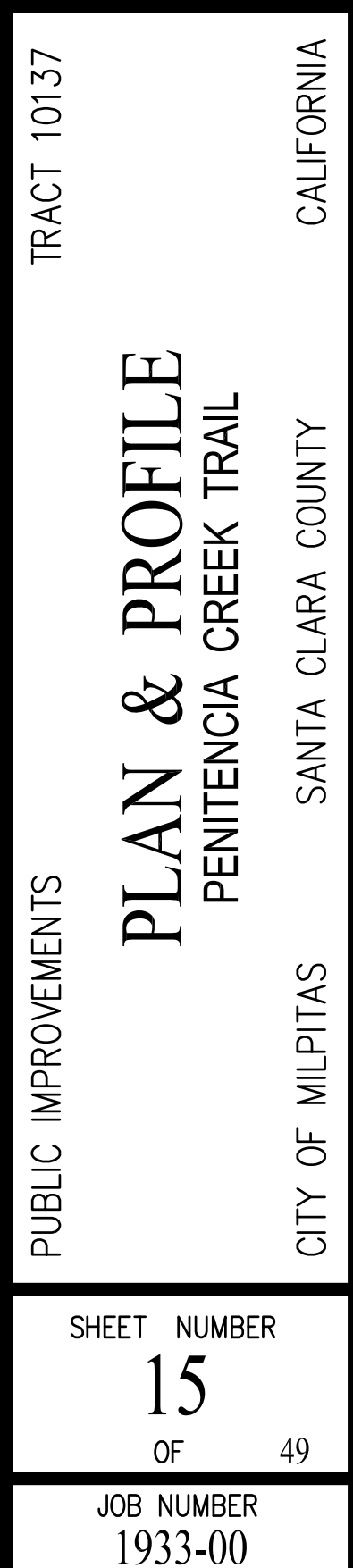
NOTE:
SEE TRACT 10137 AND TRACT 10159 LANDSCAPE TRAIL IMPROVEMENT
CONSTRUCTION PLAN FOR ADDITIONAL TRAIL SURFACE IMPROVEMENT DETAILS.
(BOLLARDS, RETAINING WALL, FENCING, BENCHES, GATES, ETC.)

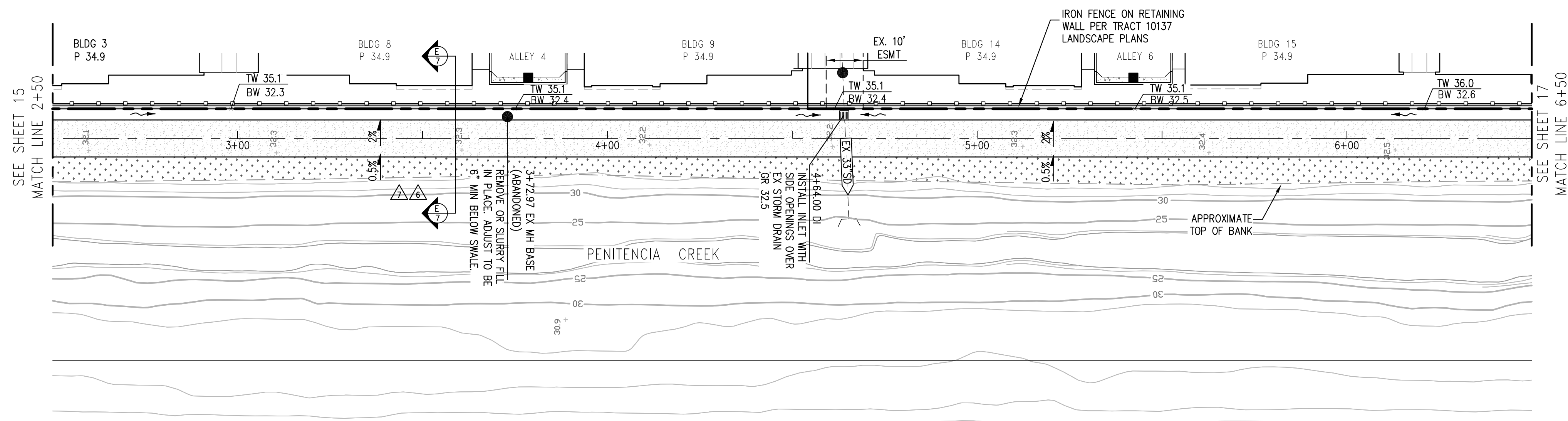
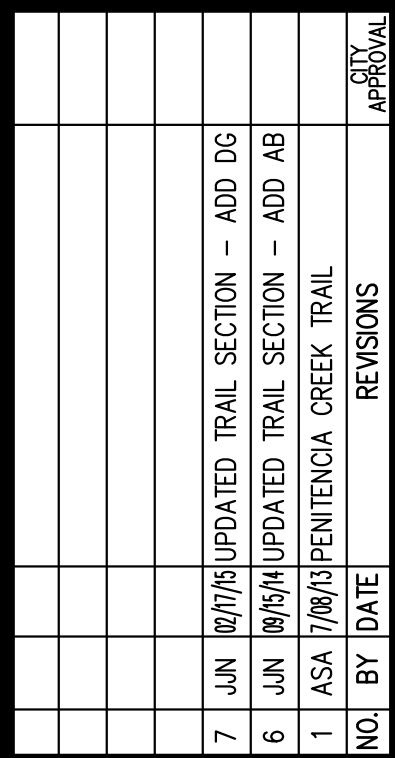
cba

Carlson, Barbee
& Gibson, Inc.

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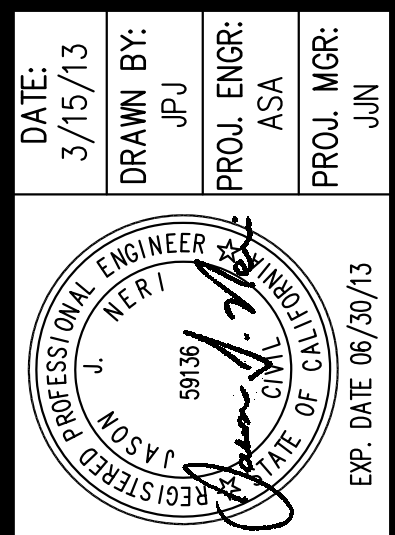


SCALE: 1" = 20'

DATUM NOTE:

ALL ELEVATIONS SHOWN ON THESE PLANS ARE BASED ON NGVD29 DATUM.
THE FOLLOWING CONVERSION APPLIES TO OBTAIN NAVD88 ELEVATIONS:

NAVD88 ELEVATION = PLAN ELEVATION + 2.743'



PUBLIC IMPROVEMENTS

PLAN & PROFILE
PENITENCIA CREEK TRAIL

CITY OF MILPITAS
SANTA CLARA COUNTY
CALIFORNIA

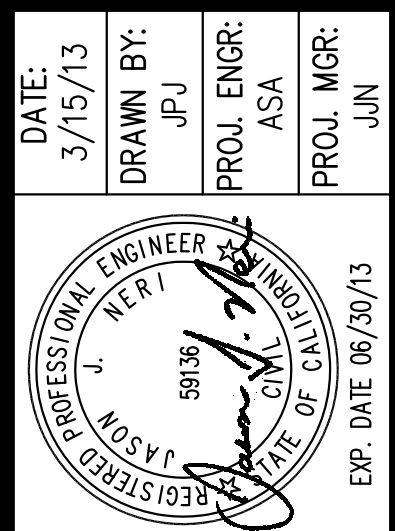
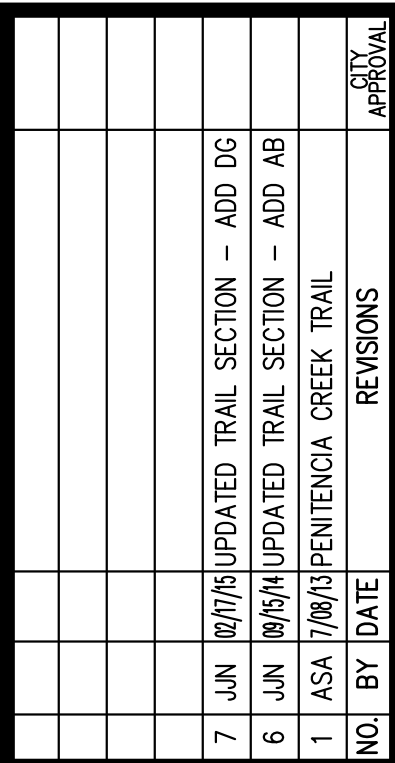
TRACT 10137

PLAN & PROFILE

PENITENCIA CREEK TRAIL

SHEET NUMBER
16
OF 49

JOB NUMBER
1933-00



NOTE:
SEE TRACT 10137 AND 10159 LANDSCAPE TRAIL IMPROVEMENT CONSTRUCTION PLAN
FOR ADDITIONAL TRAIL SURFACE IMPROVEMENT DETAILS (BOLLARDS, RETAINING WALL,
FENCING, BENCHES, GATES, ETC.)

cbg

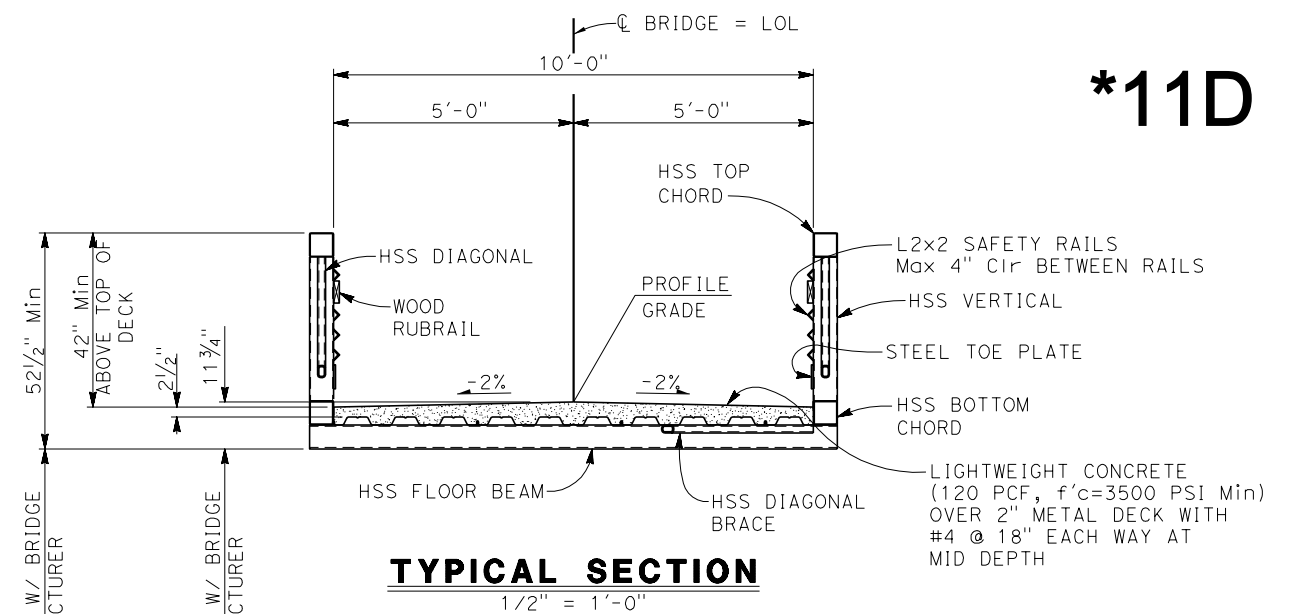
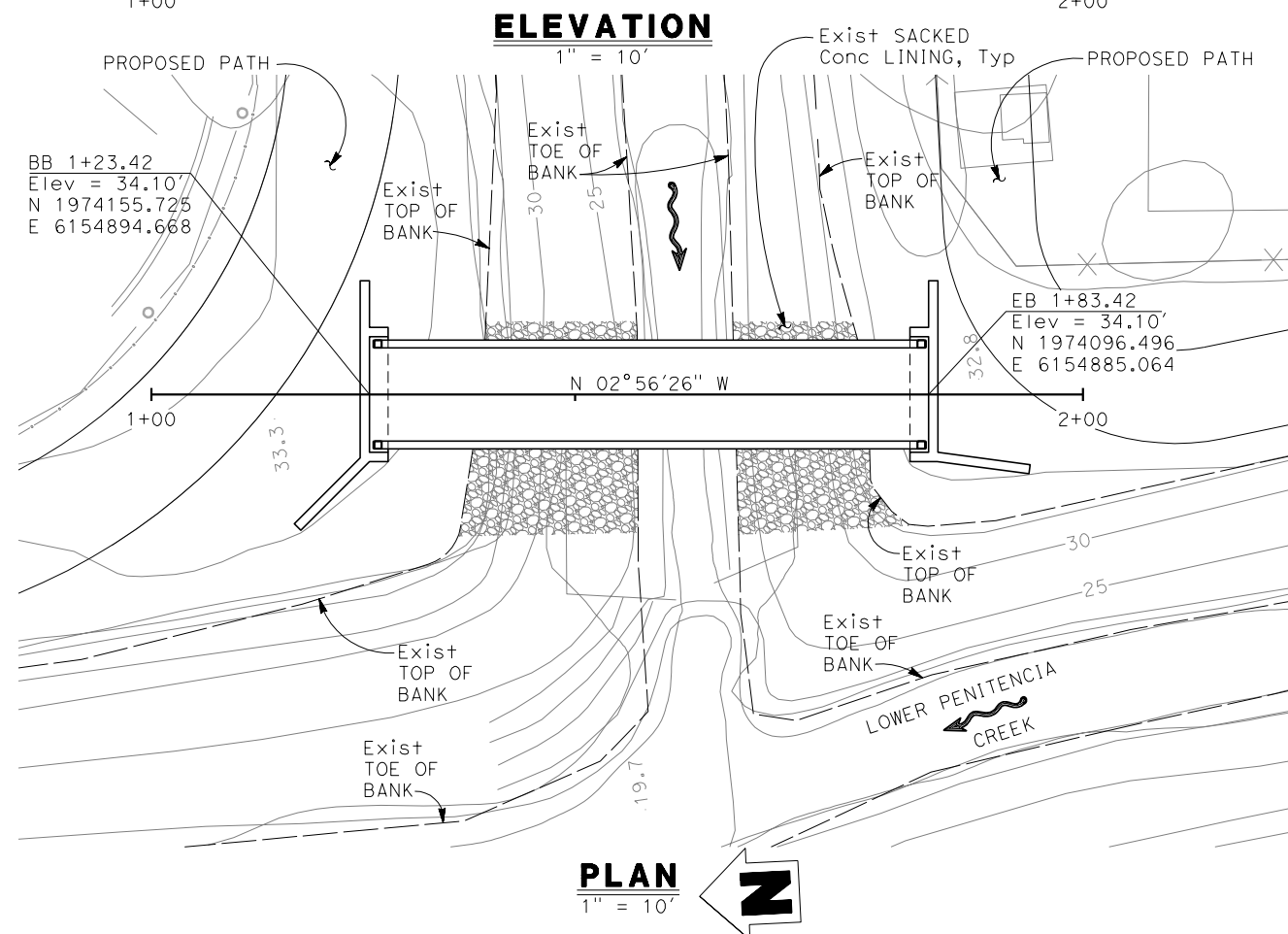
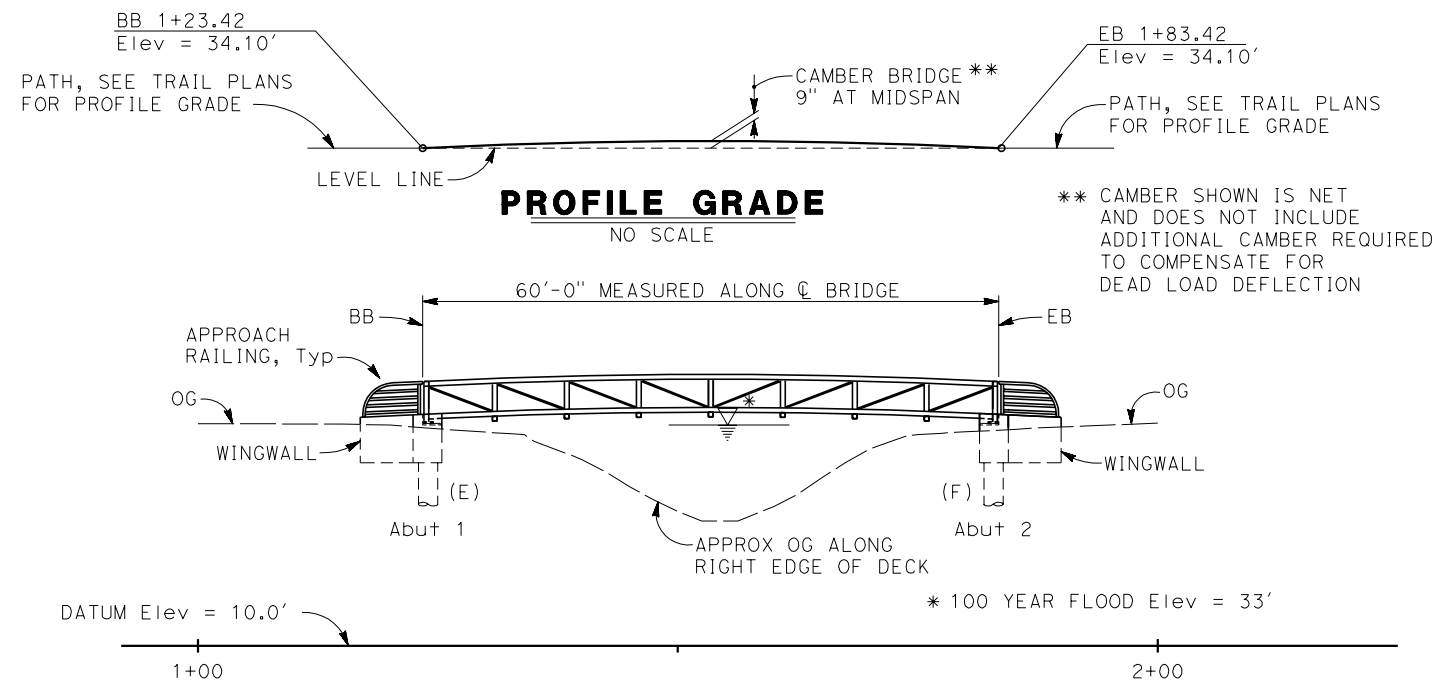
Carlson, Barbee
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SHEET NUMBER
18
OF 49
JOB NUMBER
1933-00



GENERAL NOTES - LOAD FACTOR DESIGN

DESIGN:	AASHTO Guide Specifications for Design of Pedestrian Bridges (2009)
DEAD LOAD:	Total Dead Load for pre-fabricated superstructure shall not exceed 65,000 lbs
LIVE LOADING:	One 10,000 lb vehicle load or 90 psf pedestrian load
LIVE LOAD DEFLECTION:	L/500
<u>SEISMIC LOADING:</u>	
DESIGN:	Caltrans Seismic Design Criteria (SDC) v1.7, April 2013

NOTES:

1. See Trail Plans for proposed finished grade contours.
2. Bridge railings and wall railings shall not allow a sphere 4" or larger to pass through.
3. (E) Indicates expansion end.
4. (F) Indicates fixed end.
5. Special Inspection is required.

PLAN CHECK SET/NOT FOR CONSTRUCTION (10/15/14)

[illegible]

**File: City of Milpitas
Lower Penitencia Creek
Penitencia East Channel**

**JOINT USE AGREEMENT
between City of Milpitas and Santa Clara Valley Water District
for portions of Lower Penitencia Creek and
Penitencia East Channel**

Santa Clara Valley Water District, a California Special District, hereinafter referred to as "District;" and the City of Milpitas, a California general law city and municipal corporation of the State of California, hereinafter referred to as "City;" agree this _____ day of _____, 2015 ("Agreement Effective Date,") as follows:

- A. Whereas, District is the owner of certain real property along Lower Penitencia Creek from Great Mall Parkway to Montague Expressway and along Penitencia East Channel from the confluence with Lower Penitencia Creek to about 250 feet east of McCandless Drive shown on "Exhibit A" hereto ("Premises"), so marked and by this reference made a part hereof.
- B. Whereas, the City has an interest in using the Premises to provide certain recreational opportunities to the public that do not unreasonably interfere with the primary use of the Premises which is for the District to carry out its mission of flood protection, water resource management, and stream stewardship.
- C. Whereas, City desires to construct, operate, and maintain trail and recreational improvements on the Premises ("City Improvements"). The trail will provide a regional recreational resource, consistent with the City's General Plan and the City's Transit Area Specific Plan.
- D. Whereas, the Premises contain flood protection, water resource management and stream stewardship features and improvements made by the District ("District Improvements").
- E. Whereas, the City and the District acknowledge that there will be future construction of District Improvements along Lower Penitencia Creek and Penitencia East Channel.
- F. Whereas, the City and District find it to be in the public interest to provide for joint use of the Premises by means of an agreement under the terms and conditions set forth herein ("Agreement").

Now, therefore, District and City hereby agree as follows:

- 1. Scope of the License Grant to the City.** Subject to the terms and conditions of this Agreement, the District hereby grants to City a non-exclusive license to access and do any or all of the following on the Premises:

- a. To construct, operate, maintain, repair, replace, and remove City Improvements on the Premises including, but not limited to, decomposed granite surfaced pedestrian and bicycle trails, pedestrian bridge, fencing and signage. The construction of such City Improvements shall require prior review and approval by the District as signified by issuance of a Water Resources Protection Ordinance Encroachment Permit ("District Permit"), and shall be compliant with all applicable legal and permitting requirements. It is fully understood and agreed that District in its reasonable discretion may approve or disapprove a request for a permit to construct a City Improvement on the Premises.

b. To provide for non-motorized bicycling, walking, jogging and hiking activities in accordance with all applicable legal and permitting requirements to the extent such activities do not interfere with the District's mission of flood protection, water resource management, and stream stewardship.

c. To host special recreational events (e.g., races) that may include an otherwise restricted component such as allowing private vehicular access for safety purposes, so long as the City first receives a District Permit to host that event.

2. Prohibited Uses of Premises. City shall post notices at all trail entrances that notify users of the trail that the following activities are prohibited:

- Entry of motor vehicles (except for maintenance, emergency, and enforcement vehicles and mobility devices otherwise allowed by law)
- Unleashed dogs
- Equestrians
- Swimming, rafting, boating, fishing
- Picnicking

Subject to the foregoing prohibitions and any other restrictions set forth in this Agreement, City shall have the sole authority to adopt any trail rules and regulations pursuant to the Milpitas Municipal Code for any City Improvements on the Premises that will not interfere with District's mission of flood protection, water resource management, and stream stewardship.

3. District's Superior Rights. It is expressly understood that District is engaged in flood protection, the protection of water resources, and stream stewardship and that the terms and conditions of this Agreement shall not in any way interfere with the absolute, free and unrestricted right of District to operate and maintain for flood protection, water resource management, and stream stewardship purposes the stream bed and banks or any appurtenant works thereto, or to repair or construct any of its works, to alter the grade and cross section of the channel, to build levees and floodwalls, or to allow the raising or lowering of the height of the water present upon the Premises. To the extent such work by District is anticipated to negatively impact City Improvements, District shall include City in the planning process and provide reasonable notice of such work to City prior to its commencement. This notice requirement shall not apply in the event District needs to perform emergency repairs or other work upon the Premises.

4. City's Subordinate Rights. City will have the right to build improvements on the Premises necessary, or convenient to the enjoyment of this Agreement, provided the location and design of any such improvement is, in each case during the term of this Agreement, first approved by District as signified by issuance of a District Permit.

5. City's Responsibility for Public Use. Subject to the conditions and restrictions contained in this Agreement, City has the full control and responsibility, for public and recreation purposes over the use of the Premises, and City shall restrict, control, regulate, and/or supervise the public use thereof as may be necessary. City may, at its discretion, consistent with the rights of District described herein, and without diminution of the flood protection, the water resources management function, or the physical integrity of the Premises, take measures of any kind as may in the opinion of City be necessary for the health and safety of the users of the Premises for any purpose under this Agreement. Such measures shall include the legal right by the City to cite and enforce all provisions of the Milpitas Municipal Code or other applicable laws against persons for purposes of furthering and protecting the public and recreation uses of the Premises. City has the sole responsibility for maintaining in a usable and safe condition every City Improvement on the Premises.

- 6. Water Level Fluctuations.** It is expressly understood by City that the level of water upon the Premises may fluctuate from day to day due to controlled or uncontrolled flows upon and across the same. City is responsible for the control of or limiting the public's use of Premises because of such water levels, flood flows or for any other reason. City is responsible for determining the conditions under which to exercise said control for limiting use of the Premises to ensure the well-being and the health and safety of members of the public using the Premises.
- 7. Security.** The public trail to be contained within or adjacent to the Premises must be reasonably patrolled by City personnel and/or ranger services under contract with City and/or volunteers supervised by City. District has no obligation whatsoever to provide or pay for any such patrol services. Notwithstanding the foregoing, District and City agree that nothing within this Agreement requires the City to provide security or police services on the Premises greater than that provided elsewhere within City boundaries, or sets a special standard of care different than that generally applied by law to the provision of police services to persons and businesses within the boundaries of a general law city.
- 8. Public Complaints.** City is responsible for responding to all public complaints and inquiries regarding City Improvements on the Premises, including the public trail, and to all inquiries regarding the public's use of the Premises.
- 9. Disclosures.** City shall ensure disclosures for adjacent development identifies the public use of the Premises and the potential noise, dust, and vehicular use associated with the District's periodic inspections, maintenance construction and future channel reconstruction activities along the creek.
- 10. Damage to City's Improvements on Premises.** District is not responsible for any damage occurring to City Improvements or structures within the Premises that results from the District's maintenance, construction or reconstruction activities, or from its water management and/or flood control facilities located on or near the Premises, including (without limitation) any flood flows, or inundation onto the Premises. All such costs for repairing said damage shall be borne by City. District and District's agents shall endeavor not to unnecessarily damage or destroy improvements made by City. However, City is solely responsible for any damage occurring to City Improvements or structures located on the Premises that results from the public's use of the Premises.
- 11. Channel condition.** City acknowledges existing erosive conditions of creek banks on the Premises and agrees to adjust the trail location, reduce its width, close the trail or repair the creek banks to accommodate continued use of City Improvements on the Premises and ensure the health and safety of the trail users. City further agrees and acknowledges that District may require reconfiguration of the trail due to erosive conditions of creek banks; however, District has no affirmative duty to guard against such conditions, and any failure to request such a change shall not be deemed a guaranty or warranty of safe conditions.
- 12. Maintenance and Repair.** District's performance of routine maintenance on the Premises for flood protection and water management purposes will be to a standard acceptable to the District for its operational and maintenance activities. City has chosen to install decomposed gravel surfacing for the trail on the maintenance road, a material inherently subject to damage from heavy vehicles and in wet conditions. City shall be responsible for the maintenance, safe upkeep, and repair of all City Improvements on the Premises. If the City desires an enhanced level of maintenance of the District's maintenance roads, then City shall be responsible for performing such enhanced level of maintenance. City shall be responsible for repairing damage to the Premises caused by surface drainage associated with City Improvements or use of the Premises by the public. If District reasonably requires that any City Improvement on the Premises be repaired, the City will do so at its own expense within ninety (90) days of receiving

notice from the District or commence the repairs within ninety (90) days and diligently complete the repairs thereafter. In non-emergency situations, City and District staff will meet whenever necessary for the purpose of scheduling routine maintenance, including, but not limited to:

- (a) Maintenance issues related to improvements;
- (b) Inspection for unauthorized paths (pioneer trails) and access points
- (c) Method and timing of issues related to affected wildlife; and
- (d) Non-emergency work requiring the use of heavy equipment, barricading, and/or restricting access to the Premises.

13. Pedestrian Bridges. City is responsible for maintaining the aesthetic, structural integrity, and safety of pedestrian bridges constructed by City as part of the City Improvements, including the bridge decks, piers, foundations, railings, abutment walls, and ramps. City will conduct a biennial safety inspection of the bridge structure, including the footings, to evaluate whether the bridge is safe and to take any corrective action if the bridge is not safe. City shall be reimburse the District for reasonable unavoidable, additional demonstrable costs of the flood protection, water management or other lawful activities, including the removal of sediment under the bridges not reached by equipment used on the rest of the creek and for bird exclusion measures on the bridge necessary to perform work during bird nesting season. City shall reimburse District for such costs within forty five (45) days of demand by the District

14. Bird Nesting Season. Any construction and maintenance work during nesting season (generally between February 1st and July 15th) will be avoided by City whenever possible. If construction or maintenance work must be done during the nesting season, a pre-construction survey by a qualified biologist retained by City must be undertaken to determine the presence of nesting. If nesting is reported, the biologist shall recommend the implementation of adequate mitigation measures. Environmental impacts will be considered prior to all work. Any and all work related to this Section 13 will be completed in accordance with applicable federal, state, and local environmental health and safety statutes, regulations, ordinances and laws including, but not limited to, the federal Migratory Bird Act of 1918, Clean Water Act, Endangered Species Act, the California Fish and Wildlife Code and the Porter-Cologne Act and any current and future amendments thereto.

15. Notification of Trail Closures. For non-emergency or planned maintenance, District will provide City with prior written notice of its maintenance work on the Premises at least ten (10) working days before commencing it. District and the City will coordinate the closure of the trails for public safety purposes should it be reasonably necessary to accommodate the District's maintenance and operations. For non-emergency or planned maintenance, City will notify the District's Watershed Operations and Maintenance Division at least ten (10) working days prior to City's maintenance work within the Premises. District will notify City's Department of Public Works should closures be necessary due to District maintenance and operations. City is responsible for providing all reasonable security measures to temporarily prohibit or control public access during District maintenance of District Improvements. In cases of emergency maintenance or repairs, the responsible party will provide as much prior notice as is reasonably possible.

16. Trail Access Points. Public access entry points to the Premises between street crossings will be minimized and be limited to those gates and access points that serve the general public. City has primary responsibility to take all reasonable measures to secure against unauthorized access points and pioneer trails, including signage and fencing to prohibit access. If unauthorized trails or access points cause damage to the District Premises, the City shall be responsible for repairs. If District reasonably requires that any damage as a result of unauthorized access points or pioneer trails be repaired, the City shall do so at its own expense within 90 days of receiving notice from the District or commence the repairs within ninety (90)

days and diligently complete the repairs thereafter.

- 17. Trash and Litter Removal.** City will provide for trash removal on the Premises that is reasonably likely to have been generated from the public's use of the Premises. City will be responsible for maintaining and emptying trash receptacles and rubbish removal as reasonably necessary.
- 18. Graffiti Removal.** City will provide graffiti removal in compliance with City's graffiti abatement program, including graffiti removal from walls, fences and signs installed in conjunction with and/or accessory to the establishment of a public trail consistent with its implementation of the same program at comparable City facilities. City has primary responsibility for removal of graffiti on the Premises reasonably attributed to trail use.
- 19. Vegetation Management.** District will be responsible for the weed control activities of mitigation areas that the District planted (or caused to be planted), and for weed management necessary for fire control and flood protection. Vegetation management activities performed by City on the Premises will be accomplished by mechanical means whenever practical and will comply with District herbicide and pesticide use requirements as outlined in the District's QEMS procedure Q751D02 Rev D (09-13-12) which will be amended from time to time. Application of approved herbicides by City will be limited to within 18 inches from the edge of trail pavement. Herbicides and pesticides to be used should be applied only after notification to the District and may be applied only by a staff possessing a Qualified Applicator Certificate (QAC) or Qualified Applicator License (QAL). City shall be responsible for the trimming of trees planted on property adjacent to the Premises that overhang the trail and maintenance road in order to ensure a minimum of 15 feet of vertical clearance.
- 20. Signage.** The parties will work together to create and install signage that benefits the programs of each party such as warnings, entrance signage, interpretive signs, and joint uses when applicable. The City shall install and maintain creek identification signage at street crossings. All signs placed on the Premises by City (except existing signs that identify the facility (e.g. Lower Penitencia Creek)) must include a District logo in equal size and symmetrical relationship to other logos contained on such signs. In addition, all City signs, City posters, or City flyers placed on or referencing the Premises that describe water resources must be developed in conjunction with the District's Communications Unit. Each party is responsible for the maintenance and upkeep of its signage installed on the Premises.
- 21. Flood Protection Projects.** Lower Penitencia Creek and Penitencia East Channel have both been identified as inadequate to convey flows from a 100 year flood event. When funding becomes available the District will plan, design and construct flood protection improvements that would likely result in the need to modify, remove or relocate City Improvements.
- 22. Removal and Relocation of Improvements.** If District requires that any City improvement on the Premises be removed or relocated, the City will do so at its own expense within 180 days of receiving notice from the District. District will inform City of its preconstruction planning, in the event a District flood protection project or maintenance is proposed on the Premises, in order to reasonably minimize District's project impact on City Improvements, and allow for City to budget funds for relocation, removal or modifications of trail improvements impacted by the District's Project. The City will be responsible for all costs including any mitigation requirements associated with the trail due to the District Project.
- 23. Term of Agreement and Renewal Option.** The term of this Agreement (including the rights and obligations contained therein) is ten (10) years commencing on the Agreement Effective Date. The City, upon providing the District with no less than 90-days written notice, but no more than

180 days notice prior to the expiration of the initial 10-year term, may renew this Agreement for one additional 10-year period.

24. Termination of Agreement. A party may terminate this Agreement after providing the other party with at least 180 days prior written notice and its intent to terminate this Agreement. Upon the termination or expiration of this Agreement, City must remove all City Improvements from the Premises, and leave the Premises in a condition as near as reasonably practical to its condition prior to the installation and/or development of such improvements. If the District requires the trail to be removed from the Premises due to a flood protection project or other District project, this Agreement will terminate upon District providing the City with written notice of at least 180 days.

