REGULAR MEETING OF THE MILPITAS CITY COUNCIL

AGENDA

TUESDAY, JANUARY 19, 2021
MILPITAS, CA
7:00 PM

For assistance in the following languages, you may call:
Đối với Việt Nam, gọi 408-586-3122
Para sa Tagalog, tumawag sa 408-586-3051
Para español, llame 408-586-3232

City Council meeting is held via teleconference /Zoom webinar only (no physical meeting space).
You may watch the Council meeting without providing public comment by accessing it via links here.

Meeting shall be livestreamed - Go to:
Facebook: https://www.facebook.com/CityofMilpitas/
YouTube: https://www.ci.milpitas.ca.gov/youtube
Web Streaming: https://www.ci.milpitas.ca.gov/webstreaming

PUBLIC COMMENT INSTRUCTIONS

Oral public comments may be provided live during the City Council meeting by first registering for the zoom meeting in advance by: providing email address (not disclosed) and a name. Here is the link to register for this meeting only:

https://ci-milpitas-ca-gov.zoom.us/webinar/register/WN_nvy02mIUTA-iF21EDjmh_Q

A link will be sent to you to join the City Council meeting in order to give your comments. All registered meeting attendees who wish to speak must click on the "raise hand" icon when the Mayor calls for public comments. If participating by calling in on your phone, dial *9 to use the "raise hand" feature, and when you are called upon, hit *6 to unmute your phone. Your phone number will be displayed in the live meeting. The Mayor or staff will call the speakers to begin.

All comments provided shall be limited to three minutes or less as determined by the Mayor. All members of the public will be limited to one comment per agenda item, and one comment for non-agenda items. online written comment form previously used is no longer available for public comment.

MILPITAS CITY COUNCIL CODE OF CONDUCT

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

CALL MEETING TO ORDER by Mayor and ROLL CALL by Acting City Clerk (7:00 PM)

PLEDGE OF ALLEGIANCE (7:05 PM)

INVOCATION *(assigned to Mayor Tran)*

PRESENTATIONS

- Martin Luther King Day (January 18)

PUBLIC FORUM
Those interested are invited to address City Council on any subject not on tonight's agenda, orally via zoom webinar (instructions on page 1). Speakers may provide their name and city of residence for the Clerk's record, and comments may be limited to three minutes or less. As an item not listed on the agenda, no response is required from City staff or the Council and no action can be taken. The City Council may instruct the City Manager to place the item on a future meeting agenda.

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS (7:20 PM)
Members of the City Council or City Manager may make brief announcements at this time. Members of the City Council may also suggest future agenda items at this time. For future agenda items, the City Council shall not debate the topic or engage in discussion but shall simply state a "yes" or "no" as to whether to direct the City Manager to place the item on a future meeting agenda. If a majority of the City Council agrees to place an item on a future meeting agenda, the City Manager shall place the item on a subsequent agenda for City Council discussion.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

READING OF THE CITY COUNCIL CODE OF CONDUCT

APPROVAL OF AGENDA

CONSENT CALENDAR (7:45 PM)
Consent calendar items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a City Councilmember, member of the audience or staff requests the Council to remove an item from (or be added to) the consent calendar. Any person desiring to speak on any item on the consent calendar should ask to have that item removed from the consent calendar.

C1. Receive City Council Calendars of Meetings for January and February 2021 (Staff Contact: Pam Caronongan, 408-586-3003)

Recommendation: Receive January 2021 and February 2021 City Council Calendars of Meetings from Acting City Clerk.

C2. Approve City Council meeting minutes of the January 5, 2021 Regular City Council Meeting and January 12, 2021 City Council Special Meeting (Staff Contact: Pam Caronongan, 408-586-3003)

Recommendation: Approve meeting minutes of the January 5, 2021 Regular City Council meeting and January 12, 2021 City Council Special Meeting as drafted by the Acting City Clerk.

C3. Waive the Second Reading and Adopt Ordinance No. 309 to Make Corrections, Clarifications, Updates and Modifications to the Milpitas Municipal Code (Staff Contacts: Christopher Diaz, 408-586-3040 and Ashwini Kantak, 408-586-3053)

Recommendation: Move to waive the second reading beyond the title and adopt Ordinance No. 309 amending various sections of Titles I, IV, V, VIII, X, and XI of the Milpitas Municipal Code to make corrections, clarifications, updates and modifications.

C4. **Adopt a Resolution Authorizing the Purchase of Two Skeeter Brush Trucks, LLC Dodge Ram 5500 Type 5 Wildland Engines for the Fire Department from Golden State Fire Apparatus, Inc. Through an HGACBuy Cooperative Contract in the Amount of $634,678.36 and related Budget Amendment (Staff Contacts: Rick Frawley, 408-586-2824 and Chris Schroeder, 408-586-3161)**

Recommendation: Adopt a Resolution authorizing the purchase of two Skeeter Brush Trucks, LLC Dodge Ram 5500 Type 5 Wildland Engines for the Fire Department from Golden State Fire Apparatus, Inc. through an HGABuy cooperative contract in the amount of $634,678.36 and approve an appropriation from the Equipment Fund in the amount of $329,679.

C5. **Adopt a Resolution Granting Acceptance of Well Upgrade - McCandless Well, Project No. 7076, Authorizing the City Engineer to File a Notice of Completion, and Authorizing the City Engineer to Issue a Notice of Final Acceptance (Staff Contact: Steve Erickson, 408-586-3301)**

Recommendation: Adopt a Resolution granting acceptance of Well Upgrade - McCandless Well, Project No. 7076, authorizing the City Engineer to file a Notice of Completion, and authorizing the City Engineer to Issue a Notice of Final Acceptance.

C6. **Adopt a resolution approving and authorizing the City Manager to execute a ten-year service agreement with Motorola Solutions, Inc. (Staff Contact: Steven Fox, 408-586-2525)**

Recommendation: Adopt a resolution approving and authorizing the City Manager to execute a ten-year service agreement with Motorola Solutions, Inc. as the sole source vendor for a Local NICE Logging Solution and matching Locution Systems, Inc. Fire Station alerting system and relevant services for the amount not to exceed $689,069.

C7. **Adopt a Resolution Directing Staff to Fly City Event Celebration and/or Commemorative Flags at Various Events from February 2021 through December 2021 (Staff Contact: Renee Lorentzen, 408-586-3409)**

Recommendation: Adopt a resolution directing staff to fly City event celebration and/or commemorative flags at various events from February 2021 through December 2021.

C8. **Approve and Authorize the City Manager to Execute a Stormwater Management Facilities Operation and Maintenance Agreement for Anton Milpitas 750, LLC for the Anton Aspire Project at 750 E. Capitol Avenue (Staff Contact: Steve Erickson, 408-586-3301)**

Recommendation: Approve and Authorize the City Manager to Execute a Stormwater Management Facilities Operation and Maintenance Agreement for Anton Milpitas 750, LLC for the Anton Aspire Project at 750 E. Capitol Avenue.

C9. **Approve and Authorize the City Manager to Execute Amendment No. 3 to the Agreement with West Yost Associates for Construction Support Services for Main Lift Emissions Control Project (Staff Contact: Tony Ndah, 408-586-2602)**

Recommendation: Approve and authorize the City Manager to execute Amendment No. 3 to the agreement with West Yost Associates in the amount of $250,000.00, for Construction Support Services for the Main Lift Emissions Control Project, increasing the total not to exceed amount from $134,340.00 to $384,340.00 and extending the term of the agreement through June 30, 2022.

C10. **Approve and Authorize the City Manager to Execute a First Amendment to the All-Inclusive Playground Funding Agreement with the County of Santa Clara for accessible playgrounds at McCandless Park and Mabel Mattos Elementary School (Staff Contact: Renee Lorentzen, 408-586-3409)**

Recommendation:
Approve and Authorize the City Manager to Execute a First Amendment to the All-Inclusive Playground Funding Agreement with the County of Santa Clara for accessible playgrounds at McCandless Park and Mabel Mattos Elementary School joint use area

COMMUNITY DEVELOPMENT (8:00 PM)

11. **Conduct Third Study Session on the Milpitas Metro Specific Plan (Update of 2008 Transit Area Specific Plan) with a Presentation, Discussion and City Council direction on Key Plan policies related to Land Use Density and Intensity (Staff Contacts: Ned Thomas, 408-586-3273 and Kevin Riley, 408-586-3292)**

Recommendations:

1. Receive a presentation from staff.
2. Provide feedback and direction on key land use, density and commercial intensity policies to guide preparation of the Draft Milpitas Metro Specific Plan (MMSP).

COMMUNITY SERVICES AND SUSTAINABLE INFRASTRUCTURE (9:15 PM)

12. **Approve and Authorize the City Manager to Execute the Bay Area Air Quality Management District's "Cut the Commute Pledge" and Adopt a Resolution to Support Expanded Telecommuting and Other Measures to Reduce Single-Occupancy Vehicle Trips (Staff Contacts: Steve Chan, 408-586-3324 and Jeannine Seher, 408-586-3086)**

Recommendation: Approve and authorize the City Manager to execute the Bay Area Air Quality Management District's "Cut the Commute Pledge" and adopt a resolution to support expanded telecommuting and other measures to reduce Single-Occupancy Vehicle trips.

LEADERSHIP AND SUPPORT SERVICES (9:45 PM)

13. **Approve Updates to the Commissioner Handbook and Commission Bylaws (Staff Contacts: Renee Lorentzen, 408-586-3409 and Ashwini Kantak, 408-586-3053)**

Recommendation: Approve Updates to the Commissioner Handbook, Commission Bylaws, and Bylaws Addendums for the Arts and Public Safety and Emergency Preparedness Commissions

REPORTS OF MAYOR & COUNCILMEMBERS (10:15 PM)

14. **Receive and Direct Staff on List of Agenda Items Requested by City Councilmembers (Contacts: Mayor and City Councilmembers, 408-586-3000)**

Recommendation: Review list of items presented (list in agenda packet) that have been requested by City Councilmembers on a form, at a Council meeting, or through the City Manager. Direct items to a City Council Subcommittee, to be placed onto a specific meeting date, or specify alternate direction to staff. No substantive discussion about any specific item shall occur and the City Council shall hold all debate about the item until it is scheduled as a full agenda item.

NEXT AGENDA PREVIEW (10:25 PM)

15. **Receive Preview List of Anticipated Items for the Next Regular City Council Meeting Scheduled on February 2, 2021 (Staff Contact: Pam Caronongan, 408-586-3003)**

Recommendation: Receive list of anticipated agenda items for the February 2, 2021 regular City Council meeting.

ADJOURNMENT (10:30 PM)

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions and other City agencies exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and City operations are open to the people's review. For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at ~~Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035~~
e-mail:cdiaz@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 City website. City Council agendas and related materials can be viewed online: www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp (select meeting date)

APPLY TO SERVE ON A CITY 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, please call the City Clerk at 408-586-3001 or send an e-mail to pcaronongan@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda.

December 2020

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
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Milpitas City Council Calendar

February 2021

S	M	T	W	T	F	S
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January 2021

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1 **CITY OFFICES CLOSED** **NEW YEAR'S DAY**	**2**
3	**4** ~~**7:00 PM** Parks, Recreation & Cultural Resources Commission (CM)~~	**5** **7:00 PM**-City Council	**6** **2:00 PM**-Santa Clara VTA Monthly Briefing - Northeast Group (CM) **7:00 PM**-Community Advisory Commission (EC)	**7** **5:30 PM**-Santa Clara VTA Board of Directors (CM) **5:30 PM**-Milpitas Chamber of Commerce Board (EC)	**8**	**9**
10	**11** **4:30 PM**-Economic Development and Trade Commission (KD) **7:00 PM-**Library and Education Commission (EC)	**12** **9:00 AM**-City Council Retreat ~~**4:00 PM-**Milpitas HOPE Suicide Prevention Task Force~~	**13** ~~**7:00 PM** Planning Commission~~ **7:00 PM**-Silicon Valley Clean Energy Board of Directors (EC)	**14** **4:00 PM**-Santa Clara VTA Policy Advisory Committee (AP) **4:00 PM**-Treatment Plant Advisory Committee (CM) **7:00 PM**-Cities Assoc of SCC (CM) **7:00 PM**-Youth Advisory Commission (EC)	**15** ****4:30 PM**-City Council Finance Subcommittee (RT/CM)*	**16**
17	**18** **MARTIN LUTHER KING JR. BIRTHDAY** **CITY OFFICES CLOSED**	**19** **6:00 PM**-Closed Session **7:00 PM**-City Council	**20** **5:00 PM**-Special Meeting Energy and Environmental Sustainability Commission (EC)	**21** **10:00 AM**- Santa Clara VTA Congestion Management Program & Planning Committee-CMPP (CM) **6:30 PM**-Bay Area Water Supply Conserv Agency (CM) **7:00 PM**-Public Safety & Emerg. Prep. Commission (KD)	**22** **9:00 AM**- Santa Clara VTA Board of Directors Workshop (CM)	**23**
24	**25** **6:00 PM-**Science, Technology and Innovation Commission (RT) **7:30 PM**-Arts Commission (RT)	**26** **5:30 PM-**Special City Council-Budget Session	**27** **2:00 PM**-Santa Clara Valley Water District - Water Commission (CM) **7:00 PM**-Planning Commission	**28** **12:00 PM-**Santa Clara County Library JPA (EC) **4:00 PM-**Silicon Valley Regional Interoperability Authority (KD)	**29**	**30**
31						

****Finance Subcommittee will only meet as needed***

Updated 1/15/21

January 2021

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March 2021

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Milpitas City Council Calendar

February 2021

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1 **7:00 PM**-Parks, Recreation & Cultural Resources Commission (CM)	**2** **?:00 PM**-Closed Session **7:00 PM**-City Council	**3** **2:00 PM**-Santa Clara VTA Monthly Briefing - Northeast Group (CM) **5:30 PM**-Veterans Commission (RT) **7:00 PM**-Community Advisory Commission (EC)	**4** **5:30 PM**-Milpitas Chamber of Commerce Board (EC) **5:30 PM**-Santa Clara VTA Board of Directors (CM)	**5**	**6**
7	**8** **4:30 PM**-Economic Development and Trade Commission (KD)	**9** **4:00 PM-**Milpitas HOPE Suicide Prevention Task Force	**10** **7:00 PM**-Silicon Valley Clean Energy Board of Directors (EC) **7:00 PM**-Planning Commission	**11** **4:00 PM**-Treatment Plant Advisory Committee (CM) **4:00 PM**-Santa Clara VTA Policy Advisory Committee (AP) **7:00 PM**-Youth Advisory Commission (EC) **7:00 PM**-Cities Assoc of SCC (CM)	**12** **3:00 PM**-City Council Transportation Subcommittee (RT/CM) ****4:30 PM**-City Council Finance Subcommittee (RT/CM)*	**13**
14	**15** **PRESIDENT'S DAY** **CITY HALL CLOSED**	**16** **?:00 PM**-Closed Session **7:00 PM**-City Council	**17** **6:00 PM**-Energy and Environmental Sustainability Commission (EC)	**18**	**19**	**20**
21	**22** **7:00 PM**-Science, Technology, and Innovation Commission (RT)	**23** **1:30 PM**-Senior Advisory Commission (EC)	**24** **5:30 PM-**Cities Assoc of SCC – Recycling and Waste Reduction Commission (AP) **7:00 PM**-Planning Commission	**25**	**26**	**27**
28						

****Finance Subcommittee will meet only as needed***

Updated 1/11/21

Draft CITY OF MILPITAS
MEETING MINUTES

Minutes of: **Regular Meeting of the Milpitas City Council**
Date: **Tuesday, January 5, 2021**
Time: **6:00 PM Closed Session**
7:00 PM Open Session
Location: **Meeting held via teleconference/zoom webinar online**
Milpitas, CA

CALL TO ORDER

Mayor Tran called the regular meeting to order at 6:00 PM. Deputy City Clerk Pam Caronongan called the roll. The meeting took place via teleconference/zoom webinar.

PRESENT: Mayor Tran, Vice Mayor Montano, Councilmembers Chua and Dominguez. Councilmember Phan arrived at 6:06 PM.

ABSENT: None

CLOSED SESSION

City Council adjourned to Closed Session to discuss one item listed on the agenda – existing litigation with City as plaintiff. At 7:33 PM, the members reconvened for the public meeting.

CLOSED SESSION ANNOUNCEMENT

City Attorney Chris Diaz announced there was no reportable action out of Closed Session.

PLEDGE

Mayor Tran led all in the Pledge of Allegiance to the flag.

INVOCATION

Mayor Tran

PUBLIC FORUM

Four residents made comments:
1. Allyson McDonald
2. Voltaire Montemayor
3. Barbara Jo "BJ" Navarro
4. Urvishkumar Mehta

ANNOUNCEMENTS & FUTURE AGENDA ITEMS

City Manager Steve McHarris announced the following:
1. Update regarding the City's annual "Community Survey" of residents as part of the budget process.
2. Relaunching of the "Milpitas Matters" community newsletter.
3. The City, in partnership with Santa Clara County, will continue to provide COVID-19 testing scheduled for Saturday, January 9, 2021 at Milpitas Community Center 7AM to 7PM by appointment only, available online.

Mayor Tran requested staff to address the following:
1. Return "Dumpster Days" to residents by Spring 2021.
2. Exploring avenues for the City to alleviate hardships faced by local businesses due to the economic effects brought by COVID-19 with postponement of City business fees towards spring at the latest.
3. Discuss the City Attorney contract during Closed Session on February 2, 2021.
4. Explore potential wrongful anonymous hateful emails received and use cyber expertise to track the IP addresses.

Councilmember Dominguez requested to agendize the following:
1. How the City could protect pollinators such as bees and monarch butterflies so that the ecosystem's biodiversity is protected for future meeting
2. How the City can update its current Community Garden Strategy for future meeting.

Councilmember Phan requested for the City's "My Milpitas" mobile application to include updates such as latest COVID-19 information, securing COVID testing appointments, and contact tracing.

Councilmember Chua requested to agendize the following:
1. Amend ADU ordinance to address unpermitted ADU policy to attract upgrading for permits. Model after City of San Jose.
2. Establish ADU Monday – a day residents can call for ADU assistance.
3. Bring to Council as a refresher how the City will market ADUs to residents.

Vice Mayor Montano shared that the Silicon Valley Clean Energy is offering $20,000 scholarship awards and for interested high school students to apply for the scholarship. Vice Mayor Montano also requested staff to research in four hours and report back on how the City could bring back a discussion on the Economic Development Corporation during the budget study sessions.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

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

CODE OF CONDUCT

City Attorney Diaz read aloud the City Council Code of Conduct.

APPROVAL OF AGENDA

Motion: to approve the January 5, 2021 meeting agenda, as submitted.

Motion/Second: Mayor Tran / Vice Mayor Montano

Motion carried by a vote of: AYES: 5
NOES: 0

CONSENT CALENDAR

Motion: to approve the Consent Calendar, including Items No. C1 – C10. The following agenda items were pulled out from the Consent Calendar for further discussion:

1. Agenda Item No. 4: Adopt a Resolution Reviewing and Accepting the Annual Developer Fee Disclosure Information for the Calaveras Boulevard Widening Traffic Impact Fee, Milpitas Business Park Traffic Impact Fee, the Transit Area Specific Plan (TASP) Impact Fee, and the Storm Drain Fee for the Fiscal Year Ended June 30, 2020

2. Agenda Item No. 5: Adopt a Resolution Amending the Classification Plan to Temporarily Suspend the Car Allowance for Executive Management Employees

Motion/Second: Mayor Tran / Councilmember Dominguez

Motion carried by a vote of: AYES: 5
NOES: 0

C1. Council Calendar

Received the City Council calendar of upcoming meetings for January 2021.

C2. Meeting Minutes	Approved the meeting minutes of the December 10 and 22, 2020 Special and December 15, 2020 Special and Regular City Council meetings, as drafted by the City Clerk.
C3. Adopt Ordinance	Councilmember Chua inquired from Deputy City Manager Walter C. Rossmann if staff can provide a list of local providers that the City transacted with in 2020. Deputy City Manager Rossmann replied that the list would be furnished to the City Council. Waived the second reading and adopted Ordinance No. 23.15 for updates to the Milpitas Municipal Code on Purchasing as recommended by staff.
4. Adopt Resolution	Item originally appearing as a Consent Calendar item pulled for discussion. Adopted **Resolution No. 9031** consistent with the Mitigation Fee Act to review and accept the annual developer fee disclosure information for the Calaveras Blvd Widening Traffic Impact Fee, Milpitas Business Park Traffic Impact Fee, Transit Area Specific Plan Impact Fee and Storm Drain Fee for the Fiscal Year Ended June 30, 2020. Vice Mayor Montano inquired with City Engineer Erickson as to when the City will start collecting fees connected to Midtown/Main Street and what will it take to start, with staff to agendize this on another day. Motion to approve item as recommended by staff and agendize Midtown Development fees. **Motion/Second:** Vice Mayor Montano / Mayor Tran **Vote:** 5-0
5. Adopt Resolution	Item originally appearing as a Consent Calendar item pulled for comment. Adopted **Resolution No. 9032** amending the classification plan to temporarily suspend the car allowance (specified in adopted Resolution No. 8980) for executive management effective beginning in January of 2021. **Motion/Second:** Vice Mayor Montano / Mayor Tran **Vote:** 5-0
C6. Side Letter – MidCon	Approved and authorized the City Manager to enter into a side letter agreement with the United Public Employees of California (UPEC Local 792), the Mid-Management and Confidential Unit citing the correct section of the Government Code for temporary out of class pay.
C7. Side Letter – MEA	Approved and authorized the City Manager to enter into a Side Letter to amend the Memorandum of Understanding (MOU) between the City and Milpitas Employees Association (MEA) (LIUNA/UPEC Local 792) amending the callback pay provisions as specified in the side letter.
C8. HCI Systems	Approved and authorized the City Manager to execute an agreement with HCI Systems for the Fire Alarm and Fire Suppression System Service, for an annual amount of $41,732 in the first year and a total not to exceed amount of $208,660 over the five year period, subject to the annual appropriation of funds.

C9. Silicon Valley Fire	Approved and authorized the City Manager to execute an agreement with Silicon Valley Fire for the Fire Extinguisher Inspection and Testing Service, for an annual amount of $26,000 in the first year and a total not to exceed from $130,000, over the five-year period, subject to the annual appropriation of funds.
C10. Commission Appointments	Per Mayor Tran's recommendations, (1) re-appointed Planning Commissioner Bill Chuan to a new 3-year term to expire in December 2023, and (2) newly appointed Victorino Monzon to the Milpitas Veterans Commission to a currently vacant 3-year term that will expire in February 2022.

LEADERSHIP

11. Introduce Ordinance No. 65.150

City Attorney Diaz presented the report. Staff recommended Option 2 as provided in the agenda packet for introduction and adoption.

Speakers in favor of Option 2 with addition of amendments:
1. Ruth Silver Taube
2. Tess Brilliante
3. Neil Park-McClintik
4. Felwina Opiso-Mondina
5. Allyson McDonald
6. Felicia Gershberg
7. Forest Peterson
8. Mirna Henriquez
9. Urvishkumar Mehta
10. Dennis Martin - spoke in opposition of Ordinance, but if City feels that it would be best to pass the agenda item then he requested for Council to choose Option 2 without additional requirements.

The City Council inquired into the addition of amendments and indicated support for the amendments.

City Attorney Diaz read aloud the title of Ordinance No. 65.150, "An Ordinance of the City Council of the City of Milpitas Adding Chapter 32 (Responsible Construction) to Title III of the Milpitas Municipal Code."

Motion: to waive the first reading beyond the title and introduce Option 2 - Ordinance No. 65.150, adding Chapter 32 (Responsible Construction) to Title III of the Milpitas Municipal Code with amendments noted per public feedback and City Council consensus.

Motion/Second: Councilmember Phan / Mayor Tran
Vote: 5-0

12. Introduce Ordinance No. 309

City Attorney Diaz read aloud the title of Ordinance No. 309, "An Ordinance of the City Council of the City of Milpitas Amending Various Sections of Titles I, IV, V, VIII, X, and XI of the Milpitas Municipal Code to Make Corrections, Clarifications, Updates and Modifications."

Speakers were the following:
1. Urvishkumar Mehta
2. Voltaire Montemayor

Motion: to waive the first reading beyond the title and introduce Ordinance No. 309 amending various sections of Titles I, IV, V, VIII, X, and XI of the Milpitas Municipal Code to make corrections, clarifications, updates and modifications as recommended by staff.

Motion/Second: Vice Mayor Montano / Councilmember Phan
Vote: 5-0

REPORTS

13. Appointments

Motion: to accept Mayor's appointments of City Councilmembers to liaisons of City Commissions, City Subcommittees, and outside agencies, boards and committees, and moved to confirm those appointments.

Motion/Second: Mayor Tran / Councilmember Dominguez
Vote: 5-0

14. New Task Force

Mayor Tran spoke about organizing the residents, cultivating leadership and advocacy to address homelessness issues within the City.

The following speakers have spoken in favor of the formation of the City Homelessness Task Force

1. Allyson McDonald
2. Urvishkumar Mehta
3. Thomas Valore

Mayor Tran stated the following regarding the Task Force:
1. Duration of Task Force will be determined quarter by quarter
2. Size will be no more than 10 members
3. Eligibility is to be a resident of Milpitas.
4. Youth are invited to join as well.

Regarding terms, Mayor Tran commented that the Task Force will not be permanent.

As to selection process, Mayor Tran will appoint but will also welcome recommendations from City Council. Also included will be one to two City staff members to facilitate meetings. There will be no Council liaison for the Task Force.

Councilmember Dominguez suggested for the Task Force meetings to be made public via teleconference / Zoom meetings. Councilmember Dominguez shared that Santa Clara County efforts are already underway and proposed for City and County efforts to be in sync.

Mayor Tran agreed with Councilmember Dominguez's suggestion due to transparency and that the community will find it productive to see the Task Force members' efforts.

In support to Councilmember Dominguez's suggestion, Councilmember Chua proposed for the Task Force to provide quarterly reports and recommendations. This would help the City in actively addressing and prioritizing homelessness issues and would synchronize the City and County's respective Homelessness Task Force's efforts. Councilmember Chua further suggested for the Task Force to meet twice a month.

City Manager McHarris inquired and received clarification from City Council that Task Force will report to City Council.

Motion: to agendize the formation of the City Homelessness Task Force for further discussion at a future City Council Meeting.

Motion/Second: Mayor Tran / Councilmember Dominguez
Vote: 5-0

15. Commissions

Mayor Tran discussed about going back to the old rules regarding Commission current term limits because there have been some long-serving Commissioners who had to stop serving in compliance to the current Commission By-Law rules. Mayor Tran further clarified that current commission names will be left as is, and that changes will be limited to reverting to the former rules, eliminating lifetime term limits.

Councilmember Dominguez proposed for each Commission to add a Commission chair dedicated to the youth. Assistant City Manager Ashwini Kantak received clarification from City Council that the additional seat for the youth will be as a non-voting member.

Motion: to agendize discussions of reverting back to the former Commission term limits and adding a non-voting Commission seat dedicated to the youth in each commission at a future City Council Meeting in two weeks.

Motion/Second: Mayor Tran / Councilmember Dominguez
Vote: 5-0

16. Amend Housing Ord.

Councilmember Chua clarified that the removal of the option to pay in-lieu fees would only affect for-sale-unit property developers. Rental-unit property developers will not be affected.

Councilmember Phan explained his opposition to the removal of the option to pay in-lieu fees.

Speakers:
1. Dennis Martin suggested for this item to have this done the right way. He suggested for staff to include feasibility studies.
2. Allyson McDonald spoke in favor of including affordable units and remove the option to pay in-lieu fees.

Motion: to direct staff to return with provisions to the Inclusionary Housing Ordinance to potentially remove the in-lieu fee option on for-sale-unit properties, and for staff to bring more information so that City Council can make informed decisions at a future City Council Meeting.

Motion/Second: Councilmember Chua / Mayor Tran
Vote: 4-1 (No: Councilmember Phan)

17. List of Council requested Agenda Items

Mayor Tran led the review of the list of items presented (list in agenda packet) by staff. City Council received the list from staff.

NEXT AGENDA PREVIEW

18. Preview Agenda Items

Received list of anticipated agenda items for the January 19, 2021 regular City Council meeting.

ADJOURNMENT Mayor Tran adjourned the meeting at 10:58 PM.

Draft meeting minutes submitted by
Acting City Clerk Pam Caronongan

MEETING MINUTES
CITY OF MILPITAS

Minutes of:	**Special Meeting of Milpitas City Council**
Date:	**Tuesday, January 12, 2021**
Time:	**9:00 AM**
Location:	**Teleconference / Zoom Meeting** **Milpitas, California**

CALL TO ORDER

Mayor Rich Tran called the special meeting to order at 9:10 AM.

PRESENT: Mayor Tran, Vice Mayor Montano, Councilmembers Montano, Dominguez, and Phan

ABSENT: None

Staff Present: City Manager Steve McHarris and City Attorney Chris Diaz
Acting City Clerk Pam Caronongan (for Roll Call only)

From the consulting firm Management Partners, Rod Gould was in attendance.

PUBLIC FORUM

The following spoke:
1. Urvishkumar Mehta

RETREAT

Councilmembers met together with the staff and consultant to discuss working relationships, meeting management, exploring opportunities for greater efficiency in conducting meetings, and City Council goals.

City Manager McHarris provided City Council with an update regarding the state of the city as an organization, staff efforts and workload, and the budget.

Throughout the rest of the retreat, Facilitator Rod Gould continued the dialogue with the City Council regarding City Council goals.

ADJOURNMENT

The Special Meeting was adjourned at 3:10 PM.

The foregoing minutes are being respectfully submitted by:

Pam Caronongan
Acting Milpitas City Clerk

CITY OF MILPITAS
AGENDA REPORT
(AR)

Item Title:	**Waive the Second Reading and Adopt Ordinance No. 309 to Make Corrections, Clarifications, Updates and Modifications to the Milpitas Municipal Code**
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	1/19/2021
Staff Contact:	Christopher Diaz, City Attorney, 408-586-3040 Ashwini Kantak, Assistant City Manager, 408-586-3053
Recommendation:	Move to waive the second reading beyond the title and adopt Ordinance No. 309 amending various sections of Titles I, IV, V, VIII, X, and XI of the Milpitas Municipal Code to make corrections, clarifications, updates and modifications.

Background:
On January 5, 2021, the City Council voted to introduce Ordinance No. 309 to make corrections, clarifications, updates and modifications to various sections of Titles I, IV, V, VIII, X, and XI of the Milpitas Municipal Code. A detailed discussion of the changes proposed by the Ordinance can be found in the staff report heard during the January 5 City Council meeting.

The Ordinance is now ready for its second reading and adoption.

Fiscal Impact
There is no fiscal impact to the proposed Ordinance adoption.

California Environmental Quality Act:
Adoption of the proposed Ordinance is not a project subject to the California Environmental Quality Act (CEQA) as it can be seen with certainty that the ordinance does not have the potential to result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and is more akin to an administrative activity of the government pursuant to CEQA Guidelines Section 15378.

Recommendation
Move to waive the second reading and adopt Ordinance No. 309 amending various sections of Titles I, IV, V, VIII, X, and XI of the Milpitas Municipal Code to make corrections, clarifications, updates and modifications.

Attachment
Ordinance No. 309 for adoption

REGULAR

NUMBER: **309**

TITLE: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING VARIOUS SECTIONS OF TITLES I, IV, V, VIII, X, AND XI OF THE MILPITAS MUNICIPAL CODE TO MAKE CORRECTIONS, CLARIFICATIONS, UPDATES AND MODIFICATIONS**

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of January 2, 2021, upon motion by Vice Mayor Montano, and was adopted (second reading) by the City Council at its meeting of _____, upon motion by _____. Said Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

_____ _____

Mary Lavelle, City Clerk Rich Tran, Mayor

APPROVED AS TO FORM:

_____

Christopher J. Diaz, City Attorney

RECITALS AND FINDINGS:

WHEREAS, the City of Milpitas has a Municipal Code that details the laws and regulations of the City; and

WHEREAS, City staff has identified various sections of the Municipal Code requiring corrections, clarifications, updates and modifications and requests that the City Council take action to correct these issues through the adoption of this Ordinance.

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. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE I, CHAPTER 2, SECTION 3 "Procurement Authority - Methods and Procedures"

Title I (Administration), Chapter 2 (Purchasing), Section 3 (Procurement Authority - Methods and Procedures), Subsection I-2-3.12 (Contracting for Consultants) of the Milpitas Municipal Code is hereby amended to read as follows:

I-2-3.13 - Contracting for Consultants

3.13-1 Consultants are required for professional or technical expertise and for matters requiring specialized abilities or a high degree of skill. Their numbers (in relation to a particular skill or expertise required) are comparatively limited. Where consultants are involved, the bidding process is not likely to result in a lower price to the City or eliminate unnecessary expense or delay. However, the request for proposals (RFP) process established in Section I-2-3.09, the request for qualifications (RFQa) process established in Section I-2-3.10, or a similar process based on evaluating consultant qualifications, is better suited.

3.13-2 The requesting department shall be empowered to engage a consultant (including, but not limited to, material testing services and construction inspection services) without the necessity of competitive procurement or notice thereof:

a. Without City Council approval if the consultant's total fee for materials and services under the contract by which the consultant is engaged does not exceed $100,000.00.
b. With City Council approval if the consultant's total fee for materials and services under the contract by which the consultant is engaged exceeds $100,000.00.

3.13-3 Architects, Engineers and Land Surveyors. In addition to the provisions of paragraph 3.13-1 and 3.13-2 of this section, the following requirements shall be applicable to the selection of architects, engineers and land surveyors.

(a) The requesting department or division head shall negotiate a contract with the firm that possesses the demonstrated competence and professional qualifications for the required architectural, engineering and land-surveying services.
(b) Should the requesting department or division head be unable to negotiate a satisfactory contract with the firm considered to be competent and qualified, at a price determined to be fair and reasonable, negotiations with that firm shall be formally terminated. The requesting department or division head shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the requesting department or division head shall formally terminate negotiations. The requesting department or division head shall then undertake negotiations with the third most qualified firm.

(c) Should the requesting department or division head be unable to negotiate a satisfactory contract with any of the selected firms, the requesting department or division head shall select additional firms in order of their competence and qualifications and continue negotiation until an agreement is reached.

SECTION 3. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE I, CHAPTER 4, SECTION 3 "Contract Amendment Authority"

Title I (Administration), Chapter 4 (Contract Authority), Section 3 (Contract Amendment Authority), Subsection I-4-3.01 of the Milpitas Municipal Code is hereby amended to read as follows:

I-4-3.01 -

The City Manager is authorized to enter into and execute for and on behalf of the City of Milpitas, without the prior approval of the City Council, any amendment or change order to a Contract that was executed pursuant to their respective authority under this Chapter within the following guidelines:

a. To extend the term of the Contract for a period not to exceed twelve (12) consecutive months from the last Council-approved expiration date;
b. To make minor revisions to the scope of services or schedule; or
c. To make clerical corrections.

SECTION 4. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE I, CHAPTER 5 "Settlement Authority"

Title I (Administration), Chapter 5 (Settlement Authority), Section 1 (Settlement Authority of City Attorney) of the Milpitas Municipal Code is hereby amended to read as follows:

I-5-1.01 -

The City Attorney is authorized to compromise and settle claims and actions for damages against the City, and/or against its officers and employees for conduct within the course and scope of their employment with the City where:

a. The amount to be paid by the City does not exceed $10,000.00.
b. The amount to be paid by the City does not exceed $50,000.00 if the City Manager also concurs with the compromise or settlement.
c. The City Attorney is authorized to enter into agreements on behalf of the City and its officers and employees as necessary to effectuate any authorized compromise and settlement.
d. The City Attorney shall report annually to the City Council the claims or actions against the City settled for an amount greater than $10,000.00.

Title I (Administration), Chapter 5 (Settlement Authority), Section 2 (Settlement Authority of the Risk Manager) of the Milpitas Municipal Code is hereby amended to read as follows:

I-5-2.01 -

a. The Risk Manager is authorized to compromise and settle any claims against the City for damages or claims for other money owed to the City where the amount to be paid does not exceed $20,000.00, provided the Risk Manager deems the compromise and settlement to be in the City's best interest. For purposes of any compromise and settlement pursuant to this provision, the Risk Manager is authorized to enter into any agreement for or on behalf of the City necessary to effectuate the compromise and settlement. To the extent the full amount owing to the City on any claim is not collected due to a compromise and settlement pursuant to this provision, the uncollected amount shall be deemed written off as uncollectible.

b. The Risk Manager shall report annually to the City Council the claims or actions against the City settled pursuant to this Section I-5-2.01.

SECTION 5. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE IV, CHAPTER 1, SECTION 2 "Care of Funds"

Title IV (Financial), Chapter 1 (General Provisions), Section 2 (Care of Funds), Subsection IV-1-2.02 (Demands or Claims Against the City) of the Milpitas Municipal Code is hereby amended to read as follows:

IV-1-2.02 - Demands or Claims Against the City

A. All demands or claims against the City for money, damages or refunds which are excepted by Section 905 of the Government Code and which are not governed by other statutes or ordinances expressly relating thereto shall:

(a) Be in writing;

(b) Contain the name and post office address of the claimant;

(c) Be verified by the person who claims to be entitled to be paid the money or damages or who has paid the money sought to be refunded or by his or her guardian, conservator, or the executor or administrator of his or her will or estate;

(d) Contain the date, description and amount of each item, or if the demand or claim is other than contractual, state the date, place and circumstance of the occurrence or transaction giving rise to the demand or claim and a general description of the indebtedness, obligation or injury so far as it may be known;

(e) State the total amount of the demand or claim, together with the basis for computation of the amount claimed;

(f) Be presented to the City not later than one year after the accrual of the cause of action

B. Pursuant to Government Code Section 935.4, the City Council delegates authority to the City's Risk Manager or his or her designee to perform all the functions of the City Council in the receipt, review, allowance, compromise or settlement of all claims against the City that fall under Division 3.6 of Title 1 of the Government Code or this Subsection IV-1-2.02, provided that no allowance, compromise or settlement shall exceed the Risk Manager's settlement authority as pursuant to Milpitas Municipal Code Section I-5-2.01.

Title IV (Financial), Chapter 1 (General Provisions), Section 2 (Care of Funds), Subsection IV-1-2.03 (Action by City Council) of the Milpitas Municipal Code is hereby amended to read as follows:

IV-1-2.03 - Time for Action by City

Pursuant to Government Code Section 912.4, the City Council or Risk Manager or his or her designee shall act on a claim within 45 days after the claim has been presented. By mutual agreement of the claimant and the City Council, or Risk Manager or his or her designee, such 45-day period may be extended by written agreement. If the claim is not acted on within 45 days, it shall be deemed to have been rejected on the forty-fifth day unless such time period has been extended, in which case it shall be denied on the last day of the period specified in the extension agreement.

Title IV (Financial), Chapter 1 (General Provisions), Section 2 (Care of Funds), Subsection IV-1-2.04 (Prerequisite to Suit) of the Milpitas Municipal Code is hereby amended to read as follows:

IV-1-2.04 - Prerequisite to Suit

No suit may be brought against the City on any cause of action for which a demand or claim must be filed until said written demand or claim has been presented as required by this Chapter to the City and has been acted upon by the City or has been deemed to have been rejected. Any action brought against the City on said demand or claim shall be subject

to the provisions of Sections 945.6 and 946 of the Government Code. Only the person who filed the claim may bring such a suit and if another person should do so, judgment shall not be rendered for the plaintiff.

SECTION 6. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE V, CHAPTER 100, SECTION 10 "Stopping, Standing and Parking"

Title V (Public Health, Safety and Welfare), Chapter 100 (Traffic), Section 10 (Stopping, Standing and Parking), Subsection 10.15-2 of the Milpitas Municipal Code, is hereby amended to read as follows:

10.15-2 When signs authorized by the provisions of this Subsection are in place, giving notice thereof, no person shall park or stand any vehicle contrary to the directions or provisions of such signs, and any vehicle parked in violation of such signs may be towed to a public storage garage at the expense of the owner of such vehicle; or the Police Department may, and it is granted authority to, issue a citation in the usual form and manner for any violation of the prohibition, limitation or restriction indicated by such signs or for any violation of the provisions of this Subsection.

Title V (Public Health, Safety and Welfare), Chapter 100 (Traffic), Section 10 (Stopping, Standing and Parking), Subsection 10.15-4 of the Milpitas Municipal Code, is hereby amended to read as follows:

10.15-4 The City Council finds and declares that the orderly, efficient conduct of the City's business requires that parking of vehicles on City property be prohibited, limited or restricted as hereafter provided:

(a) When signs are in place giving notice thereof, and except as authorized by permit as hereafter provided, it shall be unlawful to park a vehicle between the hours of 7:00 a.m. and 6:00 p.m. on any day (except Saturdays, Sundays and official City holidays) at the following locations and in excess of the following periods:

(1)Within the east wing of the City Hall parking lot (including the area in front of and east of the Community Center) in excess of four (4) hours in any one day (except as authorized by permit);

(2)Within the parking areas in front of the main entrance to City Hall in excess of three (3) hours in any one day (except as authorized by permit);

(3)In the parking stalls in front of the Finance Department and the Credit Union on the southerly side of City Hall in excess of thirty (30) minutes in any one day.

(b) Permits shall be issued by the City Manager or the Chief of Police. They may be limited as to date and permitted hours. They shall be prominently displayed on the dashboard of the vehicle or, if a sticker, affixed to the rear bumper. They will be issued to all City Councilpersons, to all City vehicles and to all City employees for use on the employee's private vehicle. They may be issued by the City Manager or Chief of Police on a sign-out basis for all persons having business to conduct at City Hall or the Community Center in excess of the allowable parking time.

(c) When signs are in place giving notice thereof, it shall be unlawful to park a vehicle between the hours of 10:00 p.m. and 7:00 a.m. on any day in the Milpitas Library Parking Garage.

SECTION 7. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE V, CHAPTER 100, SECTION 12 "Stopping Standing, Parking, are Restricted or Prohibited on Certain Streets"

Title V (Public Health, Safety and Welfare), Chapter 100 (Traffic), Section 12 (Stopping Standing, Parking, are Restricted or Prohibited on Certain Streets) of the Milpitas Municipal Code, is hereby amended to read as follows:

Title V, Chapter 100, Section 12 - Stopping, Standing, Parking, are Restricted or Prohibited on Certain Streets and City Facilities

Title V (Public Health, Safety and Welfare), Chapter 100 (Traffic), Section 12 (Stopping Standing, Parking, are Restricted or Prohibited on Certain Streets), Subsection V-100-12.09-1 of the Milpitas Municipal Code is hereby amended to read as follows:

12.09-1 Pursuant to the authority contained in the California Vehicle Code, any vehicle parked or left standing in violation of the provisions of this Chapter upon any street, portion thereof, in any parking lots or designated areas adjacent to or at a City Park, may be removed therefrom and stored by order of any police officer, provided signs are in place giving notice of said removal. (See Section 22651 CVC)

Title V (Public Health, Safety and Welfare), Chapter 100 (Traffic), Section 12 (Stopping Standing, Parking, are Restricted or Prohibited on Certain Streets), Subsection V-100-12.13 (Parking Time Limited Adjacent to City Parks) of the Milpitas Municipal Code is hereby amended to read as follows:

V-100-12.13 - Parking Time Limited Adjacent to City Parks

When authorized signs are in place giving notice thereof, no person shall stop, stand or park any vehicle on any of the streets or portions thereof facing onto a City Park for a period of time in excess of three (3) hours between the hours of 6:00 a.m. and 10:00 p.m. of any day.

Title V (Public Health, Safety and Welfare), Chapter 100 (Traffic), Section 12 (Stopping Standing, Parking, are Restricted or Prohibited on Certain Streets) of the Milpitas Municipal Code is hereby amended to add a new Subsection V-100-12.16 to read as follows:

V-100-12.16 Parking Time Limited in City Parks

When authorized signs are in place giving notice thereof, no person shall stop, stand, or park any vehicle on any City Park or portions thereof for a period of time in excess of three (3) hours between the hours of 6:00 a.m. and 10:00 p.m. of any day.

SECTION 8. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE VIII, CHAPTER 2, ARTICLE XIII, SECTION 13.02 "Maintenance by User"

Title VIII (Public Works), Chapter 2 (Milpitas Sanitary Code), Article XIII (Responsibility for Maintenance), Section 13.02 (Maintenance by User) of the Milpitas Municipal Code is hereby amended to read as follows:

Section 13.02 - Maintenance by User

The User owns the entire house sewer and shall be responsible for maintaining, repairing, replacing, and clearing all stoppages and maintaining flow in the house sewer, in accordance with the following provisions:

A. Stoppages or other maintenance and repairs required in the house sewer shall be the responsibility of the User. B. The User shall be responsible for clearing stoppages in the entire length of the house sewer.

The User shall keep the house sewer free from roots, grease deposits, and other solids which may impede the flow or obstruct the transmission of waste.

The User shall have a street cleanout located at the property line, between the house sewer and the house lateral. All cleanouts shall be securely capped with a proper cap at all times.

All joints of the side sewer shall be watertight and all side sewer pipe shall be sound to prevent exfiltration by waste or infiltration by ground water or storm water.

SECTION 9. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE X, CHAPTER 2, SECTION 2 "Definitions"

Title X (Streets and Sidewalks), Chapter 2 (Tree Maintenance and Protection), Section 2 (Definitions), Subsection X-2-2.12 of the Milpitas Municipal Code is hereby amended to read as follows:

X-2-2.12

"Parkway" shall mean that portion of a street other than a roadway or a sidewalk.

Title X (Streets and Sidewalks), Chapter 2 (Tree Maintenance and Protection), Section 2 (Definitions), Subsection X-2-2.13 of the Milpitas Municipal Code is hereby amended to read as follows:

X-2-2.13

"Tree Pruning" shall refer to the removal of diseased, dead, dying, decayed, interfering or obstructing branches, or the training of young trees to control growth and enhance performance or function in the landscape, and by developing and preserving tree structure, health and stability. No more than 25% of the tree canopy should be removed within a growing season.

Title X (Streets and Sidewalks), Chapter 2 (Tree Maintenance and Protection), Section 2 (Definitions), Subsection X-2-2.14 of the Milpitas Municipal Code is hereby amended to read as follows:

X-2-2.14

"Street Tree Planting" shall mean the planting of City street trees within the public right-of-way, in parks and in easements dedicated to tree planting. Street trees shall be planted in residential neighborhoods within tree planting easements in suitable vacant planting sites, which avoid conflicts with underground utilities and hardscapes.

Title X (Streets and Sidewalks), Chapter 2 (Tree Maintenance and Protection), Section 2 (Definitions), Subsection X-2-2.15 of the Milpitas Municipal Code is hereby amended to read as follows:

X-2-2.15

"Tree Removal" means either 1) complete removal, such as cutting a tree to the ground; or 2) taking any action that would lead to the death of a tree or cause permanent damage that may compromise tree health and stability. Tree removal may include, but shall not be limited to, severe pruning or topping, girdling, poisoning, over watering, under watering, trenching, excavating, or altering the soil grade around the tree trunk.

Title X (Streets and Sidewalks), Chapter 2 (Tree Maintenance and Protection), Section 2 (Definitions), Subsection X-2-2.16 of the Milpitas Municipal Code is hereby amended to read as follows:

X-2-2.16

"Tree Topping" is the removal of large branches to a stub, or smaller lateral not large enough to assume a terminal role. Tree topping is not an approved tree pruning practice for City street trees or protected trees, and is considered tree removal under this Chapter.

Title X (Streets and Sidewalks), Chapter 2 (Tree Maintenance and Protection), Section 2 (Definitions) of the Milpitas Municipal Code is hereby amended to add a new Subsection X-2-2.17 to read as follows:

X-2-2.17

"Unapproved Street Tree" shall mean any tree planted within street right-of-way or easements or in proximity thereto, or on adjoining property, which does not qualify as an Approved Street Tree.

SECTION 10. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE X, CHAPTER 2, SECTION 6 "Other Plantings and Improvements"

Title X (Streets and Sidewalks), Chapter 2 (Tree Maintenance and Protection), Section 6 (Other Plantings and Improvements), Subsection X-2-6.01 of the Milpitas Municipal Code is hereby amended to read as follows:

X-2-6.01 - Responsibility for Parkway Maintenance

Any person owning or occupying property adjoining the public right-of-way shall be responsible for planting, maintenance and care of any plantings other than Approved Street Trees in those areas between the curb and right-of-way or easement. The planting areas shall be maintained in a healthy condition free of dying, dead, diseased, decayed, discarded and/or overgrown vegetation. Maintenance of such areas shall include, but not limited to, weeding, pruning, spraying and watering.

X-6.01-1 Exception: The City shall maintain those planting areas within the street, which are developed and landscaped as a public improvement.

Title X (Streets and Sidewalks), Chapter 2 (Tree Maintenance and Protection), Section 6 (Other Plantings and Improvements), Subsection X-2-6.01-2 of the Milpitas Municipal Code is hereby amended to read as follows:

X-2-6.01-2 - Hardscape in Lieu of Other Plantings

Any person owning or occupying property adjoining the public right-of-way shall be responsible for any hardscape placed between the curb and right-of-way or easement, including, but not limited to, brick, pavers and cement and the maintenance and care of any hardscape including, but not limited to, weeding, grinding and replacement.

SECTION 11. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 15, SECTION XI-15-5.1 "Standards of Construction"

Title XI (Zoning, Planning and Annexation), Chapter 15 (Floodplain Management Regulations), Section XI-15-5.1 (Standards of Construction) of the Milpitas Municipal Code is hereby amended to read as follows:

XI-15-5.1 - Standards of Construction

In all areas of special flood hazards the following standards are required:

(a) Anchoring.

(1) All new construction and substantial improvements, including manufactured homes, shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(2) All manufactured homes shall meet the anchoring standards of Section XI-15-5.4.

(b) Construction Materials and Methods. All new construction and substantial improvements, including manufactured homes, shall be constructed:

(1) With materials and utility equipment resistant to flood damage;

(2) Using methods and practices that minimize flood damage;

(3) With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and

(4) Within Zone AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

(c) Elevation and Floodproofing. (See Section XI-15-2, definitions for “basement,” “lowest floor,” “new construction,” “substantial damage” and "substantial improvement.”)

(1) Residential construction, new or substantial improvement, including manufactured homes, shall have the lowest floor, including basement:

(i) In an AO Zone, elevated above the highest adjacent grade to a height exceeding the depth number specified in feet on the FIRM by at least one (1) foot, or elevated at least three (3) feet above the highest adjacent grade if no depth number is specified.

(ii) In an A Zone, elevated at least one (1) foot above the base flood elevation, as determined by the developer's engineer, and approved by the City Engineer.

(iii) In all other zones, be elevated at least one (1) foot above the base flood elevation.

This includes all non-flood resistant building material and all of the structure’s support equipment such as, but not limited to, electrical, heating, ventilation ductworks, plumbing, and air conditioning equipment and other service facilities that could be damaged if submerged under water.

Upon the completion of the structure, the elevation of the lowest floor including basement and the structure’s support equipment shall be certified by a registered professional engineer or surveyor, to be properly elevated. Such certification or verification shall be provided to the Floodplain Administrator.

(2) Nonresidential construction shall either be elevated to conform with Section XI-15-5.1(c)(1) or together with attendant utility and sanitary facilities:

(i) Be floodproofed below the elevation recommended under subsection (c)(1) of this Section so that the structure is watertight with walls substantially impermeable to the passage of water;

(ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(iii) Be certified by a registered professional engineer or architect that the standards of this Section are satisfied. Such certification shall be provided to the Floodplain Administrator.

(3) All new construction and substantial improvement with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must exceed the following minimum criteria:

(i) Be certified by a registered professional engineer or architect; or

(ii) Be certified to comply with a local flood-proofing standard approved by the Federal Insurance Administration, Federal Emergency Management Agency; or

(iii) Have a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

(4) Manufactured homes shall also meet the standards in Section XI-15-5.4.

SECTION 12. SEVERABILITY

The provisions of this Ordinance are severable, and the invalidity of any phrase, clause, provision or part shall not affect the

validity of the remainder.

SECTION 13. 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 36933 of the Government Code of the State of California.

CITY OF MILPITAS
AGENDA REPORT
(AR)

Item Title:	**Adopt a Resolution Authorizing the Purchase of Two Skeeter Brush Trucks, LLC Dodge Ram 5500 Type 5 Wildland Engines for the Fire Department from Golden State Fire Apparatus, Inc. Through an HGACBuy Cooperative Contract in the Amount of $634,678.36 and related Budget Amendment**
Category:	Consent Calendar-Public Safety
Meeting Date:	1/19/2021
Staff Contacts:	**Rick Frawley, 408-586-2824** **Chris Schroeder, 408-586-3161**
Recommendation:	Adopt a Resolution authorizing the purchase of two Skeeter Brush Trucks, LLC Dodge Ram 5500 Type 5 Wildland Engines for the Fire Department from Golden State Fire Apparatus, Inc. through an HGABuy cooperative contract in the amount of $634,678.36 and approve an appropriation from the Equipment Fund in the amount of $329,679.

Background:

The Fire Department is requesting the purchase of two replacement wildland firefighting apparatus to be stationed at Milpitas Fire Station 2 located at 1263 Yosemite Drive, Milpitas, CA and Milpitas Fire Station 3 located at 25 Midwick Drive, Milpitas, CA. These replacement units will be a Type 5 Wildland Fire Engines. This type of fire engine is designed for firefighting efforts in the wildland arena. Specifically, these units will have advanced fire attack capability in the hillside areas of Milpitas. Although stationed in the Eastern portion of our community, these units will be utilized throughout the City. These units replace a front-line Wildland Fire Engine manufactured in 2003 and 2005.

The Fire Department conducted a review of apparatus and equipment following the increase in wildland fire activity beginning with the 2017 “Country Fire” in the Milpitas hillside area. One key element in determining the need for resources following the “Country Fire” was the timeline to replace one of the current Wildland Fire Engines after 15 years of service. As such, the Fire Department determined that a quick attack four-wheel drive vehicle would address needs of Milpitas Wildland Urban Interface. These Fire Engines will have the capability to pump water at increased pressures from an on-board supply tank of at least 300 gallons and pump water while driving to support fast attack of wildland fires. The vendor selected that meets the Fire Department’s needs is Skeeter Brush Trucks located in Hillsboro, Texas. Several neighboring fire agencies have purchased similar Skeeter Fire Engines, including Palo Alto Fire, Alameda County Fire, and San Ramon Fire.

The Fire Engine will be built on a heavy-duty pickup truck chassis. Delivery is expected within twelve months of ordering the vehicle. However, supply chain issues may delay final delivery and in service. Two factory trips are required for inspection by the Fire Department for up to three personnel to Hillsboro, Texas for a pre-construction meeting and an acceptance final inspection meeting. Dates for this out-of-state travel are to be determined and are included in the proposed price.

Analysis:

Staff recommends a cooperative purchase through HGACBuy for two Skeeter Brush Trucks, LLC Dodge Ram 5500 Type 5 Wildland Engines from Golden State Fire Apparatus. Cooperative purchasing through the Houston-Galveston Area Council (H-GAC) is specifically authorized pursuant to Municipal Code Section I-2-3.08 “Cooperative Procurement.” The Purchasing Agent reviewed all of the documentation from the H-GACBuy Contract No. FS12-15 and has determined that the underlying purchase was made using competitive bidding procedures at least as restrictive as the City of Milpitas’ Purchasing Division. Contract No. F12-15 is currently

valid through January 29, 2022. All H-GACBuy contracts provide nationally bid volume pricing to member cities not otherwise available for a single purchase. The purchase will be completed by issuing a purchase order with the City's standard terms and conditions for equipment and materials.

Policy Alternative:

Alternative: City Council does not adopt a resolution to approve the purchase.

Pros: Savings of expenditures.

Cons: Delay in replacement will increase maintenance of the existing fleet due to age of apparatus and limit fire attack options.

Reason not recommended: Due to the increased wildfire activities and the proximity to wildland areas on the east of our City, the purchase of these engines will improve the City's wildfire fighting capabilities. Additionally, the new Type 5 Fire Engines have improved off road firefighting capability not currently available in the current fleet.

Fiscal Impact:
Currently, there is $325,509 and $79,937 available in the Equipment Replacement Fund for the first and second Wildland Engine, respectively. We are also expecting mutual aid reimbursement from Cal OES in the amount of $217,583 that will be deposited into the Equipment Replacement Fund upon receipt. As part of the approval of the FY 2020-21 Adopted Budget, $288,750 was appropriated into Capital Outlay for the first engine. Staff recommends appropriating an additional $329,679 into Capital Outlay from Equipment Replacement Fund. The remaining $11,649.36 will be paid from the Fire Department operating budget.

California Environmental Quality Act:
By the definition provided in the CEQA Guidelines Section 15378, this action does not qualify as a "project" for the purpose of CEQA as this action has no potential to result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

Recommendation:
Adopt a Resolution authorizing the purchase of two Skeeter Brush Trucks, LLC Dodge Ram 5500 Type 5 Wildland Engines from Golden State Fire Apparatus for the Fire Department from Golden State Fire Apparatus through an HGACBuy Cooperative Contract in the amount of $634,678.36 and approve an appropriation from the Equipment Fund in the amount of $329,679.

Attachments:
a) Resolution
b) Golden State Fire Apparatus purchase proposal
c) Budget Change Form

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AUTHORIZING THE PURCHASE OF TWO (2) SKEETER BRUSH TRUCKS LLC TYPE 5 WILDLAND ENGINES FROM GOLDEN STATE FIRE APPARATUS, INC., FOR THE TOTAL NOT-TO-EXCEED AMOUNT OF $634,678.36 PURSUANT TO A COOPERATIVE PROCUREMENT CONTRACT THROUGH THE HOUSTON-GALVESTON AREA COUNCIL

WHEREAS, Section I-2-3.08 ("Cooperative Procurement") of the Milpitas Municipal Code authorizes the City Council to award contracts without competition when the purchase is pursuant to a cooperative agreement by another public agency that used competitive negotiation or bidding procedures at least as restrictive as the City's; and

WHEREAS, Municipal Code Section I-2-3.08 specifically authorizes the Purchasing Agent to make such purchases based on an agreement or cooperative purchasing program entered into by any public agency regardless of whether the City is a named party to the agreement or an actual participant in such a program, provided that: (1) the underlying purchase was made using competitive negotiation or bidding procedures at least as restrictive as the City's, and may include nationally bid cooperative contracts, (2) the public agency is a "public agency" as defined in Government Code section 6500, and (3) in all such cases, the supplies or general services purchased must be the same and be offered at the same price as the supplies and general services subject to the agreement or program; and

WHEREAS, the Houston-Galveston Area Council Cooperative Purchasing Program (HGACBuy) is a cooperative purchasing program which allows local governments and certain non-profits to contract or agree under the terms of the program to make purchases using HGACBuy contracts which are competitively bid; and

WHEREAS, on September 5, 2017, the City of Milpitas' membership in the Houston-Galveston Area Council Cooperative Purchasing Program (HGACBuy) was approved by the City Council; and

WHEREAS, on December 1, 2019, Interlocal Contract No. FS12-19 was awarded to Golden State Fire Apparatus, Inc., pursuant to the Houston-Galveston Area Council (H-GAC) Invitation for Bid (IFB) No. FS12-19 "Fire Service Apparatus (All Types)" and said contract is current through January 29, 2022; and

WHEREAS, two (2) Milpitas Fire Department Wildland Fire Engines manufactured in 2003 and 2005 have reached the end of their useful life and, accordingly, staff wishes to purchase two (2) replacement vehicles, Skeeter Brush Trucks, LLC Dodge Ram 5500 Type 5 Wildland Engines for the total not-to-exceed amount of $634,678.36; and

WHEREAS, the Purchasing Agent has reviewed all of the documentation related to the IFB and the original contract awarded to Golden State Fire Apparatus, Inc., and has determined that the underlying purchase was made using competitive bidding procedures at least as restrictive as those of the City of Milpitas and that the price for the vehicle is the same as that offered in the original contract.

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

1. 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 it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

2. The City Purchasing Agent is authorized to purchase two (2) Skeeter Brush Trucks LLC Type 5 Wildland Engines for the Fire Department from Golden State Fire Apparatus, Inc., an Out-of-State Awardee for IFB No. FS12-19, through a cooperative contract from H-GACBuy for the total not-to-exceed amount of $634,678.36.

PASSED AND ADOPTED this _____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

_____
Pam Caronangan, Acting City Clerk

APPROVED:

_____
Rich Tran, Mayor

APPROVED AS TO FORM:

_____
Christopher J. Diaz, City Attorney

GOLDEN STATE
FIRE APPARATUS

PROPOSAL PREPARED FOR
City of Milpitas Fire Department
Skeeter Brush Trucks, LLC
Type 5 Wildland Engine
HGAC FS12-19, Code FS19BBB05
December 22, 2020

SALES CONSULTANT
Rich Myers
Golden State Fire Apparatus, Inc.
7400 Reese Road
Sacramento, CA 95828
831.251.8931 Cell
rich@goldenstatefire.com

PARTS, SERVICE & SUPPORT
Golden State Emergency Vehicle Service, Inc.
7400 Reese Road
Sacramento, CA 95828
916.330.1638 Office
parts@goldenstatefire.com

GOLDEN STATE
FIRE APPARATUS

www.goldenstatefire.com
7400 Reese Road
Sacramento, CA 95828
Office 916.330.1638
Fax 916.330.1649

PROPOSAL PREPARED FOR:

City of Milpitas Fire Department
777 South Main Street
Milpitas, CA 95035

Submitted Date:	December 22, 2020
Proposal Number:	41222-20C
Expiration Date:	**January 31, 2021**
Sales Consultant:	Rich Myers

We hereby propose and agree to furnish, after your acceptance of this proposal and the proper execution by the CITY OF MILPITAS FIRE DEPARTMENT, hereinafter called "Customer" and an officer of Golden State Fire Apparatus, Inc., hereinafter called "GSFA", the following fire apparatus and equipment, hereinafter called "Product":

#	Description	Extended Price
A	Two (2) Skeeter Brush Trucks, LLC Dodge Ram 5500 Type 5 Wildland Engines	568,959.86
B	Motorola Radio Equipment, 2 Units	12,189.40
C	Bendix King Radio Equipment, 2 Units	8,224.36
D	Mobile Data Terminal, 2 Units	13,880.84
E	Tools and Equipment, 2 Units	6,000.00
F	Discount for HGAC contract FS12-19, Product Code FS19BBB05, 2 Units	(16,000.00)
G	Multiple Unit Discount	(11,000.00)
H	SUBTOTAL, 2 Units	582,254.46
I	9.00% State Sales Tax, 2 Units	52,402.90
J	California Tire Fee, 2 Units	21.00
K	**GRAND TOTAL, 2 Units**	**634,678.36**

PROPOSAL SUMMARY

This proposal includes the following items in accordance with the specifications hereto attached:

- Pre-delivery inspection/services by GSFA
- Delivery to GSFA service center in Sacramento
- Final delivery from service center to Customer
- Demonstration and familiarization of the Product

PRODUCT COMPLETION

Product shall be built in accordance with the specifications hereto attached, delays due to acts of God, strikes, war, or intentional conflict, failures to obtain chassis, materials, unusual weather conditions or other causes beyond GSFA's control not preventing, within approximately **315 to 345 CALENDAR DAYS** after receipt of this order and the acceptance thereof at our Sacramento, California office. Within thirty (30) calendar days after receipt of this order and acceptance thereof, GSFA shall submit to Customer a production schedule including tentative pre-construction conference, final inspection and final delivery dates.

DELIVERY LOCATION

Product shall be shipped in accordance with the specifications hereto attached and be delivered to you at **MILPITAS, CALIFORNIA**. Proof of insurance must be demonstrated by the Customer to GSFA prior to transferring of the Product(s).

ACCEPTING THIS PROPOSAL

In the event Customer wishes to purchase the Product described in this Proposal and the attached specifications, then, prior to the expiration date listed on page 2 of this Proposal, Customer shall sign and return this Proposal. Thereafter, GSFA and Customer will endeavor to enter into a purchase agreement incorporating this Proposal and including additional terms (a "Purchase Agreement"). If Customer returns a signed copy of this Proposal alone, GSFA will send Customer its form of Purchase Agreement for Customer's review and signature. **If Customer desires to use its standard form of purchase order as the Purchase Agreement, then Customer should return a signed copy of this Proposal along with a copy of such purchase order. All purchase orders shall be made out to GSFA**. GSFA will review such purchase order and contact the Customer regarding any required revisions. Only upon a full execution of a Purchase Agreement shall GSFA and Customer be obligated to purchase and sell the Product set forth in this Proposal.

TERMS AND CONDITIONS

The following Terms and Conditions are hereby made part of this Proposal:

1. Payment Terms, 100% Pre-Payment at Time of Order – Customer shall pay the amount listed on page one of this Proposal, which includes: (i) the total price for the Product (the "Purchase Price"), (ii) the estimated state sales tax on the Product, and (iii) the California tire fee (together with the Purchase Price and estimated state sales tax, the "Grand Total") within fifteen (15) calendar days from the date on which the Purchase Agreement is fully executed. The proposed delivery timeframe for the Product, which is outlined on page one of this Proposal, shall not begin until full payment of the Grand Total is received. In the event Customer does not pay GSFA the Grand Total in the timeframe set forth in this Section 1, GSFA may, in its sole discretion, cancel the Purchase Agreement entered into between the parties.

2. Multiple Unit Purchase – If the Purchase Price includes pricing for multiple units, the price stated on this Proposal shall only be valid if the quantity of Products being proposed are purchased at the same time, pursuant to the same Purchase Agreement.

3. Stock / Demo Units – If applicable, any stock/demo units, including those identified by this Proposal, are available for sale on an as-is, first-come and first served-basis. Regardless of this Proposal, the first Customer to enter into a Purchase Agreement identifying any such stock/demo unites shall obtain said units.

4. Order Changes – The Customer may request that GSFA incorporate a change to the Product or the Specifications for the Product by delivering a written change order to GSFA, which shall include a description of the proposed change sufficient to permit GSFA to evaluate the feasibility of such change (a "Change Order"). GSFA will provide Customer a written response (a "Response") stating (i) whether GSFA will accommodate such Change Order (which GSFA may decide in its sole and absolute discretion) and (ii) the terms of the modification to the order, including any increase or decrease in the Purchase Price resulting from such Change Order, and any effect on production scheduling or Delivery resulting from such Change Order. Customer shall have seven (7) days after receipt of the Response to notify GSFA as to whether Customer desires to make the changes GSFA has approved in the Response. In the event Customer counter-signs GSFA's Response, Customer shall pay the increase (or be refunded the decrease) in the Purchase Price prior to final delivery to Customer location.

5. Force Majeure – GSFA shall not be responsible nor deemed to be in default on account of delays in performance due to causes which are beyond GSFA's and manufacturer's control and which make GSFA's performance impracticable, including but not limited to wars, insurrections, strikes, riots, fires, storms, floods, other acts of nature, explosions, earthquakes, accidents, any act of government, delays in transportation, inability to obtain necessary labor supplies or manufacturing facilities, allocation regulations or orders affecting materials, equipment, facilities or completed products, failure to obtain any required license or certificates, acts of God or the public enemy or terrorism, failure of transportation, epidemics, quarantine restrictions, failure of vendors (due to causes similar to those within the scope of this clause) to perform their contracts or labor troubles causing cessation, slowdown, or interruption of work.

6. Cancellation/Termination – In the event Customer and GSFA enter into a Purchase Agreement and Customer thereafter cancels or terminates the Purchase Agreement, GSFA will charge a cancellation fee as follows: (a) 10% of the Purchase Price after order is accepted and entered by GSFA; (b) 20% of the Purchase Price after completion of the pre-construction phase of the order process; and (c) 50% of the Purchase Price after the requisition of any materials or commencement of any manufacturing or assembly of the Product by either GSFA or the manufacturer of the Product. The tier of cancellation fee applicable to any cancellation shall be in the sole and absolute discretion of GSFA.

7. State Sales Tax – Customer shall be responsible for the cost of state sales tax associated with, or attributable to the Product. The taxes owed by Customer for the Product is subject to adjustment for the applicable state sales tax rate in effect when the Product is delivered to the Customer. Therefore, the sales tax will be increased or decreased at the time of delivery if a change in the sales tax rate has occurred, in which case Customer shall pay GSFA (or be refunded by GSFA) the applicable change in sales tax.

8. Proposal Expiration – After the Expiration Date shown on page one of this Proposal, Customer shall require GSFA's written consent to accept this Proposal.

9. Governing Law – This Proposal is to be governed by and under the laws of the state of California.

Thank you for providing Golden State Fire Apparatus, Inc. with the opportunity to provide this proposal. If you have any questions regarding the options presented or need additional options, please contact me.

Sincerely,

Rich Myers
Golden State Fire Apparatus, Inc.

I, _____authorized representative of CITY OF MILPITAS FIRE DEPARTMENT agrees to purchase the proposed Product(s) and agree to the terms and conditions of this proposal and the specifications hereto attached.

SIGNATURE: _____

TITLE: _____ DATE: _____

Component List

Customer:	Milpitas Fire Department	Spec Number:	5116
Address:	777 S. Main Street	Job Number:	
City, State Zip:	Milpitas CA 95035	Spec Date:	August 12, 2020
Contact:	Richard Frawley, DC	Body:	Rescue Side, Alum, 114
Sales Rep:	Rich Myers	Chassis:	RAM 5500 - 4x4 - Diesel - 4 Door
Dealership:	Golden State Fire Apparatus, Inc.	Tank:	400 Gallons, Poly

Line	Option	Qty	Description
001	100536.2	1	Paint Layout (Cab Repaint) Industrial Quality
002	100520.3	1	Window Tint (SPECIFY)
003	100008.1	1	RAM 5500 - 4x4 - Diesel - 4 Door (2020)
004	203807.1	1	Chassis 60" CA
005	100037.1	1	Power Package (Electric Windows, Locks, Mirrors)
006	100445.2	1	Bumper Platform,, Small Truck
007	100447.1	1	Bumper Hose Compartment - Center (Without Lid)
008	100681.1	1	Suspension System, RAM, 4x4, 6" 4 Link
009	100048.1	1	Tires and Wheels, Super Single 335/80 R20 (4)
010	100053.1	1	Spare Tire and Wheel, Super Single 335/80 R20 (1)
011	100055.1	1	Spare Tire, Top of Tank
012	203452.1	1	Skeeter Aluminum Custom Bumper, Bed Lined BLACK
013	100058.1	1	Mud Flaps, Rear Wheels, SBT Logo
014	100063.1	1	1/4" Skid Protection Panel
015	100065.1	1	Transfer Case, Skid Protection Panel
016	203901.1	1	Electric Fold Down Steps, Amp Research
017	100186.1	1	NO -- Cab Protection
018	100086.1	1	Cab Console, Poly, Custom
019	100372.1	1	NO -- Cab 2nd Row Poly Compartment
020	203879.1	1	Warn Synthetic Winch Rope, 100' x 3/8", 16,500 lbs.
021	100082.1	1	Winch, Warn, #M16ti, Electric, Front Mount, 16,500#
022	100178.1	1	Receiver, Rear, Winch/Rope/Trailer, 10,000#
023	100242.1	1	Pump, Hale, Aux, Diesel, HPX75-KBD 24 Kubota
024	100423.1	1	Thermal Relief Valve
025	100272.1	1	Standard Stainless Steel Manifold
026	100285.1	1	Valves, S/S, Quarter Turn
027	100483.1	1	Hose Threads
028	100263.1	1	Exhaust System, Vertical, Rain Cap, Aux Pump
029	100307.1	1	Primer, Electric, Aux Pump, Additional or IPOS
030	100266.2	1	Pump Enclosure - Diesel Pump
031	100265.1	1	Pump Control Panel Enclosure
032	203950.1	1	Dual Pump Controls (Electronic), Diesel Pump
033	100267.1	1	Pump Fuel from Chassis
034	100256.1	1	Battery Supply, 12V, Chassis, Master Switch & Solenoid
035	100255.1	1	Aux Fire Pump Mntg, P/S Rear, Bolted
036	100254.1	1	Pump Engine Oil Drain
037	100253.1	1	Pump Drain, Master Drain--Low Point
038	100270.1	1	Intake, Gated, 2.5"FM, Rear, w/2.5" Plug, Aux Pump, Direct Vlv Cntrl
039	100283.1	1	Tank-To-Pump, Water Tank, 2.5", Install

040	100282.1	1	Tank Fill and Cooling Line, Water Tank, 1.5" Aux Pump
041	100278.1	1	Discharge, .75"GH, Rear, Garden Hose Outlet
042	100274.1	1	Discharge, 2.5", Rear, 2.5"FM x 1.5"M, 1.5" cap
043	100522.2	1	Discharge, 1.5", Front Bumper
044	100441.1	1	Discharge, 1.5", Front Body (Through Tank)
045	100288.1	1	Hose Reel, Hannay, D/S Mount, Elec Rewind, Alum
046	560389.6	1	HOSE REEL ENCLOSURE
047	100291.1	1	200 Foot Reel Capacity
048	100295.1	1	Hose Reel Discharge, 1" Valve and Flex-Hose, Local Cntrl
049	100302.1	1	Nozzle Mounting
050	100301.3	1	Hose, Water, 800#, 3/4" x 200''
051	100303.1	1	Roller, Hose Reel, Top
052	100280.1	1	Ground Sweep Discharges, Front Bumper
053	100305.6	1	Whip Hose Lines, (2) Front Body 1" x 10', Booster Hose, 800#, w/cplgs
054	100261.1	1	Foam System, FoamPro, 1601, Class A
055	100226.1	1	Water Tank Gauge, Class 1, Rear & Cab
056	100200.1	1	Water Tank Capacity, 400 Gallons, Poly
057	100203.1	1	Water Tank, Specs
058	100204.1	1	Water Tank Shape, Rectangular
059	100205.1	1	Water Tank, NFPA Compliance
060	100206.1	1	Tank Gauge, Translucent Tank Sight Level
061	100207.1	1	Fill Tower, Water Tank, 12" x 12" x 6", D/S Rear Corner
062	100209.1	1	Overflow, Water Tank, 3" PVC Pipe, <500G
063	100211.1	1	NO -- Water Tank Sump
064	100215.1	1	Pump to Tank, Fill Connection, 1.5", 300 GPM Flow
065	100216.1	1	Water Tank Drain Plug, 1.5"
066	203831.1	1	Tank Access Ladder, 1" Aluminum Tubing
067	100223.1	1	Perimeter Wall Around Tank
068	100228.1	1	Foam Tank Capacity, 20 Gallons, Class A, Poly
069	100232.1	1	Foam Tank, Fill and Vent, Class A
070	100233.1	1	Foam Tank to Foam System, 3/4"
071	100235.1	1	Foam Tank Drain and Valve, 3/4"
072	100239.2	1	Foam Tank Gauge, Class 1, Class A, Rear & Cab
073	100549.1	1	Rescue Side, Alum, 114" x 96", 60CA
074	203801.1	1	DA Finish Body and Compartments/Trays
075	100121.1	1	Front of Body, 22 deg Corners
076	100141.1	1	Transverse Compartment (Rescue-Side) 18"W
077	560390.5	1	Transverse Tray
078	100144.2	1	Compartment, Drivers Side, Lift-Up Door
079	100148.2	1	Compartment, Passengers Side, Lift-Up Door
080	100150.1	1	NO -- Underbody Compartments, Front Body
081	100585.1	1	Cmpt Under Rear Bdy, D/S & P/S, Alum, 20" W x 15"H x 23"D, Vert Hingd Dr
082	203878.2	1	Dividers For Hard Suction, Rear Center Under Body Compartment
083	100159.3	1	Rear Center Under Body Compt, Drop Down Door
084	100166.1	1	Equipment Tray, Alum, UHMW slide
085	100160.2	3	Compartment Ventilation
086	100161.2	3	Key Locks, Compartments, Hinged Doors
087	100720.2	3	Compartment Lights, LED Strip Light
088	100163.2	3	Compartment Light Door Switches, Automatic
089	100164.1	1	Door Ajar Light, Flashing LED, Clear Lens
090	100169.3	1	Hose Tray, Driver's Side, 72 in. long
091	100173.1	1	NO -- Hose Tray, Passenger Side
092	100382.3	1	Tool Tray, Passenger Side, 72 in. long.