25. Indemnification by City. City agrees to indemnify, defend and hold harmless the District, its agents, officers, directors, and employees from and against any and all demands, claims, damages, losses and reasonable expenses, including but not limited to liabilities, obligations, claims, costs, reasonable expenses (including without limitation interest, penalties and reasonable attorney's fees), fines, levies, assessments, demands, damages or judgments of any kind or nature, whether in law or equity (including without limitation, death or injury to any person, property damage, administrative and judicial orders and consents, or any other loss) to the extent they arise out of, pertain to, or relate to the: (i) public use of the Premises, (ii) public's use of real property adjacent to the Premises, or (iii) negligence or willful misconduct of the City's officers, agents, employees, or independent contractors, excepting comparative liability resulting from the active negligence or willful misconduct of an officer, agent, or employee of the District. This Agreement to defend, indemnify, and hold harmless the District will operate irrespective of the basis of the claim, liability, loss, damage, or injury and irrespective of whether the act, omission, or activity is a condition of Premises or any other cause of any kind or nature. The indemnity and other rights afforded to the District by this section 24 survive the termination or expiration of this Agreement.

26. Notices. Any and all notices required to be given hereunder will be deemed to have been delivered upon deposit in the United States mail, postage prepaid, addressed to either of the parties at the address hereinafter specified or as later amended by either party in writing:

City:

City of Milpitas
455 East Calaveras Boulevard
Milpitas, CA 95035
Attention: City Manager
With a copy to the City Engineer

District:

Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118
Attention: Clerk of the Board
With copy to the Community Project Review Unit

27. Successors and Assigns. This Agreement, and all terms, covenants, and conditions hereof, will apply to and bind the successors and assigns of the respective parties hereto. City will neither assign nor sublet this Agreement without the prior written consent of District.

28. Choice of Law. This Agreement is governed by California law.

29. Amendments. This Agreement may not be modified or amended except in writing signed by both parties.

30. Compliance with Laws. Each party must, in all activities undertaken pursuant to this Agreement, comply and cause its contractors, agents and employees to comply with all federal, state and local laws, statutes, orders, ordinances, rules, and regulations.

31. Not Real Property Interest. It is expressly understood that this Agreement does not in any way whatsoever grant or convey any permanent easement, fee or other interest in a party's real property to the other party.

32. Attorneys' Fees. In the event of a dispute between the parties with respect to the terms or conditions of this Agreement, the prevailing party is entitled to collect from the other its reasonable attorneys' fees as established by the judge or arbitrator presiding over such dispute.

33. Entire Agreement. This Agreement, together with all exhibits attached hereto, constitutes the entire agreement between the parties and supersedes all prior written or oral understandings.

WITNESS THE EXECUTION HEREOF, effective on the Agreement Effective Date hereinabove set forth.

City":

City of Milpitas, a California General Law City,
a municipal corporation

"District":

SANTA CLARA VALLEY WATER DISTRICT,
a California Special District

By: _____
Thomas C. Williams, City Manager

By: _____
Beau Goldie, Chief Executive Officer

Approved as to content:

Steve Machida, Public Works Director/City Engineer

Approved as to form:

Michael J. Ogaz, City Attorney

Approved as to form:

Brian C Hopper, Senior Assistant District Counsel

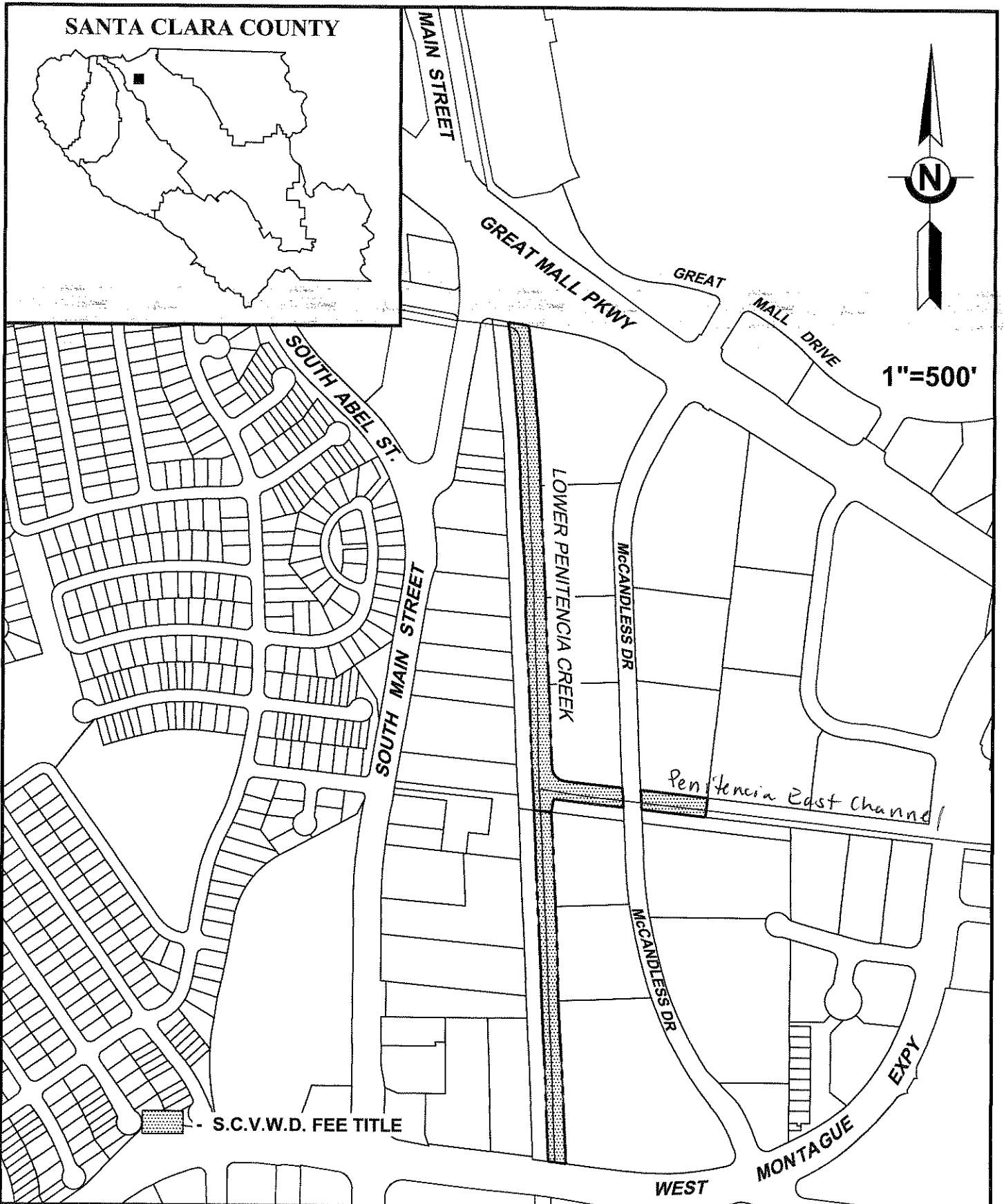
ATTEST:

ATTEST:

Mary Lavelle, City Clerk

Michele King, Clerk/Board of Directors

SCVWD W:\CPRU\East Lower Pen Ck Trail Joint Use.dwg



COYOTE WATERSHED

Santa Clara Valley Water District

LOWER PENITENCIA
CREEK TRAIL
JOINT USE AGREEMENT

EXHIBIT

A

**Initial Study/Addendum
Lower/East Penitencia Creek Trails Project
City of Milpitas, California**

State Clearinghouse No. 2006032091

Prepared for:



City of Milpitas
Planning and Neighborhood Services Department
455 E. Calaveras Boulevard
Milpitas, CA 95035
408.586.3278

Contact: Sheldon Ah Sing, Senior Planner

Prepared by:

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Grant Gruber, Project Manager



October 21, 2013

TABLE OF CONTENTS

Section 1: Introduction	1
1.1 - Initial Study/Environmental Checklist	1
1.2 - Environmental Analysis and Conclusions	1
1.2.1 - Findings	2
1.2.2 - Conclusion	2
1.3 - Mitigation Monitoring Program	3
Section 2: Project Description.....	5
2.1 - Location and Setting	5
2.2 - Project Background	5
2.3 - Project Characteristics	5
Section 3: Environmental Checklist.....	19
3.1 - CEQA Checklist.....	19
3.2 - Explanation of Checklist Evaluation Categories	19
(1) Conclusion in Prior EIR and Related Documents	19
(2) Do the Proposed Changes Involve New Impacts?	19
(3) New Circumstances Involving New Impacts?	19
(4) New Information Requiring New Analysis or Verification?	19
(5) Final EIR Mitigation Measures Implemented or Address Impacts	20
3.3 - Discussion and Mitigation Sections.....	20
(1) Discussion.....	20
(2) Final EIR Mitigation Measures.....	20
(3) Conclusions	21
I. Aesthetics, Light and Glare	22
II. Agricultural Resources	24
III. Air Quality	26
IV. Biological Resources.....	30
V. Cultural Resources.....	34
VI. Geology and Soils	36
VII. Greenhouse Gas Emissions.....	40
VIII. Hazards and Hazardous Materials	42
IX. Hydrology and Water Quality.....	45
X. Land Use Planning.....	50
XI. Noise.....	52
XII. Population and Housing	55
XIII. Public Services	57
XIV. Transportation/Traffic	60
XV. Utilities and Service Systems	63
XVI. Mandatory Findings of Significance.....	65

LIST OF TABLES

Table 1: Project Summary	6
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LIST OF EXHIBITS

Exhibit 1: Regional Location Map	7
Exhibit 2: Local Vicinity Map – Aerial Base.....	9
Exhibit 3a: Trail Improvement Plans – Harmony Trail Segments	11
Exhibit 3b: Trail Improvement Plans – Integral Trail Segment	13
Exhibit 3c: Trail Improvement Plans – Taylor Morrison Trail Segments.....	15
Exhibit 3d: Trail Improvement Plans – Taylor Morrison Trail Segments.....	17

SECTION 1: INTRODUCTION

This Addendum, checklist, and attached supporting documents have been prepared to determine whether and to what extent the Transit Area Specific Plan Environmental Impact Report (EIR) (State Clearinghouse No. 2006032091) remains sufficient to address the potential impacts of the proposed Lower/East Penitencia Creek Trails Project (project), or whether additional documentation is required under the California Environmental Quality Act (CEQA) (Pub. Resources Code, Section 21000, et seq.).

1.1 - Initial Study/Environmental Checklist

Pursuant to Public Resources Code Section 21166, and CEQA Guidelines Sections 15162 and 15164, subdivision (a), the attached initial study/checklist has been prepared to evaluate the project. The attached initial study/checklist uses the standard environmental checklist categories provided in Appendix G of the CEQA Guidelines, but provides answer columns for evaluation consistent with the considerations listed under CEQA Guidelines Section 15162, subdivision (a).

1.2 - Environmental Analysis and Conclusions

CEQA Guidelines Section 15164,¹ subdivision (a), provides that the lead agency or a responsible agency shall prepare an addendum to a previously certified EIR or ND if some changes or additions are necessary but none of the conditions described in CEQA Guidelines Section 15162 calling for preparation of a subsequent EIR or ND have occurred (CEQA Guidelines, Section 15164, subd. (a)).

An addendum need not be circulated for public review but can be included in or attached to the Final EIR or ND (CEQA Guidelines Section 15164, subd. (c)). The decision-making body shall consider the addendum with the Final EIR prior to making a decision on the project (CEQA Guidelines Section 15164, subd. (d)). An agency must also include a brief explanation of the decision not to prepare a subsequent EIR or ND pursuant to section 15162 (CEQA Guidelines Section 15164, subd. (e)).

Consequently, once an EIR or ND has been certified for a project, no subsequent EIR or ND is required under CEQA unless, based on substantial evidence:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR . . . due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;²

¹ Note that CEQA Guidelines Section 15164 is titled “Addendum to an EIR or Negative Declaration” but references only “EIR” in the various sub-sections. However, the intent is clear that Addendums can be prepared pursuant to Negative Declarations.

² CEQA Guidelines Section 15382 defines “significant effect on the environment” as “ . . . a substantial, or potentially substantial adverse change in any of the physical conditions within the area affected by the project, including land, air,

- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR [or ND] . . . due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR [or ND] was certified as complete . . . shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR [or ND] or negative declaration;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR [or ND];
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR [or ND] would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative (CEQA Guidelines, Section 15162, subd. (a); see also Pub. Resources Code, Section 21166).

This addendum, checklist and attached documents constitute substantial evidence supporting the conclusion that preparation of a supplemental or subsequent EIR or ND is not required prior to approval of the above-referenced permits by responsible and trustee agencies, and provides the required documentation under CEQA.

1.2.1 - Findings

There are no substantial changes proposed by the revised project or in the circumstances in which the project will be undertaken that require major revisions of the existing EIR, or preparation of a new subsequent or supplemental EIR, due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. As illustrated herein, the project is consistent with the EIR and would involve only minor changes to the previously approved project (CEQA Guidelines, Section 15162, subd. (a)).

1.2.2 - Conclusion

The Milpitas City Council or Planning Commission may approve the revised project based on this Addendum. The impacts of the proposed project remain within the impacts previously analyzed in the EIR (CEQA Guidelines Section 15061, subd. (b)(3)).

water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance . . .” (see also Public Resources Code, Section 21068).

The current proposed project does not require major revisions to the EIR. No new significant information or changes in circumstances surrounding the project have occurred since the certification of the EIR. The previous analysis completed for the Transit Area Specific Plan under CEQA and included in the EIR therefore remains adequate under CEQA. The City will, however, remain obligated to comply with all applicable mitigation measures and conditions of approval contained within the EIR.

1.3 - Mitigation Monitoring Program

As required by Public Resources Code Section 21081.6, subdivision (a)(1), a mitigation monitoring and reporting program has been prepared for the project in order to monitor the implementation of the mitigation measures that have been adopted for the project. Any long-term monitoring of mitigation measures imposed on the overall development will be implemented through the Mitigation Monitoring and Reporting Program.

SECTION 2: PROJECT DESCRIPTION

2.1 - Location and Setting

The project site is located in the City of Milpitas, Santa Clara County, California (Exhibit 1). The project site is located along Lower Penitencia Creek between Great Mall Parkway and Montague Expressway and East Penitencia Creek between Lower Penitencia Creek and Lundy Place (Exhibit 2). The lineal distance of the project site is approximately 1.3 mile.

An unpaved access road is located along an embankment parallel to the east side of Lower Penitencia Creek. In addition, unpaved access roads are located along embankments on either side of East Penitencia Creek. Vehicular access is controlled by locked gates at Great Mall Parkway, Montague Expressway, McCandless Drive, and Lundy Place.

2.2 - Project Background

The City of Milpitas initiated the Transit Area Specific Plan in 2004 to guide the redevelopment of the area surrounding the future Milpitas Bay Area Rapid Transit (BART) station with transit-oriented uses. The Specific Plan area encompasses 437 acres bounded by South Main Street (west), the northern property line of The Great Mall of the Bay Area (north), Piper Drive and Milpitas Boulevard (east), and Trade Zone Boulevard and Montague Expressway (south). The Specific Plan has a buildout potential of 7,109 dwelling units, 993,843 square feet of office uses, 287,075 square feet of retail uses, and 175,500 square feet of hotel uses. Additionally, the Specific Plan contemplated a network of pedestrian and bicycle facilities within the plan area, including trails along Lower Penitencia Creek and East Penitencia Creek. The Milpitas City Council adopted the Transit Area Specific Plan and certified the associated EIR in 2008.

In 2011, the City of Milpitas approved three residential projects adjacent to the Lower Penitencia Creek corridor: Harmony, Integral Communities (also known as “The District”), and Taylor Morrison. Collectively, the three projects span the reach of Lower Penitencia Creek between Great Mall Parkway and Montague Expressway. The Transit Area Specific Plan contemplated a Class I bicycle/pedestrian trail along this reach of Lower Penitencia Creek, as well as the reach of East Penitencia Creek between Lower Penitencia Creek and Lundy Place. Accordingly, all three projects were conditioned on developing the portions of the trails that adjoined their creek frontages.

2.3 - Project Characteristics

The proposed project consists of the development of the (1) Lower Penitencia Creek Trail between Great Mall Parkway (future trailhead) and Montague Expressway and (2) the East Penitencia Creek Trail between Lower Penitencia Creek and Lundy Place. For the former trail, a single trail segment would be developed along the east side of Lower Penitencia Creek Trail. For the latter trail, two trail

segments would be developed on either side of the creek and feature an at-grade crossing of McCandless Drive with a decorative crosswalk. The trails would be located within the existing alignments of the unpaved access roads.

A full-span, pre-manufactured bridge is proposed over East Penitencia Creek to link the north and south sides of Lower Penitencia Creek Trail and East Penitencia Creek Trail. The bridge would be 60 feet in length and 10 feet in width. The bridge would provide 8 feet of freeboard for East Penitencia Creek.

Table 1 summarizes the proposed project. The improvement plans are shown in Exhibit 3.

Table 1: Project Summary

Component	Characteristics
Lower Penitencia Creek Trail	0.6 mile (east side of the creek); 10- to 12-foot-wide paved section; 60-foot full-span bridge over East Penitencia Creek Trail; connection to future trailhead at Great Mall Parkway sidewalk and at-grade connection to Montague Expressway sidewalk.
East Penitencia Creek Trail (North)	0.7 mile (north side of the creek); 10- to 12-foot-wide paved section; at-grade, pavement treatment crossing of McCandless Drive
East Penitencia Creek Trail (South)	0.7 mile (south side of the creek); 10- to 12-foot-wide paved section
Source: Ruggeri-Jensen-Azar, 2012; Carlson, Barbee & Gibson, Inc., 2012.	

The entire Lower Penitencia Creek segment would be completed in one phase; however, only partial segments of the East Penitencia Creek Trails (north and south) would be developed initially. The initial north segment would extend from the Lower Penitencia Creek Trail to the edge of the “Avenue Project” to connect with a walkway that would be linked to the future “Bond Street.” The initial south segment would extend from the Lower Penitencia Creek Trail to McCandless Drive. The remaining segments would be completed at a later date. Exhibits 3a, 3b, 3c, and 3d depict the initial trail segments. Note that all of the trail segments are still in the design phase and minor changes may occur. This Addendum is intended to provide coverage for any minor changes that occur to trail design so long as they are substantially consistent with the project described herein.

The two trails are consistent with the bicycle/pedestrian facilities contemplated by the City of Milpitas General Plan, Transit Area Specific Plan, Milpitas Trails Master Plan, and Milpitas Bikeways Master Plan. The project would connect with existing bicycle facilities on Great Mall Parkway and future bicycle facilities planned for Montague Expressway as well as integrated into residential and mixed use development already under construction in the area.

Exhibit 1: Regional Location Map

Exhibit 2: Local Vicinity Map – Aerial Base

Exhibit 3a: Trail Improvement Plans – Harmony Trail Segments

Exhibit 3b: Trail Improvement Plans – Integral Trail Segment

Exhibit 3c: Trail Improvement Plans – Taylor Morrison Trail Segments

Exhibit 3d: Trail Improvement Plans – Taylor Morrison Trail Segments

SECTION 3: ENVIRONMENTAL CHECKLIST

3.1 - CEQA Checklist

The purpose of the checklist is to evaluate the categories in terms of any “changed condition” (e.g., changed circumstances, project changes, or new information of substantial importance) that may result in a changed environmental result (e.g., a new significant impact or substantial increase in the severity of a previously identified significant effect) (CEQA Guidelines Section 15162).

The questions posed in the checklist come from Appendix G of the CEQA Guidelines. A “no” answer does not necessarily mean that there are no potential impacts relative to the environmental category, but that there is no change in the condition or status of the impact since it was analyzed and addressed with mitigation measures in the Final EIR prepared for the project. These environmental categories might be answered with a “no” in the checklist, since the proposed project does not introduce changes that would result in a modification to the conclusion of the certified EIR.

3.2 - Explanation of Checklist Evaluation Categories

(1) Conclusion in Prior EIR and Related Documents

This column provides a cross-reference to the pages of the EIR where the conclusion may be found relative to the environmental issue listed under each topic.

(2) Do the Proposed Changes Involve New Impacts?

Pursuant to CEQA Guidelines Section 15162, subdivision (a)(1), this column indicates whether the changes represented by the revised project will result in new significant environmental impacts not previously identified or mitigated by the EIR, or whether the changes will result in a substantial increase in the severity of a previously identified significant impact.

(3) New Circumstances Involving New Impacts?

Pursuant to CEQA Guidelines Section 15162, subdivision (a)(2), this column indicates whether there have been substantial changes with respect to the circumstances under which the project is undertaken that will require major revisions to the EIR, due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

(4) New Information Requiring New Analysis or Verification?

Pursuant to CEQA Guidelines Section 15162, subdivision (a)(3)(A-D), this column indicates whether new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete, shows any of the following:

- (A) The project will have one or more significant effects not discussed in the previous EIR;
- (B) Significant effects previously examined will be substantially more severe than show in the previous EIR;
- (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
- (D) Mitigation measures or alternatives which are considerable different from those analyzed in the previous EIR would substantially reduce one or more significant effect of the environment, but the project proponents decline to adopt the mitigation measure or alternative.

If the additional analysis completed as part of this environmental review finds that the conclusions of the Final EIR remain the same and no new significant impacts are identified, or identified impacts are not found to be substantially more severe, or additional mitigation is not necessary, than the question would be answered “no” and no additional environmental document is required.

(5) Final EIR Mitigation Measures Implemented or Address Impacts

Pursuant to CEQA Guidelines Section 15162, subdivision (a)(3), this column indicates whether the Final EIR provides mitigation measures to address effects in the related impact category. These mitigation measures will be implemented with the construction of the project; a “yes” response will be provided in either instance. If “N/A” is indicated, the final EIR and this initial study conclude that the impact does not occur with this project or is not significant; therefore, no additional mitigation measures are needed.

3.3 - Discussion and Mitigation Sections

(1) Discussion

A discussion of the elements of the checklist is provided under each environmental category in order to clarify the answers. The discussion provides information about the particular environmental issue, how the project relates to the issue, and the status of any mitigation that may be required or that has already been implemented.

(2) Final EIR Mitigation Measures

Applicable mitigation measures from the Final EIR that apply to the project are listed under each environmental category.

(3) Conclusions

A discussion of the conclusion relating to the analysis contained in each section.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
I. Aesthetics, Light and Glare					
<i>Would the project:</i>					
a) Have a substantial adverse effect on a scenic vista?	No impact	No. The project site does not contain any scenic vistas and would not have any adverse effect on scenic vista.	No. The project site does not contain any scenic vistas and would not have any adverse effect on scenic vista.	No. The project site does not contain any scenic vistas and would not have any adverse effect on scenic vista.	None
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	No impact	No. The project site is not visible from any State Scenic Highways.	No. The project site is not visible from any State Scenic Highways.	No. The project site is not visible from any State Scenic Highways.	None
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	Less than significant impact	No. The proposed project would pave a trail on a previously unpaved path and not alter the characteristics of the surrounding community.	No. The proposed project would merely re-subdivide and still maintain the residential characteristics of the proposed project.	No. The proposed project would merely re-subdivide and still maintain the residential characteristics of the proposed project.	Policy 6.41
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	Less than significant impact	No. The proposed project would pave a trail on a previously unpaved path and would not alter the characteristics of the surrounding community.	No. The proposed project would pave a trail on a previously unpaved path and would not alter the characteristics of the surrounding community.	No. The proposed project would pave a trail on a previously unpaved path and would not alter the characteristics of the surrounding community.	Specific Plan Development Standards

Discussion

a) The project site does not include any designated scenic ridgelines. The proposed project would construct a multi-use trail on unpaved roads along Lower and East Penitencia Creek. Therefore, the project would not degrade views of the site and surrounding area relative to current conditions. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

b) The project site is not visible from any designated scenic highway, nor does it include any rock outcroppings or historic buildings. No impacts beyond what were previously disclosed in the Transit

Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

c) The surrounding area consists of developed urban uses, including commercial and residential. The project site is located with the Lower and East Penitencia Creek corridors, which are characterized by man-made channels, unpaved roads, fencing, and similar features. The proposed project would develop a Class I bicycle/pedestrian trail along the alignments of the existing unpaved access roads, as well as a 60-foot full-span bridge across East Penitencia Creek. Overall, the project would complement the aesthetics of the residential communities currently in development in the project vicinity. Therefore, the project would not degrade the visual character of the site or local surroundings. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

d) No lighting is proposed along any of the trail segments. This precludes the possibility of impacts in this regard. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

Specific Plan Policies that Reduce the Impact

None

Specific Plan Development Standards that Reduce the Impact

None

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
II. Agricultural Resources					
<i>Would the project:</i>					
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	No impact	No. The project site does not contain agricultural land uses.	No. The project site does not contain agricultural land uses.	No. The project site does not contain agricultural land uses.	None
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	No impact	No. The project site is not zoned for agricultural use nor is it encumbered by a Williamson Act contract.	No. The project site is not zoned for agricultural use nor is it encumbered by a Williamson Act contract.	No. The project site is not zoned for agricultural use nor is it encumbered by a Williamson Act contract.	None
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	This checklist question did not exist at the time the EIR was certified (2008)	No. The project site is zoned for public facility use and does not contain forested land.	No. The project site is zoned for public facility use and does not contain forested land.	No. The project site is zoned for public facility use and does not contain forested land.	None
d) Result in the loss of forest land or conversion of forest land to non-forest use?	This checklist question did not exist at the time the EIR was certified (2008)	No. The project site does not contain forest land.	No. The project site does not contain forest land.	No. The project site does not contain forest land.	None
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	No impact	No. The project site is not zoned for agricultural use.	No. The project site is not zoned for agricultural use.	No. The project site is not zoned for agricultural use.	None

Discussion

a) The project site is not classified as Prime Agricultural Farmland, Unique Farmland, or Farmland of Statewide Importance. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

b) The project site is not zoned Agricultural and is not under a Williamson Act contract. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

c, d) The project site is not zoned for forest land; therefore, the proposed project would not conflict with a Forest zoning designation. The project site does not contain forest land; therefore, the proposed project would not covert forestland to non-forest use. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

e) The project site is located near already developed land and is not located close to any existing agricultural uses; therefore, the project would not facilitate the conversion of Farmland to nonagricultural use. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

Specific Plan Policies that Reduce the Impact

None

Specific Plan Development Standards that Reduce the Impact

None.

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
III. Air Quality					
<i>Would the project:</i>					
a) Conflict with or obstruct implementation of the applicable air quality plan?	No Impact	No. The proposed project will not conflict with or obstruct applicable air quality plan.	No. The proposed project will not conflict with or obstruct applicable air quality plan.	No. The proposed project will not conflict with or obstruct applicable air quality plan.	Policy 5.16
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	No Impact	No. The proposed project will not violate or contribute substantially to an existing air quality plan; rather, the construction of a pedestrian and bicycle trail will enhance applicable air quality plans.	No. The proposed project will not violate or contribute substantially to an existing air quality plan; rather, the construction of a pedestrian and bicycle trail will enhance applicable air quality plans.	No. The proposed project will not violate or contribute substantially to an existing air quality plan; rather, the construction of a pedestrian and bicycle trail will enhance applicable air quality plans.	Policy 5.16
c) 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 (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	Less than significant impact	No. The proposed trail segments would not cause a cumulatively considerable net increase in criteria pollutant emissions.	No. The proposed trail segments would not cause a cumulatively considerable net increase in criteria pollutant emissions.	No. The proposed trail segments would not cause a cumulatively considerable net increase in criteria pollutant emissions.	Policy 5.16
d) Expose sensitive receptors to substantial pollutant concentrations?	Less than significant impact	No. The proposed trail segments would not be sources of substantial pollutant concentrations.	No. The proposed trail segments would not be sources of substantial pollutant concentrations .	No. The proposed trail segments would not be sources of substantial pollutant concentrations .	None
e) Create objectionable odors affecting a substantial number of people?	Less than significant impact	No. The proposed trail segments would not be sources of objectionable odors.	No. The proposed trail segments would not be sources of objectionable odors.	No. The proposed trail segments would not be sources of objectionable odors.	None

Discussion

a) The Lower Penitencia Creek and East Penitencia Creek corridors are designated “Parks and Open Space” by the City of Milpitas General Plan and “Linear Parks and Trails” by the Transit Area Specific Plan. The development of the trail segments would be consistent with the allowable land use activities within each land use designation. The Bay Area Air Quality Management District’s (BAAQMD) 2010 Clean Air Plan uses the planning assumptions contained each local jurisdiction’s General Plan as the basis for development its regional clean air strategies. Thus, projects that are consistent with their respectively General Plan can be assumed to be consistent with the 2010 Clean Air Plan. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

b, c) In the Bay Area Air Basin ozone, PM_{2.5}, and PM₁₀ (on the state level) have been classified by nonattainment status with regard to National Ambient Air Quality standards. The development of the proposed project will require grading and paving activities that would occur over a short period of time (less than 90 days). Fugitive dust emissions would vary from day to day, depending on the level and type of activity, silt content of the soil, and the prevailing weather. Sources of fugitive dust during construction would include vehicle movement over paved and unpaved surfaces, demolition, earth movement, grading, and wind erosion from exposed surfaces.

Specific Plan policies will be implemented prior to and during construction to minimize any potential threats to air quality. Specific Plan Policy 5.16 requires BAAQMD’s approach to dust abatement for projects under the Transit Area Specific Plan, thereby reducing air quality impacts during construction to less than significant. Because of the nature of the proposed project, all air quality-related impacts would be temporary and strictly for the duration of construction. Therefore, completion of the proposed project will discontinue all air quality impacts. In addition, the project site will not require operational maintenance; hence, any impact on air quality will be only for the duration of construction.

Completion of the proposed trail segments would improve mobility for non-motorized transportation modes and, thus, would contribute to regional emissions reduction strategies. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

d) The proposed trail segments are immediately adjacent to future residential communities, which are considered sensitive receptors. However, the trail segments would be for the exclusive use of non-polluting sources of transportation (bicycles, pedestrians, etc.) and, thus, would not have the potential to expose nearby sensitive receptors to substantial pollutant concentrations. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

e) Construction activities may have the potential to emit petroleum-based fuel odors that could temporarily affect the nearest sensitive receptors (nearby dwellings). However, such odor events would be limited to the duration of construction, which would be expected to be no more than 90 days. Once construction activities are completed, there would be no potential for odor impacts at surrounding sensitive receptors. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

General Plan Policies that Reduce the Impact:

- **3.d-G-1:** Promote walking and bicycling for transportation and recreation purposes by providing a comprehensive system of sidewalks, bicycle lanes and routes and off-street trails that connects all parts of the City.
- **3.d-G-4:** Encourage a mode shift to non-motorized transportation by expanding current pedestrian and bicycle facilities.
- **3.d-I-1:** Complete the on-street bicycle and the off-street circulation systems as depicted and described in the Bikeways and Trails Master Plans.
- **3.d-I-2:** Develop connections between the off-street trail system and on-street bicycle system to fully integrate these facilities. Maximize linkages to other trail and bikeway systems to provide alternative transportation routes for pedestrians and bicyclists.
- **3.d-I-3:** View all public capital improvement projects as opportunities to enhance the bicycle and pedestrian systems, and incorporate bicycle and pedestrian facilities into the design of such projects wherever feasible.
- **3.d-I-9:** Require developers to make new projects as bicycle and pedestrian “friendly” as feasible, especially through facilitating pedestrian and bicycle movements within sites and between surrounding activity centers.
- **3.d-I-10:** Encourage developer contributions toward pedestrian and bicycle capital improvement projects and end-of-trip support facilities.
- **3.d-I-14:** Include evaluation of bicycle facility needs in all planning applications for new developments and major remodeling or improvement projects.
- **3.d-I-18:** Provide and accommodate recreational and transportation use of the trail system.
- **3.d-I-21:** Consider building bridges or undercrossings across creek channels, railroad lines and roadways to facilitate bicycling and walking.

Specific Plan Policies that Reduce the Impact

- **Policy 3.21:** Provide continuous pedestrian sidewalks and safe bike travel routes throughout the entire Transit Area and within development projects.
- **Policy 3.22:** Private development shall be encouraged to provide direct walking and biking routes to schools and major destinations, such as parks and shopping, through their property.

- **Policy 3.23:** Encourage children to walk or bike to school by expanding existing safe walking and bicycling routes to schools into the Transit Area.
- **Policy 3.26:** Construct pedestrian/bicycle bridges over Montague Expressway to allow safe crossings of this regional roadway with heavy traffic volumes: (1) near Piper Drive, to connect the Light Rail station, BART station, and development sites on the south side with the Great Mall and the neighborhoods north of Montague Expressway; and (2) near the Penitencia Creek East channel to connect schools and neighborhoods north and south of Montague Expressway.
- **Policy 3.28:** Provide continuous bicycle circulation through the project site and to adjacent areas by closing existing gaps in bicycle lanes and bicycle routes, per Figure 3-5 [of the proposed Plan].

Gaps exist on Capitol Avenue between Montague Expressway and Trimble Road, and on Trade Zone Boulevard between Montague Expressway and Lundy Place. Capitol Avenue only needs to be re-stripped to add a bike lane. Trade Zone Boulevard generally contains sufficient width to accommodate two travel lanes and bike lanes in each direction; however, the westbound lanes on Trade Zone jog south slightly, so right-of-way acquisition will likely be required to push the curb further north to maintain a consistent section and to add bike lanes. Bike routes should be upgraded to bike lanes as part of any Montague widening project.

- **Policy 3.30:** Maintain pedestrian and biking facilities.
Pedestrian facilities and amenities shall be routinely maintained as funding and priorities allow. The highest priority shall be given to facilities that are used to provide access to transit, public facilities, senior facilities, and schools.
- **Policy 5.16:** During review of specific development proposals made to the City, sponsors of individual development projects under the Specific Plan shall implement the BAAQMD's approach to dust abatement.
This calls for "basic" control measures that should be implemented at all construction sites, "enhanced" control measures that should be implemented in addition to the basic control measures at construction sites greater than four acres in area, and "optional" control measures that should be implemented on a case-by-case basis at construction sites that are large in area, located near sensitive receptors or which, for any other reason, may warrant additional emissions reductions (BAAQMD, 1999)

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
IV. Biological Resources					
<i>Would the project:</i>					
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	Less than significant impact	No. The proposed project would not impact suitable habitat for special-status plant or wildlife species.	No. The proposed project would not impact suitable habitat for special-status plant or wildlife species.	No. The proposed project would not impact suitable habitat for special-status plant or wildlife species.	Policies 4.b-I-4, 4.b-I-5, 5.25, and 5.26
b) Have a substantial adverse effect on any riparian habitat or result in substantial loss of any other types of habitat identified as biologically unique and of the limited distribution, such as serpentine chaparral, serpentine grassland, and native grassland?	No impact	No. The proposed project will not have a substantial adverse effect on any riparian habitat or result in substantial loss of any other types of habitat identified as biologically unique.	No. The proposed project will not have a substantial adverse effect on any riparian habitat or result in substantial loss of any other types of habitat identified as biologically unique.	No. The proposed project will not have a substantial adverse effect on any riparian habitat or result in substantial loss of any other types of habitat identified as biologically unique.	Policies 4.b-I-4, 4.b-I-5, 5.25, 5.26, and 5.29
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	No impact	No. The proposed project will not have a substantial adverse effect on federally protected wetlands.	No. The proposed project will not have a substantial adverse effect on federally protected wetlands.	No. The proposed project will not have a substantial adverse effect on federally protected wetlands.	Policies 5.25 and 5.29
d) 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?	No impact	No. The proposed project would not impact wildlife movement corridors or waterways suitable for migratory fish.	No. The proposed project would not impact wildlife movement corridors or waterways suitable for migratory fish.	No. The proposed project would not impact wildlife movement corridors or waterways suitable for migratory fish.	None

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	No impact	No. The project site does not require the removal of any tree species therefore not conflicting with any preservation policies or ordinances.	No. The project site does not require the removal of any tree species therefore not conflicting with any preservation policies or ordinances.	No. The project site does not require the removal of any tree species therefore not conflicting with any preservation policies or ordinances.	Policies 4.b-I-4 and 4.b-I-5
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	No impact	No. The proposed project does not conflict with any provisions of adopted conservation plans.	No. The proposed project does not conflict with any provisions of adopted conservation plans.	No. The proposed project does not conflict with any provisions of adopted conservation plans.	None

Discussion

a, b) Michael Brandman Associates personnel conducted a field survey of the trail alignments on February 22, 2013. A description of the findings follows.

Vegetation at the Lower Penitencia Creek channel is concentrated within the channel, with the top of the bank mostly barren. Vegetation along the creek banks included Italian ryegrass, wild oat, and a variety of forbs. Signs or sightings of wildlife included rock dove, American crow, European starling, house finch, house sparrow, belted kingfisher, mallard, sandpiper, California gull, common merganser, and California ground squirrel.

In-stream aquatic habitat within the creek channels does not provide suitable breeding habitat for red-legged frog in the form of deep, cool pools or slack water required. Ground squirrels and their burrows were observed along the creek banks, presenting the potential for burrowing owl to occur onsite; however, no signs or sightings of burrowing owl were recorded during the field survey. Based on these characteristics, it is recommended that only pre-construction nesting bird surveys be performed prior to groundwork, consistent with Specific Plan Policy 5.25. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

b) The banks and channels of Lower Penitencia Creek and East Penitencia Creek contain riparian habitat. Trail construction activities would occur outside of these areas. In addition, the proposed bridge crossing of East Penitencia Creek would fully span the creek channel and, therefore, would

avoid impacts to riparian habitat. These characteristics preclude impacts to riparian habitat. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

c) Lower Penitencia Creek and East Penitencia Creek are classified as “waters of the United States”; thus, their banks and channels are under jurisdiction of the United States Army Corps of Engineers. Trail construction activities would occur outside of the creek channel within disturbed areas that contain unpaved access roads. In addition, the proposed bridge crossing of East Penitencia Creek would fully span the creek channel, thereby avoiding impacts to wetland features within the banks or channel. For these reasons, trail construction activities would not impact federally protected wetlands. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

d) As previously discussed, construction activities would not occur within the banks or channels of Lower Penitencia Creek and East Penitencia Creek. Additionally, the proposed bridge crossing of East Penitencia Creek would fully span the creek channel. To the extent that either waterway is used for fish or wildlife movement, the project would not impact its attributes. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

e) The Tree and Planting Ordinance of the City of Milpitas protects significant trees, as defined by the Ordinance, including heritage trees, throughout the city. Under the City’s Zoning Ordinance, heritage trees are defined as any tree with a diameter of 30 inches or more measured 2 feet above ground level. The project site does not require the removal or damaging of any tree species. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

f) The project site is not located within the boundaries of an adopted habitat conservation plan or natural community conservation plan. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

General Plan Policies that Reduce the Impact:

- **Policy 4.b-I-4:** Require a biological assessment of any project site where sensitive species are present, or where habitats that support known sensitive species are present.
- **Policy 4.b-I-5:** Utilize sensitive species information acquired through biological assessments, project land use, planning and design.

Specific Plan Policies that Reduce the Impact

- **Policy 5.25:** For any project sites that are either undeveloped or vacant and support vegetation, or project sites which are adjacent to such land, a pre-construction survey shall be conducted by a qualified biologist within 30 days of the onset of construction. This survey shall include two early morning surveys and two evening surveys to ensure that all owl pairs have been located. If preconstruction surveys undertaken during the breeding season (February 1st through July 31st) locate active nest burrows, an appropriate buffer around them (as determined by the project biologist) shall remain excluded from construction activities until the breeding season is over. During the non-breeding season (August 15th through January 31st), resident owls may be relocated to alternative habitat. The relocation of resident owls shall be according to a relocation plan prepared by a qualified biologist in consultation with the California Department of Fish and Game (CDFG). This plan shall provide for the owl's relocation to nearby lands possessing available nesting habitat. Suitable development-free buffers shall be maintained between replacement nest burrows and the nearest building, pathway, parking lot, or landscaping. The relocation of resident owls shall be in conformance with all necessary state and federal permits.
- **Policy 5.26:** To mitigate impacts on non-listed special-status nesting raptors and other nesting birds, a qualified biologist will survey the site for nesting raptors and other nesting birds within 14 days prior to any ground disturbing activity or vegetation removal. Results of the surveys will be forwarded to the U.S. Fish and Wildlife Service (USFWS) and CDFG (as appropriate) and, on a case-by-case basis, avoidance procedures adopted. These can include construction buffer areas (several hundred feet in the case of raptors) or seasonal avoidance. However, if construction activities occur only during the non-breeding season between August 31 and February 1, no surveys will be required.
- **Policy 5.27:** Development under the Specific Plan shall, to the maximum extent feasible (and with exceptions such as removal for emergency, health, or fire hazard purposes), retain the corridor of trees along McCandless Drive and corridors of trees in the vicinity both as a potential resource for habitat and as an important visual resource.
- **Policy 5.29:** Prior to new development in areas that border creeks and with potential riparian habitat, applicants will be required to coordinate with the CDFG, as required by law. Coordination will include evaluation of existing riparian habitat and development of avoidance, minimization, and/or compensatory measures sufficient to procure a Streambed Alteration Agreement with the CDFG.

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
V. Cultural Resources					
<i>Would the project:</i>					
a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?	No Impact	No. The project site has no significant historical resource as defined in Section 15064.5.	No. The project site has no significant historical resource as defined in Section 15064.5.	No. The project site has no significant historical resource as defined in Section 15064.5.	Specific Plan Policies 5.31 and 5.32
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	No impact	No. The project site has no significant archaeological resource as defined in Section 15064.5.	No. The project site has no significant archaeological resource as defined in Section 15064.5.	No. The project site has no significant archaeological resource as defined in Section 15064.5.	Specific Plan Policies 5.31 and 5.32
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	No impact	No. The project site is not located on any unique paleontological resource or unique geological feature.	No. The project site is not located on any unique paleontological resource or unique geological feature.	No. The project site is not located on any unique paleontological resource or unique geological feature.	Specific Plan Policies 5.31 and 5.32
d) Disturb any human remains, including those interred outside of formal cemeteries?	No impact	No. The proposed project will not disturb any human remains, including those outside of formal cemeteries.	No. The proposed project will not disturb any human remains, including those outside of formal cemeteries.	No. The proposed project will not disturb any human remains, including those outside of formal cemeteries.	Specific Plan Policies 5.31 and 5.32

Discussion

a, b) An evaluation of the site prepared for the Transit Area Specific Plan EIR did not observe any prehistoric artifacts, unique archaeological artifacts, or any other cultural resources within the Lower Penitencia Creek and East Penitencia Creek corridors as defined in Section 15064.5.

Development of the trails will result in ground-disturbing activities along the man-made embankments of Lower Penitencia Creek and East Penitencia Creek. These embankments currently contain unpaved access roads and, therefore, have been previously disturbed. Thus, it is unlikely that cultural prehistoric resources are present within the project boundaries. Nonetheless, Specific Plan Policies 5.31 and 5.32 would be implemented as contemplated by the Transit Area Specific Plan. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

c) There are no known paleontological or archaeological resources on the site, nor are there any unique geological features associated with the project site. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

d) There are no known human remains that have been interred on the site. If human remains should be discovered during development of the proposed project, state law requires that the Santa Clara County Coroner and the Native American Heritage Commission be contacted to arrange for Native American participation in determining the disposition of such remains, should be they be determined to be Native American. As such, Specific Plan Policies 5.31 and 5.32 would be implemented as contemplated by the Transit Area Specific Plan. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

Specific Plan Policies that Reduce the Impact

- **Policy 5.31:** Any future ground disturbing activities, including grading, in the Transit Area shall be monitored by a qualified archaeologist to ensure that the accidental discovery of significant archaeological materials and/or human remains is handled according to CEQA Guidelines § 15064.5 regarding discovery of archeological sites and burial sites, and Guidelines §15126.4(b) identifying mitigation measures for impacts on historic and cultural resources. (Reference CEQA §§ 21083.2, 21084.1.) In the event that buried cultural remains are encountered, construction will be temporarily halted until a mitigation plan can be developed. In the event that human remains are encountered, the developer shall halt work in the immediate area and contact the Santa Clara County coroner and the City of Milpitas. The coroner will then contact the Native American Heritage Commission (NAHC) which will in turn contact the appropriate Most Likely Descendent (MLD). The MLD will then have the opportunity to make are commendation for the respectful treatment of the Native American remains and related burial goods.
- **Policy 5.32:** All grading plans for development projects involving ground displacement shall include a requirement for monitoring by a qualified paleontologist to review underground materials recovered. In the event fossils are encountered, construction shall be temporarily halted. The City's Planning Department shall be notified immediately, a qualified paleontologist shall evaluate the fossils, and steps needed to photo document or to recover the fossils shall be taken. If fossils are found during construction activities, grading in the vicinity shall be temporarily suspended while the fossils are evaluated for scientific significance and fossil recovery, if warranted.

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
VI. Geology and Soils					
<i>Would the project:</i>					
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving seismic hazards?	Less than significant impact	No. The project site has low susceptibility to strong seismic hazards.	No. The project site has low susceptibility to strong seismic hazards.	No. The project site has low susceptibility to strong seismic hazards.	None
b) Result in substantial soil erosion or the loss of topsoil?	Less than significant impact	No. The proposed project has low susceptibility to soil erosion and loss of topsoil.	No. The proposed project has low susceptibility to soil erosion and loss of topsoil.	No. The proposed project has low susceptibility to soil erosion and loss of topsoil.	Transit Area Specific Plan Policies 4.d-I-1, 5.33, and 5.34
c) Be located on a geologic unit or soil that is unstable, or that would become unstable, as a result of the project and potentially result in on-or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	No impact	No. The project site is not susceptible to landslides.	No. The project site is not susceptible to landslides.	No. The project site is not susceptible to landslides.	None
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	No impact	No. The project site has low susceptibility to erosion.	No. The project site has low susceptibility to erosion.	No. The project site has low susceptibility to erosion.	None
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	No impact	No. The project site will not require wastewater disposal systems for the disposal of wastewater.	No. The project site will not require wastewater disposal systems for the disposal of wastewater.	No. The project site will not require wastewater disposal systems for the disposal of wastewater.	None

Discussion

a) The project site is not crossed by an active fault, which precludes the possibility of a fault rupture from occurring within the project site. The project site may be exposed to moderate to severe ground shaking during an earthquake on the Hayward or Calaveras fault. The proposed project and project site do not have—nor do they require the construction of—any structures. Therefore, development of the proposed project precludes any mitigation measures to reduce the effects of ground shaking on the project site.

The project site is considered a moderate liquefaction susceptibility zone, due to its location near bodies of water. The project site involves the development of trail segments along man-made embankments, which were previously graded and soil engineered. The construction of the trails will involve further grading and soil engineering to ensure that adequate support is provided, which would reduce the potential risk to a level of less than significant. The project site is not located within an area that is known to being susceptible to landslides. This conclusion precludes the possibility of an earthquake-induced landslide from affecting the project site. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

b) Construction activities associated with the proposed project will involve grading and paving activities that could expose soils to sources of wind and water to the surrounding area, specifically, East and Lower Penitencia Creek. Because of the nature of the proposed project, it is not expected to have an adverse effect on topsoil or soil erosion, and any impacts would be temporary for the duration of construction. As such, the development of this project would not alter these conclusions.

Water quality in California is regulated by the U.S. Environmental Protection Agency's National Pollution Discharge Elimination System, which controls the discharge of pollutants to water bodies from point and non-point sources. Local oversight of water quality has been delegated to the Regional Water Quality Control Boards throughout California. As indicated in the Transit Area Specific Plan, construction projects that disturb 1 acre or more are required to obtain a permit and prepare a Stormwater Pollution Prevention Plan (SWPPP). In addition, the SWPPP must list Best Management Practices (BMPs) the discharger will use to protect stormwater runoff and the placement of those BMPs. Transit Area Specific Plan Policies 4.d-I-1, 5.33, and 5.34 would reduce construction water quality impacts to less than significant levels. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

c) The project site is not located within an area that is known to being susceptible to landslides. This conclusion precludes the possibility of an earthquake-induced landslide from affecting the project site. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

d) The proposed site is not located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), and would not create substantial risks to life or property. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

e) The proposed project would not involve the use of septic tanks or alternative wastewater disposal systems. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR

have been identified. Therefore, development of the proposed project would not alter these conclusions.

General Plan Policy that Reduces the Impact

- **Policy 5.a-I-3:** Require projects to comply with the guidelines prescribed in the City's Geotechnical Hazards Evaluation manual.
- **Policy 4.d-I-1:** Continue implementing the National Pollutant Discharge Elimination System (NPDES) requirements of the Regional Water Quality Control Board – this is implemented through Chapter 16 of the City's Zoning Ordinance.

Specific Plan Policies that Reduce the Impact

- **Policy 5.33:** Require construction projects that disturb one or more acres to prepare a Stormwater Pollution Prevention Plan (SWPPP) that, when properly implemented, would reduce or eliminate impacts on surface water quality during construction.
Construction projects that disturb one or more acres are required to obtain a Construction General Permit under the General Permit for Discharges of Stormwater Associated with Construction Activity. As part of the requirements for the permit, the developer must develop a SWPPP containing site maps that show the construction site perimeter, existing and proposed buildings, lots, roadways, stormwater collection and discharge points, general topography both before and after construction, and drainage patterns across the project. The SWPPP must list Best Management Practices (BMPs) the discharger will use to protect stormwater runoff and the placement of those BMPs. Additionally, the SWPPP must contain a visual monitoring program; a chemical monitoring program for “non-visible” pollutants to be implemented if there is a failure of BMPs; and a sediment monitoring plan if the site discharges directly to a water body listed on the 303(d) list for sediment. None of the water courses adjacent to the Planning Area are listed on the 303(d) list for sediment, so this requirement is not required (2002 CWA Section 303(d) List of Water Quality Limited Segment, San Francisco Bay Regional Water Quality Control Board, approved July 2003). The San Francisco Bay Regional Water Quality Control Board (Regional Board) administers permitting for the SWPPP. A Notice of Intent (NOI) must be filed with the Regional Board signaling the intent of the developer or construction contractor to prepare a SWPPP prior to construction activities.
- **Policy 5.34:** Require construction projects that disturb one or more acres to prepare a Stormwater Control Plan, as stipulated in Provision C.3 of the Santa Clara County National Pollutant Discharge Elimination System (NPDES) permit for stormwater discharges. The City of Milpitas is included in the Santa Clara County NPDES permit for stormwater discharges. The permit requires that redevelopment projects 10,000 square feet or more in size develop a Stormwater Control Plan, as stipulated in Provision C.3 of the permit. The Stormwater Control Plan requires the implementation of BMPs to control both stormwater peak flows and pollutant levels. BMPs for flow control can include a decrease in impervious area (as will occur in the

Planning Area) or construction of flow detention ponds and/or mechanical filtration. The City of Milpitas provides the Stormwater C.3 Guidebook (2005) to developers for assistance in developing a Stormwater Control Plan. The State of California periodically amends the City's NPDES Permit; projects seeking approval will be required to meet all requirements in place at the time of project application.

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
VII. Greenhouse Gas Emissions					
<i>Would the project:</i>					
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	Less than significant impact	No. The project site will not generate greenhouse gas emissions that will adversely impact the environment.	No. The project site will not generate greenhouse gas emissions that will adversely impact the environment.	No. The project site will not generate greenhouse gas emissions that will adversely impact the environment.	Policies 3.21, 3.23, 3.28
b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?	No impact	No. The proposed project site conflict with any applicable plan, policy, or regulations for the purpose of reducing greenhouse gases.	No. The proposed project site conflict with any applicable plan, policy, or regulations for the purpose of reducing greenhouse gases.	No. The proposed project site conflict with any applicable plan, policy, or regulations for the purpose of reducing greenhouse gases.	Policies 3.21, 3.23, 3.28

Discussion

a) The proposed project would develop Class I trail segments that would improve mobility for pedestrians, cyclists, and other forms of non-motorized transportation. The proposed project would result in the emissions of greenhouse gas emissions during construction; however, these are expected to be minimal given the nature of construction activities. Operational emissions of greenhouse gas emissions would be expected to be negligible, due to the project characteristics. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

b) The proposed project furthers the objectives of the California Global Warming Solutions Act of 2006, which aims to reduce greenhouse gas emissions by 2030 to 1990 levels, by developing trail segments that would improve mobility for pedestrians, cyclists, and other forms of non-motorized transportation. As proposed in the Specific Plan Policies, the project site will provide continuous bicycle circulation to nearby bicycle lanes enhancing connectivity. Therefore, the project would not interfere with any applicable plan, policy, or regulation of an agency adopted for reducing the emissions of greenhouse gases. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

Specific Plan Policies that Reduce the Impact

- **Policy 3.21:** Provide continuous pedestrian sidewalks and safe bike travel routes throughout the entire Transit Area and within development projects.
- **Policy 3.23:** Encourage children to walk or bike to school by expanding existing safe walking and bicycling routes to schools into the Transit Area.
- **Policy 3.28:** Provide continuous bicycle circulation through the project site and to adjacent areas by closing existing gaps in bicycle lanes and bicycle routes, per Figure 3-5 [of the proposed Plan].

Conclusion

The conclusions from the Transit Area Specific Plan EIR EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
VIII. Hazards and Hazardous Materials					
<i>Would the project:</i>					
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	Less than significant impact	No. The project would not create significant hazards through the routine transport, use, or disposal of hazardous materials.	No. The project would not create significant hazards through the routine transport, use, or disposal of hazardous materials.	No. The project would not create significant hazards through the routine transport, use, or disposal of hazardous materials.	None
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	Less than significant impact	No. The proposed project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions.	No. The proposed project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions.	No. The proposed project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions.	None
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	No impact	No. The proposed project is not currently within a one-quarter mile distance of a school.	No. The proposed project is not currently within a one-quarter mile distance of a school.	No. The proposed project is not currently within a one-quarter mile distance of a school.	None
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	No impact	No. The proposed project is not located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.	No. The proposed project is not located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.	No. The proposed project is not located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.	None
e) Be located within two miles of an airport land use plan, and result in a safety hazard for people residing or working in the project area?	No impact	No. The project site is not located within two miles of an Airport Planning Area of San Jose International Airport	No. The project site is not located within two miles of an Airport Planning Area of San Jose International Airport	No. The project site is not located within two miles of an Airport Planning Area of San Jose International Airport	None

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	No impact	No. The proposed project is not within the vicinity of a private airstrip.	No. The proposed project is not within the vicinity of a private airstrip.	No. The proposed project is not within the vicinity of a private airstrip.	None
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	No impact	No. The project site will not interfere with an adopted emergency response or evacuation plan.	No. The project site will not interfere with an adopted emergency response or evacuation plan.	No. The project site will not interfere with an adopted emergency response or evacuation plan.	None
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	No impact	No. The project site is not located in an area susceptible to wildland fires.	No. The project site is not located in an area susceptible to wildland fires.	No. The project site is not located in an area susceptible to wildland fires.	None

Discussion

a, b) During construction, the project may require the use of certain hazardous materials. The amount of such materials stored would not be substantial, and normal operating practices and procedures include preventative and protective measures that would reduce any potential impacts to less than significant levels. Because of the nature of the proposed project, any potential impacts would be for the duration of construction (less than 90 days). No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

c) Currently, there are no existing school sites within 0.25 mile of the project site. The Milpitas Transit Area Specific Plan contemplates an elementary or K-8 school in the vicinity of McCandless Drive / Houret Drive, adjacent to East Penitencia Creek. Any hazardous emissions or handling of hazardous materials would be temporary and limited to the duration of construction activities (less than 90 days), which would be completed before the development of the future school. This precludes any potential impacts from hazardous emissions, handling hazardous materials, substances, or waste onto the future school site. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

d) The project site is not located on a site included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, therefore, would not result in a significant impact to either the public or the environment. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

e, f) The nearest airport to the project site is San Jose International Airport, located 3 miles to the southwest. The project site is not within the Airport Planning Area of San Jose International Airport; therefore, these characteristics preclude the possibility of creating an aviation safety hazard for people working or residing in the project area. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

g) The proposed project consists of the development of new trail segments within existing creek corridors. The project does not have any characteristics that would impair the implementation of or physically interfere with an adopted emergency response plan or an emergency evacuation plan. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

h) The project site is located within an already urbanized and developed community of Milpitas. It does not include, nor is located adjacent to, any areas designated as having a high, extreme, or severe wildland fire hazard. Therefore, exposure to the risk of wildland fires would be minimal. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

Specific Plan Policies that Reduce the Impact

None.

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
IX. Hydrology and Water Quality					
<i>Would the project:</i>					
a) Violate any water quality standards or waste discharge requirements?	Less than significant impact	No. General Plan policies and Transit plan policies would help to reduce construction-related water quality impacts to less than significant levels.	No. General Plan policies and Transit plan policies would help to reduce construction-related water quality impacts to less than significant levels.	No. General Plan policies and Transit plan policies would help to reduce construction-related water quality impacts to less than significant levels.	General Plan Policy 4.d-I-1, and Transit Plan Policies 5.33 and 5.34
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	No impact	No. The proposed project would not use groundwater resources or impair groundwater recharge.	No. The proposed project would not use groundwater resources or impair groundwater recharge.	No. The proposed project would not use groundwater resources or impair groundwater recharge.	None
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	Less than significant impact	No. The project will not substantially alter the course of a stream or river in a manner that would result in substantial erosion or siltation on- or offsite.	No. The proposed project would provide storm drainage facilities and, thus, would not result in substantial erosion.	No. The proposed project would provide storm drainage facilities and, thus, would not result in substantial erosion.	None
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	Less than significant impact	No. General Plan policies and Transit plan policies would help to reduce construction-related water quality impacts to less than significant levels.	No. General Plan policies and Transit plan policies would help to reduce construction-related water quality impacts to less than significant levels.	No. General Plan policies and Transit plan policies would help to reduce construction-related water quality impacts to less than significant levels.	General Plan Policy 4.d-I-1, and Transit Plan Policies 5.33 and 5.34

Environmental Checklist

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	No impact	No. The proposed project would provide storm drainage facilities and, thus, would not result in flooding or polluted runoff.	No. The proposed project would provide storm drainage facilities and, thus, would not result in flooding or polluted runoff.	No. The proposed project would provide storm drainage facilities and, thus, would not result in flooding or polluted runoff.	Specific Plan policies 5.33 and 5.34
f) Otherwise substantially degrade water quality?	No impact	No. All potential impacts to water quality would be temporary and only during construction; in addition, Specific Plan Policies will be implemented to minimize any impacts.	No. All potential impacts to water quality would be temporary and only during construction; in addition, Specific Plan Policies will be implemented to minimize any impacts.	No. All potential impacts to water quality would be temporary and only during construction; in addition, Specific Plan Policies will be implemented to minimize any impacts.	Specific Plan policies 5.33 and 5.34
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	No impact.	No. The proposed project would not place housing within a 100-year flood hazard area.	No. The proposed project would not place housing within a 100-year flood hazard area.	No. The proposed project would not place housing within a 100-year flood hazard area.	None
h) Place within a 100 year flood hazard area structures, which would impede or redirect flood flows	No impact	No. The proposed project would not place structures within a 100-year flood hazard area .	No. The proposed project would not place structures within a 100-year flood hazard area.	No. The proposed project would not place structures within a 100-year flood hazard area.	None
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	Less than significant impact	No. The project site has very low susceptibility to flooding as a result of dam or levee failure.	No. The project site has very low susceptibility to flooding as a result of dam or levee failure.	No. The project site has very low susceptibility to flooding as a result of dam or levee failure.	None
j) Inundation by seiche, tsunami, or mudflow?	No impact	No. The project site is has low susceptibility to seiches, tsunamis, and mudflow.	No. The project site is has low susceptibility to seiches, tsunamis, and mudflow.	No. The project site is has low susceptibility to seiches, tsunamis, and mudflow.	None

Discussion

a, c, f) The proposed project involves the development of trail segments along the man-made embankments of Lower Penitencia Creek and East Penitencia Creek. Trail construction activities

would occur within disturbed areas that contain unpaved access roads outside of the creek channel. Furthermore, the proposed bridge crossing of East Penitencia Creek would fully span the waterway, avoiding impacts within the banks or channel.

Water quality in California is regulated by the U.S. Environmental Protection Agency's National Pollution Discharge Elimination System, which controls the discharge of pollutants to water bodies from point and non-point sources. Local oversight of water quality has been delegated to the Regional Water Quality Control Boards throughout California. As indicated in the Transit Area Specific Plan, construction projects that disturb 1 acre or more are required to obtain a permit and prepare a Stormwater Pollution Prevention Plan (SWPPP). In addition, the SWPPP must list Best Management Practices (BMPs) the discharger will use to protect stormwater runoff and the placement of those BMPs. Transit Area Specific Plan Policies 4.d-I-1, 5.33, and 5.34 would reduce construction water quality impacts to less than significant levels. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

b) The proposed project involves the development of trail segments along Lower Penitencia Creek and East Penitencia Creek. Neither construction nor operation of the trail segments would involve the use of substantial quantities of water supplies that would have the potential to deplete any groundwater supplies. Furthermore, the development of the trail segments avoids impacts to the channels of the two waterways and, therefore, would not interfere with groundwater recharge activities that occur in these areas. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

d, e) The proposed project involves the development of trail segments along Lower Penitencia Creek and East Penitencia Creek. Under existing conditions, runoff within the creek corridors sheet flows into the creek channels. The proposed project would involve paving and grading activities, including the installation of a 10-foot-wide trail section along the alignment of existing unpaved access roads along the creek embankments. The trail section will be constructed in a manner that drains runoff into the creek channel, similar to existing conditions. The net increase in runoff volume relative to existing conditions is expected to be minimal and, therefore, would not contribute to downstream flooding. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

g, h) Although portions of the trail alignment may be within a 100-year flood hazard area, the trail segments themselves do not involve the construction of new housing units or structures that would impede or redirect flood flows. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

i) The project site is located near the catastrophic dam failure inundation boundaries of the Leroy Anderson Dam under wet conditions, and assuming the reservoir is at full capacity at time of failure. The dam is inspected twice a year by the District and the California Division of Safety of Dam and the Federal Energy Regulatory Commission. Inundation at the project site is not expected during non-catastrophic conditions; therefore, all impacts are less than significant. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

j) The project site has low susceptibility to tsunami, seiches, and mudflow events. According to the Association of Bay Area Government's interactive tsunami mapping, areas near the bay are not considered susceptible to tsunami inundation. The City of Milpitas is located approximately 30 miles from the Pacific Ocean, therefore precluding the possibility of a tsunami inundating the project site. There are no inland water bodies in the project vicinity that are susceptible to seiches, thereby precluding the possibility of a seiche inundating the project site. The surrounding vicinity does not contain any steep slopes or any volcanically active features that could produce mudflow in the City of Milpitas. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

General Plan Policies that Reduce the Impact:

- **Policy 4.d-I-1:** Continue implementing the National Pollutant Discharge Elimination System (NPDES) requirements of the Regional Water Quality Control Board – this is implemented through Chapter 16 of the City's Zoning Ordinance.

Specific Plan Policies that Reduce the Impact

- **Policy 5.33:** Require construction projects that disturb one or more acres to prepare a Stormwater Pollution Prevention Plan (SWPPP) that, when properly implemented, would reduce or eliminate impacts on surface water quality during construction. Construction projects that disturb one or more acres are required to obtain a Construction General Permit under the General Permit for Discharges of Stormwater Associated with Construction Activity. As part of the requirements for the permit, the developer must develop a SWPPP containing site maps that show the construction site perimeter, existing and proposed buildings, lots, roadways, stormwater collection and discharge points, general topography both before and after construction, and drainage patterns across the project. The SWPPP must list Best Management Practices (BMPs) the discharger will use to protect stormwater runoff and the placement of those BMPs. Additionally, the SWPPP must contain a visual monitoring program; a chemical monitoring program for "non-visible" pollutants to be implemented if there is a failure of BMPs; and a sediment monitoring plan if the site discharges directly to a water body listed on the 303(d) list for sediment. None of the water courses adjacent to the

Planning Area are listed on the 303(d) list for sediment, so this requirement is not required. (2002 CWA Section 303(d) List of Water Quality Limited Segment, San Francisco Bay Regional Water Quality Control Board, approved July 2003) The San Francisco Bay Regional Water Quality Control Board (Regional Board) administers permitting for the SWPPP. A Notice of Intent (NOI) must be filed with the Regional Board signaling the intent of the developer or construction contractor to prepare a SWPPP prior to construction activities.

- **Policy 5.34:** Require construction projects that disturb one or more acres to prepare a Stormwater Control Plan, as stipulated in Provision C.3 of the Santa Clara County National Pollutant Discharge Elimination System (NPDES) permit for stormwater discharges. The City of Milpitas is included in the Santa Clara County NPDES permit for stormwater discharges. The permit requires that redevelopment projects 10,000 square feet or more in size develop a Stormwater Control Plan, as stipulated in Provision C.3 of the permit. The Stormwater Control Plan requires the implementation of BMPs to control both stormwater peak flows and pollutant levels. BMPs for flow control can include a decrease in impervious area (as will occur in the Planning Area) or construction of flow detention ponds and/or mechanical filtration. The City of Milpitas provides the Stormwater C.3 Guidebook (2005) to developers for assistance in developing a Stormwater Control Plan. The State of California periodically amends the City's NPDES Permit; projects seeking approval will be required to meet all requirements in place at the time of project application.

Conclusion

The conclusions from the original Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
X. Land Use Planning					
<i>Would the project:</i>					
a) Physically divide an established community?	No impact	No. The proposed project will enhance connectivity within established community.	No. The proposed project will enhance connectivity within established community.	No. The proposed project will enhance connectivity within established community.	None
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	No impact	No. The proposed project is consistent with the existing General Plan and Zoning designations for the project site.	No. The proposed project is consistent with the existing General Plan and Zoning designations for the project site.	No. The proposed project is consistent with the existing General Plan and Zoning designations for the project site.	None
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	No impact	No. The proposed project does not conflict any applicable habitat conservation plan or natural community conservation plan.	No. The proposed project does not conflict any applicable habitat conservation plan or natural community conservation plan.	No. The proposed project does not conflict any applicable habitat conservation plan or natural community conservation plan.	None

Discussion

a) The Lower Penitencia Creek and East Penitencia Creek corridors are currently fenced and not accessible to the general public. The proposed project will enhance bicycle and pedestrian connectivity within the Transit Area Specific Plan boundaries by developing new trails along Lower Penitencia Creek Trail and East Penitencia Creek Trail. As such, it would improve linkages within the project vicinity. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

b) The Lower Penitencia Creek and East Penitencia Creek corridors are designated “Parks and Open Space” by the City of Milpitas General Plan and “Linear Parks and Trails” by the Transit Area Specific Plan. The development of the trail segments would be consistent with the allowable land use activities within each land use designation. The development of the trail segments also furthers

Milipitas's Trails Master Plan Goals by creating trails and segments of trails for multi-use recreational purposes as well as enhancing transportation measures in Milpitas. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

c) The project site is not located within the boundaries of an adopted habitat conservation plan or natural community conservation plan. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

Specific Plan Policies that Reduce the Impact

None.

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
XI. Noise					
<i>Would the project result in:</i>					
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	Less than significant impact	No. The proposed project will adhere to all noise ordinances in relation to construction with the following policies to ensure impacts are less than significant.	No. The proposed project will adhere to all noise ordinances in relation to construction with the following policies to ensure impacts are less than significant.	No. The proposed project will adhere to all noise ordinances in relation to construction with the following policies to ensure impacts are less than significant.	Specific Plan Policies 5.10 and 5.15, City of Milpitas Noise Abatement Ordinance, City Regulation Policy 6-I-13
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	Less than significant impact.	No. The proposed project would not expose persons to excessive groundborne vibration.	No. The proposed project would not expose persons to excessive groundborne vibration.	No. The proposed project would not expose persons to excessive groundborne vibration.	Milpitas Noise Abatement Ordinance
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	No impact	No. The proposed project would not result in a permanent increase in ambient noise levels.	No. The proposed project would not result in a permanent increase in ambient noise levels.	No. The proposed project would not result in a permanent increase in ambient noise levels.	None
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	Less than significant impact	No. The proposed project would not result in a substantial temporary increase in ambient noise levels.	No. The proposed project would not result in a substantial temporary increase in ambient noise levels.	No. The proposed project would not result in a substantial temporary increase in ambient noise levels.	Milpitas Noise Abatement Ordinance
e) For a project located within 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	No, the project site is not within two miles of an airport land use plan.	No, the project site is not within two miles of an airport land use plan.	No, the project site is not within two miles of an airport land use plan.	None
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	No impact	No, the project site is not located within the vicinity of a private air strip.	No, the project site is not located within the vicinity of a private air strip.	No, the project site is not located within the vicinity of a private air strip.	None

Discussion

a) The project site involves the construction of new trail segments along Lower Penitencia Creek and East Penitencia Creek that are adjacent to future residential uses. Construction activities would involve grading and paving activities that have the potential to expose nearby receptors to noise levels in excess of standards established in the local general plan or noise ordinance. As such, compliance with the City of Milpitas Noise Abatement Ordinance would be required to minimize noise impacts at nearby receptors. Note that construction noise would cease once the trail segments are completed.