093	100175.1	1	NO -- Tool Tray, Drivers Side
094	200317.1	1	I-Zone Brackets
095	100180.1	1	Rear Step, Pull out and drop down
096	100181.1	1	Step, Sig-4, Folding, Lighted, DS REAR(1)
097	100692.1	1	Side Body Access Steps, Stirrup (2)
098	100325.1	1	Fuse Box
099	100326.1	1	Chassis Harness
100	100327.1	1	Wiring Harness, Body Electrical
101	100090.1	1	Battery Master Disconnect, 12V
102	100092.1	1	NO -- Battery Charger
103	100328.1	1	Clearance Lights, LED, DOT
104	100329.1	1	License Plate, Mount, Lighting
105	100330.1	1	Stop/Tail/Turn Lights, Whelen M6BTT/M6FC
106	100331.1	1	Back up Lights, Whelen M6 Series, LED,
107	100095.1	1	NO -- Trailer Plug
108	100712.1	1	FRC SoBrite LED Off-Road Lights, 6' (2)
109	100070.1	1	No -- Bumper Ground Lights
110	200312.1	1	Ground Lights, Cab, 4 Door, LED STRIPS
111	100183.1	1	Ground Lights, Under Rear Step, LED (2), Grote #63871
112	100184.1	1	Body Work Lights, LED, (4), Grote #63871
113	100318.1	1	Scene Light, Combo, Rigid 20"
114	100322.1	1	Scene Light, (6) Rigid Dually
115	100438.1	1	GPS Unit
116	100503.1	1	Tilt Meter
117	100108.2	1	Back-Up Camera, Rear View Safety, (2) cameras
118	100099.2	1	Radio, Fire, Installation, Purchaser Supplied
119	100620.2	2	Radio, Fire, Installation, Purchaser Supplied - Antenna Only
120	100101.1	1	NO -- Intercom System
121	100324.1	1	Back Up Alarm
122	203773.1	1	Whelen Cencom Carbide, Electronic Siren
123	100313.1	1	Speaker, Whelen, #SA315P, 100 Watt
124	100310.1	1	Lightbar Mounting, Headache Rack, Alum, Enclosure Protection
125	100309.1	1	Lightbar, Whelen,Legacy, 54"
126	100315.2	1	Warning Lights, Whelen, M-7 Series (12) Lights
127	100570.1	1	Traffic Advisor, Whelen, TAM85
128	100335.1	1	Door Graphic Emblems, (2) Custom
129	203904.1	1	No Cab Roof Lettering
130	100337.1	1	Stripe, Cab/Body, Single Reflective, 4"
131	100340.1	1	NO -- Keep Back Lettering
132	100342.1	1	NO -- Front Bumper Chevron
133	100345.1	1	Stripe, Reflective, SCOTCHLITE, Chevron, Rear
134	100346.1	1	Capacities Placard, Reflective
135	100347.1	1	NO -- Nozzles
136	100349.1	1	NO -- Spanner Set
137	100388.2	1	Suction Hose
138	100389.1	1	Barrel Suction Strainer
139	100040.1	1	Chassis Prep, Commercial Chassis
140	100041.1	1	Label Seating (Based upon # of Seated Positions)
141	100042.1	1	Label, Data, Seat Belt, Chassis Manufacturer Supplied
142	100043.1	1	Label, Noise Danger, Personnel
143	100135.1	1	Label, Data, "Do Not Ride On Rear Step"
144	100136.1	1	Emblems, Skeeter Brush Trucks (5)
145	100196.1	1	Final Assembly, Skeeter Brush Trucks, Hillsboro, TX

146	100361.1	1	Operational Pump Test, SBT
147	100362.1	1	12V Electrical Load Analysis
148	100363.1	1	NFPA Certificate
149	100365.1	1	Road Test, 10 miles
150	100366.1	1	Skeeter Warranty, 5-Year Parts & Labor, 10-Year Body Integrity
151	100369.1	1	Tank Warranty, Limited Lifetime
152	100351.1	1	Pre-Construction Conference, At Factory
153	100651.1	1	Apparatus Drawings
154	100353.1	1	Payment Terms, 100% on Delivery and Acceptance
155	100356.1	1	Training, Factory Supplied, Factory location
156	100358.1	1	Delivery, Purchaser Pickup

Specification for:

NWCG Type 5 Wildland Engine
RAM 5500 - 4x4 - Diesel - 4 Door
Rescue Side, Alum, 114

Submitted To:

Richard Frawley, DC
Milpitas Fire Department
777 S. Main Street Milpitas, CA 95035

Specification **5116**
August 12, 2020

Prepared by:

Rich Myers
Golden State Fire Apparatus, Inc.

Proposal

We are pleased to submit the following specifications to you for a **Skeeter Type 6** per your request for quotation. The following paragraphs will describe in detail the apparatus proposed. Loose equipment not specifically requested will not be provided.

Skeeter Brush Trucks, LLC. a wholly owned company of Siddons-Martin Emergency Group, is a custom fire apparatus manufacturer specializing in Brush-Grass-Wildland fire fighting vehicles. Our 22,000 square foot manufacturing facility is located in Hillsboro, Texas and is operated by some of the most experienced wildland firefighting vehicle manufacturing individuals in the business. Our performance and quality minded approach to manufacturing generates some of the most reliable vehicles in the industry, thus yielding a very high return on investment.

Skeeter Brush Trucks, LLC. provides the very best sole source product and service solutions to the fire service. Skeeter Brush Trucks LLC carries $1,000,000 in liability insurance, with $3,000,000 in excess umbrella liability insurance. The opportunity to place this Skeeter Brush Truck in your department is greatly appreciated and we are certain it will fulfill your every requirement. We look forward to working for you.

Siddons-Martin Emergency Group sales and service professionals are dedicated and experienced in all aspects of the fire apparatus business. Our core business is the sales and service of fire apparatus.

Service Advantage

Siddons-Martin Emergency Group currently staffs sixteen (16) service centers located throughout Texas, Louisiana, and New Mexico, and maintains a fleet of service vehicles to provide on-site service of your SKEETER Brush Truck. The Siddons-Martin Emergency Group Service Department is dedicated to the fire service and provides service and maintenance exclusively on fire apparatus. Siddons-Martin Emergency Group employs numerous EVT trained technicians and is constantly engaged in continuing factory and EVT training classes and programs in order to stay abreast of the rapidly improving technologies incorporated within today’s fire apparatus. SMEG is an authorized sales and service dealer for Pierce Mfg., and an authorized service center for Waterous, Hale, and Darley fire pumps, and an OEM distributor for all major fire equipment accessories.

Construction and Design

Skeeter Brush Trucks body and component designs are engineered. Body construction (unless otherwise noted) is done in-house, using the best in design and materials. RBM's for body frames are among the very highest in the industry. Wiring harnesses are custom manufactured in-house, and meet or exceed OEM standards. All wiring is protected, run through conduit, and distributed through one, easily accessed, sealed control box.

Chassis Operation Manual

The chassis manufacturer shall provide one (1) operational manual.Â This manual may be in either a notebook type binder, with reference tabs or a compact disk (CD) with all of the printed material in an electronic format (Adobe Acrobat PDF).

Fire Pump Operational Manual

A fire pump service, instruction, and operational manual shall be supplied.Â This manual may be in either a notebook type binder, with reference tabs or a compact disk (CD) with all of the printed material in an electronic format (Adobe Acrobat PDF).

Foam System Operational Manual

A foam system service, instruction, and operational manual shall be supplied.Â This manual may be in either a notebook type binder, with reference tabs or a compact disk (CD) with all of the printed material in an electronic format (Adobe Acrobat PDF).

Apparatus Operational Manuals

The chassis manufacturer shall provide one (1) operational manual. This manual may be in either a notebook type binder, with reference tabs or USB thumb drive with all of the printed material in an electronic format (Adobe Acrobat PDF).

100536.2 - CAB PAINT, INDUSTRIAL QUALITY

1. Cab Color: Department Red (PIERCE RED 644)
2. Cab Secondary Color: (PIERCE BLACK # 735)
3. Description: Bottom of Windows Up Black
4. Bumper Color: Black Bed Liner
5. Wheel Color: Black
6. Body Color: Painted PIERCE RED 644
7. Cab Steps: Black

THIS PAINT OPTION INCLUDES PAINTED DOOR JAMBS AND SMOOTH PAINT LINE

100520.3 - WINDOW TINT

Window tinting for all windows will be provided.

The tint color shall be: black
The front tint % shall be: none
The rear tin % shall be: 8%

100008.1 - CHASSIS SPECIFICATIONS

One (1) RAM D5500 rear axle drive 4 x 4, dual rear wheels (DRW), four door, SL cab and chassis

GVWR: 19,000 pounds

Wheelbase: 172.2"

Bumper and Grille: black

Tow Hooks: front loops

Front Axle and Suspension: 7,250# front axle, 7,250# front suspension package, stabilizer bar, front shock

Tires: two (2) front tires shall be 225/70R19.50, radial all weather highway tread

Front Wheels: two (2) 19.50" x 6.00" steel disc, ten (10)-hole pattern steel disc wheels, GRAY

Rear Axle and Suspension: 13,500# wide track rear axle, 13,500# suspension package, stabilizer bar, limited slip

4.88 gears

Tires: four (4) 225/70R19.50 all weather type radial tires

Rear Wheels: four (4) 19.50" x 6.00" steel disc, ten (10)-hole pattern steel disc wheels, GRAY

Braking System: four (4) wheel disc brake system with an Anti Lock (ABS)

Engine:
- Model: Cummins 6.7 turbo-charged diesel
- Number of Cylinders: Six (6) "I6" configuration
- Displacement: 6.7 liters
- Rated Brake Horsepower: 305 at 2800 rpm
- Torque: 610 ft lbs
- Turbocharger
- Urea Exhaust Treatment Supplement

Cooling System: a coolant mixture protected to -30 degrees Fahrenheit

Exhaust System: horizontally mounted, discharge on passenger's side aft of wheels

Fuel Tank: 52 gallon rear mounted, driver's side filler extension

Transmission: six speed automatic

Steering: power steering system

Batteries: two (2) 78 amp-hr 730CCA 12-volt batteries

Alternator: single 180 amp 12 volt

Cab Construction: SL Series four (4) door steel construction, sun visors, tinted glass, roof clearance lights, grab handles interior

Mirrors: manual telescope fold-away in/out for view.

Cab Paint: single color,

Safety: air bags front

Climate Controls: controls for heat, defroster, and air conditioning

Window and Door Controls: manual

Cab Instruments: standard type, four (4) rocker switches

Drivers and Passenger Seat: vinyl bucket type seats with three (3) point safety harness, bench rear seat.

Printed Manuals: one (1) printed chassis operation manual

Cab Accessories: radio, two radio speakers and antenna

RAM Warranty: Entire Vehicle: 3 year/36,000 miles
Engine: 5 year/100,000 miles
Drivetrain: 5 year/100,000 miles

203807.1 - 60" CAB TO AXLE

The chassis Cab to Axle measurement shall be 60".

100037.1 - POWER PACKAGE

The chassis shall be equipped with power locks, windows, and heated power mirrors.

100445.2 - 12" BUMPER PLATFORM

There shall be an extension, up to 12" for the front bumper. It shall be covered in polished aluminum diamond plate from the OEM grill to rear of the bumper extension and it shall be properly supported to hold up to 250lbs.

NOTE: This is NOT intended for personnel use while vehicle is in motion.

100447.1 - BUMPER HOSE COMPARTMENT - CENTER (WITHOUT LID)

The front center of the bumper extension shall be equipped with aluminum hose storage compartment with a capacity of 50 feet of 1-1/2" hose and nozzle. The floor of the compartment shall have plastic grating and drain holes installed. The compartment shall be equipped with a nylon safety strap and latch to comply with applicable NFPA standards.

100681.1 - CHASSIS SUSPENSION SYSTEM

A 6" heavy duty, 4 link, off road suspension lift kit with heavy-duty off road shocks shall be installed on the RAM chassis. The system is designed to significantly increase wheel travel, in addition to giving the chassis increased ground clearance.

NOTE: THE END USER MUST BE AWARE THAT LIFTING THE CHASSIS AND ADDING LARGER TIRES WILL ALTER THE VEHICLE'S CENTER OF GRAVITY. THIS WILL AFFECT THE VEHICLE'S HANDLING CHARACTERISTICS.

IN ADDITION, THE LARGER TIRES WILL AFFECT STOPPING DISTANCE. THE SYSTEM IS NOT RECOMMENDED FOR VEHICLES THAT OPERATE PRIMARILY IN AN ON ROAD ENVIRONMENT. THE SYSTEM IS HIGHLY RECOMMENDED FOR VEHICLES THAT OPERATE IN OFF ROAD OR ROUGH TERRAIN ENVIRONMENTS.

A SPEEDOMETER CALIBRATOR SHALL BE INSTALLED TO CORRECT THE TIRE SPEED ON THE CAB SPEEDOMETER.

TURNING RADIUS MAY BE REDUCED (if needed) 1-3 DEGREES TO PREVENT TIRE RUB.

100048.1 - FRONT AND REAR SUPER SINGLE TIRES AND WHEELS

There shall be four (4) super single front and rear tires, There shall be 335/80R20 22PR, severe service radial all terrain tread. The tire weight rating shall be load range "M" (22 ply, 6780 lbs), and the speed rating shall be "K" (68 mph). There shall be four (4) wheels for the front and rear tires. There shall be 20" x 11.00" disc, ten (10)-hole pattern special order for Military/Government on/off road application with a rating to match or exceed the tire rating.

100053.1 - SPARE SUPER SINGLE TIRE AND WHEEL

There shall be one (1) super single spare tire. It shall be 335/80R20 22PR, severe service radial all terrain tread. The tire weight rating shall be load range "M" (22 ply, 6780 lbs), and the speed rating shall be "K" (68 mph). There shall be a 20" x 11.00" disc, ten (10)-hole pattern special order wheel for Military/Government on/off road application with a rating to match or exceed the tire rating.

100055.1 - MOUNTING SPARE TIRE AND WHEEL

The spare tire and wheel shall be mounted on top of the water tank.

203452.1 - FRONT BUMPER

The factory bumper shall be removed and replaced with a custom fabricated, heavy duty aluminum bumper and grille guard protection assembly.

The bumper and grille guard shall be sprayed with black bed liner.

100058.1 - REAR MUD FLAPS

The chassis shall be supplied with mud flaps with the manufacturer's logo. The mud flaps shall be installed behind the rear wheels. The mudflaps shall extend to no more than six inches of the ground, and shall cover the entire width of the rear tires when viewed from the rear of the vehicle.

100063.1 - FRONT BUMPER SKID PLATE 1/4"

A 1/4" (0.25") aluminum skid plate will be installed from the bumper area extending below the bumper and chassis radiator area.

100065.1 - TRANSFER CASE SKID PLATE, LONG

A removable heavy .250" aluminum skid plate assembly shall be installed to protect the oil pan and transfer case.

203901.1 - ELECTRIC FOLD DOWN CAB STEPS

The cab shall be equipped with two (2) AMP Research electric fold-down cab steps, one (1) each side. The steps shall deploy automatically when the corresponding cab door opens, and retract when the door closes.

100086.1 - CUSTOM FABRICATED CONSOLE AND SWITCH PANEL

A custom fabricated poly (plastic) electrical console and enclosure shall be located between the driver's and passenger's seats. It shall house the siren, switches, cup holder, and auxiliary equipment.

203879.1 - SYNTHETIC WINCH ROPE

For Warn Winches with 16,500 lb. (7484 kg) pull rating or less, PN 96040: 100' x 3/8" (24.4m, 9.5mm) Spydura Pro Synthetic Rope shall be installed on the winch drum.

100082.1 - WINCH -- FRONT MOUNTED

A Warn Winch Company Model 16.5ti PN68801 16,500# capacity 12-volt electric powered winch shall be shall be permanently installed at the front center bumper extension area . The unit shall include the following:

a) 16,500# rated load
b) Thermo-metric indicator for motor temperature monitoring
c) Cable roller guide assembly
d) 90 feet of 7/16" diameter galvanized cable and fairlead & safety hook assembly shall be supplied.
e) Winch speed shall be constant with forward and reverse modes controlled with a push button device at the end of a 12 feet (12') minimum control cable which connects to the winch through a weatherproof receptacle.

100178.1 - REAR RECEIVER

The rear of the chassis shall be equipped with one (1) square steel tube receiver assembly for high or low angle rescue, trailer use, and winch applications. It shall be the same size as a Class III trailer hitch and shall be attached to the chassis frame assembly. The receiver shall be rated at approximately 10,000#. The rear reciever assembly shall be equipped with two (2) heavy duty rear tow loops, one (1) each side.

100242.1 - FIRE PUMP SPECIFICATIONS

A Hale HPX75-KBD 24 fire pump with diesel engine radiator cooled shall be installed on the apparatus to meet the following performance criteria:

155 GPM @ 50 PSI
127 GPM @ 150 PSI
102 GPM @ 200 PSI
55 GPM @ 300 PSI

The pump shall include the following components:

Self Adjusting Mechanical Pump Seal
Bronze Alloy Impeller with Double seal ring design to eliminate end thrust
Renewable double-labyrinth type, solid Bronze Impeller Seal Ring
Precision-ground Stainless Steel Pump Shaft splined for broached impeller hubs. The pump shall have hard ceramic coating under the packing glands to reduce friction
Deep Groove Radial-Type Ball Bearings for pump shaft
High-strength aluminum alloy pump casing with bronze fittings
Aluminum alloy transmission cast with precision spur cut gears from heat-treated alloy steel
Dependable splash-type lubrication system
24 HP Kubota diesel powered engine
Adjustable mechanical type governor and throttle control lever
12-volt electric start with rope recoil backup
Automatic compression release
40 Amp alternator

There shall be an electric oil less primer assembly installed for the auxiliary fire pump. The electric primer assembly shall be capable of taking suction and discharging water with a lift of 10 feet in not more than 30 seconds with the pump dry, through 20 feet of suction hose of appropriate size. A vacuum test with a capped suction of at least 20' long shall develop 22" of vacuum and hold a vacuum with a drop not in excess of 10" in 5 minutes. Priming pump shall be activated by a mechanical/electric valve with a single pull control located at the pump operator's panel area.

Hale Products, Inc., herein referred to as Ã¢â¬Åâ¬ÅHale", warrants products of its manufacture to be free from defects in material and workmanship, under normal use and service, for a period of three years (3). This limited warranty is effective only if the equipment or apparatus is used as directed, is not subjected to misuse, negligence or accident, and is not altered, treated or repaired by someone other than Hale or its designee. Additional details can be found in the Skeeter user's manual for this vehicle.

100423.1 - THERMAL RELIEF UNIT

There shall be a Trident model brass thermal relief valve installed in the manifold allowing auto dump at 143? water temperature. The thermal relief valve shall auto close at 118? water temperature. There shall be a hose directing water under the body, but in a location visible by the pump operator.

100272.1 - STAINLESS STEEL PLUMBING SYSTEM

The auxiliary fire pump plumbing system shall be built mostly of stainless steel piping, fittings, and connections. Victaulic couplings shall be installed to permit flexing of the plumbing system and allow for quick removal of piping or valves for service. Tank connections and remote plumbing shall use high-pressure flexible piping. Flexible hose couplings shall be threaded stainless steel or Victaulic connections.

100285.1 - VALVES

All valves used in the plumbing installation shall be stainless steel quarter turn full flow type. The plumbing installation shall include quarter turn ball valves with local "on-valve" handle control, with custom embossed labeling for each valve.

100483.1 - HOSE THREADS

The hose threads shall be National Hose Standard (NH) on all base threads on the apparatus intakes and discharges, unless otherwise specified.

100263.1 - EXHAUST SYSTEM

The auxiliary fire pump and engine assembly shall have a muffler and vertical exhaust pipe. The exhaust pipe shall be directed upward and away from the pump operator. A rain cap will be installed on the vertical exhaust outlet.

100307.1 - PRIMER ASSEMBLY

There shall be an electric oil less primer assembly installed for the auxiliary fire pump. The electric primer assembly shall be capable of taking suction and discharging water with a lift of 10 feet in not more than 30 seconds with the pump dry, through 20 feet of suction hose of appropriate size. A vacuum test with a capped suction of at least 20' long shall develop 22" of vacuum and hold a vacuum with a drop not in excess of 10" in 5 minutes. Priming pump shall be activated by a mechanical/electric valve with a single pull control located at the pump operator's panel area.

100266.2 - FIRE PUMP ENCLOSURE

The fire pump house shall be installed around the pump and engine. The enclosure shall be fabricated of .125" aluminum. Hinged doors and access panels shall be installed for servicing of the engine. An engine and pump control panel shall be provided at the rear of the vehicle. The following shall be located at the operator's position: 2.5" discharge pressure gauge start/stop control throttle control low oil pressure warning light tachometer (if so equipped) The pump control panel shall be mounted at the passenger's rear corner of the body.

100265.1 - PUMP CONTROL PANEL ENCLOSURE

A pump panel enclosure shall be installed. The enclosure shall be fabricated of .125" aluminum with a DA finish, bolted in place with a pump instrument panel installed. An engine and pump control panel shall be installed in the pump panel enclosure. The following shall be on the pump panel: 2.5" discharge pressure gauge start/stop control throttle control low oil pressure warning light The pump control panel shall be installed at the passenger's side rear corner of the body.

203950.1 - DUAL ELECTRONIC PUMP CONTROLS, DARLEY DIESEL PUMP

There shall be a dual electronic pump control system. One (1) control panel shall be installed in the pump control panel at the rear of the truck, and one (1) control panel shall be installed in the center console of the cab.

NOTE: ***THE SYSTEM WILL ONLY WORK WITH DIESEL PUMPS ***

The dual system monitors and displays:
ï· Pump discharge pressure (PSI or
ï· Engine RPMs
ï· Engine temperature with warning light
ï· Engine Oil pressure with warning light
ï· Battery voltage
ï· Hour meter
ï· Power on (indicator light)

The system has controls for:
ï· Ignition on/off toggle switch
ï· Start/stop push button
ï· Electronic throttle toggle switch control
ï· Push button for wiring to an electric primer
ï· Automatic preheat timing
ï· 15-amp circuit protection

100267.1 - FUEL SYSTEM FROM CHASSIS FUEL TANK

The fuel system for the auxiliary fire pump shall be plumbed from the chassis fuel system. There shall be a separate fuel pickup tube mounted in the chassis fuel tank specifically for a separate engine driven pump assembly.

There shall be an electric fuel pump with spin on fuel filter and flexible fuel hose furnished between the chassis fuel tank and the auxiliary pump.

100256.1 - ELECTRIC START WIRING TO CHASSIS

The 12 volt positive and negative cables shall be provided from the chassis battery to the fire pump area, wired through the master disconnect solenoid system. The cables shall have a circuit breaker installed at the chassis battery.

100255.1 - AUXILIARY FIRE PUMP MOUNTING PROVISIONS

The auxiliary fire pump shall be installed at the passenger's side rear of the body. The sub-structure shall have welded in mounting sub-plates between the structural members.

100254.1 - PUMP ENGINE OIL DRAIN

The fire pump engine shall have an oil drain line installed. It shall allow for easy oil draining.

100253.1 - FIRE PUMP MASTER DRAIN

The fire pump shall have a master drain at the bottom of the water pump housing.

100270.1 - 2-1/2" GATED INTAKE -- REAR

One (1) 2-1/2" gated suction intake shall be installed on rear area to supply the fire pump from an external water supply. The valve shall be controlled with a direct quarter-turn ball valve control handle and shall have 2-1/2" NH female thread with removable screen with plug.

100283.1 - TANK TO PUMP LINE INSTALLATION

The 2.5" tank to pump line shall be installed with a flexible hump hose connection and stainless steel clamps to the water tank. The valve shall be controlled with a manually operated handle directly on the valve.

100282.1 - WATER TANK FILL AND COOLING LINE

One (1) 1.5" fire pump to water tank refill and bypass cooler line shall be provided. The pump to tank valve shall be a 1.5" full flow quarter turn ball valve with local control handle. A 1.5" flex hose shall be installed to the water tank.

100278.1 - 3/4" GARDEN HOSE DISCHARGE -- REAR

One (1) .75" garden hose discharge shall be installed on the rear pump area, controlled by a quarter turn ball valve with local control handle. The discharge shall have a .75" male garden hose threads and cap.

100274.1 - 2-1/2" DISCHARGE -- REAR

One (1) 2-1/2" discharge shall be installed at the rear pump area, controlled by a quarter turn ball valve. The discharge shall have 2-1/2" NH male hose threads. The discharge shall be equipped with 2-1/2" female x 1-1/2" chrome plated brass reducer, 1-1/2" chrome cap and chain.

100522.2 - 1.5" FRONT BUMPER DISCHARGE - DRIVER'S SIDE

One (1) 1.5" discharge shall be piped to the front bumper area, located on the driver's side area. The discharge shall be piped with flexible 1.5" hose. The outlet shall terminate with stainless steel or chrome plated brass chicksan swivel outlet with 1.5" NH male threads. A 1.5" manually operated Akron T handle ball valve shall be installed at the bumper area. An additional front bumper 1.5" 1/4 turn discharge valve shall be installed on the rear manifold. There shall be a hose tray installed above the bumper extension skirt that will hold 50' of 1.5" hose.

100441.1 - FRONT OF BODY DISCHARGE (THROUGH THE TANK)

A 1.5" discharge shall be piped from the rear pump area to the front on the body. A 1.5" master control valve shall be installed at the rear pump manifold area with direct control handle.

100288.1 - HOSE REEL

One (1) Hannay aluminum hose reel shall be installed. The reel shall have leak proof ball bearing swing joint, adjustable friction brake, electric 12 volt rewind and manual crank rewind provisions. The reel shall be mounted on the driver's side rear corner of the flatbed body.

560389.6 - HOSE REEL ENCLOSURE

There shall be an enclosure built around the hose reel, made of aluminum. The rear facing portion of the enclosure shall provide for easy access to the reel and components for maintenance.

The enclosure shall be painted to match the rest of the bed and compartments.

100291.1 - REEL CAPACITY
Each hose reel shall have a capacity of 200 feet of hose.

100295.1 - HOSE REEL DISCHARGE
One (1) 1" discharge shall be piped from the fire pump to each hose reel with flexible high pressure hose. The quarter turn ball valve shall be on manifold.

100302.1 - NOZZLE MOUNT
Each 1" flexible hose discharge shall have a nozzle bracket installed to hold the nozzle in place.

100301.3 - HOSE REEL HOSE
One (1) 200' foot length of 3/4" water hose shall be installed on the hose reel. The hose shall be equipped with chrome plated pin lug couplings and have an 800 PSI working pressure.

100303.1 - HOSE REEL ROLLER
Each hose reel shall be provided with a Hannay center mounted stainless steel roller assembly.

100280.1 - GROUND SWEEP DISCHARGES -- FRONT BUMPER
Two (2) ground sweep discharge nozzles shall be installed, one each side of the front bumper. Each nozzle shall have a 1" electric control valve, switched independently in the cab. The discharges shall be equipped with removable ground sweep nozzles angled accordingly with a 180 degree total front sweep pattern. The flow rate shall be 15-30 gpm. Each nozzle shall have a custom fabricated brush guard installed to protect from damage when off road. The valves and manifold shall be protected from damage by the front bumper and skid plate. One (1) 1.5" front bumper ground sweep discharge shall be piped to the front bumper area. The discharge shall be controlled by a 1.5" manual override valve at the rear pump area. Flexible 1.5" diameter high pressure hose shall be provided from the pump to the sweep nozzles with low point drains where necessary.

100305.6 - MID BODY WHIP LINES, 800 PSI
Two (2) 3/4" x 10' long 800# working pressure hose whips with threaded couplings shall be installed at front of body, one each side, with swivels and securement devices.
PLUMBING TO MATCH WOODLAND

100261.1 - FOAM SYSTEM
A FoamPro part number S106-1600/2.0 electronic foam system shall be provided. The system shall be designed for use with Class A foam concentrate. The foam proportioning operation shall be designed for direct measurement of water flows and shall remain consistent within the specified flows and pressures. The system shall be capable of accurately delivering foam solution as required by applicable sections of the NFPA standards. The system shall be equipped with a control module suitable for installation on the pump panel. There shall be a microprocessor incorporated within the motor driver that shall receive input from the system's flow meter, while also monitoring the foam concentrate pump output. The microprocessor shall compare the values to ensure that the desired amount of foam concentrate is injected onto the discharge side of the fire pump. A "foam capable" paddlewheel-type flow meter shall be installed in the discharge side of the piping system. The control module shall enable the pump operator to: 1. Activate the foam proportioning system 2. Select the proportioning rates from 0.1% to 1.0% 3. See a "low concentrate" warning light flash when the foam tank level becomes low and in two (2) minutes, if the foam concentrate has not been added to the tank, the foam concentrate pump shall be capable of shutting down. A 12-volt electric motor driven positive displacement plunger pump shall be provided. The pump capacity range shall be 0.1 to 1.7 GPM at 200 PSI with a maximum operating pressure of 400 PSI. The system shall draw a maximum of 30 amps at 12 volts. The motor shall be controlled by the microprocessor which shall be mounted to the base of the pump. It shall receive signals from the control module and power the 1/3 horsepower electric motor in a variable speed duty cycle to ensure that the correct proportion of concentrate is injected into the water stream. A full flow check valve shall be provided in the discharge piping to prevent foam contamination of the fire pump and water tank. A 5 PSI opening pressure check valve shall be provided in concentrate line. Components of the complete proportioning system as described above shall include: 1. Operator control module 2. Paddlewheel flow meter 3. Pump and electric motor/motor driver 4. Wiring harnesses 5. Low level tank switch 6. Foam tank 7. Foam injection check valve 8. Main waterway check valve 9. Flowmeter and tee with NPT threads. The foam system shall be installed and calibrated to manufacturer's requirements. In addition the system shall be tested and certified by the apparatus manufacturer to applicable NFPA standards. The foam system design shall be tested and pass environmental testing in accordance with SAE standards. An installation and operation manual shall be provided for the unit. The system shall have a one (1) year limited warranty by the foam system manufacturer. The FoamPro 1600 Series foam system shall be provided with a six (6) foot control cable from the controller to the foam pump assembly. The FoamPro 1600 Series foam system shall be provided with a standard pump panel mounted FoamPro control head. A FoamPro part number 2660-0032 brass flowmeter shall be provided. The flowmeter shall be installed in the "foam capable"

discharge line. The flowmeter shall have maximum accuracy between the flow range of 15 GPM and 520 GPM and be capable of operation between 5 GPM to 625 GPM. The tee shall have NPT and Victaulic inlet and outlets connections. A FoamPro part number 6032-0018 instruction and system rating label shall be provided. The label shall display information for a FoamPro 1600 Series foam system and shall meet applicable sections of the NFPA standards. A FoamPro foam system schematic label shall be installed on the pump panel near foam controls. The label shall be a diagram of the FoamPro 1600 foam system layout and shall meet applicable sections of the NFPA standards.

100226.1 - WATER TANK GAUGES

One (1) Class 1 "Intelli-Tank" water tank level gauge shall be installed on pump panel. The tank level gauge shall indicate the liquid level on an easy to read LED display and show increments of 1/8 tank. A pressure transducer shall be mounted on the outside of the tank in an easily accessible area.

CAB MOUNTED -
One (1) Class 1 112124 "Intelli-Tank" mini water tank level gauge shall be installed in the cab or center console. The tank level gauge shall indicate the liquid level on an easy to read LED display and show increments of 1/4 tank.

100200.1 - WATER TANK SPECIFICATIONS

The water tank shall have a capacity of 400 gallons.

100203.1 - TANK BUILD SPEC

The water tank shall be constructed of black polypropylene, poly-welded and tested inside and out. The tank manufacturer shall define the floor, top, sides, ends, and baffles material thickness. The tank shall carry a lifetime warranty. The transverse and longitudinal swash partitions shall be interlocked and welded to each other as well as to the walls of the tank. The partitions shall be designed and equipped with vent holes to permit air and liquid movement between compartments. The tank covers shall be welded on top and bottom, and the transverse partitions, providing rigidity during fast fill operations. Drilled and tapped holes for lifting eyes shall be provided in the top area of the water tank. The water tank manufacturer shall certify the capacity of the water tank prior to delivery of the apparatus. This capacity shall be recorded on the manufacturer's data plate.

100205.1 - NFPA COMPLIANCE

The water tank construction shall conform to applicable NFPA standards.

100206.1 - WATER TANK SIGHT GAUGE

The water tank shall be equipped with translucent water level sight gauge in the rear wall of the tank.

100207.1 - FILL TOWER LOCATION

The tank fill tower shall be located in the driver's side rear corner of the water tank.

100209.1 - VENT AND OVERFLOW

The fill tower shall incorporate a vent and overflow system shall be designed into the water tank. The system shall include a 3" diameter pipe that functions both as an air vent while emptying the tank and as an overflow when filling the tank. The overflow shall discharge excess water below the frame rails of the vehicle.

100215.1 - PUMP TO TANK CONNECTION

An 1-1/2" connection shall be provided on the water tank for connection of the discharge side of the pump to the tank for filling purposes. The valves and hose required to complete this connection shall be supplied by the final assembler.

100216.1 - WATER TANK DRAIN PLUG

A 1.5" drain plug shall be installed in the bottom of the water tank under P/S wheel well for water tank draining and flush-out of debris.

203831.1 - TANK ACCESS LADDER

There shall be a tank access ladder installed at the rear of the water tank. It shall allow access from the body deck to the top of the water tank. It shall be made of 1" tubular aluminum.

100223.1 - PERIMETER WALL AROUND TANK

An 8" vertical poly wall shall be installed around the perimeter of the water tank to allow for storage on top of the water tank.

100228.1 - FOAM TANK SPECIFICATIONS

The Class A foam tank shall have a capacity of 20 gallons.

100232.1 - FOAM TANK AND VENTING PROVISIONS

The foam concentrate tank shall be provided with a fill pipe having a volume of not less than 2 percent of the total tank volume. The filler opening shall be capped with a sealed air-tight threaded cover. The fill opening shall be designed to incorporate a removable screen and shall be located so that foam concentrate from a five (5) gallon container can be dumped into the tank. The foam tank filler shall be equipped with a pressure/vacuum vent that enables the tank to compensate for changes in pressure or vacuum when filling or withdrawing foam concentrate from the tank. The pressure/vacuum vent shall not allow atmospheric air to enter the foam tank except during operation or to compensate for thermal fluctuations. The vent shall be protected to prevent foam concentrate from escaping or directly contacting the vent at any time. The vent shall be of sufficient size to prevent tank damage during filling or foam withdrawal. A color coded label or visible permanent marking that reads "CLASS A -- FOAM TANK FILL" shall be placed at or near the foam concentrate tank fill opening. An additional label shall be placed at or near any foam concentrate tank fill opening stating the type of foam concentrate the system is designed to use. Any restrictions on the types of foam concentrate that can be used with the system shall also be stated, along with a warning message that states "WARNING: DO NOT MIX BRANDS AND TYPES OF FOAM."

100233.1 - FOAM SYSTEM PIPING

A 3/4" fitting shall be provided on the foam tank for connection of the foam tank to the suction side of the foam system.

100235.1 - FOAM TANK DRAIN AND VALVE PROVISIONS

A 3/4" diameter connection, piping, and valve shall be installed for the foam tank for draining purposes.

100239.2 - FOAM TANK GAUGES

One (1) Class 1 foam tank level gauge shall be installed on pump panel. The tank level gauge shall indicate the liquid level on an easy to read LED display and show increments of 1/8 tank. A pressure transducer shall be mounted on the outside of the tank in an easily accessible area.

CAB MOUNTED One (1) Class 1 112124 ???Intelli-Tank" mini foam tank level gauge shall be installed in the cab or center console. The tank level gauge shall indicate the liquid level on an easy to read LED display and show increments of 1/4 of a tank.

100549.1 - CUSTOM RESCUE SIDE ALUMINUM BODY

The body will be a custom fabricated severe service rescue-side type, constructed of all aluminum. The body shall be 114" long by 96" wide, designed for a 60" cab to axle dimension. The body shall be specifically designed and engineered for off-road wildland firefighting.

MAIN FRAME
The body shall have 5" x 1.75" structural aluminum channel main frame rails. The body frame rails shall be isolated from the truck frame by .500" industrial isolators.

SUB-FRAME
The cross-members shall be 3" x 2 5/16"" structural aluminum I beams with cross-members on 12" centers.

MOUNTING
The body shall be bolted to the chassis frame rails at the rear end of the frame. There shall be brackets installed at the middle of the body frame to prevent side to side movement. The body shall be spring mounted at the front of the body frame. The flexible mounting system shall allow for body/chassis flexing during extreme off road conditions.

SQUARE CORNERS
The front corners of the flat-bed body shall be square.

HEADACHE RACK
The front of the body shall have a 2" formed aluminum tube headache rack. The rack shall extend the full width of the body and be attached to the front body corners. The assembly shall extend above the chassis cab and have mounting platform for installation of the light bar and two work lights. Wiring for the lights will be placed inside the tubing for protection. The headache rack shall have four (4) vertical 2" tubes for extra strength.

FENDER PANELS

The lower portion of the flat-bed body shall have fender panels over and aft of the rear wheel panel area. The panels shall be constructed of aluminum. The wheel well openings will be cut out to conform to the wheels.

REAR BODY PANEL
A vertical body panel shall be installed at the rear of the body constructed of .125" smooth aluminum. The panel shall house the running lights, taillights, back-up lights, and emergency lights. The body panel shall be angled to allow for a 27 degree angle of departure.

PROTECTIVE RAILS
The upper body area shall be protected with radius corner 1" diameter aluminum tube railing assembly installed around the top of the body. The corners of the body shall have vertical risers space in critical areas. The railings shall act as protection for the upper body structures when off road in heavy brush conditions. The rear upper body corner rails shall house the upper emergency lights and work lights.

SIDE BODY COMPARTMENTS, FRONT BODY -- DRIVER AND PASSENGER'S SIDES
Two (2) body equipment storage compartments shall be installed at the front of the body just behind the headache rack, one each side of the apparatus. The dimensions shall be approximately: 30" wide, 44" high, and 24" deep. The compartments shall be constructed of .125" aluminum on all exterior surfaces. Each compartment shall be equipped with a vertically hinged door with a single latch installed. The doors shall be equipped with gas operated door opening assistant cylinders.

Each vertical compartment shall have one (1) fixed shelf.

The compartments shall be equipped with:
-a lift up door with latch installed
-key type door locks.
-dual gas operated door opening assistant cylinders.
-a white LED strip light that is automatically controlled by a door activated switch.
-a louvered vent
-Turtle Plastics Turtle Tile Compartment Matting shall be installed in the compartment. Turtle Tile shall be black in color and lock together
design.

The actual door openings shall be approximately 3" smaller in dimension.

203801.1 - DA FINISH BODY AND COMPARTMENTS/TRAYS
The exterior surface of all body skins, compartments, and trays shall all be smooth DA aluminum finish. The surface shall be prepped, cleaned, and sanded in a small swirl finish.

ALL STEPPING SURFACES SHALL BE TREAD PLATE.

100121.1 - ANGLED CORNERS, BODY
The front corners of the body will be angled at approximately 22 degrees.

100141.1 - FRONT BODY TRANSVERSE COMPARTMENT, UPPER
A transverse compartment 96" long x 18" wide x 24" high (exterior dimensions) will be installed in front of the water tank, on the body floor. The compartment floor shall be lined with Turtle Tile. The actual door opening shall be approximately 3" smaller in dimension.

560390.5 - TRANSVERSE TRAY, FRONT OF BED, ABOVE TRANSVERSE COMPARTMENT
There shall be a tray installed at the front of the bed, above the transverse compartment. The tray and lid shall be constructed of .125" brushed smooth aluminum. The dimensions shall be approximately: 16" high, 22" wide, and 86" long

100144.2 - DRIVERS SIDE UPPER BODY COMPARTMENT
A body equipment storage compartment shall be installed on the flatbed surface, driver's side of the apparatus. The exterior dimensions shall be approximately 54" wide, 24" high, and 18" deep. The compartment shall be constructed of .125" aluminum tread plate on all exterior surfaces. The compartment shall be equipped with a lift up door with latch installed. The door shall be equipped with dual gas operated door opening assistant cylinders. Turtle tile shall be installed on the floor. The actual door opening shall be approximately 3" smaller in dimension.

100148.2 - PASSENGERS SIDE UPPER BODY COMPARTMENT

A body equipment storage compartment shall be installed on the flatbed surface, passenger's side of the apparatus. The exterior dimensions shall be approximately 54" wide, 24" high, and 18" deep. The compartment shall be constructed of .125" aluminum tread plate on all exterior surfaces. The compartment shall be equipped with a lift up door with latch installed. The door shall be equipped with dual gas operated door opening assistant cylinders. Turtle tile shall be installed on the floor. The actual door opening shall be approximately 3" smaller in dimension.

100585.1 - UNDER BODY COMPARTMENTS -- REAR BODY, D/S AND P/S

Two (2) under flat bed equipment storage compartments shall be installed under the flatbed surface, on the passenger's and driver's side of the apparatus, behind the rear axle. The exterior dimensions shall be approximately: 20" wide, 15" high, and 23" deep. The compartments shall be constructed of .125" aluminum tread plate on all exterior surfaces. The compartments shall be equipped with a vertically hinged door with latch installed. The compartment shall have turtle tile installed.

203878.2 - DIVIDERS FOR HARD SUCTION, REAR CENTER UNDER BODY COMPARTMENT

Three (3) dividers shall be installed on the driver's side of the rear, center, under body compartment, for storage of 8' lengths of hard suction. The dividers shall be approximately 6" apart, 5" tall, and run the depth of the compartment.

THIS OPTION REQUIRES 6" MAIN BEAMS FOR THE BED FRAME

100159.3 - UNDER BODY COMPARTMENT -- REAR RT SIDE

An under body work surface shall be installed under the flatbed surface located in the right side rear of the apparatus. The compartment shall be between the vertical body beams, upper floor surface, and an aluminum lower floor area. The compartment shall be equipped with a hinged drop down door with dual latches installed.

The tray shall slide out approximately 36". It shall have slide out rails to keep it centered. It shall be constructed with 3/16" smooth aluminum, and shall have a top, bottom, and open on the outside end.

SEE DRAWING

100166.1 - REAR SLIDE-OUT TRAY

The rear center compartment shall be equipped with an .190" aluminum slide out tray on UHMW plastic slide pads and poly rollers. The tray shall be full width and full length of the compartment interior.

100160.2 - INTERIOR COMPARTMENT VENTILATION LOUVERS (Qty: 3)

The interiors of the upper body compartments shall have louvered ventilation units.

100161.2 - COMPARTMENT DOOR KEY LOCKS (Qty: 3)

The hinged compartment doors shall be equipped with key type door locks.

100720.2 - COMPARTMENT LIGHTING, STRIP LIGHTS (Qty: 3)

Each upper body compartment shall be equipped with a white LED strip light.

100163.2 - AUTOMATIC COMPARTMENT DOOR LIGHT SWITCHES (Qty: 3)

Each compartment light shall be automatically controlled by a door activated switch.

100164.1 - DOOR AJAR LIGHT

A "door ajar" warning light shall be installed on the center console. The light shall be flashing red LED light with a clear lens.

100169.3 - HOSE TRAY -- DRIVERS SIDE

A hose storage tray shall be installed over the driver's side equipment compartment, on the driver's side of the apparatus. The exterior dimensions shall be approximately: 16" wide, 16" high, and 72" long. The hose tray shall be constructed entirely of .125" aluminum on all exterior surfaces. The assembly shall be equipped with a hinged lift up aluminum door on top, enclosed front panel, and open rear area. The hose tray shall be equipped with Turtle Tile floor covering. The actual door opening shall be approximately 3" smaller in dimension.

100382.3 - TOOL STORAGE TRAY/COMPARTMENT - PASSENGER SIDE

A tool storage compartment shall be installed over the passenger's side equipment compartment, on the passenger's side of the apparatus. The exterior dimensions shall be approximately: 16" wide, 16" high, and 64" long. The compartment shall be constructed of .125" aluminum on all exterior surfaces. The compartment shall be equipped with a hinged lift up aluminum door with a latch installed. The compartment shall be equipped with Turtle Tile floor covering. The actual door opening shall

be approximately 3" smaller in dimension.

200317.1 - I-ZONE BRACKETS

Two easily removable or flip out I Zone brackets will be provided and mounted at the rear of the apparatus, one on each side. The brackets will be designed with adequate reinforcement to eliminate flexing of the body and not interfere with any of the rear facing lights when carrying hose. The brackets will be mounted beside upper grab rail on the rear and as high as practical

100180.1 - REAR PULL OUT STEP

There shall be a rear "Pull-Out-Fold-Down" step located at the driver's side rear of the apparatus, step shall be stowed in a pocket under the rear of the unit. Storage pocket shall be fabricated to allow easy access to deploying for operation.

100181.1 - FOLDING STEP

A Signature 4 lighted 8" square folding step of die cast zinc shall be installed. The step shall comply with NFPA non-slip standards and shall be installed on the rear driver's side of the body. The step shall be equipped with lighting to NFPA standard.

100692.1 - SIDE BODY ACCESS STEPS

There shall be a body access step assisting in access to top of the tool/hose trays from the side of the apparatus. It shall be a stirrup design, and be fabricated from 1" aluminum tubing. They shall be installed under the front of the body, one (1) each side.

100325.1 - ELECTRICAL ENCLOSURE

An electric wiring enclosure for the 12 volt wiring shall be installed in the forward wall of the driver's side upper body compartment with an access panel. The dimensions of the enclosure shall be approximately 20" high, 14" wide, and 4" deep.

100326.1 - 12 VOLT ELECTRICAL SPECIFICATIONS

The following describes the low voltage electrical system on the apparatus including all panels, electrical components, switches and relays, wiring harnesses and other electrical components. The apparatus manufacturer shall conform to the latest Federal DOT standards, current automotive electrical system standards and the applicable requirements of the NFPA. Wiring shall be stranded copper or copper alloy conductors of a gauge rated to carry 125 percent of the maximum current for which the circuit is protected. Voltage drops shall not exceed 10 percent in all wiring from the power source to the using device. The wiring, wiring harness and insulation shall be in conformance to applicable SAE and NFPA standards. The wiring harness shall conform to SAE J-1128 with GXL temperature properties. Exposed wiring shall be run in a loom with a minimum 289 degree Fahrenheit rating. Wiring looms shall be properly supported and attached to body members. Electrical conductors shall be constructed in accordance with applicable SAE standards, except when good engineering practice requires special construction. All wiring connections and terminations shall provide positive mechanical and electrical connections and be installed in accordance with the device manufacturer's instructions. When wiring passes through metal panels, electrical connections shall be secured with mechanical type fasteners and rubber grommets Wiring between cab and body shall be split using connectors or enclosed in a terminal junction panel allowing body removal with minimal impact on the apparatus electrical system. Connections shall be crimp-type with heat shrink tubing with insulated shanks to resist moisture and foreign debris such as grease and road grime. Weather resistant connectors shall be provided throughout the system. Electrical junction or terminal boxes shall be weather resistant and located away from water spray conditions. When required, automatic reset breakers and relays shall be housed in the main body junction panel. There shall be no exposed electrical cabling, harnesses, or terminal connections located in compartments, unless enclosed in an electrical junction box or covered with a removable electrical panel. Wiring shall be secured in place and protected against heat, liquid contaminants and damage. Low voltage overcurrent protective devices shall be provided for the electrical circuits. The devices shall be accessible and located in required terminal connection locations or weather resistant enclosures. Overcurrent protection devices shall be automatic reset type suitable for electrical equipment and meet SAE standards. All electrical equipment, switches, relays, terminals, and connectors shall have a direct current rating of 125 percent of maximum current for which the circuit is protected. Electro-magnetic interference suppression shall be provided in the system as required in applicable SAE standards. The electrical system shall include the following: Electrical terminals in weather exposed areas shall have a non-conductive grease or spray applied. All terminal plugs located outside of the cab or body shall be treated with a corrosion preventative compound. All electrical wiring shall be placed in a protective loom or be harnessed. Exposed connections shall be protected by heat shrink material and sealed connectors. Large fender washers shall be used when fastening equipment to the underside of the cab roof and all holes made in the roof shall be caulked with silicone. Electrical components installed in exposed areas shall be mounted in a manner that will not allow moisture to accumulate inside. A coil of wire must be provided behind an electrical appliance to allow them to be pulled away from mounting area for inspection and service work. All lights in a weather exposed area that have their sockets shall have corrosion preventative compound added to the socket terminal area.

100327.1 - ELECTRICAL HARNESS AND WIRING

All wiring shall be hidden, enclosed, or protected under the body in protective material, or within the apparatus body components. In addition, split loom conduits shall be installed and enclosed, suitably secured and protected against heat and physical damage.

100090.1 - BATTERY MASTER DISCONNECT

A battery disconnect system shall be installed to control the 12 volt power supply from the battery system to the body and cab final stage manufacturer installed equipment. The solenoid shall be controlled by the standard key starter switch.

100328.1 - DOT IDENTIFICATION LIGHTS

All LED identification lights shall be installed on the vehicle as required by applicable highway regulations.

100329.1 - LICENSE PLATE MOUNTING

An LED license plate light shall be installed on the rear vertical wall of the body.

100330.1 - BRAKE, TURN, TAIL LIGHTS

Two (2) Whelen M6 Series Model M6BTT 4-5/16" x 6-3/4" brake, turn, tail lights with M6FC chrome flanges shall be provided. The warning lights shall incorporate Linear Super-LED and Smart LED technology. The lighthead configuration shall consist of 18 red Super-LEDs and a clear optic polycarbonate lens. The lightheads shall be surface mountable via two screws. The lightheads shall utilize an optic collimator and a chrome vacuum metalized reflector for maximum illumination. The lighthead shall include 164 flash patterns including: a variety of CA Title 13 compliant, sinkable, left/right, top/bottom, in/out, and steady burn. The lightheads shall have the Whelen exclusive NERM (Non-Emergency Recognition Mode) feature. The lens/reflector assembly shall be wet sealed and resistant to: water, moisture, dust, and other environmental conditions. The outer lens shall have a hard coating applied to increase strength and ensure longevity. The light engine shall be installed at the rear of the unit and be completely sealed. The pc board shall be conformal coated for additional protection. The lights shall be furnished with five 6" wire pigtails, a Santoprene rubber gasket and the #M6FC chrome flanges shall be included for installation.

100331.1 - BACK-UP LIGHTS

Two (2) Whelen M-Series, 4" x 6" rear LED back-up lights shall be installed.

100712.1 - OFF-ROAD LIGHTS

There shall be two (2) FRC SoBrite 6" LED lights installed on front bumper/grille guard.

100070.1 - NO BUMPER GROUND LIGHTS

There shall be no under bumper ground lights installed.

200312.1 - GROUND LIGHTS, CAB, 4 DOOR, LED STRIPS

Two (2) LED ground strip lights shall be installed under the cab step area in compliance with NFPA standards, One (1) on each side of the apparatus, wired to the Cencom, and the chassis interior lights.

100183.1 - GROUND LIGHTS - UNDER REAR STEP

Two (2) ground lights shall be installed under the rear step area, one on each side of the apparatus. They shall have an aluminum housing, and be 800 lumes at 1.4 amps.

100184.1 - BODY WORK LIGHTS

Four (4) Grote #63871 LED body work lights with clear lens shall be installed, wired to switch on the Cencom. They shall have an aluminum housing, and be 800 lumens at 1.4 amps. Location shall be: in each corner of the protective tubing assembly to light the pump panel and the front body walkway area.

100318.1 - FRONT BUMPER SCENE LIGHTS

A Rigid Manufacturing E series 120313 20" spot/flood light shall be installed. The LED scene lights shall incorporate clear LED's with a clear optic polycarbonate lens for maximum illumination. Location shall be: front bumper/grille

100322.1 - SCENE LIGHTS

Six (6) Rigid Manufacturing 20202 radiance Pod Red Backlight scene lights shall be installed. The LED scene lights shall incorporate clear LEDs with a clear optic polycarbonate lens for maximum illumination. Each pod shall have a RED halo,

which activates when the running lights are on. Location shall be: Two (2) outward facing, each side of body, two (2) rear facing.

100438.1 - GPS UNIT

A Garmin NUVI 57 LM dash mounted GPS unit shall be installed. It has a 5" display, lane assist with junction view, displays speed limit with accurate arrival time, and spoken turn-by-turn directions.

100503.1 - MANUAL METER

A Levo-Gauge Sr. tilt meter shall be installed on the dashboard. The unit shall indicate the degree of side slope the vehicle is on.

100108.2 - BACK-UP CAMERA SYSTEM

One (1) Rear View Systems camera system shall be furnished utilizing two (2) cameras which provides a wide field of view and picture quality. A sealed camera enclosure shall be utilized along with electronic connections. The color monitor shall be installed in cab.

One (1) camera shall cover the rear of the apparatus, which will activate during back-up mode and during normal operations if needed.

Front camera location: front bumper

Rear camera location: top of tank

100099.2 - RADIO INSTALLATION

Two (2) fire radio, one (1) faceplate (if applicable) and one (1) speaker shall be supplied by the purchaser to be installed.

THIS OPTION DOES NOT INCLUDE INSTALLATION OF ANTENNAS, CABLES, OR MDT/MCT.

ALL EQUIPMENT NECESSARY TO INSTALL/OPERATE A CUSTOMER SUPPLIED RADIO MUST BE PRESENT AT SKEETER BRUSH TRUCKS 60 DAYS PRIOR TO PRODUCTION. IF ALL COMPONENTS ARE NOT PRESENT THE RADIO WILL NOT BE INSTALLED

100620.2 - INSTALLATION -- RADIO ANTENNA (Qty: 2)

Two (2) radio antenna with cable shall be supplied by the purchaser and installed on the apparatus at a location to be determined by the purchaser.

THIS OPTION DOES NOT INCLUDE INSTALLATION OF RADIOS, OR MDT/MCT.

ALL EQUIPMENT NECESSARY TO INSTALL/OPERATE A CUSTOMER SUPPLIED ANTENNA MUST BE PRESENT AT SKEETER BRUSH TRUCKS 60 DAYS PRIOR TO PRODUCTION. IF ALL COMPONENTS ARE NOT PRESENT THE ANTENNA WILL NOT BE INSTALLED

100324.1 - BACK-UP ALARM

One (1) Buyers #BA107 back up alarm shall be installed.

203773.1 - ELECTRONIC SIREN

One (1) Whelen, Model #CCSRNT4G CenCom Carbide siren with auxiliary switches with noise canceling microphone shall be provided. Siren head will be mounted on the center console in easy reach of the driver.

100313.1 - SIREN SPEAKER

One (1) Whelen Model #SA315P Projector Series siren speaker shall be provided with bracket. The 100 watt siren speaker shall be designed in a black nylon composite housing with 123 decibel rating. Location shall be: Behind the front grille.

100310.1 - MOUNTING OF LIGHT BAR WITH PROTECTIVE GUARD

The lightbar shall be mounted on the headache rack shelf with an aluminum brush guard protective assembly.

100309.1 - LIGHTBAR

A Whelen Legacy low profile Super-LED NFPA lightbar shall be installed. The 54" lightbar shall be designed to meet the minimum clearing requirements for Zone A Upper. The internal components of the lightbar shall be housed within a two piece extruded aluminum base/top. The outer shell shall be clear optic polycarbonate lenses designed to maximize light output and shield against environmental elements.

The lightbar shall utilize snap-in brackets to hold in the lightheads. The brackets shall give the end user the ability to make quick repairs. The lightbar shall have all solid state components. The lightbar shall have two wire harnesses exiting the unit: one (1) 17 conductor 22 gauge control cable which controls all internal light functions; and one (1) 2 conductor 10 gauge cable for main power and ground. Each cable shall be 15' long.

The lightbar shall have four (4) red Linear Super-LED corner modules to provide off angle protection for the front and rear of the vehicle. Each corner module shall consist of twelve (12) Super-LEDs mounted within a vacuum metalized parabolic reflector. The corner module shall also utilize an optic collimator for maximum light output. The twelve (12) LEDs shall be mounted in one straight line.

The solid state I/O board shall be microprocessor controlled. The I/O board shall have built-in reverse-polarity protection and output-short protection. The board shall have the ability to flash sixteen (16) LED warning lights. There shall be a data bank of 13 Scan-Lock flash patterns including steady burn. The board shall also have outputs to add takedown and alley lights. Low power and cruise light function shall also be included. The cruise light function shall allow the user to employ the four (4) corner modules as marker courtesy lights.

The lightbar shall include clear "Take Down" and "Alley Lights".

The lightbar shall have an amber "Traffic Advisor" built into the rear portion of the lightbar.

100315.2 - NFPA WARNING LIGHTS

ZONE A -- LOWER FRONT WARNING LIGHTS Two (2) Whelen M-7 Series Model #M7RC 3" x 7" warning lights with chrome flanges shall be in the front forward facing area of the front bumper. The warning lights shall incorporate Linear Super-LED and Smart LED technology. The lighthead configuration shall consist of RED 18 Super-LEDs and a clear optic polycarbonate lens. The lightheads shall be surface mountable via two screws. The lightheads shall utilize an optic collimator and a chrome vacuum metalized reflector for maximum illumination.

ZONE B AND D -- INTERSECTION LIGHTS Two (2) Whelen M-7 Series Model #M7RC 3" x 7" warning lights with chrome flanges shall be installed on bumper extension, as far forward as possible. The warning lights shall incorporate Linear Super-LED and Smart LED technology. The lighthead configuration shall consist of RED 18 Super-LEDs and a clear optic polycarbonate lens.

ZONE B AND D -- LOWER SIDE REAR CORNER WARNING LIGHTS Two (2) Whelen M-7 Series Model #M7RC 3" x 7" warning lights with chrome flange shall be installed in lower rear side corner body area. The warning lights shall incorporate Linear Super-LED and Smart LED technology. The lighthead configuration shall consist of RED 18 Super-LEDs and a clear optic polycarbonate lens.

ZONE B AND D -- UPPER SIDE REAR WARNING LIGHTS Two (2) Whelen M-7 Series Model #M7RC 3" x 7" warning lights with chrome flanges shall be installed in the upper rear body side panel. The warning lights shall incorporate Linear Super-LED and Smart LED technology. The lighthead configuration shall consist of RED 18 Super-LEDs and a clear optic polycarbonate lens.

ZONE C -- UPPER REAR WARNING LIGHTS Two (2) Whelen M-7 Series Model #M7RC 3" x 7" warning lights with chrome flanges shall be installed in the upper rear corner of the handrails. The warning lights shall incorporate Linear Super-LED and Smart LED technology. The lighthead configuration shall consist of RED 18 Super-LEDs and a clear optic polycarbonate lens.

ZONE C -- LOWER REAR WARNING LIGHTS Two (2) Whelen M-7 Series Model #M7RC 3" x 7" warning lights with chrome flanges shall be lower rear of body. The warning lights shall incorporate Linear Super-LED and Smart LED technology. The lighthead configuration shall consist of RED 18 Super-LEDs and a clear optic polycarbonate lens.

100570.1 - TRAFFIC ADVISOR, REAR

A Whelen Traffic Advisor??? model # TAM85 shall be installed on the rear portion of the apparatus to provide rear directional flashing. The traffic advisor shall incorporate a rectangular extruded black powder coated aluminum chassis with eight amber TIR6??? Super-LED?? lights with waterproof connectors. The TIR6 lights shall be installed in a clear optic hard coated poly carbonate lens housing. The traffic advisor should be connected to the CenCom Carbide to operate with the light-bar traffic advisor.

100335.1 - CUSTOM GRAPHICS

The apparatus shall be provided with two (2) custom designed sign gold graphics, emblems, or seals. The installation shall be designed primarily with letters and numbers as specified. The purchaser shall approve of the design graphics prior to installation.

203904.1 - NO CAB ROOF LETTERING

100337.1 - CAB AND BODY STRIPING
The cab and body shall have a straight Scotchlite reflective stripe applied horizontally. The stripe shall be a 4'' minimum in width and be applied horizontally around the cab and body in accordance with NFPA standards. The purchaser shall specify the color and location of the stripe.

100345.1 - REAR CHEVRON STRIPING
There shall be alternating chevron striping installed on the rear vertical body panel. The chevron striping shall consist of 6" diamond grade in the following colors: The first color shall be red diamond grade. The second color shall be lime yellow diamond grade.

100346.1 - CAPACITIES PLACARD
The apparatus shall have a reflective placard that provides the following information: Water Tank Capacity Pump Capacities NWCG Typing Skeeter Contact Information

100388.2 - SUCTION HOSE
Three (3) 2.5" x 10 foot lengths of Kocheck PVC flexible suction hose shall be provided and equipped with lightweight couplings.

100389.1 - BARREL SUCTION STRAINER
One (1) Akron Brass Model 344, barrel suction strainer shall be provided. The heavy duty strainer shall be constructed of chrome plated brass. It shall be 2.5" NH female. The 2.5" barrel strainer length shall be 6 7/8" with a weight of 3 lbs.

100040.1 - CHASSIS PREPARATION
The chassis cab shall be "prepped" for fire apparatus production as follows:
a) Wash and clean chassis
b) Weigh chassis for NFPA reports
c) Quality control check in.

100041.1 - SEATING
There shall be a label identifying the number of seat belted locations on the unit.

100042.1 - WARNING LABEL -- SEAT BELT USAGE
A warning label for use of seat belts shall be installed in the cab by the chassis manufacturer.

100043.1 - LOUD NOISE WARNING LABEL
A final stage manufacturer shall install "hearing loss" potential warning labels on the vehicle in any areas or fixed equipment that produces excessive noise levels. (exhaust outlet, sirens and air horns shall not be required for such equipment.)

100135.1 - WARNING LABEL -- NO RIDING ON REAR
A warning label stating: "NO RIDING ON REAR OF APPARATUS" shall be installed on rear of the apparatus. The label shall be applied to the vehicle at the rear step area. The label shall warn personnel that riding in or on these areas, while the vehicle is in motion, is prohibited.

100136.1 - SKEETER BRUSH TRUCK EMBLEMS
Three (3) Skeeter Brush Trucks emblems will be affixed to the cab and body.

100196.1 - FINAL ASSEMBLY AND APPARATUS FINISHING PREP SPECIFICATIONS
The apparatus shall be assembled in a high quality and controlled environment. The fit, form, and finish of the body shall be to the highest level fire apparatus manufacturing standards. Upon completion, the apparatus shall be ready for final inspection and road testing as required herein.

100361.1 - FIRE PUMP OPERATIONS TEST
The fire pump shall have a operational pump test performed by a Skeeter Brush Trucks technician with a run time of one (1) hour to confirm proper operations of all pump related components. *** NOTE: ALL TESTING SHALL BE DONE AND PERFORMANCE OBSERVED BETWEEN SEA LEVEL AND 1000' ELEVATION. *** HIGH ALTITUDE PERFORMANCE MAY NOT REPRESENT TESTING RESULTS SHOWN.

100362.1 - ELECTRICAL LOAD ANALYSIS
A 12 volt electrical load analysis shall be performed in order to test response and stationary modes of electrical amp load.

100363.1 - COMPLIANCE
The fire apparatus shall be built to the purchaser's requirements in compliance to all State, Local, and Federal highway safety requirements. The vehicle is not intended to meet any or all standards of the NFPA.

100365.1 - ROAD TEST
A road test will be conducted with the apparatus fully loaded and a continuous run of no less than ten (10) miles. During that time the apparatus will show no loss of power nor will it overheat. The transmission drive shaft or shafts and the axles will run quietly and be free of abnormal vibration or noise.

100366.1 - APPARATUS WARRANTY SKEETER MANUFACTURED ITEMS
A five (5) year parts and labor warranty on items manufactured by Skeeter Brush Trucks and a ten (10) year warranty on the structural integrity of the body. For warranty issues please contact your local dealer or Skeeter Brush Truck service center and request warranty from the service advisor at that location.

100369.1 - WATER TANK WARRANTY
MANUFACTURER'S LIMITED WARRANTY AND NOTICE OF DISCLAIMER OF EXPRESS AND IMPLIED WARRANTIES Manufacturer issues this limited warranty to the customer who is the original retail purchaser ("Customer") of a polypropylene tank (the "Tank") (10 to 4000) gallons.

100351.1 - PRE-CONSTRUCTION MEETING
A pre-construction trip to the manufacturing facility will be provided for three (3) customer representative(s). The intent of this trip is to review and finalize, in detail, the specifications prior to the start of production. The pre-construction trip will have a duration of three (3) days and two (2) nights and be scheduled at times mutually agreed upon between Golden State Fire Apparatus (GSFA). and the Customer. Costs for airfare, lodging, meals and ground transportation while at the manufacturers location will be the responsibility of GSFA. Air travel will be from one of the following airports: Sacramento, San Francisco or San Jose. Costs such as Customer ground transportation in California, Customer airport parking, Customer luggage fees and Customer incidentals while traveling to the factory will be the responsibility of the Customer. Flight reservations are non-refundable and in the event of a cancellation after booking, the Customer will be responsible for all costs associated with this cancellation, which may include not only the original ticket cost but also any change or cancellation fees imposed by the airline and/ or travel agency. Flight reservations are also non-transferable.

100651.1 - DRAWINGS
There shall be design drawings submitted to the customer prior to the pre-construct conference. The drawings shall include all sides of the apparatus. The customer shall agree to the drawings reflecting the correct apparatus design and layout prior to construction.

100353.1 - FINAL INSPECTION
A final inspection trip to the manufacturing facility will be provided for three (3) customer representative(s). TThe intent of this trip is to ensure that the apparatus is built to specification and to detect any deficiencies that require correction. The final inspection trip will have a duration of three (3) days and two (2) nights and be scheduled at times mutually agreed upon between Golden State Fire Apparatus (GSFA). and the Customer. Costs for airfare, lodging, meals and ground transportation while at the manufacturers location will be the responsibility of GSFA. Air travel will be from one of the following airports: Sacramento, San Francisco or San Jose. Costs such as Customer ground transportation in California, Customer airport parking, Customer luggage fees and Customer incidentals while traveling to the factory will be the responsibility of the Customer. Flight reservations are non-refundable and in the event of a cancellation after booking, the Customer will be responsible for all costs associated with this cancellation, which may include not only the original ticket cost but also any change or cancellation fees imposed by the airline and/ or travel agency. Flight reservations are also non-transferable.

100356.1 - DEMONSTRATION AND FAMILIARIZATION OF VEHICLE
The bidder shall demonstrate and familiarize the purchaser regarding the vehicle's operation. This shall include operation of chassis, major components, review of delivery information and documentation. This demonstration shall be completed at Skeeter Brush Trucks factory location in Hillsboro, Texas.

100358.1 - DELIVERY REQUIREMENTS
The apparatus shall be picked up at the manufacturer's plant by the purchaser.

City of Milpitas, California

BUDGET CHANGE FORM

Type of Change	From*		To*	
	Account	Amount	Account	Amount
Check one: ☒ **Budget Appropriation** ❒ **Budget Transfer**	**500-2970**	**$329,679**	**500-9304851**	**$329,679**

Adopt a Resolution authorizing the purchase of two Skeeter Brush Trucks, LLC Dodge Ram 5500 Type 5 Wildland Engines for the Fire Department from Golden State Fire Apparatus, Inc. through an HGABuy cooperative contract in the amount of $634,678.36.

Background:
The Milpitas Fire Department is requesting the purchase of two replacement wildland firefighting apparatus to be stationed at Milpitas Fire Station 2 located at 1263 Yosemite Drive, Milpitas, CA and Milpitas Fire Station 3 located at 25 Midwick Drive, Milpitas, CA. These replacement units will be a Type 5 Wildland Fire Engines. This type of fire engine is designed for firefighting efforts in the wildland arena. Specifically, this unit will have advanced fire attack capability in the hillside areas of Milpitas. Although stationed in the Eastern portion of our community, this unit will be utilized throughout the City. These units replace a front-line Wildland Fire Engine manufactured in 2003 and 2005.

The Fire Department conducted a review of apparatus and equipment following the increase in wildland fire activity beginning with the 2017 “Country Fire” in the Milpitas hillside area. One key element in determining the need for resources following the “Country Fire” was the timeline to replace one of the current Wildland Fire Engines after 15 years of service. As such, the Fire Department determined that a quick attack four-wheel drive vehicle would address needs of Milpitas Wildland Urban Interface. These Fire Engines will have the capability to pump water at increased pressures from an on-board supply tank of at least 300 gallons and pump water while driving to support fast attack of wildland fires. The vendor selected that meets the Fire Department’s needs is Skeeter Brush Trucks located in Hillsboro, Texas. Several neighboring fire agencies have purchased similar Skeeter Fire Engines, including Palo Alto Fire, Alameda County Fire, and San Ramon Fire.

The Fire Engine will be built on a heavy-duty pickup truck chassis. Delivery is expected within twelve months of ordering the vehicle. However, supply chain issues may delay final delivery and in service. Two factory trips are required for inspection by the Fire Department for up to three personnel to Hillsboro, Texas for a pre-construction meeting and an acceptance final inspection meeting. Dates for this out-of-state travel are to be determined and are included in the proposed price.