The trail segments would be used for non-motorized modes of transportation (bicycling, walking, etc.) during daytime hours. The trails would not be lighted and nighttime use would be prohibited by Santa Clara Valley Water District rules. These characteristics would limit the possibility of trail use to exceed “normally acceptable” noise standards for residential uses. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

b) Construction activities may occasionally be perceptible at the closest sensitive land uses. A large bulldozer can create vibration levels of 87 VdB at a distance of 25 feet (equivalent to a peak particle velocity [PPV] of 0.089). The nearest residential uses would be located as close as 10 feet from the trail alignment. Modern wood frame residential construction can withstand PPV levels of 0.25. Thus, even the closest construction activities would not cause substantial vibration damage at the nearest residential use. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

c) The trail segments would be used for non-motorized modes of transportation (bicycling, walking, etc.) during daytime hours. The trails would not be lighted and nighttime use would be prohibited by Santa Clara Valley Water District rules. These characteristics would limit the possibility of trail use to cause substantial increases in ambient noise levels. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

d) The project site involves the construction of new trail segments along Lower Penitencia Creek and East Penitencia Creek that are adjacent to future residential uses. Construction activities would involve grading and paving activities that have the potential to cause temporary increases in ambient noise levels. As such, compliance with the City of Milpitas Noise Abatement Ordinance would be required to minimize noise impacts at nearby receptors. Note that construction noise would cease once the trail segments are completed. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

e, f) The project site is not located within the boundaries of an airport land use plan. In addition, the nearest airport from the project site is San Jose International Airport located approximately 3 miles from the site. This precludes the possibility of the proposed project exposing persons residing or working in the project vicinity to excessive aviation noise. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

Specific Plan Policies that Reduce the Impact

- **Policy 5.10:** New development in the Transit Area shall adhere to the standards and guidelines in the Milpitas General Plan that govern noise levels.
- **Policy 5.15:** Prior to issuance of building permits, applicants shall demonstrate that noise exposure to sensitive receptors from construction activities has been mitigated to the extent feasible pursuant to the City's Noise Abatement Ordinance.

City Regulations that Reduce the Impact

The City's Noise Abatement Ordinance would reduce potential construction-related impacts.

- **Policy 6-I-13:** Restrict the hours of operation, technique, and equipment used in all public and private construction activities to minimize noise impact. Include noise specifications in requests for bids and equipment information.

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
XII. Population and Housing					
<i>Would the project:</i>					
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?	No impact	No. The proposed project would not affect population growth.	No. The proposed project would not affect population growth.	No. The proposed project would not affect population growth.	None
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	No impact	No. The proposed project would not result in removal of the existing dwelling units on the project site.	No. The proposed project would not result in removal of the existing dwelling units on the project site.	No. The proposed project would not result in removal of the existing dwelling units on the project site.	None
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	No impact	No. The proposed project would not result in removal of the existing dwelling units on the project site.	No. The proposed project would not result in removal of the existing dwelling units on the project site.	No. The proposed project would not result in removal of the existing dwelling units on the project site.	None

Discussion

a) The proposed project consists of the development of new trail segments within existing creek corridors in an existing developed community. The project does not have any characteristics that would facilitate population growth. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

b, c) The proposed project consists of the development of new trail segments within existing creek corridors in an existing developed community and will not require the demolition of any existing residential units. Therefore, the project would not displace substantial numbers of existing homes. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

Specific Plan Policies that Reduce the Impact

None.

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
XIII. Public Services					
<i>Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:</i>					
a) Fire protection?	No impact	No. The proposed project would not result in a need for new or expanded fire protection facilities.	No. The proposed project would not result in a need for new or expanded fire protection facilities.	No. The proposed project would not result in a need for new or expanded fire protection facilities.	None
b) Police protection?	No impact	No. The proposed project would not result in a need for new or expanded police protection facilities.	No. The proposed project would not result in a need for new or expanded police protection facilities.	No. The proposed project would not result in a need for new or expanded police protection facilities.	None
c) Schools?	No impact	No. The proposed project will not require additional school facilities.	No. The proposed project will not require additional school facilities.	No. The proposed project will not require additional school facilities.	None
d) Parks?	No impact	No. The proposed project would enhance any existing and future park facilities.	No. The proposed project would enhance any existing and future park facilities.	No. The proposed project would enhance any existing and future park facilities.	None
e) Other public facilities?	No impact	No. The proposed project would not result in a need for new or expanded other public facilities.	No. The proposed project would not result in a need for new or expanded other public facilities.	No. The proposed project would not result in a need for new or expanded other public facilities.	None
f) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	No impact	No. The project encourages the use of the already developed neighborhood, thereby complementing its surrounding area.	No. The project encourages the use of the already developed neighborhood, thereby complementing its surrounding area.	No. The project encourages the use of the already developed neighborhood, thereby complementing its surrounding area.	None
g) Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment.	No impact	No. The project does not require the construction or expansion of recreational facilities.	No. The project does not require the construction or expansion of recreational facilities.	No. The project does not require the construction or expansion of recreational facilities.	None

Discussion

a-e) The proposed project involves the development new trail segments within the Lower Penitencia Creek and East Penitencia Creek corridors. The trail segments would serve as non-motorized transportation facilities and are intended to improve mobility for bicyclists, pedestrians, and similar modes of transportation. As such, they would have no potential to facilitate population or employment growth such that increased demands would be placed on fire protection, police protection, schools, libraries, parks, or other public facilities. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

f, g) The proposed project involves the development new trail segments within the Lower Penitencia Creek and East Penitencia Creek corridors. These trail segments are contemplated by the Transit Area Specific Plan and the City of Milpitas Trails Master Plan and, thus, represent the continued development of the City's trail network. This Addendum evaluates the potential environmental impacts of the development of the trail segments. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

Specific Plan Policies that Reduce the Impact

- **Policy 3.39:** If a public utility easement (such as the one existing between Capitol Avenue and Penitencia Creek East Channel) is developed as a publicly-accessible pathway or linear park that connects two public streets, it can be counted toward a development's park dedication requirement.
- **Policy 3.51:** Include a network of trails along Penitencia Creek and railroad right of ways. These bike/pedestrian trails will connect into the citywide trail network, pedestrian overcrossings of expressways, and the Transit Area's continuous network of bike lanes. They will be located on both sides of Lower Penitencia Creek and on the east side of the Union Pacific railroad tracks that run between Main Street and McCandless Drive.
- **Policy 3.52:** Complete a Trail Loop connecting the whole Transit Area. The trail loop goes from McCandless Drive and Lower Penitencia Creek; along Penitencia Creek East Channel, across Montague Expressway, west along the creek channel, then northeast across Capitol Avenue, then across Montague Expressway, along Piper Drive, and across the Great Mall back to Centre Point and McCandless. It is shown on Figure 3-6 [of the proposed Plan]. The Trail Loop provides a clear and easy way for people to access the BART and LRT station, move between different subareas of the Transit Area, and offers a roughly 1.5 to 2 mile jogging and walking and biking path for recreational use.
- **Policy 3.54:** All properties along the trail network will need to set aside land for the trails if adequate land is not available within the right of ways that exist for drainage channels and rail.

This land will count towards the required public park land dedication requirement. The width of the land area to be dedicated should be as shown in Figure 3-7 [of the proposed Plan].

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
XIV. Transportation/Traffic					
<i>Would the project:</i>					
a) Exceed the capacity of the existing circulation system, based on applicable measure of effectiveness, taking into account all relevant component of the circulation system, including but not limited to intersections, street, highways, and freeways, pedestrian and bicycle paths, and mass transit?	No impact	No. The proposed project encourages pedestrian- and cyclist-oriented modes of transport and reducing the number of vehicles on the road.	No. The proposed project encourages pedestrian- and cyclist-oriented modes of transport and reducing the number of vehicles on the road.	No. The proposed project encourages pedestrian- and cyclist-oriented modes of transport and reducing the number of vehicles on the road.	None
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	No impact	No. The proposed project will not conflict with any congestion management programs.	No. The proposed project will not conflict with any congestion management programs.	No. The proposed project will not conflict with any congestion management programs.	None
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	No impact	No. The project site is not located within the vicinity of an airport and therefore would not alter air traffic patterns.	No. The project site is not located within the vicinity of an airport and therefore would not alter air traffic patterns.	No. The project site is not located within the vicinity of an airport and therefore would not alter air traffic patterns.	None
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	No impact	No. The proposed project would not increase hazards due to a design feature.	No. The proposed project would not increase hazards due to a design feature.	No. The proposed project would not increase hazards due to a design feature.	None
e) Result in inadequate emergency access?	No impact	No. The proposed project will not result in inadequate emergency access.	No. The proposed project will not result in inadequate emergency access.	No. The proposed project will not result in inadequate emergency access.	None
f) Conflict with adopted policies plans or programs supporting alternative transportation (e.g., bus turnouts,	No impact	No. The proposed project in fact complements adopted plans and	No. The proposed project in fact complements adopted plans and	No. The proposed project in fact complements adopted plans and	None

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
bicycle racks)?		policies supporting alternative transportation.	policies supporting alternative transportation.	policies supporting alternative transportation.	

Discussion

a, b) The proposed project involves the development new trail segments within the Lower Penitencia Creek and East Penitencia Creek corridors. These trail segments are intended to improve mobility for non-motorized transportation modes such as bicycles and pedestrians and, thus, would have no potential to affect Level of Service on surrounding roadways. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

c) The project site is approximately 3 miles from San Jose International Airport, the nearest airport to the project site. Given the distance from the airport and the nature of the project there is no possibility of the proposed project altering existing air traffic patterns. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

d) The proposed East Penitencia Creek (north) trail segments involves the development of a new mid-block crossing of McCandless Drive. The mid-block crossing would employ pavement treatments, street markings, and signage to alter motorists to the presence of this crossing point. This will minimize any hazards due to design features; therefore, development of the proposed project will not alter these conclusions. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

e) The proposed project involves the development new trail segments within the Lower Penitencia Creek and East Penitencia Creek corridors. Because of the characteristics of the proposed project, it would not impair emergency access. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

f) The proposed project involves the development new trail segments within the Lower Penitencia Creek and East Penitencia Creek corridors. These trail segments are contemplated by the Transit Area Specific Plan, City of Milpitas Bikeways Master Plan and the City of Milpitas Trails Master Plan and, thus, represent the continued development of the City's trail network. As such, they would

further adopted policies, plans, and programs that support alternative transportation. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

Specific Plan Policies that will Reduce the Impact:

- **Policy 3.15:** Review individual development applications to ensure that adequate street right of-way, bicycle facilities, pedestrian facilities and landscaping are provided and are consistent with the Transit Area Plan circulation policies and street design standards in Chapter 5.
- **Policy 3.28:** Provide continuous bicycle circulation through the project site and to adjacent areas by closing existing gaps in bicycle lanes and bicycle routes, per Figure 3-5 [of the proposed Plan]. Gaps exist on Capitol Avenue between Montague Expressway and Trimble Road, and on Trade Zone Boulevard between Montague Expressway and Lundy Place. Capitol Avenue only needs to be re-striped to add a bike lane. Trade Zone Boulevard generally contains sufficient width to accommodate two travel lanes and bike lanes in each direction; however, the westbound lanes on Trade Zone jog south slightly, so right-of-way acquisition will likely be required to push the curb further north to maintain a consistent section and to add bike lanes. Bike routes should be upgraded to bike lanes as part of any Montague widening project.

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
XV. Utilities and Service Systems					
<i>Would the project:</i>					
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	No impact	No. The proposed project would not exceed wastewater treatment requirements.	No. The proposed project would not exceed wastewater treatment requirements.	No. The proposed project would not exceed wastewater treatment requirements.	None
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	No impact	No. The proposed project would not result in the construction of new water or wastewater treatment facilities.	No. The proposed project would not result in the construction of new water or wastewater treatment facilities.	No. The proposed project would not result in the construction of new water or wastewater treatment facilities.	None
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	No impact	No. The proposed project would not result in the construction of new stormwater drainage facilities.	No. The proposed project would not result in the construction of new stormwater drainage facilities.	No. The proposed project would not result in the construction of new stormwater drainage facilities.	None
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	No impact	No. The proposed project would be served by adequate water supplies.	No. The proposed project would be served by adequate water supplies.	No. The proposed project would be served by adequate water supplies.	None
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	No impact	No. The proposed project would be served by adequate wastewater treatment capacity.	No. The proposed project would be served by adequate wastewater treatment capacity.	No. The proposed project would be served by adequate wastewater treatment capacity.	None
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	No impact	No. The proposed project would be served by a landfill with sufficient capacity.	No. The proposed project would be served by a landfill with sufficient capacity.	No. The proposed project would be served by a landfill with sufficient capacity.	None
g) Comply with federal, state, and local statutes and regulations related to solid waste?	No impact	No. The proposed project would comply with applicable statutes and regulations related to solid waste.	No. The proposed project would comply with applicable statutes and regulations related to solid waste.	No. The proposed project would comply with applicable statutes and regulations related to solid waste.	None

Discussion

a) The proposed project consists of the development of new trail segments within existing creek corridors. The proposed project would not generate any volume or type of wastewater that would affect the City's ability to meet existing wastewater treatment requirements. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

b, c) The proposed project consists of the development of new trail segments within existing creek corridors. The construction and maintenance of a trail would not require the need for new water or wastewater facilities. The trail section will be constructed in a manner that drains runoff into the creek channel, similar to existing conditions. Therefore, the proposed project will not require or result in the construction of new stormwater drainage facilities or expansion of existing facilities. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

d) The proposed project consists of the development of new trail segments within existing creek corridors. Because of the characteristics of the proposed project, the construction and maintenance of trails will not require new or expanded water supplies or entitlements. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

e) The proposed project consists of the development of new trail segments within existing creek corridors. Because of the characteristics of the proposed project, the construction and maintenance of trails will not require additional wastewater treatment capacity to serve the project's projected demand. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

f, g) The proposed project consists of the development of new trail segments within existing creek corridors in an existing developed community. Construction activities would not involve demolition, which limits the potential for solid waste generation associated with these activities. Operation of the trails would not generate substantial sources of solid waste. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

Specific Plan Policies that Reduce the Impact

None.

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
XVI. Mandatory Findings of Significance					
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	No	No. The proposed project would not degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory.	No. The proposed project would not degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory.	No. The proposed project would not degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory.	None
b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	No	No. The proposed project would not have cumulatively considerable impacts.	No. The proposed project would not have cumulatively considerable impacts.	No. The proposed project would not have cumulatively considerable impacts.	None
c) Does the project have environmental effects which will cause substantial adverse effects on human beings?	No	No. The proposed project would not have environmental effects that will cause substantial adverse effects on human beings.	No. The proposed project would not have environmental effects that will cause substantial adverse effects on human beings.	No. The proposed project would not have environmental effects that will cause substantial adverse effects on human beings.	None

Discussion

a) As previously discussed, the proposed project will have less than significant impacts on biological and cultural resources. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

b) As previously discussed, the development of the proposed project will not have impacts that are individually limited but cumulatively considerable to current or probable future projects. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

c) As previously discussed, the development of the project will not have an adverse effect on human beings. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

Specific Plan Policies that Help Reduce Impact

None.

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

**Initial Study/Addendum
Transit Area Specific Plan EIR
City of Milpitas, California**

State Clearinghouse No. 2006032091

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TABLE OF CONTENTS

Section 1: Introduction	1
1.1 - Initial Study/Environmental Checklist	1
1.2 - Environmental Analysis and Conclusions	1
1.2.1 - Findings	2
1.2.2 - Conclusion.....	2
Section 2: Project Description	5
2.1 - Location and Setting	5
2.2 - Project Background	5
2.3 - Project Characteristics	7
2.4 - Construction Characteristics	7
2.5 - Best Management Practices	8
Section 3: Environmental Checklist	15
3.1 - CEQA Checklist	15
3.2 - Explanation of Checklist Evaluation Categories.....	15
(1) Conclusion in Prior EIR and Related Documents	15
(2) Do the Proposed Changes Involve New Impacts?	15
(3) New Circumstances Involving New Impacts?.....	15
(4) New Information Requiring New Analysis or Verification?	15
(5) Final EIR Mitigation Measures Implemented to Address Impacts	16
3.3 - Discussion and Mitigation Sections.....	16
(1) Discussion	16
(2) Final EIR Mitigation Measures.....	16
(3) Conclusions	16
I. Aesthetics, Light and Glare	17
II. Agricultural Resources	19
III. Air Quality	21
IV. Biological Resources	25
V. Cultural Resources	29
VI. Geology and Soils	32
VII. Greenhouse Gas Emissions	35
VIII. Hazards and Hazardous Materials	37
IX. Hydrology and Water Quality.....	41
X. Land Use Planning	46
XI. Noise	48
XII. Population and Housing	51
XIII. Public Services	53
XIV. Transportation/Traffic	55
XV. Utilities and Service Systems	58
XVI. Mandatory Findings of Significance.....	61

LIST OF FIGURESS

Figure 1: Regional Location Map	11
Figure 2: Proposed Project	13
Figure 3: Preliminary Project Designs.....	13

SECTION 1: INTRODUCTION

This Addendum, checklist, and attached supporting documents have been prepared to determine whether and to what extent the Transit Area Specific Plan Environmental Impact Report (EIR) (State Clearinghouse No. 2006032091) is sufficient to address the potential impacts of the proposed Lower/East Penitencia Creek Pedestrian Bridge Project (project), or whether additional documentation is required under the California Environmental Quality Act (CEQA) (Pub. Resources Code, Section 21000, et seq.).

1.1 - Initial Study/Environmental Checklist

Pursuant to Public Resources Code Section 21166, and CEQA Guidelines Sections 15162 and 15164, subdivision (a), the attached initial study/checklist has been prepared to evaluate the project. The attached initial study/checklist uses the standard environmental checklist categories provided in Appendix G of the CEQA Guidelines, but provides answer columns for evaluation consistent with the considerations listed under CEQA Guidelines Section 15162, subdivision (a).

1.2 - Environmental Analysis and Conclusions

CEQA Guidelines Section 15164,¹ subdivision (a), provides that the lead agency or a responsible agency shall prepare an addendum to a previously certified EIR or ND if some changes or additions are necessary but none of the conditions described in CEQA Guidelines Section 15162 calling for preparation of a subsequent EIR or ND have occurred (CEQA Guidelines, Section 15164, subd. (a)).

An addendum need not be circulated for public review but can be included in or attached to the Final EIR or ND (CEQA Guidelines Section 15164, subd. (c)). The decision-making body shall consider the addendum with the Final EIR prior to making a decision on the project (CEQA Guidelines Section 15164, subd. (d)). An agency must also include a brief explanation of the decision not to prepare a subsequent EIR or ND pursuant to section 15162 (CEQA Guidelines Section 15164, subd. (e)).

Consequently, once an EIR or ND has been certified for a project, no subsequent EIR or ND is required under CEQA unless, based on substantial evidence:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR . . . due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;²

¹ Note that CEQA Guidelines Section 15164 is titled “Addendum to an EIR or Negative Declaration” but references only “EIR” in the various sub-sections. However, the intent is clear that Addendums can be prepared pursuant to Negative Declarations.

² CEQA Guidelines Section 15382 defines “significant effect on the environment” as “ . . . a substantial, or potentially substantial adverse change in any of the physical conditions within the area affected by the project, including land, air,

- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR [or ND] . . . due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR [or ND] was certified as complete . . . shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR [or ND] or negative declaration;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR [or ND];
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR [or ND] would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative (CEQA Guidelines, Section 15162, subd. (a); see also Pub. Resources Code, Section 21166).

This addendum, checklist and attached documents constitute substantial evidence supporting the conclusion that preparation of a supplemental or subsequent EIR or ND is not required prior to approval of the above-referenced permits by responsible and trustee agencies, and provides the required documentation under CEQA.

1.2.1 - Findings

There are no substantial changes proposed by the revised project or in the circumstances in which the project will be undertaken that require major revisions of the existing EIR, or preparation of a new subsequent or supplemental EIR, due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. As illustrated herein, the project is consistent with the EIR and would involve only minor changes to the previously approved project (CEQA Guidelines, Section 15162, subd. (a)).

1.2.2 - Conclusion

The Milpitas City Council or Planning Commission may approve the revised project based on this Addendum. The impacts of the proposed project remain within the impacts previously analyzed in the EIR (CEQA Guidelines Section 15061, subd. (b)(3)).

water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance . . .” (see also Public Resources Code, Section 21068).

The current proposed project does not require major revisions to the EIR. No new significant information or changes in circumstances surrounding the project have occurred since the certification of the EIR. The previous analysis completed for the Transit Area Specific Plan under CEQA and included in the EIR therefore remains adequate under CEQA. The City will, however, remain obligated to comply with all applicable mitigation measures and conditions of approval contained within the EIR.

SECTION 2: PROJECT DESCRIPTION

2.1 - Location and Setting

The project site is located in the City of Milpitas, Santa Clara County, California (**Figure 1**). The proposed pedestrian bridge would cross East Penitencia Creek near the confluence with Lower Penitencia Creek. The site is located approximately 275 feet west of McCandless Drive, between Great Mall Parkway and Montague Expressway, near Canal Street to the north and Lee Way to the south (**Figure 2**). The site is generally bordered by McCandless Drive to the east (approximately 275 feet to the east) and the Lower Penitencia Creek and East Penitencia Creek confluence (approximately 44 feet to the west of the bridge site),

The land to the north and south is currently under construction to build multifamily housing. The development to the north of East Penitencia Creek is the McCandless Mixed Use Project and the development to the south is the Harmony development project. Information on these development projects is provided in Section 2.2 below.

Land to the west of the project site is a Union Pacific Railroad (UPRR) track and a fallow field.

The project site straddles East Penitencia Creek, which is a flood control channel maintained by the Santa Clara Valley Water District (SCVWD). East Penitencia Creek and Lower Penitencia Creek in the project area are earthen banks with ruderal vegetation and no trees or shrubs. Existing bank protection at the site includes sakrete on both banks at the downstream (east) end of East Penitencia Creek. Both channels were constructed by the SCVWD in the early 1980's.

Unpaved access roads are located on the east side of Lower Penitencia Creek and on both sides of East Penitencia Creek from McCandless Drive to Lower Penitencia Creek. These roads currently provide SCVWD maintenance and inspection access to the creek channels. Vehicular access is controlled by locked gates at Great Mall Parkway, Montague Expressway, and McCandless Drive.

2.2 - Project Background

The City of Milpitas initiated the Transit Area Specific Plan in 2004 to guide the redevelopment of the area surrounding the future Milpitas Bay Area Rapid Transit (BART) station with transit-oriented uses. The Specific Plan area encompasses 437 acres bounded by South Main Street (west), the northern property line of The Great Mall of the Bay Area (north), Piper Drive and Milpitas Boulevard (east), and Trade Zone Boulevard and Montague Expressway (south). The Specific Plan has a buildout potential of 7,109 dwelling units, 993,843 square feet of office uses, 287,075 square feet of retail uses, and 175,500 square feet of hotel uses. Additionally, the Specific Plan contemplated a network of pedestrian and bicycle facilities within the plan area, including trails along Lower

Penitencia Creek and East Penitencia Creek. The Milpitas City Council adopted the Transit Area Specific Plan and certified the associated EIR in 2008.

In 2011, the City of Milpitas approved three residential projects adjacent to the Lower Penitencia Creek corridor: Harmony development project, Integral Communities, and McCandless Mixed Use Development Project. Collectively, the three projects span the reach of Lower Penitencia Creek between Great Mall Parkway and Montague Expressway. As previously mentioned, the McCandless Mixed Use Development Project and the Harmony development project are located immediately north and south, respectively, to the project site. The McCandless Mixed Use Development Project includes construction of three mixed use buildings and five residential buildings, including improvements to the existing adjacent roads, construction of a new local street, and development of 1,328 dwellings and 92,000 square feet of commercial uses within 23 acres. The City completed CEQA documentation and approved this project in 2010 (City of Milpitas 2010³). The Harmony project includes construction of 276 single-family attached homes and condominiums (three to four stories high) on a 12.3-acre area at the northwest corner of Montague Expressway and McCandless Drive. The City completed CEQA compliance and approved the project in 2011 (City of Milpitas 2011⁴). Both projects are currently under construction and are expected to be completed by April 2015.

In 2013, the City prepared an Initial Study/Addendum (IS/Addendum) to the Transit Area Specific Plan for a Class I bicycle/pedestrian trail along Lower Penitencia Creek and East Penitencia Creek between Lower Penitencia Creek and Lundy Place, the easternmost reach of East Penitencia Creek. Referred to as the *Lower/East Penitencia Creek Trail Project*, new recreational trail segments were evaluated in the 2013 IS/Addendum: (1) Lower Penitencia Creek Trail between Great Mall Parkway and Montague Expressway (along the east side of the creek) and (2) the East Penitencia Creek Trail between Lower Penitencia Creek and Lundy Place (two segments along either side of the creek). The trails would be located within the existing alignments of SCVWD's unpaved access roads. The 2013 IS/Addendum also evaluated construction of a pedestrian bridge that would cross East Penitencia Creek and provide connectivity with the new trails. At the time the 2013 addendum was prepared, the level of detail necessary to fully evaluate impacts of the pedestrian bridge was not yet available.

The design of the pedestrian bridge has advanced to 30% complete. Therefore, the purpose of this document is to evaluate environmental impacts of the pedestrian bridge. This Initial Study is an addendum to the Transit Area Specific Plan EIR.

The SCVWD is responsible for maintaining the East Penitencia Creek and Lower Penitencia Creek and providing flood protection for the project area. Routine flood protection maintenance activities

³ City of Milpitas. 2010. McCandless Mixed Use Project CEQA Initial Study/Mitigated Negative Declaration. August 17, 2010.

⁴ City of Milpitas. 2011. Harmony Residential Development & Trace Zone Blvd. Rezone CEQA Initial Study/Mitigated Negative Declaration.

conducted within the project vicinity include vegetation management through application of herbicides and debris clearing as-needed. Routine flood protection maintenance activities are conducted under SCVWD's Stream Maintenance Program, which was recently updated in 2014 (SCVWD 2014⁵).

2.3 - Project Characteristics

The proposed project includes development of a full-span, pre-manufactured pedestrian bridge over East Penitencia Creek. This bridge would connect the north and south sides of the Lower Penitencia Creek Trail and East Penitencia Creek Trail. The site is located on property owned by SCVWD on Assessor's Parcel Number (APN) 086-33-096, 086-33-076, 086-33-093, 086-41-017 and 086-41-016,

As shown in **Figure 3**, the bridge would be approximately 60 feet in length and 10 feet in width. The bridge would provide nine feet of clearance from the channel bed. Concrete abutments and precast wingwalls would be installed at both ends of the bridge; each abutment would be supported by a 36-inch diameter cast-in-drilled-hole (CIDH) concrete pier foundation system. At the northern end of the bridge, the abutment would be approximately 10 feet from the top of bank; at the southern end, the abutment would be approximately 4.6 feet from the top of bank. The bridge would be constructed entirely from the top-of-bank; no equipment would be used in the channel. The channel bed and banks below the top-of-bank would not be disturbed by project construction. Wood railings approximately 3.5 feet tall would be constructed along the top of the bridge. The total footprint of the bridge is 600 sq. ft. and the total area of the bridge abutments and wingwalls is approximately 120 sq. ft. No permanent lighting would be installed on the bridge.

The pedestrian bridge would provide recreational access between the adjacent Harmony residential project and McCandless Mixed Use Development Project already under construction in the vicinity and would be consistent with the Class 1 bicycle/pedestrian facilities contemplated in the City of Milpitas General Plan, Transit Area Specific Plan, and Milpitas Trails Master Plan. The trails and bridge would provide recreation for the entire City, not just the adjacent residential housing complexes. Once construction is completed, the pedestrian bridge would be open to the public during daytime hours.

2.4 - Construction Characteristics

Project construction would occur in 2015 over 4 months and would be coordinated with SCVWD. Construction activities would occur between 7:00 a.m. and 5:00 p.m. on weekdays only.

Construction of the bridge would occur within the designated work area, which would generally consist of the SCVWD's existing right-of-way adjacent to the channel banks (see Figure 2).

⁵ Santa Clara Valley Water District (SCVWD). 2014. 2014-2023 Stream Maintenance Program Manual. July 3.

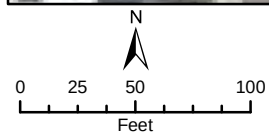
Proposed construction activities would involve the following tasks: work area clearing, excavation for the bridge abutments and wingwalls, bore bridge pile installation, abutment and wingwall installation, bridge installation, backfilling and regrading the area surrounding the bridge abutments, and restoration of all areas affected by construction. Construction workers would access the project site via McCandless Drive and the unpaved access roads on both sides of East Penitencia Creek.

The construction process would involve up to 30 workers on site during any daytime shift. Construction equipment that would likely be used onsite include: crane, pile driller or auger, excavator, loader, compactor, concrete truck, water truck, pick-up truck, and service truck with generator.

2.5 - Best Management Practices

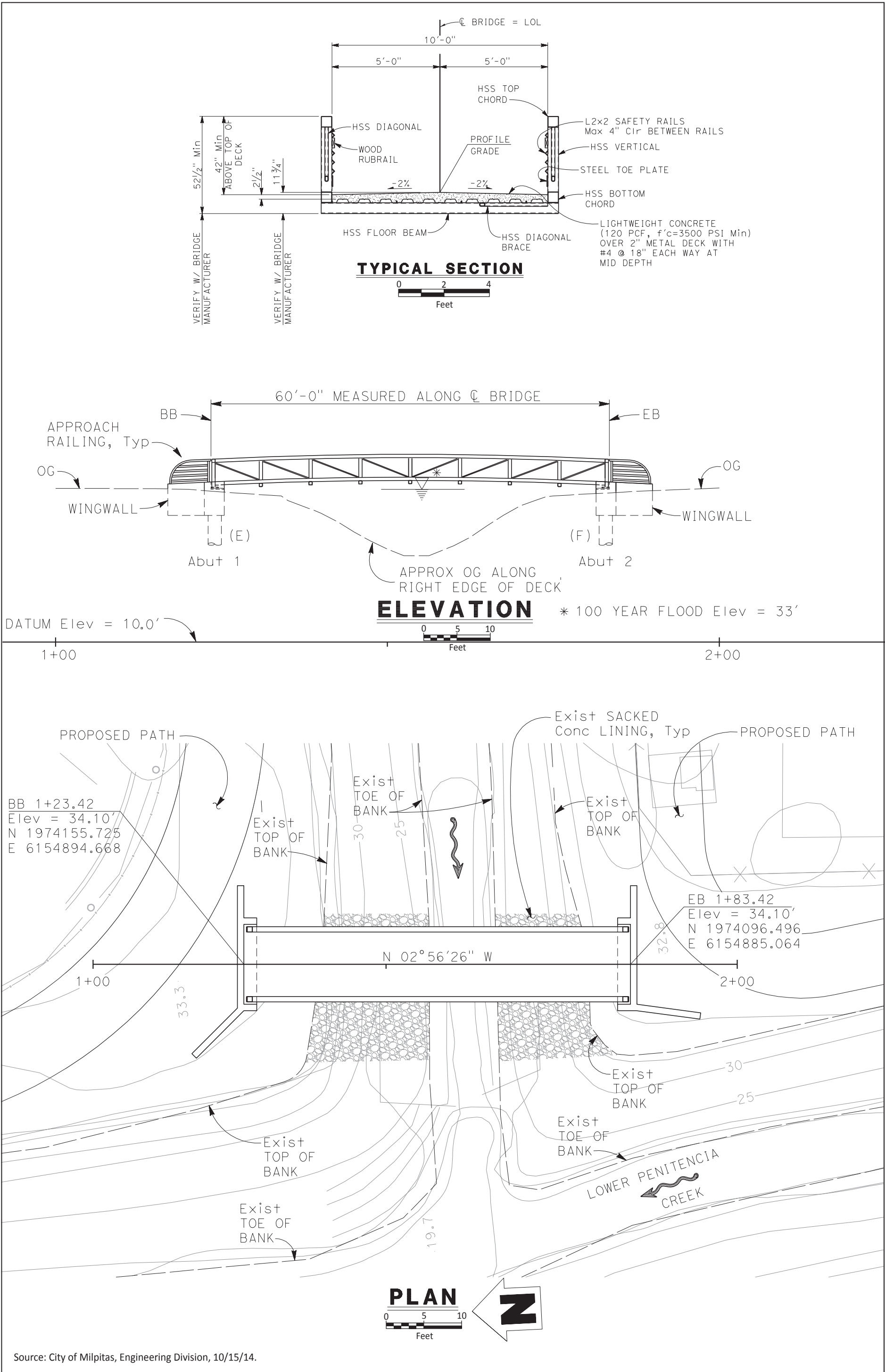
During construction, best management practices (BMPs) would be implemented to protect the environment and human health and safety. The City will implement effective erosion control, run-on and runoff control, sediment control, site management, and non-stormwater management throughout project construction. Construction BMPs implemented to reduce impacts include the following:

1. Minimize the contact of construction materials, equipment, and maintenance supplies with stormwater.
2. Limit fueling and other activities involving hazardous materials to use in designated areas only; provide drip pans under equipment and conduct daily checks of vehicle condition.
3. Reduce erosion of exposed soil, including stabilization for soil stockpiles, watering for dust control, establishment of perimeter silt fences, and/or placement of fiber rolls.
4. Implement practices to maintain water quality, including silt fences, stabilized construction entrances, and storm-drain inlet protection.
5. Develop spill prevention and emergency response plans to handle potential fuel or other spills.
6. If hazardous levels of contaminants are encountered during excavation work, the Applicant would cease activity until a more thorough investigation can be conducted and determine that the work site is safe to continue.
7. Ensure that hazardous materials are properly handled and the quality of water resources is protected by all reasonable means:
 - a. Prior to entering the work site, all field personnel will know how to respond when toxic materials are discovered.
 - b. The discharge of any hazardous or non-hazardous waste as defined in Division 2, Subdivision 1, Chapter 2 of the California Code of Regulations will be conducted in accordance with applicable State and federal regulations.
 - c. In the event of any hazardous material emergencies or spills, personnel will call the Chemical Emergencies/Spills Hotline at 1-800-510-5151.



- | | |
|---|---|
|  Proposed Bridge |  Project Site |
|  Proposed Staging Area |  Planned Trail |

Figure 2
Proposed Project



SECTION 3: ENVIRONMENTAL CHECKLIST

3.1 - CEQA Checklist

The purpose of the checklist is to evaluate the categories in terms of any “changed condition” (e.g., changed circumstances, project changes, or new information of substantial importance) that may result in a changed environmental result (e.g., a new significant impact or substantial increase in the severity of a previously identified significant effect) (CEQA Guidelines Section 15162).

The questions posed in the checklist come from Appendix G of the CEQA Guidelines. A “no” answer does not necessarily mean that there are no potential impacts relative to the environmental category, but that there is no change in the condition or status of the impact since it was analyzed and addressed with mitigation measures in the Final EIR prepared for the project. These environmental categories might be answered with a “no” in the checklist, since the proposed project does not introduce changes that would result in a modification to the conclusion of the certified EIR.

3.2 - Explanation of Checklist Evaluation Categories

(1) Conclusion in Prior EIR and Related Documents

This column indicates the EIR’s significance determination found relative to the environmental issue listed under each topic.

(2) Do the Proposed Changes Involve New Impacts?

Pursuant to CEQA Guidelines Section 15162, subdivision (a)(1), this column indicates whether the changes represented by the revised project will result in new significant environmental impacts not previously identified or mitigated by the EIR, or whether the changes will result in a substantial increase in the severity of a previously identified significant impact.

(3) New Circumstances Involving New Impacts?

Pursuant to CEQA Guidelines Section 15162, subdivision (a)(2), this column indicates whether there have been substantial changes with respect to the circumstances under which the project is undertaken that will require major revisions to the EIR, due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

(4) New Information Requiring New Analysis or Verification?

Pursuant to CEQA Guidelines Section 15162, subdivision (a)(3)(A-D), this column indicates whether new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete, shows any of the following:

- (A) The project will have one or more significant effects not discussed in the previous EIR;
- (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
- (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
- (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects of the environment, but the project proponents decline to adopt the mitigation measure or alternative.

If the additional analysis completed as part of this environmental review finds that the conclusions of the Final EIR remain the same and no new significant impacts are identified, or identified impacts are not found to be substantially more severe, or additional mitigation is not necessary, then the question would be answered “no” and no additional environmental document is required.

(5) Final EIR Mitigation Measures Implemented to Address Impacts

Pursuant to CEQA Guidelines Section 15162, subdivision (a)(3), this column indicates whether the Final EIR provides mitigation measures to address effects in the related impact category. These mitigation measures will be implemented with the construction of the project; a “yes” response will be provided in either instance. If “None” is indicated, the final EIR and this initial study conclude that the impact would not occur as a result of project implementation or is not significant; therefore, no additional mitigation measures are needed.

3.3 - Discussion and Mitigation Sections

(1) Discussion

A discussion of the elements of the checklist is provided under each environmental category in order to clarify the answers. The discussion provides information about the particular environmental issue, how the project relates to the issue, and the status of any mitigation that may be required or that has already been implemented.

(2) Final EIR Mitigation Measures

Applicable mitigation measures from the Final EIR that apply to the project are listed under each environmental category.

(3) Conclusions

A discussion of the conclusion relating to the analysis contained in each section.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
I. Aesthetics, Light and Glare					
<i>Would the project:</i>					
a) Have a substantial adverse effect on a scenic vista?	No impact	No. The project site does not contain any scenic vistas and would not have any adverse effect on scenic vista.	No. The project site does not contain any scenic vistas and would not have any adverse effect on scenic vista.	No. The project site does not contain any scenic vistas and would not have any adverse effect on scenic vista.	None
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	No impact	No. The project site is not visible from any State Scenic Highways.	No. The project site is not visible from any State Scenic Highways.	No. The project site is not visible from any State Scenic Highways.	None
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	Less than significant impact	No. The proposed project would include construction of a pedestrian bridge. Although the structure would alter views for nearby residences, the bridge would not degrade the visual character of the surrounding community.	No. The proposed project would merely involve construction of a new pedestrian bridge, which would maintain the residential characteristics of the surrounding area.	No. The proposed project would merely involve construction of a new pedestrian bridge, which would maintain the residential characteristics of the surrounding area.	None
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	Less than significant impact	No. The proposed project involves construction of a pedestrian bridge and would not create a new source of substantial light or glare.	No. The proposed project involves construction of a pedestrian bridge and would not create a new source of substantial light or glare.	No. The proposed project involves construction of a pedestrian bridge and would not create a new source of substantial light or glare.	None

Discussion

a) The project site does not include any designated scenic ridgelines nor is it clearly visible from any designated scenic viewpoints. Therefore, no impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR regarding effects on scenic vistas have been identified. Development of the proposed pedestrian bridge would not alter these conclusions.

b) The project site is not visible from any designated scenic highway, nor does it include any rock outcroppings or historic buildings. No impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

c) The surrounding area consists of urban development, including commercial and residential uses. The project site is located just east of the confluence of Lower Penitencia Creek and East Penitencia Creek, both of which are characterized by man-made channels and ruderal vegetation. Unpaved access roads parallel the eastern side of Lower Penitencia Creek and are located on both sides of the East Penitencia Creek. The site is also characterized by construction of the adjacent Harmony development project and the McCandless Mixed Use Development Project, which are currently under construction. The proposed 60-foot full-span bridge would cross East Penitencia Creek and connect trail segments that would be constructed by the McCandless Mixed Use Development Project and Harmony Project. The bridge would be composed of steel, concrete, and wood materials, and would have a rustic appearance similar to other pedestrian bridges throughout Milpitas and the greater South Bay Area. Overall, the project would complement the aesthetics of the residential communities currently in development in the project vicinity. Therefore, the project would not degrade the visual character of the site or surrounding area. No impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

d) No lighting would be installed along the bridge and given that the new bridge would be composed of wood, steel, and concrete, it is not expected to cause any glare effects. No impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

Specific Plan Policies that Reduce the Impact

None

Specific Plan Development Standards that Reduce the Impact

None

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
II. Agricultural Resources					
<i>Would the project:</i>					
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	This checklist question did not exist at the time the EIR was certified (2008)	No. The project site does not contain agricultural land uses.	No. The project site does not contain agricultural land uses.	No. The project site does not contain agricultural land uses.	None
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	This checklist question did not exist at the time the EIR was certified (2008)	No. The project site is not zoned for agricultural use nor is it encumbered by a Williamson Act contract.	No. The project site is not zoned for agricultural use nor is it encumbered by a Williamson Act contract.	No. The project site is not zoned for agricultural use nor is it encumbered by a Williamson Act contract.	None
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	This checklist question did not exist at the time the EIR was certified (2008)	No. The project site is zoned for public facility use and does not contain forested land.	No. The project site is zoned for public facility use and does not contain forested land.	No. The project site is zoned for public facility use and does not contain forested land.	None
d) Result in the loss of forest land or conversion of forest land to non-forest use?	This checklist question did not exist at the time the EIR was certified (2008)	No. The project site does not contain forest land.	No. The project site does not contain forest land.	No. The project site does not contain forest land.	None
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	No impact	No. The project site is not zoned for agricultural use.	No. The project site is not zoned for agricultural use.	No. The project site is not zoned for agricultural use.	None

Discussion

a,b,e) The project site is not classified as Prime Agricultural Farmland, Unique Farmland, or Farmland of Statewide Importance. The project site also is not zoned as agricultural land and is not under a Williamson Act contract. Similarly, as the project site is located adjacent to an urban area, it would not facilitate the conversion of farmland to non-agricultural uses. Although these topics previously were not evaluated in the Transit Area Specific Plan EIR, the proposed project would not result in any significant effects on agricultural resources.

c, d) The project site is not zoned for forest land nor does it contain forest land. Therefore, the proposed project would not conflict with a forest zoning designation nor would it convert forestland to non-forest uses. Although these topics were not previously evaluated in the Transit Area Specific Plan EIR, the proposed project would not result in any significant effects on forest land.

Specific Plan Policies that Reduce the Impact

None

Specific Plan Development Standards that Reduce the Impact

None.

Conclusion

While these topics were not evaluated in the Transit Area Specific Plan EIR, no adverse effects on agricultural or forest land would occur.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
III. Air Quality					
<i>Would the project:</i>					
a) Conflict with or obstruct implementation of the applicable air quality plan?	Significant and Unavoidable	No. The proposed project would not violate or contribute substantially to an existing air quality plan. Rather, the proposed pedestrian bridge would link future trail segments, and thereby encourage alternative transportation that reduces air emissions, in compliance with applicable air quality plans.	No. The proposed project would not violate or contribute substantially to an existing air quality plan. Rather, the proposed pedestrian bridge link future trail segments, and thereby encourage alternative transportation that reduces air emissions, in compliance with applicable air quality plans.	No. The proposed project would not violate or contribute substantially to an existing air quality plan. Rather, the proposed pedestrian bridge link future trail segments, and thereby encourage alternative transportation that reduces air emissions, in compliance with applicable air quality plans.	None
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	Significant and Unavoidable	No. The proposed project will not violate or contribute substantially to an existing air quality violation; rather, the construction of a pedestrian and bicycle bridge will encourage alternative transportation that reduces air emissions.	No. The proposed project will not violate or contribute substantially to an existing air quality violation; rather, the construction of a pedestrian and bicycle bridge will encourage alternative transportation that reduces air emissions.	No. The proposed project will not violate or contribute substantially to an existing air quality violation; rather, the construction of a pedestrian and bicycle bridge will encourage alternative transportation that reduces air emissions.	Specific Plan Policy 5.16
c) 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 (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	Significant and Unavoidable	No. The proposed pedestrian bridge would not cause a cumulatively considerable net increase in criteria pollutant emissions.	No. The proposed pedestrian bridge would not cause a cumulatively considerable net increase in criteria pollutant emissions.	No. The proposed pedestrian bridge would not cause a cumulatively considerable net increase in criteria pollutant emissions.	Specific Plan Policy 5.16
d) Expose sensitive receptors to substantial	Less than significant	No. The proposed bridge	No. The proposed bridge	No. The proposed bridge	None

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
pollutant concentrations?		would not be sources of substantial pollutant concentrations.	would not be sources of substantial pollutant concentrations.	would not be sources of substantial pollutant concentrations.	
e) Create objectionable odors affecting a substantial number of people?	Less than significant	No. The proposed bridge would not generate any objectionable odors.	No. The proposed bridge would not generate any objectionable odors.	No. The proposed bridge would not generate any objectionable odors.	None

Discussion

a) Construction activities would generate criteria pollutant emissions. These emissions would be temporary and would not impact any long-term air quality improvement plans or policies. Project activities would not interfere with the goals and policies in the Bay Area Air Quality Management District's (BAAQMD) 2010 Clean Air Plan for ozone compliance. Although the Transit Area Specific Plan EIR concluded that this impact would be significant and unavoidable, given the scale and nature of the proposed pedestrian bridge, the proposed project would be consistent with all applicable plans and policies. The impact related to conflicts with applicable plans and policies would not exceed those previously disclosed in the Transit Area Specific Plan EIR, and development of the proposed project would not alter these conclusions.

b, c) In the Bay Area Air Basin ozone, PM_{2.5}, and PM₁₀ (on the state level) have been classified by nonattainment status with regard to National Ambient Air Quality standards. Construction activities associated with the project consist of excavation, grading, and bridge installation. The construction duration of the bridge would occur over a short period (less than 120 days). The criteria pollutants emitted by construction equipment would be minimal given the short duration and small number of equipment required. Fugitive dust emissions would vary from day to day, depending on the level and type of activity, silt content of the soil, and the prevailing weather. Sources of fugitive dust during construction would include vehicle movement over paved and unpaved surfaces, earth movement, grading, and wind erosion from exposed surfaces.

Specific Plan policies would be implemented prior to and during construction to minimize any potential threats to air quality. Specific Plan Policy 5.16 requires BAAQMD's approach to dust abatement for projects under the Transit Area Specific Plan, thereby reducing air quality impacts during construction to less than significant. Because of the nature of the proposed project, all air quality-related impacts would be temporary and strictly for the duration of construction. The project site would not require operational maintenance; hence, no operational air quality impacts would occur.

Completion of the proposed pedestrian bridge would improve mobility for non-motorized transportation modes and, thus, would contribute to regional emissions reduction strategies. The project would also further the City of Milpitas General Plan policy 3.d-I-21 and be consistent with Specific Plan Policy 3.26 as it would facilitate walking and biking. No impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

d) The proposed pedestrian bridge would be immediately adjacent to future residential communities, which are considered sensitive receptors. However, the bridge would connect future trail segments, which would be used by bicyclists, pedestrians and joggers, all non-polluting sources of transportation. Thus, the project would not have the potential to expose nearby sensitive receptors to substantial pollutant concentrations. No impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

e) Project activities would not result in the generation of permanent or long-term objectionable odors. Odors associated with the intermittent operation of diesel-powered equipment might be detected by nearby sensitive receptors at the adjacent residential developments, but these odors would be of short duration (no more than 90 days) and would not affect a substantial number of people. Once construction activities are completed, there would be no potential for odor impacts at surrounding sensitive receptors. No impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

General Plan Policies that Reduce the Impact:

- **3.d-I-21:** Consider building bridges or undercrossings across creek channels, railroad lines and roadways to facilitate bicycling and walking.

Specific Plan Policies that Reduce the Impact

- **Policy 3.26:** Construct pedestrian/bicycle bridges over Montague Expressway to allow safe crossings of this regional roadway with heavy traffic volumes: (1) near Piper Drive, to connect the Light Rail station, BART station, and development sites on the south side with the Great Mall and the neighborhoods north of Montague Expressway; and (2) near the Penitencia Creek East channel to connect schools and neighborhoods north and south of Montague Expressway.
- **Policy 5.16:** During review of specific development proposals made to the City, sponsors of individual development projects under the Specific Plan shall implement the BAAQMD's approach to dust abatement.
This calls for "basic" control measures that should be implemented at all construction sites, "enhanced" control measures that should be implemented in addition to the basic control measures at construction sites greater than four acres in area, and "optional" control measures that should be implemented on a case-by-case basis at construction sites that are large in area, located near

sensitive receptors or which, for any other reason, may warrant additional emissions reductions (BAAQMD, 1999)

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
IV. Biological Resources					
<i>Would the project:</i>					
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	Less than significant impact	No. The proposed project would not impact suitable habitat for special-status plant or wildlife species.	No. The proposed project would not impact suitable habitat for special-status plant or wildlife species.	No. The proposed project would not impact suitable habitat for special-status plant or wildlife species.	Policies 4.b-I-5, 5.25, and 5.26
b) Have a substantial adverse effect on any riparian habitat or result in substantial loss of any other types of habitat identified as biologically unique and of the limited distribution, such as serpentine chaparral, serpentine grassland, and native grassland?	Less than significant impact	No. The proposed project will not have a substantial adverse effect on any riparian habitat or result in substantial loss of any other types of habitat identified as biologically unique.	No. The proposed project will not have a substantial adverse effect on any riparian habitat or result in substantial loss of any other types of habitat identified as biologically unique.	No. The proposed project will not have a substantial adverse effect on any riparian habitat or result in substantial loss of any other types of habitat identified as biologically unique.	None
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	No impact	No. The proposed project will not have a substantial adverse effect on federally protected wetlands.	No. The proposed project will not have a substantial adverse effect on federally protected wetlands.	No. The proposed project will not have a substantial adverse effect on federally protected wetlands.	None
d) 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?	No impact	No. The proposed project would not impact wildlife movement corridors or waterways suitable for migratory fish.	No. The proposed project would not impact wildlife movement corridors or waterways suitable for migratory fish.	No. The proposed project would not impact wildlife movement corridors or waterways suitable for migratory fish.	None

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	No impact	No. The project site does not require the removal of any tree species therefore not conflicting with any preservation policies or ordinances.	No. The project site does not require the removal of any tree species therefore not conflicting with any preservation policies or ordinances.	No. The project site does not require the removal of any tree species therefore not conflicting with any preservation policies or ordinances.	None
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	No impact	No. The proposed project does not conflict with any provisions of adopted conservation plans.	No. The proposed project does not conflict with any provisions of adopted conservation plans.	No. The proposed project does not conflict with any provisions of adopted conservation plans.	None

Discussion

a) Vegetation at the East Penitencia Creek channel is concentrated within the channel, with the top of the bank mostly barren. Vegetation along the creek banks included Italian ryegrass, wild oat, and a variety of forbs. Based on a site visit conducted by Michael Brandman Associates in February 2013, signs or observations of wildlife that occur in the project vicinity included rock dove, American crow, European starling, house finch, house sparrow, belted kingfisher, mallard, sandpiper, California gull, common merganser, and California ground squirrel.

In-stream aquatic habitat within the creek channel does not provide suitable breeding habitat for special status species such as California red-legged frog, which typically breed in deep, cool pools or slack water. While California ground squirrels and their burrows were observed along the creek banks, no signs or sightings of special status species such as burrowing owl were observed during the February 2013 site visit. Based on the lack of suitable habitat, no other special status species are expected to occur (CNDDB 2014, CNPS 2014, USFWS 2014). Only pre-construction nesting bird surveys are recommended prior to groundwork, consistent with General Plan Policy 4.b-I-5, Specific Plan Policy 5.25 and 5.26. For these reasons, impacts on special-status species from project construction are expected to be less than significant. The development of the proposed project would not alter the conclusion of the Transit Area Specific Plan EIR; impacts on special status species would be less than significant.

b) Due to the highly developed nature of the project site, the bank and channel of East Penitencia Creek lacks high-quality riparian habitat and support minimal native vegetation. The proposed bridge construction would fully span the creek channel and would avoid direct impacts to the vegetation present.

Indirect impacts to existing vegetation include shading of the channel and impeding the growth of vegetation due to the shading. Since the vegetation present is predominantly ruderal and the creek itself is highly disturbed and of generally low value to fish and wildlife, these indirect impacts are expected to be less than significant. The development of the proposed project would not alter the conclusions of the Transit Area Specific Plan EIR; impacts on riparian habitat would be less than significant.

c) East Penitencia Creek is classified as “waters of the United States” and the bank and channel are under jurisdiction of the U. S. Army Corps of Engineers. As mentioned above, all bridge construction activities would occur from outside of the bank and channel and the proposed bridge would fully span across the creek channel, thereby avoiding impacts to wetland features within the banks or channel. For these reasons, construction activities would not impact federally protected wetlands. No impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

d) As previously discussed, the project site is highly developed and of limited value to fish and wildlife. Additionally the proposed bridge crossing of East Penitencia Creek would fully span the creek channel. To the extent that waterway and adjacent upland is used for fish and wildlife movement, the proposed project would not interfere substantially with these corridors. Therefore, no impacts related to interference with wildlife movement corridors or waterways suitable for migratory fish are expected to occur from project construction. No impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified. The development of the proposed project would not alter the conclusion of the Transit Area Specific Plan EIR.

e) The Tree and Planting Ordinance of the City of Milpitas protects significant trees, as defined by the Ordinance, including heritage trees, throughout the city. Under the City’s Zoning Ordinance, heritage trees are defined as any tree with a diameter of 30 inches or more measured 2 feet above ground level. There are no heritage trees within the project site. Additionally, the proposed project would not involve tree removal or damage of any tree species. No impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

f) The project site is not located within the boundaries of an adopted habitat conservation plan or natural community conservation plan. No impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

General Plan Policies that Reduce the Impact:

- **Policy 4.b-I-5:** Utilize sensitive species information acquired through biological assessments, project land use, planning and design.

Specific Plan Policies that Reduce the Impact

- **Policy 5.25:** For any project sites that are either undeveloped or vacant and support vegetation, or project sites which are adjacent to such land, a pre-construction survey shall be conducted by a qualified biologist within 30 days of the onset of construction. This survey shall include two early morning surveys and two evening surveys to ensure that all owl pairs have been located. If preconstruction surveys undertaken during the breeding season (February 1st through July 31st) locate active nest burrows, an appropriate buffer around them (as determined by the project biologist) shall remain excluded from construction activities until the breeding season is over. During the non-breeding season (August 15th through January 31st), resident owls may be relocated to alternative habitat. The relocation of resident owls shall be according to a relocation plan prepared by a qualified biologist in consultation with the California Department of Fish and Wildlife (CDFW). This plan shall provide for the owl's relocation to nearby lands possessing available nesting habitat. Suitable development-free buffers shall be maintained between replacement nest burrows and the nearest building, pathway, parking lot, or landscaping. The relocation of resident owls shall be in conformance with all necessary state and federal permits.
- **Policy 5.26:** To mitigate impacts on non-listed special-status nesting raptors and other nesting birds, a qualified biologist will survey the site for nesting raptors and other nesting birds within 14 days prior to any ground disturbing activity or vegetation removal. Results of the surveys will be forwarded to the U.S. Fish and Wildlife Service (USFWS) and CDFW (as appropriate) and, on a case-by-case basis, avoidance procedures adopted. These can include construction buffer areas (several hundred feet in the case of raptors) or seasonal avoidance. However, if construction activities occur only during the non-breeding season between August 31 and February 1, no surveys will be required.

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
V. Cultural Resources					
<i>Would the project:</i>					
a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?	Less than significant impact	No. The project site has no significant historical resource as defined in Section 15064.5.	No. The project site has no significant historical resource as defined in Section 15064.5.	No. The project site has no significant historical resource as defined in Section 15064.5.	None
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	Less than significant impact	No. The project site has no significant archaeological resource as defined in Section 15064.5.	No. The project site has no significant archaeological resource as defined in Section 15064.5.	No. The project site has no significant archaeological resource as defined in Section 15064.5.	Specific Plan Policies 5.31 and 5.32
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	Less than significant impact	No. The project site is not located on any unique paleontological resource or unique geological feature.	No. The project site is not located on any unique paleontological resource or unique geological feature.	No. The project site is not located on any unique paleontological resource or unique geological feature.	Specific Plan Policy 5.32
d) Disturb any human remains, including those interred outside of formal cemeteries?	Less than significant impact	No. The proposed project will not disturb any human remains, including those outside of formal cemeteries.	No. The proposed project will not disturb any human remains, including those outside of formal cemeteries.	No. The proposed project will not disturb any human remains, including those outside of formal cemeteries.	Specific Plan Policy 5.31

Discussion

a) The Transit Area Specific Plan EIR of 2008/Amended 2011 lists one historic site within the plan boundary. The Great Mall is approximately 0.3 mile to the north of the pedestrian bridge project site and construction will not affect this historic resource. The project area does not contain any historic properties or districts that are listed or eligible for inclusion in the National Register of Historic Places or the California Register of Historic Resources. No impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified for historic resources. Development of the proposed project would not alter these conclusions.

b, d) The records search completed for the Transit Area Specific Plan EIR found no known recorded archaeological sites within the planning area. One recorded prehistoric archaeological resource, CA-SCL-593, a possible occupation site with Native American burials, is recorded 0.85 miles to the northeast of the proposed project. Another resource with a Native American burial was exposed in 2013 in the Great

Mall parking lot adjacent to the future Bay Area Rapid Transit (BART) track alignment approximately 0.6 miles northeast of the project. CA-SCL-38, another major prehistoric village site with over 200 Native American burials recovered to date, is located within and surrounding the Elmwood Correctional Facility, approximately 0.8 miles northwest of the proposed project. Archaeological resources in this area of the Santa Clara Valley are typically located within 0.25 miles of either a seasonal or perennial water course and are often buried by alluvial deposition often the result of episodic flooding. These buried resources are frequently exposed during ground disturbing construction. However, no prehistoric resources appear to have been exposed during the excavation of the engineered East Penitencia Channel drainage channel by the SCVWD in the 1980's⁶, during the current residential developments under construction (Harmony and McCandless), or during the construction of the previous industrial and office buildings in the area.

Past environmental compliance studies including those completed for the Transit Area Specific Plan EIR in 2008 have noted that over the last several thousand years, the Lower Penitencia Creek drainage was favorable for prehistoric settlement with subsequent overbank floods and numerous course changes burying any cultural resources under alluvium. Given the similarity of such environmental factors and the known presence of significant archaeological resources in the area, researchers have determined that there is a moderate to high likelihood that unrecorded Native American cultural resources are present within the Planning Area, including the project site. This conclusion has been reaffirmed by the development of the map of Buried Site Potential in the *Addendum Cultural Resources Inventory for the Silicon Valley Berryessa Extension Project in Milpitas and San Jose, Santa Clara County, California* completed by the Santa Clara Valley Transportation Agency in 2010. This map indicates that the project area is within a High Sensitivity Zone for buried archaeological sites based on its proximity to Lower Penitencia Creek and the presence of important resources within a one-mile boundary.

Construction of the proposed pedestrian bridge and, more specifically, installation of the abutments would require some ground-disturbing activities outside of the East Penitencia Channel. The existing channel embankments currently support unpaved access roads and were constructed in the 1980's and, therefore, have been previously disturbed although the depth of disturbance is not known. No prehistoric archaeological resources have been recorded within the project area or within 0.25 miles. The implementation of Specific Plan Policies 5.31 and 5.32 would reduce potential adverse effects on unknown archaeological resources and Native American burials to less than significant. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

c) The East Penitencia Channel is a modified channel and native soils within the project vicinity have most likely been covered by imported soil or otherwise modified from their natural condition. As such, the potential for discovery of unique paleontological resources during project construction is very

⁶ Based on review of historic aerial photographs of the McCandless Drive and Trade Zone Boulevard area, the East Penitencia drainage channel appears to have been excavated post-1950s during the installation of improvements for Lower Penitencia Creek.

unlikely. Nonetheless, in the event that unknown paleontological resources are present within the project site, implementation of Specific Plan Policy 5.32 would reduce the potential for causing adverse effects on paleontological resources. Therefore, no impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Development of the proposed project would not alter these conclusions.

Specific Plan Policies that Reduce the Impact

- **Policy 5.31:** Any future ground disturbing activities, including grading, in the Transit Area shall be monitored by a qualified archaeologist to ensure that the accidental discovery of significant archaeological materials and/or human remains is handled according to CEQA Guidelines § 15064.5 regarding discovery of archeological sites and burial sites, and Guidelines §15126.4(b) identifying mitigation measures for impacts on historic and cultural resources. (Reference CEQA §§ 21083.2, 21084.1.) In the event that buried cultural remains are encountered, construction will be temporarily halted until a mitigation plan can be developed. In the event that human remains are encountered, the developer shall halt work in the immediate area and contact the Santa Clara County coroner and the City of Milpitas. The coroner will then contact the Native American Heritage Commission (NAHC) which will in turn contact the appropriate Most Likely Descendent (MLD). The MLD will then have the opportunity to make are commendation for the respectful treatment of the Native American remains and related burial goods.
- **Policy 5.32:** All grading plans for development projects involving ground displacement shall include a requirement for monitoring by a qualified paleontologist to review underground materials recovered. In the event fossils are encountered, construction shall be temporarily halted. The City's Planning Department shall be notified immediately, a qualified paleontologist shall evaluate the fossils, and steps needed to photo document or to recover the fossils shall be taken. If fossils are found during construction activities, grading in the vicinity shall be temporarily suspended while the fossils are evaluated for scientific significance and fossil recovery, if warranted.

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
VI. Geology and Soils					
<i>Would the project:</i>					
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving seismic hazards?	Less than significant impact	No. The project site has low susceptibility to strong seismic hazards.	No. The project site has low susceptibility to strong seismic hazards.	No. The project site has low susceptibility to strong seismic hazards.	None
b) Result in substantial soil erosion or the loss of topsoil?	Less than significant impact	No. The proposed project has low susceptibility to soil erosion and loss of topsoil.	No. The proposed project has low susceptibility to soil erosion and loss of topsoil.	No. The proposed project has low susceptibility to soil erosion and loss of topsoil.	City of Milpitas General Plan Policies 4.d-I-1 and 5.a-I-3
c) Be located on a geologic unit or soil that is unstable, or that would become unstable, as a result of the project and potentially result in on-or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	No impact	No. The project site is not susceptible to landslides.	No. The project site is not susceptible to landslides.	No. The project site is not susceptible to landslides.	None
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	Less than significant impact	No. The project site has low susceptibility to erosion.	No. The project site has low susceptibility to erosion.	No. The project site has low susceptibility to erosion.	General Plan Policy 5.a-I-3
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	No impact	No. The project site will not require wastewater disposal systems for the disposal of wastewater.	No. The project site will not require wastewater disposal systems for the disposal of wastewater.	No. The project site will not require wastewater disposal systems for the disposal of wastewater.	None

Discussion

a,c) The Hayward Fault is the closest Earthquake Fault Zone to the project site, which trends northwest approximately 2 miles east of the project area. Due to distance, the project area would not be affected by direct fault rupturing during an earthquake.

Construction of the proposed bridge would occur during a short period of time and temporarily disturbed areas would be restored afterwards. The bridge would be constructed on deep pile foundations consisting

of 36-inch cast-in-drilled-hole concrete pilings to prevent bridge failure from earthquakes and strong ground shaking, and would be designed in accordance to California Department of Transportation's (Caltrans's) Seismic Design Criteria. As such, impacts related to exposing people or structures to substantial risk due to fault rupture and seismic ground shaking would be less than significant.

The project site and surrounding area is located in a mapped moderate liquefaction hazard zone. The proposed bridge would be constructed on both sides of man-made embankments, which were previously graded and with engineered soil backfill. The bridge will be designed and constructed in accordance with a design-level geotechnical investigation that is currently under construction (consistent with General Plan Policy 5.a-I-3). This investigation will identify specific design features that will be required for the project, including site preparation, recompaction, trench excavations, and abutment installation.

In addition, there are no known landslides in the project vicinity; the project area is relatively flat except for the channel banks. Landslides are not anticipated as a result of project construction or operation. As such, no impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

b) The project site and surrounding area is highly disturbed and developed; there is minimal native top soil in the project area. Vehicles and equipment for project construction would disturb the ground surface, potentially causing localized erosion or compaction. Construction vehicles and equipment would be used outside of the creek within the SCVWD's unpaved access roads (primarily along the access road north of East Penitencia Creek). After construction, the maintenance roads would be restored to existing conditions and in the future would be developed as trails.

Construction of the new bridge would involve excavation into the top of the East Penitencia creek bank to install bridge abutments and wingwalls. The northern abutment would be located 10 feet north of the creek's top of bank and the southern abutment would be approximately 4.5 feet south of the creek's top of bank. No work directly in the creek would be necessary for bridge construction. The project would be designed to avoid alteration of flood flow characteristics in the East Penitencia Creek. The City will coordinate with SCVWD, the flood management authority in the project area, to ensure that the bridge design would not cause erosion of the creek bed and banks. By design, the project would not cause soil erosion or loss of topsoil once constructed.

As the project area is less than 1 acre, preparation and implementation of a Stormwater Pollution Prevention Plan is not required for this project. Although no construction activities would occur within the creek, there is a possibility that the staging of equipment and materials adjacent to the creek could cause localized erosion. Implementation of BMPs, such as establishment of silt fences and/or fiber rolls, installation of silt fences, and stabilization for stockpiles, would reduce the potential for soil erosion and loss of topsoil. With implementation of these construction BMPs, this impact would be less than significant. No impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

d) As described in the Project Description, a geotechnical investigation for the project is currently underway and will be compliant with the City of Milpitas General Plan policy 5.a-I-3. The proposed bridge would be supported on deep foundations consisting of cast-in-drilled hole concrete pilings and will be designed in accordance with the geotechnical report, which will address construction on expansive soils. For these reasons, impacts related to construction on expansive soils would be less than significant and would not alter the conclusion of the Transit Area Specific Plan EIR.

e) The proposed project would not involve the use of septic tanks or alternative wastewater disposal systems. No impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

General Plan Policy that Reduces the Impact

- **Policy 5.a-I-3:** Require projects to comply with the guidelines prescribed in the City's Geotechnical Hazards Evaluation manual.
- **Policy 4.d-I-1:** Continue implementing the National Pollutant Discharge Elimination System (NPDES) requirements of the Regional Water Quality Control Board – this is implemented through Chapter 16 of the City's Zoning Ordinance.

Specific Plan Policies that Reduce the Impact

None.

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
VII. Greenhouse Gas Emissions					
<i>Would the project:</i>					
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	Less than significant impact	No. Project construction will not generate greenhouse gas emissions that will adversely impact the environment.	No. Project construction will not generate greenhouse gas emissions that will adversely impact the environment.	No. Project construction will not generate greenhouse gas emissions that will adversely impact the environment.	None
b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?	Less than significant impact	No. The proposed project will not conflict with any applicable plan, policy, or regulations for the purpose of reducing greenhouse gases.	No. The proposed project will not conflict with any applicable plan, policy, or regulations for the purpose of reducing greenhouse gases.	No. The proposed project will not conflict with any applicable plan, policy, or regulations for the purpose of reducing greenhouse gases.	Policies 3.21, 3.23, 3.28

Since certification of the Transit Area Specific Plan EIR, regulations and policies regarding greenhouse gas emissions (GHGs) have evolved. The California Air Resources Board (CARB) has introduced various regulations aimed at reducing emissions from mobile sources such as vehicles and off-road construction equipment. These require that future model years reduce GHG emissions. CARB has also implemented the low carbon fuel standard (LCFS) which requires an eventual reduction in GHG emissions associated with both the refining and combustion in end users to be reduced by 10% by 2020. Senate Bill 375 required transportation and land use planning to coordinate and develop a plan for reducing GHG emissions. The applicable plan is called Plan Bay Area and emphasizes transportation and land use development along existing corridors. The project is consistent with Plan Bay Area.