Analysis:
Staff recommends a cooperative purchase through HGACBuy for two Skeeter Brush Trucks, LLC Dodge Ram 5500 Type 5 Wildland Engines from Golden State Fire Apparatus. Cooperative purchasing through the Houston-Galveston Area Council (H-GAC) is specifically authorized pursuant to Municipal Code Section I-2-3.08 “Cooperative Procurement.” The Purchasing Agent reviewed all of the documentation from the H-GACBuy Contract No. FS12-15 and has determined that the underlying purchase was made using competitive bidding procedures at least as restrictive as the City of Milpitas’ Purchasing Division. Contract No. F12-15 is currently valid through January 29, 2022. All H-GACBuy contracts provide nationally bid

volume pricing to member cities not otherwise available for a single purchase. The purchase will be completed by issuing a purchase order with the City's standard terms and conditions for equipment and materials.

Policy Alternative:
Alternative: City Council does not adopt a resolution to approve the purchase.

Pros: Savings of expenditures.

Cons: Delay in replacement will increase maintenance of the existing fleet due to age of apparatus and limit fire attack options. The new Type 5 Fire Engines have improved off road firefighting capability not currently available in the current fleet.

Reason not recommended: None

Fiscal Impact:
Currently, there is $325,509 and $79,937 available in the Equipment Replacement Fund for the first and second Wildland Engine, respectively. We are also expecting mutual aid reimbursement from Cal OES in the amount of $217,583 that will be deposited into the Equipment Replacement Fund upon receipt. As part of the approval of the FY 2020-21 Adopted Budget, $288,750 was appropriated into Capital Outlay for the first engine. Staff recommends appropriating an additional $329,679 into Capital Outlay from Equipment Replacement Fund. The remaining $11,649.36 will be paid from the Fire Department operating budget.

California Environmental Quality Act: N/A
By the definition provided in the CEQA Guidelines Section 15378, this action does not qualify as a "project" for the purpose of CEQA as this action has no potential to result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

Recommendations:
Adopt a Resolution authorizing the purchase of two Skeeter Brush Trucks, LLC Dodge Ram 5500 Type 5 Wildland Engines from Golden State Fire Apparatus for the Fire Department from Golden State Fire Apparatus through an HGACBuy Cooperative Contract in the amount of $634,678.36 and approve an appropriation from the Equipment Fund in the amount of $329,679.

Attachments:
a) Resolution
b) Golden State Fire Apparatus purchase proposal
c) Budget Change Form

☐ **Check if City Council Approval required.** **Meeting Date**: January 19, 2021

Requested by:	**Department Head:** Brian Sherrard	**Date:** January 19, 2021
Reviewed by:	**Finance Director:** Walter C. Rossmann	**Date:** January 19, 2021

Date approved by City Council, if required: **Confirmed by:**

FI/24786/V **Form 30-222 (Rev. 1/92)**

CITY OF MILPITAS
AGENDA REPORT
(AR)

Item Title:	**Adopt a Resolution Granting Acceptance of Well Upgrade - McCandless Well, Project No. 7076, Authorizing the City Engineer to File a Notice of Completion, and Authorizing the City Engineer to Issue a Notice of Final Acceptance**
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	1/19/2021
Staff Contact:	**Steve Erickson, 408-586-3301**
Recommendations:	Adopt a Resolution granting acceptance of Well Upgrade - McCandless Well, Project No. 7076, authorizing the City Engineer to file a Notice of Completion, and authorizing the City Engineer to Issue a Notice of Final Acceptance.

Background:
On February 4, 2020, the City Council awarded a construction contract to Pacific Coast Well Drilling, Inc. for the Well Upgrade - McCandless Well, Project No. 7076, in the amount of $884,620 ("Project"). The Project is part of the McCandless Well Project which provides for the construction of a potable water well located in future McCandless Park adjacent to the Mabel Mattos Elementary School. The well facility is located on the 10,000 square foot area at the southeast corner of the park and is intended to serve the City's Midtown and Transit Area Specific Plan (TASP) area.

The McCandless Well Project was planned to be constructed in three phases with the first test well phase being successfully completed in 2019. The Project, phase 2, successfully installed a permanent 600-foot deep 16-inch diameter casing in fall 2020 for a future well facility to pump potable water into the City's Water System. The final third phase will be the construction of the well facility including the installation of the pump, emergency generator, and treatment facility which is anticipated to start in 2022.

Analysis:
During the performance testing phase of the Project, the design consultant determined the well's water production rate is less than expected and recommends the City consider utilizing the Well as a back-up emergency well rather than a production well. Staff is analyzing all options and will bring a recommendation to City Council for future consideration.

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

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

Pros: None

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

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

Fiscal Impact:
Adequate funds were available in the Project budget to complete the Project. No additional budget needs to be appropriated into the Project.

California Environmental Quality Act:
The requirements and conditions of CEQA guideline Section 15162 have been reviewed, and it has been determined that a new EIR for the three City projects (Project No. 2005, Pedestrian Bridge, Project No. 7076 Well Upgrade -McCandless Well, and Project No. 5102 McCandless Park) is not required. It has been determined that the proposed projects would not result in any new impacts not previously disclosed in the certified June 3, 2008 TASP EIR, and implementation of the three City projects would not result in a substantial increase in magnitude of any significant environmental impact previously identified in the EIR. For these reasons, a supplemental or subsequent EIR to the June 3, 2008 TASP EIR is not required, and an Addendum to the TASP EIR would adequately disclose the environmental impacts of the proposed projects. An Addendum to the June 3, 2008 TASP EIR as allowed by CEQA guideline Section 15164 to address minor changes and additions has been created.

Recommendations:
Adopt a Resolution granting acceptance of the Project, authorizing the City Engineer to file a Notice of Completion, and authorizing the City Engineer to Issue a Notice of Final Acceptance.

Attachment:
Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS GRANTING ACCEPTANCE OF THE WELL UPGRADE - MCCANDLESS WELL, PROJECT NO. 7076

WHEREAS, the City of Milpitas has heretofore entered into a contract with Pacific Coast Well Drilling, Inc., for the Well Upgrade - McCandless Well, Project No. 7076, in the amount $884,620 ("Project"), and the City Engineer of the City of Milpitas has recommended acceptance of said Project as completed in accordance with plans, specifications and approved change orders and correction lists, and in accordance with the final inspection of said City Engineer.

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

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

2. The City of Milpitas does hereby accept said Project as completed on this 19th day of January, 2021, and does hereby authorize and direct the City Engineer of the City of Milpitas to file a Notice of Completion in accordance with the provisions of Section 9204 of the Civil Code of the State of California, and does hereby authorize and direct the City Engineer to file a Certificate of Completion in accordance with the provisions of Section 4005 of the Government Code of the State of California, if said work was by day's labor or force account.

3. The City Council authorizes the City Engineer to issue the Notice of Final Acceptance after the one-year warranty period without further City Council action, provided all required warranty repairs are completed to the satisfaction of the City Engineer; and nothing herein contained shall in any way be deemed to be a waiver, release or relinquishment by City of any obligations imposed upon the contractor or its surety, or sureties, by law or by the above-referenced improvement contract, save and except those obligations specifically mentioned herein.

PASSED AND ADOPTED this _____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

_____
Pam Caronangan, Acting, City Clerk

_____
Rich Tran, Mayor

APPROVED AS TO FORM:

_____
Christopher J. Diaz, City Attorney

Recording Requested by and
When Recorded Mail to:

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

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

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

NOTICE IS HEREBY GIVEN:

1. On or about February 4th, 2020 the City Council of the City of Milpitas, a municipal corporation of the State of California, whose address is City Hall, 455 East Calaveras Boulevard, Milpitas, California, 95035 (as owner) entered into a contract for work of: **Well Upgrade - McCandless Well, Project No. 7076**.

2. A description of the site of which the City is owner for said work of improvement is: **1650 McCandless Drive** in the City of Milpitas, Santa Clara County, California, more particularly described on the plans.

3. The name and address of the direct contractor is: **Pacific Coast Well Drilling, Inc., PO Box 184, Templeton, CA 95035.**

4. A general statement of the kind of work done or materials furnished to the City is as follows: **The improvements include installation of a permanent 600-foot deep 16-inch diameter casing and constructing concrete well pad for the future well facility to pump potable water into the City's Water System.**

5. Said work of improvement was accepted by the Milpitas City Council as complete on January 19, 2021.

****

I, the undersigned, declare that I am the **City Engineer** of the City of Milpitas and am authorized to execute the foregoing Notice of Completion and this Verification thereof. I have read the foregoing Notice of Completion. I declare under penalty of perjury that the foregoing Notice of Completion is true and correct. Executed on January ____, 2021 at Milpitas, California.

_____
Steve P. Erickson, City Engineer/
Director of Engineering, City of Milpitas

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

CITY OF MILPITAS
AGENDA REPORT
(AR)

Item Title:	**Adopt a resolution approving and authorizing the City Manager to execute a ten-year service agreement with Motorola Solutions, Inc.**
Category:	Consent Calendar-Public Safety
Meeting Date:	1/19/2021
Staff Contact:	**Steven Fox, 408-586-2525**
Recommendation:	Adopt a resolution approving and authorizing the City Manager to execute a ten-year service agreement with Motorola Solutions, Inc. as the sole source vendor for a Local NICE Logging Solution and matching Locution Systems, Inc. Fire Station alerting system and relevant services for the amount not to exceed $689,069.

Background:
The City of Milpitas is a member in the Silicon Valley Regional Interoperability Authority (SVRIA), which was formed in 2010 to identify, coordinate, and implement communications interoperability solutions for member agencies, which include the County of Santa Clara, fifteen (15) municipal members, and special districts. The Silicon Valley Regional Communications System (SVRCS) was designated to replace different public safety radio systems with a single digital radio system throughout Santa Clara County.

In 2012, a vendor solicitation and selection process was completed by SVRIA and as a result, the contract for the county-wide radio interoperability and public safety radio and data communications network was awarded to Motorola Solutions, Inc. Section I-2-3.08 of the Milpitas Municipal Code authorizes the City Council to award contracts without competition when the purchase is pursuant to a cooperative agreement by another public agency in California that used competitive negotiation or bidding procedures at least as restrictive as those of the City of Milpitas. The City of Milpitas is an Eligible Purchaser on the Motorola Solutions, Inc. cooperative contract.

Subsequently in 2018, City Council adopted a resolution approving the cooperative purchase of Motorola Solutions, Inc. Dispatch Consoles Equipment, APX Subscriber Equipment, a local NICE Logging Solution, and the sole source purchase of a matching Locution Systems, Inc. Fire Station Alerting System, and relevant implementation services for an amount not to exceed $2,350,591. The City of Milpitas implemented the new radio equipment in 2020. The current agreement with Motorola Solutions, Inc. expires on February 28, 2021.

Analysis:
Section I-2-3.09 of the Milpitas Municipal Code authorizes the Purchasing Agent to award contracts without competition when there is only one source for the required supply or service. After conducting a good faith review of the available sources and pursuant to Milpitas Municipal Code Section I-2-3.09 (Sole Source Procurement), the City's Purchasing Agent has determined that Motorola Solutions, Inc., (Motorola) is the only source for the purchase of the maintenance services for the NICE Logger System and of the Locution Systems, Inc., Fire Station Alerting System.

The annual maintenance cost for the first year is $43,832 for the Fire Alerting System and $16,941 for the NICE Logger System for a total amount of $60,773 with annual increases between 2.3% and 4.0% for a total ten-year contract amount not to exceed $689,069.

Policy Alternatives:

Alternative 1: Do not authorize the City Manager to execute a ten-year agreement with Motorola Solutions, Inc.

Pros: The City would not incur the cost of these services over the ten-year period of the agreement.
Cons: The Police and Fire Departments would not have an agreement in place for service maintenance on needed NICE Logging and Locution systems.

Reason not recommended: Approving this item will ensure the Police and Fire Departments can continue to provide uninterrupted, critical services to the community as Motorola Solutions, Inc., (Motorola) is the only source for the purchase of the maintenance services for the NICE Logger System and of the Locution Systems, Inc., Fire Station Alerting System..

Fiscal Impact:
The annual maintenance cost for the first year amounts to $43,832 for the Fire Alerting System and $16,941 for the NICE Logger System for a total amount of $60,773. There are sufficient funds in the Fire and Police Department's operating budget, respectively, subject to annual appropriations.

California Environmental Quality Act:
N/A

Recommendation:
Adopt a resolution approving and authorizing the City Manager to execute a ten-year service agreement with Motorola Solutions, Inc. as the sole source vendor for a Local NICE Logging Solution and matching Locution Systems, Inc. Fire Station alerting system and relevant services for the amount not to exceed $689,069, subject to appropriation.

Attachments:
1. Resolution
2. Motorola Solutions, Inc. agreement

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING A 10-YEAR SOFTWARE MAINTENANCE AGREEMENT WITH MOTOROLA SOLUTIONS, INC., FOR THE MAINTENANCE OF CITY'S NICE LOGGER SYSTEM AND LOCUTION FIRE STATION ALERTING SYSTEM AND RELEVANT MAINTENANCE SERVICES FOR THE NOT-TO-EXCEED AMOUNT OF $689,069.00 AS A COOPERATIVE CONTRACT AND SOLE SOURCE PURCHASE THROUGH THE SILICON VALLEY REGIONAL INTEROPERABILITY AUTHORITY AND THE SILICON VALLEY REGIONAL COMMUNICATIONS SYSTEM

WHEREAS, in 2001, the Santa Clara County/City Managers Association (including the City of Milpitas) executed a Joint Funding Agreement to jointly hire consultants to design and implement a countywide radio interoperability and public safety radio and data communications network to improve public safety and emergency services, which is referred to as the Silicon Valley Regional Communications System (SVRCS); and

WHEREAS, the Silicon Valley Regional Interoperability Authority (SVRIA) was formed in 2010 by Joint Powers Agreement (JPA) to identify, coordinate, and implement communications interoperability solutions for member agencies. The City of Milpitas signed the JPA and became a member of SVRIA in Fiscal Year 2015-16; and

WHEREAS, in 2012, SVRIA completed a vendor solicitation and selection process for Goods And Related Services For Use On The Silicon Valley Regional Communications Systems and, as a result, a Communications System Maintenance Agreement was awarded to Motorola Solutions, Inc., by the County of Santa Clara on behalf of SVRIA effective September 25, 2012 through September 24, 2022. By virtue of its membership in SVRIA, the City of Milpitas is an Eligible Purchaser on the Motorola Solutions, Inc., cooperative contract; and

WHEREAS, Motorola Solutions, Inc., is an integral vendor/partner in the development of the SVRIA, which is working to standardize radios and increase interoperability among the different agencies within the County; and

WHEREAS, Section I-2-3.08 of the Milpitas Municipal Code authorizes the City Council to award contracts without competition when the purchase is pursuant to a cooperative agreement by another public agency in California that used competitive negotiation or bidding procedures at least as restrictive as those of the City of Milpitas, and provided that the public agency is a "public agency" as defined by Government Code section 6500; and

WHEREAS, the City currently utilizes a NICE Logger System, which records all 911 calls and radio transmissions for the City's Police and Fire Departments as required by State law; and

WHEREAS, the City currently utilizes a Locution Systems, Inc., Fire Station Alerting System, which provides a network-based alerting system specifically matched to the SVRCS for each of the four (4) fire stations; and

WHEREAS, the City wishes to enter into a 10-year software maintenance agreement with Motorola Solutions, Inc., through the SVRIA September 25, 2012 cooperative contract for the maintenance of the City's NICE Logger System and Locution Fire Station Alerting System through the SVRIA, which agreement will also be governed by the 2001 Joint Funding Agreement with SVRCS; and

WHEREAS, the Purchasing Agent has reviewed all of the documentation related to the original contract awarded to Motorola Solutions, Inc., and has determined that the underlying purchase was made using competitive bidding procedures at least as restrictive as those of the City of Milpitas and that the price for the maintenance service is the same as that offered in the original contract.

WHEREAS, Section I-2-3.09 of the Milpitas Municipal Code authorizes the Purchasing Agent to award contracts without competition when there is only one source for the required supply or service. Maintenance of the NICE Logger System and of the Locution Systems, Inc., Fire Station Alerting System can only be provided by Motorola Solutions Inc., as they are the sole provider of the authorized maintenance; and

WHEREAS, after conducting a good faith review of the available sources and pursuant to Milpitas Municipal Code Section I-2-3.09 (Sole Source Procurement), the City's Purchasing Agent has determined that Motorola Solutions, Inc., is

the only source for the purchase of the maintenance services for the NICE Logger System and of the Locution Systems, Inc., Fire Station Alerting System.

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.

   Motorola Solutions, Inc., is approved as the sole source provider for the services of software maintenance of the of the NICE Logger system and Locution Fire Station Alerting System and related maintenance services pursuant to Milpitas Municipal Code Section I-2-3.09 (Sole Source Procurement).

2. The City Council approves and authorizes the City Manager to execute the 10-year software maintenance services agreement with Motorola Solutions, Inc., for the maintenance of the NICE Logger system and Locution Fire Station Alerting System and related maintenance services through a cooperative contract with SVRIA for the not-to-exceed amount of $689,069.00.

PASSED AND ADOPTED this _____day of _____, 2021, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

_____
Pam Caronangan, Acting City Clerk

APPROVED:

_____
Rich Tran, Mayor

APPROVED AS TO FORM:

_____
Christopher J. Diaz, City Attorney

MOTOROLA SOLUTIONS

SERVICE AGREEMENT

1299 E Algonquin Road
Schaumburg, IL 60196
(800) 247-2346

QUOTE Number: USC00010006972
Contract Modifier:

Date: 01-APR-2020

Company Name: City of Milpitas PD
Attn.:
Billing Address: 1275 N Milpitas Blvd
City, State, Zip Code: Milpitas, CA 95035
Customer Contact: AJ Minton
Phone: (408) 586-2400

P.O.#:
Customer #: 1000757213
Bill to Tag#: 0001
Contract Start Date: 01-MARCH-2021
Contract End Date: 28-FEB-2031
Payment Cycle: ANNUALLY
Currency: USD

F. Year	MODEL/OPTION	SERVICES DESCRIPTION	ANNUAL EXT	EXTENDED AMT
		***** Recurring Services *****		
2021/22	SVC02SVC0487A	Locution Maintenance w/ Dispatch and Onsite	43,832.00	
	SVC02SVC0126A	Nice Post Warranty Maintenance - GOLD	16,941.00	
		TOTAL ANNUAL FEE		60,773.00
2022/23	SVC02SVC0487A	Locution Maintenance w/ Dispatch and Onsite	44,738.00	
	SVC02SVC0126A	Nice Post Warranty Maintenance - GOLD	17,449.00	
		TOTAL ANNUAL FEE		62,187.00
2023/24	SVC02SVC0487A	Locution Maintenance w/ Dispatch and Onsite	45,671.00	
	SVC02SVC0126A	Nice Post Warranty Maintenance - GOLD	17,972.00	
		TOTAL ANNUAL FEE		63,643.00
2024/25	SVC02SVC0487A	Locution Maintenance w/ Dispatch and Onsite	46,633.00	
	SVC02SVC0126A	Nice Post Warranty Maintenance - GOLD	18,512.00	
		TOTAL ANNUAL FEE		65,145.00
2025/26	SVC02SVC0487A	Locution Maintenance w/ Dispatch and Onsite	48,642.00	
	SVC02SVC0126A	Nice Post Warranty Maintenance - GOLD	19,067.00	
		TOTAL ANNUAL FEE		67,709.00
2026/27	SVC02SVC0487A	Locution Maintenance w/ Dispatch and Onsite	50,773.00	
	SVC02SVC0126A	Nice Post Warranty Maintenance - GOLD	19,639.00	
		TOTAL ANNUAL FEE		70,412.00
2027/28	SVC02SVC0487A	Locution Maintenance w/ Dispatch and Onsite	51,887.00	
	SVC02SVC0126A	Nice Post Warranty Maintenance - GOLD	20,228.00	
		TOTAL ANNUAL FEE		72,115.00

2028/29	SVC02SVC0487A SVC02SVC0126A	Locution Maintenance w/ Dispatch and Onsite Nice Post Warranty Maintenance - GOLD TOTAL ANNUAL FEE	53,035.00 20,838.00	73,870.00
2029/30	SVC02SVC0487A SVC02SVC0126A	Locution Maintenance w/ Dispatch and Onsite Nice Post Warranty Maintenance - GOLD TOTAL ANNUAL FEE	54,216.00 21,460.00	75,676.00
2030/31	SVC02SVC0487A SVC02SVC0126A	Locution Maintenance w/ Dispatch and Onsite Nice Post Warranty Maintenance - GOLD TOTAL ANNUAL FEE	55,435.00 22,104.00	77,539.00

	Sub Total		$689,069.00
SPECIAL INSTRUCTIONS - ATTACH STATEMENT OF WORK FOR PERFORMANCE DESCRIPTIONS Attached: SOW – Block Diagram of Equipment and Locations, Equipment list, NICE – 24X7, FSA - 24X7 SLA's. Referenced: Motorola Proposal – "Milpitas Console, Subs and FSA" 11-7-2018	Taxes		$0.00
	Grand Total		$689,069.00
	THIS SERVICE AMOUNT IS SUBJECT TO STATE AND LOCAL TAXING JURISDICTIONS WHERE APPLICABLE, TO BE VERIFIED BY MOTOROLA SOLUTIONS		

AUTHORIZED CUSTOMER SIGNATURE TITLE DATE

CUSTOMER (PRINT NAME)

MOTOROLA REPRESENTATIVE (SIGNATURE) TITLE DATE

RON HARMAN 916-605-9544

MOTOROLA REPRESENTATIVE (PRINT NAME) PHONE

This Agreement is governed by the terms and conditions of the Agreement Between the County of Santa Clara and Motorola Solutions, Inc. for Goods and Related Services for Use on or with the Silicon Valley Regional Communications System (SVRCS), dated September 25,

2012 ("SVRIA Contract") and the Communications System Maintenance Agreement dated December 15, 2015.

Company Name	:	Milpitas, City of
Contract Number	:	USC00010006972
Contract Modifier	:	
Contract Start Date	:	01-Mar-2021
Contract End Date	:	28-Feb-2031

City of Milpitas

Fire Station Alerting System:

Locations & Hardware

June 16, 2020

Police Department Dispatch Center

MCC7500e Dispatch Positions (6)
Archiving Interface Server (AIS) (1)
Auxiliary I/O System (1)
Site Controller (1)
Conventional Gateways (3)
APX7500 Consolettes (5)
APX1500 Control Station (1)
NICE Logging System (1)
Locution FSA
Public Address Amplifier (2)

Department of Public Works

APX7500 Consolette (1)
MC1000 Desksets (2)

EOC

MC2500 Desksets (3)

Fire Station 1

APX7500 Dual-Band Consolette (1)
MC1000 Desksets (6)
Locution FSA
Public Address Amplifier (1)

Fire Station 2

APX7500 Dual-Band Consolette (1)
MC1000 Desksets (2)
Locution FSA
Public Address Amplifier (1)

Fire Station 3

APX7500 Dual-Band Consolette (1)
MC1000 Desksets (2)
Locution FSA
Public Address Amplifier (1)

Fire Station 4

APX7500 Dual-Band Consolette (1)
MC1000 Desksets (2)
Locution FSA
Public Address Amplifier (1)

STATEMENT OF WORK

ONSITE SUPPORT STATEMENT OF WORK

1.0 Introduction

Motorola‘s OnSite Infrastructure Response & Dispatch service provides case management and escalation for onsite technical service requests. The service is delivered by the Motorola’s Solutions Support Center (SSC) in conjunction with a local service provider. The SSC is responsible for opening a case for onsite support and monitoring the status of that case to ensure strict compliance to committed response times.

The terms and conditions of this Statement of Work (SOW) are an integral part of Motorola's Service Agreement or other applicable agreement to which it is attached and made a part thereof by this reference.

2.0 Description of Services

The Motorola SSC will receive customer request for OnSite service provider and dispatch a servicer. The servicer will respond to the customer location based on pre- defined Priority Levels set forth in Priority Level Definitions table and Response times set forth in Priority Level Response Time Goals table in order to restore the system.

Motorola will provide an Incident management as set forth herein. The SSC will maintain contact with the on-site Motorola Service Shop until system restoral and Incident closure. The SSC will continuously track and manage Incidents from creation to close through an automated Incident tracking process.

2.1 Scope

OnSite Support is available 24 hours a day, 7 days a week in accordance with Priority Level Definitions and Priority Level Response Time Goals tables.

2.2 Geographic Availability

OnSite Infrastructure Response and Dispatch is available to customers worldwide where Motorola servicers are present. Response times are based on the customer’s local time zone.

2.3 Inclusions

Onsite Support can be delivered on Motorola-sold infrastructure.

3.0 Motorola has the following responsibilities:

3.1 Receive service requests.

3.2 Create an Incident as necessary when service requests are received. Gather information to characterize the issue, determine a plan of action and assign and track the Incident to resolution.

3.3 Dispatch a field servicer ("Servicer") as required by Motorola's standard procedures and provide necessary Incident information.

3.4 Provide the required personnel access to relevant customer information as needed.

3.5 Servicer will perform the following on-site:

3.6 Run diagnostics on the Infrastructure or Field Replacement Units (FRU).

3.7 Replace defective Infrastructure or FRU, as supplied by customer.

3.8 Provide materials, tools, documentation, physical planning manuals, diagnostic/test equipment and any other requirements necessary to perform the maintenance service.

3.9 If a third party vendor is needed to restore the system, the Servicer may accompany that vendor onto the customer's premises.

3.10 Verify with customer that restoration is complete or system is functional, if required by customer's repair verification in the Customer Support Plan. If verification by customer cannot be completed within 20 minutes of restoration, the Incident will be closed and the Servicer will be released.

3.11 Escalate the Incident to the appropriate party upon expiration of a response time.

3.12 Close the Incident upon receiving notification from customer or servicer, indicating the Incident is resolved.

3.13 Notify customer of Incident status as defined by the Customer Support Plan:

3.13.1 Open and closed; or

3.13.2 Open, assigned to the servicer, arrival of the servicer on-site, deferred or delayed, closed.

3.14 Provide Incident activity reports to customer if requested.

3.15 Perform software upgrades, apply hotfixes/service packs/patches for Locution and NICE system components and notify the City of Milpitas before performing those services.

4.0 Customer has the following responsibilities:

4.1 Contact Motorola, as necessary, to request service by following the procedure outlined in section 6 of the Customer Support Plan.

4.2 Provide Motorola with the following pre-defined customer information and preferences prior to start date necessary to complete Customer Support Plan (CSP):

- 4.2.1 Incident notification preferences and procedure.
- 4.2.2 Repair verification preference and procedure.
- 4.2.3 Database and escalation procedure forms.
- 4.2.4 Submit changes in any information supplied in the CSP to the Customer Support Manager (CSM).

4.3 Provide the following information when initiating a service request:

- 4.3.1 Assigned system ID number.
- 4.3.2 Problem description and site location.
- 4.3.3 Other pertinent information requested by Motorola to open an Incident.

4.4 Allow Servicers access to equipment.

4.5 Supply infrastructure or FRU, as applicable, in order for Motorola to restore the system.

4.6 Maintain and store in an easily accessible location any and all software needed to restore the system.

4.7 Maintain and store in an easily accessible location proper system backups.

4.8 For E911 systems, test the secondary/backup Public Safety Answering Point (PSAP) connection to be prepared in the event of a catastrophic failure of a system. Train appropriate personnel on the procedures to perform the function of switching to the backup PSAP.

4.9 Verify with the SSC that restoration is complete or system is functional, if required by repair verification preference provided by customer.

4.10 Cooperate with Motorola and perform all acts that are reasonable or necessary to enable Motorola to provide these services.

4.11 Obtain and provide applicable third party consents or licenses at Customer cost to enable Motorola to provide the Services

5.0 Priority Level Definitions

The following Priority level definitions will be used to determine the maximum response times:

Incident Priority	Definition
Critical	**Core:** Core server failures Core Link failure **Sites/Subsites:** Entire Simulcast Not Wide Trunking >= 33% of Sites/subsites down ○
High	**Consoles:** Console positions down (>= 33%) Console Site Link Down **Sites/Subsites:** < 33% of Sites/subsites down >= 33% of channels down **Conventional Channels:** >= 50% of conventional channels (CCGW) down **Devices:** Site Router/switch, GPS server down
Medium	**Consoles:** Console positions down (< 33% at a site) **Sites/Subsites**: < 33% of channels down **Conventional Channels:** Less than 50% of conventional channel down
Low	**Minor events and warnings in the system** Preventative & Planned Maintenance Activities (Scheduled Work)

6.0 Onsite Support Priority Level Response Time Goals

(Customer's Response Time Classification is designated in the Customer Support Plan.)

Incident Priority Level	Standard Response Time
Critical	Within 4 hours from receipt of notification continuously
High	Within 4 hours from receipt of notification continuously
Medium	Within 8 hours from receipt of notification Standard Business Day, Hours(8-5pm local time)
Low	Within 12 hours from receipt of notification Standard Business Day, Hours(8-5pm local time)

* Premier Response is an option that can be purchased, it provides a 2-hour response time for Critical /High Priority Incidents (as applicable)

This Agreement sets forth the terms and conditions under which Locution will support and maintain certain computer software for Customer. In consideration of the terms and provisions set forth in this Agreement, the parties agree as hereinafter provided.

A. *Recitals.* Locution has developed the Locution Fire Station Dispatch System and related Hardware and computer Software programs (the "System").

1. *Definitions.* Some terms in this Agreement are defined when first used or as hereinafter set forth in the following subparagraphs for convenience.

1.1. *"Audio Database"* or "Database" means the Software Audio Database containing audio and tone files.

1.2. *"Hardware"* means computers, terminals, peripherals and other equipment that are required to operate the System for its intended purpose and are provided by Locution/Motorola in the Statement of Work.

1.3. *"Hardware Error"* means a verifiable or reproducible malfunction in the Hardware which reduces the usability of the Hardware and hinders it from being used by Customer.

1.4. *"Software"* means the computer programs developed and licensed by Locution to Customer pursuant to Locution Software License.

1.5. *"Software Error"* means a verifiable or reproducible malfunction in the Software which reduces the usability of the Software and hinders it from being used by Customer.

1.6. *"Third Party Software"* means such computer software, subroutines, operating systems, platforms or programs, development tools and the like which are necessary for the use and operation of the Software or which are incorporated in the Software, where the ownership of or proprietary rights to such software are vested in third parties and such software is used by permission or license from said third parties. These are subdivided into Operating Systems, Third Party Software Drivers, and Third Party Software Applications as defined below.

1.6.1. *"Operating Systems"* means computer software operating systems, either Linux or Windows, required for operation of the Hardware.

1.6.2. *"Third Party Software Drivers"*, means computer software drivers required for the operation of the System.

1.6.3. *"Third Party Software Applications",* whether in service or non-service form, means third party software which are required for the use and operation of the Software or which are incorporated in the Software.

1.7. *"Warranty Period"* means a period of one (1) year following Customer's final acceptance of the System.

2. *Maintenance Fee.* Customer shall pay Locution the total maintenance and support cost for the First Year Following Warranty Period as set out below at the end of the Warranty Period and subsequent maintenance and support costs as set out below will be paid on the anniversary date thereof. All fees herein are exclusive of taxes, duties and other governmental imposts.

2.1. *Renewal Fee Increases.* If Customer and Motorola agree to a renewal of maintenance and support services extending beyond Year 1, then Motorola reserves the right to increase the prices to its then-current rates for similar services.

3. *Maintenance Coverage - Responsibilities of Locution.* Locution, for the charges and fees set forth herein, shall maintain and support the System as herein described to promote the reasonable operation of the System in accordance with the technical

specifications, software licenses, and any enhancements to the System.

3.1. Hardware and Software Support. Hardware Support is described in subparagraph 3.2 below. Software Support is described in subparagraphs 3.3 and 3.4 below. This Software Support is in addition to the Audio Database updates described in paragraph 8.

3.2. Description of Support – Hardware. During the term of this Agreement, Locution will correct or fix any problems or failures occurring with the Hardware. Such support will be provided after Customer has identified any Hardware Error and notified Motorola thereof in accordance with Locution's reporting procedures. The Hardware includes computers, Station Control Unit, Intelligent Audio Switch, Programmable Logic Relay, Reader Board, and the Locution Enclosure. The computers are warranted through the manufacturer for the Customer. Locution will handle logistics of repairing or replacing the computers without any cost to Customer. Notwithstanding Locution's Terms and Conditions, the computers are initially warranted for three years from the date of purchase. Any computer failures that occur after three years are not covered by this Maintenance Agreement and will require the replacement of the computer by the Customer. Upon Customer's request and as part of this Agreement, Locution will supply assistance with reloading any Software on replacement computers.

3.3. Description of Support – Software. During the term of this Agreement, Locution will correct Software Errors or circumvent Software Errors on a temporary basis while a permanent resolution can be provided by Locution. Such support will be provided after Customer has identified any Software Error and notified Locution thereof in accordance with Locution's reporting procedures. This includes changes to the Software that are made necessary by CAD upgrades that meet the specifications in the Locution API. Should a Software Error be reported on a system that has non-Locution-validated Third Party Software running on the System, Locution, at its discretion, may require that the Software Error be duplicated on the system with the non-Locution-validated software either removed or put into a non- operating state. Third Party Software presently validated by Locution includes Microsoft Office, Norton Anti-virus, Adobe PDF Writer (which must be set up to not create PDF files during normal system operation), and AVG Anti-virus software. The latest list of validated Third Party Software can be obtained from Locution.

3.4. Description of Support – Third Party Software. Operating Systems are excluded from the coverage of this Agreement, though Locution warrants that it will make its Software compatible with the Operating System within one year of any necessary change required for such Operating System. A necessary change required for an Operating System is defined as one that results from either a change to the Operating System where the prior version of the Operating System will no longer be supported by a third party vendor or a change to an Operating System that causes an incompatibility with the operation of the Hardware or the Software. Third Party Software Drivers and Third

Party Software Applications, are excluded from the coverage of this agreement.

3.5. *Reporting of Defects.* Locution serves as the single source to address all defects in the System. Customer may report defects to Locution by opening a case with Motorola by calling 1-800-674-4357. Customer may not be required to follow up in-person, telephone, e-mail or fax notices of defects with a hard copy by mail or other means.

3.6. *Customer's Errors.* If Locution discovers any Errors which are a result of a Customer error, Locution will give notice of such discovery to Customer. Customer may then halt Locution's correction efforts or authorize Locution to continue service or correction of difficulties or defects traceable to Customer errors at Customer's expense at Locution's standard time and material rates for support services. In the event Locution or a representative of Locution provides on-site support, Customer shall provide Locution with reasonable access, without charge, to Customer's facilities, appropriate personnel, and any other information reasonably requested by Locution so as to enable Locution to provide services, provided that Customer can do so at no significant cost to Customer.

4. *Replacement of Defective Components.* Locution will troubleshoot the System and determine when a System component needs to be physically replaced. The physical replacement of defective components will be done by Customer. Locution will troubleshoot and communicate to Motorola/Customer which component or components need to be replaced. The replacement of said components will follow the following process:

- Motorola will remove defective components from the System on Locution's troubleshooting advice.
- Motorola will ship the components to Locution. Locution may pay shipping costs on request by Customer (via a Call Tag through FedEx).
- Locution will ship a replacement component overnight, or otherwise, depending on the Severity Level of the issue and the existence of spares at the Customer's premises.

5. *Audio File Updates.* Regular Audio File updates will be performed by Locution during the term of this Agreement. This Agreement provides up to a total of twelve Audio File updates per year on an as needed basis.

5.1. *New Audio Files.* Audio File updates comprise of adding new audio and tone files to the Audio Database. An update will be required to accommodate the addition of any tones or new audio supplied by Locution. Customer may create its own tone files and place them in service without having to engage Locution for assistance or Customer may engage Locution for assistance in updating audio tones. A total of 250 unique items in any existing Database category are allowed per update. Typical examples of a

Database category are incidents, street names, and common place names.

5.2. *Delivery of Configuration and Audio Tone Files.* Locution provides new configuration files and/or tone files to the Customer via its FTP site or via CD/DVD shipment from Locution.

5.3. *Customer Audio Tone File Synchronization.* The Customer will move newly required tone files onto the main server computer and then synchronize the station computers housing the Software using synchronization software provided by Locution for this purpose.

5.4. *Time for Service.* Total turnaround time for the first two subparagraphs in this section is five to ten business days, typical.

6. *Configuration Updates.* "Configuration updates" for the System are defined as an update to any existing configuration file whether on central server or station computer. Locution shall perform Configuration updates as described in the Third Party Access Agreement.

7. *Software Upgrade Procedures.* Locution shall constantly upgrade the Software. As part of this Agreement, Customer may upgrade to any new official installer Software release produced by Locution. Locution releases new official installer versions every one to two months. Official releases include bug fixes, increased capabilities and improvements, or both bug fixes with increased capability and improvements. Locution will provide the Customer with Software upgrades via FTP site download or CD/DVD mailing for the Customer to implement the upgrade.

8. *Excluded Services.* In addition to any excluded items described above the following services are outside the scope of this Agreement and if performed by Locution will be billed to Customer at Locution's then-current rates:

8.1. *Unauthorized Maintenance.* If other than Motorola or Locution performs repairs or maintenance on the Software, then any costs in labor or parts incurred by Locution to remedy such unauthorized repairs shall be paid by Customer.

8.2. *Consumables.* Consumables, such as ribbons, batteries, magnetic media, toner and toner cartridges.

8.3. *Limitations on Support.* Customer acknowledges and agrees that Motorola or Locution is not responsible for assisting in problems that are not directly related to the performance of the System or Software. Locution may elect to provide assistance to Customer on other matters and will notify Customer in advance of charges therefore, if any.

9. *Support Response Time.* Motorola/Locution agree to respond to the Customer as set out below.

9.1. *Designated Call Number.* Customer must call the designated phone number or numbers for Locution assistance (see paragraph 3.5).

9.2. *Severity Levels / Response Times and Resolution Times.* Motorola/Locution will comply with the response times, resolution time and resolution procedures set forth in this section for each of the priority levels of problems described herein. Customer shall assign an initial priority level for each problem reported, either orally or in writing, based on the conditions described below. Motorola/Locution will work with Customer to upgrade or reduce the level of a particular problem to a different priority level, if after examining the problem there is reason to do so.

Notwithstanding the foregoing, Motorola/Locution may not upgrade or reduce the level of priority of a particular error to a different priority without Customer's consent, which consent may not be unreasonably withheld.

Priority One Critical	Priority One applies if the problem could: • Prevent the accomplishment of an operational or mission essential function, OR • Cause loss of data or data corruption, OR • Causes the interruption of normal operation of other systems, hardware or software preventing the accomplishment of an operational or mission essential function.
Response Time	• Immediately after notification, if the problem is reported during Regular Hours • Within one hour of notification, if the problem is reported after Regular Hours. • If on-site repair is required, Locution will coordinate the repair with the customer or a local installer within the next business day.
Resolution Time	• Within 12 hours after the problem is first reported by Customer, if no on-site repair is required. • Within 72 hours, typically, if on-site repair is required.

Priority Two	Priority Two applies if the problem could: • Adversely affect (but not prevent) the accomplishment of an operational or mission essential function, and no workaround is available, OR • Increase technical risk or increase costs associated with the life cycle and support of the system, and no workaround is available. • Priority Two problems include aborts, but not loss of data or data corruption.
Response Time	• Within four hours of notification, if the problem is reported during Regular Hours. • Within four hours of the start of the next business day after notification, if the problem is reported after Regular Hours. • If on-site repair is required, Locution will coordinate the repair with the customer or a local installer within the next two business days.
Resolution Time	• Within three business days after the problem is first reported by Customer, if no on-site repair is required. • Within five business days, typically, if on-site repair is required.
Priority Three	Priority Three applies if the problem could: • Adversely affect (but not prevent) the accomplishment of an operational or mission essential function, but a workaround is available, OR • Increase technical risk or increase costs associated with the life cycle and support of the system, but a workaround is available.

	• Priority Three problems do not include aborts or loss of data or data corruption.
Response Time	• Within one business day of notification, if the problem is reported during Regular Hours. • Within two business days of notification, if the problem is reported after Regular Hours.
Resolution Time	• Within 20 business days after the problem is first reported by Customer.
Priority Four Minor	• Any problem related to the System which does not fall within Priority One, Two or Three
Response Time	• Within two business days of notification, if the problem is reported during Regular Hours. • Within three business days of notification, if the problem is reported after Regular Hours.
Resolution Time	• Resolution within the next two new software releases.

Response times set forth in the preceding chart will not apply to any delays that Motorola cannot reasonably prevent (such as delays caused by weather, etc.).

1.2 NICE Support Services

Motorola offers NICE Gold Services during warranty period. Motorola has included pricing for 9 years post warranty Gold Level Maintenance services to match the maintenance services provided with the dispatch console project.

In addition to the services identified below, Motorola provides:

- Service Desk
- Case Management
- Escalations
- END to END Service - meaning not only are we responsible for the City of Milpitas' system we have complete visibility and responsibility for the SVRIA logger and connection to the Astro Core.

On Motorola's behalf, NICE Systems, Inc. will provide customized support services during the warranty and Post warranty maintenance period on the proposed NICE Logger.

The NICE support services to be delivered are outlined in Table 1-2.

Table 1-2: NICE Services

NICE Services	
Support Coverage	Twenty-four (24) hours, seven (7) days per week for remote critical issues. 8x5 response for any other issues.
Call Back Response Time	Sixty (60) minutes after receipt of call from authorized representative
On-Site Response Time for Priority 1 Service Issues	Four (4) hours
Services included:	Software Hot Fixes, Update Packs and Minor Version Update. City will be notified before work begins. **Excludes Major Version Upgrades.**

Motorola and NICE offer a comprehensive, cost effective Customer Support Program to assist with keeping your NICE logging recorder solution performing optimally and to ensure your prompt access to the applications, features, and innovation that our dedicated engineers are working on every single day.

There are many benefits to purchasing a NICE Customer Support Program, including:

FAST, TRANSPARENT SERVICE TO PROTECT YOUR MISSION-CRITICAL SYSTEMS

- NICE Support is available 24 hours per day and 7 days a week.
- Customers under Support Program enjoy priority status in a call queue.
- Service packs and hot fixes are included. If your NICE solution contains hardware purchased from NICE through Motorola, the Customer Support Program includes the provision of replacement parts for failed or faulty hardware. If needed, such parts are shipped overnight to arrive the next business day.

MOTOROLA AND NICE SUPPORT MODEL

Motorola has proposed the Gold service package for the long term maintenance to match the services that are provided under warranty.

Together, Motorola and NICE provide a unique set of advantages for our mutual customers. As leaders in our respective markets, Motorola and NICE offer customers a fully integrated product offering and a fully integrated support model. Specifically, for the City of Milpitas, when there is a problem, Motorola offers a complete view of the entire system from the SVRIA centralized logging recorder to your local logging recorder, including the SVRIA P25 system and the MCC7500e dispatch console.

1.2.1 The Motorola Advantage

The customer support contract is owned by Motorola. This provides the customer with significant value because Motorola has integrated NICE products into its solution.

1) **A Single Point of Contact**: Call Motorola whether it is for radio or recording system.
2) **Single Responsibility**: The integrated Motorola/NICE solution means that Motorola is fully engaged in the issue resolution process. There will be no 'finger-pointing' between vendors. This is critical because both companies have products/components in the recording solution. *This means peace of mind for the City of Milpitas and faster response times, which is of critical importance.*
3) **Single Maintenance Contract:** Including the recording system in the support contract for the radio system simplifies management and administration for the customer, *saving time and headaches every year.*

1.2.2 The NICE Advantage

NICE Systems' Support Team understands that for mission-critical recording systems, success is measured in minutes. NICE Customer Service is structured to deliver results as fast as possible.

While other suppliers may offer some of the features listed below, few (if any) provide all of them.

1) **NICE Support Technicians Are Embedded at the Motorola System Support Center (SSC):** NICE is the only Supplier that has technicians embedded at the SSC. This provides a true integrated support response where Motorola and NICE technicians work shoulder to shoulder on case resolution. The high level of collaboration provides many benefits including faster resolution times and less hassle for customers.

2) **Proven Remote Diagnostics**: Remote Diagnostics are the fastest way to deliver quality support. NICE statistics show that over 94% of all recording cases are closed via remote diagnostics, and 90% of all call recording support cases are closed in under 24 hours.

3) **Immediate Access to Tier 3 Support**: All NICE Field Technicians and the Tier 2 Remote Support Team at the SSC have direct access to NICE's Tier 3 Engineering Team. NICE Support Providers have immediate access to T3 and T4 resources.

   NICE is the Manufacturer of the Product: When a software anomaly is discovered, the Tier 3 team has direct and unconstrained access to the NICE Tier 4 Product Engineers and R&D team.

   For Service Providers supporting products of another manufacturer, there may be delays and increased costs in getting access to Tier 4 and R&D.

4) **Performance-driven Quality Review:** Each month, Motorola and NICE review a variety of Key Performance Indicators to evaluate service results and customer satisfaction. Motorola and NICE adhere to a proven process of continuous analysis and improvement to act on 'lessons learned' to drive constant improvements in customer satisfaction.

The following pages present the NICE/Motorola Support Level Agreements.

NICE SUPPORT AGREEMENT

WARRANTY AND MAINTENANCE

All NICE products sold through Motorola come with a 1 year warranty for all break/fix issues. This includes software bug fixes and software patches as well as parts for hardware. Product warranty coverage includes 8 x 5 support. However, Motorola and NICE are providing a warranty upgrade package to uplift the coverage to 24 x 7 support. Warranty begins upon NICE's completion of the product installation (the completion of the implementation ITP).

PRIORITY DEFINITIONS – SEVERITY LEVELS

1.2.3 NICE Support Program

The NICE Support Program identifies four levels of severity that determine the priority in queue and SLA commitments. These priority levels are defined as follows:

Priority 1 Critical	In a 100% recording environment, any failure of equipment, NICE software or communications to the NICE products which results in loss of recording channels or data, or if allowed to persist will result in such recording loss.
Priority 2 Major	Any problem resulting in loss of ability to retrieve calls or loss of replay functionality for two or more workstations.
Priority 3 Anomaly	Any problem affecting one or more workstations that does not result in a loss of recording or replay, but nevertheless results in diminished product response or performance, e.g. if an administrator loses the ability to add or delete users.
Priority 4 Inquiry	An incident that has no business impact on a Production System, such as system inquiry, planned intervention requests for documentation, or request for information.

NICE Gold Package - 24 x 7 coverage for both remote and on-site support, as defined below.

Silver Level Coverage Description:	
Support Coverage: Eight (8) hours, seven (7) days per week.	
Call Back Response Time: Sixty (60) minutes after receipt of call from authorized representative.	
On-Site Response Time for Priority 1 Service Issue: Four (4) hours - Restrictions Apply	
Service	**Gold**
Phone & Remote Support Coverage	24 X 7
On Site Support - Restrictions Apply	24 X 7
CSC Access 24 X 7	Yes
Remote Diagnosis	Yes
Escalation	Yes
Repair and Replacement of failed parts	Yes

Gold	Priority 1	Priority 2	Priority 3	Priority 4
Phone Availability	24*7	24*7	24*7	24*7
Support Coverage	24*7	24*7	24*7	24*7
Call Back Response Time	60 minutes	120 minutes	24 hours	24 hours
On Site Response Times	4 hours	24 hours	48 hours	48 hours

SPARE PARTS

Motorola and NICE recommend that customers keep critical spare parts kits of frequently used replacement parts on site to streamline the support process. A spare parts kit can be quoted by your Motorola Customer Service Representative, Ellen Vanhole or your Motorola Account Manager Jeff Van Dell.

PROACTIVE QUALITY ASSURANCE

We are committed to providing superior support to our valued customers. Every closed support case will generate an email to the customer, summarizing the completion. A link to a brief survey may also be emailed to you for feedback on your experience with our support team. Your feedback is valuable in helping us identify our strengths or opportunities for improvement.

CITY OF MILPITAS
AGENDA REPORT
(AR)

Item Title:	Adopt a Resolution Directing Staff to Fly City Event Celebration and/or Commemorative Flags at Various Events from February 2021 through December 2021
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	1/19/2021
Staff Contact:	Renee Lorentzen, 408-586-3409
Recommendation:	Adopt a Resolution Directing Staff to Fly City Event Celebration and/or Commemorative Flags at Various Events from February 2021 through December 2021

Background:
Pursuant to Milpitas Municipal Code Section I-600-2.30(3), the City Council may, by resolution, direct City staff to display Commemorative Flags as an expression of the City's official sentiments by any of the following means: (i) display in lieu of the MIA/POW flag on one of the four City Hall Display Flag Poles located at the rear of City Hall adjacent to the pond, (ii) display in lieu of the flag of the State of California on one of the three flag poles located at Cesar Chavez Plaza, or (iii) display through ground level ceremonies at any of the following locations at the Civic Center complex or the City of Milpitas Community Center:

(1) City Hall Rotunda
(2) Area adjacent to pond at City Hall
(3) Cesar Chavez Plaza
(4) City Council Chambers

Analysis:
Staff is requesting that City Council adopt a Resolution directing staff to fly the City Event Celebration Flag and/or other Commemorative Flags for various upcoming Recreation and Community Services events in connection with and during periods of days and/or months of recognition for the following commemorative events:

- Black History Month – February 1 – 28, 2021,
- Cesar Chavez Birthday – March 30 – 31, 2021,
- Vietnamese Heritage Month – April 1 – 30, 2021,
- Eritrea Independence Day – May 24, 2021,
- LGBTQ Pride Month – June 1 – June 30, 2021
- Juneteenth – June 19, 2021,
- Filipino American History Month, October 1 – 31, 2021, and
- Native American Heritage and Culture Month – November 1 - November 27, 2021.

These recognition events will occur throughout the 2021 Calendar Year in the Cesar Chavez Plaza.

In accordance with the Municipal Code, the Commemorative Flags shall be displayed for a period of time that is reasonable or customary for the subject that is to be commemorated, but no longer than 30 continuous days.

Fiscal Impact:
The recommendation would require minimal staff time that has already been budgeted and does not have any additional fiscal impact.

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

Recommendation:
Adopt a Resolution Directing Staff to Fly City Event Celebration and/or Commemorative Flags at Various Events from February 2021 through December 2021.

Attachments:

1. Flag Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS DIRECTING STAFF TO FLY COMMEMORATIVE FLAGS AT CESAR CHAVEZ PLAZA FOR CITY-SPONSORED EVENTS IN 2021

WHEREAS, on August 1, 2017, the City Council (the "City Council") of the City of Milpitas Adopted Ordinance No. 260.2 relating to the display of flags on City-owned property; and

WHEREAS, pursuant to Milpitas Municipal Code Section I-600-2.30(3), the City Council may, by resolution, direct City staff to display Commemorative Flags as an expression of the City's official sentiments by any of the following means: (i) display in lieu of the MIA/POW flag on one of the four City Hall Display Flag Poles located at the rear of City Hall adjacent to the pond, (ii) display in lieu of the flag of the State of California on one of the three flag poles located at Cesar Chavez Plaza, or (iii) display through ground level ceremonies at any of the following locations at the Civic Center complex or the City of Milpitas Community Center:

(1) City Hall Rotunda
(2) Area adjacent to pond at City Hall
(3) Cesar Chavez Plaza
(4) City Council Chambers; and

WHEREAS, the City of Milpitas will be sponsoring commemorative events, ceremonies and holidays planned for the 2021 calendar year in Cesar Chavez Plaza; and

WHEREAS, the City intends to fly certain Commemorative Flags in Cesar Chavez Plaza as part of the sponsored events, ceremonies and holidays, as follows:

- Black History Month – February 1 – 28, 2021,
- Cesar Chavez Birthday – March 30 – 31, 2021,
- Vietnamese Heritage Month – April 1 – 30, 2021,
- Eritrea Independence Day – May 24, 2021,
- LGBTQ Pride Month – June 1 – June 30, 2021
- Juneteenth – June 19, 2021,
- Filipino American History Month, October 1 – 31, 2021, and
- Native American Heritage and Culture Month – November 1 - November 27, 2021.

WHEREAS, in accordance with the Milpitas Municipal Code, the Commemorative Flags shall be displayed for a period of time that is reasonable or customary for the subject that is to be commemorated, but no longer than 30 days.

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

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

2. Pursuant to Milpitas Municipal Code Section I-600-2.30(3), the City Council hereby directs staff to fly the following Commemorative Flags in lieu of the flag of the State of

California at Cesar Chavez Plaza on the following dates and date ranges, after which staff shall resume flying the flag of the State of California unless the City Council directs otherwise by further resolution:

- Black History Month – February 1 – 28, 2021,
- Cesar Chavez Birthday – March 30 – 31, 2021,
- Vietnamese Heritage Month – April 1 – 30, 2021,
- Eritrea Independence Day – May 24, 2021,
- LGBTQ Pride Month – June 1 – June 30, 2021
- Juneteenth – June 19, 2021,
- Filipino American History Month, October 1 – 31, 2021, and
- Native American Heritage and Culture Month – November 1 - November 27, 2021.

PASSED AND ADOPTED this _____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

_____
Pam Caronongan, Acting City Clerk

APPROVED:

_____
Rich Tran, Mayor

APPROVED AS TO FORM:

_____
Christopher J. Diaz, City Attorney

CITY OF MILPITAS
AGENDA REPORT
(AR)

Item Title:	Approve and Authorize the City Manager to Execute a Stormwater Management Facilities Operation and Maintenance Agreement for Anton Milpitas 750, LLC for the Anton Aspire Project at 750 E. Capitol Avenue
Category:	Consent Calendar-Community Development
Meeting Date:	1/19/2021
Staff Contact:	Steve Erickson, 408-586-3301
Recommendation:	Approve and Authorize the City Manager to Execute a Stormwater Management Facilities Operation and Maintenance Agreement for Anton Milpitas 750, LLC for the Anton Aspire Project at 750 E. Capitol Avenue

Background:
On June 21, 2016, the City Council approved Environmental Assessment No. EA16-0002 and Site Development Permit No. SD15-0014 ("Project") for the development of a 317-unit multi-story mixed use apartment building on approximately 6.04 acres located at 750 E. Capitol Avenue.

In accordance with State Law and the City's Municipal Regional Stormwater NPDES Permit ("MRP") issued by the Regional Water Quality Control Board ("RWQCB"), new development and redevelopment projects that create and/or replace 10,000 square feet or more of impervious surface are required to incorporate Low Impact Development ("LID") post construction stormwater control measures into the project. LID control measures include, for example, bioretention areas, flow-through planters, permeable pavement, infiltration trenches and tree well filters.

Analysis:
MRP section C.3.h.ii.(1)(a) and Milpitas Municipal Code Title XI Chapter 16 require development project property owners meeting the 10,000 square foot threshold to execute and record a Stormwater Management Facilities Operation and Maintenance Agreement ("Agreement") with the City for the perpetual operation, maintenance and annual inspection of LID stormwater treatment facilities.

The Project owner has complied with the LID requirements and has executed the required Agreement, which has been reviewed by the City Attorney as to form and by the City Engineer as to content.

Policy Alternatives:

Alternative 1:
Not approve the Agreement with the City for operation, maintenance and annual inspection of stormwater treatment facilities.

Pros: None

Cons: Not approving the Agreement would cause the project to be not in compliance with the conditions of development and the City's Municipal Code and would be prohibitive by federal and state law.

Reason not recommended: To be in compliance with federal and state law, including the MRP, and to allow for the on-going maintenance and annual City Inspection of the installed stormwater treatment devices, staff recommends approval of the Agreement.

Fiscal Impact:
The developer will pay for the required annual maintenance and inspection of the stormwater facilities. No additional budget needs to be appropriated.

California Environmental Quality Act:
This Agreement ensures the continuation of an administrative or maintenance activity. Execution of the Agreement is not considered a project under CEQA Guidelines section 15378(b)(4) as there will be no direct or reasonably foreseeable indirect physical change in the environment from this action to ensure continuing administrative and maintenance activities.

Recommendation:
Approve and Authorize the City Manager to Execute a Stormwater Management Facilities Operation and Maintenance Agreement for Anton Milpitas 750, LLC for the Anton Aspire Project at 750 E. Capitol Avenue.

Attachments:
Stormwater Management Facilities Operation and Maintenance Agreement

Recording Requested by
and when Recorded, return to:

CITY OF MILPITAS
455 E. CALAVERAS BOULEVARD
MILPITAS, CA 95035-5479

Attn: City Clerk

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

Document Transfer Tax is $ __0__
( ) Computed on full value of property conveyed
( ) Computed on full value less value of liens and encumbrances remaining
City transfer tax is $ __0__
APN: 086-37-040

STORMWATER MANAGEMENT FACILITIES OPERATION AND MAINTENANCE AGREEMENT

This Stormwater Management Facilities Operation and Maintenance Agreement ("AGREEMENT") is made and entered into this _____ day of _____ 2020 ("Effective Date"), by and between _____ __Anton Milpitas 750 LLC, a Delaware limited liability company_____ ("Property Owner") and the City of Milpitas, a municipal corporation of the State of California ("City").

RECITALS

This AGREEMENT is made and entered into with reference to the following facts:

A. **WHEREAS**, the Property Owner is the owner of real property more particularly depicted and described on the attached as **Exhibit A** ("Property") and fully incorporated herein by reference; and

B. **WHEREAS**, the Property Owner received entitlements from the City allowing the development of the Property, including the construction of __1__ multi-story mixed use apartment building comprising of __317__ residential units and __3,380__ sq. ft of ground floor retail with emergency vehicle access, utilities, and associated offsite and onsite improvements, landscaping, irrigation, and stormwater treatment measures on a __6.04__ acre site located at ____750 E. Capitol Avenue_____ in Milpitas and more commonly known as __Anton Aspire_____, Project No. PJ__1306__, (the "Project") on the Property; and subject to conditions set forth in the following (collectively "City Approvals"):

1. Resolution No. __8556__ approving Site Development Permit No. SD15-__0014__,

2. Resolution No. 8556 approving Environmental Assessment No. EA15- 0002 ; and

C. **WHEREAS**, discharges to the City's municipal separate storm sewer system ("MS4") are regulated under state and federal law pursuant to Waste Discharge Requirements and National Pollutant Discharge Elimination System permit ("MS4 Permit") issued by the Regional Water Quality Control Board, San Francisco Region ("Regional Board").

D. **WHEREAS**, pursuant to the requirements of the MS4 Permit and the City's Stormwater and Urban Runoff Pollution Control Ordinance as codified in Milpitas Municipal Code Chapter 16 ("Ordinance"), the City Approvals require the Property Owner to install, operate and maintain, at no cost or expense to the City, the Permanent Stormwater Pollution Prevention Measures ("BMPs") more particularly described in the City-approved Stormwater Control Operation and Maintenance Plan (sometimes referred to herein as "Plan") for the Project attached hereto as **Exhibit B** and fully incorporated herein by reference; and

E. **WHEREAS**, the Stormwater Control Operation and Maintenance Plan may be subsequently modified from time to time with City's written approval and such changes shall be fully incorporated as part of this Agreement by this reference; and

F. **WHEREAS**, the Stormwater Control Operation and Maintenance Plan includes provisions for the BMP Operation and Maintenance and an annual inspection checklist for the BMPs constructed on the Property, and

G. **WHEREAS**, this Agreement memorializes the Property Owner's maintenance, operations, and inspection obligations under the City's Ordinance and the approved Stormwater Control Operation and Maintenance Plan.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

SECTION 1. Responsibility for Operation and Maintenance:

The Property Owner, at its sole cost and expense, shall construct and install the BMPs shown in Exhibit B in accordance with the plans approved by and on file with the City. Property Owner shall diligently maintain in perpetuity the BMPs in a manner assuring peak performance at all times, shall make such changes or modifications to the BMPs, subject to City's prior approval as may be reasonably necessary for the BMPs to continue to operate as designed and approved and to accomplish its intended purpose and in good repair, and in compliance with all applicable Federal, State, County and local laws and regulations, including but not limited to the Ordinance, as the same may be amended, revised, and/or replaced from time to time. The Owner shall be responsible for the costs incurred in operating, maintaining, repairing and replacing the BMPs. Property Owner shall not destroy or remove the BMPs or modify any measure in any manner that would lessen its effectiveness. Property Owner shall make available copies of the approved Stormwater Control Operation and Maintenance Plan at the site with the facility or property manager.

SECTION 2: Inspection by Property Owner:

The Property Owner, at its sole cost and expense, shall conduct annual inspections of all permanent installed BMPs per the Plan. The annual inspection report shall include completion of the checklist described in the approved Stormwater Control Operation and Maintenance Plan. The BMPs must be inspected by a qualified independent inspector who is acceptable to the City. The Property Owner shall submit the Inspection Report on these BMPs to the City Engineer no later than July 15th of each year.

SECTION 3. Facility Inspection by the City:

(a) Right of Entry. The Property Owner, on its behalf and on behalf of its successors and assigns, grants permission to the City, the inspectors of the Regional Board, and local mosquito and vector control agency, and their authorized agents and employees, to enter the Property, and to inspect the BMPs whenever the City deems necessary to enforce provisions of the Ordinance, this Agreement, or any other local or state requirements. The City may enter the premises at any reasonable time during normal business hours and upon at least 48 hours prior written notice (except that prior written notice is not required in case of emergency) to inspect the premises related to BMPs and BMP operation and maintenance, to inspect and copy records related to storm water compliance, and to collect samples and take measurements related to BMPs. The Property Owner shall deposit and maintain a Private Job Account with the City a minimum balance of **Four Thousand Dollars ($4,000)** for inspection by City Staff pursuant to this Section 3. The deposit of **Four Thousand Dollars ($4,000.00)** shall be made simultaneously with the execution of this Agreement.

(b) Security. The City may require the Owner, its successors and assigns, from time to time, to post security in a form, amount, and for a time period satisfactory to City to guarantee performance of the obligations stated herein. Should the Owner, its successors and assigns, fail to perform the obligations under this Agreement, the City may, in the case of a cash bond, act for the Owner, its successors and assigns, using the proceeds from such cash bond, or in the case of a surety bond, require the surety to perform the obligations of this Agreement.

SECTION 4. Failure to Perform Required Facility Repairs or Maintenance by the Property Owner:

(a) Enforcement Action. If the Property Owner or its successors fail to operate and maintain the BMPs in good working order and in accordance with the approved Plan and the City's Ordinance, the City may, but is not required to, pursue any enforcement action available at law or in equity to cause the completion of all maintenance and may charge the costs of such enforcement action against the Property Owner in any manner authorized by law or in equity.

(b) City Maintenance. In the event of Property Owner's failure to operate and maintain BMPs in accordance with the Plan and the City's Ordinance, the City may also, with prior written notice, enter the Property to return the BMPs to good working order; provided however that the Property Owner shall have 30 days after any such notice, or such other time provided by law, to cure the relevant failure and provided further that the Property Owner shall have such additional time after the initial 30 days to complete a cure so long as Property Owner commences the cure within the initial 30 days and diligently prosecutes the cure to completion. Notwithstanding the foregoing, City may in its sole discretion enter the Property to return the BMPs to good working in an emergency and take any other necessary action to mitigate an emergency without any notice to Property Owner. The City is under no obligation to maintain or repair the BMPs, and this Agreement may not be construed to impose any such obligation on the City. If the City, under this Section 4 takes any action to return the BMPs to good working order, the Property Owner

shall reimburse the City for all the reasonable costs and expenses incurred by the City. The City will provide the Property Owner with an itemized invoice of the City's costs and expenses and the Property Owner shall make full payments to the City within thirty (30) days of the date of the invoice. If the Property Owners fails to pay the invoice within thirty (30) days, the City shall be entitled to cause a lien for any such unpaid maintenance expense bill to be recorded against the Property. In addition, the City shall be entitled to have the unpaid amount of the invoice placed as a special assessment on the next regular tax bill levied against the Property, after which such assessment shall be collected in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and same procedures under foreclosure and sale in the case of delinquency as provided for ordinary municipal taxes. The actions described in this section are in addition to and not in lieu of other legal remedies provided by law. Notwithstanding the above, it is understood that City is under no obligation to repair or maintain the BMPs, and in no event shall this Agreement be construed to impose any such obligation on City.

(c) Specific Performance. The provisions of this Agreement are expressly declared to be for the benefit of the City. The City may bring an action to obtain specific performance of this Agreement and may recover its costs, including attorney fees, incurred in bringing such action.

SECTION 5: Successors and Assigns:

Property Owner hereby declares that the Property shall be held, transferred, encumbered, used, conveyed, leased and occupied subject to the covenants, conditions, restrictions, easements and rights set forth herein for the use and benefit of each of the Lots. All of the limitations, easements, uses, obligations, covenants, restrictions and conditions stated herein shall run with the Property and shall be binding upon Property Owner, its successors and assigns, any and all parties having or acquiring any right, title or interest in or to the Property or any part thereof or interest therein and shall inure to the benefit of and be binding upon each successor-in-interest thereto.

Upon transfer of the property, the Property Owner shall provide the new owner with the current Plan and a copy of this Agreement and shall, in any event, be released from all obligations under this Agreement as of the effective date of the transfer of the Property.

SECTION 6. Indemnity:

The Property Owner, on Property Owner's behalf and on behalf of all successors in interest pursuant to Section 5 of this Agreement, shall indemnify, release, hold harmless, and defend the City and its authorized agents and employees from and against any and all demands, suits, liabilities, fines, losses, damages, accidents, casualties, occurrences or claims, including reasonable attorneys' fees, against the City which may in anyway arise or relate to the construction, operation, presence, existence or maintenance of the BMPs, or from any personal injury or property damage that may arise or relate from the City entering the property under Section 4. If a claim is asserted against the City, its authorized agents or employees, the City shall promptly notify the Property Owner and the Property Owner shall defend the claim and any resulting litigation at its sole cost and expense, with counsel approved by City. If any judgment is entered against the City, or its authorized agents or employees, the Property Owner must pay all costs and expenses to satisfy the judgment.

SECTION 7. Severability:

Invalidation of any one of the provisions of this Agreement shall in no way effect any other provisions, and all other provisions shall remain in full force and effect.

SECTION 8. Non-Discrimination:

The Property Owner shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin, in connection with or related to the performance of this Agreement.

SECTION 9. Governing Law:

City and Property Owner agree that the law governing this Agreement shall be that of the State of California and that Property Owner shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments.

SECTION 10. Recordation:

Property Owner shall, within 10 days after the effective date of this Agreement, record or cause the Agreement to be recorded in the Office of the Recorder, Santa Clara County, California, at the expense of the Property Owner, which recording shall constitute notice of the obligations herein set forth and a covenant running with the land and shall be binding upon all of the successors and assigns in title to the Property. In the event Property Owner fails to timely record this Agreement, City shall be authorized but not required to record the Agreement.

SECTION 11. Books and Records:

A. The Property Owner shall maintain any and all ledgers, books of account, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements or in any way relating to the performance of this Agreement for a minimum period of three (3) years, or for any longer period required by law.

B. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit at no cost to City, at reasonable any time during regular business hours, upon at least 48 hours' prior written request by the City Attorney, City Manager, or a designated representative of any of these officers. Copies of such documents shall be provided to City for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at the Property Owner's address indicated for receipt of notices in this Agreement.

SECTION 12. Notices:

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

To CITY:

City of Milpitas
Attn: City Engineer
455 East Calaveras Blvd.
Milpitas, CA 95035

To PROPERTY OWNER:

Attn: Wes Carter
President of Anton Residential
Anton Milpitas 750 LLC
1610 R Street, Suite 250
Sacramento, CA 995811

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

SECTION 13. Venue:

In the event that suit shall be brought by either party to this contract, the parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Northern District of California, San Jose, California.

SECTION 14. Interpretation, Prior Agreements:

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

[Signatures on Next Page]

IN WITNESS WHEREOF, the Parties execute this Stormwater Management Facilities Operation and Maintenance Agreement as of the last date set forth below:

PROPERTY OWNER:

ANTON MILPITAS 750 LLC,
a Delaware limited liability company

By: Blackhorse Company, LLC
a California limited liability company
its Manager

By: Trisha Malone
Name: Trisha Malone
Title: CFO

CITY:

CITY OF MILPITAS, A MUNICIPAL CORPORATION:

Recommended for approval:

By: _____
Steve Erickson, City Engineer

Approved as to form:

By: _____
Christopher J. Diaz, City Attorney

Approved:

By: _____
Steven McHarris, City Manager

Approved:

By: _____
Walter Rossmann, Risk Manager/Director of Finance

CALIFORNIA 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 SACRAMENTO }

On DECEMBER 7, 2020 before me, RANDI SEUNG YUN LO, NOTARY PUBLIC
Date *Here Insert Name and Title of the Officer*

personally appeared TIMSHA MALONE
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.

RANDI SEUNG YUN LO
Notary Public - California
Sacramento County
Commission # 2282924
My Comm. Expires Mar 26, 2023

Place Notary Seal and/or Stamp Above

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 _____
Signature of Notary Public

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: _____

©2018 National Notary Association

Please note that this is a placeholder for the acknowledgement. So use the most current version of the acknowledgement

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 _____, before me, _____, a Notary Public, personally appeared

_____,
_____ personally known to me;
_____ or _____, 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 _____

CAPACITY CLAIMED BY SIGNER:

Though statute does not require the notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

_____ Individual(s)
_____ Corporate Officer(s) Titles _____ and _____
_____ Partner(s) _____ Limited _____ General
_____ Attorney-in-Fact
_____ Trustee(s)
_____ Guardian/Conservator
_____ Other : _____

Signer is representing: _____

ATTENTION NOTARY: Although the information requested below is optional, it could prevent fraudulent attachment of this certificate to unauthorized document.

Title or type of document _____
Number of pages: _____ Date of document: _____
Signer(s) other than named above: _____

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED ABOVE

EXHIBIT A

Plat and Description for the site

Legal Description

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

PARCEL ONE:

"NEW PARCEL B" AS DESCRIBED IN THE CERTIFICATE OF COMPLIANCE FOR LOT LINE ADJUSTMENT RECORDED DECEMBER 2, 2016 AS INSTRUMENT NO. 23516882 OF OFFICIAL RECORDS AS FOLLOWS:

"BEING A PORTION OF PARCEL A AND A PORTION OF PARCEL B, AS SAID PARCEL A AND PARCEL B ARE SHOWN AND SO DESIGNATED ON THAT CERTAIN PARCEL MAP, FILED JULY 10, 1978 IN BOOK 422 OF MAPS, PAGE 9, IN THE OFFICE OF THE COUNTY RECORDER OF SANTA CLARA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID PARCEL A, SAID CORNER BEING COMMON WITH THE SOUTHEAST CORNER OF PARCEL TWO OF LOT LINE ADJUSTMENT 2015-004 RECORDED BY GRANT DEED, OCTOBER 8, 2015 IN DOCUMENT NO. 23102251, IN THE OFFICE OF THE COUNTY RECORDER OF SANTA CLARA;

THENCE, ALONG THE SOUTHERN LINE OF SAID PARCEL A THE FOLLOWING TWO (2) COURSES:

1) SOUTH B3°41'53" EAST 12.95 FEET (THE BEARING OF SAID SOUTHERN LINE BEING TAKEN AS SOUTH 83°4l'53" EAST FOR THE PURPOSE OF MAKING THIS DESCRIPTION), AND

2) SOUTH 59°37'20“ EAST 193.51 FEET TO THE POINT OF BEGINNING FOR THIS DESCRIPTION;

THENCE, FROM SAID POINT OF BEGINNING, LEAVING SAID SOUTHERN LINE, NORTH 19°14‘32" EAST 71.16 FEET;

THENCE, ALONG THE ARC OF A TANGENT 250.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 12°32'24", AN ARC DISTANCE OF 54.72 FEET;

THENCE, NORTH 31°46‘56" EAST 166.52 FEET;

THENCE, ALONG THE ARC OF A TANGENT 272 00 FOOT RADIUS CURVE TO THE A LEFT, THROUGH A CENTRAL ANGLE OF 13°10‘14", AN ARC DISTANCE OF 62.52 FEET;

THENCE, ALONG THE ARC OF A TANGENT, REVERSE 272.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 13°10‘23", AN ARC DISTANCE OF 62.54 FEET;

THENCE, NORTH 31°47‘05" EAST 41.42 FEET TO A POINT ON THE SOUTHWESTERN LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE GRANT DEED RECORDED AUGUST 12, 2002 AS DOCUMENT NO. 16415211, OFFICIAL RECORDS OF SANTA CLARA COUNTY;

THENCE, ALONG SAID SOUTHWESTERN LINE AND CONTINUING ON THE SOUTHWESTERN LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE GRANT DEED RECORDED JANUARY 13,2003 AS DOCUMENT NO. 16745405, OFFICIAL RECORDS OF SANTA CLARA COUNTY, SOUTH 58 25'33" EAST 403.58 FEET TO A POINT ON THE SOUTHWESTERN LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE GRANT DEED RECORDED MARCH 3, 2000 AS DOCUMENT NO. 15169616, OFFICIAL RECORDS OF SANTA CLARA COUNTY;

THENCE, ALONG SAID SOUTHWESTERN LINE, ALONG THE ARC OF A NON-TANGENT 2,950.16 FOOT RADIUS CURVE TO THE RIGHT, FROM WHICH THE CENTER OF SAID CURVE BEARS SOUTH 31°50'48" WEST, THROUGH A CENTRAL ANGLE OF 01°00'15“, AN ARC DISTANCE OF 51.70 FEET TO THE NORTHEASTERN LINE OF SAID PARCEL B;

THENCE, ALONG SAID NORTHEASTERN LINE, SOUTH 23°01'35" EAST 612.B9 FEET TO THE NORTHEASTERN LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE GRANT DEED RECORDED SEPTEMBER 22,198l IN BOOK G348, PAGE 358, OFFICIAL RECORDS OF SANTA CLARA COUNTY;

THENCE, ALONG LAST SAID NORTHEASTERN LINE,ALONG THE ARC OF A NON-TANGENT 366.89 FOOT RADIUS CURVE TO THE LEFT, FROM WHICH THE CENTER OF SAID CURVE BEARS SOUTH 59°06‘09" WEST,THROUGH A CENTRAL ANGLE OF 3B°43'29“, AN ARC DISTANCE OF 247.97 FEET;

THENCE, ALONG THE NORTHERN LINE OF LAST SAID PARCEL, BEING THE SOUTHERN LINE OF SAID PARCEL B AND PARCEL A, NORTH 69°37'20" WEST 693.17 FEET TO SAID POINT OF BEGINNING."

PARCEL TWO:

A NON-EXCLUSIVE EASEMENT FOR THE PURPOSES OF CONSTRUCTING AND MAINTAINING AN UNDERGROUND STORM DRAIN, AS DESCRIBED IN THAT CERTAIN EASEMENT AGREEMENT RECORDED JULY 24, 1981 IN BOOK G233, PAGE 161 , OFFICIAL RECORDS OF SANTA CLARA COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE SOUTHERLY MOST 10' OF PARCEL A AS SHOWN ON THE LOT LINE ADJUSTMENT PLAT PREPARED BY MICHAEL J. MAJORS, CIVIL ENGINEERS, AND DATED SEPTEMBER 28, 1979, A COPY OF WHICH IS ATTACHED TO SAID EASEMENT AGREEMENT AS EXHIBIT A AND MADE A PART THEREOF, AND A COPY OF WHICH HAS BEEN RECORDED IN BOOK F363 OF MAPS AT PAGE 444, SANTA CLARA COUNTY RECORDS, MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY OF MILPITAS, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEGINNING AT A PIN SET ON THE SOUTHWESTERLY CORNER OF PARCEL A SHOWN ON SAID LOT LINE ADJUSTMENT PLAT;
THENCE SOUTH 83° 42' 58" EAST A DISTANCE OF 12.00 FEET TO A PIN;
THENCE SOUTH 69° 36' 42" EAST A DISTANCE OF 306.13 FEET TO A PIN;
THENCE NORTH 31° 47' 34" EAST A DISTANCE OF 10.20 FEET TO A POINT;
THENCE NORTH 69° 36' 42" WEST A DISTANCE OF 322.94 FEET TO A POINT ON THE WEST LINE OF PARCEL A;
THENCE SOUTH 6° 25' 50" WEST A DISTANCE OF 13.31 FEET TO THE PIN MARKING THE POINT OF BEGINNING.

PARCEL THREE:

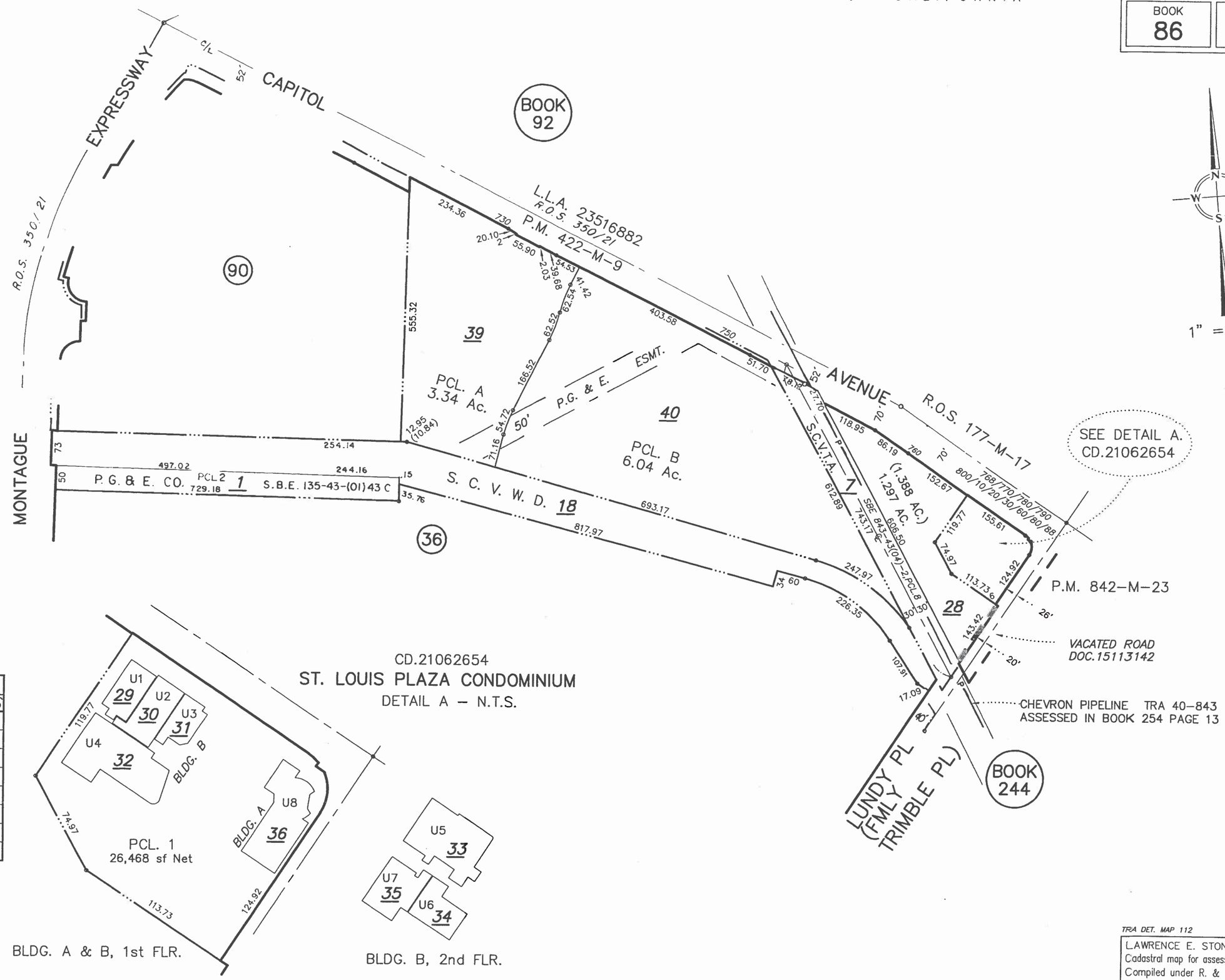
A TEMPORARY EASEMENT FOR PURPOSES OF INSTALLING, MAINTAINING AND REPAIRING THE STORM DRAIN TO BE CONSTRUCTED, OVER THE FOLLOWING DESCRIBED PROPERTY:

THE NORTHERLY 10.30 FEET OF THE SOUTHERLY MOST 20 FEET OF PARCEL A AS SHOWN ON THE LOT LINE ADJUSTMENT PLAT PREPARED BY MICHAEL J. MAJORS, CIVIL ENGINEERS, AND DATED SEPTEMBER 28, 1979, A COPY OF WHICH IS ATTACHED TO SAID EASEMENT AGREEMENT AS EXHIBIT A AND MADE A PART THEREOF, AND A COPY OF WHICH HAS BEEN RECORDED IN BOOK F363 OF MAPS AT PAGE 444, SANTA CLARA COUNTY RECORDS, MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY OF MILPITAS, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, COMMENCING AT A PIN SET ON THE SOUTHWESTERLY CORNER OF PARCEL A SHOWN ON SAID LOT LINE ADJUSTMENT PLAT;
THENCE NORTH 6° 25' 50" EAST A DISTANCE OF 13.31 FEET TO A POINT;
THENCE SOUTH 69° 36' 42" EAST A DISTANCE OF 322.94 FEET TO A POINT;
THENCE NORTH 31° 47' 34" EAST A DISTANCE OF 10.20 FEET TO A POINT;
THENCE NORTH 69° 36' 42" WEST A DISTANCE OF 327.41 FEET TO A POINT ON THE WEST LINE OF PARCEL A;
THENCE SOUTH 6° 25' 50" WEST A DISTANCE OF 10.30 FEET TO THE POINT OF BEGINNING.

APN: 086-37-040

BOOK	PAGE
86	37



East Capitol Ave.		
UNIT	FLR	SITUS
1	1	770
2	1	780
3	1	790
4	1	800
5	2	810
6	2	820
7	2	830
8	1	888

TRA DET. MAP 112

LAWRENCE E. STONE – ASSESSOR
Cadastral map for assessment purposes
Compiled under R. & T. Code, Sec. 327.
Effective Roll Year 2017–2018

EXHIBIT B

Operation and Maintenance Plan

Stormwater Control Operation and Maintenance Plan

750 E. Capitol Avenue

MILPITAS, CALIFORNIA

December 2020

Prepared by:

CARLSON, BARBEE & GIBSON, Inc.
CIVIL ENGINEERS • SURVEYORS • PLANNERS

2633 CAMINO RAMON, SUITE 350 • SAN RAMON, CALIFORNIA 94583 • (925) 866-0322 • www.cbandg.com

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I. Inspection and Maintenance Log

Stormwater Treatment Measure Operation and Maintenance
Inspection Report to the City of Milpitas, California

This report and attached Inspection and Maintenance Checklists document the inspection and maintenance conducted for the identified stormwater treatment measure(s) subject to the Maintenance Agreement between the City and the property owner during the annual reporting period indicated below.

I. Property Information:

Property Address of APN: _____750 E. Capitol Avenue_____

Property Owner: _Anton Development Company, LLC_____

II. Contact Information:

Name of person to contact regarding this report: _Rachel Green_

Phone number of contact person: Kevin Ma: _(650) 549-1607_ E-mail: rgreen@antondev.com_____

Address to which correspondence regarding this report should be directed:

__1617 N California Blvd, Suite 250, Walnut Creek, California 94596

III. Reporting Period:

This report, with the attached completed inspection checklists, documents the inspections and maintenance of the identified treatment measures during the time period from _____ to _____.

IV. Stormwater Treatment Measure Information:

The following stormwater treatment measures (identified treatment measures) are located on the property identified above and are subject to the Maintenance Agreement:

Identifying Number of Treatment Measure	Type of Treatment Measure	Location of Treatment Measure on the Property
B1 – B3	Bioretention	On-Site Bioretention Facilities
P1 – P22	Raised Planters	Raised Planter Biotreatment Facilities
MF-1, 2, 3, 4, 6	Media Filters	On-Site Media Filters

[1] Attached site plan must match the site plan exhibit to Maintenance Agreement.

V. Summary of Inspections and Maintenance:

Summarize the following information using the attached Inspection and Maintenance Checklists:

Identifying Number of Treatment Measure	Date of Inspection	Operation and Maintenance Activities Performed and Date(s) Conducted	Additional Comments

VI. Sediment Removal:

Total amount of accumulated sediment removed from the stormwater treatment measure(s) during the reporting period: _____ cubic yards.

How was sediment disposed?

☐ landfill

☐ other location on-site as described in and allowed by the maintenance plan

☐ other, explain _____

[1] Attached site plan must match the site plan exhibit to Maintenance Agreement.

VII. Inspector Information:

The inspections documented in the attached Inspection and Maintenance Checklists were conducted by the following inspector(s):

Inspector Name and Title	Inspector's Employer and Address

VIII. Certification:

I hereby certify, under penalty of perjury, that the information presented in this report and attachments is true and complete:

_____ _____
Signature of Property Owner or Other Responsible Party Date

Rachel Green
Type or Print Name

Anton Development Company, LLC
Company Name

1617 N California Blvd, Suite 250, Walnut Creek, California 94596
Address

(650) 549-1607 rgreen@antondev.com
Phone number E-mail

[1] Attached site plan must match the site plan exhibit to Maintenance Agreement.

Bioretention Area Maintenance Plan for
750 E. Capitol Avenue

December 2020

Project Address and Cross Streets 750 E. Capitol Avenue

Assessor's Parcel No.: 086-37-026, -027

Property Owner: Anton Development Company, LLC

Phone No.: (650) 549-1607

Designated Contact: Rachel Green Phone No.: (650)549-1607

Mailing Address: 1617 N California Blvd, Suite 250, Walnut Creek, California 94596

The property contains 3 bioretention area(s), located as described below and as shown in the attached site plan[1].

- **Bioretention Areas B1 - B2** are located On-Site.

I. Routine Maintenance Activities

The principal maintenance objective is to prevent sediment buildup and clogging, which reduces pollutant removal efficiency and may lead to bioretention area failure. Routine maintenance activities, and the frequency at which they will be conducted, are shown in Table 1.

Table 1
Routine Maintenance Activities for Bioretention Areas

No.	Maintenance Task	Frequency of Task
1	Remove obstructions, debris and trash from bioretention area and dispose of properly.	Monthly, or as needed after storm events
2	Inspect bioretention area for ponded water. If ponded water does not drain within 2-3 days, till and replace the surface soil and replant.	Monthly, or as needed after storm events
3	Inspect inlets for channels, soil exposure or other evidence of erosion. Clear obstructions and remove sediment.	Monthly, or as needed after storm events
4	Remove and replace all dead and diseased vegetation.	Twice a year
5	Maintain vegetation and the irrigation system. Prune and weed to keep bioretention area neat and orderly in appearance. Remove and or replace any dead plants.	Twice a year
6	Check that mulch is at appropriate depth (2 inches per soil specifications) and replenish as necessary before wet season begins.	Monthly
7	Inspect the energy dissipation at the inlet to ensure it is functioning adequately, and that there is no scour of the surface mulch.	Annually, before the wet season begins
8	Inspect bioretention area using the attached inspection checklist.	Monthly, or after large storm events, and after removal of accumulated debris or material

[1] Attached site plan must match the site plan exhibit to Maintenance Agreement.

II. Use of Pesticides

The use of pesticides and quick release fertilizers shall be minimized, and the principles of integrated pest management (IPM) followed:

1. Employ non-chemical controls (biological, physical and cultural controls) before using chemicals to treat a pest problem.
2. Prune plants properly and at the appropriate time of year.
3. Provide adequate irrigation for landscape plants. Do not over water.
4. Limit fertilizer use unless soil testing indicates a deficiency. Slow-release or organic fertilizer is preferable. Check with municipality for specific requirements.
5. Pest control should avoid harming non-target organisms, or negatively affecting air and water quality and public health. Apply chemical controls only when monitoring indicates that preventative and non-chemical methods are not keeping pests below acceptable levels. When pesticides are required, apply the least toxic and the least persistent pesticide that will provide adequate pest control. Do not apply pesticides on a prescheduled basis.
6. Sweep up spilled fertilizer and pesticides. Do not wash away or bury such spills.
7. Do not over apply pesticide. Spray only where the infestation exists. Follow the manufacturer's instructions for mixing and applying materials.
8. Only licensed, trained pesticide applicators shall apply pesticides.
9. Apply pesticides at the appropriate time to maximize their effectiveness and minimize the likelihood of discharging pesticides into runoff. With the exception of pre-emergent pesticides, avoid application if rain is expected.
10. Unwanted/unused pesticides shall be disposed as hazardous waste.

III. Vector Control

Standing water shall not remain in the treatment measures for more than five days, to prevent mosquito generation. Should any mosquito issues arise, contact the Santa Clara Valley Vector Control District (District). Mosquito larvicides shall be applied only when absolutely necessary, as indicated by the District, and then only by a licensed professional or contractor. Contact information for the District is provided below.

Santa Clara Valley Vector Control District
1580 Berger Dr.
San Jose, California 95112
Phone: (408) 918-4770 / (800) 675-1155 - Fax: (408) 298-6356
www.sccgov.org/portal/site/vector

IV. Inspections

The attached Bioretention Area Inspection and Maintenance Checklist shall be used to conduct inspections monthly (or as needed), identify needed maintenance, and record maintenance that is conducted.

Bioretention Area
Inspection and Maintenance Checklist

Property Address: _____750 E. Capitol Avenue_____ Property Owner: ___Anton Development, LLC__

Treatment Measure No.: _____ Date of Inspection: _____ Type of Inspection: ☐ Monthly ☐ End of Wet Season

Inspector(s): _____ ☐ After heavy runoff ☐ Other: _____

Defect	Conditions When Maintenance Is Needed	Maintenance Needed? (Y/N)	Comments (Describe maintenance completed and if needed maintenance was not conducted, note when it will be done)	Results Expected When Maintenance Is Performed
1. Standing Water	Water stands in the bioretention area between storms and does not drain within 2-3 days after rainfall.			There should be no areas of standing water once storm event has ceased. Any of the following may apply: sediment or trash blockages removed, improved grade from head to foot of bioretention area, or added underdrains.
2. Trash and Debris Accumulation	Trash and debris accumulated in the bioretention area.			Trash and debris removed from bioretention area and disposed of properly.
3. Sediment	Evidence of sedimentation in bioretention area.			Material removed so that there is no clogging or blockage. Material is disposed of properly.
4. Erosion	Channels have formed around inlets, there are areas of bare soil, and/or other evidence of erosion.			Obstructions and sediment removed so that water flows freely and disperses over a wide area. Obstructions and sediment are disposed of properly.
5. Vegetation	Vegetation is dead, diseased and/or overgrown.			Vegetation is healthy and attractive in appearance.
6. Mulch	Mulch is missing or patchy in appearance. Areas of bare earth are exposed, or mulch layer is less than 2 inches in depth.			All bare earth is covered, except mulch is kept 6 inches away from trunks of trees and shrubs. Mulch is even in appearance, at a depth of 2 inches.
7. Miscellaneous	Any condition not covered above that needs attention in order for the bioretention area to function as designed.			Meets the design specifications.

Flow-Through Planter Maintenance Plan for 750 E. Capitol Avenue

December 2020

Project Address and Cross Streets 750 E. Capitol Avenue

Assessor's Parcel No.: 086-37-026, -27

Property Owner: Anton Development Company, LLC Phone No.: (650) 549-1607

Designated Contact: Rachel Green Phone No.: (650) 549-1607

Mailing Address: 1617 N California Blvd, Suite 250, Walnut Creek, California 94596

The property contains 22 Flow-Through Planter(s), located as described below and as shown in the attached site plan[1].

- Flow-Through Planter P1 – P9 are located at 750 E. Capitol Building.
- Flow-Through Planter P10 – P22 are located at 730 E. Capitol Building

I. Routine Maintenance Activities

The principal maintenance objectives are to ensure that water flows unimpeded into the flow-through planter and landscaping remains attractive in appearance. Table 1 shows the routine maintenance activities, and the frequency at which they will be conducted.

Table 1
Routine Maintenance Activities for Flow-Through Planters

No.	Maintenance Task	Frequency of Task
1	Evaluate health of trees and groundcover. Remove and replace all dead and diseased vegetation. Treat vegetation using preventative and low-toxic methods.	Twice a year
2	Maintain the vegetation and irrigation system. Prune and weed to keep flow-through planter neat and orderly in appearance.	As needed
4	Check that there is sufficient biotreatment soil media (18 inch depth). Check that soil is at the appropriate level to allow water to temporarily pond above soil surface (6-12 inches per design).	Before wet season and as necessary
5	Remove accumulated sediment, litter and debris from flow-through planter and dispose of properly. Replenish mulch as needed.	Before wet season and as necessary
6	Inspect flow-through planter to ensure that there are no clogs.	Monthly during the wet season, and as needed after storm events
7	Inspect downspouts from rooftops and sheet flow from paved areas to ensure flow to planter box is unimpeded. Remove debris and repair damaged pipes. Check splash blocks or rocks and repair, replace and replenish as necessary.	Monthly during the wet season, and as needed after storm events
8	Inspect overflow pipe to ensure that it will safely convey excess flows to storm drain. Repair or replace any damaged or disconnected piping.	Before the wet season, and as necessary
9	Inspect flow-through planter to ensure that box is structurally sound (no cracks or leaks). Repair as necessary.	Monthly during the wet season, and as needed after storm events
10	Inspect flow-through planter using the attached inspection checklist.	Monthly, or after large storm events, and after removal of accumulated debris or material

[1] Attached site plan must match the site plan exhibit to Maintenance Agreement.

II. Use of Pesticides

The use of pesticides and quick release fertilizers shall be minimized, and the principles of integrated pest management (IPM) followed:

1. Employ non-chemical controls (biological, physical and cultural controls) before using chemicals to treat a pest problem.
2. Prune plants properly and at the appropriate time of year.
3. Provide adequate irrigation for landscape plants. Do not over water.
4. Limit fertilizer use unless soil testing indicates a deficiency. Slow-release or organic fertilizer is preferable. Check with municipality for specific requirements.
5. Pest control should avoid harming non-target organisms, or negatively affecting air and water quality and public health. Apply chemical controls only when monitoring indicates that preventative and non-chemical methods are not keeping pests below acceptable levels. When pesticides are required, apply the least toxic and the least persistent pesticide that will provide adequate pest control. Do not apply pesticides on a prescheduled basis.
6. Sweep up spilled fertilizer and pesticides. Do not wash away or bury such spills.
7. Do not over apply pesticide. Spray only where the infestation exists. Follow the manufacturer's instructions for mixing and applying materials.
8. Only licensed, trained pesticide applicators shall apply pesticides.
9. Apply pesticides at the appropriate time to maximize their effectiveness and minimize the likelihood of discharging pesticides into runoff. With the exception of pre-emergent pesticides, avoid application if rain is expected.
10. Unwanted/unused pesticides shall be disposed as hazardous waste.

III. Vector Control

Standing water shall not remain in the treatment measures for more than five days, to prevent mosquito generation. Should any mosquito issues arise, contact the Santa Clara Valley Vector Control District (District). Mosquito larvicides shall be applied only when absolutely necessary, as indicated by the District, and then only by a licensed professional or contractor. Contact information for the District is provided below.

Santa Clara Valley Vector Control District
1580 Berger Dr.
San Jose, California 95112
Phone: (408) 918-4770 / (800) 675-1155 - Fax: (408) 298-6356
www.sccgov.org/portal/site/vector

IV. Inspections

The attached Flow-Through Planter Inspection and Maintenance Checklist shall be used to conduct inspections monthly (or as needed), identify needed maintenance, and record maintenance that is conducted.

Flow-Through Planter
Inspection and Maintenance Checklist

Property Address: 750 E. Capitol Avenue

Property Owner: Anton Development, LLC

Treatment Measure No.:_____ Date of Inspection:_____ Type of Inspection: ☐ Monthly ☐ Pre-Wet Season ☐ After heavy runoff ☐ End of Wet Season

Inspector(s): _____

Defect	Conditions When Maintenance Is Needed	Maintenance Needed? (Y/N)	Comments (Describe maintenance completed and if needed maintenance was not conducted, note when it will be done)	Results Expected When Maintenance Is Performed
1. Vegetation	Vegetation is dead, diseased and/or overgrown.			Vegetation is healthy and attractive in appearance.
2. Soil	Soil too deep or too shallow.			Soil is at proper depth (per soil specifications) for optimum filtration and flow.
3. Mulch	Mulch is missing or patchy in appearance.			Mulch is even in appearance.
4. Sediment, Trash and Debris Accumulation	Sediment, trash and debris accumulated in the flow-through planter. Planter does not drain within 3-4 hours.			Sediment, trash and debris removed from flow-through planter and disposed of properly. Planter drains within 3-4hours.
5. Clogs/Drainage	Planter does not drain within 3-4 hours after rainfall.			Planter drains per design specifications.
6. Downspouts and Sheet Flow	Flow to planter is impeded. Downspouts are clogged or pipes are damaged. Splash blocks and rocks in need of repair, replacement or replenishment.			Downspouts and sheet flow is conveyed efficiently to the planter.
7. Overflow Pipe	Does not safely convey excess flows to storm drain. Piping damaged or disconnected.			Overflow pipe conveys excess flow to storm drain efficiently.
8. Structural Soundness	Planter is cracked, leaking or falling apart.			Cracks and leaks are repaired and planter is structurally sound.
9. Miscellaneous	Any condition not covered above that needs attention in order for the flow-through planter to function as designed.			Meet the design specifications.

Media Filter Maintenance Plan for
750 E. Capitol Avenue

December 2020

Project Address and Cross Streets 750 E. Capitol Avenue

Assessor's Parcel No.: 086-37-026, -27

Property Owner: Anton Development Company, LLC Phone No.: (650) 549-1607

Designated Contact: Rachel Green Phone No.: (650) 549-1607

Mailing Address: 1617 N California Blvd, Suite 250, Walnut Creek, California 94596

The property contains 6 media filters, located as described below and as shown in the attached site plan[1].

- Media Filters MF-1 & MF-2 are located North of the 750 E. Capitol Building.
- Media Filter MF-3 is located South of the 750 E. Capitol building adjacent to the EVA.
- Media Filter MF-4 is located East of the 730 E. Capitol Building at the driveway entrance into the garage.
- Media Filter MF-5 is located South of the 730 E. Capitol building at Street C.
- Media Filter MF-6 is located North of the 730 E. Capitol building.

I. Routine Maintenance Activities

The principal maintenance objective is to prevent sediment buildup and clogging, which reduces pollutant removal efficiency and may lead to failure of the media filter. Follow manufacturer's requirements for maintenance. Routine maintenance activities, and the frequency at which they will be conducted, are shown in Table 1.

Table 1
Routine Maintenance Activities for Media Filters

No.	Maintenance Task	Frequency of Task
1	Inspect for standing water, sediment, trash and	Monthly during rainy season
2	Remove accumulated trash and debris in the unit during routine inspections.	Monthly during rainy season, or as needed after storm
3	Inspect to ensure that the facility is draining completely within five days and per	Once during the wet season after major storm event.
4	Replace the media per manufacturer's instructions or as indicated by the condition of the unit.	Once a year or as needed
5	Inspect media filters using the attached inspection checklist.	Quarterly or as needed

II. Vector Control

Standing water shall not remain in the treatment measures for more than five days, to prevent mosquito generation. Should any mosquito issues arise, contact the Santa Clara Valley Vector Control District (District). Mosquito larvicides shall be applied only when absolutely necessary, as indicated by the District, and then only by a licensed professional or contractor. Contact information for the District is provided below.

Santa Clara Valley Vector Control District
1580 Berger Dr.
San Jose, California 95112
Phone: (408) 918-4770 / (800) 675-1155 - Fax: (408) 298-6356
www.sccgov.org/portal/site/vector
Email: info@smcmad.org

[1] Attached site plan must match the site plan exhibit to Maintenance Agreement.

IV. Inspections

The attached Treatment Measure Inspection and Maintenance Checklist shall be used to conduct inspections monthly (or as needed), identify needed maintenance, and record maintenance that is conducted.

Media Filters
Inspection and Maintenance Checklist

Property Address: 750 E. Capitol Avenue

Property Owner: Anton Development, LLC

Treatment Measure No.:_____ Date of Inspection:_____

Type of Inspection: ☐ Monthly ☐ Pre-Wet Season ☐ After heavy runoff ☐ End of Wet Season ☐ Other:_____

Inspector(s): _____

Defect	Conditions When Maintenance Is Needed	Maintenance Needed? (Y/N)	Comments (Describe maintenance completed and if needed maintenance was not conducted, note when it will be done)	Results Expected When Maintenance Is Performed
1. Sediment, trash and debris accumulation on filter	Sediment, trash and debris accumulated in the media filter unit, vault or piping.			Sediment, trash and debris removed and disposed of properly.
2. Standing water	Treatment unit or vault does not drain within five days after rainfall.			Source of clogging removed. Filter drains per design specifications.
3. Mosquitoes	Evidence of mosquito larvae in treatment unit.			No evidence of mosquito larvae.
4. Miscellaneous	Any condition not covered above that needs attention in order for the manufactured treatment measure to function as designed.			Meet the design specifications.
5. Media Filter Cartridge	- Once a year or as needed - Following a contaminated spill in the drainage area.			Meet the design specifications.

II. Updates, Revisions and Errata

Future updates, revisions and errata shall be listed in this section.

III. Introduction

This Operation and Maintenance Manual (O&M) for 750 E. Capitol is submitted to the City of Milpitas as an accompaniment to the private and public improvement plans. The Stormwater Control Plan provides recommendations on the use of permanent Best Management Practices (BMPs) for the proposed project. BMP technical requirements are presented in the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) C.3 Stormwater Handbook dated June 2016.

The project address is 750 E Capitol Avenue which is located south of E Capitol Avenue (APN 086-37-026, 086-37-027) as shown in Appendix G Figure 1. The overall project (including 730 E Capitol) will include apartment buildings comprising of a total of 567 units, 2 retail/leasing plazas, public and private roadways, an EVA roadway, landscaped paseos, entertainment courtyards and open space improvements. The projects lies within the 8.3± ac project boundary, as well as sidewalk, landscape and roadway improvements equating to 1.2± ac of public right-of-way and roadway easement area within the site. Construction of the 730 & 750 E. Capitol project consists of two phases where construction of the 750 E. Capitol building starts prior to the 730 E. Capitol building.

Upon construction of the proposed improvements, approximately 6.85 acres (72%) will be covered by impervious surface and about 2.67 acres (28%) will be covered by landscaped areas including lawns, shrubs, and trees.

Proposed on-site drainage system:

Upon construction of the proposed improvements, approximately 6.85 acres (72%) will be covered by impervious surface and about 2.67 acres (28%) will be covered by landscaped areas including lawns, shrubs, and trees. All walkways these areas will be sloped to drain onto the surrounding landscaping.

Drainage areas B1-B3, M13-M30 and nearby courtyards will discharge into the existing storm drain line located adjacent to the southern border of the site which ultimately flows through an existing outfall in to Penitencia Creek. These areas will be treated by a combination of bioretention, raised planters, and media filtration before entering the storm drain system.

Drainage areas P1-P22, M1-M12 and M31-M33 nearby courtyards will discharge into the existing public storm drain line along East Capitol Avenue. These areas will be treated by a combination of bioretention, raised planters, and media filtration before entering the storm drain system.

The treatment BMPs used on this site include:

- Bioretention Areas
- Raised Planters
- Media Filters

IV. Responsibility for Maintenance

A. General

1. Contact Information

Designation of Individuals Responsible for Stormwater Treatment BMP Operation and Maintenance

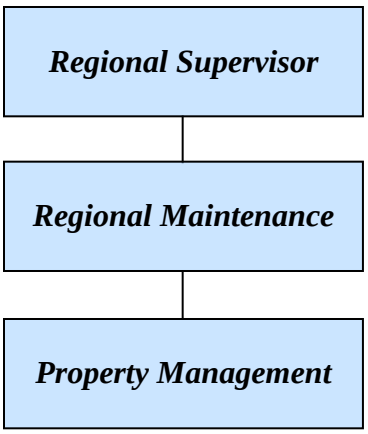
Date Completed:
Facility Name:
Facility Address:

Designated Contact for Operation and Maintenance
Primary Contact:
Telephone:
Alternate Telephone:
Email:

Off-Hours or Emergency Contact
Primary Contact: Emergency Line
Telephone:
Alternate Telephone:
Email:

Corporate Officer (Authorized to Execute Contracts with City)
Primary Contact:
Title or Position:
Telephone:
Alternate Telephone:
Email:

2. Organization Chart



3. O&M Agreement

An operation and maintenance agreement between the Owner and City of Milpitas will be recorded with the County of Santa Clara.

Stormwater treatment facilities used for the treatment of public street runoff (South Milpitas Boulevard) are to be maintained by the City of Milpitas.

4. Maintenance Funding

a. *Sources of funds for maintenance:* Maintenance funds will be paid by the Homeowner's Association.

b. *Budget category or line item:* Funds for the maintenance of the BMPs will be listed under the "Maintenance Contracts" line item in the Homeowner's Association.

c. *Description of procedure and process for ensuring adequate funding for maintenance:* The cost of maintenance operations shall be covered by the Homeowner's Association.

B. Staff Training Program

Employees will be trained to comply with the terms of the Operations and Maintenance Agreement to be recorded. Employees will be trained in the proper disposal of trash materials and hazardous waste. Employees will be trained to comply with the storm water inlet labels printed with the logo "No Dumping / Flows to Bay." This educational measure is intended to prevent unlawful dumping of waste materials, such as motor oil, into the storm drain system.

C. Records

The Homeowners Association will maintain annual records of the operation and maintenance of the structural BMP units. The records will consist of annual inspection reports and certificates of compliance provided by the maintenance company contracted to service the structural BMP units. The reports will be available to the City inspector upon request.

D. Safety

Only personnel with confined space training and possessing the necessary safety equipment should enter the mechanical BMP units to perform maintenance or inspection procedures. Inspections of the internal components can, in most cases, be accomplished through observations from the ground surface. The removal of the sediment from the units' sump should be performed by trained personnel and all debris should be disposed of per EPA standards.

V. Summary of Drainage Areas and BMPs

A. Drainage Areas

1. Approximately 6.85 acres (72%) of the site is covered by impervious surface and about 2.67 acres (28%) is covered by landscaping or other pervious surfaces.

2. Drainage areas B1-B3, M13-M30 and nearby courtyards will discharge into the existing storm drain line located adjacent to the southern border of the site which ultimately flows through an existing outfall in to Penitencia Creek. These areas will be treated by a combination of bioretention, raised planters, and media filtration before entering the storm drain system.

   Drainage areas P1-P22, M1-M12 and M31-M33 and nearby courtyards will discharge into the existing public storm drain line along East Capitol Avenue. These areas will be treated by a combination of bioretention, raised planters, and media filtration before entering the storm drain system

B. Treatment BMPs

The treatment BMPs used on this site are shown in the Appendix and include:

1. *Bioretention Areas:* Two Bioretention areas will be constructed south of the 730 E Capitol Building adjacent to Street C. These features use a combination of ponding, permeable planting soils, infiltration materials and sub-drains systems. They are designed to filter pollutants from stormwater runoff from adjacent roof areas and other impervious surfaces.

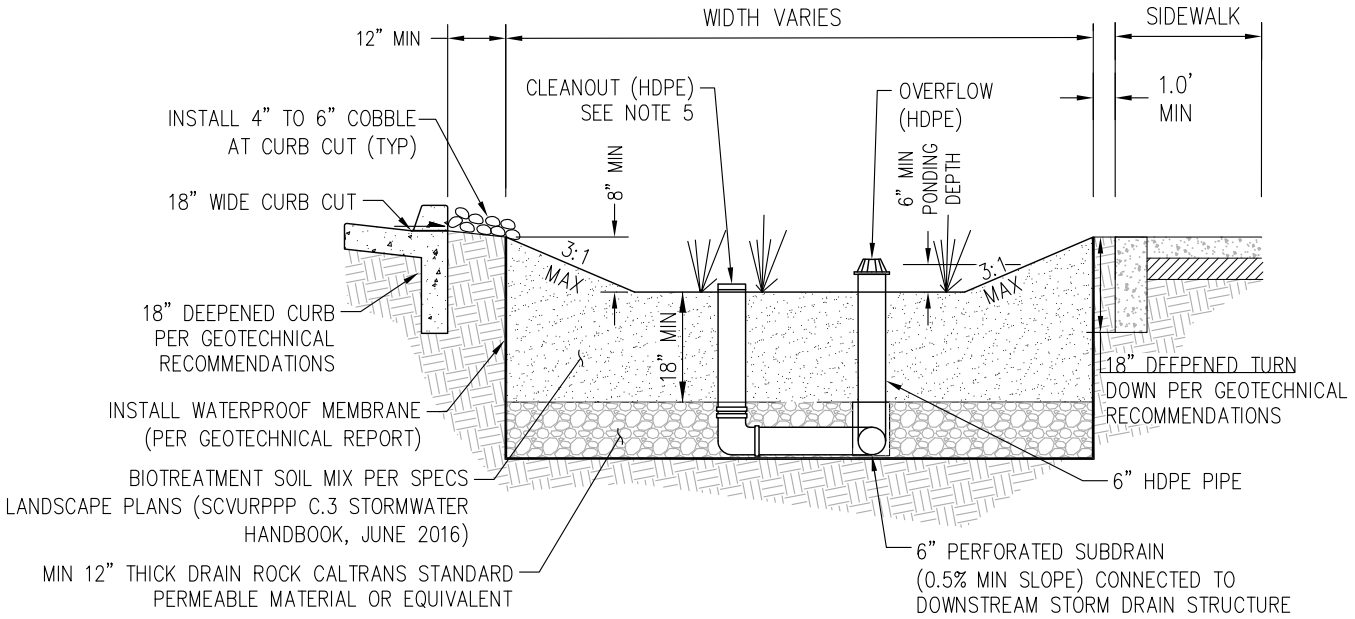
2. *Raised Planters:* Raised Planters will be constructed along the perimeter of the apartment buildings at the northern edge of the site and will treat roof runoff from the building. These planters use a combination of ponding, permeable planting soils, infiltration materials and sub-drain systems. They are designed to filter pollutants from stormwater runoff from adjacent roof areas.

3. *Media Filters*: Media filters will be installed at locations in which untreated stormwater is discharging into the public storm drain main. These structures provide an effective method of preventing pollutants – such as street litter, trash and debris, vegetation, coarse sediments, and the attached nutrient and heavy metal pollutants – from entering public waterways.

VI. BMP Design Documentation

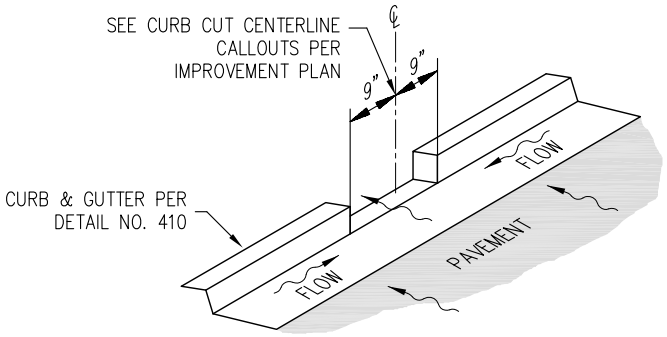
A. "As-Built" Drawings of Each BMP

Typical details provided at this time. As-built drawings will be provided upon completion of BMP construction.



BIORETENTION AREA IN LANDSCAPE AREAS

NOT TO SCALE



12" VERTICAL CURB CUT DETAIL

NOT TO SCALE

NOTES:

1. INSTALL DEEPENED CURB AND WATERPROOF BARRIER PER GEOTECHNICAL RECOMMENDATIONS.
2. 3" OF FLOAT-RESISTANT AGED/COMPOSTED MULCH SHALL BE USED ON ANY EXPOSED EARTH IN THE BIORETENTION AREAS.
3. 4"-6" COBBLE SHALL BE USED FOR ENERGY DISSIPATION WHERE NECESSARY.
4. THE 6" PERFORATED PVC UNDERDRAIN SHALL BE PLACED AT THE BOTTOM OF THE DRAIN ROCK LAYER WITH PERFORATIONS FACING DOWNWARD.
5. CONTRACTOR TO INSTALL AN UNDERDRAIN CLEANOUT WITH THE CLEANOUT CAP (HDPE) INSTALLED FLUSH WITH THE SOIL SURFACE.

FIGURE 9

TYPICAL BIORETENTION AREA

730 & 750 E. CAPITOL AVENUE

CITY OF MILPITAS SANTA CLARA COUNTY CALIFORNIA

DATE: JANUARY 13, 2017

NOT TO SCALE

cbg
Carlson, Barbee & Gibson, Inc.
CIVIL ENGINEERS • SURVEYORS • PLANNERS
2633 CAMINO RAMON, SUITE 350
SAN RAMON, CALIFORNIA 94583
(925) 866-
www.cbandg

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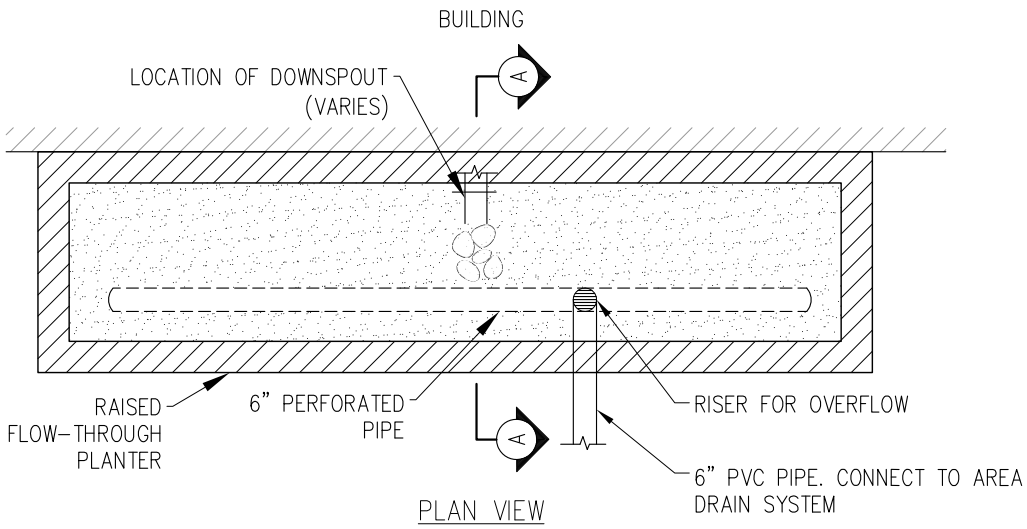
G:\2526-000\ACAD\SWCP\FIG 9 - TYPICAL BIORETENTION AREA.DWG



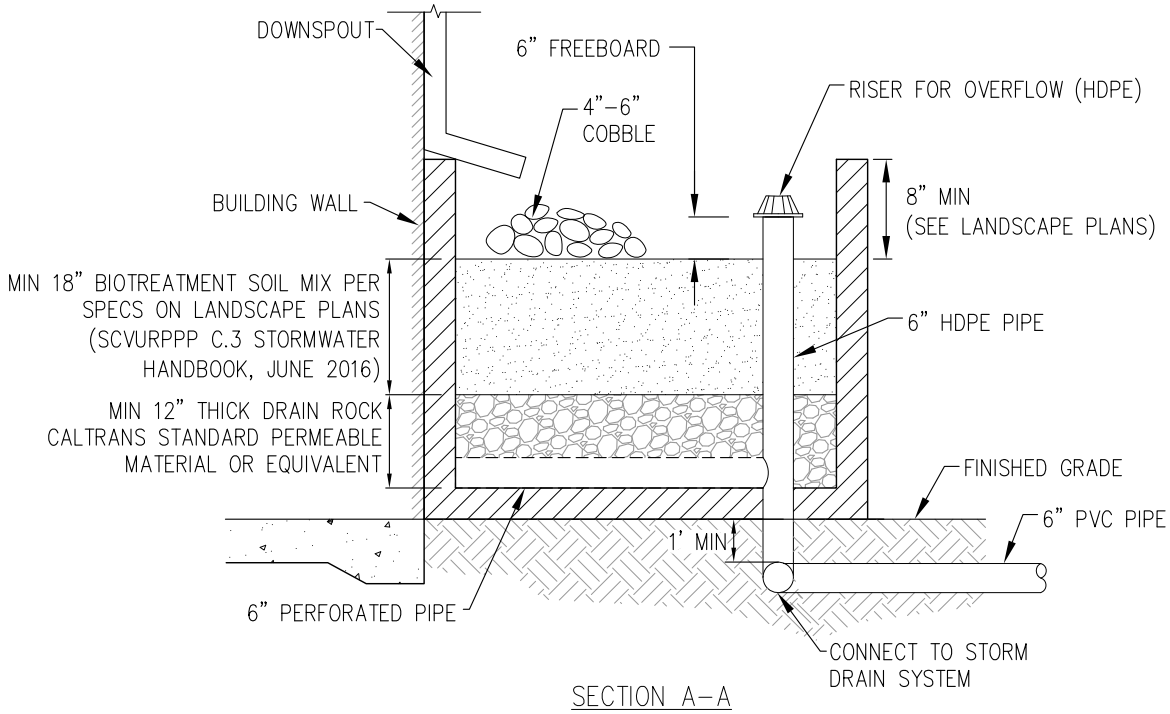


FIGURE 10

TYPICAL RAISED PLANTER

730 & 750 E. CAPITOL AVENUE

CITY OF MILPITAS SANTA CLARA COUNTY CALIFORNIA

DATE: JANUARY 13, 2017

NOT TO SCALE

NOTES:

1. 3" OF FLOAT-RESISTANT AGED/COMSPOSTED MULCH SHALL BE USED ON ANY EXPOSED EARTH IN THE BIORETENTION AREAS.
2. 4"-6" COBBLE SHALL BE USED FOR ENERGY DISSIPATION WHERE NECESSARY.
3. THE 6" PERFORATED PVC UNDERDRAIN SHALL BE PLACED AT THE BOTTOM OF THE DRAIN ROCK LAYER WITH PERFORATIONS FACING DOWNWARD.
4. CONTRACTOR TO INSTALL AN UNDERDRAIN CLEANOUT WTIH THE CLEANOUT CAP INSTALLED FLUSH WITH THE SOIL SURFACE.

cbg
Carlson, Barbee & Gibson, Inc.
CIVIL ENGINEERS • SURVEYORS • PLANNERS
2633 CAMINO RAMON, SUITE 350
SAN RAMON, CALIFORNIA 94583
(925) 866-
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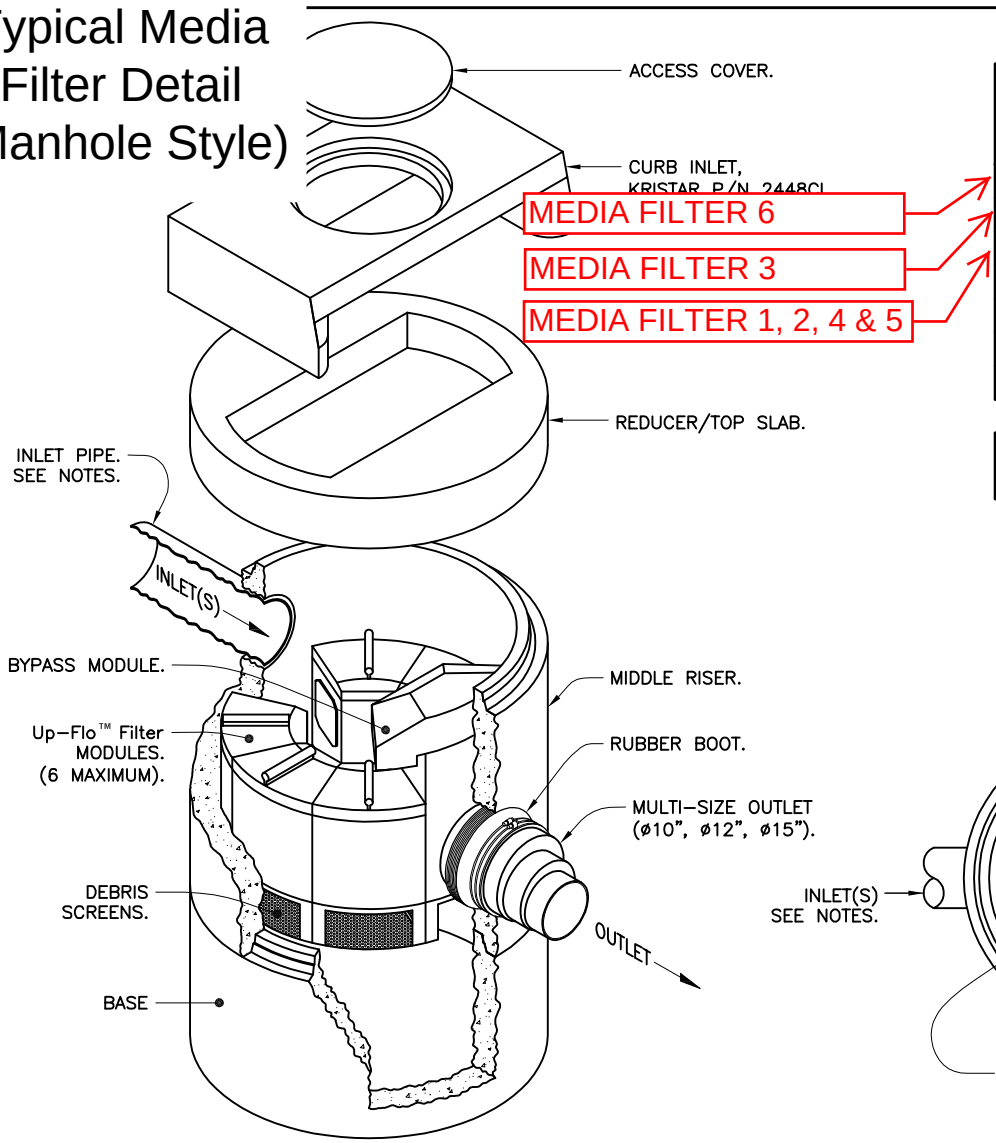
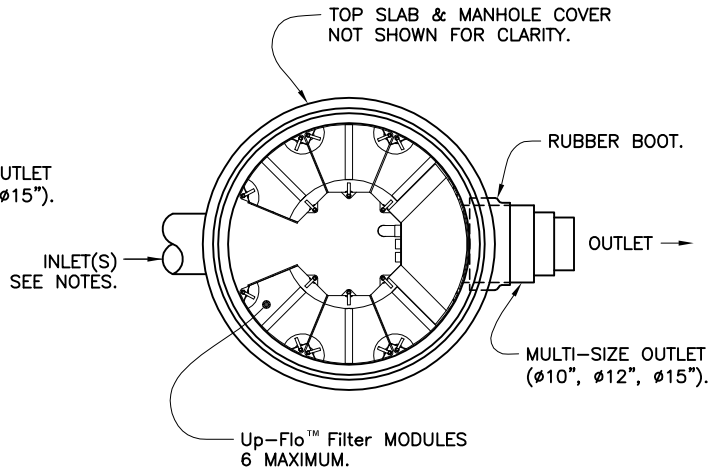
G:\2526-000\ACAD\SWCP\FIG 10 - TYPICAL RAISED PLANTER.DWG

Typical Media Filter Detail (Manhole Style)



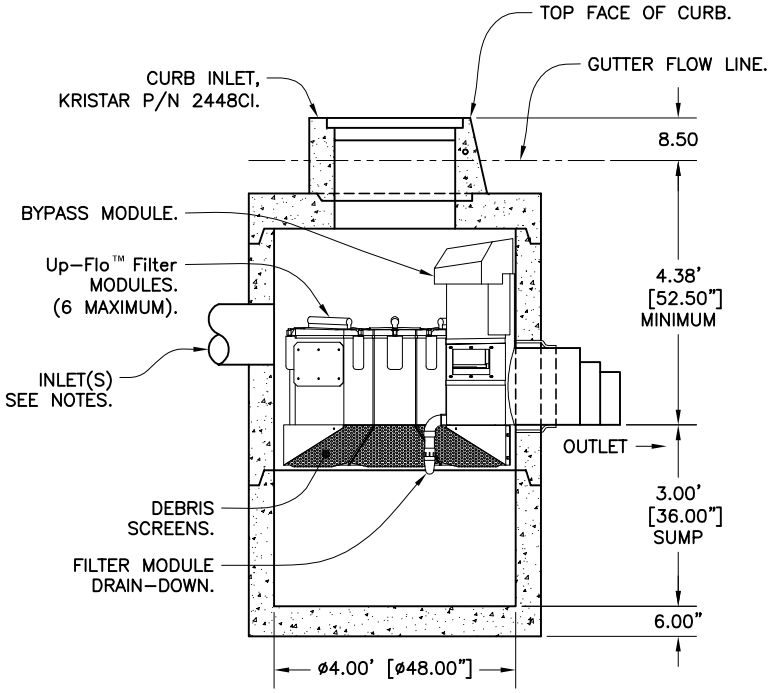
MODEL NUMBER	TREATMENT FLOW RATE for CPZ MEDIA	
	GPM	CFS
CF-48UF-1CI	25	0.056
CF-48UF-2CI	50	0.110
CF-48UF-3CI	75	0.167
CF-48UF-4CI	100	0.223
CF-48UF-5CI	125	0.279
CF-48UF-6CI	150	0.334
BYPASS FLOW RATE: 5-7 CFS		

Up-Flo™ Filter is manufactured under license agreement with Hydro International.



NOTES:

1. Precast concrete structure shall be manufactured in accordance with ASTM Designation C478.
2. For structure dimensions other than those shown, refer to custom structure drawing. Detail reflects design intent only. Refer to project specific drawings for actual dimensions.
3. Structure may be specified with extended base slab to allow for anti-floatation ballast. Contact Kristar Enterprises for additional information.
4. Inlet & outlet elevations, may differ by 0-3 feet. For invert elevation differences that exceed 3 feet contact Kristar Enterprises. Multiple inlets can be accomodated.
5. Custom systems are available for pipe orientations or sizes not shown. Contact Kristar Enterprises for engineering assistance.
6. Multi-size outlet is designed to accept PVC SDR-35 (Ø10", Ø12", & Ø15").



SECTION VIEW

TITLE

Up-Flo™ Filter

Ø48" MANHOLE CONFIGURATION WITH CURB INLET - 6 MODULE MAXIMUM

KriStar Enterprises, Inc.
360 Sutton Place, Santa Rosa, CA 95407
Ph: 800.579.8819, Fax: 707.524.8186, www.kr[illegible]m

DRAWING NO.	REV	ECO	DATE	
UF-MH-0002	A	0059 JPR 12/30/08	JPR 4/28/08	SHEET 1 OF 1

VI. BMP Design Documentation

B. Data, Manuals, and Maintenance Documents

Bioretention TC-32

Design Considerations

- Soil for Infiltration
- Tributary Area
- Slope
- Aesthetics
- Environmental Side-effects

Description

The bioretention best management practice (BMP) functions as a soil and plant-based filtration device that removes pollutants through a variety of physical, biological, and chemical treatment processes. These facilities normally consist of a grass buffer strip, sand bed, ponding area, organic layer or mulch layer, planting soil, and plants. The runoff's velocity is reduced by passing over or through buffer strip and subsequently distributed evenly along a ponding area. Exfiltration of the stored water in the bioretention area planting soil into the underlying soils occurs over a period of days.

Targeted Constituents

☑	Sediment	■
☑	Nutrients	▲
☑	Trash	■
☑	Metals	■
☑	Bacteria	■
☑	Oil and Grease	■
☑	Organics	■

Legend ***(Removal Effectiveness)***

● Low ■ High

▲ Medium

California Experience

None documented. Bioretention has been used as a stormwater BMP since 1992. In addition to Prince George's County, MD and Alexandria, VA, bioretention has been used successfully at urban and suburban areas in Montgomery County, MD; Baltimore County, MD; Chesterfield County, VA; Prince William County, VA; Smith Mountain Lake State Park, VA; and Cary, NC.

Advantages

- Bioretention provides stormwater treatment that enhances the quality of downstream water bodies by temporarily storing runoff in the BMP and releasing it over a period of four days to the receiving water (EPA, 1999).
- The vegetation provides shade and wind breaks, absorbs noise, and improves an area's landscape.

Limitations

- The bioretention BMP is not recommended for areas with slopes greater than 20% or where mature tree removal would

CASQA
CALIFORNIA STORMWATER QUALITY ASSOCIATION

be required since clogging may result, particularly if the BMP receives runoff with high sediment loads (EPA, 1999).

- Bioretention is not a suitable BMP at locations where the water table is within 6 feet of the ground surface and where the surrounding soil stratum is unstable.
- By design, bioretention BMPs have the potential to create very attractive habitats for mosquitoes and other vectors because of highly organic, often heavily vegetated areas mixed with shallow water.
- In cold climates the soil may freeze, preventing runoff from infiltrating into the planting soil.

Design and Sizing Guidelines

- The bioretention area should be sized to capture the design storm runoff.
- In areas where the native soil permeability is less than 0.5 in/hr an underdrain should be provided.
- Recommended minimum dimensions are 15 feet by 40 feet, although the preferred width is 25 feet. Excavated depth should be 4 feet.
- Area should drain completely within 72 hours.
- Approximately 1 tree or shrub per 50 ft^2 of bioretention area should be included.
- Cover area with about 3 inches of mulch.

Construction/Inspection Considerations

Bioretention area should not be established until contributing watershed is stabilized.

Performance

Bioretention removes stormwater pollutants through physical and biological processes, including adsorption, filtration, plant uptake, microbial activity, decomposition, sedimentation and volatilization (EPA, 1999). Adsorption is the process whereby particulate pollutants attach to soil (e.g., clay) or vegetation surfaces. Adequate contact time between the surface and pollutant must be provided for in the design of the system for this removal process to occur. Thus, the infiltration rate of the soils must not exceed those specified in the design criteria or pollutant removal may decrease. Pollutants removed by adsorption include metals, phosphorus, and hydrocarbons. Filtration occurs as runoff passes through the bioretention area media, such as the sand bed, ground cover, and planting soil.

Common particulates removed from stormwater include particulate organic matter, phosphorus, and suspended solids. Biological processes that occur in wetlands result in pollutant uptake by plants and microorganisms in the soil. Plant growth is sustained by the uptake of nutrients from the soils, with woody plants locking up these nutrients through the seasons. Microbial activity within the soil also contributes to the removal of nitrogen and organic matter. Nitrogen is removed by nitrifying and denitrifying bacteria, while aerobic bacteria are responsible for the decomposition of the organic matter. Microbial processes require oxygen and can result in depleted oxygen levels if the bioretention area is not adequately

aerated. Sedimentation occurs in the swale or ponding area as the velocity slows and solids fall out of suspension.

The removal effectiveness of bioretention has been studied during field and laboratory studies conducted by the University of Maryland (Davis et al, 1998). During these experiments, synthetic stormwater runoff was pumped through several laboratory and field bioretention areas to simulate typical storm events in Prince George's County, MD. Removal rates for heavy metals and nutrients are shown in Table 1.

Table 1 Laboratory and Estimated Bioretention Davis et al. (1998); PGDER (1993)

Pollutant	Removal Rate
Total Phosphorus	70-83%
Metals (Cu, Zn, Pb)	93-98%
TKN	68-80%
Total Suspended Solids	90%
Organics	90%
Bacteria	90%

Results for both the laboratory and field experiments were similar for each of the pollutants analyzed. Doubling or halving the influent pollutant levels had little effect on the effluent pollutants concentrations (Davis et al, 1998).

The microbial activity and plant uptake occurring in the bioretention area will likely result in higher removal rates than those determined for infiltration BMPs.

Siting Criteria

Bioretention BMPs are generally used to treat stormwater from impervious surfaces at commercial, residential, and industrial areas (EPA, 1999). Implementation of bioretention for stormwater management is ideal for median strips, parking lot islands, and swales. Moreover, the runoff in these areas can be designed to either divert directly into the bioretention area or convey into the bioretention area by a curb and gutter collection system.

The best location for bioretention areas is upland from inlets that receive sheet flow from graded areas and at areas that will be excavated (EPA, 1999). In order to maximize treatment effectiveness, the site must be graded in such a way that minimizes erosive conditions as sheet flow is conveyed to the treatment area. Locations where a bioretention area can be readily incorporated into the site plan without further environmental damage are preferred. Furthermore, to effectively minimize sediment loading in the treatment area, bioretention only should be used in stabilized drainage areas.

Additional Design Guidelines

The layout of the bioretention area is determined after site constraints such as location of utilities, underlying soils, existing vegetation, and drainage are considered (EPA, 1999). Sites with loamy sand soils are especially appropriate for bioretention because the excavated soil can be backfilled and used as the planting soil, thus eliminating the cost of importing planting soil.

The use of bioretention may not be feasible given an unstable surrounding soil stratum, soils with clay content greater than 25 percent, a site with slopes greater than 20 percent, and/or a site with mature trees that would be removed during construction of the BMP.

Bioretention can be designed to be off-line or on-line of the existing drainage system (EPA, 1999). The drainage area for a bioretention area should be between 0.1 and 0.4 hectares (0.25 and 1.0 acres). Larger drainage areas may require multiple bioretention areas. Furthermore, the maximum drainage area for a bioretention area is determined by the expected rainfall intensity and runoff rate. Stabilized areas may erode when velocities are greater than 5 feet per second (1.5 meter per second). The designer should determine the potential for erosive conditions at the site.

The size of the bioretention area, which is a function of the drainage area and the runoff generated from the area is sized to capture the water quality volume.

The recommended minimum dimensions of the bioretention area are 15 feet (4.6 meters) wide by 40 feet (12.2 meters) long, where the minimum width allows enough space for a dense, randomly-distributed area of trees and shrubs to become established. Thus replicating a natural forest and creating a microclimate, thereby enabling the bioretention area to tolerate the effects of heat stress, acid rain, runoff pollutants, and insect and disease infestations which landscaped areas in urban settings typically are unable to tolerate. The preferred width is 25 feet (7.6 meters), with a length of twice the width. Essentially, any facilities wider than 20 feet (6.1 meters) should be twice as long as they are wide, which promotes the distribution of flow and decreases the chances of concentrated flow.

In order to provide adequate storage and prevent water from standing for excessive periods of time the ponding depth of the bioretention area should not exceed 6 inches (15 centimeters). Water should not be left to stand for more than 72 hours. A restriction on the type of plants that can be used may be necessary due to some plants' water intolerance. Furthermore, if water is left standing for longer than 72 hours mosquitoes and other insects may start to breed.

The appropriate planting soil should be backfilled into the excavated bioretention area. Planting soils should be sandy loam, loamy sand, or loam texture with a clay content ranging from 10 to 25 percent.

Generally the soil should have infiltration rates greater than 0.5 inches (1.25 centimeters) per hour, which is typical of sandy loams, loamy sands, or loams. The pH of the soil should range between 5.5 and 6.5, where pollutants such as organic nitrogen and phosphorus can be adsorbed by the soil and microbial activity can flourish. Additional requirements for the planting soil include a 1.5 to 3 percent organic content and a maximum 500 ppm concentration of soluble salts.

Soil tests should be performed for every 500 cubic yards (382 cubic meters) of planting soil, with the exception of pH and organic content tests, which are required only once per bioretention area (EPA, 1999). Planting soil should be 4 inches (10.1 centimeters) deeper than the bottom of the largest root ball and 4 feet (1.2 meters) altogether. This depth will provide adequate soil for the plants' root systems to become established, prevent plant damage due to severe wind, and provide adequate moisture capacity. Most sites will require excavation in order to obtain the recommended depth.

Planting soil depths of greater than 4 feet (1.2 meters) may require additional construction practices such as shoring measures (EPA, 1999). Planting soil should be placed in 18 inches or greater lifts and lightly compacted until the desired depth is reached. Since high canopy trees may be destroyed during maintenance the bioretention area should be vegetated to resemble a terrestrial forest community ecosystem that is dominated by understory trees. Three species each of both trees and shrubs are recommended to be planted at a rate of 2500 trees and shrubs per hectare (1000 per acre). For instance, a 15 foot (4.6 meter) by 40 foot (12.2 meter) bioretention area (600 square feet or 55.75 square meters) would require 14 trees and shrubs. The shrub-to-tree ratio should be 2:1 to 3:1.

Trees and shrubs should be planted when conditions are favorable. Vegetation should be watered at the end of each day for fourteen days following its planting. Plant species tolerant of pollutant loads and varying wet and dry conditions should be used in the bioretention area.

The designer should assess aesthetics, site layout, and maintenance requirements when selecting plant species. Adjacent non-native invasive species should be identified and the designer should take measures, such as providing a soil breach to eliminate the threat of these species invading the bioretention area. Regional landscaping manuals should be consulted to ensure that the planting of the bioretention area meets the landscaping requirements established by the local authorities. The designers should evaluate the best placement of vegetation within the bioretention area. Plants should be placed at irregular intervals to replicate a natural forest. Trees should be placed on the perimeter of the area to provide shade and shelter from the wind. Trees and shrubs can be sheltered from damaging flows if they are placed away from the path of the incoming runoff. In cold climates, species that are more tolerant to cold winds, such as evergreens, should be placed in windier areas of the site.

Following placement of the trees and shrubs, the ground cover and/or mulch should be established. Ground cover such as grasses or legumes can be planted at the beginning of the growing season. Mulch should be placed immediately after trees and shrubs are planted. Two to 3 inches (5 to 7.6 cm) of commercially-available fine shredded hardwood mulch or shredded hardwood chips should be applied to the bioretention area to protect from erosion.

Maintenance

The primary maintenance requirement for bioretention areas is that of inspection and repair or replacement of the treatment area's components. Generally, this involves nothing more than the routine periodic maintenance that is required of any landscaped area. Plants that are appropriate for the site, climatic, and watering conditions should be selected for use in the bioretention cell. Appropriately selected plants will aide in reducing fertilizer, pesticide, water, and overall maintenance requirements. Bioretention system components should blend over time through plant and root growth, organic decomposition, and the development of a natural

soil horizon. These biologic and physical processes over time will lengthen the facility's life span and reduce the need for extensive maintenance.

Routine maintenance should include a biannual health evaluation of the trees and shrubs and subsequent removal of any dead or diseased vegetation (EPA, 1999). Diseased vegetation should be treated as needed using preventative and low-toxic measures to the extent possible. BMPs have the potential to create very attractive habitats for mosquitoes and other vectors because of highly organic, often heavily vegetated areas mixed with shallow water. Routine inspections for areas of standing water within the BMP and corrective measures to restore proper infiltration rates are necessary to prevent creating mosquito and other vector habitat. In addition, bioretention BMPs are susceptible to invasion by aggressive plant species such as cattails, which increase the chances of water standing and subsequent vector production if not routinely maintained.

In order to maintain the treatment area's appearance it may be necessary to prune and weed. Furthermore, mulch replacement is suggested when erosion is evident or when the site begins to look unattractive. Specifically, the entire area may require mulch replacement every two to three years, although spot mulching may be sufficient when there are random void areas. Mulch replacement should be done prior to the start of the wet season.

New Jersey's Department of Environmental Protection states in their bioretention systems standards that accumulated sediment and debris removal (especially at the inflow point) will normally be the primary maintenance function. Other potential tasks include replacement of dead vegetation, soil pH regulation, erosion repair at inflow points, mulch replenishment, unclogging the underdrain, and repairing overflow structures. There is also the possibility that the cation exchange capacity of the soils in the cell will be significantly reduced over time. Depending on pollutant loads, soils may need to be replaced within 5-10 years of construction (LID, 2000).

Cost

Construction Cost

Construction cost estimates for a bioretention area are slightly greater than those for the required landscaping for a new development (EPA, 1999). A general rule of thumb (Coffman, 1999) is that residential bioretention areas average about $3 to $4 per square foot, depending on soil conditions and the density and types of plants used. Commercial, industrial and institutional site costs can range between $10 to $40 per square foot, based on the need for control structures, curbing, storm drains and underdrains.

Retrofitting a site typically costs more, averaging $6,500 per bioretention area. The higher costs are attributed to the demolition of existing concrete, asphalt, and existing structures and the replacement of fill material with planting soil. The costs of retrofitting a commercial site in Maryland, Kettering Development, with 15 bioretention areas were estimated at $111,600.

In any bioretention area design, the cost of plants varies substantially and can account for a significant portion of the expenditures. While these cost estimates are slightly greater than those of typical landscaping treatment (due to the increased number of plantings, additional soil excavation, backfill material, use of underdrains etc.), those landscaping expenses that would be required regardless of the bioretention installation should be subtracted when determining the net cost.

Perhaps of most importance, however, the cost savings compared to the use of traditional structural stormwater conveyance systems makes bioretention areas quite attractive financially. For example, the use of bioretention can decrease the cost required for constructing stormwater conveyance systems at a site. A medical office building in Maryland was able to reduce the amount of storm drain pipe that was needed from 800 to 230 feet - a cost savings of $24,000 (PGDER, 1993). And a new residential development spent a total of approximately $100,000 using bioretention cells on each lot instead of nearly $400,000 for the traditional stormwater ponds that were originally planned (Rappahanock,). Also, in residential areas, stormwater management controls become a part of each property owner's landscape, reducing the public burden to maintain large centralized facilities.

Maintenance Cost

The operation and maintenance costs for a bioretention facility will be comparable to those of typical landscaping required for a site. Costs beyond the normal landscaping fees will include the cost for testing the soils and may include costs for a sand bed and planting soil.

References and Sources of Additional Information

Coffman, L.S., R. Goo and R. Frederick, 1999: Low impact development: an innovative alternative approach to stormwater management. Proceedings of the 26th Annual Water Resources Planning and Management Conference ASCE, June 6-9, Tempe, Arizona.

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Davis, A.P., Shokouhian, M., Sharma, H., Minami, C., and Winogradoff, D. "Water Quality Improvement through Bioretention: Lead, Copper, and Zinc," *Water Environ. Res.*, accepted for publication, August 2002.

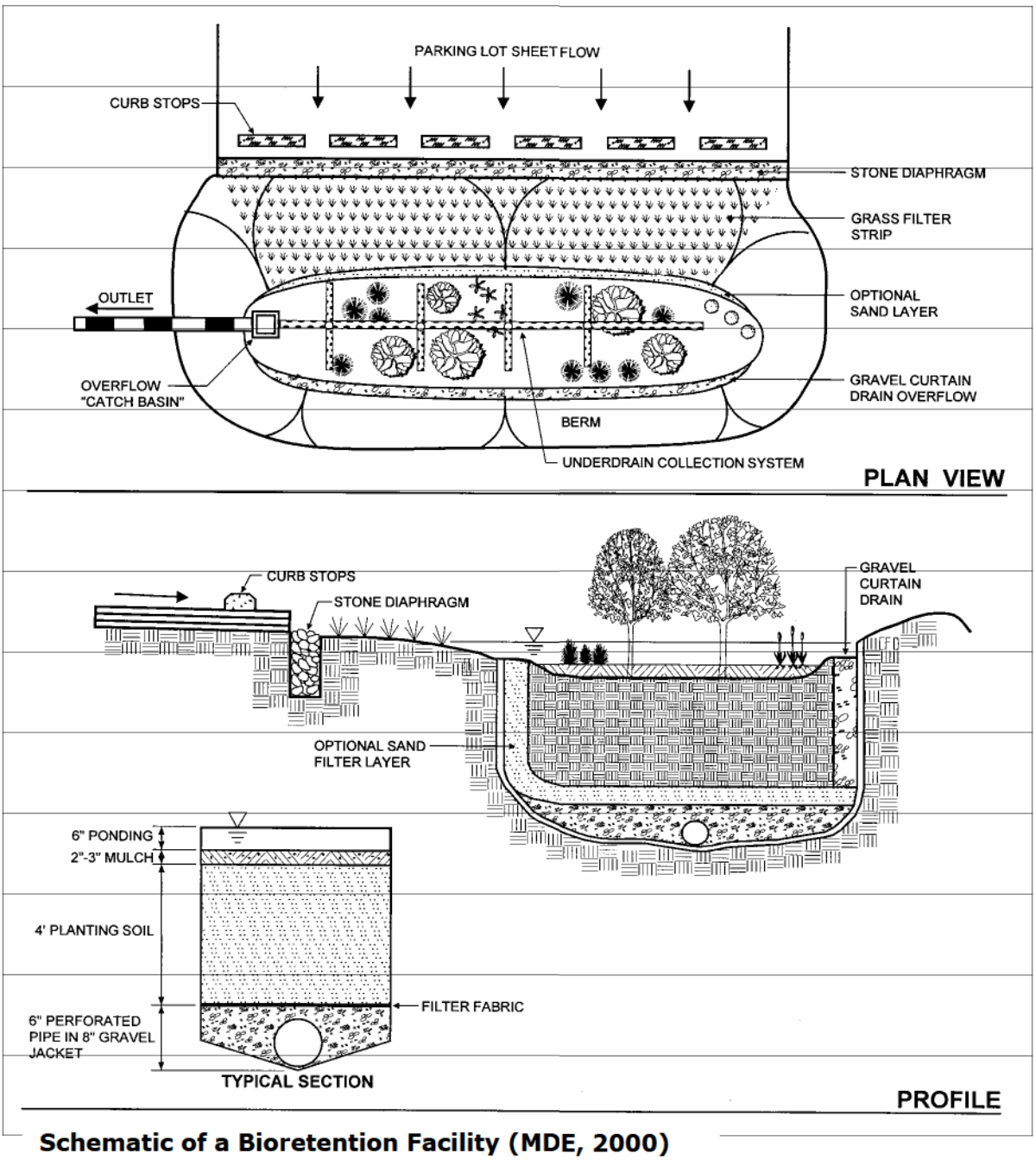
Kim, H., Seagren, E.A., and Davis, A.P., "Engineered Bioretention for Removal of Nitrate from Stormwater Runoff," *WEFTEC 2000 Conference Proceedings on CDROM Research Symposium, Nitrogen Removal*, Session 19, Anaheim CA, October 2000.