The Bay Area Air Quality Management District (BAAQMD) adopted quantitative thresholds of significance, recommended BMPs, and mitigation measures for GHG emissions, among other pollutants. At this time, due to ongoing lawsuits, BAAQMD cannot recommend use of these thresholds. Regardless of this fact, the City has adopted the 2010 BAAQMD thresholds for the purposes of this analysis because they were established based on the substantial evidence and represent the most current and appropriate thresholds for use at this time.

Discussion

a) The proposed project involves development of a new pedestrian bridge that would link future segments of the Lower Penitencia Creek Trail and East Penitencia Creek Trail, and thereby improve mobility for

pedestrians, cyclists, and joggers. The proposed project would generate temporary greenhouse gas (GHG) emissions during construction, with most of the emissions generated by off-road heavy construction equipment, materials hauling, and daily construction worker trips. Any potential impacts from GHG generation during project construction would be short-term and temporary. Given that the project would accommodate non-motorized modes of transportation, operational emissions of GHG emissions would be negligible. This project would also be consistent with Transit Area Specific Plan policies 3.21, 3.23, and 3.28, which encourage provision of continuous pedestrian and bicycle routes throughout the Specific Plan area. Therefore, impacts related to generation of GHG emissions would be less than significant and would not alter conclusions previously disclosed in the Transit Area Specific Plan EIR.

b) This project would improve mobility for pedestrians, cyclists, and other forms of non-motorized transportation and enhance trail connectivity. The proposed project furthers the objectives of the California Global Warming Solutions Act of 2006, which aims to reduce GHG emissions by 2020 to 1990 levels. The project does not impede future reductions in GHGs associated with surrounding land uses or sources that may be required to achieve the goals of Executive Order S-03-05 and B-16-2012, which require GHG reductions 80 percent below 1990 levels in 2050. The project would also be consistent with CARB measures and all applicable regulations that are aimed at reducing GHG emissions from off-road equipment, materials hauling vehicles, and worker vehicles. This in particular includes limiting vehicle idling to 2 minutes, contractor's compliance with new fleet model year rules, and the low carbon fuel standard. The project would ensure that equipment is properly maintained and in good working condition. The project is consistent with the local Sustainable Community Strategy contained in Plan Bay Area. Additionally, the proposed project would not interfere with any local BAAQMD regulations or other local policies such as Plan Bay Area (Association of Bay Area Governments and Metropolitan Transportation Commission, 2013). Therefore, the project would not conflict with any applicable plan, policy, or regulation of an agency adopted for reducing the emissions of GHGs, and this impact would be less than significant. Development of the proposed project would not alter conclusions in the Transit Area Specific Plan EIR.

Specific Plan Policies that Reduce the Impact

- **Policy 3.21:** Provide continuous pedestrian sidewalks and safe bike travel routes throughout the entire Transit Area and within development projects.
- **Policy 3.23:** Encourage children to walk or bike to school by expanding existing safe walking and bicycling routes to schools into the Transit Area.
- **Policy 3.28:** Provide continuous bicycle circulation through the project site and to adjacent areas by closing existing gaps in bicycle lanes and bicycle routes, per Figure 3-5 [of the proposed Plan].

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
VIII. Hazards and Hazardous Materials					
<i>Would the project:</i>					
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	Less than significant impact	No. The project would not create significant hazards through the routine transport, use, or disposal of hazardous materials.	No. The project would not create significant hazards through the routine transport, use, or disposal of hazardous materials.	No. The project would not create significant hazards through the routine transport, use, or disposal of hazardous materials.	None
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	Less than significant impact	No. The proposed project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions.	No. The proposed project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions.	No. The proposed project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions.	None
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	Less than significant impact	No. The proposed project is not currently within a one-quarter mile distance of a school.	No. The proposed project is not currently within a one-quarter mile distance of a school.	No. The proposed project is not currently within a one-quarter mile distance of a school.	None
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	This criterion was not evaluated in the Transit Area Specific Plan EIR (2008).	No. The proposed project is not located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.	No. The proposed project is not located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.	No. The proposed project is not located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.	None
e) Be located within two miles of an airport land use plan, and result in a safety hazard for people residing or working in the project area?	This criterion was not evaluated in the Transit Area Specific Plan EIR (2008).	No. The project site is not located within two miles of an Airport Planning Area of San Jose International Airport	No. The project site is not located within two miles of an Airport Planning Area of San Jose International Airport	No. The project site is not located within two miles of an Airport Planning Area of San Jose International Airport	None

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	This criterion was not evaluated in the Transit Area Specific Plan EIR (2008).	No. The proposed project is not within the vicinity of a private airstrip.	No. The proposed project is not within the vicinity of a private airstrip.	No. The proposed project is not within the vicinity of a private airstrip.	None
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	No impact	No. The project site will not interfere with an adopted emergency response or evacuation plan.	No. The project site will not interfere with an adopted emergency response or evacuation plan.	No. The project site will not interfere with an adopted emergency response or evacuation plan.	None
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	This criterion was not evaluated in the Transit Area Specific Plan EIR (2008).	No. The project site is not located in an area susceptible to wildland fires.	No. The project site is not located in an area susceptible to wildland fires.	No. The project site is not located in an area susceptible to wildland fires.	None

Discussion

a) Implementation of the proposed project would potentially require the routine transfer, use storage, or disposal of hazardous materials. During project activities, hazardous materials typically associated with construction activities, such as fuel, oil, and lubricants would be employed in the project and staging areas. The project would comply with all relevant federal, state, and local statutes and regulations related to transport, use, storage, or disposal of hazardous materials, and all materials designated for disposal would be evaluated for appropriate state and federal hazardous waste criteria. Once construction is complete, the bridge would solely be used by pedestrians and bicyclists and thus, no hazardous materials would be transported across this bridge in the long-term. This impact would be less than significant and development of the project would not alter the conclusion of the Transit Area Specific Plan EIR.

b) During construction, some limited quantities of hazardous materials such as fuels, oils, hydraulic fluids, adhesives and other substances would be used at the project site. However, the project would implement BMPs to prevent release of any of these hazardous materials to the public or environment throughout routine transport, use, and disposal. These BMPs would minimize the potential for accidental spills during construction and provide measures to contain them if they do occur. These measures would minimize the potential for any accident or upset conditions that may occur even though the proposed project is not anticipated to create a hazard to the public or the environment through reasonably

foreseeable upset and accident conditions involving the release of hazardous materials into the environment. After project construction, the potential for release of any hazardous materials would be negligible since the bridge would be used by pedestrians and bicyclists. Therefore, this impact is considered less than significant and development of the project would not alter the conclusion of the Transit Area Specific Plan EIR.

c) Currently, there are no existing school sites within 0.25 mile of the project site. The Milpitas Transit Area Specific Plan contemplates an elementary or K-8 school in the vicinity of McCandless Drive / Houret Drive, adjacent to East Penitencia Creek. Any hazardous emissions or handling of hazardous materials would be temporary and limited to the duration of bridge construction activities (less than 120 days), which would be completed before the development of the future school. Therefore, impacts related to acutely hazardous materials, emissions, substances, or waste near an existing or proposed school are considered less than significant. Development of the proposed project would not alter the conclusion of the Transit Area Specific Plan EIR.

d) The project site is not listed on any federal, state, or local compiled lists searched by the database review, including lists compiled under Government Code Section 65962.5. However, there is the potential for discovery of previously unknown contamination during ground excavation activities. As described in the Project Description, in the event that hazardous levels of contaminants are encountered, implementation of BMP 7 would ensure that construction activities cease until a more thorough investigation can be conducted or that the work site is safe to continue. Based on the available information, there does not appear to be any non-natural existing hazardous material contamination. Therefore, this impact would be less than significant.

e, f) The nearest airport to the project site is San Jose International Airport, located 3 miles to the southwest. Also, the project site is not within the Airport Planning Area of San Jose International Airport. Construction activities would be confined to the project work area and would not involve the use of any equipment that would affect aircraft utilizing the airport. As such, the project would not adversely affect public or private airstrips in the project vicinity. No impact would occur.

g) The proposed project consists of the development of a pedestrian bridge that would increase connectivity between future trail segments. The project does not have any characteristics that would impair the implementation of or physically interfere with the City's Multi-Hazard Emergency Plan. In addition, as described in the Transit Area Specific Plan EIR, the Milpitas Fire Department's Office of Emergency Services has been coordinating with project proponents involved in the Transit Area Specific Plan. Given the nature of the project, no impact on adopted emergency response plans is expected to occur.

h) The project site is located within an already urbanized and developed community of Milpitas. It does not include, nor is located adjacent to, any areas designated as having a high, extreme, or severe wildland fire hazard. Therefore, exposure to the risk of wildland fires would be minimal. No impacts beyond what

previously were disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

Specific Plan Policies that Reduce the Impact

None.

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
IX. Hydrology and Water Quality					
<i>Would the project:</i>					
a) Violate any water quality standards or waste discharge requirements?	Less than significant impact	No. General Plan policies and Transit plan policies would help to reduce construction-related water quality impacts to less than significant levels.	No. General Plan policies and Transit plan policies would help to reduce construction-related water quality impacts to less than significant levels.	No. General Plan policies and Transit plan policies would help to reduce construction-related water quality impacts to less than significant levels.	General Plan Policy 4.d-I-1
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	No impact	No. The proposed project would not use groundwater resources or impair groundwater recharge.	No. The proposed project would not use groundwater resources or impair groundwater recharge.	No. The proposed project would not use groundwater resources or impair groundwater recharge.	None
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	Less than significant impact	No. The project will not substantially alter the course of a stream or river in a manner that would result in substantial erosion or siltation on- or offsite.	No. The proposed project would provide storm drainage facilities and, thus, would not result in substantial erosion.	No. The proposed project would provide storm drainage facilities and, thus, would not result in substantial erosion.	General Plan Policy 4.d-I-1
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	Less than significant impact	No. General Plan policies and Transit plan policies would help to reduce construction-related water quality impacts to less than significant levels.	No. General Plan policies and Transit plan policies would help to reduce construction-related water quality impacts to less than significant levels.	No. General Plan policies and Transit plan policies would help to reduce construction-related water quality impacts to less than significant levels.	General Plan Policy 4.d-I-1

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	No impact	No. The proposed project would not exceed the capacity of existing or planned stormwater drainage systems.	No. The proposed project would not exceed the capacity of existing or planned stormwater drainage systems.	No. The proposed project would not exceed the capacity of existing or planned stormwater drainage systems.	None
f) Otherwise substantially degrade water quality?	No impact	No. All potential impacts to water quality would be temporary and only during construction; in addition, Specific Plan Policies will be implemented to minimize any impacts.	No. All potential impacts to water quality would be temporary and only during construction; in addition, Specific Plan Policies will be implemented to minimize any impacts.	No. All potential impacts to water quality would be temporary and only during construction; in addition, Specific Plan Policies will be implemented to minimize any impacts.	General Plan Policy 4.d-I-1
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	No impact	No. The proposed project would not place housing within a 100-year flood hazard area.	No. The proposed project would not place housing within a 100-year flood hazard area.	No. The proposed project would not place housing within a 100-year flood hazard area.	None
h) Place within a 100 year flood hazard area structures which would impede or redirect flood flows	Less than significant impact	No. The proposed project would not substantially impede or redirect flood flows within a 100-year flood hazard area .	No. The proposed project would not substantially impede or redirect flood flows within a 100-year flood hazard area .	No. The proposed project would not substantially impede or redirect flood flows within a 100-year flood hazard area .	None
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	Less than significant impact	No. The project site has very low susceptibility to flooding as a result of dam or levee failure.	No. The project site has very low susceptibility to flooding as a result of dam or levee failure.	No. The project site has very low susceptibility to flooding as a result of dam or levee failure.	None
j) Inundation by seiche, tsunami, or mudflow?	No impact	No. The project site is has low susceptibility to seiches, tsunamis, and mudflow.	No. The project site is has low susceptibility to seiches, tsunamis, and mudflow.	No. The project site is has low susceptibility to seiches, tsunamis, and mudflow.	None

Discussion

a, c, f) The proposed project involves development of a full-span, pre-manufactured pedestrian bridge over East Penitencia Creek. The proposed bridge would fully span the waterway and avoid impacts within the bank or channel. During construction, ground-disturbing activities at the project site would have the potential to release sediment into East Penitencia Creek and Lower Penitencia Creek. Other contaminants, such as fuels used for construction equipment, could also be introduced to surface water during construction.

Water quality in California is regulated by the U.S. Environmental Protection Agency's National Pollution Discharge Elimination System (NPDES), which controls the discharge of pollutants to water bodies from point and non-point sources. Local oversight of water quality has been delegated to the Regional Water Quality Control Boards throughout California. Compliance with the City's General Plan Policy 4.d-I-1 would ensure that construction water quality impacts are minimized during project construction. Example BMPs that would be implemented to ensure compliance with Policy 4.d-I-1 include practices that limit fueling and other activities involving hazardous materials to use designated areas only, reduction of erosion by stabilizing soil stockpiles, watering for dust control, and installation of perimeter silt fences, and development of spill and emergency response plans to handle potential fuel spill or other spills. Refer to Section VIII., *Hazards and Hazardous Materials*, for additional discussion regarding the potential for accidental spills of fuels and other contaminants used during construction and potential impacts during project implementation. The development of the proposed project would not alter the conclusion of the Transit Area Specific Plan EIR.

b) The proposed project involves development of a full-span, pre-manufactured pedestrian bridge over East Penitencia Creek. Construction of the bridge would not involve the use of substantial quantities of water supplies that would have the potential to deplete any groundwater supplies. Furthermore, the development of the bridge avoids impacts to the waterway channel and would not interfere with groundwater recharge activities. The development of the proposed project would not alter the conclusion of the Transit Area Specific Plan EIR.

d, e) The proposed project involves development of a full-span, pre-manufactured pedestrian bridge over East Penitencia Creek. Under existing conditions, runoff within the creek corridor sheet flows into the creek channel. The proposed project would involve excavation activities and installation of the bridge abutments and wingwalls, with the total footprint of both abutments being approximately 120 square feet and the bridge would be 600 square feet. The net increase in runoff volume from the bridge relative to existing conditions is expected to be minimal and immeasurable and, therefore, would not contribute substantial stormwater runoff or substantially alter existing drainage patterns such that flooding or polluted runoff would result. The development of the proposed project would not alter the conclusion of the Transit Area Specific Plan EIR.

g, h) Although the proposed project is within the 100-year flood hazard area⁷, it does not involve the construction of new housing units or structures that would substantially impede or redirect flood flows. As stated above, the proposed bridge would fully span the waterway and avoid impacts within the bank or channel. The bridge is currently designed to provide 9 inches of freeboard at the center of the bridge. The final freeboard height may be revised as the bridge design is further refined with input and approval from the SCVWD, who is the responsible agency for flood protection in this area and owner of the creek channels. The bridge will be designed to resist lateral and uplifting flood flow forces to prevent bridge failure and harm to people and property (SCVWD 2014⁸). Additionally, given the relatively small size of the bridge (600 square feet), the bridge is not expected to substantially impede or redirect flood flows.

As described in the Project Description, SCVWD conducts flood protection maintenance activities within the project area include vegetation management through herbicide application and debris clearing in and around the two creeks. These maintenance activities are necessary to reduce impacts of flooding in the area. Once the proposed project is complete, SCVWD will be able to access the creeks via the planned Lower and East Penitencia Creek trails, and thus routine flood protection maintenance activities in the project area would not be hindered. Development of the proposed project would not alter the conclusions of the Transit Area Specific Plan EIR.

i) The project site is located near the catastrophic dam failure inundation boundaries of the Leroy Anderson Dam under wet conditions, and assuming the reservoir is at full capacity at time of failure. The dam is inspected twice a year by the District, the California Department of Water Resources Division of Safety of Dams, and the Federal Energy Regulatory Commission. Inundation at the project site is not expected during non-catastrophic conditions; therefore, all impacts are less than significant. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

j) The project site has low susceptibility to tsunamis, seiches, and mudflow events. According to the Association of Bay Area Government's interactive tsunami mapping, areas near the bay are not considered susceptible to tsunami inundation. The City of Milpitas is located approximately 30 miles from the Pacific Ocean, therefore precluding the possibility of a tsunami inundating the project site. There are no inland water bodies in the project vicinity that are susceptible to seiches, thereby precluding the possibility of a seiche inundating the project site. The surrounding vicinity does not contain any steep slopes or any volcanically active features that could produce mudflow in the City of Milpitas. No impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

⁷ Federal Emergency Management Agency (FEMA). 2014. Flood Insurance Rate (FIRM) Map No. 06085C0067J, Santa Clara County, California. Available: <http://map1.msc.fema.gov/idms/IntraView.cgi?KEY=21462414&IFIT=1>. Accessed December 17, 2014.

⁸ Santa Clara Valley Water District (SCVWD). 2014. E-mail communication. December 3.

General Plan Policies that Reduce the Impact:

- **Policy 4.d-I-1:** Continue implementing the National Pollutant Discharge Elimination System (NPDES) requirements of the Regional Water Quality Control Board – this is implemented through Chapter 16 of the City’s Zoning Ordinance.

Conclusion

The conclusions from the original Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
X. Land Use Planning					
<i>Would the project:</i>					
a) Physically divide an established community?	No impact	No. The proposed project will enhance connectivity within established community.	No. The proposed project will enhance connectivity within established community.	No. The proposed project will enhance connectivity within established community.	None
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	Less than significant impact	No. The proposed project is consistent with the existing General Plan and Zoning designations for the project site.	No. The proposed project is consistent with the existing General Plan and Zoning designations for the project site.	No. The proposed project is consistent with the existing General Plan and Zoning designations for the project site.	None
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	No impact	No. The proposed project does not conflict any applicable habitat conservation plan or natural community conservation plan.	No. The proposed project does not conflict any applicable habitat conservation plan or natural community conservation plan.	No. The proposed project does not conflict any applicable habitat conservation plan or natural community conservation plan.	None

Discussion

a) The SCVWD's access roads adjacent to Lower Penitencia Creek and East Penitencia Creek are currently gated and not accessible to the general public. Once construction is completed, the project would provide connectivity between the future Lower and East Penitencia Creek trails, and would enhance bicycle and pedestrian connectivity within the Transit Area Specific Plan boundaries. As such, the project would not physically divide an established community. No impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

b) The Lower Penitencia Creek and East Penitencia Creek corridors are designated "Parks and Open Space" by the City of Milpitas General Plan and "Linear Parks and Trails" by the Transit Area Specific Plan. The "Linear Parks and Trails" designation allows for public space along Penitencia Creek and railroads that can contain bike and pedestrian trails. The proposed pedestrian bridge would be consistent

with the allowable land use activities within each land use designation, as it would connect trails contemplated in the Transit Area Plan. The development of the bridge also furthers goals established in the City's Trails Master Plan Goals by creating connectivity between trail segments for multi-use recreational purposes as well as enhancing transportation measures in Milpitas. No impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

c) The project site is not located within the boundaries of an adopted habitat conservation plan or natural community conservation plan. No impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

Specific Plan Policies that Reduce the Impact

None.

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
XI. Noise					
<i>Would the project result in:</i>					
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	Less than significant impact	No. The proposed project will adhere to all noise ordinances in relation to construction with the following policies to ensure impacts are less than significant.	No. The proposed project will adhere to all noise ordinances in relation to construction with the following policies to ensure impacts are less than significant.	No. The proposed project will adhere to all noise ordinances in relation to construction with the following policies to ensure impacts are less than significant.	Specific Plan Policies 5.10 and 5.15, City of Milpitas Noise Abatement Ordinance, City Regulation Policy 6-I-13
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	Less than significant impact	No. The proposed project would not expose persons to excessive groundborne vibration.	No. The proposed project would not expose persons to excessive groundborne vibration.	No. The proposed project would not expose persons to excessive groundborne vibration.	Milpitas Noise Abatement Ordinance
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	No impact	No. The proposed project would not result in a permanent increase in ambient noise levels.	No. The proposed project would not result in a permanent increase in ambient noise levels.	No. The proposed project would not result in a permanent increase in ambient noise levels.	None
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	Less than significant impact	No. The proposed project would not result in a substantial temporary increase in ambient noise levels.	No. The proposed project would not result in a substantial temporary increase in ambient noise levels.	No. The proposed project would not result in a substantial temporary increase in ambient noise levels.	Milpitas Noise Abatement Ordinance
e) For a project located within 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	No, the project site is not within two miles of an airport land use plan.	No, the project site is not within two miles of an airport land use plan.	No, the project site is not within two miles of an airport land use plan.	None
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	No impact	No, the project site is not located within the vicinity of a private airstrip.	No, the project site is not located within the vicinity of a private airstrip.	No, the project site is not located within the vicinity of a private airstrip.	None

Discussion

a) The project site involves the construction of a new pedestrian bridge that would link future segments of the Lower Penitencia Creek Trail and East Penitencia Creek Trail that will be adjacent to the McCandless Mixed Use Development Project and Harmony residential development project. Construction activities would involve grading activities that have the potential to expose nearby receptors to noise levels in excess of standards established in the local general plan or noise ordinance. As such, compliance with the City of Milpitas Noise Abatement Ordinance would be required to minimize noise impacts at nearby receptors. Note that construction noise would cease once the pedestrian bridge is completed.

The bridge would be used for non-motorized modes of transportation (bicycling, walking, etc.) during daytime hours. The bridge would not contain lighting and nighttime use would be prohibited. These characteristics would limit the possibility of use to exceed “normally acceptable” noise standards for residential uses. No impacts beyond what were previously disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

b) Construction activities may occasionally be perceptible at the closest sensitive land uses. A large bulldozer can create vibration levels of 87 VdB at a distance of 25 feet (equivalent to a peak particle velocity [PPV] of 0.089). The nearest future residences would be located as close as 25 feet from the bridge alignment. Modern wood frame residential construction can withstand PPV levels of 0.25. Thus, even the closest construction activities would not cause substantial vibration damage at the nearest residential use. No impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

c) As previously described, the proposed pedestrian bridge would be used for non-motorized modes of transportation such as bicycling and walking, and would be available for use during daytime hours only. These characteristics of the project would limit the possibility of bridge use to cause substantial increases in ambient noise levels. No impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

d) The project site involves the construction of new pedestrian bridge that links the future Lower Penitencia Creek Trail and East Penitencia Creek Trail, which will be adjacent to residential uses. Construction activities would involve grading activities that have the potential to cause temporary increases in ambient noise levels. As such, compliance with the City of Milpitas Noise Abatement Ordinance would be required to minimize noise impacts at nearby receptors. Note that construction noise would cease once the pedestrian bridge is completed. Other temporary noise activities that may occur in the project area include SCVWD maintenance activities in and around the Lower Penitencia Creek and East Penitencia Creek, which are short in duration and also must comply with City of Milpitas Noise Abatement Ordinance. No impacts beyond what previously were disclosed in the Transit Area Specific

Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

e, f) The project site is not located within the boundaries of an airport land use plan. In addition, the nearest airport from the project site is San Jose International Airport located approximately 3 miles from the site. This precludes the possibility of the proposed project exposing persons residing or working in the project vicinity to excessive aviation noise. No impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

Specific Plan Policies that Reduce the Impact

- **Policy 5.10:** New development in the Transit Area shall adhere to the standards and guidelines in the Milpitas General Plan that govern noise levels.
- **Policy 5.15:** Prior to issuance of building permits, applicants shall demonstrate that noise exposure to sensitive receptors from construction activities has been mitigated to the extent feasible pursuant to the City's Noise Abatement Ordinance.

City Regulations that Reduce the Impact

The City's Noise Abatement Ordinance would reduce potential construction-related impacts.

- **Policy 6-I-13:** Restrict the hours of operation, technique, and equipment used in all public and private construction activities to minimize noise impact. Include noise specifications in requests for bids and equipment information.

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
XII. Population and Housing					
<i>Would the project:</i>					
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?	No impact	No. The proposed project would not affect population growth.	No. The proposed project would not affect population growth.	No. The proposed project would not affect population growth.	None
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	No impact	No. The proposed project would not result in removal of the existing dwelling units on the project site.	No. The proposed project would not result in removal of the existing dwelling units on the project site.	No. The proposed project would not result in removal of the existing dwelling units on the project site.	None
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	No impact	No. The proposed project would not result in removal of the existing dwelling units on the project site.	No. The proposed project would not result in removal of the existing dwelling units on the project site.	No. The proposed project would not result in removal of the existing dwelling units on the project site.	None

Discussion

a) The proposed project would not involve the construction of new housing, nor would it generate any long-term employment opportunities that could cause substantial population growth. Approximately 30 construction workers temporarily would be employed at the project site, and these jobs would likely be filled by the local work force. No new long-term employment opportunities or substantial population growth would result from construction activities.

The project consists of construction of a new pedestrian bridge. The project does not have any characteristics that would facilitate population growth. No impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

b, c) The proposed project consists of the development of a new pedestrian bridge adjacent to existing creek corridors in an existing developed community and will not require the demolition of any existing residential units. Therefore, the project would not displace substantial numbers of existing homes. No

impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

Specific Plan Policies that Reduce the Impact

None.

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
XIII. Public Services					
<i>Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:</i>					
a) Fire protection?	Less than significant impact	No. The proposed project would not result in a need for new or expanded fire protection facilities.	No. The proposed project would not result in a need for new or expanded fire protection facilities.	No. The proposed project would not result in a need for new or expanded fire protection facilities.	None
b) Police protection?	Less than significant impact	No. The proposed project would not result in a need for new or expanded police protection facilities.	No. The proposed project would not result in a need for new or expanded police protection facilities.	No. The proposed project would not result in a need for new or expanded police protection facilities.	None
c) Schools?	Significant and Unavoidable	No. The proposed project will not require additional school facilities.	No. The proposed project will not require additional school facilities.	No. The proposed project will not require additional school facilities.	None
d) Parks?	No impact	No. The proposed project would enhance any existing and future park facilities.	No. The proposed project would enhance any existing and future park facilities.	No. The proposed project would enhance any existing and future park facilities.	None
e) Other public facilities?	No impact	No. The proposed project would not result in a need for new or expanded other public facilities.	No. The proposed project would not result in a need for new or expanded other public facilities.	No. The proposed project would not result in a need for new or expanded other public facilities.	None
f) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	Less than significant impact	No. The project encourages the use of the already developed neighborhood, thereby complementing its surrounding area.	No. The project encourages the use of the already developed neighborhood, thereby complementing its surrounding area.	No. The project encourages the use of the already developed neighborhood, thereby complementing its surrounding area.	None
g) Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment.	No impact	No. The project does not require the construction or expansion of recreational facilities.	No. The project does not require the construction or expansion of recreational facilities.	No. The project does not require the construction or expansion of recreational facilities.	None

Discussion

a-e) The proposed pedestrian bridge would serve as a non-motorized transportation facility and is intended to improve mobility for bicyclists, pedestrians, and similar modes of transportation. As such, the bridge would have no potential to facilitate population or employment growth such that increased demands for fire protection, police protection, schools, libraries, parks, or other public facilities would occur. No impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

f, g) The proposed project involves construction of a new pedestrian bridge across the East Penitencia Creek corridor. Although this specific bridge was not contemplated in the Transit Area Specific Plan, the bridge would link future segments of the Lower Penitencia Creek Trail and East Penitencia Creek, which were contemplated by both the Transit Area Specific Plan and the City of Milpitas Trails Master Plan. The bridge is not expected to substantially increase the use of other existing neighborhood and regional parks or other recreational facilities. The physical impacts of new recreational facilities and public trail development along the Lower Penitencia Creek and East Penitencia Creek are evaluated in the Transit Area Specific Plan EIR and the Lower/East Penitencia Creek Trails Project Initial Study/Addendum. No impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR and the Lower/East Penitencia Creek Trails Project Initial Study/Addendum have been identified. Therefore, development of the proposed project would not alter these conclusions.

Specific Plan Policies that Reduce the Impact

None.

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
XIV. Transportation/Traffic					
<i>Would the project:</i>					
a) Exceed the capacity of the existing circulation system, based on applicable measure of effectiveness, taking into account all relevant component of the circulation system, including but not limited to intersections, street, highways, and freeways, pedestrian and bicycle paths, and mass transit?	Varies from Less than significant impact to Significant and Unavoidable	No. The proposed project encourages pedestrian- and cyclist-oriented modes of transport and would thereby reduce the number of vehicles on the road.	No. The proposed project encourages pedestrian- and cyclist-oriented modes of transport and would thereby reduce the number of vehicles on the road.	No. The proposed project encourages pedestrian- and cyclist-oriented modes of transport and would thereby reduce the number of vehicles on the road.	None
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	No impact	No. The proposed project will not conflict with any congestion management programs.	No. The proposed project will not conflict with any congestion management programs.	No. The proposed project will not conflict with any congestion management programs.	None
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	Not evaluated in the Transit Area Specific Plan EIR (2008)	No. The project site is not located within the vicinity of an airport and therefore would not alter air traffic patterns.	No. The project site is not located within the vicinity of an airport and therefore would not alter air traffic patterns.	No. The project site is not located within the vicinity of an airport and therefore would not alter air traffic patterns.	None
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	Not evaluated in the Transit Area Specific Plan EIR (2008)	No. The proposed project would not increase hazards due to a design feature.	No. The proposed project would not increase hazards due to a design feature.	No. The proposed project would not increase hazards due to a design feature.	None
e) Result in inadequate emergency access?	No impact	No. The proposed project will not result in inadequate emergency access.	No. The proposed project will not result in inadequate emergency access.	No. The proposed project will not result in inadequate emergency access.	None
f) Conflict with adopted policies plans or programs supporting alternative transportation (e.g., bus turnouts,	Not evaluated in the Transit Area Specific Plan EIR (2008)	No. The proposed project would complement adopted plans and	No. The proposed project would complement adopted plans and	No. The proposed project would complement adopted plans and	None

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
bicycle racks)?		policies supporting alternative transportation.	policies supporting alternative transportation.	policies supporting alternative transportation.	

Discussion

a, b) During project construction, no traffic lane closures would be expected to occur. The project would generate additional vehicle trips during construction as the construction process would require up to 30 workers on site during any daytime shift. Assuming all workers would drive in personal vehicles to work each day, this would add 30 trips to peak hour traffic (AM and PM) on Interstate 880, Montague Expressway or Great Mall Parkway, and McCandless Drive for a total of 60 worker trips per day. While this number of trips could marginally increase local peak hour traffic, it would not be sufficient to significantly affect the existing Level of Service (LOS) on the Santa Clara County Congestion Management Program (CMP) roadways/intersections or other roads in the project vicinity. In addition, any construction-related impacts on LOS or other performance standards of the circulation system would be temporary.

The proposed pedestrian bridge is intended to improve mobility for non-motorized modes of transportation such as bicycling and pedestrian uses. Thus, in the long-term, the project would have no potential to affect LOS on surrounding roadways. No impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

c) The project site is approximately 3 miles from the San Jose International Airport, the closest airport to the project site. Given the project site's distance from the airport and the nature of the project, the proposed project would not alter existing air traffic patterns. Although this specific impact was not addressed in the Transit Area Specific Plan EIR, construction and operation of the new pedestrian bridge would not result in any impacts related to alteration of air traffic patterns.

d) The proposed bridge would be designed in a manner that is pedestrian-friendly. The bridge would employ pavement treatments, an approach railing on either end of the bridge, and a wall railing for safety purposes. These design features are expected to minimize any hazards due to design features. Although this specific impact was not addressed in the Transit Area Specific Plan EIR, construction and operation of the new pedestrian bridge would not result in any impacts related to hazards due to design features.

e) Given the nature of the project, development of a pedestrian bridge that provides connectivity between future trail segments, it would not substantially impair emergency access. No impacts beyond what

previously were disclosed in the Transit Area Specific Plan EIR have been identified. Although this specific impact was not addressed in the Transit Area Specific Plan EIR, construction and operation of the new pedestrian bridge would not result in any impacts related to inadequate emergency access.

f) Although the Transit Area Specific Plan did not contemplate this specific bridge, because the bridge would improve pedestrian circulation, the project would further adopted policies, plans, and programs that support alternative transportation. More specifically, the bridge would provide connectivity between trail segments contemplated by the Transit Area Specific Plan and further goals established by the City of Milpitas Trails Master Plan. As such, they would further adopted policies, plans, and programs that support alternative transportation. No impacts beyond those that previously were disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

Specific Plan Policies that will Reduce the Impact:

None.