Hsieh, C.-h. and Davis, A.P. "Engineering Bioretention for Treatment of Urban Stormwater Runoff," *Watersheds 2002, Proceedings on CDROM Research Symposium*, Session 15, Ft. Lauderdale, FL, Feb. 2002.

Prince George's County Department of Environmental Resources (PGDER), 1993. Design Manual for Use of *Bioretention in Stormwater Management*. Division of Environmental Management, Watershed Protection Branch. Landover, MD.

U.S. EPA Office of Water, 1999. Stormwater Technology Fact Sheet: Bioretention. EPA 832-F-99-012.

Weinstein, N. Davis, A.P. and Veeramachaneni, R. "Low Impact Development (LID) Stormwater Management Approach for the Control of Diffuse Pollution from Urban Roadways," *5th International Conference Diffuse/Nonpoint Pollution and Watershed Management Proceedings*, C.S. Melching and Emre Alp, Eds. 2001 International Water Association



Schematic of a Bioretention Facility (MDE, 2000)

6.2 Flow-Through Planter

Figure 6-7: Flow-through planters at Hampton Park residences in San Jose. Photo: EOA, Inc.

Best uses

- Treating roof runoff
- Next to buildings
- Dense urban areas
- Locations where infiltration is not desired

Advantages

- Can be adjacent to structures
- Versatile
- May be any shape
- Low maintenance

Limitations

- Requires sufficient head
- Careful selection of plants
- Requires level installation
- Susceptible to clogging

Flow-through planters function similar to bioretention areas but are designed to detain and treat runoff without allowing seepage into the underlying soil. They are a type of biotreatment facility that is completely lined and surrounded with concrete or other structural planter box walls with waterproof membranes. They can be used next to buildings and other locations where soil moisture is a potential concern. Flow-through planters typically receive runoff via downspouts leading from the roofs of adjacent buildings. However, flow-through planters can also be set level with the surrounding grade and receive runoff as sheet flow. Pollutants are removed as the runoff passes through the biotreatment soil mix and is collected in an underlying drain rock layer and perforated underdrain. The underdrain must be directed to a storm drain or other discharge point. An overflow inlet conveys flows that exceed the capacity of the planter.

Design and Sizing Guidelines

TREATMENT MEASURE DIMENSIONS AND SIZING

- It is recommended that flow-through planters be designed with a surface area that is 4% of the impervious area draining to it. This sizing factor is derived from the flow-based treatment standard (runoff from 0.2 in/hr intensity rainfall) and a desired surface loading rate of 5 in/hr. Alternatively, if there are site constraints, planter size may be calculated using a volume-based treatment method or a combination flow- and volume-based treatment method described in Appendix B.
- The surface of the planting bed should be relatively level but may have a slight slope if needed to distribute stormwater flows throughout the surface area.
- Surface ponding depths may vary, with a recommended 6-inch depth and a maximum 12-inch depth if allowed by the municipality. The depth is measured from the surface of the biotreatment soil and not adjusted for the application of mulch. If the design ponding depth exceeds 6 inches, the landscape architect should approve the planting palette for the desired depth.

- The inlet elevation of the overflow drain should be at least 6 inches above the low point of the planting area and at least 2 inches above the high point of the planting area (i.e., the top of planting mounds). Planter box walls should be higher than overflow elevation. The maximum head requirements should be checked using the maximum flow and planter outlet configuration. Four inches of freeboard should be provided, and an overflow point away from structures should be designed. Additional freeboard requirements may apply to protect nearby structures from flooding; check with the local jurisdiction.
- Waterproofing should be installed as required to protect adjacent building walls.
- Units should be located in areas that can be accessible at any given time for the purpose of operation and maintenance and inspections.

INLETS TO TREATMENT MEASURE

Flows may enter the planter in the following ways:

- As overland flow from landscaping or pavement
- Through a curb opening (minimum 18 inches with the number and locations designed so that runoff is dispersed throughout the bioretention area)
- Through a curb drain
- Through a pop-up or bubble-up emitter
- Through roof leader or other conveyance from building roof
- If the flow-through planter is installed at grade, allow a change in elevation of 4 to 6 inches between the surrounding paved surface and the planting soil elevation, so that vegetation or mulch build-up does not obstruct flow.
- Install splash blocks, cobbles or rocks, underlain by geotextile fabric as needed, to dissipate flow energy and avoid erosion where runoff enters the planter.
- For long linear planters, space inlets to the planter at 10-foot intervals or install a flow spreader (see Figures 6-12 and 6-13).
- Flow-through planters should be designed so that drainage into and out of the treatment measure is by gravity flow. This promotes effective, low-maintenance operation and helps avoid mosquito problems. Pumped systems should only be used on retrofit projects, as a last resort.

See Section 5.2 of the SCVURPPP C.3 Handbook for example inlets and additional guidance.

UNDERDRAIN AND OVERFLOW STRUCTURES

- An underdrain system is required for flow-through planters.
- The underdrain should consist of a minimum 4-inch diameter perforated pipe with cleanouts and connection to a storm drain or discharge point. To help prevent clogging, two rows of perforation may be used.
- The underdrain trench should include a minimum 12-inch thick layer of drain rock, such as Caltrans Standard Section 68-1.025 permeable material Class 2 or equivalent. The underdrain should be placed near the bottom of the drain rock layer, with perforations facing downward, at a minimum 0.5% slope (unless a flatter slope is allowed by the municipality based on site-specific conditions).
- A cleanout for the underdrain should be provided, consisting of a vertical, rigid, non-perforated PVC pipe, with a minimum diameter of 4 inches and a watertight cap fit flush with the planter bed surface.
- To avoid clogging, filter fabric should not be used in or around the underdrain or between the biotreatment soil mix and the drain rock. If desired, a 2-inch pea gravel layer may be used between the biotreatment soil mix and the drain rock.
- To avoid excess hydraulic pressure on subsurface concrete treatment system structures:

1. The depth to seasonal high groundwater level should be at least 5 feet from the bottom of the structure.
2. A geo technical engineer should be consulted for situations where the bottom of the structure is less than 5 feet from the seasonal high groundwater level.

PLANTING SOIL REQUIREMENTS

- Soils used in the planter should meet the biotreatment soil mix specifications included in Appendix C of this Handbook. A minimum long term infiltration rate of 5 inches per hour is required (initial infiltration rate may exceed this to allow for tendency of infiltration rate to reduce over time).
- Flow-through planters should have a minimum biotreatment soil mix depth of 18 inches.

VEGETATION

- Plant species selected should be suitable for the flow-through planter location, biotreatment soils and occasional inundation. A variety of plants, including ground cover, grasses, and shrubs, helps maintain a healthy soil environment and pollutant removal capabilities. See planting guidance in Appendix D.
- Plants within the planter area need to be spaced closely enough to ensure substantial plant coverage to prevent scour, keep mulch in place and provide pleasing aesthetics. The local jurisdiction may have landscaping guidelines that specify plant spacing.
- Use integrated pest management (IPM) principles in the landscape design, i.e., select native and/or pest resistant plants, to avoid the need for synthetic pesticides and quick-release fertilizer. Check with the local jurisdiction regarding local IPM policies.
- Drought tolerant plants are preferred and may be required by the local municipality. Provide sufficient irrigation for the initial establishment period as well as long term maintenance of plant life.
- Install and maintain a 3-inch layer of composted arbor mulch (also called “aged mulch”) in areas between plantings. Pea gravel or large bark mulches that resist floating may also be used. “Micro-bark” and “gorilla hair” mulches are not recommended. Cobbles should only be used for erosion protection at inlets. Large boulders should not be placed in the bioretention area.
- Vegetation should not block inflow, create safety issues, or obstruct utilities.

Construction Requirements

- At-grade planters are not intended to work as construction-phase BMPs. Protect the area from construction site runoff; divert runoff from unstabilized areas away from completed planter areas.

Maintenance Requirements

- Provide a Maintenance Agreement (or other document or mechanism) that states the parties’ responsibility for maintenance and upkeep.
- Prepare a maintenance plan and submit it with the Maintenance Agreement. Refer to Chapter 8 and Appendix G for specific maintenance requirements.

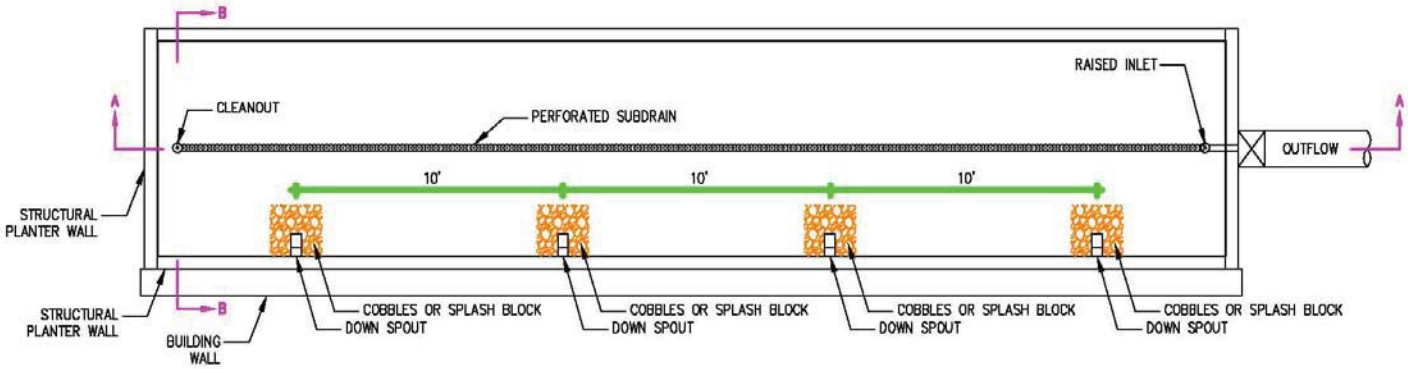


Figure 6-8: Plan view of long, linear planter, with inlets to the planter distributed along its length at 10' intervals.

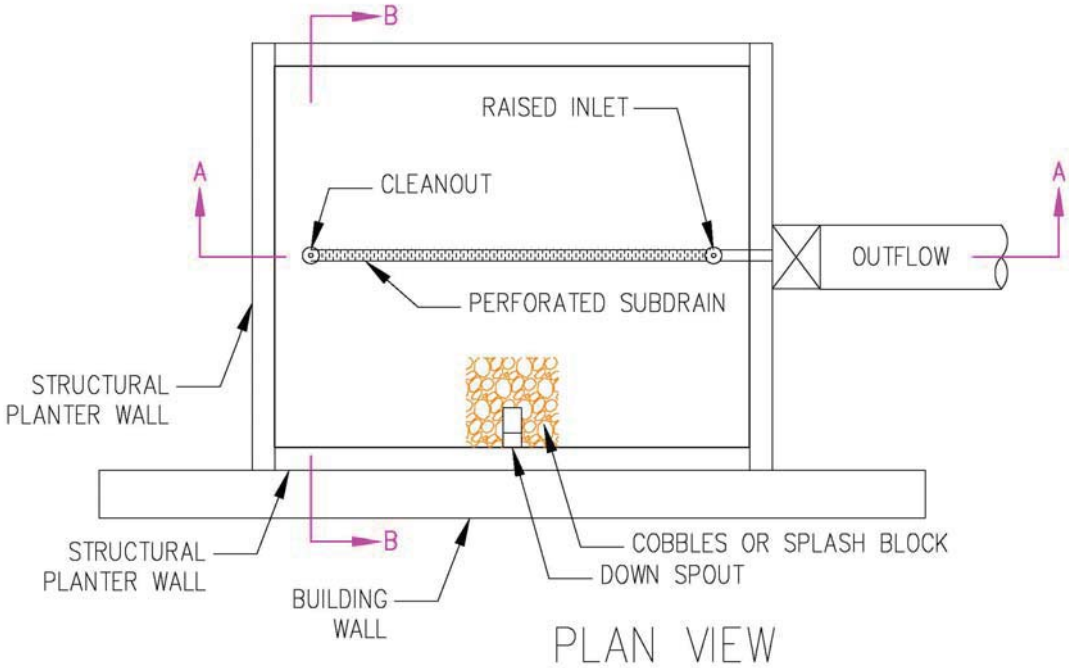


Figure 6-9: Plan view of planter designed to disperse flows adequately with only one inlet to planter

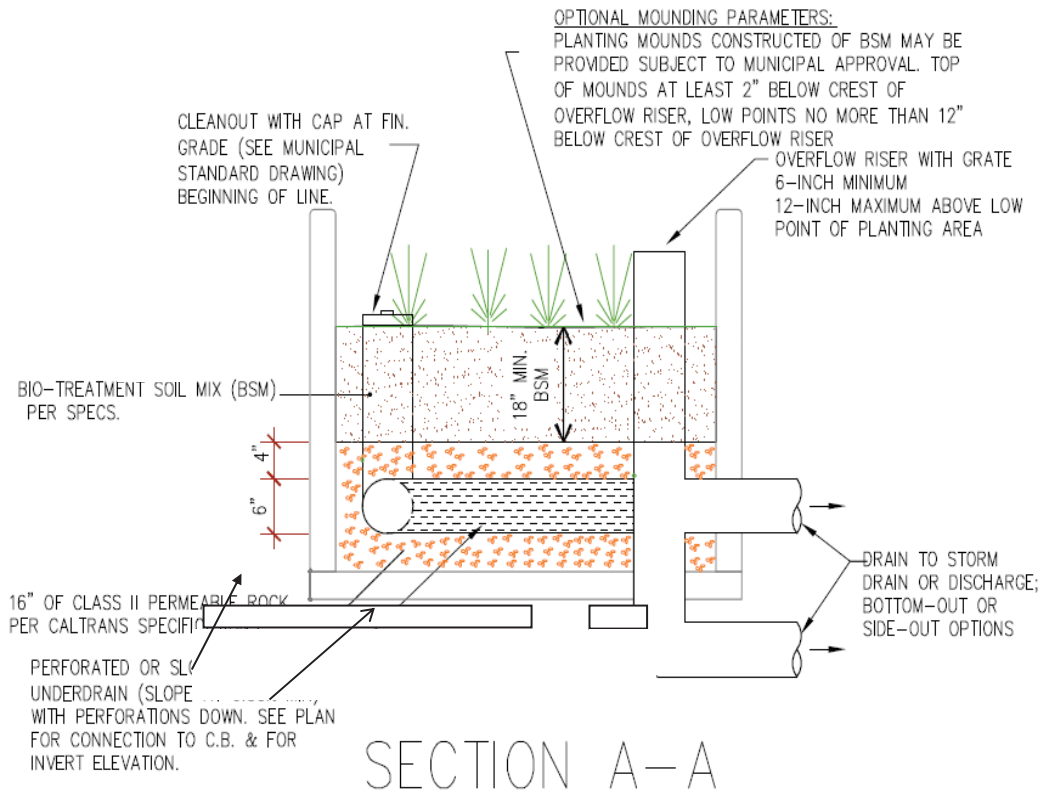


Figure 6-10: Cross section A-A of flow-through planter, shows side view of underdrain

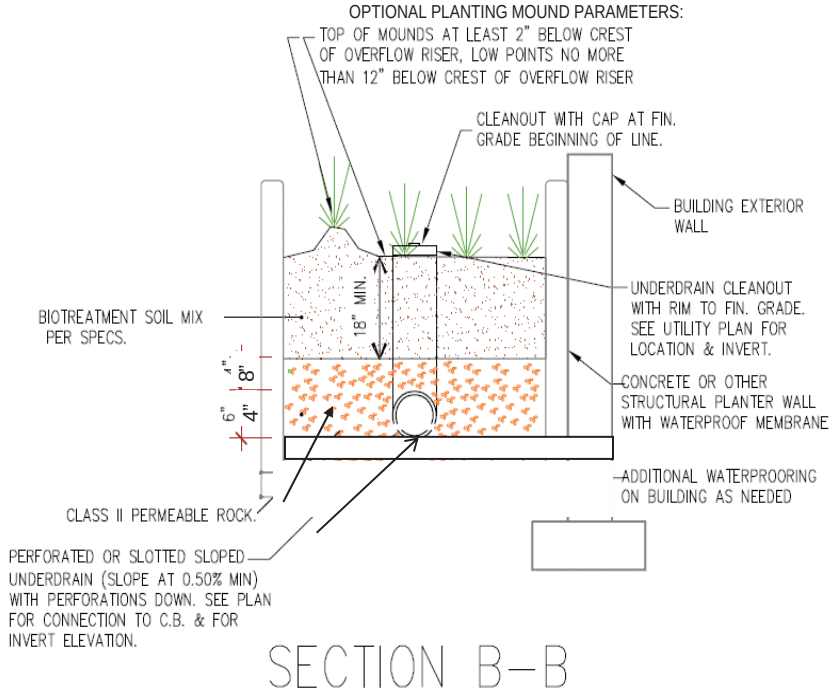


Figure 6-11: Cross section B-B of flow-through planter, shows cross section of underdrain

Figure 6-12: Half-buried, perforated flexible pipe serves as a flow spreader to distribute stormwater evenly throughout a long flow-through planter in Emeryville (Source: GreenGrid/ Weston Solutions).

Figure 6-13: The same planter as shown in Figure 6-12, after vegetation has matured and partially conceals the half-buried pipe from view (Source: San Francisco Estuary Partnership).

Media Filter TC-40

Design Considerations

- Aesthetics
- Hydraulic Head

Description

Stormwater media filters are usually two-chambered including a pretreatment settling basin and a filter bed filled with sand or other absorptive filtering media. As stormwater flows into the first chamber, large particles settle out, and then finer particles and other pollutants are removed as stormwater flows through the filtering media in the second chamber. There are a number of design variations including the Austin sand filter, Delaware sand filter, and multi-chambered treatment train (MCTT).

Targeted Constituents

☑	Sediment	■
☑	Nutrients	●
☑	Trash	■
☑	Metals	■
☑	Bacteria	▲
☑	Oil and Grease	■
☑	Organics	■

Legend ***(Removal Effectiveness)***

● Low ■ High

▲ Medium

California Experience

Caltrans constructed and monitored five Austin sand filters, two MCTTs, and one Delaware design in southern California. Pollutant removal was very similar for each of the designs; however operational and maintenance aspects were quite different. The Delaware filter and MCTT maintain permanent pools and consequently mosquito management was a critical issue, while the Austin style which is designed to empty completely between storms was less affected. Removal of the top few inches of sand was required at 3 of the Austin filters and the Delaware filter during the third year of operation; consequently, sizing of the filter bed is a critical design factor for establishing maintenance frequency.

Advantages

- Relatively high pollutant removal, especially for sediment and associated pollutants.
- Widespread application with sufficient capture volume can provide significant control of channel erosion and enlargement caused by changes to flow frequency relationships resulting from the increase of impervious cover in a watershed.

Limitations

- More expensive to construct than many other BMPs.
- May require more maintenance that some other BMPs depending upon the sizing of the filter bed.
- Generally require more hydraulic head to operate properly (minimum 4 feet).
- High solids loads will cause the filter to clog.
- Work best for relatively small, impervious watersheds.
- Filters in residential areas can present aesthetic and safety problems if constructed with vertical concrete walls.
- Certain designs (e.g., MCTT and Delaware filter) maintain permanent sources of standing water where mosquito and midge breeding is likely to occur.

Design and Sizing Guidelines

- Capture volume determined by local requirements or sized to treat 85% of the annual runoff volume.
- Filter bed sized to discharge the capture volume over a period of 48 hours.
- Filter bed 18 inches thick above underdrain system.
- Include energy dissipation in the inlet design to reduce resuspension of accumulated sediment.
- A maintenance ramp should be included in the design to facilitate access to the sedimentation and filter basins for maintenance activities (particularly for the Austin design).
- Designs that utilize covered sedimentation and filtration basins should be accessible to vector control personnel via access doors to facilitate vector surveillance and controlling the basins if needed.

Construction/Inspection Considerations

- Tributary area should be completely stabilized before media is installed to prevent premature clogging.

Performance

The pollutant removal performance of media filters and other stormwater BMPs is generally characterized by the percent reduction in the influent load. This method implies a relationship between influent and effluent concentrations. For instance, it would be expected that a device that is reported to achieve a 75% reduction would have an effluent concentration equal to 25% of the influent concentrations. Recent work in California (Caltrans, 2002) on various sand filter designs indicates that this model for characterizing performance is inadequate. Figure 4 presents a graph relating influent and effluent TSS concentrations for the Austin full sedimentation design.

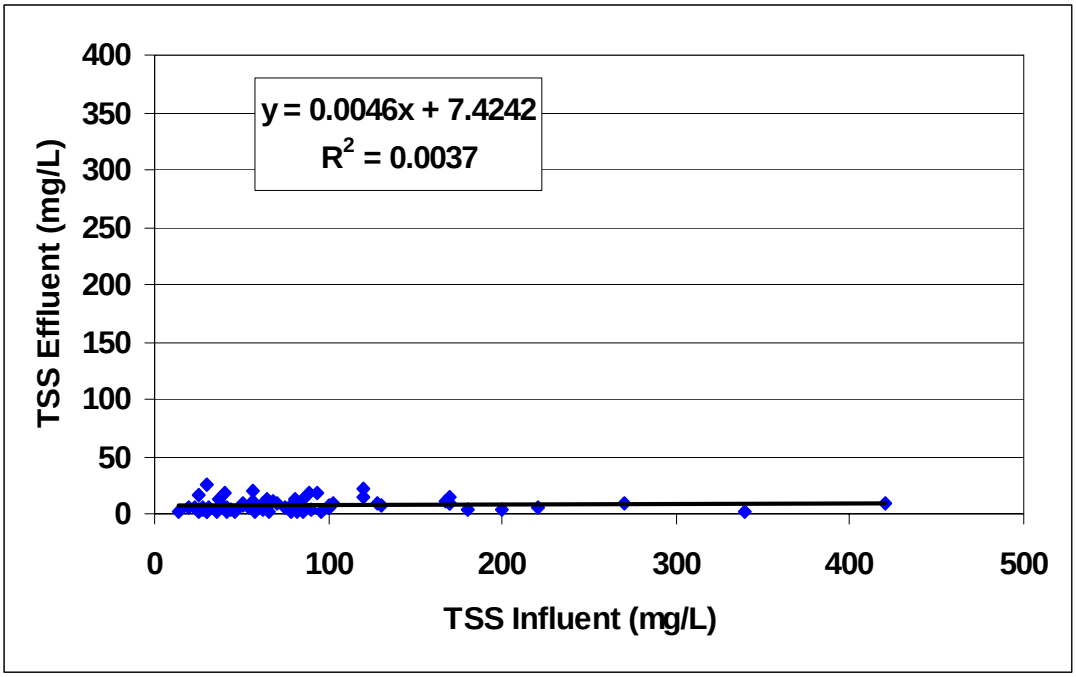


Figure 4
Comparison of Influent and Effluent Concentrations for TSS

It is clearly evident that the effluent concentration is relative constant and independent of influent concentration. Consequently, the performance is more accurately characterized by the effluent concentration, which is about 7.5 mg/L. Constant effluent concentrations also are observed for all other particle related constituents such as particulate metals (total - dissolved) and particulate phosphorus.

The small uncertainty in the estimate of the mean effluent concentration highlights the very consistent effluent quality for TSS produced by sand filters. In addition, it demonstrates that a calculated percent reduction for TSS and other constituents with similar behavior for Austin sand filters is a secondary characteristic of the device and depends primarily on the specific influent concentrations observed. The distinction between a constant effluent quality and a percent reduction is extremely important to recognize if the results are to be used to estimate effluent quality from sand filters installed at other sites with different influent concentrations or for estimating compliance with water quality standards for storms with high concentrations of particulate constituents.

If the conventionally derived removal efficiency (90%) were used to estimate the TSS concentrations in the treated runoff from storms with high influent concentrations, the estimated effluent concentration would be too high. For instance, the storm with the highest observed influent concentration (420 mg/L) would be expected to have a concentration in the treated runoff of 42 mg/L, rather than the 10 mg/L that was measured. In fact, the TSS effluent concentrations for all events with influent concentrations greater than 200 mg/L were 10 mg/L or less.

The stable effluent concentration of a sand filter under very different influent TSS concentrations implies something about the properties of the influent particle size distribution. If one assumes that

only the smallest size fraction can pass through the filter, then the similarity in effluent concentrations suggests that there is little difference in the total mass of the smallest sized particles even when the total TSS concentration varies greatly. Further, the difference in TSS concentration must then be caused by changes in the relative amount of the larger size fractions. Further research is necessary to determine the range of particle size that is effectively removed in the filter and the portion of the size fraction of suspended solids that it represents in urban stormwater.

Sand filters are effective stormwater management practices for pollutant removal. Conventional removal rates for all sand filters and organic filters are presented in Table 1. With the exception of nitrates, which are always exported from filtering systems because of the conversion of ammonia and organic nitrogen to nitrate, they perform relatively well at removing pollutants.

Table 1 Sand filter removal efficiencies (percent)

	Sand Filter (Glick et al, 1998)	Compost Filter System		Multi-Chamber Treatment Train		
		Stewart, 1992	Leif, 1999	Pitt et al., 1997	Pitt, 1996	Greb et al., 1998
TSS	89	95	85	85	83	98
TP	59	41	4	80	-	84
TN	17	-	-	-	-	-
Nitrate	-76	-34	-95	-	14	-
Metals	72-86	61-88	44-75	65-90	91-100	83-89
Bacteria	65	-	-	-	-	-

From the few studies available, it is difficult to determine if organic filters necessarily have higher removal efficiencies than sand filters. The MCTT may have high pollutant removal for some constituents, although an evaluation of these devices by the California Department of Transportation indicated no significant difference for most conventional pollutants.

In addition to the relatively high pollutant removal in media filters, these devices, when sized to capture the channel forming storm volume, are highly effective at attenuating peak flow rates and reducing channel erosion.

Siting Criteria

In general, sand filters are preferred over infiltration practices, such as infiltration trenches, when contamination of groundwater with conventional pollutants is of concern. This usually occurs in areas where underlying soils alone cannot treat runoff adequately - or ground water tables are high. In most cases, sand filters can be constructed with impermeable basin or chamber bottoms, which help to collect, treat, and release runoff to a storm drainage system or directly to surface water with no contact between contaminated runoff and groundwater. In regions where evaporation exceeds rainfall and a wet pond would be unlikely to maintain the required permanent pool, a sand filtration system can be used.

The selection of a sand filter design depends largely on the drainage area's characteristics. For example, the Washington, D.C. and Delaware sand filter systems are well suited for highly impervious areas where land available for structural controls is limited, since both are installed underground. They have been used to treat runoff from parking lots, driveways, loading docks, service stations, garages, airport runways/taxiways, and storage yards. The Austin sand filtration system is more suited for large drainage areas that have both impervious and pervious surfaces. This system is located at grade and is used to treat runoff from any urban land use.

It is challenging to use most sand filters in very flat terrain because they require a significant amount of hydraulic head (about 4 feet), to allow flow through the system. One exception is the perimeter sand filter, which can be applied with as little as 2 feet of head.

Sand filters are best applied on relatively small sites (up to 25 acres for surface sand filters and closer to 2 acres for perimeter or underground filters). Filters have been used on larger drainage areas, of up to 100 acres, but these systems can clog when they treat larger drainage areas unless adequate measures are provided to prevent clogging, such as a larger sedimentation chamber or more intensive regular maintenance.

When sand filters are designed as a stand-alone practice, they can be used on almost any soil because they can be designed so that stormwater never infiltrates into the soil or interacts with the ground water. Alternatively, sand filters can be designed as pretreatment for an infiltration practice, where soils do play a role.

Additional Design Guidelines

Pretreatment is a critical component of any stormwater management practice. In sand filters, pretreatment is achieved in the sedimentation chamber that precedes the filter bed. In this chamber, the coarsest particles settle out and thus do not reach the filter bed. Pretreatment reduces the maintenance burden of sand filters by reducing the potential for these sediments to clog the filter. When pretreatment is not provided designers should increase the size of the filter area to reduce the clogging potential. In sand filters, designers should select a medium sand as the filtering medium. A fine aggregate (ASTM C-33) that is intended for use in concrete is commonly specified.

Many guidelines recommend sizing the filter bed using Darcy's Law, which relates the velocity of fluids to the hydraulic head and the coefficient of permeability of a medium. The resulting equation, as derived by the city of Austin, Texas, (1996), is

$$Af = WQV\, d / [k\, t\, (h+d)]$$

Where:

Af = area of the filter bed (ft^2);

d = depth of the filter bed (ft; usually about 1.5 feet, depending on the design);

k = coefficient of permeability of the filtering medium (ft/day);

t = time for the water quality volume to filter through the system (days; usually assumed to be 1.67 days); and

h = average water height above the sand bed (ft; assumed to be one-half of the maximum head).

Typical values for k, as assembled by CWP (1996), are shown in Table 2.

Table 2 Coefficient of permeability values for stormwater filtering practices (CWP, 1996)

Filter Medium	Coefficient of Permeability (ft/day)
Sand	3.5
Peat/Sand	2.75
Compost	8.7

The permeability of sand shown in Table 2 is extremely conservative, but is widely used since it is incorporated in the design guidelines of the City of Austin. When the sand is initially installed, the permeability is so high (over 100 ft/d) that generally only a portion of the filter area is required to infiltrate the entire volume, especially in a "full sedimentation" Austin design where the capture volume is released to the filter basin over 24 hours.

The preceding methodology results in a filter bed area that is oversized when new and the entire water quality volume is filtered in less than a day with no significant height of water on top of the sand bed. Consequently, the following simple rule of thumb is adequate for sizing the filter area. If the filter is preceded by a sedimentation basin that releases the water quality volume (WQV) to the filter over 24 hours, then

$$Af = WQV/18$$

If no pretreatment is provided then the filter area is calculated more conservatively as:

$$Af = WQV/10$$

Typically, filtering practices are designed as "off-line" systems, meaning that during larger storms all runoff greater than the water quality volume is bypassed untreated using a flow splitter, which is a structure that directs larger flows to the storm drain system or to a stabilized channel. One exception is the perimeter filter; in this design, all flows enter the system, but larger flows overflow to an outlet chamber and are not treated by the practice.

The Austin design variations are preferred where there is sufficient space, because they lack a permanent pool, which eliminates vector concerns. Design details of this variation are summarized below.

Summary of Design Recommendations

(1) Capture Volume - The facility should be sized to capture the required water quality volume, preferably in a separate pretreatment sedimentation basin.

(2) Basin Geometry – The water depth in the sedimentation basin when full should be at least 2 feet and no greater than 10 feet. A fixed vertical sediment depth marker should be installed in the sedimentation basin to indicate when 20% of the basin volume has been lost because of sediment accumulation. When a pretreatment sedimentation basin is provided the minimum average surface area for the sand filter (Af) is calculated from the following equation:

$$Af = WQV/18$$

If no pretreatment is provided then the filter area is calculated as:

$$Af = WQV/10$$

(3) Sand and Gravel Configuration - The sand filter is constructed with 18 inches of sand overlying 6 inches of gravel. The sand and gravel media are separated by permeable geotextile fabric and the gravel layer is situated on geotextile fabric. Four-inch perforated PVC pipe is used to drain captured flows from the gravel layer. A minimum of 2 inches of gravel must cover the top surface of the PVC pipe. Figure 5 presents a schematic representation of a standard sand bed profile.

(4) Sand Properties – The sand grain size distribution should be comparable to that of "washed concrete sand," as specified for fine aggregate in ASTM C-33.

(5) Underdrain Pipe Configuration – In an Austin filter, the underdrain piping should consist of a main collector pipe and two or more lateral branch pipes, each with a minimum diameter of 4 inches. The pipes should have a minimum slope of 1% (1/8 inch per foot) and the laterals should be spaced at intervals of no more than 10 feet. There should be no fewer than two lateral branch pipes. Each individual underdrain pipe should have a cleanout access location. All piping is to be Schedule 40 PVC. The maximum spacing between rows of perforations should not exceed 6 inches.

(6) Flow Splitter - The inflow structure to the sedimentation chamber should incorporate a flow-splitting device capable of isolating the capture volume and bypassing the 25-year peak flow around the facility with the sedimentation/filtration pond full.

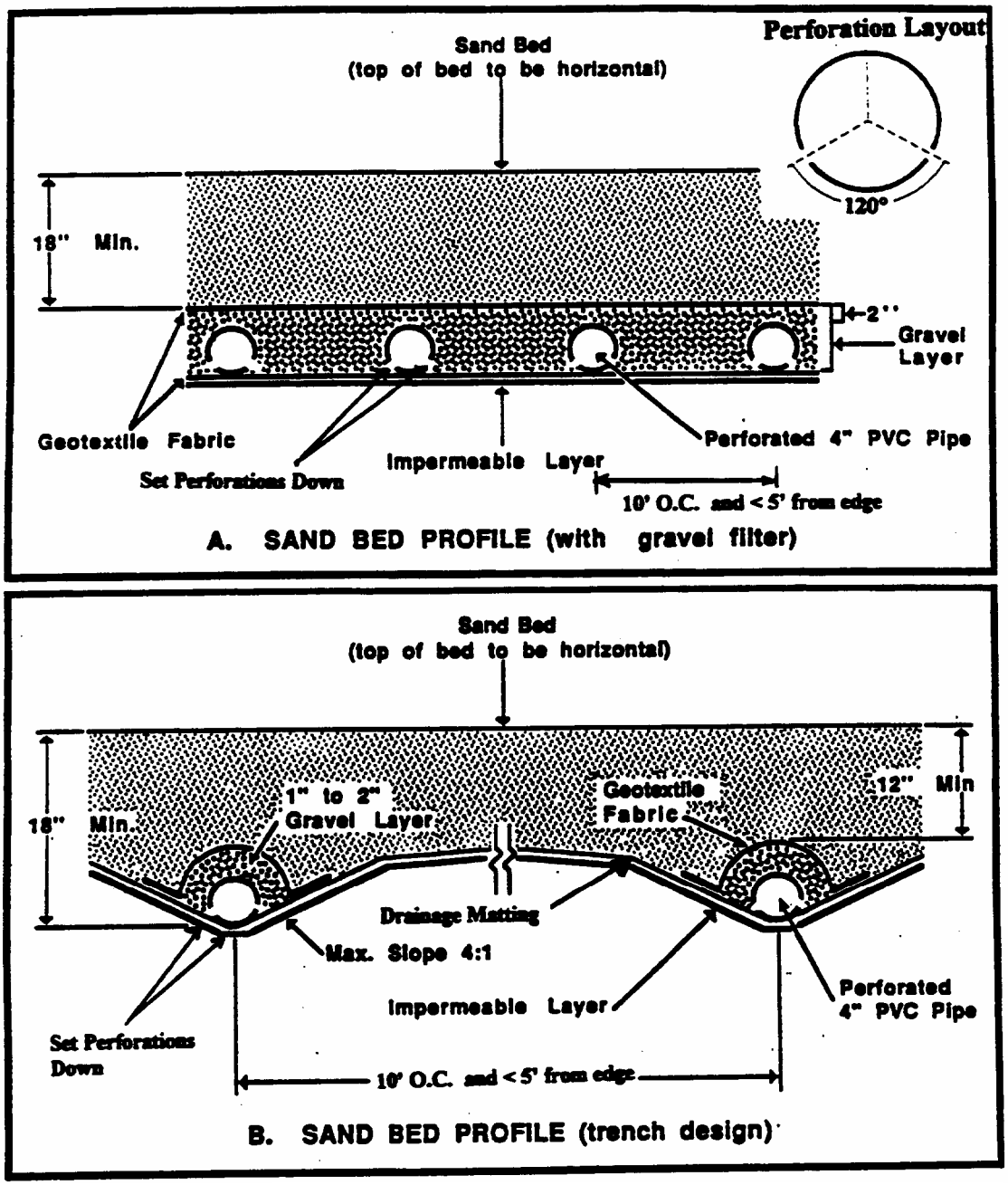


Figure 5
Schematic of Sand Bed Profile

(7) Basin Inlet – Energy dissipation is required at the sedimentation basin inlet so that flows entering the basin should be distributed uniformly and at low velocity in order to prevent resuspension and encourage quiescent conditions necessary for deposition of solids.

(8) Sedimentation Pond Outlet Structure - The outflow structure from the sedimentation chamber should be (1) an earthen berm; (2) a concrete wall; or (3) a rock gabion. Gabion outflow structures should extend across the full width of the facility such that no short-circuiting of flows can occur. The gabion rock should be 4 inches in diameter. The

receiving end of the sand filter should be protected (splash pad, riprap, etc.) such that erosion of the sand media does not occur. When a riser pipe is used to connect the sedimentation and filtration basins (example in Figure 6), a valve should be included to isolate the sedimentation basin in case of a hazardous material spill in the watershed. The control for the valve must be accessible at all times, including when the basin is full. The riser pipe should have a minimum diameter of 6 inches with four 1-inch perforations per row. The vertical spacing between rows should be 4 inches (on centers).

(9) Sand Filter Discharge – If a gabion structure is used to separate the sedimentation and filtration basins, a valve must installed so that discharge from the BMP can be stopped in case runoff from a spill of hazardous material enters the sand filter. The control for the valve must be accessible at all times, including when the basin is full.

Maintenance

Even though sand filters are generally thought of as one of the higher maintenance BMPs, in a recent California study an average of only about 49 hours a year were required for field activities. This was less maintenance than was required by extended detention basins serving comparable sized catchments. Most maintenance consists of routine removal of trash and debris, especially in Austin sand filters where the outlet riser from the sedimentation basin can become clogged.

Most data (i.e. Clark, 2001) indicate that hydraulic failure from clogging of the sand media occurs before pollutant breakthrough. Typically, only the very top of the sand becomes clogged while the rest remains in relative pristine condition as shown in Figure 7. The rate of clogging has been related to the TSS loading on the filter bed (Urbonas, 1999); however, the data are quite variable. Empirical observation of sites treating urban and highway runoff indicates that clogging of the filter occurs after 2 – 10 years of service. Presumably, this is related to differences in the type and amount of sediment in the catchment areas of the various installations. Once clogging occurs the top 2 – 3 inches of filter media is removed, which restores much, but not all, of the lost permeability. This removal of the surface layer can occur several times before the entire filter bed must be replaced. The cost of the removal of the surface layer is not prohibitive, generally ranging between $2,000 (EPA Fact Sheet) and $4,000 (Caltrans, 2002) depending on the size of the filter.

Media filters can become a nuisance due to mosquito and midge breeding in certain designs or if not regularly maintained. "Wet" designs (e.g., MCTT and Delaware filter) are more conducive to vectors than others (e.g., Austin filters) because they maintain permanent sources of standing water where breeding is likely to occur. Caltrans successfully excluded mosquitoes and midges from accessing the permanent water in the sedimentation basin of MCTT installations through use of a tight-fitting aluminum cover to seal vectors out. However, typical wet designs may require routine inspections and treatments by local mosquito and vector control agencies to suppress mosquito production. Vector habitats may also be created in "dry" designs when media filters clog, and/or when features such as level spreaders that hold water over 72 hours are included in the installation. Dry designs such as Austin filters should dewater completely (recommended 72 hour residence time or less) to prevent creating mosquito and other vector habitats. Maintenance efforts to prevent vector breeding in dry designs will need to focus on basic housekeeping practices such as removal of debris accumulations and vegetation management (in filter media) to prevent clogs and/or pools of standing water.

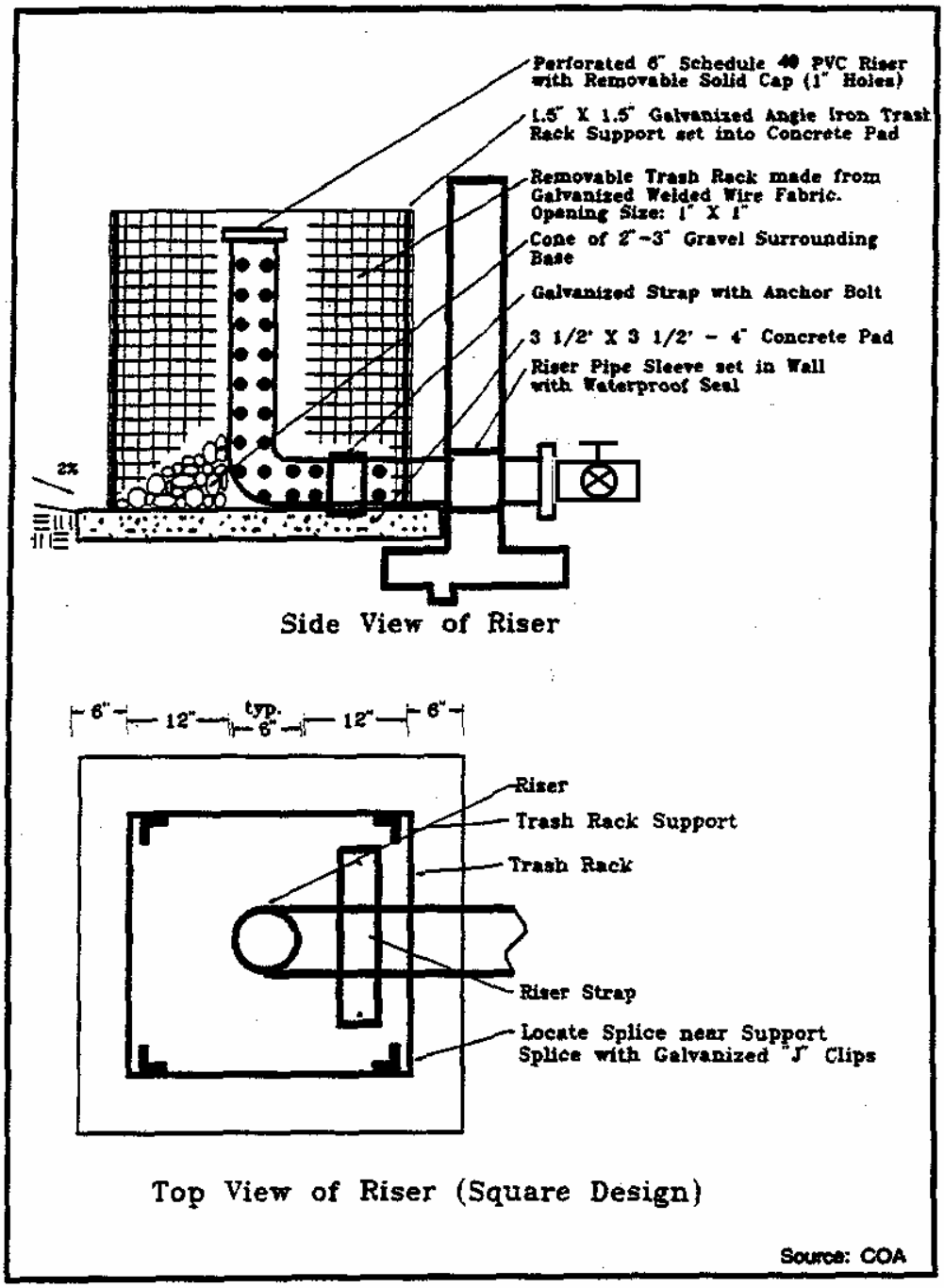


Figure 6
Detail of Sedimentation Riser Pipe

Figure 7
Formation of Clogging Crust on Filter Bed

Recommended maintenance activities and frequencies include:

- Inspections semi-annually for standing water, sediment, trash and debris, and to identify potential problems.
- Remove accumulated trash and debris in the sedimentation basin, from the riser pipe, and the filter bed during routine inspections.
- Inspect the facility once during the wet season after a large rain event to determine whether the facility is draining completely within 72 hr.
- Remove top 50 mm (2 in.) of sand and dispose of sediment if facility drain time exceeds 72 hr. Restore media depth to 450 mm (18 in.) when overall media depth drops to 300 mm (12 in.).
- Remove accumulated sediment in the sedimentation basin every 10 yr or when the sediment occupies 10 percent of the basin volume, whichever is less.

Cost

Construction Cost

There are few consistent published data on the cost of sand filters, largely because, with the exception of Austin, Texas, Alexandria, Virginia, and Washington, D.C., they have not been widely used. Furthermore, filters have such varied designs that it is difficult to assign a cost to filters in general. A study by Brown and Schueler (1997) was unable to find a statistically valid relationship between the volume of water treated in a filter and the cost of the practice. The EPA filter fact sheet indicates a cost for an Austin sand filter at $18,500 (1997 dollars) for a 0.4 hectare- (1 acre-)

drainage area. However, the same design implemented at a 1.1 ha site by the California Department of Transportation, cost $240,000. Consequently, there is a tremendous uncertainty about what the average construction cost might be.

It is important to note that, although underground and perimeter sand filters can be more expensive than surface sand filters, they consume no surface space, making them a relatively cost-effective practice in ultra-urban areas where land is at a premium.

Given the number of facilities installed in the areas that promote their use it should be possible to develop fairly accurate construction cost numbers through a more comprehensive survey of municipalities and developers that have implemented these filters.

Maintenance Cost

Annual costs for maintaining sand filter systems average about 5 percent of the initial construction cost (Schueler, 1992). Media is replaced as needed, with the frequency correlated with the solids loading on the filter bed. Currently the sand is being replaced in the D.C. filter systems about every 2 years, while an Austin design might last 3-10 years depending on the watershed characteristics. The cost to replace the gravel layer, filter fabric and top portion of the sand for D.C. sand filters is approximately $1,700 (1997 dollars).

Caltrans estimated future maintenance costs for the Austin design, assuming a device sized to treat runoff from approximately 4 acres. These estimates are presented in Table 3 and assume a fully burdened hourly rate of $44 for labor. This estimate is somewhat uncertain, since complete replacement of the filter bed was not required during the period that maintenance costs were recorded.

Table 3 Expected Annual Maintenance Costs for an Austin Sand Filter

Activity	Labor Hours	Equipment and Materials ($)	Cost
Inspections	4	0	176
Maintenance	36	125	1,706
Vector Control	0	0	0
Administration	3	0	132
Direct Costs	-	888	888
Total	43	$1,013	**$2,902**

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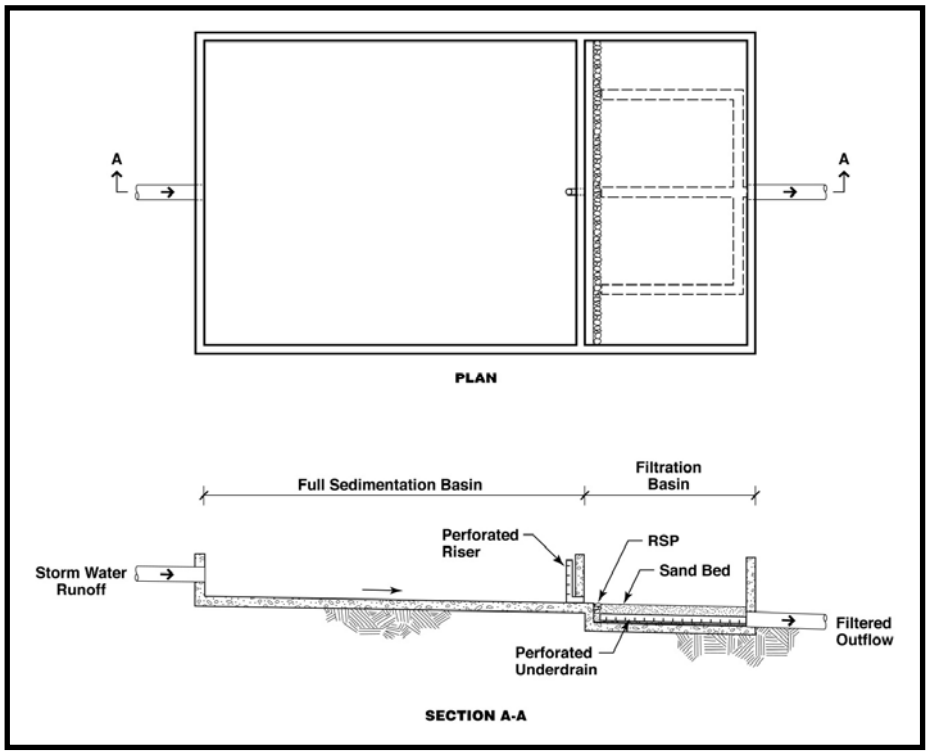
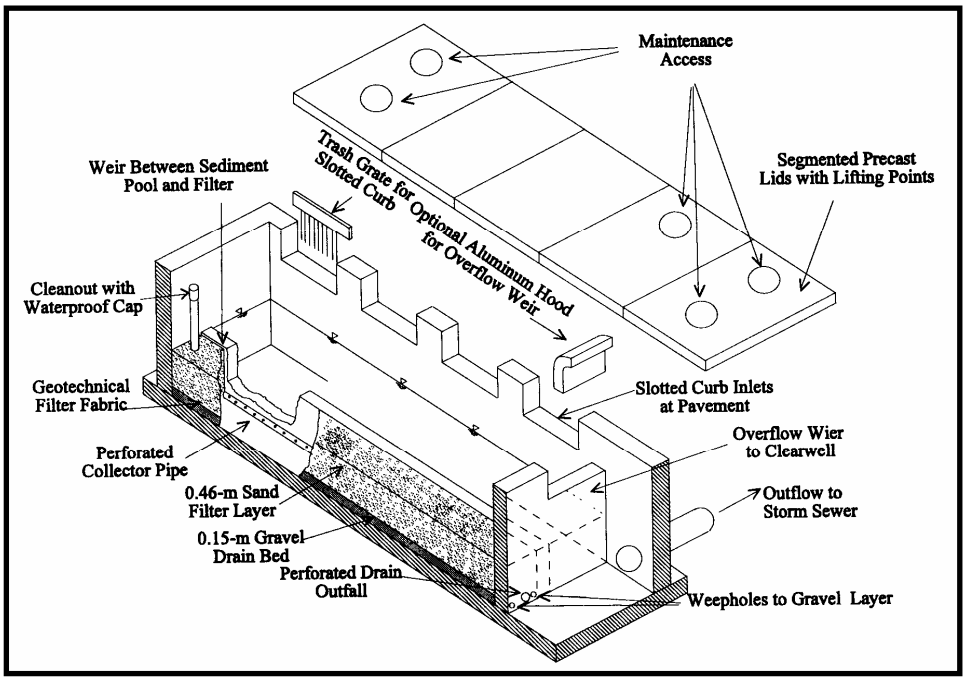
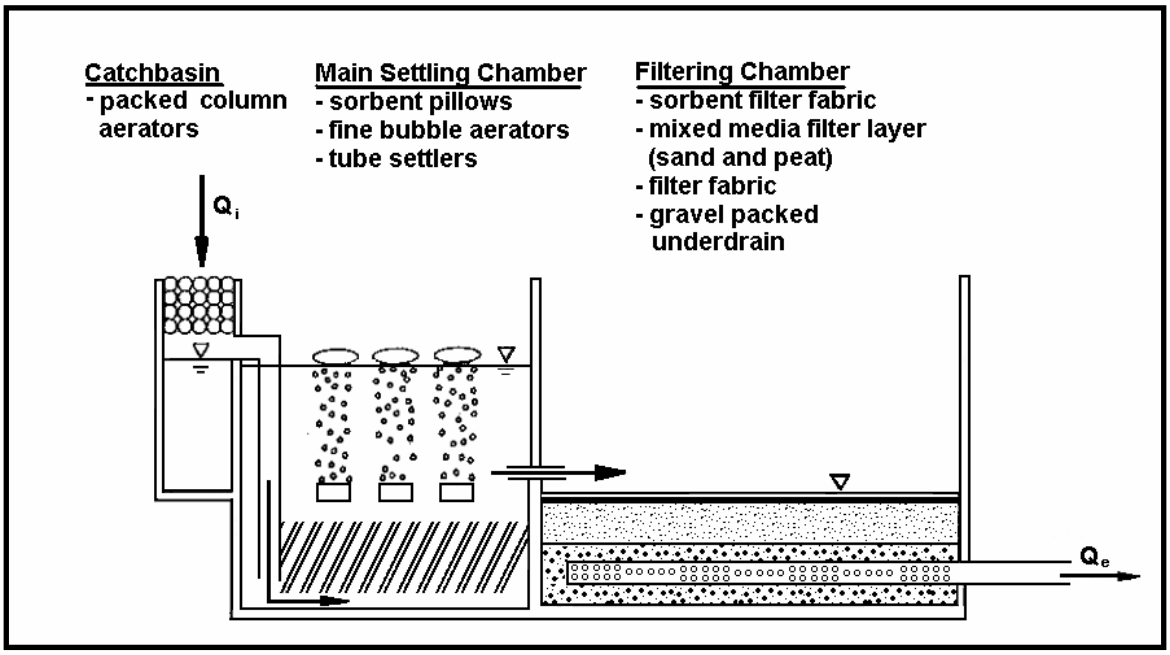
Young, G.K., et al., 1996, *Evaluation and Management of Highway Runoff Water Quality*, Publication No. FHWA-PD-96-032, U.S. Department of Transportation, Federal Highway Administration, Office of Environment and Planning.



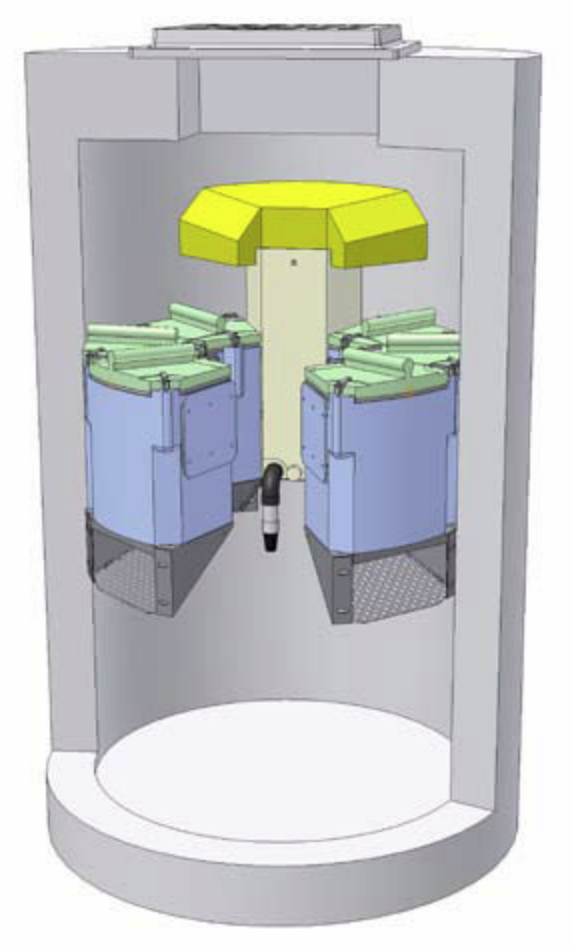
Schematic of the “Full Sedimentation” Austin Sand Filter



Schematic of a Delaware Sand Filter (Young et al., 1996)



Schematic of a MCTT (Robertson et al., 1995)



The Up-Flo Filter

Stormwater Treatment System

Operation and Maintenance Manual

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IMPORTANT - ORDER REPLACEMENT PARTS FOR MAINTENANCE - IMPORTANT

Annual maintenance requires replacement of the filter media packs and the Drain Down filter. Contact KriStar Enterprises, Inc., to order replacements. Allow 2-4 weeks for delivery.

Office hours Monday thru Friday 8:00 A.M. to 5:00 P.M. PST
Toll free: 1-800-579-8819
Phone: 707-524-8181
Fax: 707-524-8186

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DISCLAIMER: Information and data contained in this manual is exclusively for the purpose of assisting in the operation and maintenance of Hydro International plc's Up-Flo®Filter. No warranty is given nor can liability be accepted for use of this information for any other purpose. Hydro International plc have a policy of continuous product development and reserve the right to amend specifications without notice.

Product Overview

The Up-Flo® Filter is a modular high-rate stormwater filtration device. As shown below, it is typically installed into a 4-ft diameter catch basin structure. Each Filter Module has a screen and support bracket that is attached to the concrete manhole and each contains a Media Pack that includes flow distribution and filtration media. Modules can attach to each other to form a "ring" of up to six modules. Up to two of the modules are attached to an Outlet Module that has a Bypass Hood and filtered Drain Down. The modular design can be supplied in different configurations depending on the application as shown in the following illustrations.

An upward flow path through the Filter Modules allow stormwater to be screened and filtered. In addition to the screening and filtering processes, gross pollutants will also settle into the sump or float to the surface of the water held within the manhole. The standard units are supplied with a 3-ft sump to allow for sediment and gross pollutant accumulations between maintenance intervals.

The following manual describes the operation of the Up-Flo Filter and provides general maintenance requirements that will ensure the filter will continue to operate and perform as intended. In general, a minimum of two inspections are required the first year to monitor sediment and gross pollutant accumulations in the manhole structure and inspect the Filter Media Pack and Drain Down Filter. The frequency of the maintenance interval is site specific as it will depend on the rate of pollutant accumulations. The first year of inspections and monitoring pollutant accumulations will determine future maintenance intervals.

Hydro International offers maintenance contracts nationwide, through Drainage Protections Systems (DPS). It is hoped that owners will take advantage of this service as operators of DPS have been trained and certified to ensure that maintenance will be performed properly. Should the owner choose to conduct maintenance procedures themselves, it is recommended that DPS be contacted to discuss the following procedures and consider contacting a representative from DPS for the first maintenance cycle.

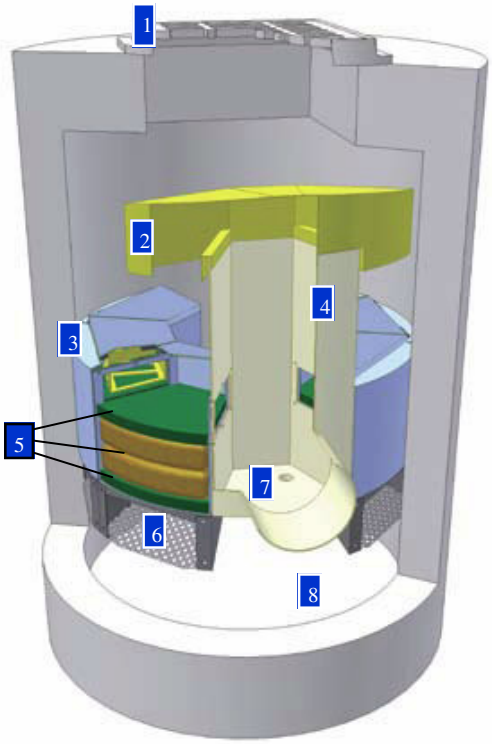
Contact our Maintenance Operations Department

Office hours Monday thru Friday 8:00 A.M. to 5:00 P.M. PST

Toll free: 1-888-950-8826
Phone: 951-698-3683
Fax: 951-698-8371

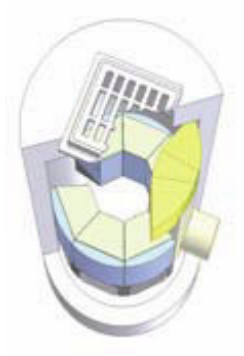
UP-FLO FILTER COMPONENTS

1. Inlet Grate
2. Bypass Siphon with Floatables Baffle
3. Filter Module
4. Outlet Module
5. Media Pack
6. Angled Screen
7. Drain Down Assembly (not visible)
8. Sump

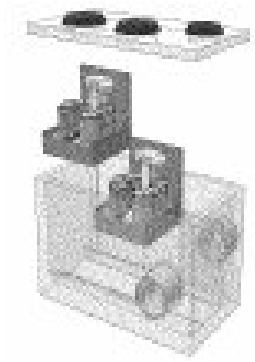


3.

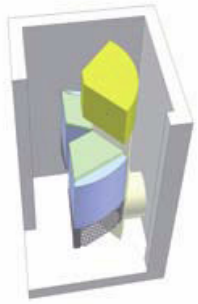
Configurations



Manhole



Vault



Retrofit

Operation

INTRODUCTION

The Up-Flo Filter operates on simple fluid hydraulics. It is self-activating, has no moving parts, no external power requirements and is fabricated with durable non-corrosive components. Personnel are not required to operate the unit and maintenance is limited to periodic inspections, sediment and floatables removal, Media Pack replacement and Drain Down Filter replacement.

POLLUTANT CAPTURE

The Up-Flo Filter is designed to operate as a “treatment train” by incorporating multiple treatment technologies into a single device. Trash and gross debris are removed by sedimentation and screening before they are introduced to the filtration media, preventing surface blinding of the filter media. The Up-Flo Filter is a wet sump device. Between storm events, oil and floatables are stored on the water surface separate from the sediment storage volume in the sump (see Figure 1). The high-capacity bypass siphon acts as a floatables baffle to prevent washout of captured floatable pollutants during high-intensity events.

REDUCED CLOGGING

The Up-Flo Filter has been designed to minimize the occurrence of clogging and blinding. The Up-Flo Filter employs a unique Drain Down design that allows the water level in the chamber to drop below the filter media between events. The Drain Down mechanism creates a reverse flow that flushes captured pollutants off the surface of the filter bag, helping to prevent blinding. By allowing the water to drain out, the drain-down mechanism also reduces the weight of the filter bags. This makes the bags easier and safer to remove during maintenance operations.

OVERFLOW PROTECTION

The Angled Screens are designed to prevent ragging and blinding. The Angled Screens are situated below the Filter Modules, sheltering them from the direct path of the influent. Coarse debris settles in the sump before the runoff flows up through the screens, protecting them from blinding. In the unlikely event of a blockage, the high capacity Siphonic Bypass is designed to convey high enough flow that large storm events will not create upstream flooding.

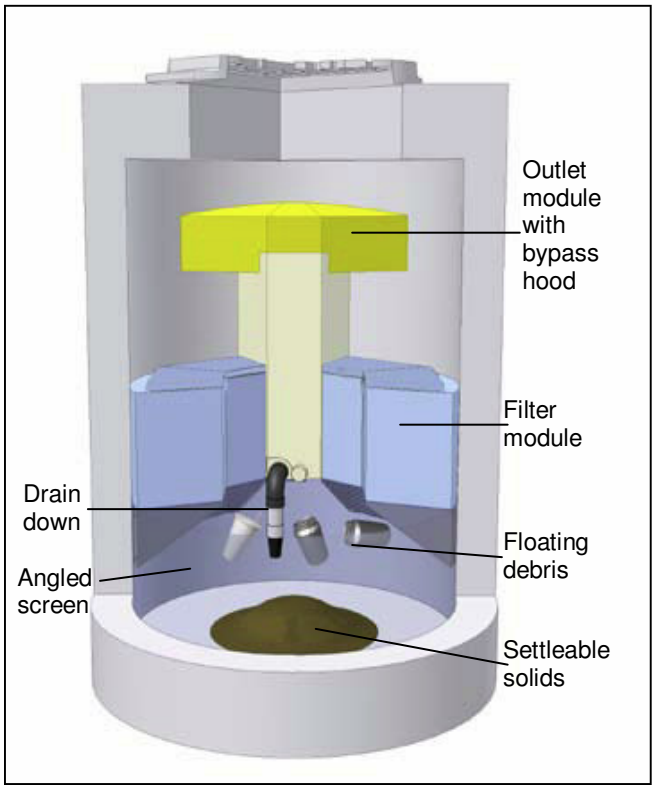


Figure 1: *Pollutants captured in the Up-Flo Filter*

Maintenance

OVERVIEW

The Up-Flo Filter protects the environment by removing a wide range of pollutants from stormwater runoff. Periodic removal of these captured pollutants is essential to the proper functioning of the Up-Flo Filter.

The Up-Flo Filter design allows for easy and safe inspection, monitoring and clean-out procedures. It has a wide central opening between the Filter Modules for easy and comfortable access to all of the components (See figure 2). Completion of all the maintenance activities for a typical manhole Up-Flo Filter takes less than one hour.

Maintenance activities include inspection, floatables removal, oil removal, sediment removal, Media Pack replacement, and Drain Down Filter replacement. Maintenance intervals are determined from monitoring the Up-Flo Filter during its first year of operation. Depending on the site, some maintenance activities may have to be performed on a more frequent basis than others. In the case of inspection and floatables removal, a vactor truck is not required. Otherwise, a vactor truck is normally required for oil removal, removal of sediment from the sump, and replacement of the Media Packs and Drain Down Filter. In most cases, entry into the Up-Flo Filter vessel is required for replacement of the Media Packs and Drain Down Filter, and OSHA Confined Space Entry procedures will have to be followed.

Media Packs should not be installed in the modules until construction activities are complete and site stabilization is effective.

FIRST-YEAR MONITORING

Hydro International recommends that inspections be performed at least every six months during the first year of operation. Use the following guidelines for determining maintenance intervals:

- Floatables and Oil Monitoring: The water surface in the Up-Flo Filter should be monitored for accumulation of floatables and oil. Floatables should not be allowed to accumulate to the point where they completely cover the surface of the water. Oil should not be allowed to accumulate to the point where it has formed a measurable thickness on the surface of the water. The rate of floatables and oil accumulation can be estimated by dividing the surface area covered by floatables and/or oil by the number of months since the Up-Flo Filter was installed.

- Sediment Monitoring: A simple probe, such as the Sludge-Judge®, should be used to determine the depth of sediment in the sump. The maximum allowable sediment depth in a typical 4-foot diameter manhole equipped with an Up-Flo Filter is 16". In any case, sediment must be removed before it blocks the inlet to the Drain Down Filter. The rate of sediment accumulation can be estimated by dividing the measured depth of sediment by the number of months since the Up-Flo Filter was installed.

- Media Pack Monitoring: Filter bags should be weighed to determine the amount of particles that have been captured in the bags. Filter bags from one or two modules should be weighed. Spent filter bags weigh approximately 40 lbs wet. The rate of filter bag clogging can be estimated by subtracting the wet weight of a new bag (approximately 20 lbs.) from the measured wet weight of the bags being checked and dividing by the number of months since the bags were installed.

- Drain Down Filter Monitoring: The water level in the Up-Flo Filter should be monitored to ensure that the Drain Down Filter is operating properly. One to two days after a significant rainfall, the water level inside the vessel should have dropped to a point where it is equal with the base of the Filter Modules. If the water level has not reached that point, then the Drain Down Filter has either become clogged or blinded by trash or debris. If there is no evidence of trash or debris around the Drain Down Filter inlet, then it has likely become clogged with particles. The rate of Drain Down Filter clogging can be estimated by noting the number of months since the Up-Flo Filter was installed.

Hydro International recommends a maximum maintenance interval of one year for all maintenance activities but, based on the first-year monitoring, a shorter maintenance interval for some maintenance activities may be appropriate.

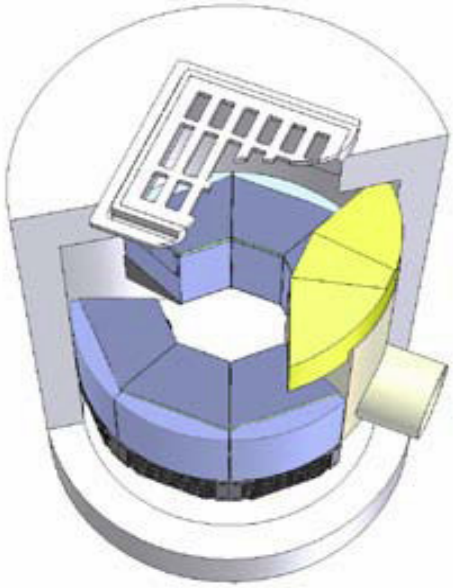


Figure 2: *The wide central opening in the Up-Flo Filter*

INSPECTION

Inspection is a simple process that requires monitoring pollutant accumulations. Maintenance crews should be familiar with the Up-Flo Filter and its components prior to inspection.

SCHEDULING

• Inspection may be conducted during any season of the year but should occur shortly after a predicted rainfall to ensure components are operating properly.

RECOMMENDED EQUIPMENT

• Safety Equipment and Personal Protective Equipment (traffic cones, work gloves, etc.)

- Scale to measure the weight of the filter bags
- Crow bar to remove grate or lid
- Pole with skimmer or net
- Sediment probe (such as a Sludge Judge®)
- Up-Flo Filter Maintenance Log
- Trash bags for removed floatables

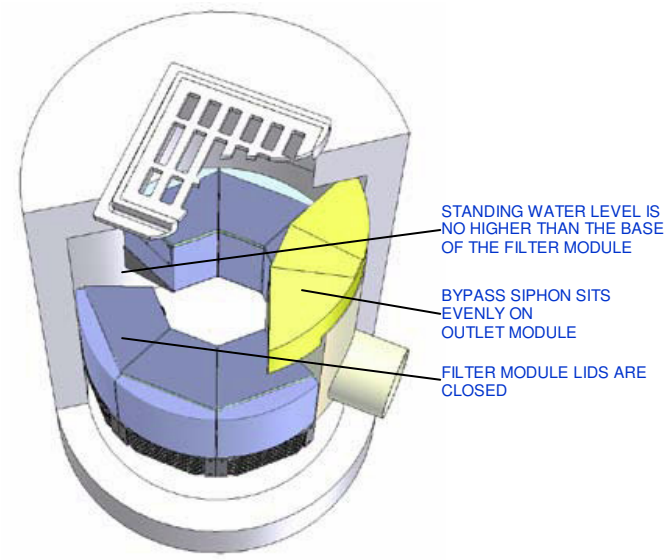


Figure 3: *Inspection view of the Up-Flo Filter*

INSPECTION PROCEDURES

1. Set up any necessary safety equipment (such as traffic cones) to provide access to the Up-Flo® Filter. Safety equipment should notify passing pedestrian and road traffic that work is being done.

2. Remove the grate or lid to the manhole or vault.

3. Without entering the vessel, look down into the chamber to inspect the inside. Make note of any irregularities. See Figure 3 for a typical Inspection View.

4. Without entering the vessel, use the pole with the skimmer net to remove floatables and loose debris from the chamber.

5. Using a sediment probe such as a Sludge Judge®, measure the depth of sediment that has collected in the sump of the vessel. Maximum sediment depth is 16 inches.

6. Remove the Filter Module lid by turning the cam latch and remove the Filter Media Pack (*refer to page 8 Replacement Procedures*). Weigh the filter bags from one or two modules. Filter bags should be replaced if the wet weight exceeds 40 lbs.

7. On the Maintenance Log record the date, unit location, estimated volume of floatables and gross debris removed, and the depth of sediment measured. Also note any apparent irregularities such as damaged components or a high standing water level (see Figure 3 for the standard standing water level).

8. Securely replace the grate or lid.

9. Remove safety equipment.

10. Contact Drainage Protection Services at 1-888-950-8826 to discuss any irregularities noted during inspection.

FLOATABLES, OIL, AND SUMP CLEANOUT

A commercially or municipally owned sump-vac is used to remove captured sediment, oil and floatables (Figure 4).

Floatables and loose debris can also be netted with a skimmer and pole. The access port located at the top of the manhole provides unobstructed access for a vactor hose and skimmer pole to be lowered to the base of the sump.

SCHEDULING

- Floatables and sump cleanout may typically be done during any season of the year - before and after the rainy season
- Floatables and sump cleanout should occur as soon as possible following a contaminated spill in the contributing drainage area

RECOMMENDED EQUIPMENT

- Safety Equipment (traffic cones, etc)
- Crow bar to remove grate or lid
- Pole with skimmer or net (if only floatables are being removed)
- Sediment probe (such as a Sludge Judge®)
- Vactor truck (flexible hose preferred)
- Pressure nozzle attachment or other screen-cleaning device
- Up-Flo Filter Maintenance Log

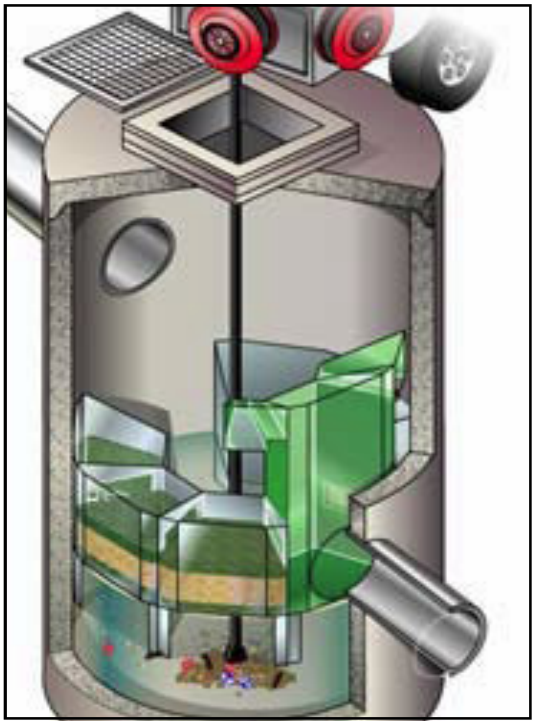


Figure 4: *Sediment is removed with a vactor hose*

FLOATABLES, OIL AND SUMP CLEAN OUT PROCEDURES

1. Set up any necessary safety equipment (such as traffic cones) around the access of the Up-Flo Filter. Safety equipment should notify passing pedestrian and road traffic that work is being done.

2. Remove the grate or lid to the manhole or vault.

3. Without entering the vessel, look down into the chamber to inspect the inside. Make note of any irregularities.

4. If the standing water level in the sump is above the base of the Filter Modules (see Figure 3), tug the Pull Chain(s) to release the Drain Down Plug(s). Allow the excess water to drain out of the chamber.

5. Use the skimmer pole to fit the Drain Down plug back into the open port.

6. Once all floatables and oil have been removed, drop the vactor hose to the base of the sump. Vactor out the sediment and gross debris from the sump floor. Up to 0.6 yd^3 of sediment and 360 gallons of water will be removed from a typical manhole Up-Flo Filter during this process.

7. Retract the vactor hose from the vessel.

8. Inspect the Angled Screens for blockages and ragging. If present, remove the obstruction or ragging materials from the surface using a hose or other screen-cleaning device.

9. On the Maintenance Log record the date, unit location, estimated volume of floatables, oils, and gross debris removed, and the depth of sediment measured. Note any apparent irregularities such as damaged components or blockages.

10. Securely replace the grate or lid.

11. Remove safety equipment.

12. Dispose of sediment and gross debris at your local landfill; following local regulations.

13. Dispose of oil and sump water at a licensed water treatment facility.

14. Contact DPS at 1-888-950-8826 to discuss any irregularities noted during cleanout.

REPLACEMENT OF MEDIA PACKS AND DRAIN DOWN FILTER

Unless the Up-Flo Filter has been installed as a very shallow unit, it is necessary to have an OSHA-confined space entry trained person enter the vessel to replace Media Packs.

SCHEDULING

- Call DPS to order replacement Media Packs and Drain Down filter prior to scheduling maintenance.
- Because Media Pack replacement requires entry into the Up-Flo chamber, maintenance events should be scheduled during dry weather.
- Media Pack replacement should occur immediately after a contaminated spill in the contributing drainage area.

Figure 5: *Cut-away view of the Filter Module*

RECOMMENDED EQUIPMENT

- Safety Equipment (traffic cones, etc)
- Crow bar to remove grate or lid
- Pole with skimmer or net (if floatables removal is not to be done with vactor hose)
- Sediment probe (such as a Sludge Judge®)
- Vactor truck (flexible hose preferred)
- OSHA Confined Space Entry Equipment
- Up-Flo Filter Replacement Media Packs (available from DPS)
- Up-Flo Filter Maintenance Log
- Screwdriver (flat head)
- Replacement Drain Down Filter components supplied by DPS

MEDIA PACK AND DRAIN DOWN FILTER REPLACEMENT PROCEDURES

1. Follow Floatables and Sump Cleanout Procedures, 1 – 10.

2. Following OSHA Confined Space Entry procedures, enter the Up-Flo Filter Chamber.

3. Open the Filter Module by turning the three cam latches on the front and sides of the module. Remove the lid 1 to gain access to the Media Pack (Figure 6).

4. Remove and discard the spent **Media Pack**. The **Media Pack** contents include:

- A top layer of green 2 Flow-Distributing Media.
- Two (2) Media Bags 3 equipped with nylon handles.
- A bottom layer of green 2 Flow-Distributing Media.

1. FILTER MODULE COVER AND MEDIA RESTRAINT

2. FLOW-DISTRIBUTING MEDIA

3. FILTER MEDIA BAGS

4. REPLACEABLE MEDIA PACK

5. CAM LATCH

6. CONVEYANCE CHANNEL

7. FILTER MODULE

8. SUPPORT BRACKET / ANGLED SCREEN

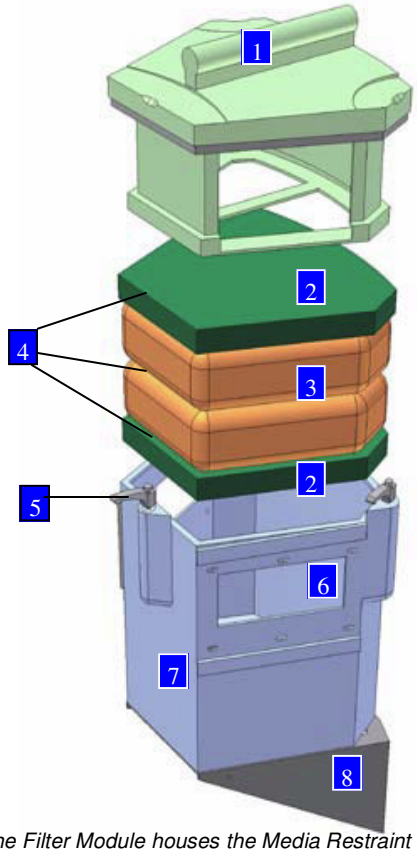


Figure 6: *The Filter Module houses the Media Restraint and the Media*

9.

5. Insert a new Media Pack, supplied by DPS.

- First, insert a bottom layer of green **Flow-Distributing Media**. Be sure that the media sits snugly and level at the bottom of the Filter Module.
- Next, insert the first of two (2) replacement **Media Bags**. Smooth the bag out with your hands to make sure that the bag extends snugly to the walls and corners of the Filter Module.
- Insert the second **Media Bag**, following the same procedure.
- Insert the top layer of green **Flow-Distributing Media**. Be sure that the piece fits snugly against the walls and corners of the Filter Module.
- Put the lid on and secure the three latches. Check to make sure that the latches are closed properly.

6. Use a screwdriver to unscrew the **Drain Down Filter** from the face of the Outlet Module (see Figure 7). **DO NOT DISCARD THIS PIECE.**

7. Install new **Drain Down Filter** supplied by DPS.

8. Exit the Up-Flo Filter chamber and securely replace the grate or lid.

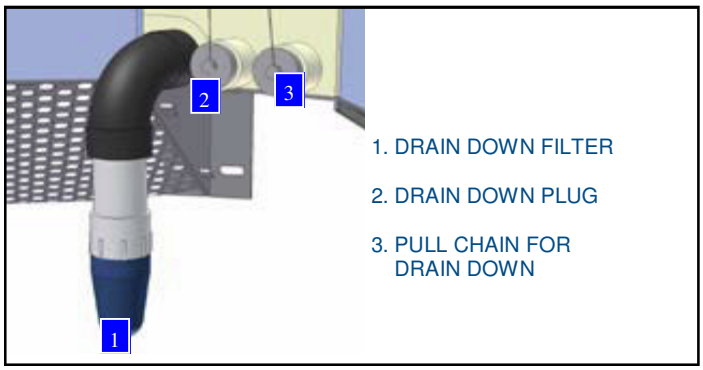


Figure 7: *The Drain Down Filter*

9. On the Maintenance Log provided by DPS, record the date, unit location, estimated volume of floatables, oil and gross debris removed, and the depth of sediment measured. Note the number of Media Packs replaced. Note any irregularities such as damaged components or blockages.

10. Remove safety equipment.

11. Dispose of spent media packs at your local landfill, following local regulations.

12. Return the spent Drain Down Filter to DPS.

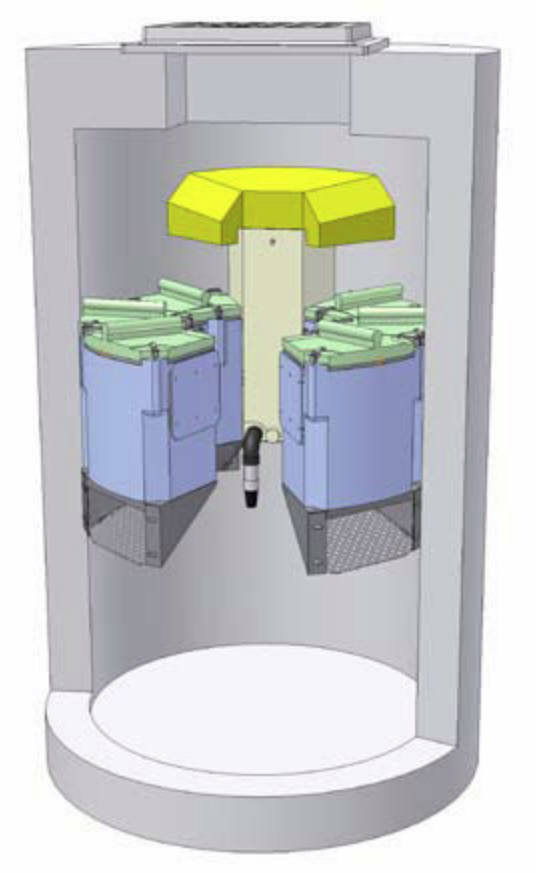
13. Contact DPS to discuss any irregularities noted during annual maintenance.

Maintenance at a Glance

ACTIVITY	FREQUENCY
Inspection	- Regularly during first year of installation - Every 6 months after the first year of installation
Floatables/Oils Removal	- Twice per year or as needed - Following a contaminated spill in the drainage area
Sediment Removal	- Twice per year or as needed - Following a contaminated spill in the drainage area
Media Pack Replacement	- Once per year or as needed - Following a contaminated spill in the drainage area
Drain Down Filter Replacement	- Once per year with Media Pack replacement - As needed, in the event of continuous base flow conditions

UP-FLO® FILTER

INSPECTION & MAINTENANCE LOG



Distributed by KriStar Enterprises, Inc., (800) 579-8819 360 Sutton Place, Santa Rosa, CA 95407

Up-Flo® Filter Installation Log

DPS REFERENCE NUMBER:	
SITE NAME: Apex Apartment Community	
SITE LOCATION: 1102 South Abel Street, Milpitas, California	
OWNER: Milpitas Centria West, LLC	CONTRACTOR: J. Flores Construction
CONTACT NAME: Peter Zak	CONTACT NAME: Jesus Flores
COMPANY NAME: Apex Apartment Community	COMPANY NAME: J. Flores Construction
ADDRESS: 4901 Birch Street Newport Beach, CA 92660	ADDRESS: 4229 Mission Street San Francisco, CA 94112
TELEPHONE: (949) 838-1244	TELEPHONE: (415) 337-2934
FAX: (949) 252-9202	FAX:

INSTALLATION DATE: 06/ 20 /12

CONFIGURATION (CIRCLE ONE): **MANHOLE** **RETROFIT** **VAULT SYSTEM**

TOTAL NUMBER OF UP-FLO$_{tm}$ FILTER MODULES: 1

12.

Up-Flo® Filter Inspection and Maintenance Log

DATE	INITIALS	AREA/DEPTH OF FLOATABLES AND OILS	SEDIMENT DEPTH MEASURED	VOLUME OF SEDIMENT REMOVED	NUMBER OF MEDIA PACKS REPLACED	SITE ACTIVITY AND COMMENTS

VII. BMP Maintenance Schedule

A. Annual Maintenance Schedule for all BMPs

Treatment BMPs require minimum maintenance similar to that for any landscape areas. BMPs must be regularly maintained to ensure that they continue to be effective and do not cause flooding or other harmful nuisances.

B. Inspection and Maintenance Schedule for each BMP

1. *Routine Inspection and Maintenance:* Regular inspections shall be made of all BMP features and any maintenance performed as needed. Any collected debris shall be removed from the feature.

   - The bioretention areas and raised planters shall be maintained as described in TC-32 of the California Stormwater BMP Handbook prepared by CASQA.

   - Media filters should be maintained per manufacturer specifications.

2. *Annual Inspection and Maintenance:* Annual inspections and maintenance shall be performed as described above in the "Routine Inspection and Maintenance" Section.

3. *Inspection and Maintenance during the Rainy Season:* All BMP features shall be inspected immediately after the first rain event of the season. During the rainy season the BMP features shall be inspected at least once every 30 days and after any significant rain event.

C. Service Agreement Information

The frequency of cleaning the treatment BMPs will depend on the generation of trash and debris and sediment at the site. Cleanout and preventive maintenance schedules will be determined based on operating experience. The mechanical BMP units should be periodically inspected to determine the amount of accumulated pollutants and to ensure the cleanout frequency is adequate to handle the predicted pollutant load being processed by the unit.

VIII. Copy of O&M Agreement

(Final Recorded Copy to be Inserted)

Appendix

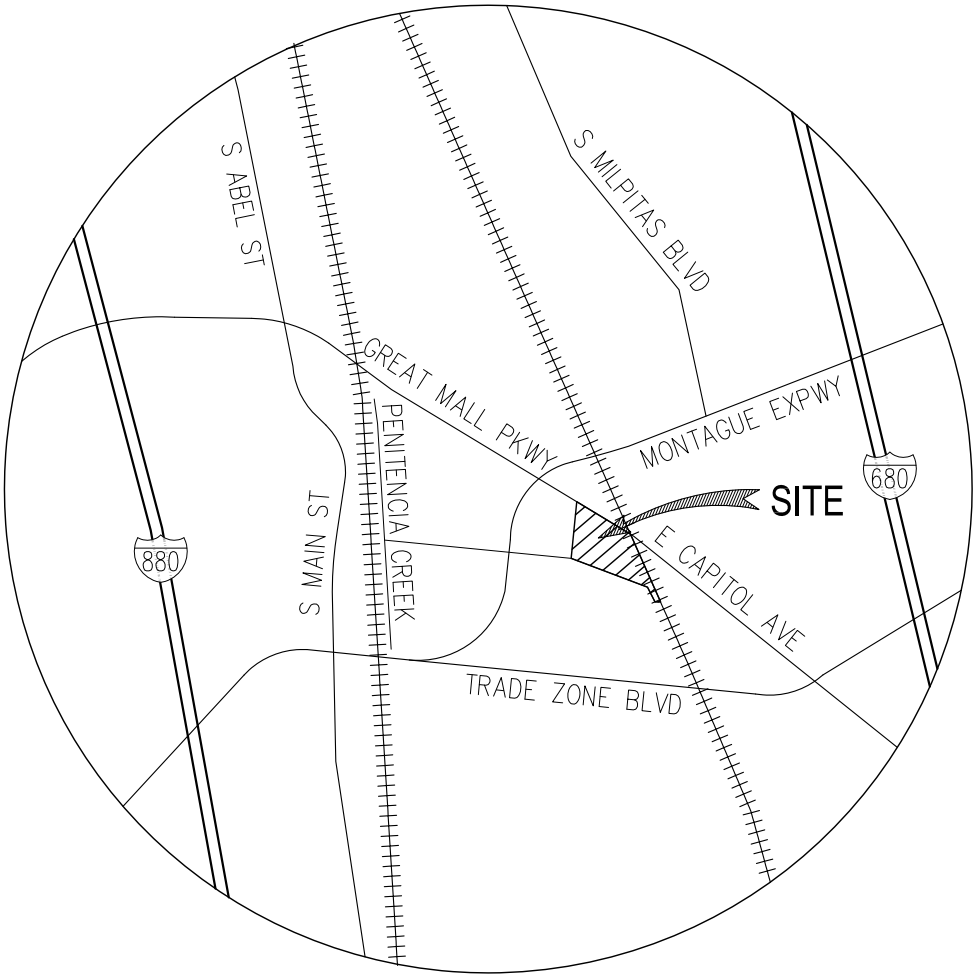


FIGURE 1

VICINITY MAP

730 & 750 E. CAPITOL AVENUE

CITY OF MILPITAS SANTA CLARA COUNTY CALIFORNIA

DATE: JANUARY 20, 2017

NOT TO SCALE

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G:\2526-000\ACAD\SWCP\FIG 1 - VICINITY MAP.DWG

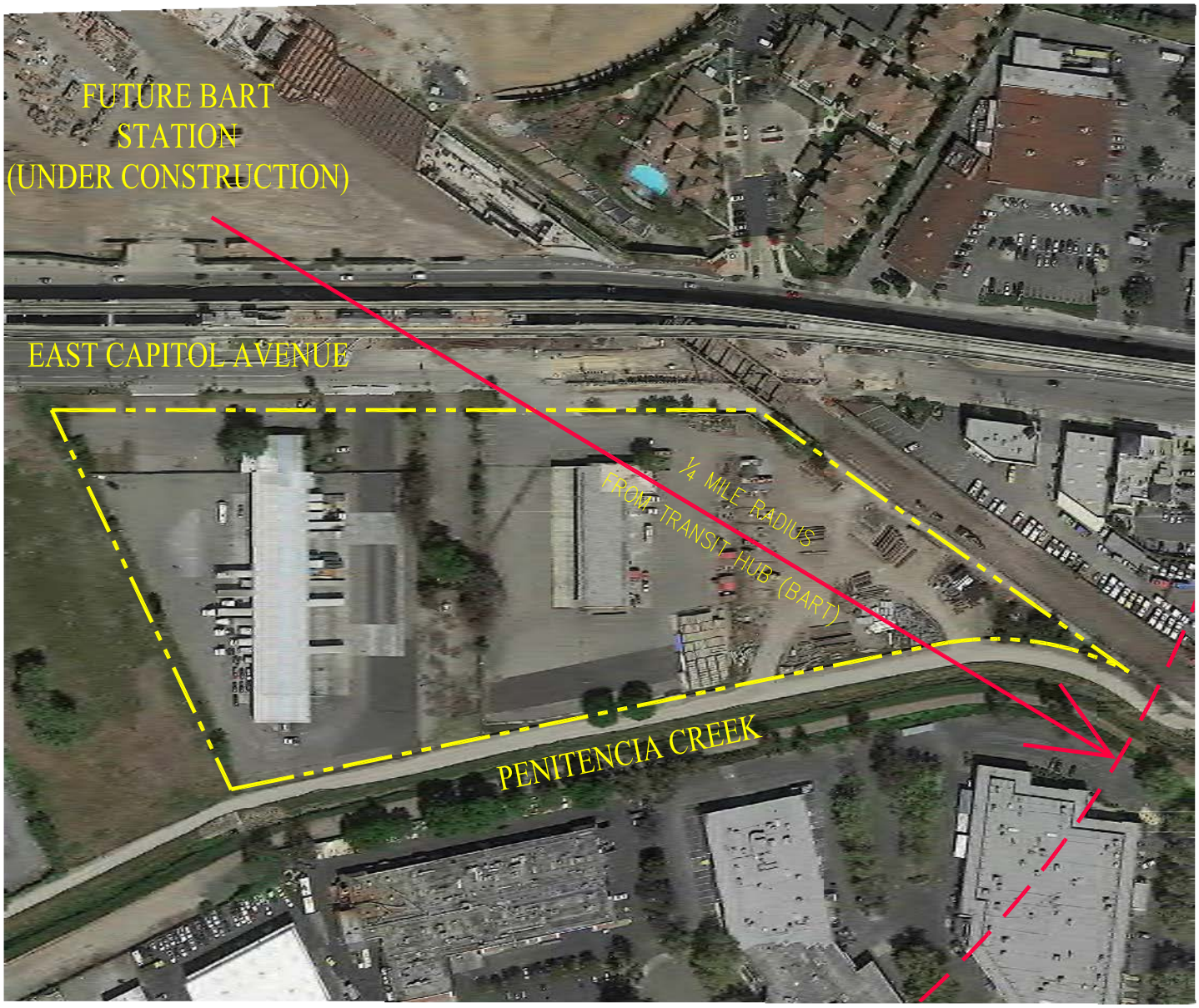

FIGURE 2

AERIAL EXHIBIT

730 & 750 E. CAPITOL AVENUE

CITY OF MILPITAS SANTA CLARA COUNTY CALIFORNIA

DATE: JANUARY 20, 2017

SCALE: 1" = 200'

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G:\2526-000\ACAD\SWCP\FIG 2 - AERIAL EXHIBIT.DWG

LEGEND

- PROJECT BOUNARY
- DRAINAGE AREA BOUNDARY (9.52 AC±)
- IMPERVIOUS SURFACE (ON-SITE) – 7.09 AC±
- IMPERVIOUS SURFACE (OFF-SITE) – 0.39 AC±
- TOTAL IMPERVIOUS SURFACE – 7.48 AC± (79%)
- PERVIOUS SURFACE (ON-SITE) – 1.76 AC±
- PERVIOUS SURFACE (OFF-SITE) – 0.28 AC±
- TOTAL PERVIOUS SURFACE – 2.04 AC± (21%)

FIGURE 3
EXISTING CONDITIONS

730 & 750 E. CAPITOL AVENUE

CITY OF MILPITAS SANTA CLARA COUNTY CALIFORNIA

DATE: JANUARY 20, 2017
SCALE: 1" = 100'

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G:\2526-000\ACAD\SWCP\FIG 3 - EXISTING CONDITIONS.DWG

FIGURE 4
POST DEVELOPMENT CONDITIONS
730 & 750 E. CAPITOL AVENUE

CITY OF MILPITAS SANTA CLARA COUNTY CALIFORNIA

DATE: JANUARY 20, 2017

SCALE: 1" = 100'

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G:\2526-000\ACAD\SWCP\FIG 4 - PROPOSED CONDITIONS.DWG

LEGEND

- PROJECT BOUNARY
- DRAINAGE AREA BOUNDARY
- IMPERVIOUS AREA TO BE TREATED BY BIORETENTION
- BIORETENTION AREA
- (A1) DMA ID

NOTE:
100% OF REQUIRED SITE STORM WATER TO BE TREATED USING TREAMENT FEATURES SHOWN ON THIS FIGURE IN CONJUNCTION WITH OTHER FIGURES IN THIS SWCP.

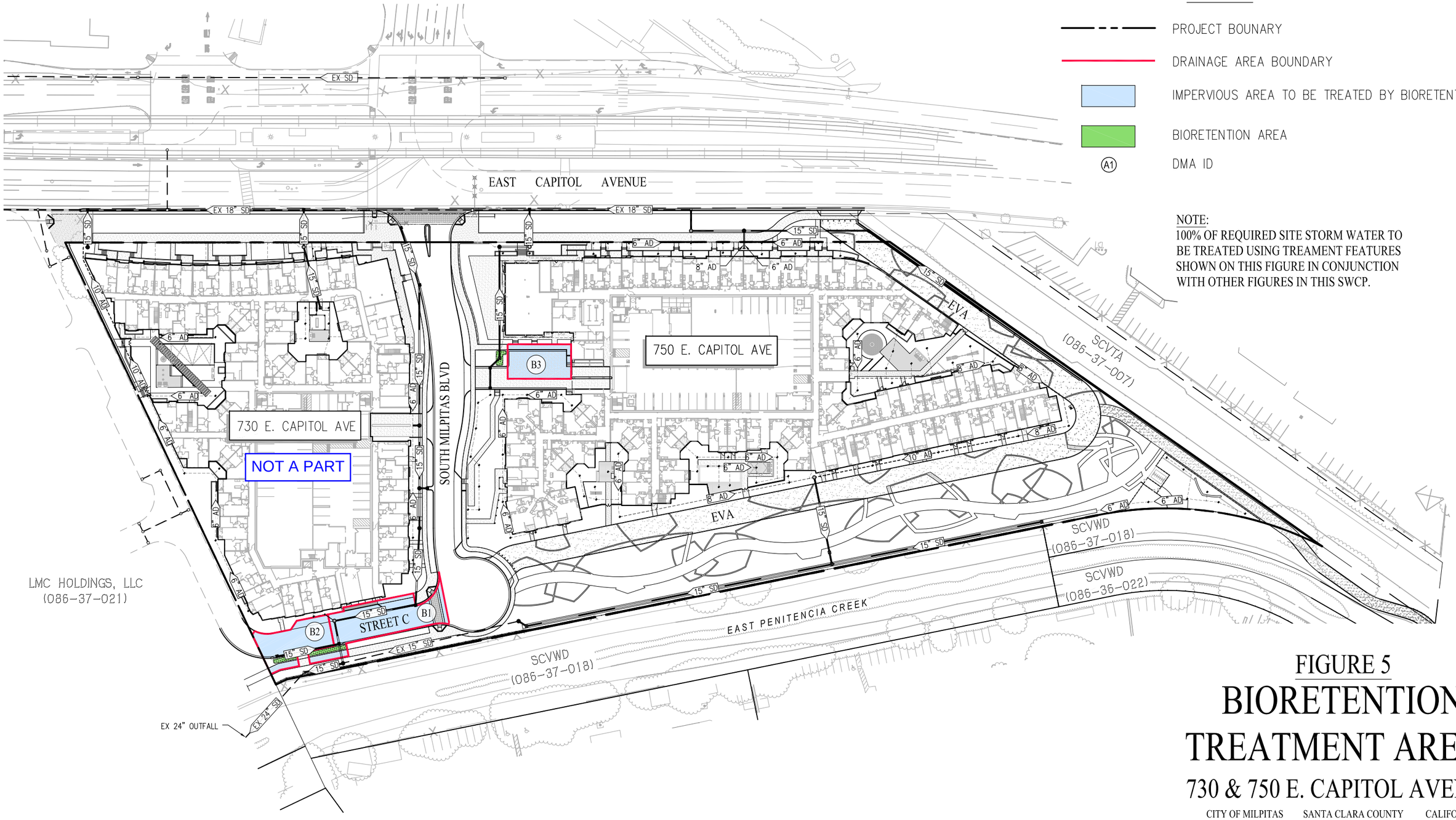

FIGURE 5
BIORETENTION TREATMENT AREAS
730 & 750 E. CAPITOL AVENUE

CITY OF MILPITAS SANTA CLARA COUNTY CALIFORNIA

DATE: JANUARY 20, 2017
SCALE: 1" = 100'

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G:\2526-000\ACAD\SWCP\FIG 5 - BIORETENTION TREATMENT AREAS.DWG

LEGEND

- PROJECT BOUNARY
- DRAINAGE AREA BOUNDARY
- IMPERVIOUS AREA TO BE TREATED BY RAISED PLANTER
- RAISED PLANTER AREA
- (A1) DMA ID

NOTE:
100% OF REQUIRED SITE STORM WATER TO BE TREATED USING TREAMENT FEATURES SHOWN ON THIS FIGURE IN CONJUNCTION WITH OTHER FIGURES IN THIS SWCP.

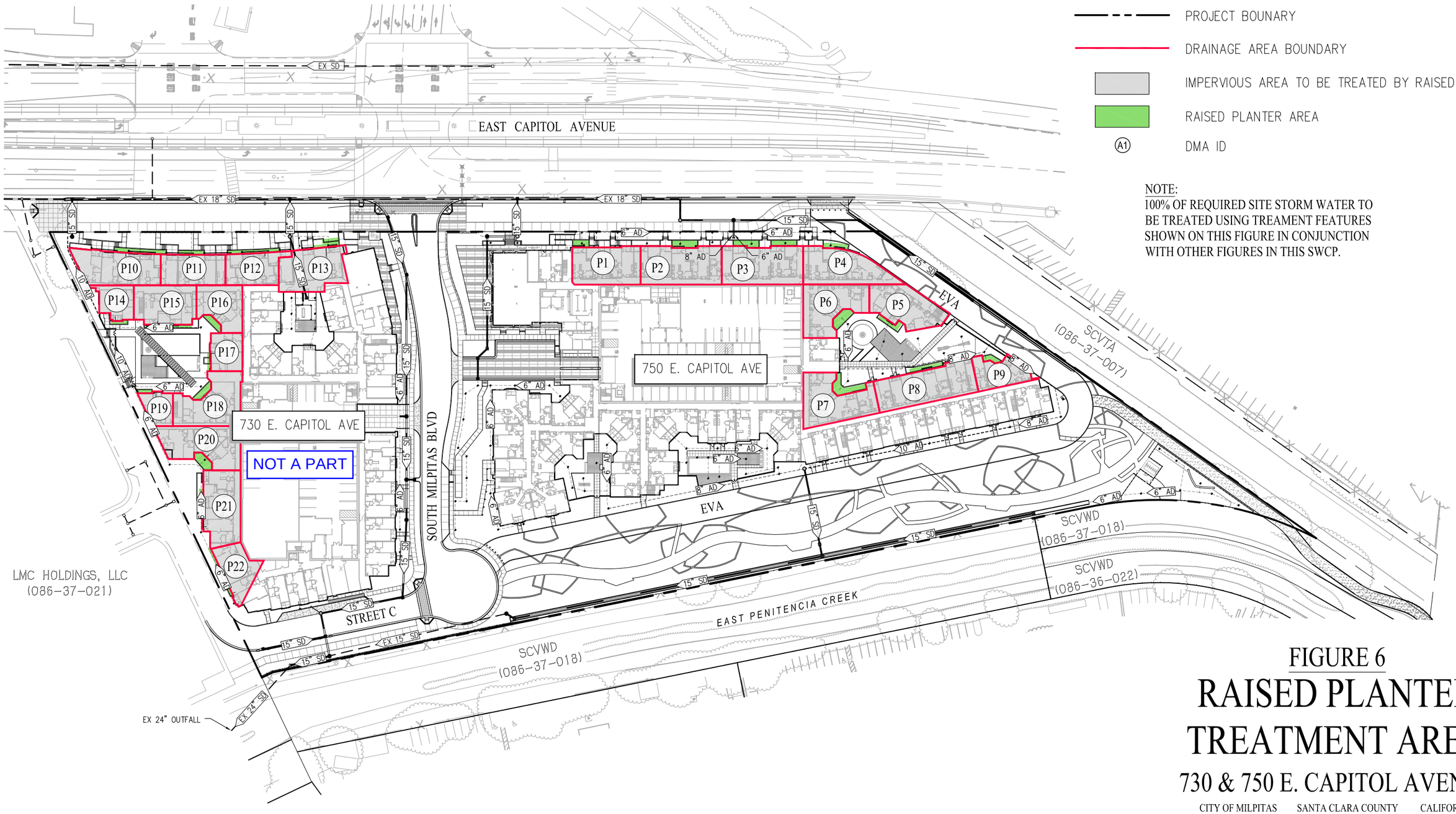

FIGURE 6
RAISED PLANTER TREATMENT AREA
730 & 750 E. CAPITOL AVENUE

CITY OF MILPITAS SANTA CLARA COUNTY CALIFORNIA

DATE: JANUARY 20, 2017
SCALE: 1" = 100'

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G:\2526-000\ACAD\SWCP\FIG 6 - RAISED PLANTER AREAS.DWG

LEGEND

- PROJECT BOUNARY
- DRAINAGE AREA BOUNDARY
- IMPERVIOUS AREA (DRAINS TO SELF-RETAINING AREA)
- SELF-RETAINING/SELF-TREATING LANDSCAPE AREA
- (A1) DMA ID

NOTE:
100% OF REQUIRED SITE STORM WATER TO BE TREATED USING TREAMENT FEATURES SHOWN ON THIS FIGURE IN CONJUNCTION WITH OTHER FIGURES IN THIS SWCP.

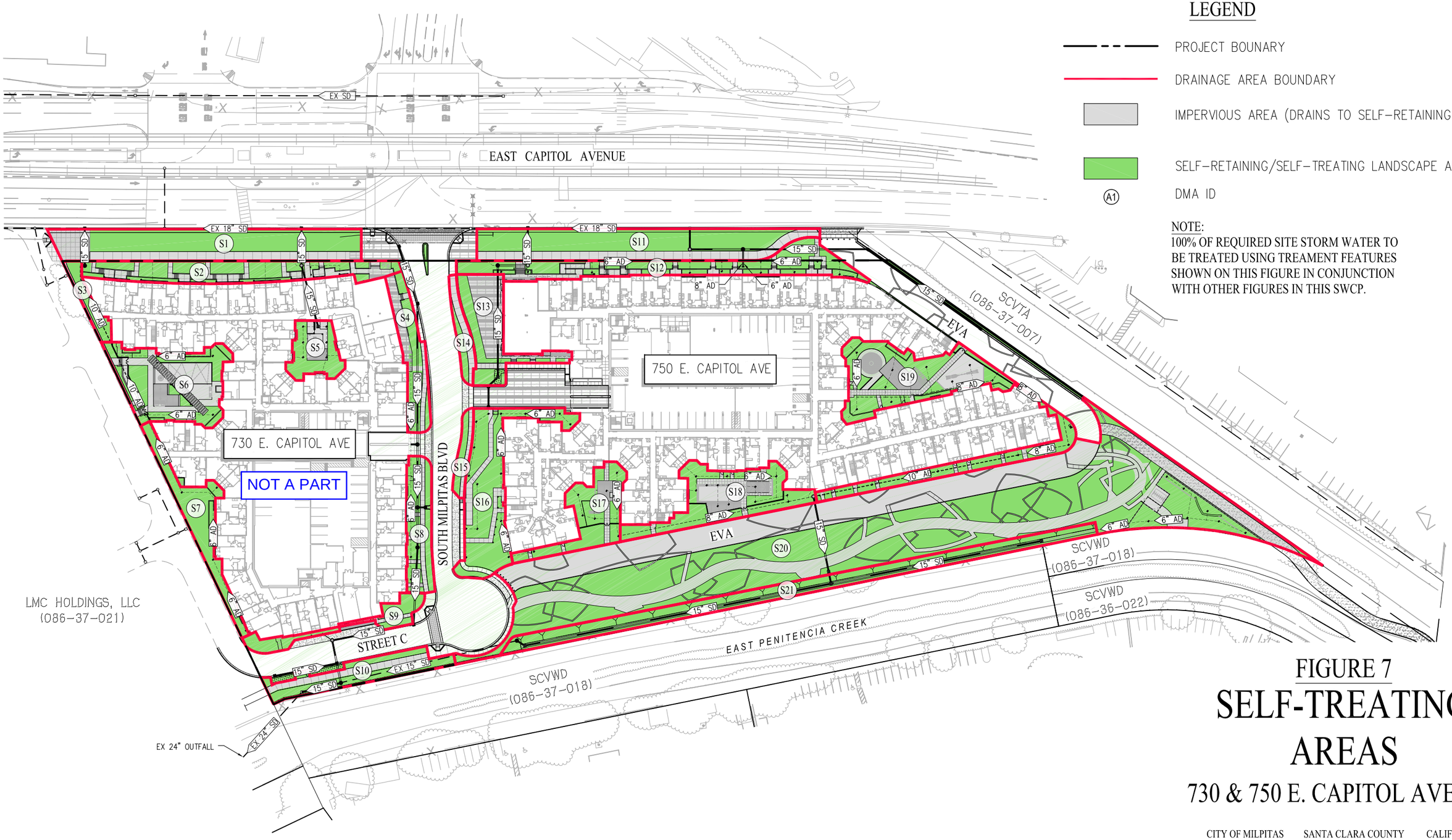

FIGURE 7
SELF-TREATING AREAS
730 & 750 E. CAPITOL AVENUE

CITY OF MILPITAS SANTA CLARA COUNTY CALIFORNIA

DATE: JANUARY 20, 2017
SCALE: 1" = 100'

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G:\2526-000\ACAD\SWCP\FIG 7 - SELF-TREATING AREAS.DWG

LEGEND

- PROJECT BOUNARY
- DRAINAGE AREA BOUNDARY
- IMPERVIOUS AREA TO BE TREATED BY MEDIA FILTER
- (A1) DMA ID

NOTES:
100% OF REQUIRED SITE STORM WATER TO BE TREATED USING TREAMENT FEATURES SHOWN ON THIS FIGURE IN CONJUNCTION WITH OTHER FIGURES IN THIS SWCP.

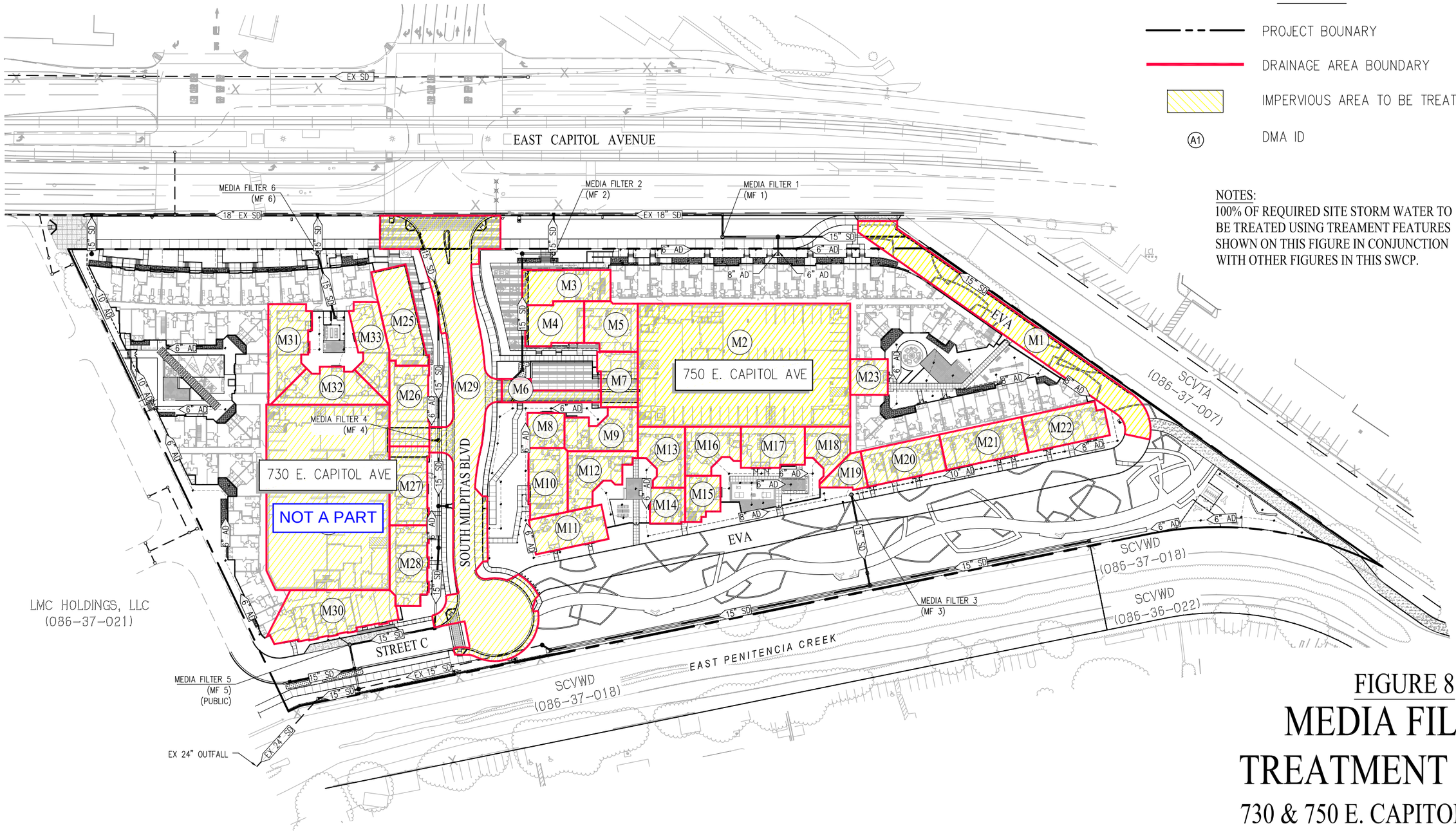

FIGURE 8
MEDIA FILTER TREATMENT AREAS
730 & 750 E. CAPITOL AVENUE

CITY OF MILPITAS SANTA CLARA COUNTY CALIFORNIA

DATE: JANUARY 20, 2017

SCALE: 1" = 100'

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G:\2526-000\ACAD\SWCP\FIG 8 - MEDIA FILTER AREAS.DWG

CITY OF MILPITAS
AGENDA REPORT
(AR)

Item Title:	**Approve and Authorize the City Manager to Execute Amendment No. 3 to the Agreement with West Yost Associates for Construction Support Services for Main Lift Emissions Control Project**
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	1/19/2021
Staff Contact:	**Tony Ndah, 408-586-2602**
Recommendation:	Approve and authorize the City Manager to execute Amendment No. 3 to the agreement with West Yost Associates in the amount of $250,000.00, for Construction Support Services for the Main Lift Emissions Control Project, increasing the total not to exceed amount from $134,340.00 to $384,340.00 and extending the term of the agreement through June 30, 2022.

Background:

In 2018, the City Council approved Capital Improvement Project No. 6130 – Main Lift Station Odor Emissions Control, which provided funding for the planning, design, and construction of emissions control at the Main Lift Pump Station, in order to address concerns regarding elevated levels of hydrogen sulfide and other odorous compounds in the environment.

All wastewater collected by the City of Milpitas sanitary sewer system flows through the Milpitas Main Lift Pump Station (Main Lift). The Main Lift discharges wastewater through two 36-inch diameter force mains to the San Jose-Santa Clara Regional Wastewater Facility. Concerns from the Bay Area Air Quality Management District regarding elevated levels of hydrogen sulfide and odors prompted the City to initiate an investigation into odor emissions control technologies to address these concerns. West Yost completed the Main Pump Station Emissions Control Study for the City that included hydrogen sulfide monitoring and analysis and identified a treatment system that could treat hydrogen sulfide and odor resulting from operations of the Main Lift Pump Station.

On November 21, 2018, the City entered into a professional services agreement with West Yost Associates for design services on the Main Lift Pump Station Odorous Emissions Control project. The initial agreement was set to expire on November 20, 2019 with a not-to-exceed amount of $98,000.00. The scope of work in the agreement included a number of tasks for West Yost Associates including workshops and meetings, preliminary design confirmation, detailed design work for the improvements at the Main Lift Pump Station, as well as bid support services. This initial agreement was not bid as it qualified for the professional services exemption under I-2-3.12 - Contracting for Consultants of the Milpitas Municipal Code.

On June 11, 2019, the City Council approved Amendment No. 1 to this agreement to add additional design services needed to address issues identified during the 50% design phase of the project, including investigating options for treating/controlling a tar-like substance that accumulates in the exhaust ducts, and potholing to determine extent of underground electrical utilities that could impact the project. This amendment extended the term of the agreement through December 31, 2020 and increased the total compensation to a not-to-exceed amount of $134,340.00. On December 14, 2020 the City Manager authorized Amendment No. 2 to the Agreement to extend the expiration date of the agreement to May 20, 2021.

Analysis:
West Yost has completed the 100% design of the project and the project is scheduled to be released for bidding in Spring 2021. In preparation for construction bidding and physical construction of the system, Public Works staff identified additional support services needed for the construction phase of the project, which include:

- Construction Engineering Services – Consultant would provide engineering support to conduct technical submittal reviews and engineering services during the construction of the project, as well as facility testing and commissioning plan review. Public Works does not have the technical expertise to support these components of the project and West Yost's familiarity with the project and technology will ensure that the facility is constructed as designed.

- Construction Inspection Services – Consultant would provide construction support services at an anticipated level of up to 20 hours per week during project construction, to oversee the General Contractor on the project and ensure that proper procedures and requirements are being followed. Public Works does not have any Public Works Inspectors on staff that can inspect and manage a project of this size.

The recommended Amendment No. 3 to the contract affords West Yost the opportunity to provide the City with construction support services for the implementation of the project. The estimated cost for the additional services will not exceed $250,000.00, which would bring the total not to exceed contract cost to $384,340.00. The additional services will also extend the schedule of the project to align with the project's anticipated construction schedule; therefore, the Schedule of Performance would be extended through June 30, 2022.

Policy Alternatives:

Alternative 1: Issue an RFP to seek proposals from additional consultants for the needed construction support services

Pros: This would allow the City to obtain additional cost proposals for evaluation of the best value to the City for the needed construction support services.
Cons: The proposal from additional consultants may not provide the best value to the City since other consultants would not be as familiar with the design and conditions of the project.
Reason not recommended: West Yost's familiarity with the project provides the best value to the City for the needed review of technical specifications from the general construction contractor, to ensure that the final facility meets the design specifications and that the facility will perform as required. West Yost is familiar with the technology being used to treat the odor emissions and they are most qualified to support the City in reviewing the facility's post-construction testing and commissioning plan.

Fiscal Impact:
Approval of this amendment would increase the total not to exceed amount of the agreement from $134,340.00 to $384,340.00. There are sufficient funds available within Capital Improvement Project No. 6130 for this contract amendment.

California Environmental Quality Act:
By the definition provided in the CEQA Guidelines Section 15378, this action does not qualify as a "project" for the purpose of CEQA as this action has no potential to result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

Recommendation:
Approve and authorize the City Manager to execute Amendment No. 3 to the agreement with West Yost Associates in the amount of $250,000.00, for Construction Support Services for the Main Lift Emissions Control Project, increasing the total not to exceed amount from $134,340.00 to $384,340.00 and extending the term of the agreement through June 30, 2022.

Attachments:
1) Amendment No. 3 to Agreement with West Yost & Associates
2) Amendment No. 2 to Agreement with West Yost & Associates
3) Amendment No. 1 to Agreement with West Yost & Associates
4) Original Agreement with West Yost & Associates

AMENDMENT NO. 3
TO THE PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF MILPITAS AND
WEST YOST ASSOCIATES
FOR
DESIGN SERVICES – MILPITAS MAIN LIFT PUMP STATION ODOROUS EMISSIONS CONTROL FACILITY

This Amendment No. 3 is entered into as of _____ ("Effective Date"), by and between the City of Milpitas, a municipal corporation (hereinafter referred to as "City"), and **West Yost Associates**, a California corporation (hereinafter referred to as "Consultant"). City and Consultant are sometimes jointly referred to as "Parties" in this Amendment No. 3.

RECITALS:

WHEREAS, on November 21, 2018, the Parties entered into a Professional Services Agreement for Design Services – Milpitas Main Lift Pump Station Odorous Emissions Control Facility, for the not-to-exceed compensation amount of $98,000.00 and with a term period of November 21, 2018 through November 20, 2019 (the "Agreement"); and

WHEREAS, on June 12, 2019, the Parties entered into Amendment No. 1 to the Agreement, adding additional design services to the Scope of Work, increasing the compensation amount by $36,340.00, and extending the term period expiration date for one year through November 20, 2020; and

WHEREAS, on December 14, 2020, the Parties entered into Amendment No. 2 to the Agreement, extending the term period expiration date from November 20, 2020 through May 20, 2021, and replacing Exhibit B-1, Schedule of Charges/Payments, and Exhibit C, Activity Schedule, with updated Exhibits B-2 and C-1, accordingly; and

WHEREAS, the Parties now desire to further amend the Agreement to add additional construction engineering and inspection services, to increase the compensation amount by $250,000.00 to cover these additional services for a new total compensation amount of $384,340.00, to extend the term period expiration date from May 20, 2021 through June 30, 2022, and to amend Exhibit A-1, Scope of Services, Exhibit B-2, Schedule of Charges/Payments, and Exhibit C-1, Activity Schedule, as specified in Exhibits A-2, B-3, and C-2, accordingly.

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

1. Section 2 Compensation, letter b, is deleted in its entirety and replaced with the following:

   "b. In no event shall the total amount paid for services rendered by Consultant under this Agreement exceed the sum of **Three Hundred and Eighty-Four Thousand Three Hundred and Forty Dollars ($384,340.00).** This amount is to cover all printing and related costs, and the City will not pay any additional fees for printing expenses. Periodic payments shall be made within thirty (30) days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis."

2. Section 5 Term is deleted in its entirety and replaced with the following:

   "5. Term

   The term of this Agreement shall be from **November 21, 2018** through **June 30, 2022,** unless earlier terminated as provided herein. The City reserves the right to review the Consultant's performance at the end of each year and cancel all or part of the Agreement."

3. Exhibit A-1, entitled "Scope of Services," is hereby amended to add "Scope of Services for Construction Engineering and Inspection Services," as specified in Exhibit A-2, attached hereto and incorporated herein by this reference.

4. Exhibit B-2, entitled "Schedule of Charges/Payments-(Revised December 2020)," is hereby amended to add "Construction Engineering and Inspection Services Schedule of Charges/Payments," as specified in Exhibit B-3, attached hereto and incorporated herein by this reference.

5. Exhibit C-1, entitled "Activity Schedule-(Revised December 2020)," is hereby amended to add "Construction Engineering and Inspection Services Schedule," as specified in Exhibit C-2, attached hereto and incorporated herein by this reference.

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

[SIGNATURES ON FOLLOWING PAGE]

SIGNATURE PAGE FOR AMENDMENT NO. 3
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF MILPITAS
AND WEST YOST ASSOCIATES
FOR
DESIGN SERVICES – MILPITAS MAIN LIFT PUMP STATION ODOROUS EMISSIONS CONTROL FACILITY

CITY OF MILPITAS

Approved By:

_____
Steven G. McHarris, City Manager

_____
Date

Approved As To Form:

_____
Christopher J. Diaz, City Attorney

Approved:

_____
Walter C. Rossmann,
Risk Manager/ Finance Director

Approved As to Content:

_____
Tony Ndah, Public Works Director

WEST YOST ASSOCIATES

_____
Signature

_____
Name

_____
Title

_____
Date

EXHIBIT A-2
SCOPE OF SERVICES FOR CONSTRUCTION ENGINEERING AND INSPECTION SERVICES

ENGINEERING SERVICES DURING CONSTRUCTION

The following is a list of the key tasks necessary to perform the proposed Engineering Services During Construction Scope of Services, each is further described below:

- Task 6. Pre-Construction Meeting
- Task 7. Submittal Reviews
- Task 8. Reponses to RFIs
- Task 9. Design Clarifications
- Task 10. Progress Meetings and Site Visits
- Task 11. Record Drawings
- Task 12. Startup and Performance Testing Services
- Task 13. Project Management

Task 6. Pre-Construction Meeting

This task will involve participation of key design team members in the pre-construction meeting with the City, the City's CM, and Contractor. It is anticipated that the meeting will be held at the Milpitas Main Lift Station and that the CM will develop the agenda and materials for this meeting and will be developing meeting notes.

Task 6 Deliverables

- No deliverable will be provided for this task

Task 7. Submittal Reviews

West Yost will review shop drawings, product data, and samples provided by the City's CM for conformance with the design concepts and general compliance with the Contract Documents. Submittal reviews will be provided on West Yost's standard review response form, modified to suit City's standard submittal disposition codes. For budgeting purposes, a total of 90 hours of engineering staff time has been assumed for this task and assumes approximately 30 individual submittal reviews (20 initial submittals and 10 resubmittals) at a rate of approximately 3 hours per submittal. A list of submittals that West Yost anticipates to review and submittals that West Yost anticipates the City will review is included in this exhibit.

Task 7 Deliverables

- Submittal review comments

Task 8. Responses to RFIs

RFIs submitted by the Contractor will be reviewed and necessary guidance will be provided to the Contractor on interpretation of the Contract Documents. West Yost will respond to formal RFIs that are provided to West Yost by the City's CM. Responses to RFIs will be provided on West Yost standard response form. For

budgeting purposes, a total of 38 hours of engineering staff time has been assumed for this task, equivalent to 15 individual RFI responses at a rate of approximately 2.5 hours per RFI.

Task 8 Deliverables

- RFI responses

Task 9. Design Clarifications

If required for unforeseen conditions or other reasons, West Yost will prepare up to two design clarifications of the Contract Drawings. Design clarifications may include narrative descriptions, revised Contract Drawings, and/or revised specifications. A total of 24 hours of engineering and drafting staff time has been assumed for this task.

Task 9 Deliverables

- Narrative descriptions, revised Contract Drawings, and/or revised specifications

Task 10. Progress Meetings and Site Visits

This task includes participation by phone in construction progress meetings during the course of construction to facilitate communication between West Yost, the City, the City's CM, and the Contractor. This task also includes time for two site visits by design team members at periodic times during construction to observe the construction work and/or meet with the construction team. Such site visits will take place at the request of the City. For budgeting purposes, it has been assumed that a representative from West Yost will attend up to 15 progress meetings by teleconference. All meetings and site visits are assumed to have a duration of 1 hour each.

Task 10 Deliverables

- No deliverable will be provided for this task

Task 11. Record Drawings

West Yost will provide modifications to the design plans based upon a single, red-lined mark-up set provided by the City. It is anticipated that the City will provide a set of drawings with red-lined markups that indicate the changes that were made through the course of construction. It is assumed that the CM will be responsible for checking that the Contractor is taking necessary steps throughout the course of construction to document record drawing information in the redline markups. It is assumed that all record drawing information will be included in the redline markups without the need for separate instructions, interpretations, or separate sheets that are attached to the drawings or provided separately of the drawing set.

Task 11 Deliverables

- Project record drawings

Task 12. Startup and Performance Testing Services

This task includes oversight of startup and performance testing activities for the new odor control system. As part of this work, West Yost will attend the pre-test

coordination meeting by phone, review draft testing protocol, review testing calculations and spreadsheets, and review a summary report that documents quality control and testing results compared with specification requirements.
Task 12 Deliverables
• Review comments on testing protocol and results

Task 13. Project Management
This task includes internal communication and documentation necessary to execute the ESDC activities described above. This task also includes assisting with monthly invoicing, project planning, quality control and Project administration. This task includes management of West Yost's subconsultants assigned to the City's project.
Task 13 Deliverables
- Monthly invoices

INSPECTION SCOPE OF SERVICES
The following is a list of the key tasks necessary to perform the proposed Inspection Scope of Services, each is further described below:
- Task 14. Pre-Construction Phase
- Task 15. Construction Phase
- Task 16. Other Direct Costs

Task 14. Pre-Construction Phase
Pre-Construction Conference / Notice to Proceed
West Yost will attend and participate in the preconstruction conference conducted by the City. We assume the City will prepare and issue the construction contract Notice to Proceed (NTP), Pre-construction meeting agenda, and meeting summary.
Pre-Construction Documentation of Conditions
West Yost will coordinate a day and time to walk the pump station site to photo document the preconstruction conditions of the site with the General Contractor (GC). The photos will be used to
document the condition of the site prior to construction commencing.
Task 14 Deliverables
- Photos of the site prior to construction

Task 15. Construction Phase
Progress Meetings
West Yost inspection staff will attend weekly or bi-weekly progress meetings with the GC, City staff, and other members of the project team to review and provide updates on the overall progress, coordination, and communication related to safety, submittals, Requests for Information (RFI)s, changes, progress payments, coordination with pump station operations, progress schedules, and quality control/assurance.

Requests for Information
West Yost's inspection staff will participate in the resolution/response to RFIs written by the GC that are related to constructability only.

Quality Control/Inspection

West Yost will provide part-time quality assurance inspection of the GC's performance of the work. This will include confirming compliance with the contract plans, specifications, approved submittals, applicable RFI responses, and approved change orders. If work is observed or tested to be in non-compliance with the contract a verbal notice followed by a Non-Compliance Notice (NCN) will be issued to the GC.

Inspection reports will be prepared in Microsoft Word and issued to the City's construction manager (CM) by the end of each week in Portable Document Format (pdf). The reports will contain a summary of the work performed, important discussions needing to be documented, and photos of the work performed.

Progress Payments

West Yost will review the GC's monthly progress payment application and determine if the amount being requested by the GC is accurate and consistent with the amount of work performed. The values will be negotiated with the GC prior to reaching agreement, if necessary and will culminate with a recommendation to the City to approve the payment request.

As-Built Record Drawings

The GC's as-built record drawings will be reviewed by the inspector at the end of each month as part of the progress payment process.

Site Safety

West Yost will provide safety related equipment to its project staff such as hard hats, safety vests, safety glasses, gloves, ear protection, etc. West Yost will conduct bi-weekly safety meetings with its field staff and report any incidents to the City if they occur on the jobsite. West Yost will also monitor the safety program and practices of the GC to confirm that they are providing a safe work site for our staff members as well as those of the City.

Materials Testing

West Yost's materials testing subconsultant will perform standard materials testing quality assurance sampling and testing of soil and concrete placement. The tests will include soil classification, moisture density curves, and in-place density testing using a nuclear density gage. Concrete sampling will consist of slump measurement and temperature. Concrete samples will be collected, temporarily stored in the field, taken back to the laboratory for curing and compression tested at 7-day and 28-day strengths. Included in this scope is the coordination with the materials testing subconsultant and the review, logging, and transmittal of the test reports to the GC and City for their records and acceptance.

Testing, Startup, and Commissioning

West Yost will attend all startup meetings, witness the testing of the odor control system that includes the performance and operational testing, and will coordinate startup activities with the City's plant operations staff.

Punchlist and Final Walk Through

West Yost will arrange a final inspection once the GC requests Substantial Completion. The inspection will create a final punchlist of work items remaining to be completed. The punchlist will be transmitted to the GC with the decision on the substantial completion request. The remainder of the contract will be to confirm that the items on the punchlist have been addressed and any other remaining deliverables are received.

Task 15 Deliverables

- Provide input to construction related RFIs
- Inspection reports and NCNs, when applicable
- A signed-off progress payment application for each month the GC submits a payment request for processing
- Delivery of the inspector's as-built record drawings
- Summary of bi-weekly safety tailgate meetings, and any incident report generated by the GC
- Test reports generated by our subconsultant on concrete or soils sampled.
- Generate final punchlist and a Certificate of Completion

Task 16. Other Direct Costs

Included in this task are costs associated with transportation to and from the project site.

ANTICIPATED LIST OF SUBMITTALS TO BE REVIEWED

Submittal	Specification	Reviewer
Geotextile Fabric	02071	WY
Controlled Low Strength Material	02081	City
Compressive Strength Test results	02081	WY
Site Preparation	02200	City
Site Preparation - Shop Drawings	02200	City
Control Points & Stability Measurements	02200	City
Earthwork	02200	City

Trenching	02320	City
Aggregate Base Course Material	02722	City
Asphalt Paving	02740	City
Cast-In-Place Concrete - Shop Drawings	03301	WY/WY Sub
Cast-In-Place Concrete -Product Data	03301	WY Sub
Grout	03600	City
Anchor Bolts	05501	WY/WY Sub
High Performance Coatings	09960	WY
Warning Signs	10020	City
General Requirements for Equipment	11000	WY
Equipment Mounting	11002	WY/WY Sub
Biological Oder Control System - O&M Manual	11060	WY/WY Sub
Biological Oder Control System - Foul Air Fan	11302	WY/WY Sub
Biological Oder Control System - Control Panel	11302	WY Sub
Biological Oder Control System - Motor	11302	WY/WY Sub
Mist and Grease Eliminator	11303	WY
Fiberglass Reinforced Plastic Ductwork	13235	WY
Piping Systems	15050	WY
Pipe Hangers and Supports	15060	WY/WY Sub
Piping Identification	15076	City
Piping Appurtenances	15095	WY
Piping Seismic Restraints	15097	WY/WY Sub
Valves	15110.1, 15114	WY
Piping Connections	15122	WY
Piping Insulation	15250	WY

Drains and Cleanouts	15440	WY
Testing Pipelines	15951	City
Electrical	16000	WY Sub

EXHIBIT B-3
CONSTRUCTION ENGINEERING AND INSPECTION SERVICES
SCHEDULE OF CHARGES/PAYMENTS

Estimated Project Hours and Budget

Engineering Services During Construction		
Task	Level of Effort, hours	Estimated Budget
Task 6. Pre-Construction Meeting	8	$ 1,878
Task 7. Submittal Reviews	90	$ 35,659
Task 8. Responses to RFIs	38	$ 10,092
Task 9. Design Clarifications	24	$ 5,615
Task 10. Progress Meetings and Site Visits	46	$ 13,393
Task 11. Record Drawings	75	$ 15,932
Task 12. Startup and Performance Testing Services	18	$ 3,776
Task 13. Project Management	38	$ 19,893
Subtotal	**337**	**$ 106,238**
Inspection Services		
Task 14. Preconstruction Phase	10	$ 1,569
Task 15. Construction Phase	829	$ 136,249
Task 16. ODCs (Transportation)		$ 5,944
Subtotal	**839**	**$ 143,762**
Total Amendment Hours and Budget	**1,176**	**$ 250,000**

2021 Billing Rate Schedule

(Effective January 1, 2021 through December 31, 2021)*

POSITIONS	LABOR CHARGES (DOLLARS PER HOUR)
ENGINEERING	
Principal/Vice President	$307
Engineering/Scientist/Geologist Manager I / II	$291 / $304
Principal Engineer/Scientist/Geologist I / II	$263 / $279
Senior Engineer/Scientist/Geologist I / II	$236 / $247
Associate Engineer/Scientist/Geologist I / II	$202 / $216
Engineer/Scientist/Geologist I / II	$162 / $188
Engineering Aide	$95
Administrative I / II / III / IV	$83 / $105 / $126 / $139
ENGINEERING TECHNOLOGY	
Engineering Tech Manager I / II	$302 / $304
Principal Tech Specialist I / II	$277 / $287
Senior Tech Specialist I / II	$254 / $266
Senior GIS Analyst	$230
GIS Analyst	$217
Technical Specialist I / II / III / IV	$162 / $185 / $208 / $232
Technical Analyst I / II	$116 / $139
Technical Analyst Intern	$94
Cross-Connection Control Specialist I / II / III / IV	$121 / $131 / $147 / $164
CAD Manager	$183
CAD Designer I / II	$142 / $160
CONSTRUCTION MANAGEMENT	
Senior Construction Manager	$294
Construction Manager I / II / III / IV	$179 / $192 / $204 / $258
Resident Inspector (Prevailing Wage Groups 4 / 3 / 2 / 1)	$157 / $174 / $194 / $202
Apprentice Inspector	$142
CM Administrative I / II	$76 / $102
Field Services	$202

- Hourly rates include Technology and Communication charges such as general and CAD computer, software, telephone, routine in-house copies/prints, postage, miscellaneous supplies, and other incidental project expenses.
- Outside Services such as vendor reproductions, prints, shipping, and major West Yost reproduction efforts, as well as Engineering Supplies, etc. will be billed at actual cost plus 15%.
- Mileage will be billed at the current Federal Rate and Travel will be billed at cost.
- Subconsultants will be billed at actual cost plus 10%.
- Expert witness, research, technical review, analysis, preparation and meetings billed at 150% of standard hourly rates. Expert witness testimony and depositions billed at 200% of standard hourly rates.
- A Finance Charge of 1.5% per month (an Annual Rate of 18%) on the unpaid balance will be added to invoice amounts if not paid within 45 days from the date of the invoice.

2021 Billing Rate Schedule

(Effective January 1, 2021 through December 31, 2021)*

WEST YOST
Water. Engineered.

Equipment Charges

EQUIPMENT	BILLING RATES
Gas Detector	$80 / day
Hydrant Pressure Gauge	$10 / day
Hydrant Pressure Recorder, Standard	$40 / day
Hydrant Pressure Recorder, Impulse (Transient)	$55 / day
Trimble GPS – Geo 7x	$220 / day
Vehicle	$10 / day
Water Flow Probe Meter	$20 / day
Water Quality Multimeter	$185 / day
Well Sounder	$30 / day

EXHIBIT C-2
CONSTRUCTION ENGINEERING AND INSPECTION SERVICES SCHEDULE

The proposed level of effort and budget for each of the tasks described above is shown in Table 1. The fee estimate was based on the following criteria and assumptions:

- Project start - May 20, 2021
- Project duration – 165 working days (pending award of General Construction Contract)
- Project completion – June 30, 2022
- Part-time inspection
- Submittals - 30
- RFIs - 15
- Design clarifications – 2

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AMENDMENT NO. 2
TO THE PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF MILPITAS AND
WEST YOST ASSOCIATES
FOR
DESIGN SERVICES – MILPITAS MAIN LIFT PUMP STATION ODOROUS EMISSIONS CONTROL FACILITY

This Amendment is entered into as of Dec-14-2020, ("Effective Date") by and between the City of Milpitas, a municipal corporation (hereinafter referred to as "City"), and **West Yost Associates**, a California corporation (hereinafter referred to as "Consultant"). City and Consultant are sometimes jointly referred to as "Parties" in this Amendment No. 2.

RECITALS:

WHEREAS, on November 21, 2018, the Parties entered into a Professional Services Agreement for Design Services – Milpitas Main Lift Pump Station Odorous Emissions Control Facility, for the not-to-exceed compensation amount of $98,000.00 and with a term period of November 21, 2018 through November 20, 2019 (the "Agreement"); and

WHEREAS, on June 12, 2019, the Parties entered into Amendment No. 1 to the Agreement, adding additional design services to the Scope of Work, increasing the compensation amount by $36,340.00, and extending the term period expiration date for one year through November 20, 2020; and

WHEREAS, the Parties now wish to further amend the Agreement to extend the term period expiration date from November 20, 2020 through May 20, 2021, and to replace Exhibit B-1, Schedule of Charges/Payments, and Exhibit C, Activity Schedule, with updated Exhibits B-2 and C-1, accordingly; and

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

1. Section 5 Time of Performance is deleted in its entirety and replaced with the following:

" 5. Term

The term of this Agreement shall be from **November 21, 2018** through **May 20, 2021,** unless earlier terminated as provided herein. The City reserves the right to

review the Consultant's performance at the end of each year and cancel all or part of the Agreement."

2. Exhibit B-1, entitled "Schedule of Charges/Payments," is hereby deleted and replaced in its entirety with **Exhibit B-2**, entitled "Schedule of Charges/Payments- (Revised December 2020)," attached hereto and incorporated herein by this reference.

3. Exhibit C, entitled "Activity Schedule," is hereby deleted and replaced in its entirety with **Exhibit C-1**, entitled "Activity Schedule- (Revised December 2020)," attached hereto and incorporated herein by this reference.

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

CITY OF MILPITAS

Approved By:

DocuSigned by:
9387BF6F7E434AA...

Chris Schroeder, Purchasing Agent Zachary DeVine

Dec-14-2020

Date

Approved As To Form:

DocuSigned by:
Christopher J. Diaz
9B363A8B3E3946B...

Christopher J. Diaz, City Attorney

Approved:

DocuSigned by:
D9F94FEB50844F3...

Walter C. Rossmann,
Risk Manager/ Finance Director

Approved As to Content:

DocuSigned by:
4275BDCCF3174B8...

Tony Ndah, Public Works Director

WEST YOST ASSOCIATES

DocuSigned by:
Elizabeth Drayer
8AFEF9275E57406...

Signature

Elizabeth Drayer

Name

Vice President

Title

Dec-10-2020

Date

EXHIBIT B-2

Schedule of Charges/Payments -
(Revised December 2020)

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

TASK OR SUBTASK NO.	**FEE**
Task 1. Project Management and Quality Control	
1.01 Project Management	$ 3,038.00
1.02 Quality Control	$ 3,176.00
Subtotal, Task 1	*$ 6,214.00*
Task 2. Workshops and Meetings	
2.01 Project Kickoff	$ 8,049.00
2.02 50% Design Review	$ 4,864.00
2.03 Pre-bid Meeting	$ 1,718.00
Subtotal, Task 2	*$ 14,631.00*
Task 3. Preliminary Design Confirmation	
3.01 Review H2S data	$ 994.00
3.02 Solicit Revised Equipment Cost	$ 461.00
Subtotal, Task 3	*$ 1,455.00*
Task 4. Detailed Design	
4.01 Topographic Survey	$ 5,102.00
4.02 Prepare Construction Cost Estimate	$ 3,362.00
4.03 50% Design Drawings	$ 21,444.00
4.035 Potholing, Control of Tar Like Material, and Additional Design Work for Two Exhaust Fans	$ 36,340.00
4.04 90% Design Drawings	$ 21,844.00
4.05 Final Design Drawings	$ 15,136.00
Subtotal, Task 4	*$ 103,228.00*
Task 5. Bid Support Services	
5.01 Review Potential Bidder's Questions	$ 4,053.00
5.02 Prepare up to Two Addenda	$ 3,944.00
Subtotal, Task 5	*$ 7,997.00*
TOTAL	**$ 133,525.00**

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CONSULTANT'S 2018 BILLING RATE SCHEDULE
(January 1, 2018 through December 31, 2018)

POSITIONS	LABOR CHARGES (DOLLARS PER HR)
ENGINEERING	
Principal/Vice President	$285
Engineering/Scientist/Geologist Manager I / II	$263 / $274
Principal Engineer/Scientist/Geologist I / II	$240 / $254
Senior Engineer/Scientist/Geologist I / II	$214 / $225
Associate Engineer/Scientist/Geologist I / II	$190 / $203
Engineer/Scientist/Geologist I / II	$154 / $178
Engineering Aide	$87
Administrative I / II / III / IV	$78 / $99 / $119 / $131
ENGINEERING TECHNOLOGY	
Engineering Tech Manager I / II	$271 / $281
Principal Tech Specialist I / II	$250 / $260
Senior Tech Specialist I / II	$229 / $239
Senior GIS Analyst	$209
GIS Analyst	$197
Technical Specialist I / II / III / IV	$145 / $166 / $187 / $208
CAD Manager	$166
CAD Designer I / II	$129 / $144
CONSTRUCTION MANAGEMENT	
Senior Construction Manager	$273
Construction Manager I / II / III / IV	$166 / $178 / $190 / $237
Resident Inspector (Prevailing Wage Groups 4 / 3 / 2 / 1)	$144 / $160 / $178 / $185
Apprentice Inspector	$131
CM Administrative I / II	$71 / $95

- Hourly rates include Technology and Communication charges such as general and CAD computer software telephone, routine in-house copies/prints postage miscellaneous supplies, and other incidental project expenses
- Outside Services such as vendor reproductions, prints, shipping and major West Yost reproduction efforts as well as Engineering Supplies, etc will be billed at actual cost plus 15%
- Mileage will be billed at the current Federal Rate and Travel will be billed at cost
- Subconsultants will be billed at actual cost plus 10%
- Expert witness research technical review analysis preparation and meetings billed at 150% of standard hourly rates Expert witness testimony and depositions billed at 200% of standard hourly rates
- A Finance Charge of 1 5% per month (an Annual Rate of 18%) on the unpaid balance will be added to invoice amounts if not paid within 45 days from the date of the invoice

Equipment Charges

EQUIPMENT	BILLING RATES
Gas Detector	$80/day
Hydrant Pressure Gage	$10/day
Hydrant Pressure Recorder, Standard	$40/day
Hydrant Pressure Recorder, Impulse (Transient)	$55/day
Trimble GPS – Geo 7x	$220/day
Vehicle	$10/hour
Water Flow Probe Meter	$20/day
Water Quality Multimeter	$185/day
Well Sounder	$30/day

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WEST YOST ASSOCIATES

2019 Billing Rate Schedule

(Effective January 1, 2019 through December 31, 2019) *

POSITIONS	LABOR CHARGES (DOLLARS PER HR)
ENGINEERING	
Principal/Vice President	$298
Engineering/Scientist/Geologist Manager I / II	$274 / $287
Principal Engineer/Scientist/Geologist I / II	$249 / $264
Senior Engineer/Scientist/Geologist I / II	$223 / $234
Associate Engineer/Scientist/Geologist I / II	$194 / $208
Engineer/Scientist/Geologist I / II	$157 / $182
Engineering Aide	$90
Administrative I / II / III / IV	$79 / $100 / $120 / $133
ENGINEERING TECHNOLOGY	
Engineering Tech Manager I / II	$283 / $294
Principal Tech Specialist I / II	$260 / $271
Senior Tech Specialist I / II	$238 / $249
Senior GIS Analyst	$217
GIS Analyst	$205
Technical Specialist I / II / III / IV	$151 / $173 / $195 / $216
CAD Manager	$173
CAD Designer I / II	$134 / $150
CONSTRUCTION MANAGEMENT	
Senior Construction Manager	$283
Construction Manager I / II / III / IV	$170 / $182 / $195 / $246
Resident Inspector (Prevailing Wage Groups 4 / 3 / 2 / 1)	$149/ $166 / $185 / $192
Apprentice Inspector	$135
CM Administrative I / II	$73 / $97
Field Services	$192

- Hourly rates include Technology and Communication charges such as general and CAD computer, software, telephone, routine in-house copies/prints, postage, miscellaneous supplies, and other incidental project expenses
- Outside Services such as vendor reproductions, prints, shipping, and major West Yost reproduction efforts, as well as Engineering Supplies, etc will be billed at actual cost plus 15%
- Mileage will be billed at the current Federal Rate and Travel will be billed at cost
- Subconsultants will be billed at actual cost plus 10%
- Expert witness, research, technical review, analysis, preparation and meetings billed at 150% of standard hourly rates Expert witness testimony and depositions billed at 200% of standard hourly rates
- A Finance Charge of 1 5% per month (an Annual Rate of 18%) on the unpaid balance will be added to invoice amounts if not paid within 45 days from the date of the invoice

* This schedule is updated annually

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WEST YOST ASSOCIATES

2019 Billing Rate Schedule (continued)

(Effective January 1, 2019 through December 31, 2019) *

Equipment Charges

EQUIPMENT	BILLING RATES
Gas Detector	$80/day
Hydrant Pressure Gauge	$10/day
Hydrant Pressure Recorder, Standard	$40/day
Hydrant Pressure Recorder, Impulse (Transient)	$55/day
Trimble GPS – Geo 7x	$220/day
Vehicle	$10/hour
Water Flow Probe Meter	$20/day
Water Quality Multimeter	$185/day
Well Sounder	$30/day

* This schedule is updated annually

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2020 Billing Rate Schedule

(Effective January 1, 2020 through December 31, 2020)*

WEST YOST
Water. Engineered.