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
XV. Utilities and Service Systems					
<i>Would the project:</i>					
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	Less than significant impact	No. The proposed project would not exceed wastewater treatment requirements.	No. The proposed project would not exceed wastewater treatment requirements.	No. The proposed project would not exceed wastewater treatment requirements.	None
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	Less than significant impact	No. The proposed project would not result in the construction of new water or wastewater treatment facilities.	No. The proposed project would not result in the construction of new water or wastewater treatment facilities.	No. The proposed project would not result in the construction of new water or wastewater treatment facilities.	None
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	No impact	No. The proposed project would not result in the construction of new stormwater drainage facilities.	No. The proposed project would not result in the construction of new stormwater drainage facilities.	No. The proposed project would not result in the construction of new stormwater drainage facilities.	None
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	Less than significant impact	No. The proposed project would be served by adequate water supplies.	No. The proposed project would be served by adequate water supplies.	No. The proposed project would be served by adequate water supplies.	None
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	Less than significant impact	No. The proposed project would be served by adequate wastewater treatment capacity.	No. The proposed project would be served by adequate wastewater treatment capacity.	No. The proposed project would be served by adequate wastewater treatment capacity.	None
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	Less than significant impact	No. The proposed project would be served by a landfill with sufficient capacity.	No. The proposed project would be served by a landfill with sufficient capacity.	No. The proposed project would be served by a landfill with sufficient capacity.	None
g) Comply with federal, state, and local statutes and regulations related to solid waste?	Less than significant impact	No. The proposed project would comply with applicable statutes and regulations related to solid waste.	No. The proposed project would comply with applicable statutes and regulations related to solid waste.	No. The proposed project would comply with applicable statutes and regulations related to solid waste.	None

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
h) Encourage activities that resulted in the use of large amounts of fuel or energy, or used these resources in a wasteful manner?	Not evaluated in the Transit Area Specific Plan EIR (2008)	No. Although project construction would require irreversible energy consumption, the amount of energy consumed would be minimal given the project's short construction timeframe.	No. Although project construction would require irreversible energy consumption, the amount of energy consumed would be minimal given the project's short construction timeframe.	No. Although project construction would require irreversible energy consumption, the amount of energy consumed would be minimal given the project's short construction timeframe.	None

Discussion

a-e) The proposed project does not include any uses, features, or facilities that would generate additional demands and require new or expanded utilities or service systems (refer to discussion of growth inducement in question (a) in Section XII, "Population and Housing"). Therefore, the project would have no impacts related to new or expanded water or wastewater utilities beyond what previously were disclosed in the Transit Area Specific Plan EIR. The project would not alter these conclusions.

f, g) Construction activities associated with the pedestrian bridge would not involve demolition, which limits the potential for solid waste generation associated with these activities. Operation of the bridge would not generate substantial sources of solid waste. As such, no impacts related to solid waste beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

h) While construction-related energy consumption would be short-term in duration, this usage would represent irreversible consumption of fossil fuel energy resources. Direct energy use would include the consumption of refined petroleum products for construction equipment and vehicles. Electricity may also be used by some pieces of equipment. However, given the short construction timeframe and the relatively small construction crew, the amount of consumed electricity and petroleum products would be minimal. As described in Section VII, *Greenhouse Gas Emissions*, construction vehicles would be required to limit idling time, which would reduce the amount of fuel energy consumed during construction. Once construction is completed, operation of the project would not encourage use of fuel or electricity as the bridge would be used by non-motorized forms of transportation. For the reasons described above, and although this criterion was not evaluated in the Transit Area Specific Plan EIR, the project would not result in wasteful use of energy resources and this impact would be less than significant.

Specific Plan Policies that Reduce the Impact

None.

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

Environmental Issue Area	Conclusion in EIR	Do the Proposed Changes Involve New Impacts?	New Circumstances Involving New Impacts?	New Information Requiring New Analysis or Verification?	Final EIR Mitigation Measures Implemented
XVI. Mandatory Findings of Significance					
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	No	No. The proposed project would not degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory.	No. The proposed project would not degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory.	No. The proposed project would not degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory.	None
b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	No	No. The proposed project would not have cumulatively considerable impacts.	No. The proposed project would not have cumulatively considerable impacts.	No. The proposed project would not have cumulatively considerable impacts.	None
c) Does the project have environmental effects which will cause substantial adverse effects on human beings?	No	No. The proposed project would not have environmental effects that will cause substantial adverse effects on human beings.	No. The proposed project would not have environmental effects that will cause substantial adverse effects on human beings.	No. The proposed project would not have environmental effects that will cause substantial adverse effects on human beings.	None

Discussion

a) With implementation of BMPs and compliance with applicable General Plan policies and Specific Plan policies mentioned throughout this document, the proposed project does not have the potential to substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal species, or eliminate important examples of the major periods of California history or prehistory. Refer to Section IV, *Biological Resources*, and Section V, *Cultural Resources*, for additional detail regarding the project's potential effects on sensitive plant and animal species, and cultural resources, respectively. As described throughout this initial study, no impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified.

Therefore, development of the proposed project would not alter these conclusions.

b) As defined by the State of California, cumulative impacts reflect “the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probably future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time” (CEQA Guidelines, Section 15355[b]).

Other projects planned or approved in the immediate project vicinity include the McCandless Mixed Use Development Project and Harmony residential development projects, and the Lower/East Penitencia Creek Trail Project. CEQA documentation for these three projects has been finalized and the projects have been approved. Furthermore, although the SCVWD currently has no plans to implement any flood protection projects along Lower or East Penitencia creeks, the SCVWD may decide to implement such a project in the future given that similar flood protection projects are currently planned in other parts of Santa Clara County. In the event that SCVWD decides to implement any flood protection projects near the bridge, the City will coordinate with SCVWD to ensure that flood protection improvements are compatible with the bridge. As described in criterion a), above, implementation of BMPs and compliance with applicable General Plan policies and Specific Plan policies would ensure that the project does not result in any new cumulative impacts that previously were not addressed in the Transit Area Specific Plan EIR. The development of the project would not alter these conclusions.

c) As previously discussed, the development of the project will not have an adverse effect on human beings. No impacts beyond what previously were disclosed in the Transit Area Specific Plan EIR have been identified. Therefore, development of the proposed project would not alter these conclusions.

Specific Plan Policies that Help Reduce Impact

None.

Conclusion

The conclusions from the Transit Area Specific Plan EIR remain unchanged.

List of Attachments for Agreements – Item No. 12

– Capital Improvement Program Project No. 2005

(Biggs Cardoso)

Approve a New Capital Improvement Program Project No. 2005 for Lower Penitencia Creek Pedestrian Trail Bridge, Approve a Budget Appropriation, and Approve Amendment No. 1 to the Agreement with Biggs Cardoso Associates, Inc. (Staff Contact: Steve Erickson, 408-586-3301)

Attachments:

***12-A** Budget Change Form – Biggs Cardoso

***12-B** 2005 CIP Sheet – Lower Penitencia Creek Bridge

***12-C** Amendment No. 1 to Agreement – Biggs Cardoso

City of Milpitas, California

BUDGET CHANGE FORM

Type of Change	From		To	
	Account	Amount	Account	Amount
Check one:				
☒ Budget Appropriation	350-2931 351-9512005-15-3899	\$ 500,000 500,000	350-3999 351-9512005-7-4800	\$ 500,000 500,000
☐ Budget Transfer	312-2931 351-9512005-15-3819	150,000 150,000	312-3924 351-9512005-1-4800	150,000 150,000

Explain the reason for the budget change:

Background: On September 14, 2014, the City entered into a consultant agreement with Biggs Cardosa Associates, Inc. in the amount of \$19,300 to provide 30% conceptual bridge design services for a new pedestrian bridge over Lower Penitencia Creek near McCandless Drive. The term of the agreement is from September 14, 2014 to September 4, 2015. Biggs Cardosa was selected through the City's standard operating procedures for professional consultants to provide these services. Their scope of work included providing a 30% conceptual bridge design and construction estimate to determine the feasibility of installing a 10-foot wide steel bridge that will connect developer constructed levee trails. The 30% conceptual design is now complete, and staff recommends moving forward with a new project to complete the final construction plans and specifications.

Staff requests the approval of a new Capital Improvement Project (CIP) for the final design and construction of the new pedestrian bridge. The Harmony and Taylor-Morrison development projects will construct new levee trails, and have contributed a total of \$500,000 in funding for the construction of the bridge. An additional \$150,000 in funding is required for final bridge design services, project administration, City Building Department review and permitting, and for special construction inspection. Transit Area Specific Plan (TASP) impact fees are proposed for this additional funding.

Staff also requests approval of Amendment No. 1 to the agreement with Biggs Cardosa Associates Inc. for the final bridge design, construction support, and construction inspection services to complete construction of the new bridge. Staff negotiated a scope and fee for these additional services not to exceed \$184,500. The agreement will also be extended to March 18, 2016.

Fiscal Impact: A budget appropriation is requested in the amount of \$150,000 from the Transit Area Specific Plan (TASP) impact fees fund and \$500,000 from the developer contributions for the Lower Penitencia Pedestrian Bridge, Project No. 2005.

Recommendations:

1. Approve new CIP Project No. 2005 for the Lower Penitencia Creek Pedestrian Bridge Project.
2. Approve a budget appropriation of \$150,000 from Transit Area Specific Plan (TASP) impact fees and \$500,000 from developer contributions.
3. Approve Amendment No. 1 to the Agreement with Biggs Cardosa Associates, Inc. in the amount of \$184,500 and for a term until March 18, 2016 for the Lower Penitencia Creek Pedestrian Bridge.

☒ **Check if City Council Approval required.**

Meeting Date: March 17, 2015

Requested by:	Steven Machida, City Engineer/Acting Public Works Director	Date: March 5, 2015
Reviewed by:	Finance Director: 	Date: 3/6/15
Approved by:	City Manager:	Date:
Date approved by City Council, if required: Confirmed by:		

FI/24786/V

Form 30-222 (Rev. 1/92)

Project No: 2005

Project Name: Lower Penitencia Pedestrian Trail Bridge

**AMENDMENT No 1 TO AGREEMENT
FOR CONSULTATION AND OTHER SERVICES**

This Amendment is entered into this 17th day of March, 2015, by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "CITY") and Biggs Cardosa Associates Inc., a California Corporation (hereafter referred to as "CONSULTANT").

RECITALS

WHEREAS, the parties entered into an agreement on September 4, 2014 for professional thirty percent (30%) design services for Lower Penitencia Creek Bridge in the amount of Nineteen Thousand Three Hundred Dollars (\$19,300.00) ("Agreement"), and

WHEREAS, the parties desire to amend the Agreement to allow CONSULTANT to provide final bridge design services including engineering, bidding, construction support, and special inspection services, for Project No. 2005 Lower Penitencia Creek Pedestrian Bridge.

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

1. Section 1.1, entitled "Term of Services" of the Agreement is amended in its entirety to read as follows:

"Term of Services. The term of this Agreement shall begin on the date first noted above and shall end on March 18, 2016, the date of completion specified in Exhibit A and Exhibit A-1, and Consultant shall complete all the work described in Exhibit A and Exhibit A-1 prior to that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the City's right to terminate the Agreement, as provided for in Section 8."

2. Section 2, entitled "Compensation" of the Agreement is amended in its entirety:

"COMPENSATION. City hereby agrees to pay Consultant an amount not to exceed One Hundred and Eighty-Four Thousand Five Hundred Dollars (\$184,500.00) based on time and materials for all services to be performed and reimbursable costs incurred under this Agreement. City shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Hourly rates for personnel performing services shall be as shown in Exhibit B. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement."

3. Exhibit A, entitled "Scope of Services" of the Agreement is amended to include the additional Scope of Services set forth in the attached Exhibit A-1, incorporated fully herein by reference.
4. Exhibit B, entitled "Compensation Schedule" of the Agreement is amended to include the additional compensation set forth in the attached Exhibit B-1, incorporated fully herein by reference.
5. The Consultant agrees to maintain and pay for all insurance policies as stated in Section 4, entitled "Insurance Requirements" of the Agreement dated **September 4, 2015**, between **Biggs Cardosa Associates, Inc.** and the City of Milpitas. The Consultant shall provide the City with renewal certificates of the current policies upon the expiration of the current policy.

5. All other provisions of the Agreement shall remain in full force and effect.

This Amendment is executed as of the date written on Page 1.

APPROVED BY:

CITY OF MILPITAS

CONSULTANT

Thomas C. Williams, City Manager

Biggs Cardoso Associates, Inc.

Steven Machida, Public Works Director/
City Engineer as to work specifics

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

EXHIBIT A-1 ADDITIONAL SCOPE OF SERVICES

PROJECT DESCRIPTION

The City of Milpitas is working with private developers to construct housing along McCandless Drive. As part of this development the City is also working with the developers to improve portions of the trail along Lower Penitencia Creek, to the west of McCandless Drive. As part of these trail improvements, a pedestrian bridge will be provided at the junction of the East Penitencia Channel and Lower Penitencia Creek, connecting the multi-use trail on the north bank of the East Penitencia Channel to the Harmony Project on the south bank of the channel.

The Scope of Design Services provided below details the work required for the design and development of construction documents for the pedestrian bridge and trail approaches.

SCOPE OF DESIGN SERVICES

Biggs Cardosa Associates' approach for pedestrian bridge design work for the Lower Penitencia Creek Trail Improvements is as follows:

- Task 1: Project Management
- Task 2: Preliminary Engineering
- Task 3: Final Design
- Task 4: Bidding Support Services
- Task 5: Construction Support Services
- Task 6: Special Inspection Services
- Assumptions and Exclusions

TASK 1: PROJECT MANAGEMENT

Project Management includes the supervision and scheduling of project staff, review of work prepared by staff and subconsultants, project coordination, client liaison and the monitoring of the schedule and the budget. Also included in this Task is attendance at meetings with the staff of the City of Milpitas to receive input and discuss and review the project during its critical design periods.

1.1 PROJECT ADMINISTRATION:

Supervise, coordinate, and monitor design for conformance with Caltrans standards and policies. Prepare monthly progress reports and invoices. Employ and monitor subconsultants. Coordinate Consultant's work with the City's work. Close and archive the project records at the end of the project.

1.2 PROJECT INITIATION:

Upon receipt of Notice to Proceed, a project kick-off meeting will be held to finalize the project scope, the project approach, the goals and the schedule. Items to be addressed include a review of the key issues associated with the project, a description and clarification of the approach required to respond to these issues, and the verification of the project milestone dates. Items included, but are not limited to, site layout, SCVWD concerns, storm water management, hydrology concerns, and bridge approach conforms. It is assumed that all pertinent City Departments will be present at the meeting, as well as SCVWD. Responses to

all critical questions that affect bridge layout and design will be required prior to beginning 65% Design.

1.3 DESIGN REVIEW AND COORDINATION MEETINGS:

To facilitate comprehensive input from the City during the critical design periods, the Consultant's Project Manager and selected Team Members will attend up to 2 coordination meetings with the City staff members.

1.4 DIRECT COSTS:

Direct costs such as plotting and reproduction work, other than that required for the Consultant's in house use, and delivery services and other expenses will be billed per the attached Charge Rate Schedule. The Direct costs budget for the project is indicated on the attached fee sheet.

Task 1 Deliverables: Attend Kickoff Meeting
Attend up to 2 Project Design and Coordination Meetings
Project Design Schedule
Project Administration and Design Team Management
Monthly Progress Reports

TASK 2: PRELIMINARY ENGINEERING

2.1 DATA COLLECTION AND SITE VISIT

Consultant will conduct a site visit and note field information relevant for bridge design.

2.2 SUPPLEMENTAL / TOPO SURVEY (RJA)

Consultant will provide supplemental ground survey and data reduction to augment and verify existing topography survey provided by City. Consultant will locate top of creek slopes, existing conforms, fence lines, existing landscape areas, at the District 2 and Harmony projects conforms, and from McCandless Drive to the proposed bridge location.

2.3 GEOTECHNICAL INVESTIGATION (Engeo)

The Consultant will provide a geotechnical exploration, soils analysis and foundation design recommendations for the proposed pedestrian bridge.

A. Geotechnical Exploration:

The Consultant will obtain Santa Clara Valley Water District (SCVWD) drilling and encroachment permits prior to performing our field exploration.

Two cone penetration test (CPT) probes will be advanced to depths of up to approximately 60 feet in locations near the north and south bridge abutments. The empirical data will be reviewed in the field and a direct push probe will be advanced adjacent to each CPT probe to collect soil samples at selected depths as needed. Soil samples will be taken for visual classification and laboratory testing. Resulting holes will be backfilled in accordance with Santa Clara Valley Water District (SCVWD) requirements.

Soil samples will be re-examined in the laboratory to verify field classifications and will be tested for moisture content, Plasticity Index, gradation, corrosion, and other physical properties as appropriate.

Based on the geological and geotechnical data gathered, a geotechnical exploration report will be prepared, to address the following:

- Suitability of the site for the proposed pedestrian bridge.
- Physical properties of the typical soils encountered.
- Assessment of geological/geotechnical hazards at the subject site, including compressible soils and liquefiable soils, as appropriate.
- Foundation recommendations for the bridge abutments.
- Caltrans ARS curves.
- L-pile input information and group effect considerations.
- Recommendations for wing wall design.

B. Design Consultation and Plan Review:

Consultation on foundation design and soils issues will be provided throughout the design process, as well as response to comments and questions. Grading and improvement plans, as well as foundation plans and calculations will be reviewed for conformance with the geotechnical design recommendations.

2.4 HYDRAULIC ANALYSIS (Schaaf & Wheeler)

The Consultant will evaluate the potential hydraulic impact that might be caused by the construction of the proposed pedestrian bridge over the East Penitencia Channel at its confluence with Lower Penitencia Creek. Generally the 100-year water surface profiles in and overflows from Lower Penitencia Creek and East Penitencia Channel will be evaluated to determine whether bridge construction (particularly the abutments) causes significant changes in either parameter. This work will include:

A. Coordination with SCVWD:

The evaluation will be coordinated with the design team and representatives from Santa Clara Valley Water District, which has jurisdiction over the potentially affected waterways. This coordination includes one meeting and one site visit.

B. Hydraulic Modeling Evaluation:

HEC-RAS and/or FLO-2D models completed under separate contract for the Silicon Valley Berryessa Extension will be used to evaluate the significance of changes in water surface elevations, average flow velocities, and channel overbanking caused by proposed bridge construction.

C. Existing Erosion Protection:

Recommendation design measures for the replacement and/or extension of existing sac-crete erosion protection within the channel near the bridge site.

D. Technical Memorandum

A technical memorandum documenting the findings will be provided.

2.5 ADJACENT PROPERTY OWNER COORDINATION (RJA)

Consultant will assist the City in coordination with the adjacent property owners. Scope includes up to two meetings with the adjacent owners (both owners present in the same meeting). Consultant will prepare two exhibits for each meeting showing 1) the permanent impacts and/or improvements needed to fit the proposed bridge at each of the respective property conforms and 2) the temporary construction impacts during construction (example, showing how equipment will access in or out of the site).

2.6 CONSTRUCTION STAGING AREA EXHIBIT (RJA)

Consultant will assist the City in determining a construction staging site and will develop a staging exhibit, based on the meetings and coordination discussed in the task above. It should be noted that successful completion of this task is highly dependent on City coordination and adjacent owner's cooperation.

Task 2 Deliverables:

Site Visit
Supplemental Topographic Survey
Updated Project Base Map
Geotechnical Investigation
Draft and Final Foundation Reports
Foundation Review Letter
Hydraulic Analysis
Hydraulics Evaluation Technical Memorandum
Coordination with Adjacent Property Owners, Attend up to 2 Meetings
Construction Staging Area Exhibit

TASK 3: FINAL DESIGN

3.1 CONSTRUCTION DOCUMENTS (BCA and RJA)

Based on the approved 35% Pedestrian Bridge Plans, completed in December 2014, the design team will prepare the Construction Documents package.

The scope and fee noted below for the Final Design are based on the assumption of a simple span structure approximately 65-feet long, with a 10-foot clear width prefabricated steel truss superstructure supported on concrete abutments and cast-in-drilled hole piles. It is also assumed that the bridge will not carry any utilities, and that no utility relocation will be needed for the project. The prefabricated steel truss will be constructed of painted or weathering steel and will have a concrete deck for ease of maintenance.

The Construction Documents package for the pedestrian bridge will include specifications and construction plans and will conform to City and AASHTO Standards. Final design calculations will be prepared for the bridge structure and will be submitted along with the plans and specifications, for City staff review. An opinion of probable construction cost for the bridge structure will also be provided.

A. Design Criteria for Bridge Design:

Final pedestrian/bicycle bridge design will be performed in accordance with the AASHTO LRFD Guide Specifications for the Design of Pedestrian Bridges, as well as applicable AASHTO Bridge Design Specifications with California Amendments, and other Caltrans Design Manuals. Design will be based on the "Load and Resistance Factor Design" method with design live loads of 90 psf for pedestrians, and a 10,000 pound live load for a maintenance or safety vehicle. Seismic design will be performed in accordance with current Caltrans Seismic Design Criteria.

B. Approach Trail Design:

Design of the trail approaches to the bridge will be in accordance with City Standards, AASHTO and other applicable requirements, and Caltrans Standard Specifications. Final bridge profile, alignment, and grading plans will be developed, as well as new/existing trail conformance details, erosion control details, and details for replacement in-kind of existing structures and landscaping, as required.

C. Plan Sheets and Details:

The plan sheets will be prepared in AutoCAD. Plans will be prepared in English units and will be consistent with Caltrans Standard Plans. All plans will be signed by the civil engineer or structural engineer (registered in the State of California) in responsible charge of the design. Three submittals will be made during the preparation of the Construction Documents, when the documents are 65% complete, 95% complete and when the Final documents are complete. Each submittal will incorporate the review comments from the previous submittal by the design team, City staff and other reviewing agencies.

D. Technical Specifications (Special Provisions):

Technical Specifications (Special Provisions) for the specific items of bridge construction included in the Construction Documents will be edited to suit the project using Caltrans Standard Special Provisions 2010, and will reference the Caltrans Standard Specifications 2010. A performance specification for the manufacture of the prefabricated bridge structure will also be included. If needed, applicable City Standards will be incorporated into the document. It is assumed that the specifications for bridge construction will be provided in book format.

E. Opinion of Probable Construction Cost (Estimate):

An opinion of probable construction cost for the bridge will be provided at each final design submittal stage indicated below. Caltrans standard bid item numbers and descriptions will be used wherever possible. Estimates of unit costs will be based on current Caltrans construction cost data, as well as current bid data for similar projects if available.

F. Quality Assurance Review:

An internal quality assurance review of the bridge plans, specifications, and estimate will be conducted concurrently with review of the 65% design submittal by the City and other agencies. Because of this, the 65% design submittal is noted as "unchecked" and the 95% and Final design submittals as "checked". The Consultant's quality assurance program provides for independent checking of individual structural design tasks, as well as an independent review by experienced senior staff. The purpose of this review is to provide oversight to specific bridge design details by professionals who are not closely involved in the design, and to review the constructability, cost-effectiveness and completeness of design features relative to the normal standard of professional care

3.2 65% DESIGN SUBMITTAL (65% PS&E – UNCHECKED)

A. 65% Complete Plans:

Based on comments received from the preliminary design submittal, the pedestrian bridge design will be advanced to the point that all major design issues and solutions are represented in the plan documents. Minor details may be missing from the bridge plan set at this milestone, but all plan sheets will be included in this submittal package. BCA will work with the City to resolve any remaining conflicts between the comments of different reviewers.

B. 65% Complete Technical Specifications (Special Provisions):

A draft of the pedestrian/bicycle bridge technical specifications sections to be included for the final project specifications will be provided with the submittal. The technical specifications will reference City or Caltrans standard specifications sections for the various items of work.

C. 65% Opinion of Probable Construction Cost:

The Preliminary Opinion of Probable Bridge Construction Cost will be updated to reflect the refinements from the Preliminary Design to the Unchecked Design Submittal.

D. Response to Comments Memorandum:

A memo with “response to comments” received from the Preliminary Design Submittal will be provided.

E. Building Department Permit Package:

Consultant will assist the City with preparation of the Building Permit submittal package, to include plans, specifications, and structural calculations as needed.

3.3 95% DESIGN SUBMITTAL (95% PS&E – CHECKED)

A. Quality Assurance Review:

As noted above, an internal quality assurance review of the bridge plans, specifications, and estimate will be conducted concurrently with review of the 65% Submittal by the City and other agencies. This quality assurance review includes independent checking of individual design calculations and details, as well as an independent review by experienced senior staff. The purpose of this review is to provide oversight to specific project details by professionals who are not closely involved in the design, and to review the constructability, cost-effectiveness and completeness of design features relative to the normal standard of professional care. ***This independent check will include a red, green and yellow check of the structural calculations and plans.***

B. 95% Complete Plans:

Checked Plans will be prepared and submitted to the City and other agencies for final review and comment. Agencies shall thoroughly review the details of the project. The Consultant will work with the City and other agencies to resolve any conflicts between the comments of different reviewers.

C. 95% Complete Technical Specifications (Special Provisions):

The technical specifications will be updated using City and Caltrans Standard Specifications.

D. 95% Opinion of Probable Construction Cost:

The 65% Opinion of Probable Bridge Construction Cost will be updated for use in the Bid Documents.

E. Response to Comments Memorandum:

A memo with “response to comments” received from the 65% Design Submittal will be provided.

3.4 FINAL DESIGN SUBMITTAL (100%PS&E and BID SET)

A. 100% Final Plans – Draft Bid Set Documents:

After agency review of the 95% Design Submittal, the Consultant will prepare the Final Contract Documents and provide the City and other agencies the opportunity to review the completed Bid Set Documents and direct minor revisions.

B. Final Bid Set Documents:

After City review of the draft Bid Set Documents, any minor final revisions will be incorporated, and Final Bid Set Drawings and Specifications (Special Provisions) prepared in accordance with the City’s instructions. Final bid documents will be submitted for signature.

C. Memorandum: Response to Comments:

A memo with “response to comments” received from the 95% Design Submittal will be provided.

Task 3 Deliverables:

65% - 100% Civil and Structural Design
Quality Assurance Review of 65% Structural Plans and Specifications
Assistance with Preparation of Building Permit Submittal Package
65%, 95%, 100% and Bid Plan Sets in PDF Format
65%, 95%, and 100% Opinions of Probable Bridge Construction Costs
65%, 95%, 100% and Bid Specifications in Word Format
Response to 35%, 65% and 95% Comments Memos in Word Format
CD Archive of Project Electronic Files

TASK 4: BIDDING SUPPORT SERVICES (BCA and RJA)

At this time, it has not yet been determined whether the City will be putting out the project for public bidding, or whether one of the adjacent housing developers will be building the bridge and trail conforms. For the purposes of this proposal, it is assumed that the City will advertise the project for public bidding, and that the Consultant will incorporate the City's boilerplate specifications and bidding forms into the specifications document.

It is assumed that the City will advertise the project for bidding and distribute the plans to prospective bidders, and that the City will be designated to receive contractor inquiries. The Consultant will assist City as requested during the bidding. The work may include answering questions, providing consultation and interpretation of the pedestrian/bicycle bridge construction documents, and assisting the City in preparation of addenda to the PS&E during the advertisement period. Attendance at a pre-bid meeting will also be provided, if requested.

Task 4 Deliverables:

Incorporate City Boilerplate Specifications into Specifications Document
Incorporate City Bid Forms into Specifications or Bid Book Document
Attend Pre-Bid Meeting
Assist City in Responding to Bidder Inquiries
Assist City in Preparation of up to 2 Addenda

TASK 5: CONSTRUCTION SUPPORT SERVICES (BCA and RJA)

The Consultant will perform the following the scope for pedestrian bridge construction support work:

- Attend preconstruction meeting.
- Review shop drawings and submittals.
- Review prefabricated bridge shop drawings and calculations.
- Answer clarification questions pertaining to the plans and special provisions, if needed.
- Attend periodic field visits, as required, to assist in the resolution of construction issues (four site visits assumed).
- Review contractor RFI's (Request for Information) and provide written response.
- Review construction inspection reports prepared by the Inspector.
- Prepare record bridge drawings for the City. The basis of the revisions shown on the record plans will be a red mark construction set of plans

provided by the project Resident Engineer. These construction red mark plans shall show all revisions that were made during construction.

Task 5 Deliverables: Attend Preconstruction Meeting
 Review Shop Drawings and Submittals
 Review Prefabricated Bridge Drawings and Calculations
 Respond to Contractor RFI's and Answer Questions
 Provide up to 4 Field Visits
 Prepare Record Bridge Drawings

TASK 6: SPECIAL INSPECTION SERVICES (BCA and ENGEO)

Construction inspections will be conducted in general conformance with the guidelines outlined in the Caltrans Construction Records and Procedures Manual, and other relevant Caltrans construction and inspection manuals. The structural inspector will observe the construction work for conformance with the construction documents, and will perform required inspections as required by the applicable Caltrans guidelines.

The following is the anticipated scope of services that would require inspection on the pedestrian bridge structure, consistent with the Caltrans CRAP manual and relevant construction and inspection manuals. A detailed scope of work is provided below and a detailed breakdown of estimated inspection hours and costs is attached.

Required Inspections

Pile Construction

- Observation of all pile drilling and placement activities.

Reinforcing Steel

- Verify that mill certificates show reinforcing steel to be in compliance with project specifications.
- Provide periodic inspection of the placement of all reinforcing steel.

Concrete

- Review concrete prequalification for concrete designated by compressive strength of 3600 psi or greater. This is to include witness of trial batch and resultant concrete cylinder testing or review of certified test data.
- Provide continuous inspection during the placement of all concrete, including testing of slump and concrete temperature, and preparation of compressive test cylinders (minimum of three 6x12 cylinders for every concrete placement).
- Provide periodic inspection during the installation and removal of concrete formwork.
- Verify that deck concrete is cured per the project specifications.

Wall Backfill

- Provide continuous inspection and compaction testing during abutment wall backfilling operations.

Prefabricated Bridge

- Provide continuous inspection during the placement of grout for abutment anchor bolts.
- Provide continuous inspection during prefabricated bridge erection.

Steel Railing

- Provide periodic inspection during the installation of steel railing posts in the wingwalls.

Meetings

- Attend pre-construction meeting.
- Attend meetings onsite as needed.

Reports

- Prepare appropriate inspection reports.
- Perform final walk-through and generate punchlist items.

Duties and Responsibilities of the Structural Inspector

- The structural inspector will inspect the work assigned for conformance with the applicable design drawings and specifications.
- The structural inspector will furnish inspection reports to the City or the City's designated representative, and the structural engineer of record. All discrepancies will be brought to the immediate attention of the contractor for correction, then, if uncorrected, to the proper design authority and to the City's representative.
- The structural inspector shall submit a final signed report stating whether the work requiring bridge inspection was, to the best of the inspector's knowledge, in conformance with the approved plans and specifications.

Task 6 Deliverables: Attend Preconstruction Meeting
 Structural and Geotechnical Inspections and Testing
 Attend Meetings On-Site as Needed
 Inspection Reports
 Final Walk Through and Punchlist
 Final Acceptance Report

ASSUMPTIONS AND EXCLUSIONS

Preliminary Engineering, Final Design, Bidding and Construction Support Services

- The project will be developed as one complete project without phasing or separate plan packages, and the work scoped herein will be undertaken in 2015 and 2016.
- All plans will be prepared in accordance with City/Caltrans (2010) drafting standards, format, and conventions.
- Special Provisions for bridge construction will be prepared based on Caltrans 2010 Standard Specifications and Special Provisions, and will be in book format.
- Review will be limited to one round for each design submittal, and comments on the plans, technical provisions, and opinion of estimated construction cost will be provided in the form of one consistent set of mark ups and/or written comments.
- Design or detailing of retaining walls or sound walls is not included.
- Electrical and mechanical engineering services are not included.
- Utility coordination and design services are not included.
- Traffic studies, reports and traffic signal design are excluded.
- Construction traffic control plans are excluded.

- It is assumed that the resolved boundaries work done previously for the trail and the two development properties will be sufficient for this project.
- Provision of title reports is excluded.
- Plats and legal descriptions for easements (temporary or permanent) are excluded. These may be provided as additional services if requested, once the owners and agencies agree on the terms and conditions. It is estimated that one permanent easement and potentially two temporary construction easements may be needed. Cost of preparation for plats and legal descriptions is estimated to be approximately \$1200 each.
- Development, processing or recording of any exhibits, plats or maps of any kind is excluded. These may be provided as additional services if requested.
- Right-of-way acquisition services are excluded.
- Services for obtaining environmental approval and permits are not included, nor are mitigation design services.
- Construction staking services are excluded.
- Post construction BMPS and SWCP are excluded. These may be provided as additional services if requested.
- NPDES preparation or processing, including NOI and SWPPP or any related items are excluded. These may be provided as additional services if requested.
- Field verification of mark ups for record drawings is excluded.
- Preparation of up to two addenda during bidding period services are included.
- Please see the detailed scope above for additional assumptions.

Special Inspection Services

- If the BCA team is not hired to perform structural inspections, structural observation services will be required to be performed by the Engineer of Record for certain critical elements of the bridge construction.
- No welding expected or accounted for in this proposal.
- No utilities or utility inspection expected or accounted for in this proposal.
- The bridge construction is expected to be completed by December 31, 2016.
- It is our understanding that the above project is subject to prevailing wages, and the attached charge rate schedule reflects this assumption.
- The fee provided for inspection services represents our best estimate of the costs involved. The inspection service costs are highly dependent on the construction schedule, the Contractor's operations, the Contractor's proficiency, and the Contractor's performance. For these reasons, we recommend that the City establish a contingency budget for structural inspection. This budget can then be utilized if more inspection effort is required.
- The Consultant shall have no responsibility for the means, methods, techniques, sequences or procedures selected by the Contractor, or for the Contractor's safety precautions and programs, nor failure by the Contractor to comply with any laws or regulations relating to the performance or furnishing of the work by the Contractor.
- The Consultant makes no guarantees for and shall have no authority or control over the Contractor's performance or failure to perform the work in accordance with the contract documents.

Please refer to the following pages for our hours and fee proposal for this project.

Exhibit " B - Amendment 1"

ESTIMATED HOURS AND COST FOR PEDESTRIAN BRIDGE DESIGN SERVICES: CITY OF MILPITAS DISTRICT 2 TRAIL IMPROVEMENTS AT LOWER PENITENCIA CREEK								
TASK	BIGGS CARDOSA ASSOCIATES - Prime Consultant						Total BCA Hours	Total Dollars
	Principal PM	Engineering Manager	Senior Engineer	Project Engineer	Senior CADD Drafters	Secretarial		
	Rate	\$250.00	\$150.00	\$135.00	\$124.80	\$113.00	\$62.00	
TASK 1: PROJECT MANAGEMENT	13	20	88	24	0	0	134	\$22,863
Project Administration	4	8	40				52	\$7,760
Coordination and Design Meetings with Design Team		12	24	13			49	\$6,668
Kickoff Meeting and Design Review Meetings with City	8	8	24	12			52	\$8,443
TASK 2: PRELIMINARY ENGINEERING	8	8	24	4	0	0	28	\$2,868
Site Visits			4	4			8	\$1,848
Coordination with Civil Engineer for Field Survey and Profile			8				8	\$1,104
Coordination with Geotechnical Engineer for Foundation Requirements			8				8	\$1,104
Coordination with Hydrologist for Hydraulic Analysis			4				4	\$552
TASK 3: FINAL DESIGN	8	9	44	94	52	0	159	\$24,359
Preparation of 65% Design Calculations			4	30			34	\$4,538
Preparation of 65% Plans			4	24	40		68	\$8,848
Preparation of 65% Special Provisions and Estimate		1	3	4			13	\$1,755
QA/QC Review of 65% P&S&E		8	8				16	\$2,344
Preparation of 85% Design Calculations			4	16			20	\$2,536
Preparation of 85% Plans			4	8	12		24	\$2,900
Preparation of 85% Special Provisions and Estimate			4	2			6	\$800
Preparation of 100% and Bid Set Plans			4	4			8	\$1,848
Preparation of 100% and Bid Set Special Provisions and Estimate			4	4			8	\$1,848
TASK 4: BIDDING SUPPORT SERVICES	8	2	18	16	0	0	36	\$4,834
Bidding Support Services		2	4	16			18	\$2,378
Assembly of Complete Special Provisions Document and Bid Forms			12				12	\$1,826
TASK 5: CONSTRUCTION SUPPORT SERVICES	8	4	14	48	0	0	68	\$8,760
Construction Support Services		4	14	48			68	\$8,760
TOTAL HOURS AND COSTS								
Subtotal Hours	13	44	198	198	52	0	479	
TOTAL HOURS							479	
TOTAL CONSULTANT DESIGN FEE	\$3,250	\$6,826	\$26,208	\$23,328	\$5,874	\$0		\$64,486
A. Biggs Cardosa Associates								
Total BCA Design Costs								\$64,486
Project Escalation (5% per year) 1 year								\$3,324
A. SUBTOTAL BIGGS CARDOSA ASSOCIATES DESIGN								\$67,718
B. Structural Special Inspection (TASK 6)								
B. TOTAL CONSULTANT INSPECTION FEE								\$22,608
C. Subconsultants¹								
RAM								\$48,443
EMWD								\$26,872
SCHAFF & WHEELER								\$5,506
C. SUBTOTAL SUBCONSULTANTS								\$79,722
D. Direct Costs								
Plots and Reproduction								\$1,228
Delivery Services and Misc.								\$1,838
D. SUBTOTAL DIRECT COSTS								\$3,256
TOTALS								
A+B								\$96,378
C+D								\$84,122
TOTAL NOT TO EXCEED								\$184,500

1) Includes 30% to cover efforts required for the handling and processing by Biggs Cardosa Associates

BIGGS CARDOSA ASSOCIATES Lower Penitencia Pedestrian Bridge - STRUCTURAL INSPECTION SERVICES	Associate	Senior Engineer	Inspector III	Clerical	Total Hours	Total Budget	# Concrete Cylinders	# Masonry Prisms
Billing Rate	\$180	\$134	\$131	\$82			Direct Costs	
Management & administration	16	6		12	34	\$4,668		
Abut 1 piles drilling		2	8		10	\$1,316		
Abut 1 piles rebar		1	6		7	\$920		
Abut 1 piles concrete pour		2	7		9	\$1,185	4	
Abut 2 piles drilling		2	8		10	\$1,316		
Abut 2 piles rebar		1	6		7	\$920		
Abut 2 piles concrete pour		2	7		9	\$1,185	4	
Abut 1 wall & wingwalls rebar		1	4		5	\$658		
Abut 1 wall & wingwalls concrete pour		2	6		8	\$1,054	4	
Abut 2 wall & wingwalls rebar		1	4		5	\$658		
Abut 2 wall & wingwalls concrete pour		2	6		8	\$1,054	4	
Abut 1 and Abut 2 anchor bolt grouting		1	2		3	\$396		
Prefabricated bridge erection observation		1	6		7	\$920		
Deck rebar		1	4		5	\$658		
Deck concrete pour		2	6		8	\$1,054	4	
Deck concrete cure observation		1	4		5	\$658		
Wingwall railing installation observation		2	6		8	\$1,054		
Develop acceptance punchlist (surface finishes)		3	4		7	\$926		
Final walk-through / Letter of Acceptance		3	6		9	\$1,188		
Total Hours	16	36	100	12	164		20	0
Subtotal	\$2,880	\$4,824	\$13,100	\$984		\$21,788		
DIRECT COSTS (cylinders @ \$40 each & prisms @ \$155 each) + 10% mark-up						\$880		
TOTAL BUDGET						\$22,668		

865 The Alameda
San Jose, CA 95126-3133
Telephone 408-296-5515
Facsimile 408-296-8114

CHARGE RATE SCHEDULE

Principal	\$205 to 265.00/h
Associate	180.00
Construction Manager	185.00
Engineering Manager	155.00
Senior Structural Representative	160.00
Project Administrator	128.00
Senior Engineer	138.00
Structural Representative	136.00
Project Engineer	124.00
Assistant Structure Representative	114.00
Staff Engineer	112.00
Assistant Engineer	103.00
Junior Engineer	98.00
Senior Computer Drafter	113.00
Computer Drafter	98.00
Junior Computer Drafter	88.00
Secretarial Services	82.00
Subconsultants	Cost Plus 10%
Expenses	Cost Plus 15%
In-House CADD Plots	
Prints	\$0.30/ sq. ft.
Plots	\$1.50/ sq. ft.
Mylar Plots	\$3.00/ sq. ft.

Charge Rates Applicable October 1, 2014 Thru September 30, 2015

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

GIBSON, DUNN & CRUTCHER LLP
2029 Century Park East
Los Angeles, California 90067
Attention: Jesse Sharf

(Space Above For Recorder's Use)

ASSIGNMENT AND ASSUMPTION AGREEMENT

This **ASSIGNMENT AND ASSUMPTION AGREEMENT** ("Agreement") is entered into as of March ___, 2015 by and between the CITY OF MILPITAS, a municipal corporation in the State of California ("City"), BRE/MILPITAS L.L.C., a Delaware limited liability company ("Blackstone") and HUDSON CAMPUS CENTER, LLC, a Delaware limited liability company ("Hudson"). Blackstone and Hudson are collectively referred to herein as the "Parties."

RECITALS

A. On March 21, 2000, the City Council adopted Ordinance 38.755 approving a development agreement (as amended by the First Amendment (as defined below), the "Development Agreement") pursuant to Government Code § 65864, *et seq.*, by and between the City and Muriel M. Harris and Joseph A. McCarthy, each as trustees of the MGM Revocable Trust, dated December 14, 1982, as amended, and of the RIM Revocable Trust, dated February 12, 1982, as amended ("McCarthy"). The Development Agreement was recorded in the Santa Clara County Recorder's Office on May 1, 2000 as Document No. 15230737. The Development Agreement vested certain development rights in certain property commonly referred to as the McCarthy Ranch Property ("Property") including, but not limited to, the right to development of the Property pursuant to the adopted General Plan and zoning designations, and in conformance with the McCarthy Ranch Design Guidelines and Development Standards dated March 7, 2000 (the "Design Guidelines"), as said rights are more specifically described in the Development Agreement. The Development Agreement, General Plan designation, zoning designation, and Design Guidelines are collectively referred to as the "Project Approvals."

B. On July 6, 2000, the City, McCarthy, and Veritas Operating Corporation, a Delaware corporation ("Veritas") entered into that certain Partial Assignment and Assumption Agreement, and Certificate of Partial Satisfaction (the "McCarthy Assignment"), whereby McCarthy assigned to Veritas all of its rights in the Development Agreement relating to the vesting of the Project Approvals as applicable to approximately 65 acres of the Property which is described on Exhibit A attached hereto, and incorporated herein by this reference (the "Blackstone Parcel"). The City consented to the McCarthy Assignment. The McCarthy Assignment was recorded in the Santa Clara County Recorder's Office on July 31, 2000 as Document No. 15337875.

C. On August 15, 2000, the City, Veritas, and Wells Fargo Bank Northwest, National Association, formerly known as and successor to First Security Bank National Association, a national banking association, not individually but solely as the Owner Trustee under the VS Trust 2000-2 ("Owner Trustee") entered into that certain Assignment and Assumption Agreement, recorded on October 30, 2000 as Document No. 15438291 (the "Veritas Assignment"), whereby Veritas assigned to Owner-Trustee all of its rights in the Development Agreement relating to the vesting of the Project Approvals as applicable to the Blackstone Parcel. The City consented to the Veritas Assignment.

D. On September 19, 2006, the City, Veritas and Owner Trustee entered into that certain Assignment and Assumption Agreement, recorded October 6, 2006 as Document No. 19133726 (the "Owner-Trustee Assignment"), whereby Owner Trustee assigned to Veritas all of its rights in the Development Agreement relating to the vesting of the Project Approvals as applicable to the Blackstone Parcel. The City consented to the Owner Trustee Assignment.

E. On September 19, 2006, the City, Veritas and Blackstone entered into that certain Assignment and Assumption Agreement and Certificate of Partial Satisfaction, recorded July 31, 2000 as Document #19133727 (the "Second Veritas Assignment"), whereby Veritas assigned to Blackstone all of its rights in the Development Agreement relating to the vesting of the Project Approvals as applicable to the Blackstone Parcel. The City consented to the Second Veritas Assignment.

F. On March 23, 2009, the City and Blackstone entered into that certain First Amendment to McCarthy Development Agreement, recorded June 2, 2009 as Document #20277017 (the "First Amendment"), which affected only the Blackstone Parcel.

G. Blackstone intends to sell the Blackstone Parcel to Hudson.

H. Section 9 of the Second Veritas Assignment provides that Blackstone may assign any of its interests in the Development Agreement to a successor-in-interest as owner of the Blackstone Parcel with the written consent of the City.

I. Blackstone has agreed to assign to Hudson its interest in the Development Agreement as to the Blackstone Parcel, in conjunction with the sale of the Blackstone Parcel, and the City is willing to consent to that assignment ("Assignment").

J. With this Agreement, the Parties also desire to clarify the specific obligations which will be assumed by Hudson, in connection with the Assignment, and to release Blackstone from responsibility for any other Development Agreement obligations related to the Blackstone Parcel.

K. Furthermore, pursuant to Section 15 of the Development Agreement, Blackstone and Hudson have requested a statement from City regarding the status and effect of the Development Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and the covenants in this Agreement, the City, Blackstone and Hudson agree as follows:

1. Assignment. As allowed under Section 19 of the Development Agreement on the Effective Date, as defined below, Blackstone agrees to assign to Hudson all of its rights in and obligations

under the Development Agreement relating to the vesting of the Project Approvals as applicable to the Blackstone Parcel. The vested rights assignment hereunder shall continue in effect for the remaining term of the Development Agreement.

2. City's Consent to Assignment. In accordance with Section 19 of the Development Agreement, the City agrees to the Assignment to be made pursuant to this Agreement.

3. Obligations Assumed by Hudson. As provided under Section 1.2 and Section 1.9 of the Development Agreement, which allow for the allocation of Development Agreement obligations in conjunction with the Assignment, on the Effective Date of the Assignment, Hudson shall assume and solely be liable and responsible for all of the obligations of Blackstone (as owner and developer of the Blackstone Parcel) related to the Blackstone Parcel under the Development Agreement.

4. Nonliability of Blackstone. Blackstone shall not be liable for and shall be released from any of the Development Agreement obligations assumed by Hudson pursuant to this Agreement but only to the extent said obligations have been assumed by Hudson.

5. Effective Date of Assignment. The Assignment shall be effective upon final execution by the Parties (the "Effective Date").

6. Development Agreement Status. In accordance with Section 15 of the Development Agreement, City states that, as of the date of this Agreement:

(a) The Development Agreement is in full force and effect.

(b) There are no defaults relating to the Blackstone Parcel affecting the Development Agreement.

7. Binding Effect. Pursuant to Section 20 of the Development Agreement, this Agreement, and all the terms and conditions hereof, shall be binding upon and inure to the benefit of the parties hereto and their respective assigns, heirs or other successors in interest, and may be relied on by Blackstone, Hudson and any lender of Hudson. The terms and conditions of this Agreement shall remain in full force and unaffected notwithstanding (i) the subsequent termination of, or amendment to, the Development Agreement applicable to the remaining portion of the Property (*i.e.*, that portion of the Property other than the Blackstone Parcel), and/or (ii) any change in the General Plan, Zoning Ordinance or Design Guidelines which affects the remaining portion of the Property.

8. Further Assignment. Hudson (after receiving the Assignment), and its respective successors and assigns, shall be entitled to assign its rights and obligations, subject only to City's consent, which consent shall not be unreasonably withheld, and to other applicable provisions affecting such Assignment as set forth in Section 19 of the Development Agreement.

9. Recordation. After its execution by the City, Blackstone and Hudson, this Agreement shall be recorded with Santa Clara County Recorder's Office and a copy shall be provided to City.

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

[Signature Page Follows]

IN WITNESS WHEREOF, this Agreement has been executed to be effective on the date specified herein.

City: CITY OF MILPITAS,
a municipal corporation in the State of California

By: _____

Name: _____

Its: _____

[Signature Page Continues On Next Page]

[Signature Page Continued From Previous Page]

Parties: BRE/MILPITAS L.L.C.,
a Delaware limited liability company

By: _____
Name: _____
Its: _____

HUDSON CAMPUS CENTER, LLC,
a Delaware limited liability company

By: Hudson Pacific Properties, L.P.,
a Maryland limited partnership,
its sole member

By: Hudson Pacific Properties, Inc.,
a Maryland corporation,
its general partner

By: _____
Name: Mark Lammas
Title: Chief Financial Officer

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

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, 2015, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature _____ (Seal)

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

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, 2015, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

Legal Description

All that certain real property situated in the City of Milpitas, County of Santa Clara, State of California, being more particularly described as follows:

All of Parcel A and Parcels 1, 2, 3 and 4, as said parcels are shown upon that certain Parcel Map filed for record in the Office of the Recorder of the County of Santa Clara, State of California on June 6, 2002 in Book 749 of Maps at Pages 13, 14, 15 and 16.

APN: 022-56-005 (Parcel 1), 022-56-006 (Parcel 2), 022-56-007 (Parcel 3), 022-56-007 (Parcel 4), 022-56-009 (Parcel A)



**AMENDMENT NO. 3 TO AGREEMENT FOR
CONSULTATION AND OTHER SERVICES**

This Amendment is entered into this 17th day of March 2015, by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "CITY") and **CSG CONSULTANTS, INC.**, (hereafter referred to as "CONSULTANT").

RECITALS

WHEREAS, on October 1, 2013, the City Council authorized the City Manager to enter into a contract with Consultant and the parties entered into an Agreement dated July 1, 2013 for professional consulting for **Fire Plan Review & Inspection Services**; and

WHEREAS, the parties have previously amended the Agreement on January 21, 2014 and on June 17, 2014 to increase the compensation amount and to extend the end date of this Agreement to June 30, 2015; and

WHEREAS, the parties wish to further amend the Agreement to increase the compensation amount for Fiscal Year 14/15 by \$75,000.00; and

WHEREAS, Section 8.2 "Extension" of the Agreement requires that all amendments to the Agreement be in writing.

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

1. Section 2. entitled "COMPENSATION" shall be amended to read:

"City hereby agrees to pay Consultant a guaranteed maximum price not to exceed the total amount of \$518,200.00, which includes \$280,000.00 for Fiscal Year 13/14 and \$238,200.00 for Fiscal Year 14/15, for all services to be performed and reimbursable costs incurred under this Agreement."

2. All other provisions of the Agreement shall remain in full force and effect.

This Amendment is executed as of the date written above.

APPROVED BY:

CITY OF MILPITAS

CSG CONSULTANTS, Inc.

Thomas C. Williams, City Manager

Michael J. Ogaz, City Attorney, as to Form

Albert Zamora, Fire Marshal, as to Content

MEETING MINUTES CITY OF MILPITAS

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, March 17, 2015
Time: 6:00 PM
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

CALL TO ORDER

Mayor Esteves called the meeting to order at 6:00 PM. The City Clerk noted the roll.

PRESENT: Mayor Esteves, Vice Mayor Montano, Councilmembers Barbadillo Giordano and Grilli

ABSENT: Councilmember Barbadillo was absent at roll call. He arrived later in the Closed Session at 6:10 PM.

CLOSED SESSION

City Council convened in Closed Session to discuss litigation and labor negotiations.

City Council then convened in Open Session at 7:08 PM.

ANNOUNCEMENT

None

PLEDGE

Boy Scouts Troop No. 92 presented the flags and led the pledge of allegiance.

INVOCATION

Councilmember Giordano read a quote from President John F. Kennedy about public service.

MEETING MINUTES

Motion: to approve the minutes of March 3, 2015 City Council meeting

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 5
NOES: 0

SCHEDULE OF MEETINGS

Motion: to approve Council Calendar/Schedule of Meetings for March and April 2015

City Manager Tom Williams reported that the City Council Finance Subcommittee would hold a meeting at 4:00 PM the following day, March 18.

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 5
NOES: 0

PUBLIC FORUM

Nika Chen, Milpitas resident, wished to discuss odor issues and Newby Island. She asked the City Council to consider using another company because Republic was not doing a good job. When the contract expired in 2017, she and other residents did not agree to extend the contract with Republic. Other landfills were close to Milpitas that did not produce such bad odors as at Newby Island.

Robert Marini, Milpitas resident, commented on sewer rates.

Four girls who were actresses with the Milpitas Children's Theatre Alliance came to announce the group's "Community 5 K Fun Run/Walk" on May 31. They sought support for their program.

Mayor Esteves encouraged residents to support the youth and the Children's Theatre by joining the fun run, or offering financial support for the run.

Rob Means, 1421 Yellowstone Ave. resident, discussed a climate change march held in New York last fall October 21, 2014 and showed video footage of the large crowd at that event.

Voltaire Montemayor, Milpitas resident, said neighboring towns did not have plastic in the stores. It was messy in some cars while it was necessary to train people how to sort plastic.

Ray Zhang, 13 year Milpitas resident, asked for help to fight a public nuisance, relative to odors. Mayor Esteves asked him to wait for that topic on the agenda.

ANNOUNCEMENTS

None.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Ogaz asked the Mayor and Councilmembers if they had any personal conflicts of interest or reportable campaign contributions. No conflicts or contributions were reported.

APPROVAL OF AGENDA

Motion: to approve the agenda

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 5
NOES: 0

CONSENT CALENDAR

Motion: to approve consent calendar items (noted by *asterisk), as amended

Vice Mayor Montano requested removal of Item No. 6 (Memorial Plaque), Item No. 10 (CFD property) and No. 11 (Trail Bridge) from the consent calendar.

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 5
NOES: 0

- * 5. Commission Appointments To the Community Advisory Commission, newly appointed Adrian Morel as Alternate No. 2 to a term that will expire in January 2017.
To the Senior Advisory Commission, re-appointed Melba Holliday as a regular member to a term that will expire in December 2016.
- * 9. Resolution – South Main Street Improvements Adopted Resolution No. 8456 granting final acceptance of and releasing the warranty bond for the South Main Street Improvements – Paragon, Project No. 3204.
- *12. New CIP No. 2005
 1. Approved a new Capital Improvement Program Project No. 2005 for the Lower Penitencia Creek Pedestrian Bridge Project.
 2. Approved a budget appropriation of \$150,000 from Transit Area Specific Plan (TASP) impact fees and \$500,000 from developer contributions.
 3. Approved Amendment No. 1 to the Agreement with Biggs Cardosa Associates, Inc. in the amount of \$184,500 and for a term until March 18, 2016 for the Lower Penitencia Creek Pedestrian Bridge.
- *13. Agreement related to McCarthy Development Approved the Assignment and Assumption Agreement between the City, BRE/Milpitas LLC and Hudson Campus Center LLC relating to the 65 acres along North McCarthy Boulevard between Ranch Drive.
- *14. Amend Agreement with CSG Authorized the City Manager to execute Amendment No. 3 to the agreement with CSG for fire inspection and plan review services for a total amount-not-to-exceed \$238,200 for Fiscal Year 2014-15.

*15. Pay Burton Fire

Authorized payment of invoices to Burton Fire totaling \$28,162.65 for the Ladder Truck TK86 repairs.

PUBLIC HEARING

1. Town Center Zoning Ordinance

Planning Director Steve McHarris provided history on zoning from 1960s to current day in Town Center, as regards allowance for residential development. There was some discussion on notifying property owners for five public meetings held on this subject. 132 acres comprised the Town Center zone, with a map showing this area. Mr. McHarris described three possible alternatives for the Council to vote on this evening regarding zoning of residential and commercial property.

Following a few comments by the City Council, Mayor Esteves opened the public hearing.

Rob Means, 1421 Yellowstone resident, felt the original staff recommendation to allow residential above commercial on the first floor made the most sense.

Farouk Laiji, from Shappell Properties, explained that his company was the largest single stakeholder in the Town Center area, next door to the City. He referred to a letter sent to City Council dated March 12 opposing the zoning amendment to deny opportunity for any residential development. He urged consideration for high density housing at this location and to be collaborative with stakeholders involved, especially businesses. He suggested a traffic study and economic development impact study in order to determine best use.

Steve Siddell, Milpitas resident, attended one of the early meetings and saw what happened at the Planning Commission. He did not believe the public heard from one significant group of people, who may have been intimidated at the Commission meeting.

Tom Valore, 25 year resident, saw two situations when City staff brought forward solid recommendations, while these were being rejected. He felt it was at whim, despite the economic soundness of the proposal. He would appreciate when making decisions, that those were supported by sound investigation and that Council not summarily dismiss staff's professional recommendation.

Voltaire Montemayor, resident, talked about modifications of buildings in Town Center.

(1) Motion: to close the public hearing, after hearing four speakers

Motion/Second: Councilmember Giordano/Councilmember Grilli

Motion carried by a vote of: AYES: 5
NOES: 0

Councilmember Giordano would sustain her previous vote supporting the past recommendation from Planning Commission and staff to permit live/work units in Town Center zone, and she would also support no residential on the first floor, as previously brought. She would vote no on the newly proposed ordinance.

Councilmember Grilli felt the City had not studied economic impact adequately and on this topic, the City was going too fast. She thought more outreach to residents and with Shappell was necessary. Bringing in some good commercial development was needed. She did not support the ordinance on the agenda this evening.

Vice Mayor Montano had heard from residents that they have to go outside Milpitas to shop for certain things, and would like to see more commercial at Town Center. She would vote to re-zone this area to be commercial only.

Councilmember Barbadillo knew there was lots of development going on and he wanted to see a balance. Mostly, he saw only residential developments being built in the City. He spoke on behalf of citizens, where their voices must be heard, and wanted the City's "heart" in the Town Center. He urged keeping the Town Center concrete as originally intended, as a shopping and commercial area, not residential.

Mayor Esteves remarked on the frequency of studies by governments, which he felt were an example of government procrastination. He discussed where to focus building houses, as it was occurring now in the Transit Area, near the new BART station. He felt commercial and retail development in Town Center was most appropriate.

(2) Motion: to adopt Resolution No. 8455 approving the General Plan Amendment to eliminate references to residential development, residential densities, and mixed-use development in the Town Center

Motion/Second: Councilmember Barbadillo/Vice Mayor Montano

Motion carried by a vote of: AYES: 3
NOES: 2 (Giordano, Grilli)

City Attorney Mike Ogaz read aloud the title of Ordinance No. 38.820, "An Ordinance of the City Council of the City of Milpitas Amending Chapter 10 of Title XI of the Milpitas Municipal Code Prohibiting All New Residential Uses in Town Center Zoning District."

(3) Motion: to waive the first reading beyond the title of Ordinance No. 38.820

Motion/Second: Vice Mayor Montano/Councilmember Barbadillo

Motion carried by a vote of: AYES: 3
NOES: 2 (Giordano, Grilli)

(4) Motion: to introduce Ordinance No. 38.820 to prohibit residential use in Town Center

Motion/Second: Councilmember Barbadillo/Vice Mayor Montano

Motion carried by a vote of: AYES: 3
NOES: 2 (Giordano, Grilli)

UNFINISHED BUSINESS

2. Odor Control Update

City Engineer Steven Machida gave an update on odor reporting to both the City of Milpitas and to the Bay Area Air Quality Management District hotline. He announced a public meeting scheduled by BAAQMD on Thursday, April 23 at City Hall.

Vice Mayor Montano asked about the process and the staff who come from the District out to Milpitas to verify an odor complaint. She asked if they were certified and sought more clarification on that process. Mr. Machida responded.

Councilmember Giordano remarked that this was an ongoing long-time issue for the City, and she always backed up those opposing the odors.

Motion: to receive the oral report from the City Engineer on odor update

Motion/Second: Councilmember Giordano/Councilmember Barbadillo

Motion carried by a vote of: AYES: 5
NOES: 0

3. Report on Crime

Police Chief Steven Pangelinan reported statistics on major crime figures, based on FBI Crime Index categories. He highlighted a recent increase in aggravated assaults from 2013 to 2014, the majority of which were domestic-violence related.

Mayor Esteves asked how many arrests were made on the 182 burglaries. Chief Pangelinan said he could provide that information later to the Mayor and Council. He then discussed effects of the state realignment of prisoners in 2011, which impacted the increase of some categories of crimes in Milpitas.

Councilmember Giordano thanked the Chief for numbers provided, and felt his report would be helpful to hear each year. She asked how many police officers the City had in 2004 versus 2014. The Chief replied there were 85 sworn officers today and the peak was 95 sworn officers in the past. Ms. Giordano asked about volunteers and reserve officers, which the Chief responded regarding the few that Milpitas did utilize.

Vice Mayor Montano asked about drug crimes and whether DUIs were included and the Chief said no. She asked about surveillance cameras, stating her belief there was a need for those around the City, strategically placed where there was a lot of traffic.

Motion: to receive the oral report from the Police Chief on crime statistics in Milpitas

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 5
NOES: 0

4. RFP for Milpitas Community Television

Information Services Director Mike Luu reviewed the goals and objectives for an operator of Channel 26 television station proposed Request for Proposals (RFP).

Councilmember Giordano inquired about the cost of doing an RFP. Mr. Luu replied it would be only in terms of City staff time to work on it and advertise the RFP. She wanted to know what the cost of the service would be and staff said the response to the RFP (from operators) would provide estimated cost to run the station.

Vice Mayor Montano asked for further information on the three alternatives given.

Councilmember Barbadillo asked for statistics on who watched channel 26. Mr. Luu explained neither he nor the City could get those figures from Comcast directly. He did know about submittal requests to show programs, about 6 – 12 per month.

Councilmember Grilli asked if those people were charged a fee, asking for their shows to be broadcast. Staff said yes, per the fee schedule.

Mayor Esteves asked about alternative two, to renegotiate a new deal with Milpitas Community Television (MCTV). The Mayor asked if the TV26 board could participate in the RFP process and staff replied yes.

Councilmember Grilli asked about the non-profit holding funds provided by Comcast. Mr. Luu replied that MCTV still had most of those funds, with the purpose to run the station. Staff would need to review the franchise agreement to find out the exact answer. City Manager Williams felt the funds would stay with the channel operator.

Motion: to receive the report from the Information Services Director on the Request for Proposals (RFP) objectives and to direct staff to move forward with issuing the RFP for Milpitas Community Television with the goals and scope of work

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of:

AYES: 5

NOES: 0

REPORT OF COMMISSION

6. Memorial Plaque at Milpitas Sports Center

This was heard following item No. 1.

Recreation Services Manager Renee Lorentzen defined the recommendation from the Parks, Recreation and Cultural Resources Commission to create and install a memorial plaque in memory of the recently deceased young resident, near Farm Fields at the Milpitas Sports Center. The plaque would be unveiled in mid-June.

Vice Mayor Montano wanted to highlight this action in memory of the special little boy, and she requested to re-name dugout area as “Christian’s Dugout” at the baseball fields.

Mayor Esteves wanted to support the recommendation on the agenda for the plaque, but did not want to add onto the recommendation. The Mayor felt a plaque in memory was very honorable for any resident in memoriam. He did not want to add on to that motion.

Councilmembers Grilli and Barbadillo supported the Vice Mayor on the dugout name.

Motion: per recommendation of the Parks, Recreation and Cultural Resources Commission, approve a memorial plaque for installation near the Milpitas Sports Center Little League Farm Field in memory of 8-year-old Christian Dalugdug and additionally name the baseball dugout as “Christian’s dugout”

Motion/Second: Vice Mayor Montano/Councilmember Grilli

Motion carried by a vote of:

AYES: 4

NOES: 1 (Esteves)

7. Veterans Commission Workplan

Human Resources Director Carmen Valdez with Veterans Commission Chairman Denny Weisgerber presented the Veterans Commission work plan for 2015 – 2016. She acknowledged several Commissioners in the audience. She provided history of the five year old Commission and its activities, including the annual Veteran of the Year program and the fundraising Veterans Car Show on city grounds.

Chair Weisgerber described the three programs that benefited from the car show proceeds: Semper Fi Fund, Family Supportive Housing Inc. and VA Palo Health Care Chaplain’s Fund. The current work plan would add The Blue Star Memorial Program sponsored by the Garden Club of Milpitas, with a plaque to be placed at the entry to Veterans Plaza on Veterans Day.

Staff described 85 veterans currently registered on the City’s email list, after doing regular outreach throughout the City. Mayor Esteves encouraged further outreach to all residents so the available services could be broadly advertised.

Councilmember Giordano served as Council liaison to this Commission, which was trying always to do more outreach. The Commission needed more funds for that purpose so she urged Council to add dollars to the budget for the Commission.

Vice Mayor Montano agreed with getting more veterans to be involved so they know about services. She also urged placement of flags all along Calaveras Blvd. on the median, along that main road in Milpitas at significant holidays, working with Caltrans.

Mayor Esteves referred to Memorial Day and Veterans Day ceremonies. He suggested a campaign to distribute flags to residents, to put out flags at home on those holidays. He was also concerned about veterans trying to find jobs and helping them.

Motion: to accept the oral report provided at the meeting and to approve the 2015 Veterans Commission Work Plan, with several additions to the work plan as suggested by City Councilmembers (on budget, flags, and outreach efforts)

Motion/Second: Councilmember Giordano/Vice Mayor Montano

Motion carried by a vote of: AYES: 5
NOES: 0

NEW BUSINESS

8. Update on Bay Area Rapid Transit station construction in Milpitas and parking garage

Planning Director Steven McHarris explained the changed status of the parking garage at the under-construction Milpitas BART station. He displayed overhead the Pedestrian Bridge walkway design update. Staff from the Santa Clara Valley Transportation Authority (VTA) were also present and could provide update to the Council.

Mr. McHarris described the recent VTA funding reduction for the parking garage architecture, which required that agency to plan to go from a \$5 million structure reduced to \$2.5 million, with reduced parking spaces. The revised parking structure design was displayed, in which several were not as aesthetically pleasing as the original modern design plan intended. The pedestrian bridge design between the parking garage and the BART station was also shown.

Mayor Esteves agreed with staff needing to work with VTA on high standards on the parking garage, while he emphasized the retail needed to be planned well too. The City could start discussing the \$17 million amount with VTA.

Councilmember Barbadillo asked if staff had the dollar amount on the various design alternatives now on the table due to budget cuts. He asked about past commitment to the parking structure design.

Vice Mayor Montano asked about high density zoning on the sites displayed and about additional improvements in the station area. She urged neon lights, little cornfields in design, and liked the bridge with the waves.

Mayor Esteves insisted there would be retail open on day one at the parking structure.

Next, VTA staff member Carolyn Gonot responded to the Mayor's questions on retail space getting built. Planning Director Steve McHarris and Economic Development Manager Edesa Bitbadal replied with staff's view, including need for a possible economic impact study on retail needs for that BART area.

Ms. Gonot reported that Montague Light Rail Station was planned to be closed starting on March 23, 2015 for five months to start construction activity there for BART. A shuttle service will be available for users of that station.

Motion: to receive a report on parking garage at BART station from the City's Planning Director and brief response comments from VTA staff

Motion/Second: Councilmember Giordano/Mayor Esteves

Motion carried by a vote of: AYES: 5
NOES: 0

RESOLUTION

10. Annex Property into CFD 2005-1 for Waterstone

Vice Mayor Montano addressed the City Engineering staff, expressing a need to ensure there was a pedestrian signal light at this new development. Mr. Machida responded that the project could include beacon (flashing) lighting at the crosswalk nearby.

(1) Motion: to adopt Resolution No. 8457 annexing real properties located within Final Tract Map No. 10270 into Community Facilities District No. 2005-1

Motion/Second: Vice Mayor Montano/Councilmember Grilli

Motion carried by a vote of: AYES: 5
NOES: 0

(2) Motion: to approve a Subdivision Improvement Agreement between the City of Milpitas and Lennar Homes of California, Inc. for public improvements associated with Final Tract Map No. 10270 (Waterstone)

Motion/Second: Vice Mayor Montano/Councilmember Grilli

Motion carried by a vote of: AYES: 5
NOES: 0

(3) Motion: to approve Final Tract Map No. 10270 (Waterstone) and public improvement plans 2-1193, construction documents for the associated public improvements

Motion/Second: Vice Mayor Montano/Councilmember Grilli

Motion carried by a vote of: AYES: 5
NOES: 0

AGREEMENTS

Three items were approved on consent calendar.

11. Joint Use Agreement with SCVWD for Trail and Pedestrian Overcrossing

Vice Mayor Montano commented that the City needed to aggressively look for grants for the pedestrian overcrossing open space at this project site.

Motion: to approve the Environmental Assessment No. EA 14-0005 for two Addendums to the Transit Area Specific Plan Final Environmental Impact Report for the Lower/ East Penitencia Creek trails and proposed bridge, and approve the Joint Use Agreement between the City of Milpitas and the Santa Clara Valley Water District

Motion/Second: Vice Mayor Montano/Councilmember Grilli

Motion carried by a vote of: AYES: 5
NOES: 0

ADJOURNMENT

Mayor Esteves adjourned the meeting at 11:57 PM.

The foregoing minutes were approved by the Milpitas City Council on April 7, 2015.

Mary Lavelle
Milpitas City Clerk