POSITIONS	LABOR CHARGES (DOLLARS PER HOUR)
ENGINEERING	
Principal/Vice President	$298
Engineering/Scientist/Geologist Manager I / II	$283 / $295
Principal Engineer/Scientist/Geologist I / II	$257 / $272
Senior Engineer/Scientist/Geologist I / II	$230 / $241
Associate Engineer/Scientist/Geologist I / II	$198 / $212
Engineer/Scientist/Geologist I / II	$160 / $185
Engineering Aide	$92
Administrative I / II / III / IV	$81 / $102 / $123 / $135
ENGINEERING TECHNOLOGY	
Engineering Tech Manager I / II	$291 / $294
Principal Tech Specialist I / II	$268 / $279
Senior Tech Specialist I / II	$245 / $256
Senior GIS Analyst	$224
GIS Analyst	$211
Technical Specialist I / II / III / IV	$156 / $178 / $200 / $223
Technical Analyst I / II	$112 / $134
Technical Analyst Intern	$90
Cross-Connection Control Specialist I / II / III / IV	$117 / $127 / $143 / $159
CAD Manager	$178
CAD Designer I / II	$138 / $155
CONSTRUCTION MANAGEMENT	
Senior Construction Manager	$289
Construction Manager I / II / III / IV	$174 / $186 / $198 / $251
Resident Inspector (Prevailing Wage Groups 4 / 3 / 2 / 1)	$152 / $169 / $188 / $196
Apprentice Inspector	$138
CM Administrative I / II	$74 / $99
Field Services	$196

- Hourly rates include Technology and Communication charges such as general and CAD computer, software, telephone, routine in-house copies/prints, postage, miscellaneous supplies, and other incidental project expenses.
- Outside Services such as vendor reproductions, prints, shipping, and major West Yost reproduction efforts, as well as Engineering Supplies, etc. will be billed at actual cost plus 15%.
- Mileage will be billed at the current Federal Rate and Travel will be billed at cost.
- Subconsultants will be billed at actual cost plus 10%.
- Expert witness, research, technical review, analysis, preparation and meetings billed at 150% of standard hourly rates. Expert witness testimony and depositions billed at 200% of standard hourly rates.
- A Finance Charge of 1.5% per month (an Annual Rate of 18%) on the unpaid balance will be added to invoice amounts if not paid within 45 days from the date of the invoice.

* This schedule is updated annually

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2020 Billing Rate Schedule

(Effective January 1, 2020 through December 31, 2020)*

WEST YOST
Water. Engineered.

Equipment Charges

EQUIPMENT	BILLING RATES
Gas Detector	$80 / day
Hydrant Pressure Gauge	$10 / day
Hydrant Pressure Recorder, Standard	$40 / day
Hydrant Pressure Recorder, Impulse (Transient)	$55 / day
Trimble GPS – Geo 7x	$220 / day
Vehicle	$10 / day
Water Flow Probe Meter	$20 / day
Water Quality Multimeter	$185 / day
Well Sounder	$30 / day

* This schedule is updated annually

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2021 Billing Rate Schedule

(Effective January 1, 2021 through December 31, 2021)*

WEST YOST
Water. Engineered.

POSITIONS	LABOR CHARGES (DOLLARS PER HOUR)
ENGINEERING	
Principal/Vice President	$307
Engineering/Scientist/Geologist Manager I / II	$291 / $304
Principal Engineer/Scientist/Geologist I / II	$263 / $279
Senior Engineer/Scientist/Geologist I / II	$236 / $247
Associate Engineer/Scientist/Geologist I / II	$202 / $216
Engineer/Scientist/Geologist I / II	$162 / $188
Engineering Aide	$95
Administrative I / II / III / IV	$83 / $105 / $126 / $139
ENGINEERING TECHNOLOGY	
Engineering Tech Manager I / II	$302 / $304
Principal Tech Specialist I / II	$277 / $287
Senior Tech Specialist I / II	$254 / $266
Senior GIS Analyst	$230
GIS Analyst	$217
Technical Specialist I / II / III / IV	$162 / $185 / $208 / $232
Technical Analyst I / II	$116 / $139
Technical Analyst Intern	$94
Cross-Connection Control Specialist I / II / III / IV	$121 / $131 / $147 / $164
CAD Manager	$183
CAD Designer I / II	$142 / $160
CONSTRUCTION MANAGEMENT	
Senior Construction Manager	$294
Construction Manager I / II / III / IV	$179 / $192 / $204 / $258
Resident Inspector (Prevailing Wage Groups 4 / 3 / 2 / 1)	$157 / $174 / $194 / $202
Apprentice Inspector	$142
CM Administrative I / II	$76 / $102
Field Services	$202

- Hourly rates include Technology and Communication charges such as general and CAD computer, software, telephone, routine in-house copies/prints, postage, miscellaneous supplies, and other incidental project expenses.
- Outside Services such as vendor reproductions, prints, shipping, and major West Yost reproduction efforts, as well as Engineering Supplies, etc. will be billed at actual cost plus 15%.
- Mileage will be billed at the current Federal Rate and Travel will be billed at cost.
- Subconsultants will be billed at actual cost plus 10%.
- Expert witness, research, technical review, analysis, preparation and meetings billed at 150% of standard hourly rates. Expert witness testimony and depositions billed at 200% of standard hourly rates.
- A Finance Charge of 1.5% per month (an Annual Rate of 18%) on the unpaid balance will be added to invoice amounts if not paid within 45 days from the date of the invoice.

* This schedule is updated annually

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2021 Billing Rate Schedule

(Effective January 1, 2021 through December 31, 2021)*

WEST YOST
Water. Engineered.

Equipment Charges

EQUIPMENT	BILLING RATES
Gas Detector	$80 / day
Hydrant Pressure Gauge	$10 / day
Hydrant Pressure Recorder, Standard	$40 / day
Hydrant Pressure Recorder, Impulse (Transient)	$55 / day
Trimble GPS – Geo 7x	$220 / day
Vehicle	$10 / day
Water Flow Probe Meter	$20 / day
Water Quality Multimeter	$185 / day
Well Sounder	$30 / day

* This schedule is updated annually

CONSULTANT'S KEY STAFF AND SUBCONSULTANTS

Consultant's key staff assigned to the Project are as follows:

Team Member Title	Project Role
Whitney Sandelin	Project Manager
Tyler Newman	Civil Designer
Greg Chung	Principal in Charge

If necessary and appropriate, Consultant will employ subconsultants it deems appropriate to the complexity and nature of the required Services. All subconsultants must, if their specialty is licensable, be licensed by the State of California to perform their specific Services. Consultant must obtain City's approval of all subconsultants. Upon City's request, Consultant must provide copies of all subconsultant contract Agreements. Any delegation or subcontracting of any services by Consultant will not operate to relieve Consultant of its responsibilities under this Agreement.

The following subconsultants are authorized to work on the Project:

Firm	Project Role
Mark Thomas	Topographic Survey
Geocon Consultants	Geotechnical Investigation
TJC and Associates	Structural Design
A TEEM Electrical Engineering	Electrical Design

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EXHIBIT C-1
Activity Schedule-
(Revised December 2020)

Task/Major Milestone	**Completion (Weeks Following Authorization to Proceed)**
Project Management	80 weeks
Preliminary Design Confirmation	2 weeks
Topographic Survey	8 weeks
Submit 50% Complete Design Submittals (plans, specifications, cost estimate, and technical memoranda)	12 weeks
Submit 75% Complete Design Submittals (plans, specifications, cost estimate, and technical memoranda)	12 weeks
Submit 90% Complete Design Submittals (plans, specifications, cost estimate, and technical memoranda)	15 weeks
Submit 100% Complete Design Submittals (plans, specifications, cost estimate, and technical memoranda)	24 weeks
Bid Period Services	50 weeks

AMENDMENT NO. 1 TO THE AGREEMENT WITH WEST YOST ASSOCIATES FOR DESIGN SERVICES – MILPITAS MAIN LIFT PUMP STATION ODOROUS EMISSIONS CONTROL FACILITY

This Amendment is entered into as of _____June12,____ 2019, ("Effective Date") by and between the City of Milpitas, a municipal corporation organized and operating under the laws of the State of California with its principal place of business at 455 E. Calaveras Boulevard, Milpitas, California 95035 ("City"), and **West Yost Associates**, a corporation with its principal place of business at **2020 Research Park Drive, Suite 100 Davis, CA 95618** (hereinafter referred to as "Consultant"). City and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Amendment.

RECITALS

WHEREAS, on November 21, 2018 the parties entered into an agreement for Design Services – Milpitas Main Lift Pump Station Odorous Emissions Control Facility services. The initial agreement began **November 21, 2018 though and including November 20, 2019** for the not-to-exceed amount of **Ninety-Eight Thousand Dollars and Zero Cents ($98,000.00)**; and

WHEREAS, the parties now desire to amend the Agreement to add additional services for additional design services at the Main Lift Station for the City and increasing the value of the agreement by **$36,340.00** for the new not-to-exceed amount of **$134,340.00** to cover these additional services and extend services an additional 365 days.

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

1. Section 2 Compensation, letter B is deleted in its entirety and replaced with the following: In no event shall the total amount paid for services rendered by Consultant under this Agreement exceed the sum of **One Hundred Thirty-Four Thousand Three Hundred Forty Dollars and Zero Cents ($134,340.00)**. This amount is to cover all printing and related costs, and the City will not pay any additional fees for printing expenses. Periodic payments shall be made within thirty (30) days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis.

2. Section 5 Time of Performance is deleted in its entirety and replaced with the following: Consultant shall perform its services in a prompt and timely manner and shall commence performance upon receipt of written notice from the City to proceed ("Notice to Proceed"). Consultant shall complete the services required hereunder within **730** calendar days. The Notice to Proceed shall set forth the date of commencement of work

3. Exhibit A is hereby deleted and replaced in its entirety with Exhibit A-1, attached hereto and incorporated herein by this reference.

4. Exhibit B is hereby deleted and replaced in its entirety with Exhibit B-1, attached hereto and incorporated herein by this reference

5. All other provisions of the Agreement shall remain in full force and effect.

[SIGNATURES ON FOLLOWING PAGE]

SIGNATURE PAGE FOR AMENDMENT NO. 1
BETWEEN THE CITY OF MILPITAS
AND WEST YOST ASSOCIATES

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

APPROVED BY.

City of Milpitas

Steve McHarris
Interim City Manager

West Yost Associates

Name of Authorized Representative
Jeffrey D. Pelz

Vice President
Title of Authorized Representative

Approved as to Form.

Christopher J Diaz, City Attorney

Approved as to Content:

6/27/19
Walter C. Rossmann
Director of Financial Services

Approved as to Scope:

Tony Ndah
Director of Public Works

EXHIBIT A -1

Scope of Services

Task 1. Project Management and Quality Control

Subtask 1 01 Project Management
Consultant will provide overall program management, coordination of activities and communication with City staff, and coordination and management of any subconsultants on the Project.

Subtask 1 02 Quality Control
Consultant will provide detailed quality control review of all levels of design drawings, specifications, and construction cost estimate for the Project This task will be completed by the Consultant's senior level engineering personnel not involved in the design of the Project The review will check for correctness of the documents as well as provide a constructability review of the documents.

Task 2. Workshops and Meetings

Consultant staff will attend three (3) meetings throughout the duration of the Project as follows·

- Project Kickoff meeting to discuss the project goals, design approach, and schedule
- 50% Design Review meeting to review drawings, answer design questions, and discuss City comments
- Pre-bid meeting.

Deliverables.

1 Meeting notes summarizing meeting discussion and action items

Task 3. Preliminary Design Confirmation

Consultant will review of the City's preliminary designs for emissions control and H2S mentoring data that was collected in summer 2018 Consultant will evaluate the data to confirm that the equipment selected during the preliminary design is suitable for H2S concentrations observed during the summer 2018 sample period. Consultant will contact equipment manufacturer to confirm that the equipment is appropriately sized based on the data collected and provide the City with an updated quote for the system.

Deliverable·

1 Updated quote for emissions control system

Task 4. Detailed Design

This Task will involve preparing 50%, 90%, and Final design drawings for the improvements for the Milpitas Main Pump Station

Subtask 4 01 Topographic Survey
Consultant will complete a topographic survey of the project area to verify elevations of existing improvements shown on construction drawings and to obtain more detailed topographic information in critical areas.

Deliverables

1 Topographic survey of Project Area

Subtask 4 02 Prepare Construction Cost Estimate

Consultant will prepare an engineer's estimate of probable construction cost to be used for the bidding

Deliverables.

1 Engineer's estimate of probable construction cost

Subtask 4 03 50% Design
Consultant will prepare and present 50% complete design documents for the City's review Drawings will be developed in AutoCAD Version 2016 format and incorporate Consultant and City's drafting standards The 50% complete design submittal will also include an outline of technical specifications To support this design, Consultant will complete a geotechnical investigation to evaluate subsurface conditions at the site of the new odor emissions control facility, and provide geotechnical engineering design parameters and construction recommendations for the facility foundation to the City

Deliverable·

1 Technical memorandum outlining geotechnical engineering design parameters
2 50% design plans, specifications, and cost estimate
3 Outline of technical specifications

Subtask 4 035 Potholing, Control of Tar Like Material, and Additional Design Work for Two Exhaust Fans
The purpose of this subtask is to summarize the design contract discussed during the April Main Pump Station Odor Control 50 percent submittal review meeting and emailed to City on April 19, 2019 Included below are descriptions of the additional work subtasks:

- Potholing in the area of the proposed air duct to determine the depths of the electrical duct banks and other utilities in the vicinity
- Additional Design Work for Two Exhaust Fans as the current fan cannot be relied upon the City has requested a second fan to provide redundancy for the station
- Control of Tar-like Material found in the wet-well exhaust fan duct and associated investigation and design work

Consultant will prepare and submit 75% complete design documents for the City's review The submittal will reflect comments received from the City on the 50% design submittal including the additional subtasks identified above.

Deliverable.
1 Technical memorandum outlining how 50% design submittal comments have been addressed
2 75% design plans, specifications, and cost estimate

Subtask 4 04 90% Design
Consultant will prepare and submit 90% complete design documents for the City's review The submittal will reflect comments received from the City on the 70% design submittal and will include

- 90% complete design drawings.
- Draft Technical Specifications (Division 1 through 16) in CSI format

Consultant will present the 90% design submittal to the City, along with an explanation as to how 50% design submittal comments have been addressed.

Consultant will complete a quality control review of the 90% design drawings, specifications, and construction cost estimate

Deliverables

1. Technical memorandum outlining how 75% design submittal comments have been addressed.
2 90% design plans, specifications, and cost estimate

3 Draft Technical Specifications (Division 1 through 16) in CSI format

Subtask 4 05 100% Design
Consultant will prepare 100% design documents by incorporating review comments from City staff and from the Consultant's independent quality control check. The 100% design submittal will also include an engineer's estimate of probable construction cost to be used for the bidding phase

The completed design will allow for public bidding and construction of the proposed project Design drawings will be prepared, stamped, and signed by California Registered Professional Engineers of the applicable discipline

Deliverables

1 100% design plans, specifications, and cost estimate

Task 5. Bid Support Services

This Task will involve assisting the City, as required, during the bid phase of the Project Consultant will assist the City during the bid phase as follows:

- Prepare presentations, attend, and provide other assistance at a City-led pre-bid meeting
- Provide technical assistance to support City staff's response to bidder's inquiries during the bidding process.
- Develop addenda, if necessary, that may be needed to document responses to bidders' inquiries Addenda will be prepared by the Consultant and delivered to the City for distribution
- Assist the City in reviewing the bids for conformance and possible irregularities with regard to the contract documents

EXHIBIT B-1

Schedule of Charges/Payments

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

TASK OR SUBTASK NO.	FEE
Task 1. Project Management and Quality Control	
1 01 Project Management	$ 3,038 00
1 02 Quality Control	$ 3,176 00
Subtotal, Task 1	*$ 6,214 00*
Task 2. Workshops and Meetings	
2 01 Project Kickoff	$ 8,049 00
2 02 50% Design Review	$ 4,864 00
2 03 Pre-bid Meeting	$ 1,718 00
Subtotal, Task 2	*$ 14,631 00*
Task 3. Preliminary Design Confirmation	
3.01 Review H2S data	$ 994.00
3.02 Solicit Revised Equipment Cost	$ 461.00
Subtotal, Task 3	*$ 1,455 00*
Task 4. Detailed Design	
4.01 Topographic Survey	$ 5,102.00
4 02 Prepare Construction Cost Estimate	$ 3,362.00
4 03 50% Design Drawings	$ 21,444 00
4.035 Potholing, Control of Tar Like Material, and Additional Design Work for Two Exhaust Fans	$ 36,340 00
4.04 90% Design Drawings	$ 21,844.00
4.05 Final Design Drawings	$ 15,136.00
Subtotal, Task 4	*$ 103,228 00*
Task 5. Bid Support Services	
5.01 Review Potential Bidder's Questions	$ 4,053.00
5.02 Prepare up to Two Addenda	$ 3,944.00
Subtotal, Task 5	*$ 7,997 00*
TOTAL	**$ 133,525.00**

WEST YOST ASSOCIATES

2019 Billing Rate Schedule

(Effective January 1, 2019 through December 31, 2019) *

POSITIONS	LABOR CHARGES (DOLLARS PER HR)
ENGINEERING	
Principal/Vice President	$298
Engineering/Scientist/Geologist Manager I / II	$274 / $287
Principal Engineer/Scientist/Geologist I / II	$249 / $264
Senior Engineer/Scientist/Geologist I / II	$223 / $234
Associate Engineer/Scientist/Geologist I / II	$194 / $208
Engineer/Scientist/Geologist I / II	$157 / $182
Engineering Aide	$90
Administrative I / II / III / IV	$79 / $100 / $120 / $133
ENGINEERING TECHNOLOGY	
Engineering Tech Manager I / II	$283 / $294
Principal Tech Specialist I / II	$260 / $271
Senior Tech Specialist I / II	$238 / $249
Senior GIS Analyst	$217
GIS Analyst	$205
Technical Specialist I / II / III / IV	$151 / $173 / $195 / $216
CAD Manager	$173
CAD Designer I / II	$134 / $150
CONSTRUCTION MANAGEMENT	
Senior Construction Manager	$283
Construction Manager I / II / III / IV	$170 / $182 / $195 / $246
Resident Inspector (Prevailing Wage Groups 4 / 3 / 2 / 1)	$149/ $166 / $185 / $192
Apprentice Inspector	$135
CM Administrative I / II	$73 / $97
Field Services	$192

- Hourly rates include Technology and Communication charges such as general and CAD computer, software, telephone, routine in-house copies/prints, postage, miscellaneous supplies, and other incidental project expenses
- Outside Services such as vendor reproductions, prints, shipping, and major West Yost reproduction efforts, as well as Engineering Supplies, etc will be billed at actual cost plus 15%
- Mileage will be billed at the current Federal Rate and Travel will be billed at cost
- Subconsultants will be billed at actual cost plus 10%
- Expert witness, research, technical review, analysis, preparation and meetings billed at 150% of standard hourly rates Expert witness testimony and depositions billed at 200% of standard hourly rates
- A Finance Charge of 1 5% per month (an Annual Rate of 18%) on the unpaid balance will be added to invoice amounts if not paid within 45 days from the date of the invoice

* This schedule is updated annually

WEST YOST ASSOCIATES

2019 Billing Rate Schedule (continued)

(Effective January 1, 2019 through December 31, 2019) *

Equipment Charges

EQUIPMENT	BILLING RATES
Gas Detector	$80/day
Hydrant Pressure Gauge	$10/day
Hydrant Pressure Recorder, Standard	$40/day
Hydrant Pressure Recorder, Impulse (Transient)	$55/day
Trimble GPS – Geo 7x	$220/day
Vehicle	$10/hour
Water Flow Probe Meter	$20/day
Water Quality Multimeter	$185/day
Well Sounder	$30/day

* This schedule is updated annually

City of Milpitas

PURCHASE ORDER

Purchasing Division
455 E. Calaveras Blvd.
Milpitas, CA 95035-5411
Telephone: (408) 586-3161
Fax: (408) 586-3170

MAIL INVOICE TO: CITY OF MILPITAS
ACCOUNTS PAYABLE
455 E. CALAVERAS BLVD.
MILPITAS, CA 95035-5411

INVOICE QUESTIONS : (408) 586-3135

PO NUMBER: C6 13000
PAGE 1 OF 1
DATE: 01/04/19

SHIP TO: Tony Ndah
City of Milpitas - Corp Yard
1265 N Milpitas Blvd
Milpitas, CA 95035-3153

VENDOR: West Yost & Associates
2020 Research Park Dr Ste. 100
13055 Davis CA 95618

CONTACT:
PHONE#: 925-426-2580
FAX#: 530-756-5991

FOB: NA

SHIP VIA:

PAYMENT TERMS: Net30

DATE REQUIRED: 01/04/19

LINE	QUANTITY	UNIT	UNIT PRICE	AMOUNT	DESCRIPTION OF ITEM AND/OR SERVICES ORDERED
1			1.00	98,000.00	Agreement entered on November 21, 2018 - Design Services forMain Lift Pump Station Odorous Emissions Control Facility. Certificate of Insurance to expire on September 01, 2019. For questions regarding this purchase order, please contact Tony Ndah @408.586.2602.

TOTAL: $98,000.00

CP6 130-1-4237 $98,000.00

PURCHASING OFFICER: Chris Schroeder

CITY MANAGER: Approved by Contract

(Required Only On Orders Greater Than $5,000)

Distribution: **White** to Scan & File

City of Milpitas

455 E. Calaveras Blvd., Milpitas CA 95035

Purchase Order Requisition

Page ___ of ___

Vendor Number: 13055

Recommended Supplier / Contact / Street Address	Reason For Recommendation	Ship To	Special Instructions	Department Head Approvals	Approval Date
West Yost Associates		Tony Ndah			11/2/18
		1265 N. Milpitas Blvd.			
2020 Research Park Dr., Ste 100		Milpitas, CA 95035			
City, State & Zip Code: Davis, CA 95618	Telephone	Fax #			
Check box to send or e-mail PO to vendor: ☐ E-mail Address: _____	Date Requested:	Requested by: Tony Ndah / Ext. 2602	Date Required:	Signature signifies certification that funds are available and need of services or materials are valid in this function unit or project	

RECEIVED DEC 20 2018 PURCHASING

Item	Quantity	Unit of Measure	Description	Unit Price	Extended Price	Account Number Fund - Function - Expenditure / CP / PG / GT
1	1	LS	Design services for Main Lift Pump Station Odorous Emissions Control Facility	$ 98,000.00	$ 98,000.00	CP6130-1-4237

OK to pay: 11/21/18 Date:

Shumi Kumtak

Julie Edmonds-Mares, City Manager

CP6130-1-4237

Account Code Number

Justification Or Intended Use Of Goods or Services			
	Sub Total		$ 98,000.00
	Tax		
	Freight		
	Total		$ 98,000.00

Requestor Check-off list:

	Do not include option years
Agreement Start Date: _____ & End Date: _____	
Annual Contract Amount: _____	☐ not applicable
Certificate of Insurance Expiration Date: _____	☐ not applicable
City Council Approved on (for purchases over $20,000): _____*	☐ not applicable
Competitive Bidding - 3 quotes received ☐ Yes** ☐ No	☐ not applicable
Sole Source Justification form (attach)	☐ not applicable
Emergency Procurement form (attach)	☐ not applicable
(*attach Agenda & Minutes) (**attach quotes)	

For Accounting Use Only

Signature Approval	✓	Commodity Code:	096801
CIP Budget Check	✓	Ship to Code:	P200
Acct. Code Check	✓	PO Entered on:	01.04.19
Agreement Dated	11.21.18	PO #	CG13000
Insurance Expires	09.01.19	Batch #	19839
City Council	no	Entered by	Jennifer
Depreciable? If yes, use PO# EQ	no		
Multiple Account, use PO# MA	no		

Forward Original to Accounting Services, Save a copy for Your Records

revised 03/14/14

Clear All Fields

CITY OF MILPITAS
PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into as of November 21, 2018 by and between the City of Milpitas, a municipal corporation organized and operating under the laws of the State of California with its principal place of business at 455 E. Calaveras Boulevard, Milpitas, California 95035 ("City"), and West Yost Associates, a California CORPORATION, with its principal place of business at 2020 Research Park Drive, Suite 100, Davis, CA 95618 (hereinafter referred to as "Consultant"). City and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

RECITALS

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

Design Services – Milpitas Main Lift Pump Station Odorous Emissions Control Facility (hereinafter referred to as "the Project").

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

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

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Services.

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

2. Compensation.

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

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement exceed the sum of $98,000 (ninety-eight thousand and 0/100 dollars). This amount is to cover all printing and related costs, and the City will not pay any additional fees for printing expenses. Periodic payments shall be made within 30 days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis.

3. Additional Work.

If changes in the work seem merited by Consultant or the City, and informal consultations with the other party indicate that a change is warranted, it shall be processed in the following manner: a letter outlining the changes shall be forwarded to the City by Consultant with a statement of estimated changes in fee or time schedule. An amendment to this Agreement shall

be prepared by the City and executed by both Parties before performance of such services, or the City will not be required to pay for the changes in the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

4. Maintenance of Records.

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

5. Time of Performance.

Consultant shall perform its services in a prompt and timely manner and shall commence performance upon receipt of written notice from the City to proceed ("Notice to Proceed"). Consultant shall complete the services required hereunder within **365 calendar days.** The Notice to Proceed shall set forth the date of commencement of work.

6. Delays in Performance.

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

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

7. Compliance with Law.

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

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

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

8. Standard of Care

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

9. Assignment and Subconsultant

Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the City, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. Nothing contained herein shall prevent Consultant from employing independent associates, and subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

10. Independent Consultant

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

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

12. Indemnification.

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

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

13. California Labor Code Requirements.

a. Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects

("Prevailing Wage Laws"). If the services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

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

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

14. Verification of Employment Eligibility.

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

15. City Material Requirements.

Not Used

16. Laws and Venue.

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

17 Termination or Abandonment

a. City has the right to terminate or abandon any portion or all of the work under this Agreement by giving ten (10) calendar days written notice to Consultant. In such event, City shall be immediately given title and possession to all original field notes, drawings and specifications, written reports and other documents produced or developed for that portion of the work completed and/or being abandoned. City shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by City and Consultant of the portion of such task completed but not paid prior to said termination. City shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services, and shall not be entitled to damages or compensation for termination of work.

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

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

19. Organization

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

20. Limitation of Agreement.

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

21. Notice

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

CITY:	CONSULTANT:
City of Milpitas	West Yost Associates
455 E. Calaveras Boulevard	200 Research Park Drive, Suite 100
Milpitas, California 95035	Davis, CA 95618
Attn: Tony Ndah, Public Works Director	Attn: Dave Anderson

and shall be effective upon receipt thereof.

22. Third Party Rights

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

23. Equal Opportunity Employment.

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

24. Entire Agreement

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

25. Severability

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

26. Successors and Assigns

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

27. Non-Waiver

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

28. Time of Essence

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

29. City's Right to Employ Other Consultants

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

30. Prohibited Interests

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

31. Wage Theft Prevention

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

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

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

provide the City documentary evidence of a payment or other alternative plan approved by the court/government agency to satisfy the judgment, decision or order. If the Consultant or its subconsultant is subject to a payment or other alternative plan, the Consultant or its subconsultant shall continue to submit documentary evidence every thirty (30) calendar days during the term of the Agreement demonstrating continued compliance with the plan until the judgment, decision or order has been fully satisfied.

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

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

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

[SIGNATURES ON FOLLOWING PAGE]

SIGNATURE PAGE FOR PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF MILPITAS AND WEST YOST ASSOCIATES

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

CITY OF MILPITAS

Approved By:

Julie Edmonds-Mares
City Manager

11/21/18
Date

Approved As To Form:

Christopher J. Diaz
City Attorney

Approved As To Content:

11/14/18
Will Fuentes
Director of Financial Services

Approved As To Content:

Tony Ndah
Public Works Director

West Yost Associates

Signature

W. Franklin Helmick
Name

Vice President
Title

10/24/18
Date

38077.00180\29167975.4

EXHIBIT A

Scope of Services

Task 1. Project Management and Quality Control

Subtask 1.01. Project Management
Consultant will provide overall program management, coordination of activities and communication with City staff, and coordination and management of any subconsultants on the Project.

Subtask 1.02. Quality Control
Consultant will provide detailed quality control review of all levels of design drawings, specifications, and construction cost estimate for the Project. This task will be completed by the Consultant's senior level engineering personnel not involved in the design of the Project. The review will check for correctness of the documents as well as provide a constructability review of the documents.

Task 2. Workshops and Meetings

Consultant staff will attend three (3) meetings throughout the duration of the Project as follows:

- Project Kickoff meeting to discuss the project goals, design approach, and schedule.
- 50% Design Review meeting to review drawings, answer design questions, and discuss City comments.
- Pre-bid meeting.

Deliverables:

1. Meeting notes summarizing meeting discussion and action items.

Task 3. Preliminary Design Confirmation

Consultant will review of the City's preliminary designs for emissions control and H2S mentoring data that was collected in summer 2018. Consultant will evaluate the data to confirm that the equipment selected during the preliminary design is suitable for H2S concentrations observed during the summer 2018 sample period. Consultant will contact equipment manufacturer to confirm that the equipment is appropriately sized based on the data collected and provide the City with an updated quote for the system.

Deliverable:

1. Updated quote for emissions control system

Task 4. Detailed Design

This Task will involve preparing 50%, 90%, and Final design drawings for the improvements for the Milpitas Main Pump Station.

Subtask 4.01. Topographic Survey
Consultant will complete a topographic survey of the project area to verify elevations of existing improvements shown on construction drawings and to obtain more detailed topographic information in critical areas.

Deliverables:

1. Topographic survey of Project Area

Subtask 4.02. Prepare Construction Cost Estimate
Consultant will prepare an engineer's estimate of probable construction cost to be used for the bidding.

Deliverables:

1. Engineer's estimate of probable construction cost

Subtask 4.03. 50% Design
Consultant will prepare and present 50% complete design documents for the City's review. Drawings will be developed in AutoCAD Version 2016 format and incorporate Consultant and City's drafting standards. The 50% complete design submittal will also include an outline of technical specifications. To support this design, Consultant will complete a geotechnical investigation to evaluate subsurface conditions at the site of the new odor emissions control facility, and provide geotechnical engineering design parameters and construction recommendations for the facility foundation to the City.

Deliverable:

1. Technical memorandum outlining geotechnical engineering design parameters
2. 50% design plans, specifications, and cost estimate
3. Outline of technical specifications

Subtask 4.04. 90% Design
Consultant will prepare and submit 90% complete design documents for the City's review. The submittal will reflect comments received from the City on the 50% design submittal and will include:

- 90% complete design drawings.
- Draft Technical Specifications (Division 1 through 16) in CSI format.

Consultant will present the 90% design submittal to the City, along with an explanation as to how 50% design submittal comments have been addressed.
Consultant will complete a quality control review of the 90% design drawings, specifications, and construction cost estimate.

Deliverables:

1. Technical memorandum outlining how 50% design submittal comments have been addressed.
2. 90% design plans, specifications, and cost estimate
3. Draft Technical Specifications (Division 1 through 16) in CSI format.

Subtask 4.05. 100% Design
Consultant will prepare 100% design documents by incorporating review comments from City staff and from the Consultant's independent quality control check. The 100% design submittal will also include an engineer's estimate of probable construction cost to be used for the bidding phase.

The completed design will allow for public bidding and construction of the proposed project. Design drawings will be prepared, stamped, and signed by California Registered Professional Engineers of the applicable discipline.

Deliverables:

1. 100% design plans, specifications, and cost estimate

Task 5. Bid Support Services

This Task will involve assisting the City, as required, during the bid phase of the Project. Consultant will assist the City during the bid phase as follows:

- Prepare presentations, attend, and provide other assistance at a City-led pre-bid meeting.
- Provide technical assistance to support City staff's response to bidder's inquiries during the bidding process.
- Develop addenda, if necessary, that may be needed to document responses to bidders' inquiries. Addenda will be prepared by the Consultant and delivered to the City for distribution.
- Assist the City in reviewing the bids for conformance and possible irregularities with regard to the contract documents.

EXHIBIT B

Schedule of Charges/Payments

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

TASK OR SUBTASK NO.	FEE
Task 1. Project Management and Quality Control	
1.01 Project Management	$ 3,038.00
1.02 Quality Control	$ 3,176.00
Subtotal, Task 1	*$ 6,214.00*
Task 2. Workshops and Meetings	
2.01 Project Kickoff	$ 8,049.00
2.02 50% Design Review	$ 4,864.00
2.03 Pre-bid Meeting	$ 1,718.00
Subtotal, Task 2	*$ 14,631.00*
Task 3. Preliminary Design Confirmation	
3.01 Review H2S data	$ 994.00
3.02 Solicit Revised Equipment Cost	$ 461.00
Subtotal, Task 3	*$ 1,455.00*
Task 4. Detailed Design	
4.01 Topographic Survey	$ 5,102.00
4.02 Prepare Construction Cost Estimate	$ 3,362.00
4.03 50% Design Drawings	$ 21,444.00
4.04 90% Design Drawings	$ 21,844.00
4.05 Final Design Drawings	$ 15,136.00
Subtotal, Task 4	*$ 66,888.00*
Task 5. Bid Support Services	
5.01 Review Potential Bidder's Questions	$ 4,053.00
5.02 Prepare up to Two Addenda	$ 3,944.00
Subtotal, Task 5	*$ 7,997.00*
TOTAL	**$ 97,185.00**

CONSULTANT'S 2018 BILLING RATE SCHEDULE
(January 1, 2018 through December 31, 2018)

POSITIONS	LABOR CHARGES (DOLLARS PER HR)
ENGINEERING	
Principal/Vice President	$285
Engineering/Scientist/Geologist Manager I / II	$263 / $274
Principal Engineer/Scientist/Geologist I / II	$240 / $254
Senior Engineer/Scientist/Geologist I / II	$214 / $225
Associate Engineer/Scientist/Geologist I / II	$190 / $203
Engineer/Scientist/Geologist I / II	$154 / $178
Engineering Aide	$87
Administrative I / II / III / IV	$78 / $99 / $119 / $131
ENGINEERING TECHNOLOGY	
Engineering Tech Manager I / II	$271 / $281
Principal Tech Specialist I / II	$250 / $260
Senior Tech Specialist I / II	$229 / $239
Senior GIS Analyst	$209
GIS Analyst	$197
Technical Specialist I / II / III / IV	$145 / $166 / $187 / $208
CAD Manager	$166
CAD Designer I / II	$129 / $144
CONSTRUCTION MANAGEMENT	
Senior Construction Manager	$273
Construction Manager I / II / III / IV	$166 / $178 / $190 / $237
Resident Inspector (Prevailing Wage Groups 4 / 3 / 2 / 1)	$144 / $160 / $178 / $185
Apprentice Inspector	$131
CM Administrative I / II	$71 / $95

- Hourly rates include Technology and Communication charges such as general and CAD computer, software, telephone, routine in-house copies/prints, postage, miscellaneous supplies, and other incidental project expenses.
- Outside Services such as vendor reproductions, prints, shipping, and major West Yost reproduction efforts, as well as Engineering Supplies, etc. will be billed at actual cost plus 15%.
- Mileage will be billed at the current Federal Rate and Travel will be billed at cost.
- Subconsultants will be billed at actual cost plus 10%.
- Expert witness, research, technical review, analysis, preparation and meetings billed at 150% of standard hourly rates. Expert witness testimony and depositions billed at 200% of standard hourly rates.
- A Finance Charge of 1.5% per month (an Annual Rate of 18%) on the unpaid balance will be added to invoice amounts if not paid within 45 days from the date of the invoice.

Equipment Charges

EQUIPMENT	BILLING RATES
Gas Detector	$80/day
Hydrant Pressure Gage	$10/day
Hydrant Pressure Recorder, Standard	$40/day
Hydrant Pressure Recorder, Impulse (Transient)	$55/day
Trimble GPS – Geo 7x	$220/day
Vehicle	$10/hour
Water Flow Probe Meter	$20/day
Water Quality Multimeter	$185/day
Well Sounder	$30/day

CONSULTANT'S KEY STAFF AND SUBCONSULTANTS

Consultant's key staff assigned to the Project are as follows:

Team Member Title	Project Role
Dave Anderson	Project Manager
Whitney Sandelin	Assistant Project Manager
Greg Chung	Principal in Charge

If necessary and appropriate, Consultant will employ subconsultants it deems appropriate to the complexity and nature of the required Services. All subconsultants must, if their specialty is licensable, be licensed by the State of California to perform their specific Services. Consultant must obtain City's approval of all subconsultants. Upon City's request, Consultant must provide copies of all subconsultant contract Agreements. Any delegation or subcontracting of any services by Consultant will not operate to relieve Consultant of its responsibilities under this Agreement.

The following subconsultants are authorized to work on the Project:

Firm	Project Role
Mark Thomas	Topographic Survey
Geocon Consultants	Geotechnical Investigation
TJC and Associates	Structural Design
A TEEM Electrical Engineering	Electrical Design

EXHIBIT C

Activity Schedule

Task/Major Milestone	Completion (Weeks Following Authorization to Proceed)
Project Management	21 weeks
Preliminary Design Confirmation	2 weeks
Topographic Survey	8 weeks
Submit 50% Complete Design Submittal (plans, specifications, cost estimate, and technical memoranda)	8 weeks
Submit 90% Complete Design Submittal (plans, specifications, cost estimate, and technical memoranda)	15 weeks
Submit 100% Complete Design Submittal (plans, specifications, cost estimate, and technical memoranda)	21 weeks

EXHIBIT D

Insurance Requirements

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

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

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

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

Commercial General Liability (CGL):

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

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

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

Automobile Liability:

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

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

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

Professional Liability (Errors and Omissions):

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

_X__ Insurance appropriates to the Contractor or Consultant's profession, with limit no less than **$2,000,000** per occurrence or claim, **$2,000,000** aggregate

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

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

Workers' Compensation Insurance:

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

The Contractor or Consultant makes the following certification, required by section 1861 of the California Labor Code:

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

_____

Contractor/Consultant Signature

Builder's Risk (Course of Construction):

___ Insurance utilizing an "All Risk" (Special Perils) coverage form, with limits equal to the completed value of the project and no coinsurance penalty provisions.

Surety Bonds:

___ Contractor shall provide the following Surety Bonds:
1. Bid Bond
2. Performance Bond
3. Payment Bond

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

Contractor's or Consultant's Pollution Legal Liability:

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

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

Other Insurance Provisions:

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

***Additional Insured Status*:**

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

The City, its elected and appointed officials, officers, attorneys, agents, and employees are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor or Consultant or any subcontractors including materials, parts, or equipment furnished in connection with such work or operations, including completed operations. General liability coverage can be provided in the form of an endorsement to the Contractor's or Consultant's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).

The Additional Insured coverage under the Contractor's policy shall be "primary and non-contributory" and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as CG 20 01 04 13.

The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be

endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City (if agreed to in a written contract or agreement) before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

Primary Coverage:

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

For any claims related to this contract, the **Contractor's or Consultant's insurance coverage shall be primary insurance** as respects the City, its elected and appointed officials, officers, attorneys, agents, and employees. Any insurance or self insurance maintained by the City, its elected and appointed officials, officers, attorneys, agents, and employees shall be in excess of the Contractor's or Consultant's insurance and shall not contribute with it.

Builder's Risk (Course of Construction Insurance) (applicable to Construction Contracts only)

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

If the project does not involve new or major reconstruction, at the option of the City, an Installation Floater may be acceptable. For such projects, a Property Installation Floater shall be obtained that provides for the improvement, remodel, modification, alteration, conversion or adjustment to existing buildings, structures, processes, machinery and equipment. The Property Installation Floater shall provide property damage coverage for any building, structure, machinery or equipment damaged, impaired, broken, or destroyed during the performance of the Work, including during transit, installation, and testing at the City's site.

Notice of Cancellation, Suspension or Otherwise Voiding Policies:

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

Waiver of Subrogation:

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

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

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

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

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

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

Completed Operations

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

Acceptability of Insurers:

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

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

1. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.

2. Insurance must be maintained and evidence of insurance must be provided **for at least five (5) years after completion of contract of work.**

3. If coverage is canceled or non-renewed, and not replaced **with another claims-made policy form with a Retroactive Date prior to** the contract effective date, the Contractor or Consultant must purchase "extended reporting" coverage for a minimum of **five (5) years** after completion of work.

4. A copy of the claims reporting requirements must be submitted to the City for review.

5. If the services involve lead-based paint or asbestos identification/remediation, the Contractor's Pollution Liability Policy shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification/remediation, the Contractors Pollution Liability Policy shall not contain a mold exclusion, and the definition of Pollution shall include microbial matter, including mold.

***Subcontractors*:**

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

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

***Verification of Coverage*:**

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

Special Risks or Circumstances

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

***Failure to Comply*:**

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

***Applicability of Coverage*:**

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

WESTYOS-01 FRANCISCON

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 8/24/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0E67768
IOA Insurance Services
3875 Hopyard Road
Suite 200
Pleasanton, CA 94588

CONTACT NAME: Nicole Francisco
PHONE (A/C, No, Ext):
FAX (A/C, No): (925) 416-7869
E-MAIL ADDRESS: Nicole.Francisco@ioausa.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Travelers Property Casualty Company of America	25674
INSURER B : Berkshire Hathaway Specialty Insurance Company	22276
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
West Yost & Associates, Inc.
2020 Research Park Drive
Suite 100
Davis, CA 95618

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC OTHER:	X	X	6802H230404	09/01/2018	09/01/2019	EACH OCCURRENCE $ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) $ 1,000,000 MED EXP (Any one person) $ 10,000 PERSONAL & ADV INJURY $ 1,000,000 GENERAL AGGREGATE $ 2,000,000 PRODUCTS - COMP/OP AGG $ 2,000,000 $	
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY SCHEDULED AUTOS HIRED AUTOS ONLY NON-OWNED AUTOS ONLY	X	X	BA0F41799A	09/01/2018	09/01/2019	COMBINED SINGLE LIMIT (Ea accident) $ 1,000,000 BODILY INJURY (Per person) $ BODILY INJURY (Per accident) $ PROPERTY DAMAGE (Per accident) $ $	
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $			CUP0F420329	09/01/2018	09/01/2019	EACH OCCURRENCE $ 5,000,000 AGGREGATE $ 5,000,000 $	
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N If yes, describe under DESCRIPTION OF OPERATIONS below	N / A	X	UB4J358415	09/01/2018	09/01/2019	X PER STATUTE OTH-ER E.L. EACH ACCIDENT $ 1,000,000 E.L. DISEASE - EA EMPLOYEE $ 1,000,000 E.L. DISEASE - POLICY LIMIT $ 1,000,000	
B	Professional Liab.			47EPP30592801	09/01/2018	09/01/2019	Per Claim	2,000,000
B	Professional Liab.			47EPP30592801	09/01/2018	09/01/2019	Aggregate	2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
General Liability: City of Milpitas and its officers, employees, agents, contractors, consultants, and volunteers as Additional Insureds on Primary & Non-Contributory basis with Waiver of Subrogation included, as required by written contract.
Workers' Compensation: Waiver of Subrogation is in favor of City of Milpitas and its officers, employees, agents, contractors, consultants, and volunteers, as required by written contract.
Auto Liability: City of Milpitas and its officers, employees, agents, contractors, consultants, and volunteers are included as Additional Insureds with Waiver of Subrogation included, as required by written contract.
Professional Liability Deductible: $150,000
Professional Liability Retroactive Date: 6/7/1990

CERTIFICATE HOLDER

City of Milpitas
Attn: Steve Erickson, CIP Manager
455 East Calaveras Boulevard
Milpitas, CA 95035

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Lesie Pancoast

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED (ARCHITECTS, ENGINEERS AND SURVEYORS)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following is added to **WHO IS AN INSURED (Section II)**:

Any person or organization that you agree in a "contract or agreement requiring insurance" to include as an additional insured on this Coverage Part, but only with respect to liability for "bodily injury", "property damage" or "personal injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

a. In the performance of your ongoing operations;

b. In connection with premises owned by or rented to you; or

c. In connection with "your work" and included within the "products-completed operations hazard".

Such person or organization does not qualify as an additional insured for "bodily injury", "property damage" or "personal injury" for which that person or organization has assumed liability in a contract or agreement.

The insurance provided to such additional insured is limited as follows:

d. This insurance does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this Coverage Part.

e. This insurance does not apply to the rendering of or failure to render any "professional services".

f. The limits of insurance afforded to the additional insured shall be the limits which you agreed in that "contract or agreement requiring insurance" to provide for that additional insured, or the limits shown in the Declarations for this Coverage Part, whichever are less. This endorsement does not increase the limits of insurance stated in the **LIMITS OF INSURANCE (Section III)** for this Coverage Part.

B. The following is added to Paragraph **a.** of **4. Other Insurance** in **COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV)**:

However, if you specifically agree in a "contract or agreement requiring insurance" that the insurance provided to an additional insured under this Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such additional insured which covers such additional insured as a named insured, and we will not share with the other insurance, provided that:

(1) The "bodily injury" or "property damage" for which coverage is sought occurs; and

(2) The "personal injury" for which coverage is sought arises out of an offense committed;

after you have entered into that "contract or agreement requiring insurance". But this insurance still is excess over valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the insured when the insured is an additional insured under any other insurance.

C. The following is added to Paragraph **8. Transfer Of Rights Of Recovery Against Others To Us** in **COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV)**:

We waive any rights of recovery we may have against any person or organization because of payments we make for "bodily injury", "property damage" or "personal injury" arising out of "your work" performed by you, or on your behalf, under a "contract or agreement requiring insurance" with that person or organization. We waive these rights only where you have agreed to do so as part of the "contract or agreement requiring insurance" with such person or organization entered into by you before, and in effect when, the "bodily

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WESTYOS-01 FRANCISCON

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 8/24/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0E67768
IOA Insurance Services
3875 Hopyard Road
Suite 200
Pleasanton, CA 94588

CONTACT NAME: Nicole Francisco
PHONE (A/C, No, Ext):
FAX (A/C, No): (925) 416-7869
E-MAIL ADDRESS: Nicole.Francisco@ioausa.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Travelers Property Casualty Company of America	25674
INSURER B : Berkshire Hathaway Specialty Insurance Company	22276
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
West Yost & Associates, Inc.
2020 Research Park Drive
Suite 100
Davis, CA 95618

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE X OCCUR	X	X	6802H230404	09/01/2018	09/01/2019	DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 1,000,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	POLICY X PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	OTHER:							$
A	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	X ANY AUTO	X	X	BA0F41799A	09/01/2018	09/01/2019	BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR						EACH OCCURRENCE	$ 5,000,000
	EXCESS LIAB CLAIMS-MADE			CUP0F420329	09/01/2018	09/01/2019	AGGREGATE	$ 5,000,000
	DED RETENTION $							$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						X PER STATUTE OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N	N / A	X	UB4J358415	09/01/2018	09/01/2019	E.L. EACH ACCIDENT	$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	$ 1,000,000
B	Professional Liab.			47EPP30592801	09/01/2018	09/01/2019	Per Claim	2,000,000
B	Professional Liab.			47EPP30592801	09/01/2018	09/01/2019	Aggregate	2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
General Liability: City of Milpitas and its officers, employees, agents, contractors, consultants, and volunteers as Additional Insureds on Primary & Non-Contributory basis with Waiver of Subrogation included, as required by written contract.
Workers' Compensation: Waiver of Subrogation is in favor of City of Milpitas and its officers, employees, agents, contractors, consultants, and volunteers, as required by written contract.
Auto Liability: City of Milpitas and its officers, employees, agents, contractors, consultants, and volunteers are included as Additional Insureds with Waiver of Subrogation included, as required by written contract.
Professional Liability Deductible: $150,000
Professional Liability Retroactive Date: 6/7/1990

CERTIFICATE HOLDER

City of Milpitas
Attn: Steve Erickson, CIP Manager
455 East Calaveras Boulevard
Milpitas, CA 95035

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Lesie Pencoast

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED (ARCHITECTS, ENGINEERS AND SURVEYORS)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following is added to **WHO IS AN INSURED (Section II)**:

Any person or organization that you agree in a "contract or agreement requiring insurance" to include as an additional insured on this Coverage Part, but only with respect to liability for "bodily injury", "property damage" or "personal injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

a. In the performance of your ongoing operations;

b. In connection with premises owned by or rented to you; or

c. In connection with "your work" and included within the "products-completed operations hazard".

Such person or organization does not qualify as an additional insured for "bodily injury", "property damage" or "personal injury" for which that person or organization has assumed liability in a contract or agreement.

The insurance provided to such additional insured is limited as follows:

d. This insurance does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this Coverage Part.

e. This insurance does not apply to the rendering of or failure to render any "professional services".

f. The limits of insurance afforded to the additional insured shall be the limits which you agreed in that "contract or agreement requiring insurance" to provide for that additional insured, or the limits shown in the Declarations for this Coverage Part, whichever are less. This endorsement does not increase the limits of insurance stated in the **LIMITS OF INSURANCE (Section III)** for this Coverage Part.

B. The following is added to Paragraph **a.** of **4. Other Insurance** in **COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV)**:

However, if you specifically agree in a "contract or agreement requiring insurance" that the insurance provided to an additional insured under this Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such additional insured which covers such additional insured as a named insured, and we will not share with the other insurance, provided that:

(1) The "bodily injury" or "property damage" for which coverage is sought occurs; and

(2) The "personal injury" for which coverage is sought arises out of an offense committed;

after you have entered into that "contract or agreement requiring insurance". But this insurance still is excess over valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the insured when the insured is an additional insured under any other insurance.

C. The following is added to Paragraph **8. Transfer Of Rights Of Recovery Against Others To Us** in **COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV)**:

We waive any rights of recovery we may have against any person or organization because of payments we make for "bodily injury", "property damage" or "personal injury" arising out of "your work" performed by you, or on your behalf, under a "contract or agreement requiring insurance" with that person or organization. We waive these rights only where you have agreed to do so as part of the "contract or agreement requiring insurance" with such person or organization entered into by you before, and in effect when, the "bodily

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injury" or "property damage" occurs, or the "personal injury" offense is committed.

D. The following definition is added to **DEFINITIONS (Section V):**

"Contract or agreement requiring insurance" means that part of any contract or agreement under which you are required to include a person or organization as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs, and the "personal injury" is caused by an offense committed:

a. After you have entered into that contract or agreement;

b. While that part of the contract or agreement is in effect; and

c. Before the end of the policy period.

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injury" or "property damage" occurs, or the "personal injury" offense is committed.

D. The following definition is added to **DEFINITIONS (Section V)**:

"Contract or agreement requiring insurance" means that part of any contract or agreement under which you are required to include a person or organization as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs, and the "personal injury" is caused by an offense committed:

a. After you have entered into that contract or agreement;

b. While that part of the contract or agreement is in effect; and

c. Before the end of the policy period.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

OTHER INSURANCE – ADDITIONAL INSUREDS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

PROVISIONS

COMMERCIAL GENERAL LIABILITY CONDITIONS (Section **IV**), Paragraph **4. (Other Insurance)**, is amended as follows:

1. The following is added to Paragraph **a. Primary Insurance:**

   However, if you specifically agree in a written contract or written agreement that the insurance provided to an additional insured under this Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such additional insured which covers such additional insured as a named insured, and we will not share with that other insurance, provided that:

   a. The "bodily injury" or "property damage" for which coverage is sought occurs; and

   b. The "personal injury" or "advertising injury" for which coverage is sought arises out of an offense committed

   subsequent to the signing and execution of that contract or agreement by you.

2. The first Subparagraph **(2)** of Paragraph **b. Excess Insurance** regarding any other primary insurance available to you is deleted.

3. The following is added to Paragraph **b. Excess Insurance**, as an additional subparagraph under Subparagraph **(1)**:

   That is available to the insured when the insured is added as an additional insured under any other policy, including any umbrella or excess policy.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AUTO COVERAGE PLUS ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to the Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

A. BLANKET ADDITIONAL INSURED
B. EMPLOYEE HIRED AUTO
C. EMPLOYEES AS INSURED
D. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS
E. TRAILERS – INCREASED LOAD CAPACITY
F. HIRED AUTO PHYSICAL DAMAGE
G. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT
H. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT – INCREASED LIMIT
I. WAIVER OF DEDUCTIBLE – GLASS
J. PERSONAL PROPERTY
K. AIRBAGS
L. AUTO LOAN LEASE GAP
M. BLANKET WAIVER OF SUBROGATION

A. BLANKET ADDITIONAL INSURED

The following is added to Paragraph **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Section II.

B. EMPLOYEE HIRED AUTO

1. The following is added to Paragraph **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

   An "employee" of yours is an "insured" while operating a covered "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

2. The following replaces Paragraph **b.** in **B.5., Other Insurance**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

   b. For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

   (1) Any covered "auto" you lease, hire, rent or borrow; and

   (2) Any covered "auto" hired or rented by your "employee" under a contract in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

   However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

C. EMPLOYEES AS INSURED

The following is added to Paragraph **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

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Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

D. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS

1. The following replaces Paragraph **A.2.a.(2)** of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

   (2) Up to $3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

2. The following replaces Paragraph **A.2.a.(4)** of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

   (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to $500 a day because of time off from work.

E. TRAILERS – INCREASED LOAD CAPACITY

The following replaces Paragraph **C.1.** of **SECTION I – COVERED AUTOS**:

1. "Trailers" with a load capacity of 3,000 pounds or less designed primarily for travel on public roads.

F. HIRED AUTO PHYSICAL DAMAGE

The following is added to Paragraph **A.4., Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Hired Auto Physical Damage Coverage

If hired "autos" are covered "autos" for Covered Autos Liability Coverage but not covered "autos" for Physical Damage Coverage, and this policy also provides Physical Damage Coverage for an owned "auto", then the Physical Damage Coverage is extended to "autos" that you hire, rent or borrow subject to the following:

(1) The most we will pay for "loss" to any one "auto" that you hire, rent or borrow is the lesser of:

(a) $50,000;

(b) The actual cash value of the damaged or stolen property as of the time of the "loss"; or

(c) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

(2) An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total "loss".

(3) If a repair or replacement results in better than like kind or quality, we will not pay for the amount of betterment.

(4) A deductible equal to the highest Physical Damage deductible applicable to any owned covered "auto".

(5) This Coverage Extension does not apply to:

(a) Any "auto" that is hired, rented or borrowed with a driver; or

(b) Any "auto" that is hired, rented or borrowed from your "employee".

G. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT

The following replaces the first sentence in Paragraph **A.4.a., Transportation Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

We will pay up to $50 per day to a maximum of $1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

H. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT – INCREASED LIMIT

Paragraph **C.1.b.** of **SECTION III – PHYSICAL DAMAGE COVERAGE** is deleted.

I. WAIVER OF DEDUCTIBLE – GLASS

The following is added to Paragraph **D., Deductible**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

No deductible for a covered "auto" will apply to glass damage if the glass is repaired rather than replaced.

J. PERSONAL PROPERTY

The following is added to Paragraph **A.4., Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Personal Property Coverage

We will pay up to $400 for "loss" to wearing apparel and other personal property which is:

(1) Owned by an "insured"; and

(2) In or on your covered "auto".

This coverage only applies in the event of a total theft of your covered "auto".

No deductibles apply to Personal Property coverage.

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K. AIRBAGS

The following is added to Paragraph **B.3., Exclusions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Exclusion **3.a.** does not apply to "loss" to one or more airbags in a covered "auto" you own that inflate due to a cause other than a cause of "loss" set forth in Paragraphs **A.1.b.** and **A.1.c.**, but only:

a. If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;

b. The airbags are not covered under any warranty; and

c. The airbags were not intentionally inflated.

We will pay up to a maximum of $1,000 for any one "loss".

L. AUTO LOAN LEASE GAP

The following is added to Paragraph **A.4., Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Auto Loan Lease Gap Coverage for Private Passenger Type Vehicles

In the event of a total "loss" to a covered "auto" of the private passenger type shown in the Schedule or Declarations for which Physical Damage Coverage is provided, we will pay any unpaid amount due on the lease or loan for such covered "auto" less the following:

(1) The amount paid under the Physical Damage Coverage Section of the policy for that "auto"; and

(2) Any:

(a) Overdue lease or loan payments at the time of the "loss";

(b) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;

(c) Security deposits not returned by the lessor;

(d) Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and

(e) Carry-over balances from previous loans or leases.

M. BLANKET WAIVER OF SUBROGATION

The following replaces Paragraph **A.5., Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

5. **Transfer Of Rights Of Recovery Against Others To Us**

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of the operations contemplated by such contract. The waiver applies only to the person or organization designated in such contract.

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XX. SUBROGATION

In the event of any payment under this Insurance, the Underwriters shall be subrogated to all the **Insureds'** rights of recovery therefore against any person or organization, and the **Insured** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The **Insured** shall do nothing to prejudice such rights. The Underwriters agrees to waive its rights of recovery against any client of the **Named Insured** for a **Claim** which is covered pursuant to Insuring Clause I.A.1. and/or I.A.2 of this Policy to the extent the **Named Insured** had, prior to such **Claim**, a written agreement to waive such rights. Any recoveries shall be applied first to subrogation expenses, second to **Damages**, **Claims Expenses** and **Privacy Breach Response Services** paid by the Underwriters, and third to the Each **Claim** Deductible or Each Incident Deductible (as applicable). Any additional amounts recovered shall be paid to the **Named Insured**.

XXI. ENTIRE AGREEMENT

By acceptance of this Policy, all **Insureds** agree that this Policy embodies all agreements existing between them and the Underwriters relating to this Insurance. Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this Policy or estop the Underwriters from asserting any right under the terms of this Policy; nor shall the terms of this Policy be waived or changed, except by written endorsement issued to form a part of this Policy, signed by the Underwriters.

XXII. VALUATION AND CURRENCY

All premiums, limits, deductibles, **Damages** and other amounts under this Policy are expressed and payable in the currency of the United States. If judgment is rendered, settlement is denominated or another element of **Damages** under this Policy is stated in a currency other than United States dollars or if **Claims Expenses** are paid in a currency other than United States dollars, payment under this Policy shall be made in United States dollars at the rate of exchange published in the *Wall Street Journal* on the date the judgment becomes final or payment of the settlement or other element of **Damages** is due or the date such **Claims Expenses** are paid.

XXIII. BANKRUPTCY

Bankruptcy or insolvency of the **Insured** shall not relieve the Underwriters of their obligations nor deprive the Underwriters of its rights or defenses under this Policy.

TRAVELERS

ONE TOWER SQUARE
HARTFORD, CT 06183

WORKERS COMPENSATION
AND
EMPLOYERS LIABILITY POLICY

ENDORSEMENT WC 99 03 76 (A) – 001

POLICY NUMBER: UB4J358415

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT – CALIFORNIA (BLANKET WAIVER)

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule.

The additional premium for this endorsement shall be 03.00 % of the California workers' compensation premium.

Schedule

Person or Organization	Job Description
ANY PERSON OR ORGANIZATION FOR WHICH THE INSURED HAS AGREED BY WRITTEN CONTRACT EXECUTED PRIOR TO LOSS TO FURNISH THIS WAIVER.	

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective Policy No. UB4J358415 Endorsement No.

Insured West Yost & Associates, Inc. Premium

Insurance Company Countersigned by _____

ST ASSIGN:

REQUEST FOR SIGNATURES COVER SHEET

CITY MANAGER'S OFFICE
RECEIVED
NOV 1 8 2010
BY: MC

Date sent to: CAO: Recd 11/14/18 Finance Dir: CMO:

Approvals: TTN (DH-name & initial) Chris D (City Attorney (initial)) Will F (Finance Director (initial)) MC Julie Edmonds-Mares (City Manager (initial))

From (Staff Name)/Ext/Dept: Tony Ndah Date from CMO to staff:

Contractor / Vendor Name: West Yost Associates

What is the contract for? Design Services - Main Lift Pump Station Odor Emissions Control Facility

Project Name / Number CP6130 - Main Lift Station Odor Emissions Control

Terms of the Contract: Start date: _____ End date: _____ Extension date: _____

Is contract subject to renewal? YES _____ # of Years _____ Compensation per contract term

NO

Is RFP process required? YES _____ RFP Issue Date _____ RFP Award Date

NO Total # of RFPs received: _____

Initial Contract Amount: $ 98,000.00 **Balance from initial contract:**

(IF) Amendment - Amount? **(IF) Amendment - Amount?**

Total contract amt w/amends: **$ 98,000.00** **New bal. amnt incl amends:** $ 0.00

Did the Initial Contract go to Council for Approval? YES ✔ NO _____ Council meeting date

Did the Amendment/s go to Council for Approval? YES ✔ NO _____ Council meeting date

SOURCE OF FUNDING

Operating Budget _____ specify budget item line

CIP CP6130-Main Lift Odor Emissions Control specify CIP # / Name

PJ Reimbursement _____ specify Developer Name / PJ # (may still need Budget Appropriation)

Grant _____ specify Grant Name

Grant Date _____ Council mtg date (Grants require pre-approval from Council)

Other _____ specify other funding source

All info verified by Rachelle

CDBG _____ specify CDBG Fiscal Year

☐ General Fund ☐ Water Fund ☐ Sewer Fund ☐ Equipment Fund ☐ Housing Fund ☐ TASP

Is Budget Appropriation needed? YES _____ Council meeting date _____ From: budget code _____ To: budget code

NO

CITY OF MILPITAS
AGENDA REPORT
(AR)

Item Title:	**Approve and Authorize the City Manager to Execute a First Amendment to the All-Inclusive Playground Funding Agreement with the County of Santa Clara for accessible playgrounds at McCandless Park and Mabel Mattos Elementary School**
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	1/19/2021
Staff Contact:	**Renee Lorentzen, 408-586-3409**
Recommendation:	Approve and Authorize the City Manager to Execute a First Amendment to the All-Inclusive Playground Funding Agreement with the County of Santa Clara for accessible playgrounds at McCandless Park and Mabel Mattos Elementary School joint use area

Background:
On January 9, 2019, City Council authorized the City Manager to execute a three-year funding agreement with the County of Santa Clara as part of the acceptance of an All-Inclusive Playground Grant award in the amount of $779,820. Funds from the grant are being used for all-inclusive playgrounds at the new McCandless Park and a joint use area at the Mabel Mattos Elementary School. These amenities aim to serve people of all ages and all abilities.

Analysis:
The proposed First Amendment to the agreement gives the City of Milpitas a twelve-month extension to complete the park and joint use area playgrounds. The additional time needed to complete the accessible park playground areas are due to unforeseeable project delays related to COVID-19 and delays with Milpitas Unified School District's planned improvement project at Mabel Mattos Elementary School. Due to the proximity of the park and school, the timing of construction for both projects needs to be coordinated. Under the proposed First Amendment, playground areas will need to be completed and open to the public by January 9, 2023.

Fiscal Impact:
An appropriation of $779,820 to the McCandless Park CIP Project No. 5102 Phase 7 (Construction) is approved and included in the current CIP. The adopted five-year CIP has $10,375,000, of which $779,820 is counted as the 100% match required for the grant to be used specifically for the all-inclusive playgrounds.

No additional budget needs to be appropriated into the project.

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

Recommendation:

Approve and Authorize the City Manager to Execute a First Amendment to the All-Inclusive Playground Funding Agreement with the County Of Santa Clara for accessible playgrounds at McCandless Park and Mabel Mattos Elementary School.

Attachments:

1. First Amendment to the All-Inclusive Playground Funding Agreement by and Between the City of Milpitas and the County of Santa Clara
2. Original Agreement to the All-Inclusive Playground Funding Agreement by and Between the City of Milpitas and the County of Santa Clara

FIRST AMENDMENT TO THE ALL-INCLUSIVE PLAYGROUND FUNDING AGREEMENT BY AND BETWEEN THE CITY OF MILPITAS AND THE COUNTY OF SANTA CLARA

The All-Inclusive Playground Funding Agreement By and Between The City of Milpitas, a municipal corporation, and the County of Santa Clara, a political subdivision of the State of California ("County"), effective January 9, 2019 ("Funding Agreement" or "Agreement"), is amended as set forth below, effective on the date of the last signature below. The County of Santa Clara and the City of Milpitas are sometimes referred to herein individually as a "Party" or collectively as the "Parties."

RECITALS

WHEREAS, on January 9, 2019, the Parties entered into a Funding Agreement for the purpose of providing the terms of the grant funding for the construction and development of the McCandless Park and Mabel Mattos Elementary School all-inclusive playgrounds ("Project"), located at 1700/1750 McCandless Drive;

WHEREAS, due to unforeseeable project delays related to Covid-19, the City of Milpitas requests a twelve (12) month extension to the three (3) year grant performance period of January 9, 2019 through January 9, 2022;

WHEREAS, the Parties wish to enter into this First Amendment to establish the terms of the Agreement with this twelve (12) month extension of the grant performance period.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the foregoing and as follows:

1. **Amendments:**
    a. The following language on page 2 of the Agreement shall be deleted: "The GRANTEE may utilize the Grant Funds specified in SECTION 4 of this Agreement to complete the Project within three years from the Effective Date of this Agreement and shall return any unspent funds at the end of this three-year period."

    This language shall be replaced with the following: "The GRANTEE may utilize the Grant Funds specified in SECTION 4 of this Agreement to complete the Project within four years from the Effective Date of this Agreement and shall return any unspent funds at the end of this four-year period."

    b. The following language in Section 2.1 of the Agreement shall be deleted: "The GRANTEE will ensure that the Project is completed and operated in compliance with all requirements of the All-Inclusive Playground Grant Program Procedural Guide, and fully constructed and operational within three-years from the date of execution of this Agreement, and GRANTEE shall act promptly and without delay with respect to such matters in relation to the Project in accordance with the

following..."

This language shall be replaced with the following "The GRANTEE will ensure that the Project is completed and operated in compliance with all requirements of the All-Inclusive Playground Grant Program Procedural Guide, and fully constructed and operational within four years from the date of execution of this Agreement, and GRANTEE shall act promptly and without delay with respect to such matters in relation to the Project in accordance with the following..."

c. The following language in Section 4.2 of the Agreement shall be deleted: "Any Grant Funds not expended pursuant to the terms and conditions of this Agreement shall be returned to the COUNTY immediately. In addition, if, for whatever reason, the GRANTEE is unable to ensure the completion of the construction of the Project or is unable to ensure that the all-inclusive playground is operated, managed, and maintained for twenty (20) consecutive years from the date of Project completion (which date must be no later than 3 years from the effective date of this Agreement), then GRANTEE shall immediately refund to the COUNTY all the Grant Funds, even if such funds have already been expended for the Project."

   This language shall be replaced with the following "Any Grant Funds not expended pursuant to the terms and conditions of this Agreement shall be returned to the COUNTY immediately. In addition, if, for whatever reason, the GRANTEE is unable to ensure the completion of the construction of the Project or is unable to ensure that the all-inclusive playground is operated, managed, and maintained for twenty (20) consecutive years from the date of Project completion (which date must be no later than 4 years from the effective date of this Agreement), then GRANTEE shall immediately refund to the COUNTY all the Grant Funds, even if such funds have already been expended for the Project."

2. **Counterparts.** This Agreement may be executed in any number of counterparts, and all of such counterparts so executed together shall be deemed to constitute one and the same agreement, and each such counterpart shall be deemed to be an original provided all of the Parties have fully executed the Agreement.

3. **Contract Execution.** Unless otherwise prohibited by law, all Parties agree and intend that an electronic copy of this signed Agreement, or an electronically signed version of this Agreement, shall have the same force and legal effect as if executed with an original ink signature. The Parties each represent, warrant, and agree that signatures on the documents identified in this section, whether in ink or electronic, by their respective signatories are intended to authenticate such signatures and to give rise to a valid, enforceable, and fully effective agreement when so executed by the Parties.

Except as provided herein, all other provisions of the Funding Agreement shall remain in full force and effect. In the event of a conflict between the Funding Agreement and this First Amendment, the First Amendment shall control.

By signing below, each signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity, and that he/she has the authority to bind the entity listed below to contractual obligations.

SIGNATORIES:

CITY OF MILPITAS

_____ _____

Steven G. McHarris Date
City Manager

APPROVED AS TO FORM:

_____

Christopher J. Diaz
City Attorney

COUNTY OF SANTA CLARA

APPROVED BY:

_____ _____

Sylvia Gallegos Date
Deputy County Executive

APPROVED AS TO FORM
& LEGALITY:

_____

Tony LoPresti
Assistant County Counsel

ALL-INCLUSIVE PLAYGROUND FUNDING AGREEMENT
BY AND BETWEEN
THE CITY OF MILPITAS AND THE COUNTY OF SANTA CLARA

This Funding Agreement ("Agreement") is made and entered into by and between the COUNTY of SANTA CLARA, a political subdivision of the State of California (hereinafter referred to as the "COUNTY") and the City of Milpitas, a municipal corporation (hereinafter referred to as "GRANTEE"). The COUNTY and the GRANTEE are each a "Party" and collectively the "Parties" to this Agreement.

RECITALS

WHEREAS, the GRANTEE signed and submitted an all-inclusive playground application ("Application") to the COUNTY requesting grant funding to assist with the construction and development of an all-inclusive playground, which is incorporated herein and made a part of this Agreement by this reference (Exhibit B). COUNTY materially relies upon the statements and documentation submitted by GRANTEE in said Application in its entirety and based upon this material reliance COUNTY is willing to enter into this Agreement with GRANTEE; and,

WHEREAS, the all-inclusive playground (the "Project") is located at 1700/1750 McCandless Drive (the "Premises) in the city of Milpitas, County of Santa Clara, and will be open to the general public on a continuous non-interrupted basis for no less than twenty years from the date of Project completion; and,

WHEREAS, GRANTEE represents and warrants to COUNTY that GRANTEE, by itself and through its contractors and consultants, has experience, expertise, financial capability and ability to complete the Project contemplated herein and to fully perform all obligations and responsibilities under this Agreement to completion; and,

WHEREAS, the Board of Supervisors, wishes to assist the GRANTEE in completing the Project which serves as an all-inclusive playground on a continuous uninterrupted basis for at least 20 years (collectively, the "Public Purpose"); and,

WHEREAS, the Board of Supervisors has approved the award of Grant Funds (as defined herein below) to GRANTEE provided GRANTEE complies with all terms and conditions of this Agreement and has found that the Project will serve a public purpose of general COUNTY interest as an all-inclusive playground; and,

WHEREAS, the award of the Grant Funds is contingent upon GRANTEE complying with all terms and conditions of this Agreement, which includes GRANTEE satisfying all of the Grant Scope/Cost Estimate Form representations contained in Appendix G of GRANTEE's Application, which is included within Exhibit B herein below.

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NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficient of which are hereby acknowledge, COUNTY and GRANTEE agree to the foregoing and as follows:

1. All Recitals contained herein above are incorporated into and made a part of this Agreement as terms and conditions.
2. The GRANTEE may utilize the Grant Funds specified in SECTION 4 of this Agreement to complete the Project within three years from the Effective Date of this Agreement and shall return any unspent funds at the end of this three-year period.
3. The GRANTEE shall acknowledge the COUNTY's contribution to the Project by placing a plaque in public view within (project place) identifying the County of Santa Clara as a sponsor of the Project; The plaque shall first be reviewed and approved by COUNTY before it is installed; and,
4. The GRANTEE warrants and represents that it shall expend all Grant Funds in accordance with the terms of this AGREEMENT and the All-Inclusive Playground Grant Program Procedural Guide (the "Guide") (Exhibit A) attached and incorporated herein by this reference.

SECTION 1. PUBLIC PURPOSES

GRANTEE represents and warrants that it will use best efforts to secure all the requisite rights and entitlements from public agencies, local government and the property owner (if any) to construct the Project. GRANTEE further represents and warrants that it will ensure that at all times the subject Project is open and available to the public on an equal basis, and accessible by all members of the public, as an all-inclusive playground free of charge.

SECTION 2. GRANTEE RESPONSIBILITIES

COUNTY funding is subject to the following conditions:

(1) **Responsibility of the GRANTEE**. The GRANTEE will ensure that the Project is completed and operated in compliance with all requirements of the All-Inclusive Playground Grant Program Procedural Guide, and fully constructed and operational within three-years from the date of execution of this Agreement, and GRANTEE shall act promptly and without delay with respect to such matters in relation to the Project in accordance with the following:

a. Comply with all laws and Guide requirements, including but not limited to all environmental, health and safety laws and all provisions of the public contracts code, where applicable.

b. Comply with best industry practices and manufacturer design and construction specifications for the Project.

c. Prepare plans and specifications for the Project and construction of the Project using qualified persons with the requisite skills and expertise to complete the Project.

d. Prepare all environmental documents required for completion of the Project pursuant to the California Environmental Quality Act, National Environmental Policy Act, and any rules and/or regulations promulgated thereunder, where applicable. No funds will be dispersed until these environmental requirements have been fully met.

e. Secure all approvals, permits, and certifications by government agencies required for completion of the Project, where applicable.

f. Secure performance and payment bonds in 100% of the amount of the construction contract to assure satisfactory completion of the Project, and the payment of laborers and suppliers of material.

g. Each year, during construction of the Project, GRANTEE shall cause a report to be made to the County Board of Supervisors showing progress made towards completion of the Project.

(2) **Capital Contributions by Parties to AGREEMENT**

a. GRANTEE shall ensure that any funds in excess of the Grant Funds needed to complete the Project are secured by GRANTEE and not by COUNTY.

b. No Grant Funds may be used for office space, salary, or administrative expenses incidental to the Project, or for professional planning or architectural design fees, or pre-construction services.

(3) **Budget Contingency**. Performance and/or payment by the COUNTY pursuant to this Agreement is contingent upon the appropriation of sufficient funds by the COUNTY for the work covered by this Agreement. If funding is reduced or deleted by the COUNTY for the work covered by this Agreement, the COUNTY may, at its option and without penalty or liability, terminate this Agreement or offer an amendment to this Agreement indicating the reduced amount.

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SECTION 3. OPERATION AND MAINTENANCE

Upon completion of PROJECT construction, the GRANTEE warrants, represents and agrees that it, or its authorized representatives, will operate, manage, and maintain the PROJECT for a period of at least 20 consecutive years from the effective date of this AGREEMENT, for Public purposes, open to the public and for the benefit of the general public. Ongoing operation, management, and maintenance is solely the responsibility of the GRANTEE acting by itself or through its authorized representatives.

SECTION 4. COMPENSATION

(1) The COUNTY will provide the GRANTEE seven hundred seventy nine thousand, eight hundred and twenty dollars ($779,820.00) ("Grant Funds") only in accordance with the reimbursement provisions of the All-Inclusive Playground Grant Program Procedural Guide. GRANTEE shall thoroughly review and develop an understanding of the obligations set out in the All-Inclusive Playground Grant Program Procedural Guide, including but not limited to the "Reimbursements" and "Final Reimbursement" sections.

(2) Any Grant Funds not expended pursuant to the terms and conditions of this Agreement shall be returned to the COUNTY immediately. In addition, if, for whatever reason, the GRANTEE is unable to ensure the completion of the construction of the Project or is unable to ensure that the all-inclusive playground is operated, managed, and maintained for twenty (20) consecutive years from the date of Project completion (which date must be no later than 3 years from the effective date of this Agreement), then GRANTEE shall immediately refund to the COUNTY all the Grant Funds, even if such funds have already been expended for the Project.

SECTION 5. RECORDS RETENTION AND AUDIT

(1) GRANTEE will maintain Project records for audit purposes for three (3) years after completion of the PROJECT or until all claims are settled, whichever occurs last. All records and data shall be available to COUNTY upon reasonable notice within five (5) working days of a request by COUNTY. GRANTEE shall repay COUNTY with interest at the rate earned on COUNTY's investments for any unauthorized activities disclosed by audit or inspection, including the cost of the audit, within thirty (30) days of demand by COUNTY.

(2) Audits may be conducted at the discretion of the Santa Clara County Parks and Recreation Department. The audits may take two forms; a walk through inspection of the Project and informal review of the Project records by Parks and Recreation Department staff, and/or a formal financial audit conducted by either COUNTY staff or a consultant. GRANTEE should be prepared for either or both types of audits. A walk through inspection may occur at the beginning of a Project, prior to approval of the final reimbursement

request, or at periodic intervals throughout the Project. A formal financial audit may occur as deemed necessary by the Santa Clara County Parks and Recreation Department.

SECTION 6. INDEMNIFICATION.

GRANTEE covenants, warrants, represents and agrees that it shall indemnify, defend, save and hold harmless the COUNTY and all of its employees, officers, directors, attorneys, agents, contractors, successors and assigns in accordance with the indemnification provisions of Exhibit C, which is incorporated herein and made a part of this agreement by this reference.

SECTION 7. TERM OF AGREEMENT

This Agreement is effective as of the date of its full execution and shall terminate twenty years from the date of Project completion, unless otherwise terminated earlier pursuant to the terms of this Agreement.

SECTION 8. NOTICES

Any notices provided herein shall be deemed received when mailed or delivered to the respective parties addressed as follows:

COUNTY OF SANTA CLARA	CITY OF MILPITAS
Don Rocha, [redacted] Director Parks and Recreation Department 298 Garden Hill Drive Los Gatos, CA 95032 (408) 355-2220	Renee Lorentzen, Recreation Director 455 E. Calaveras Blvd., Milpitas, CA 95035 (408) 586-3409

SECTION 9. MISCELLANEOUS

(1) Entire Agreement. This document represents the entire agreement between the parties in relation to the subject matter contained herein. All prior negotiations and written and/or oral agreements between the parties with respect to the subject matter of the agreement are merged into this Agreement.

(2) Amendments. This Agreement may only be amended by a written instrument signed by authorized representatives of both parties.

(3) Conflict of Interest. GRANTEE shall comply, and require its contractors, employees, agents, representatives, subcontractors and consultants to comply, with all applicable (i) requirements governing avoidance of impermissible client conflicts; and (ii) federal, state and local conflict of interest laws and regulations including, without limitation,

California Government Code section 1090 et. seq., the California Political Reform Act (California Government Code section 87100 et. seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations section 18700 et. seq.). Failure to do so constitutes a material breach of this Agreement and is grounds for immediate termination of this Agreement by the COUNTY.

a. In accepting this Agreement, GRANTEE covenants, warrants, represents, and agrees that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of this Agreement. GRANTEE further covenants that, in the performance of this Agreement, it will not employ any contractor, consultant or person having such an interest. GRANTEE, including but not limited to GRANTEE's employees, contractors, subcontractors and consultants, may be subject to the disclosure and disqualification provisions of the California Political Reform Act of 1974 (the "Act"), that (1) requires such persons to disclose economic interests that may foreseeably be materially affected by the work performed under this Agreement, and (2) prohibits such persons from making or participating in making decisions that will foreseeably financially affect such interests.

b. If the disclosure provisions of the Political Reform Act are applicable to any individual providing service under this Agreement, GRANTEE shall ensure that all such individuals identified pursuant to this section understand that they are subject to the Act and shall conform to all requirements of the Act and other applicable laws and regulations including, as required, filing of Statements of Economic Interests within 30 days of commencing any work pursuant to this Agreement, annually by April 1, and within 30 days of their termination or cessation of work pursuant to this Agreement.

(4) Governing Law, Venue. This Agreement, and all the rights and duties of the parties arising from or relating in any way to the subject matter of this Agreement or the transaction(s) contemplated by it, shall be governed by, construed, and enforced in accordance with the law of the State of California (excluding any conflict of laws provisions that would refer to and apply the substantive laws of another jurisdiction). Any suit or proceeding relating to this Agreement, including arbitration proceedings, shall be brought only in Santa Clara County, California. EACH OF THE PARTIES CONSENT TO THE EXCLUSIVE PERSONAL JURISDICTION AND VENUE OF THE COURTS, STATE AND FEDERAL, LOCATED IN SANTA CLARA COUNTY, CALIFORNIA.

(5) Assignment. No assignment of this Agreement or of any of the rights or obligations hereunder shall be valid without the prior written consent of COUNTY.

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(6) Waiver. No delay or omission by either party hereto to exercise any right occurring upon any noncompliance or default by the other party with respect to any of the terms of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions, or agreements to be performed by the other shall not be construed to be a waiver of any succeeding breach thereof or of any covenant, condition or agreement herein contained.

(7) Non-Discrimination. GRANTEE represents, warrants and agrees that it and its contractors, consultants and representatives shall comply with all applicable Federal, State, and local laws and regulations including Santa Clara County's policies concerning nondiscrimination and equal opportunity in contracting. Such laws include but are not limited to the following: Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; The Rehabilitation Act of 1973 (Sections 503 and 504); California Fair Employment and Housing Act (Government Code sections 12900 et seq.); and California Labor Code sections 1101 and 1102. GRANTEE represents, warrants and agrees that it shall not discriminate against any contractor, subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status in the recruitment, selection for training including apprenticeship, hiring, employment, utilization, promotion, layoff, rates of pay or other forms of compensation. GRANTEE also represents, warrants, and agrees that it shall not discriminate in provision of work performed in relation to this Agreement because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.

(8) COUNTY No-Smoking Policy. GRANTEE and its employees, agents, contractors, subcontractors and consultants, shall comply with the COUNTY's No-Smoking Policy, as set forth in the Board of Supervisors Policy Manual section 3.47 (as amended from time to time), which prohibits smoking: (1) at the Santa Clara Valley Medical Center Campus and all COUNTY-owned and operated health facilities, (2) within 30 feet surrounding COUNTY-owned buildings and leased buildings where the COUNTY is the sole occupant, and (3) in all COUNTY vehicles.

(9) Food and Beverage Standards. Except in the event of an emergency or medical necessity, COUNTY's nutritional standards shall apply to any foods and/or beverages purchased by GRANTEE with Grant Funds for COUNTY-sponsored meetings or events.

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(10) California Public Records Act. All documents and records provided to or made available to COUNTY under this Agreement become the property of the COUNTY, which is a public agency subject to the disclosure requirements of the California Public Records Act ("CPRA"). If GRANTEE proprietary information is contained in documents submitted to COUNTY, and GRANTEE claims that such information falls within one or more CPRA exemptions, GRANTEE must clearly mark such information "CONFIDENTIAL AND PROPRIETARY," and identify the specific lines containing the information. In the event of a request for such information, the COUNTY will make reasonable efforts to provide notice to GRANTEE prior to such disclosure. If GRANTEE contends that any documents are exempt from the CPRA and wishes to prevent disclosure, it is required at its own cost, liability, and expense to obtain a protective order, injunctive relief, or other appropriate remedy from a court of law in Santa Clara County before the COUNTY responds to the CPRA request. If GRANTEE fails to obtain such a remedy before the COUNTY responds to the CPRA request, COUNTY may disclose the requested information and shall not be liable or responsible for such disclosure.

(a) GRANTEE further warrants, represents and agrees that it shall defend, indemnify, and hold COUNTY harmless against any and all claims, actions or litigation (including but not limited to all judgments, costs, fees, and attorney's fees) that may result from denial by COUNTY of a CPRA request for any information arising from any representation, or any action (or inaction), by the GRANTEE, its contractors, consultants, employees, agents, or representatives.

(11) No Third Party Beneficiaries. This Agreement does not, and is not intended to, confer any rights or remedies upon any person or entity other than the parties signing this Agreement. Subcontractors, sponsors and affiliates shall have no right or claim attaching to this Agreement or to the Grant Funds and are not third party beneficiaries of or to this Agreement.

(12) Relationship of the Parties. The Parties acknowledge and agree that nothing set forth in this Agreement shall be deemed or construed to render the parties as joint venturers, partners, agents, a joint enterprise, employer-employee, or lender-borrower. GRANTEE shall have no authority to employ any person as employee or agent on behalf of COUNTY for any purpose. Neither GRANTEE nor any person using or involved in or participating in the Project or in the use of the Grant Funds shall be deemed a third party beneficiary to this Agreement nor an employee or agent of COUNTY, nor shall any such person represent himself or herself to others as a third party beneficiary to this Agreement or as an employee or agent of COUNTY.

(13) No Indemnification and Insurance by COUNTY. Nothing contained in this Agreement is to be construed as an indemnification by COUNTY for any loss, damage, injury or death arising out of or caused, in whole or in part, by the COUNTY or its Board of Supervisors, officers, executives, attorneys, employees, agents, representatives, contractors or subcontractors. Nothing contained herein shall be construed to, and nothing shall, obligate the

COUNTY to provide any insurance, indemnity or protection for or on behalf of any third party, the Project or the property owner.

(14) Subcontractors. If any obligation is performed for or on behalf of GRANTEE through a consultant, contractor or subcontractor, GRANTEE will remain fully responsible for the performance of all obligations under this Agreement and GRANTEE will be solely responsible for all payments due to its contractors, consultants, or subcontractors. No contract, subcontract or other agreement entered into by GRANTEE with any third party in connection with this Agreement, or for or in relation to the use of the Grant Funds, will provide for any indemnity, guarantee or assumption of liability by, or other obligation of, COUNTY with respect to such arrangement. No contractor, consultant or subcontractor will be deemed a third party beneficiary for any purposes under or to this Agreement.

(15) Nonexclusive Agreement. GRANTEE agrees that this Agreement is non-exclusive and COUNTY may at any time, in its sole discretion, enter into agreements with other parties for any purpose deemed to be in the best interest of the COUNTY.

(16) Paragraph Headings. The headings and captions of the various paragraphs and subparagraphs hereof are for convenience only, and they shall not limit, expand or otherwise affect the construction or interpretation of this Agreement.

(17) Cumulative Remedies. The rights and remedies of the parties to this Agreement, whether pursuant to this Agreement or in accordance with law, shall be construed as cumulative, and the exercise of any single right or remedy shall constitute neither a bar to the exercise of nor the waiver of any other available right or remedy.

(18) Counterparts. This Agreement may be executed in several counterparts, and all of such counterparts so executed together shall be deemed to constitute one and the same agreement, and each such counterpart shall be deemed to be an original. Facsimile or electronic signatures shall have the same legal effect as original or manual signatures if followed by mailing of a fully executed original to both parties.

(19) Construction/Severability. This Agreement shall not be construed more strongly against either party regardless of who is more responsible for its preparation. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable any other part of this Agreement, but the Agreement shall be construed as not containing the particular provision or provisions held to be invalid or unenforceable.

(20) Authority. Each party represents and warrants that it has executed this Agreement freely, fully intending to be bound by the terms and provisions contained in this Agreement and that the persons signing below are authorized to sign on each party's behalf.

(21) Office of Foreign Assets Control Compliance. GRANTEE represents to COUNTY that: (a) GRANTEE and each of the GRANTEE Representatives are not acting, and shall not act, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person," or other banned or blocked person, entity, nation, or transaction pursuant to any law, order, rule or regulation enforced or administered by the federal Office of Foreign Assets Control; and (b) GRANTEE, and the GRANTEE Representatives, are not engaged in this transaction, directly or indirectly, on behalf of, or instigating or facilitating this transaction, directly or indirectly, on behalf of any such person, group, entity, or nation.

(22) COUNTY Regulatory Authority. GRANTEE acknowledges and agrees that COUNTY, acting not as landlord but in its governmental regulatory capacity, has certain governmental regulatory authority over the Premises and that nothing in this Agreement binds the COUNTY to exercise or refrain from exercising this discretionary governmental authority in any particular manner.

(23) Bribery Clause. GRANTEE certifies, represents and warrants that GRANTEE and the GRANTEE Representatives have not been convicted of bribery or attempting to bribe an officer or employee of the COUNTY or any other municipality or state entity nor has GRANTEE or any of the GRANTEE Representatives made an admission of guilt of such conduct which is a matter of record.

(24) Wage Theft Prevention.

a. Compliance with Wage and Hour Laws. GRANTEE, and any the GRANTEE Representatives it employs or contracts with to complete work under this Agreement, must comply with all applicable federal, state, and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act, the California Labor Code, and any local Minimum Wage Ordinance or Living Wage Ordinance.

b. Final Judgments, Decisions, and Orders. For purposes of this Section, a "final judgment, decision, or order" refers to one for which all appeals have been exhausted. Relevant investigatory government agencies include: the federal Department of Labor, the California Division of Labor Standards Enforcement, a local enforcement agency, or any other government entity tasked with the investigation and enforcement of wage and hour laws.

c. Prior Judgments against GRANTEE. BY SIGNING THIS AGREEMENT, GRANTEE AFFIRMS THAT IT HAS DISCLOSED ANY FINAL JUDGMENTS, DECISIONS, OR ORDERS FROM A COURT OR INVESTIGATORY GOVERNMENT AGENCY FINDING—IN THE FIVE YEARS PRIOR TO EXECUTING THIS AGREEMENT—THAT GRANTEE HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS.

GRANTEE FURTHER AFFIRMS THAT IT HAS SATISFIED AND COMPLIED WITH—OR HAS REACHED AGREEMENT WITH THE COUNTY REGARDING THE MANNER IN WHICH IT WILL SATISFY—ANY SUCH JUDGMENTS, DECISIONS, OR ORDERS.

d. Judgments During Term of Contract. If at any time during the term of this Agreement, a court or investigatory government agency issues a final judgment, decision, or order finding that GRANTEE or any subcontractor it employs to perform work under this Agreement has violated any applicable wage and hour law, or GRANTEE learns of such a judgment, decision, or order that was not previously disclosed, GRANTEE must inform the Office of the County Executive-Office of Countywide Contracting Management (OCCM), no more than 15 days after the judgment, decision, or order becomes final or of learning of the final judgment, decision, or order. GRANTEE and its subcontractors shall promptly satisfy and comply with any such judgment, decision, or order, and shall provide the Office of the County Executive-OCCM with documentary evidence of compliance with the final judgment, decision, or order within 5 days of satisfying the final judgment, decision, or order. The COUNTY reserves the right to require GRANTEE to enter into an agreement with the COUNTY regarding the manner in which any such final judgment, decision, or order will be satisfied.

e. COUNTY's Right to Withhold Payment. Where GRANTEE has been found in violation of any applicable wage and hour law by a final judgment, decision, or order of a court or government agency, the COUNTY reserves the right to withhold payment to GRANTEE until such judgment, decision, or order has been satisfied in full.

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

g. Notice to COUNTY Related to Wage Theft Prevention. Notice provided to the Office of the County Executive as required under this Section shall be addressed to: Office of the County Executive—OCCM; 70 West Hedding Street; East Wing, 11th Floor; San José, CA 95110. The Notice provisions of this Section are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section.

(25) Prevailing Wage. GRANTEE acknowledges and agrees that work performed under this Agreement may be considered a public work within the meaning of California Labor Code Section 1720 and that the requirements of Section 1771, et. seq. apply to such public work. GRANTEE has included (and will include) consideration for this obligation in calculating compensation under this Agreement, if such prevailing wage requirements are applicable. GRANTEE is solely responsible and liable for ensuring compliance with all applicable prevailing wage laws. COUNTY may at any time, without obligation to do so, audit GRANTEE to verify whether GRANTEE is in compliance with prevailing wage laws. GRANTEE shall cooperate with all such audits, including making available and providing

copies, during the period 9:00am to 5:00pm, Monday through Friday, any and all records requested by COUNTY to verify compliance promptly upon request, but not later than seventy-two hours after such request.

(26) **Insurance**. GRANTEE shall provide insurance and comply with all insurance and other terms and conditions set out in the attached Exhibit C.

(27) **Exhibits**. The following exhibits are attached to this Agreement and are incorporated herein by this reference.

Exhibit A -- All-Inclusive Playground Grant Program Procedural Guide
Exhibit B -- Grant Application
Exhibit C – Insurance Requirements and Proof of Insurance

(28) **Survival**. All terms and conditions that by their nature should survive termination or expiration of this Agreement, shall so survive including but not limited to Sections 1, 2, 5, 6, 8, and 9 inclusive.

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////SIGNATURES FOLLOW ON NEXT PAGE////

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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as provided below, effective as of the last date signed by all the Parties ("Effective Date").

GRANTEE:

Julie Edmonds-Mares, City Manager

Dated: 12/3/18

Approved as to form:

Name: CHRISTOPHER DIAZ
City Attorney

////SIGNATURES FOLLOW ON NEXT PAGE////

APPROVED AS TO CONTENT:

Will Fuentes
Director of Financial Services

11/9/18
Date

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as provided below, effective as of the last date signed by all the Parties ("Effective Date").

COUNTY OF SANTA CLARA:

Sylvia Gallegos
Deputy County Executive

Date: 01-07-2019

Don Rocha
~~Interim~~ Director, Parks and Recreation Department

Date: 01-09-2019

Approved as to form and legality:

Shirley R. Edwards,
Deputy County Counsel

Exhibit A

All-Inclusive Playground
Grant Program Procedural Guide

ALL-INCLUSIVE PLAYGROUND GRANT PROGRAM

ROUND TWO

Procedural Guide

February 2, 2018

Revised March 20, 2018

County of Santa Clara

Application due date: Thursday, May 31, 2018 by 5:00 PM

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ALL-INCLUSIVE PLAYGROUND GRANT PROGRAM

Purpose and Funding

The Board of Supervisors of the County of Santa Clara established the All-Inclusive Playground Grant Program (AIPG) in 2017 to provide grants to local cities, school districts, non-profits and/or other governmental entities interested in building all-inclusive playgrounds in their communities located within Santa Clara County. It is hoped that this funding opportunity will serve as a catalyst to communities within the County to provide facilities of regional significance for seniors, children and parents with disabilities.

For Fiscal Year 2017/2018, a cumulative total of up to $10 million in matching funds was available Countywide, allocated among supervisorial districts. Up to $2 million in matching funds was to be available in each supervisorial district. One or more grant projects may be awarded per district.

The Board of Supervisors awards grants on a competitive basis following staff review and the All-Inclusive Playground Grant Review Committee (Review Committee) recommendation. The Board of Supervisors is not obligated to fund any AIPG projects, even if the project has been deemed eligible for funding by the Review Committee or County staff.

The program is governed by any existing or future policies and procedures that may be approved or amended from time to time by the Board of Supervisors. See Appendix C. In addition, if any or all of the available grant funds are Measure A funds, then expenditures and allocation of grant funds shall fully comply with Measure A requirements and applicable laws. To the extent that Measure A requirements or applicable laws differ from the requirements set out in this Procedural Guide or any of its exhibits or attachments, the Measure A requirements and applicable laws shall prevail, take precedence and shall apply.

The Board of Supervisors, by approving this program, hereby designates the Director of the Parks and Recreation Department as the administrator and manager of the All-Inclusive Playground Grant Program, using funds other than Park Charter funds.

On January 23, 2018, the Board allocated $8M of the $10M available and directed that a second funding opportunity round be offered for District 3 and Direct 4, with $1M available in District 3 and $1M in District 4.

Applicant Eligibility

Local public agencies and non-profit corporations with 501(c)(3) certification are eligible to apply for grant funds for projects that will be constructed within the geographical limits of Santa Clara County.

Project Eligibility Criteria

1. The project must be located within the geographical limits of Santa Clara County.

2. The playground must be accessible to the public on a non-discriminatory basis.

3. The project must conform with the US Access Board Play Guide (Appendix A).

4. The project must comply with ASTM Policies, its equivalent or better (see Appendix B, section 105.2.3).

5. The project must be for a regionally serving playground that includes elements that make the playground accessible not only to the 10% of those with disabilities in wheelchairs, but also to the 90% of those with disabilities who are not in wheelchairs. The design must include elements to address the needs of people with Autism Spectrum Disorder, Sensory Challenges, Visual and Auditory Impairments, Cognitive, Developmental and Physical Disabilities.

6. The Project must include a design that goes above and beyond minimum standards set by the Americans with Disabilities Act, to ensure that seniors, children and parents with disabilities can truly make use of the playground.

7. The Project must include a plan for long-term playground maintenance and upkeep that is funded by sources other than the grant funds.

Available Grant Funds

For purposes of this second round of funding, a total of up to $2 million in matching funds is available -- $1M in District 3 and $1M in District 4. One or more grant projects may be awarded per district. These are matching funds only. A Grant award may fund up to fifty percent of actual project expenditures incurred, but such award shall not exceed the funding limits per District. Applicants may request different amounts, but no more than $1 million may be awarded to any single project.

Grantee Match

The Match is one Applicant dollar to one AIPG dollar for all AIPG grants. This is a reimbursement program. Up to fifty percent of the actual project expenditures, not to exceed the Grant award amount, may be reimbursed in accordance with the ***Reimbursements*** section of this Procedural Guide. If actual Project costs exceed the Grantee's original estimate of Project costs stated in the Grant Application, these excess costs will not be reimbursed. The basis for the County's matching fund contribution will be solely determined by the Project cost estimate presented in the Grant Application. However, if the final costs are less than this estimate, Grantee may receive less than the full grant award amount (as solely determined by the County).

There may be an exception to the cash match requirement for school districts and/or

individual schools serving predominately lower income families as defined by having 50% or more students eligible for free and reduced-priced meals.

What can I use to match an AIPG grant?

The Applicant may include cash and other non-County grant funds to cover their Project costs.

In-Kind Contributions

In-kind contributions and services (such as volunteer labor, administration staff time devoted to managing the project, etc.) shall not be counted as matching contributions from the Grantee. Applicants may discuss any in-kind contributions to their Project in the budget section of the Project Proposal (Appendix F), but it will not be counted. *Only items which are funded by Grantee cash or other non-County grant funds are eligible to be considered as 'hard costs' for purposes of determining grant award budget qualification and must be listed in the Grant Scope/Cost Estimate Form* (Appendix D).

Project Savings

The basis for the County's matching fund contribution will be solely determined by the Project cost estimate presented in the Grant Application. However, if the final costs are less than this estimate, Grantee may receive less than the full grant award amount (as solely determined by the County).

Property Owner Approval

Where Projects are located on property not owned by the Grantee, then Grantee must submit as a part of their/its application, a copy of a signed written approval from the property owner granting a license or lease for the playground Project intended and such agreement shall provide a minimum term of 20 years in duration. The property owner will be required to sign the Grant Agreement if grant funds are awarded.

Grant Scope/Cost Estimate

The Grant Scope/Cost Estimate Form (Appendix G) establishes the expected deliverables for project completion if a grant is awarded. To be eligible for reimbursement, work items funded by the grant must be listed on the Grant Scope/Cost Estimate Form. Describe each work item listed on the Grant Scope/Cost Estimate Form using phrases such as

"Construct a new ……"
"Purchase and install ……"

Provide a cost estimate for each work item listed on the Grant Scope/Cost Estimate Form. The estimated total project cost on the Grant Scope/Cost Estimate Form must equal the estimated total project cost listed on the AIPG Application Form.

Application Packet Submittal

This process does not commit the County to fund, nor does it commit the County to pay any cost incurred in the submission of an application, or in making necessary studies or designs for the preparation thereof, nor procure or contract for services or supplies.

Furthermore, no reimbursable cost may be incurred in anticipation of grant funding. All costs associated with the application preparation are solely the responsibility and liability of the submitting applicant.

- Complete the AIPG Application Form (Appendix E) and prepare a project proposal addressing the questions in Appendix F. Do not make any modifications to the order, format, font size, or content of the AIPG Application Form. If modifications are made, the grant application will not be considered.
- The applicant must designate an authorized representative to sign the AIPG Application Form. This person will be responsible for executing all documents, including the Grant Agreement, and has the authority to legally bind the applicant.
- The application packet should be presented in the order indicated in Appendix D: Application Packet Requirements and Checklist and keyed to a table of contents. If a Checklist item does not apply, note "N/A" and provide a brief explanation why the item is not applicable. The application Checklist should be submitted as part of the grant application packet to assist staff in determining the completeness of the application.
- Submit only the items shown in the Checklist. Do not submit supplementary materials, such as PowerPoint presentations, videos, or letters of support.
- Application packets may be stapled, but not bound (e.g. coil or ring binding) or placed in folders. Number all pages. Hand numbered pages are acceptable.
- Applicants may submit an application for more than one playground site, but not multiple applications for the same playground. A separate application packet must accompany each project.
- **Submit one (1) unbound original paper copy with wet ink signatures and one (1) electronic copy on a USB Flash drive of the complete application packet including scanned signatures (see Appendix A: Application Packet Requirements and Checklist).**

Application packets may be mailed or hand delivered to the address below. FAX or electronic (email) submissions will not be accepted.

Application packets must be received by 5:00 p.m. on May 31, 2018 and directed to:

Christian Elliott, Grants Management Analyst
County of Santa Clara, Parks and Recreation Department
298 Garden Hill Drive
Los Gatos, CA 95032

The County expects to announce grant awards (intent to award) in August 2018.

Reservations

The County reserves the right to make changes to this process without liability, obligation or requirement to pay any costs incurred by any applicant in applying for grant funding, including but not limited to:

1. Reject all applications without any reason for the rejection.
2. Ask the applicant to revise or modify its application.
3. Modify, in the final Grant Agreement, any terms and/or conditions described in this Procedural Guide.
4. Terminate this process at any time for the convenience of the County.
5. Change any of the procedures or process described in this Manual

Execution of Grant Agreement

Prior to funding, Grantee shall execute the legally binding Grant Agreement, without Grantee modification, which includes the Grant Scope /Cost Estimate for the project, a sample of which is attached herein as Appendix J. The scope of work cannot be materially changed once the grant is awarded and the Grant Agreement is executed.

Grant applicants should carefully review the terms of the Grant Agreement before completing the application packet.

The Grant Agreement includes any special conditions imposed during the grant approval process that must be completed in order to close out the Grant Agreement and receive reimbursement funds.

Once Applicant has been given a Grant Agreement, it must be signed and returned to the County's Grant Program Administrator, within seven calendar days of issuance of the Grant Agreement. Only the Board of Supervisors can approve the Grant Agreement. Funds are not committed until the Grant Agreement is fully executed by the Board of Supervisors and the Project is completed.

CEQA

Grant projects require compliance with the California Environmental Quality Act (CEQA). Check with your local city or county planning agency for more information on how to complete CEQA. Although CEQA does not need to be completed prior to submitting a grant application, prior to construction or any grant funds being disbursed, CEQA must be completed. If you have completed CEQA, please submit one of the documents listed below with your application. If CEQA is not completed, the applicant shall describe any steps taken to comply with CEQA.

1. Notice of Exemption filed with, and stamped by, the county clerk, *or*
2. Initial Study with a Negative Declaration and a copy of the Notice of Determination filed with, and stamped by the county clerk, *or*
3. Initial Study and an Environmental Impact Report and a copy of the Notice of Determination filed with, and stamped by the county clerk.

Multi-Lingual Signage

Projects must include publicly accessible/viewable multi-lingual signage appropriate to the diverse community where the project is located. This could include providing information regarding playground usage, as well as wayfinding or directional signage, including for play areas that may be located away from the street.

Insurance

Grantees must comply with all insurance and indemnity requirements set out herein and in Appendix J.

Prevailing Wages

All agreements with third parties for work or services needed to complete the grant project must include an obligation of the contractor to meet and comply with applicable state of California prevailing wage laws. For more information on prevailing wage, Grantees should visit the State of California Department of Industrial Relations website at: https://www.dir.ca.gov/Public-Works/Prevailing-Wage.html

Timeline for Project Completion

Grant projects must be completed within three (3) years from the date of execution of the Grant Agreement. If the project cannot be completed within the required timeframe, the grantee forfeits all right or entitlement to receive any reimbursement of costs from the County under this grant program and the Grant Agreement.

Progress Reports

Grantees may be required, at County's sole option, to submit written progress reports to the designated County Parks and Recreation Department Grants Program Administrator, which may be on a semi-annual or annual basis during the Term of the Grant Agreement. At the request of the County, Grantees may also be required to present progress reports in open session at regularly scheduled Board of Supervisors meetings.

Changes to Grant Agreement Term

Within three years from the date of execution of the Grant Agreement, Grantee must complete the project and demonstrate the project to be fully usable for its intended purpose as an all-inclusive playground. The County, without the obligation to do so, may approve an extension of the term of the Grant Agreement for reasonable delays not within the control of the grantee. *The grantee must request the extension within the first 32 months from the date of Grant Agreement execution.*

Operation and Maintenance

Upon completion of the grant project, the grantee must open the All-Inclusive Playground to the public, and continuously operate and maintain the Playground for the benefit of the public for a period of at least twenty (20) years. On-going maintenance, operation, management, repair and improvement of the Playground is solely the responsibility of the grantee.

Funding Assistance Acknowledgement

Grantees are required to publicly acknowledge the County of Santa Clara funding assistance. The primary recognition will be a plaque permanently affixed at a prominent location on the project site, visible to the public. *The County must approve the sign design prior to installation.* Additionally, grantees must give credit to the County in project-related materials including newsletters, brochures, and internet messages regarding the project for which AIPG funds were used. The acknowledgement credit shall read: "This project made possible in part by a grant from the County of Santa Clara's All-Inclusive Playground Grant Program." The Grantee must notify the County of any public dedication events at least 30 days in advance and must give the County the opportunity to participate. The Grantee must also provide the County with a copy of any project related press/media release.

Reimbursements

Grantees must keep accurate accounting records of all AIPG project expenditures in accordance with Generally Acceptable Accounting Practices ("GAAP") or GAAP equivalent. *Grant funds are issued on a reimbursement basis only, based upon completion of the Grant funding agreement requirements.* No advanced funds are issued. Reimbursement is limited to actual expenditures paid by Grantees for work approved in the "Grant Scope" of the Grant funding agreement, and listed in the Grant Scope/Cost Estimate Form included with the application packet. These claimable expenditures must be incurred within the contract performance period.

When to make your first reimbursement request. Grantee shall only request reimbursement after first having constructed at least 30 percent of the Project. Documentation substantiating construction and claimable expenditures must be provided with the first reimbursement request.

Reimbursements on a bi-annual basis. Grantees may submit requests for reimbursement to the County on a bi-annual basis when the Project has accrued claimable expenditures exceeding $1,000 during the previous six-month period. The submittal dates are January 1st and July 1st. Grantees must provide:

1. Itemized invoice(s) requesting reimbursement of eligible costs. Itemizations must clearly show the relationship between the expenditures and the grant scope of work in the Grant funding agreement.
2. Clear copies of grant project invoices directed to the grantee.
3. Evidence that all invoices have been paid. For example, a clear copy of both sides of a check or warrant issued to pay said invoices, or a receipt evidencing such payment. Bank account statements will not be accepted.

If the reimbursement request is satisfactory, the County will endeavor to provide payment to the grantee within sixty days of a complete submittal.

Final Reimbursement

Upon Project completion, the Grantee must submit a final reimbursement request that includes all the items required in a standard reimbursement request and at least four photographs of the completed project and additional photographs of the permanently installed AIPG funding acknowledgement sign.

Final reimbursement requests must be submitted at least thirty (30) days prior to the expiration of the three-year time period required for completion of the project. It is the responsibility of the grantee to be knowledgeable of the deadlines for completing the project and for timely submitting information, documents, and invoices to County.

Accounting Requirements

Using GAAP or GAAP equivalent, Grantees are responsible for maintaining fiscal controls and fund accounting procedures that will show the following:

1. The disposition of the funds used to complete the project.
2. The total costs of the grant project or undertaking in connection with which such funds are given or used.
3. The amount and nature of that portion of the grant project cost supplied by other sources.
4. Any other records and controls that will facilitate an effective audit by the County or any third parties.

The fiscal controls and accounting procedures used to record grant project costs and fund receipts should, at a minimum, be based on generally accepted accounting standards and principles. County may require additional accounting or controls.

Record Retention

The grantee must maintain grant project records (including paper and electronic media, as appropriate) showing compliance with all aspects of the Grant Agreement and these Guidelines for three (3) years after completion of the grant project or until all claims are settled, whichever occurs last.

All grant project records must be made available to the County within five (5) working days of the County's reasonable notice. If the County determines that the grantee used the grant for ineligible costs, or other terms of the Grant Agreement were breached, the County may take any action permitted under the law or authorized actions under the Grant Agreement, including but not limited to requiring the grantee to repay the grant, with interest at the rate earned on County's investments, and the cost of the audit.

All applications and documentation submitted with the applications (including any and all information contained therein) become the exclusive and sole property of the County. The County is a public agency subject to the disclosure requirements of the California Public Records Act ("CPRA"). If proprietary information is contained in documents submitted to County, and Applicant claims that such information falls within one or more CPRA exemptions, Applicant must clearly mark such information "CONFIDENTIAL AND PROPRIETARY" and identify the specific lines containing the information, prior to

submitting such documents or information to the County. In the event of a request for such information, the County will make reasonable efforts to provide notice to Applicant prior to such disclosure. Applicant shall have no more than three (3) calendar days from the date of County's notice to inform County that applicant believes such information to be exempt from disclosure under the CPRA and to thereafter immediately file and obtain approval of a motion in a court of law within Santa Clara County for a temporary restraining order or injunction to prevent County from releasing said information or documents; otherwise, the information/documents will be released. Applicant further agrees that it shall defend, indemnify and hold County harmless against any claim, action or litigation (including but not limited to all judgments, costs, fees, and attorney's fees) that may result from denial by County of a CPRA request for information arising from any representation, or any action (or inaction), by the Applicant.

APPENDIX A: Accessible Play Areas: A Summary of Accessibility Guidelines for Play Areas by the U.S. Access Board

These guidelines are found online at:

https://www.access-board.gov/attachments/article/1369/play-guide.pdf

APPENDIX B: ASTM POLICIES (As amended)

ADA Standards , Chapter 105 Referenced Standards, Section 2. 3

https://www.access-board.gov/guidelines-and-standards/transportation/facilities/about-the-ada-standards-for-transportation-facilities/ada-standards-for-transportation-facilities-single-file

APPENDIX C: All-Inclusive Playground Grant Program Policies

County of Santa Clara
ALL-INCLUSIVE PLAYGROUND GRANT PROGRAM POLICIES

Policy 1

The All-Inclusive Playground Grant Program will provide matching funds to assist cities, non-profits, school districts and other governmental entities located and operating in Santa Clara County in building all-inclusive playgrounds in their communities.

Policy 2

After review and screening by the Parks and Recreation Department, qualifying applications will be forwarded to the Review Committee. Prospective grantees will be recommended to the Board of Supervisors by the Review Committee.

Policy 3

A Grant award may fund up to fifty percent of actual project expenditures incurred, but such award shall not exceed the funding limits per District, as set out in the All-Inclusive Playground Grant Program Procedural Guide.

Policy 4

Grant proposals must include a plan for long-term playground maintenance and upkeep that is funded beyond the scope of the grant. All incurred costs related to upkeep and maintenance is the responsibility of the grantee.

Policy 5

The capacity of an organization to complete the grant project within the designated period is weighed in the evaluation process.

Policy 6

The Review Committee will consider the staff recommendations in evaluating the grant proposals.

Policy 7

All-Inclusive Playground Grant Program Project Agreements will have a three-year term. Funds are not committed until the Project Agreement is executed.

Policy 8

Grant funds will be issued on a reimbursement basis only in accordance with the All Inclusive Playground Grant Program Procedural Guide, and based upon completion of the Project Agreement funding requirements. No advanced funds will be issued.

Policy 9

Applicants must submit annual progress report(s) outlining progress made towards the completion of the grant project.

Policy 10

One (1) All-Inclusive Playground Grant Program project agreement extension for a term no longer than three (3) years may be granted only under special circumstances. If the project cannot be completed within the required timeframe, unused grant funds will be returned to the All-Inclusive Playground Grant Program Funds

Policy 11

Annually in June, grant administration staff will report to the Board of Supervisors on the status of the program, and formally rollover any unallocated funding to the next fiscal year.

APPENDIX D: APPLICATION PACKET REQUIREMENTS AND CHECKLIST

1. ☐ AIPG Application Form. See Appendix E. The Master Application Form must be completed and signed by the applicant's authorized representative.
2. ☐ Project Proposal. See Appendix F. In conjunction with the AIPG Application Form (Appendix E), attach a written description of the project proposal. Provide a written response to each of the evaluation factors in the order in which they appear.
3. ☐ Grant Scope/Cost Estimate. See Appendix G. The Grant Scope should be detailed enough to itemize each project work item and must be consistent with the cost estimate.
4. ☐ Property Owner Approval. Attach lease, license, or agreement executed by property owner and applicant committing the use of the property for a minimum of 20 years for use as an all-inclusive playground on a continuous uninterrupted basis.
5. ☐ Funding Sources Form. See Appendix H. List the funding sources that will be used to finance the grant project.
6. ☐ CEQA. Grant projects require compliance with the California Environmental Quality Act (CEQA). Prior to any grant funds being disbursed, CEQA must be completed. If you have completed CEQA, please submit one of the documents listed below with your application. If CEQA is not completed, please describe any steps taken to comply with CEQA.
   - Notice of Exemption filed with, and stamped by, the county clerk, *or*
   - Initial Study with a Negative Declaration and a copy of the Notice of Determination filed with, and stamped by the county clerk, *or*
   - Initial Study and an Environmental Impact Report and a copy of the Notice of Determination filed with, and stamped by the county clerk.
7. ☐ 501(c)(3) Certification. Attach copy of 501(c)(3) certification.
8. ☐ Photos of Project Site. Attach a minimum of four (4) color photographs in 4" x 6" format of the project site and site context presented in 8.5" x 11" format. No more than two photographs per page. Include descriptions of each photograph.
9. ☐ Required Regulatory Permits. Attach a list of existing and additional permits required to complete the grant project, if applicable, the status of each, and indicate when permit approval would occur.
10. ☐ Public Access Schedule. Attach a schedule of public accessibility, including hours of operation.
11. ☐ Project Use Diagram. Provide floor plan of the Project area and proposed uses of each area, specifically designated public access areas and proposed use of other areas._
12. ☐ Timeline. Attach a timeline indicating the key milestones (such as design, engineering, construction) for project completion.

APPENDIX E: ALL-INCLUSIVE PLAYGROUND APPLICATION FORM

County of Santa Clara
ALL-INCLUSIVE PLAYGROUND GRANT PROGRAM

PROJECT NAME	Requested GRANT Amount	$
	Grantee Cash Contribution	$
	Other Funding Sources	$
PROJECT PHYSICAL ADDRESS (including zip code)	TOTAL PROJECT COST	$
	Nearest Cross Street	
GRANT APPLICANT (entity applying for the grant)	GRANT APPLICANT'S Mailing Address	

AUTHORIZED REPRESENTATIVE AS SHOWN IN RESOLUTION OR CERTIFICATION LETTER

Name *(typed or printed)* and Title	Email address	Phone

DIRECTOR/PRESIDENT/CEO

Name *(typed or printed)* and Title	Email address	Phone

DAY-TO-DAY CONTACT for ADMINISTRATION of the GRANT *(if different from AUTHORIZED REPRESENTATIVE)*

Name *(typed or printed)* and Title	Email address	Phone

GRANT SCOPE: I/we represent and warrant that this Application Package describes the intended use of the requested grant to complete the project items listed in the attached Cost Estimate Form and if such grant is awarded I/we fully intend and shall comply with all terms and conditions of the All-Inclusive Playground Grant Application and Procedural Guide including the Grant Agreement attached as Appendix J. I declare under penalty of perjury, under the laws of the State of California, that the information contained in this Application Package, including required attachments, is accurate.

Signature AUTHORIZED REPRESENTATIVE as shown in Resolution _____ Date _____

Print Name _____

Title _____

APPENDIX F: PROJECT PROPOSAL

In conjunction with the All-Inclusive Playground Grant Application Form (Appendix E), the information contained in the project proposal will serve as the project application. Please provide a written response to each of the following evaluation factors in the order in which they appear and cite any studies, reports, or other data that support the responses.

The project proposal should be no more than ten pages (without attachments) printed double-sided on 8 ½" x 11" paper in 12-point Arial font.

1. Project Description

- Describe the proposed project and the specific work items to be funded by the grant.
- Who will be responsible for performing what activities (work items)?

2. All-Inclusive Playground Issues/Need/Public Purpose

- How does the project address the need for accessible spaces for seniors, children and parents with physical or cognitive disabilities within Santa Clara County?
- Describe how the design goes above and beyond minimum standards set by the Americans with Disabilities Act, to ensure that seniors, children and parents with disabilities can truly make use of the playground
- Describe what elements of this project make the playground accessible not only to those with disabilities in wheelchairs, but also those with disabilities who are not in wheelchairs. These should include elements to address the needs of people with Autism Spectrum Disorder, Sensory Challenges, Visual and Auditorium Impairments, medically fragile individuals, Cognitive, Developmental and Physical Disabilities. Specifically identify which elements of your proposed design address which disability. As an example, understanding playground users with autism may get overstimulated with ramps and connected play equipment, what is included in your design to address this?
- How will the project benefit the community and make a regionally significant, long- term contribution to Santa Clara County?

3. Public Access

- Explain how the finished project will be publicly accessible as defined in the eligibility criteria. Explain the general availability of access of this project to the public, including year-round hours of operation.

- Describe how the project includes multi-lingual signage appropriate to the diverse community where the project is located, including providing information regarding playground usage, and wayfinding or directional signage, including for play areas that may be located away from the street.

4. Budget

- Describe the total project cost, and how it was determined, e.g. is the project budget based on concept level estimates, detailed design level estimates, or formal engineers estimate based on construction plans and specifications.
- Summarize the total project costs on the Grant Scope / Cost Estimate Form (Appendix G – page 21). Supplemental information may be provided.
- If the project is part of a long-range project (multi-phased), how many phases are required to complete the project?

5. Project Readiness

- Describe the funds currently available to complete the project. While not all funding must be in place to apply for the grant, a funding plan must be in place to secure all funds necessary to complete the project. If sufficient funds are not currently available to complete the project, please describe how much is committed from what source(s), and provide a detailed plan for fund raising that includes your organizations track record and internal or external expertise in fundraising. Please attach a copy of outside funding commitment letters or agreements.
- Summarize the total funding sources on the Funding Sources Form (Appendix H, page 22). List the date funds were committed from an entity other than the applicant, if funding has not been formally approved, note TBD under date.
- Describe what permits and entitlements are required for the project, and your progress and plan, if applicable, toward attaining them.
- Provide a project timeline with detailed schedule of project activities enumerated.

6. **Long-Term Maintenance and Operation**

- Describe the plan for long-term maintenance and upkeep that is funded beyond the scope of the grant.
- What funding sources or other resources will be used to maintain and operate the property in the future?
- Who will be responsible for the maintenance and operation of the property and ensuring its on-going availability for public use?
- Provide an example of your organizations maintenance practices and program for a comparable project.

7. **Project Administration/Professional Capability/Schedule**

- Describe the personnel and methods to be utilized to carry out the project.
- What individual or team will manage the project from the time the grant is awarded until project completion?
- What experience does this individual or management team have which qualifies them to manage the project?
- Is the proposed project schedule realistic and achievable?
- Describe the status of needed agreements/permits towards the completion of the project.

8. **Land Tenure**

If the grant applicant is a tenant or operator, provide the lease or agreement executed by the property owner and the tenant/operator that adequately safeguards the twenty-year use requirement and commitment.

APPENDIX G: GRANT SCOPE/COST ESTIMATE FORM

APPLICANT_____**PROJECT NAME**_____

WORK TO BE PERFORMED*	GRANTEE MATCH	AIPG GRANT	TOTAL
TOTAL PROJECT AMOUNT			
Contingency (Optional)			

Only items which are funded by grantee cash/match or AIPG grant funds and are readily auditable 'hard costs' may be listed in the Grant Scope/Cost Estimate. Do not list In-Kind Contributions.

The APPLICANT understands that this form establishes the expected GRANT deliverables.

Signature _____
APPLICANT'S AUTHORIZED REPRESENTATIVE

Date _____

APPENDIX H: FUNDING SOURCES FORM

APPLICANT_____**PROJECT NAME**_____

FUNDING SOURCE	DATE COMMITTED (If applicable)	AMOUNT
AIPG Funding	**TBD**	**$**
		$
		$
		$
		$
		$
		$
		$
		$
TOTAL FUNDING SOURCES **Must Equal Estimated Total PROJECT Cost**		**$**
CONTINGENCY		**$**

List the amount and source of funds currently available to complete the project. While not all funding must be in place to apply for the grant, a funding plan must be in place to secure all funds necessary to complete the project. If sufficient funds are not currently available to complete the project, please list other anticipated sources of funding. List the date funds were committed from an entity other than the applicant; if funding has not been formally approved, note TBD. On a separate sheet, provide a detailed plan for fund raising that includes your organizations track record and internal or external expertise in fundraising.

Signature _____
APPLICANT'S AUTHORIZED REPRESENTATIVE

Date _____

APPENDIX I: EVALUATION FACTORS

Review Committee will rank the applications according to the following evaluation factors. A score sheet will be used to assign point values for each evaluation factor. Assigned point values should be based on the following scales:

Points Possible	Not At All True	Not Adequately	Generally True	Mostly True	Absolutely True
5	0	1	2-3	4	5
10	0	1-3	4-6	7-9	10
15	0	1-5	6-8	10-13	15
20	0	1-6	7-12	13-19	20

PROJECT DESIGN (50 points)

- How well does the project incorporate elements to address the full spectrum of access to address the need for accessible spaces for children and parents with cognitive and physical disabilities within Santa Clara County, not only to the 10% of those with disabilities in wheelchairs, but also to the 90% of those with disabilities who are not in wheelchairs? (0-40 points)
- Quality, functionality and attractiveness of the design (0-10 points)

LOCATION AND ACCESS OF PLAYGROUND (20 points)

- Days and hours of operation throughout the year. (outside of school hours versus a park being open all the time during park hours, for example). (0-10)
- How publicly accessible is the site? For example, is it in a school which restricts access? Convenient location of the playground within the facility? (0-10)

MAINTENANCE PROGRAM (10 points)

- How well developed is the maintenance program?
- Has applicant demonstrated responsible maintenance practices in comparable projects?

PROJECT READINESS/PROFESSIONAL CAPABILITY (20 points)

- Progress towards attaining permits/entitlements. (0-5 points)
- Feasibility of the funding plan. (0-5 points).
- Is a manageable timeline proposed with a detailed schedule of project activities enumerated? Schedule should be realistic and achievable. (0-5 points)
- How well does the application describe the personnel and methods that will be used to achieve the project objectives? (0-5 points)

The above evaluation factors total 100 possible points.

APPENDIX J: SAMPLE GRANT FUNDING AGREEMENT

The Grant Agreement sample document begins on the next page.

FUNDING AGREEMENT BY AND BETWEEN THE GRANTEE and THE COUNTY OF SANTA CLARA

This Funding Agreement ("Agreement") is made and entered into by and between the COUNTY of SANTA CLARA, a political subdivision of the State of California (hereinafter referred to as the "COUNTY"), and _____(hereinafter referred to as "GRANTEE").

RECITALS

WHEREAS, the GRANTEE signed and submitted an all-inclusive playground application ("Application") to the County requesting grant funding to assist with the construction and development of an all-inclusive playground, which is incorporated herein and made a part of this Agreement by this reference (Exhibit B). County materially relies upon the statements and documentation submitted by GRANTEE in said Application in its entirety and based upon this material reliance County is willing to enter into this Agreement with GRANTEE; and,

WHEREAS, the all-inclusive playground is located at _____, in the city of ___, County of Santa Clara, and will be open to the general public on a continuous non-interrupted basis for no less than twenty years from the date of Project completion (the "Project"); and,

WHEREAS, GRANTEE represents and warrants to County that GRANTEE, by itself and through its contractors and consultants, has experience, expertise, financial capability and ability to complete the Project contemplated herein and to fully perform all obligations and responsibilities under this Agreement to completion; and,

WHEREAS, the Board of Supervisors, wishes to assist the GRANTEE in completing the Project which serves as an all-inclusive playground on a continuous uninterrupted basis for at least 20 years (collectively, the "Public Purpose"); and,

WHEREAS, the Board of Supervisors has approved the award of Grant Funds (as defined herein below) to GRANTEE provided GRANTEE complies with all terms and conditions of this Agreement and has found that the Project will serve a public purpose of general COUNTY interest as an all-inclusive playground; and,

WHEREAS, the award of the Grant Funds is contingent upon GRANTEE complying with all terms and conditions of this Agreement, which includes GRANTEE satisfying all of the Grant Scope/Cost Estimate Form representations contained in Appendix G of GRANTEE's Application, which is included within Exhibit B herein below.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficient of which are hereby acknowledge, COUNTY and GRANTEE agree to the foregoing and as follows:

1. All Recitals contained herein above are incorporated into and made a part of this Agreement as terms and conditions.
2. The GRANTEE may utilize the Grant Funds specified in SECTION 4 of this Agreement to complete the Project within three years from the Effective Date of this Agreement and shall

return any unspent funds at the end of this three-year period.

3. The GRANTEE shall acknowledge the COUNTY's contribution to the Project by placing a plaque in public view within (project place) identifying the County of Santa Clara as a sponsor of the Project; The plaque shall first be reviewed and approved by COUNTY before it is installed; and,
4. The GRANTEE warrants and represents that it shall expend all Grant Funds in accordance with the terms of this AGREEMENT and the All-Inclusive Playground Grant Program Procedural Guide (the "Guide") (Exhibit A) attached and incorporated herein by this reference.

SECTION 1. PUBLIC PURPOSES

GRANTEE represents and warrants that it will use best efforts to secure all the requisite rights and entitlements from public agencies, local government and the property owner (if any) to construct the Project. GRANTEE further represents and warrants that it will ensure that at all times the subject Project is open and available to the public on an equal basis, and accessible by all members of the public, as an all-inclusive playground free of charge.

SECTION 2. GRANTEE RESPONSIBILITIES

COUNTY funding is subject to the following conditions:

(1) **Responsibility of the GRANTEE**. The GRANTEE will ensure that the Project is completed and operated in compliance with all requirements of the All-Inclusive Playground Grant Program Procedural Guide, and fully constructed and operational within three-years from the date of execution of this Agreement, and GRANTEE shall act promptly and without delay with respect to such matters in relation to the Project in accordance with the following:

a. Comply with all laws and Guide requirements, including but not limited to all environmental, health and safety laws and all provisions of the public contracts code, where applicable.

b. Comply with best industry practices and manufacturer design and construction specifications for the Project.

c. Prepare plans and specifications for the Project and construction of the Project using qualified persons with the requisite skills and expertise to complete the Project.

d. Prepare all environmental documents required for completion of the Project pursuant to the California Environmental Quality Act, National Environmental Policy Act, and any rules and/or regulations promulgated thereunder, where applicable. No funds will be dispersed until these environmental requirements have been fully met.

e. Secure all approvals, permits, and certifications by government agencies required for completion of the Project, where applicable.

f. Secure performance and payment bonds in 100% of the amount of the construction contract to assure satisfactory completion of the Project, and the payment of laborers and suppliers

of material.

g. Each year, during construction of the Project, GRANTEE shall cause a report to be made to the County Board of Supervisors showing progress made towards completion of the Project.

(2) **Capital Contributions by Parties to AGREEMENT**

a. GRANTEE shall ensure that any funds in excess of the Grant Funds needed to complete the Project are secured by GRANTEE and not by COUNTY.

b. No Grant Funds may be used for office space, salary, or administrative expenses incidental to the Project, or for professional planning or architectural design fees, or pre-construction services.

(3) **Budget Contingency**. Performance and/or payment by the COUNTY pursuant to this Agreement is contingent upon the appropriation of sufficient funds by the COUNTY for the work covered by this Agreement. If funding is reduced or deleted by the COUNTY for the work covered by this Agreement, the COUNTY may, at its option and without penalty or liability, terminate this Agreement or offer an amendment to this Agreement indicating the reduced amount.

SECTION 3. OPERATION AND MAINTENANCE

Upon completion of PROJECT construction, the GRANTEE warrants, represents and agrees that it, or its authorized representatives, will operate, manage, and maintain the PROJECT for a period of at least 20 consecutive years from the effective date of this AGREEMENT, for Public purposes, open to the public and for the benefit of the general public. Ongoing operation, management, and maintenance is solely the responsibility of the GRANTEE acting by itself or through its authorized representatives.

SECTION 4. COMPENSATION

(1) The COUNTY will provide the GRANTEE _____($__.00) ("Grant Funds") only in accordance with the reimbursement provisions of the All-Inclusive Playground Grant Program Procedural Guide. GRANTEE shall thoroughly review and develop an understanding of the obligations set out in the All-Inclusive Playground Grant Program Procedural Guide, including but not limited to the "Reimbursements" and "Final Reimbursement" sections.

(2) Any Grant Funds not expended pursuant to the terms and conditions of this Agreement shall be returned to the COUNTY immediately. In addition, if, for whatever reason, the GRANTEE is unable to ensure the completion of the construction of the Project or is unable to ensure that the all-inclusive playground is operated, managed, and maintained for twenty (20) consecutive years from the date of Project completion (which date must be no later than 3 years from the effective date of this Agreement), then GRANTEE shall immediately refund to the COUNTY all the Grant Funds, even if such funds have already been expended for the Project.

SECTION 5. RECORDS RETENTION AND AUDIT

(1) GRANTEE will maintain Project records for audit purposes for three (3) years after completion of the PROJECT or until all claims are settled, whichever occurs last. All records and data shall be available to COUNTY upon reasonable notice within five (5) working days of a request by

COUNTY. GRANTEE shall repay COUNTY with interest at the rate earned on COUNTY's investments for any unauthorized activities disclosed by audit or inspection, including the cost of the audit, within thirty (30) days of demand by COUNTY.

(2) Audits may be conducted at the discretion of the Santa Clara County Parks and Recreation Department. The audits may take two forms; a walk through inspection of the Project and informal review of the Project records by Parks and Recreation Department staff, and/or a formal financial audit conducted by either COUNTY staff or a consultant. GRANTEE should be prepared for either or both types of audits. A walk through inspection may occur at the beginning of a Project, prior to approval of the final reimbursement request, or at periodic intervals throughout the Project. A formal financial audit may occur as deemed necessary by the Santa Clara County Parks and Recreation Department.

SECTION 6. INDEMNIFICATION.

GRANTEE covenants, warrants, represents and agrees that it shall indemnify, defend, save and hold harmless the County and all of its employees, officers, directors, attorneys, agents, contractors, successors and assigns in accordance with the indemnification provisions of Exhibit C_, which is incorporated herein and made a part of this agreement by this reference.

SECTION 7. TERM OF AGREEMENT

This Agreement is effective as of the date of its full execution and shall terminate twenty years from the date of Project completion, unless otherwise terminated earlier pursuant to the terms of this Agreement.

SECTION 8. NOTICES

Any notices provided herein shall be deemed received when mailed or delivered to the respective parties addressed as follows:

COUNTY OF SANTA CLARA	GRANTEE
Robb Courtney, Director Parks and Recreation Department 298 Garden Hill Drive Los Gatos, CA 95032 Phone. (408) 355-2220	NAME, TITLE DEPARTMENT ADDRESS CITY, STATE, ZIP Phone.

SECTION 9. MISCELLANEOUS

(1) **Entire Agreement**. This document represents the entire agreement between the parties in relation to the subject matter contained herein. All prior negotiations and written and/or oral agreements between the parties with respect to the subject matter of the agreement are merged into this Agreement.

(2) **Amendments**. This Agreement may only be amended by a written instrument signed by authorized representatives of both parties.

(3) **Conflict of Interest**. GRANTEE shall comply, and require its contractors, employees, agents, representatives, subcontractors and consultants to comply, with all applicable (i) requirements governing avoidance of impermissible client conflicts; and (ii) federal, state and local conflict of

interest laws and regulations including, without limitation, California Government Code section 1090 et. seq., the California Political Reform Act (California Government Code section 87100 et. seq.) and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification (2 California Code of Regulations section 18700 et. seq.). Failure to do so constitutes a material breach of this Agreement and is grounds for immediate termination of this Agreement by the COUNTY.

a. In accepting this Agreement, GRANTEE covenants, warrants, represents, and agrees that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of this Agreement. GRANTEE further covenants that, in the performance of this Agreement, it will not employ any contractor, consultant or person having such an interest. GRANTEE, including but not limited to GRANTEE's employees, contractors, subcontractors and consultants, may be subject to the disclosure and disqualification provisions of the California Political Reform Act of 1974 (the "Act"), that (1) requires such persons to disclose economic interests that may foreseeably be materially affected by the work performed under this Agreement, and (2) prohibits such persons from making or participating in making decisions that will foreseeably financially affect such interests.

b. If the disclosure provisions of the Political Reform Act are applicable to any individual providing service under this Agreement, GRANTEE shall ensure that all such individuals identified pursuant to this section understand that they are subject to the Act and shall conform to all requirements of the Act and other applicable laws and regulations including, as required, filing of Statements of Economic Interests within 30 days of commencing any work pursuant to this Agreement, annually by April 1, and within 30 days of their termination or cessation of work pursuant to this Agreement.

(4) **Governing Law, Venue**. This Agreement, and all the rights and duties of the parties arising from or relating in any way to the subject matter of this Agreement or the transaction(s) contemplated by it, shall be governed by, construed, and enforced in accordance with the law of the State of California (excluding any conflict of laws provisions that would refer to and apply the substantive laws of another jurisdiction). Any suit or proceeding relating to this Agreement, including arbitration proceedings, shall be brought only in Santa Clara County, California. EACH OF THE PARTIES CONSENT TO THE EXCLUSIVE PERSONAL JURISDICTION AND VENUE OF THE COURTS, STATE AND FEDERAL, LOCATED IN SANTA CLARA COUNTY, CALIFORNIA.

(5) **Assignment**. No assignment of this Agreement or of any of the rights or obligations hereunder shall be valid without the prior written consent of COUNTY.

(6) **Waiver**. No delay or omission by either party hereto to exercise any right occurring upon any noncompliance or default by the other party with respect to any of the terms of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions, or agreements to be performed by the other shall not be construed to be a waiver of any succeeding breach thereof or of any covenant, condition or agreement herein contained.

(7) **Non-Discrimination**. GRANTEE represents, warrants and agrees that it and its contractors, consultants and representatives shall comply with all applicable Federal, State, and local laws and regulations including Santa Clara County's policies concerning nondiscrimination and equal opportunity in contracting. Such laws include but are not limited to the following: Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; The Rehabilitation Act of 1973 (Sections 503 and 504); California Fair Employment and Housing Act (Government Code sections 12900 et seq.); and California Labor Code sections 1101 and 1102. GRANTEE represents,

warrants and agrees that it shall not discriminate against any contractor, subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status in the recruitment, selection for training including apprenticeship, hiring, employment, utilization, promotion, layoff, rates of pay or other forms of compensation. GRANTEE also represents, warrants, and agrees that it shall not discriminate in provision of work performed in relation to this Agreement because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.

(8) **County No-Smoking Policy.** GRANTEE and its employees, agents, contractors, subcontractors and consultants, shall comply with the COUNTY's No-Smoking Policy, as set forth in the Board of Supervisors Policy Manual section 3.47 (as amended from time to time), which prohibits smoking: (1) at the Santa Clara Valley Medical Center Campus and all County-owned and operated health facilities, (2) within 30 feet surrounding County-owned buildings and leased buildings where the County is the sole occupant, and (3) in all County vehicles.

(9) **Food and Beverage Standards**. Except in the event of an emergency or medical necessity, County's nutritional standards shall apply to any foods and/or beverages purchased by GRANTEE with Grant Funds for County-sponsored meetings or events.

(10) **California Public Records Act**. All documents and records provided to or made available to County under this Agreement become the property of the COUNTY, which is a public agency subject to the disclosure requirements of the California Public Records Act ("CPRA"). If GRANTEE proprietary information is contained in documents submitted to County, and CITY claims that such information falls within one or more CPRA exemptions, GRANTEE must clearly mark such information "CONFIDENTIAL AND PROPRIETARY," and identify the specific lines containing the information. In the event of a request for such information, the County will make reasonable efforts to provide notice to GRANTEE prior to such disclosure. If GRANTEE contends that any documents are exempt from the CPRA and wishes to prevent disclosure, it is required at its own cost, liability, and expense to obtain a protective order, injunctive relief, or other appropriate remedy from a court of law in Santa Clara County before the County responds to the CPRA request. If GRANTEE fails to obtain such a remedy before the County responds to the CPRA request, County may disclose the requested information and shall not be liable or responsible for such disclosure.

a. GRANTEE further warrants, represents and agrees that it shall defend, indemnify, and hold COUNTY harmless against any and all claims, actions or litigation (including but not limited to all judgments, costs, fees, and attorney's fees) that may result from denial by County of a CPRA request for any information arising from any representation, or any action (or inaction), by the GRANTEE, its contractors, consultants, employees, agents, or representatives.

(11) **No Third Party Beneficiaries**. This Agreement does not, and is not intended to, confer any rights or remedies upon any person or entity other than the parties signing this Agreement. The CDM shall have no right or claim attaching to this Agreement or to the Grant Funds and is not a third party beneficiary of or to this Agreement.

(12) **Relationship of the Parties**. The Parties acknowledge and agree that nothing set forth in this Agreement shall be deemed or construed to render the parties as joint venturers, partners, agents, a joint enterprise, employer-employee, or lender-borrower. GRANTEE shall have no authority to employ any person as employee or agent on behalf of COUNTY for any purpose. Neither GRANTEE nor any person using or involved in or participating in the Project or in the use of the Grant Funds shall

be deemed a third party beneficiary to this Agreement nor an employee or agent of COUNTY, nor shall any such person represent himself or herself to others as a third party beneficiary to this Agreement or as an employee or agent of COUNTY.

(13) **No Indemnification and Insurance by County**. Nothing contained in this Agreement is to be construed as an indemnification by COUNTY for any loss, damage, injury or death arising out of or caused, in whole or in part, by the COUNTY or its Board of Supervisors, officers, executives, attorneys, employees, agents, representatives, contractors or subcontractors. Nothing contained herein shall be construed to, and nothing shall, obligate the COUNTY to provide any insurance, indemnity or protection for or on behalf of any third party, the Project or the property owner.

(14) **Subcontractors**. If any obligation is performed for or on behalf of GRANTEE through a consultant, contractor or subcontractor, GRANTEE will remain fully responsible for the performance of all obligations under this Agreement and GRANTEE will be solely responsible for all payments due to its contractors, consultants, or subcontractors. No contract, subcontract or other agreement entered into by GRANTEE with any third party in connection with this Agreement, or for or in relation to the use of the Grant Funds,will provide for any indemnity, guarantee or assumption of liability by, or other obligation of, County with respect to such arrangement. No contractor, consultant or subcontractor will be deemed a third party beneficiary for any purposes under or to this Agreement.

(15) **Nonexclusive Agreement**. GRANTEE agrees that this Agreement is non-exclusive and County may at any time, in its sole discretion, enter into agreements with other parties for any purpose deemed to be in the best interest of the COUNTY.

(16) **Paragraph Headings**. The headings and captions of the various paragraphs and subparagraphs hereof are for convenience only, and they shall not limit, expand or otherwise affect the construction or interpretation of this Agreement.

(17) **Cumulative Remedies.** The rights and remedies of the parties to this Agreement, whether pursuant to this Agreement or in accordance with law, shall be construed as cumulative, and the exercise of any single right or remedy shall constitute neither a bar to the exercise of nor the waiver of any other available right or remedy.

(18) **Counterparts.** This Agreement may be executed in several counterparts, and all of such counterparts so executed together shall be deemed to constitute one and the same agreement, and each such counterpart shall be deemed to be an original. Facsimile or electronic signatures shall have the same legal effect as original or manual signatures if followed by mailing of a fully executed original to both parties.

(19) **Construction/Severability**. This Agreement shall not be construed more strongly against either party regardless of who is more responsible for its preparation. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable any other part of this Agreement, but the Agreement shall be construed as not containing the particular provision or provisions held to be invalid or unenforceable.

(20) **Authority**. Each party represents and warrants that it has executed this Agreement freely, fully intending to be bound by the terms and provisions contained in this Agreement and that the persons signing below are authorized to sign on each party's behalf.

(21) **Office of Foreign Assets Control Compliance**. Grantee represents to County that: (a)

Grantee and each of the Grantee Representatives are not acting, and shall not act, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person," or other banned or blocked person, entity, nation, or transaction pursuant to any law, order, rule or regulation enforced or administered by the federal Office of Foreign Assets Control; and (b) Grantee, and the Grantee Representatives, are not engaged in this transaction, directly or indirectly, on behalf of, or instigating or facilitating this transaction, directly or indirectly, on behalf of any such person, group, entity, or nation.

(22) **County Regulatory Authority**. Grantee acknowledges and agrees that County, acting not as landlord but in its governmental regulatory capacity, has certain governmental regulatory authority over the Premises and that nothing in this License binds the County to exercise or refrain from exercising this discretionary governmental authority in any particular manner.

(23) **Bribery Clause**. Grantee certifies, represents and warrants that Grantee and the Grantee Representatives have not been convicted of bribery or attempting to bribe an officer or employee of the County or any other municipality or state entity nor has Grantee or any of the Grantee Representatives made an admission of guilt of such conduct which is a matter of record.

(24) **Wage Theft Prevention**.

a. Compliance with Wage and Hour Laws. Grantee, and any the Grantee Representatives it employs or contracts with to complete work under this Agreement, must comply with all applicable federal, state, and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act, the California Labor Code, and any local Minimum Wage Ordinance or Living Wage Ordinance.

b. Final Judgments, Decisions, and Orders. For purposes of this Section, a "final judgment, decision, or order" refers to one for which all appeals have been exhausted. Relevant investigatory government agencies include: the federal Department of Labor, the California Division of Labor Standards Enforcement, a local enforcement agency, or any other government entity tasked with the investigation and enforcement of wage and hour laws.

c. Prior Judgments against Grantee. BY SIGNING THIS AGREEMENT, GRANTEE AFFIRMS THAT IT HAS DISCLOSED ANY FINAL JUDGMENTS, DECISIONS, OR ORDERS FROM A COURT OR INVESTIGATORY GOVERNMENT AGENCY FINDING—IN THE FIVE YEARS PRIOR TO EXECUTING THIS AGREEMENT—THAT GRANTEE HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS.

GRANTEE FURTHER AFFIRMS THAT IT HAS SATISFIED AND COMPLIED WITH—OR HAS REACHED AGREEMENT WITH THE COUNTY REGARDING THE MANNER IN WHICH IT WILL SATISFY—ANY SUCH JUDGMENTS, DECISIONS, OR ORDERS.

d. Judgments During Term of Contract. If at any time during the term of this Agreement, a court or investigatory government agency issues a final judgment, decision, or order finding that Grantee or any subcontractor it employs to perform work under this Agreement has violated any applicable wage and hour law, or Grantee learns of such a judgment, decision, or order that was not previously disclosed, Grantee must inform the Office of the County Executive-Office of Countywide Contracting Management (OCCM), no more than 15 days after the judgment, decision, or order becomes final or of learning of the final judgment, decision, or order. Grantee and its subcontractors shall promptly satisfy and comply with any such judgment, decision, or order, and shall provide the Office of the County Executive-OCCM with documentary evidence of compliance with the final judgment, decision, or order

within 5 days of satisfying the final judgment, decision, or order. The County reserves the right to require Grantee to enter into an agreement with the County regarding the manner in which any such final judgment, decision, or order will be satisfied.

e. County's Right to Withhold Payment. Where Grantee has been found in violation of any applicable wage and hour law by a final judgment, decision, or order of a court or government agency, the County reserves the right to withhold payment to Grantee until such judgment, decision, or order has been satisfied in full.

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

g. Notice to County Related to Wage Theft Prevention. Notice provided to the Office of the County Executive as required under this Section shall be addressed to: Office of the County Executive—OCCM; 70 West Hedding Street; East Wing, 11th Floor; San José, CA 95110. The Notice provisions of this Section are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section.

(25) **Prevailing Wage**. Grantee acknowledges and agrees that work performed under this Agreement may be considered a public work within the meaning of California Labor Code Section 1720 and that the requirements of Section 1771, et. seq. apply to such public work. Grantee has included (and will include) consideration for this obligation in calculating compensation under this Agreement, if such prevailing wage requirements are applicable. Grantee is solely responsible and liable for ensuring compliance with all applicable prevailing wage laws. County may at any time, without obligation to do so, audit Grantee to verify whether Grantee is in compliance with prevailing wage laws. Grantee shall cooperator with all such audits, including making available and providing copies, during the period 9:00am to 5:00pm, Monday through Friday, any and all records requested by County to verify compliance promptly upon request, but not later than seventy-two hours after such request.

(26) **Insurance**. Grantee shall provide insurance and comply with all insurance and other terms and conditions set out in the attached Exhibit C.

(27) **Survival**. All terms and conditions that by their nature should survive termination or expiration of this Agreement, shall so survive including but not limited to Sections 1, 2, 5, 6, 8, and 9 inclusive.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as provided below. The "Effective Date" of this Agreement shall be the last date signed by all below.

COUNTY OF SANTA CLARA:	**GRANTEE:**
_____	_____
Dave Cortese, President, Board of Supervisors	NAME, TITLE
Dated:_____	Dated:_____

ATTEST:

_____

Megan Doyle, Clerk of the Board of Supervisors

Approved as to form and legality:

_____

Shirley R. Edwards, Deputy County Counsel

Enclosures:

Exhibit _A_ -- All-Inclusive Playground Grant Program Procedural Guide

Exhibit _B_ -- Grant Application

Exhibit C__ -- Insurance

EXHIBIT C

INSURANCE REQUIREMENTS FOR GRANT AGREEMENT

Indemnity

The Grantee shall indemnify, defend, and hold harmless the County of Santa Clara (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by Grantee and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County. The Grantee shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Grantee contests its obligation to indemnify, defend and/or hold harmless the County under this Agreement and does not prevail in that contest.

Insurance

Without limiting the Grantee's indemnification of the County, the Grantee shall provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the following insurance coverages and provisions:

A. Evidence of Coverage

Prior to commencement of this Agreement, the Grantee shall provide a Certificate of Insurance certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, a certified copy of the policy or policies shall be provided by the Grantee upon request.

This verification of coverage shall be sent to the requesting County department, unless otherwise directed. The Grantee shall not receive a Notice to Proceed with the work under the Agreement until it has obtained all insurance required and such insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Grantee.

B. Qualifying Insurers

All coverages, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Insurance Manager.

C. Notice of Cancellation

All coverage as required herein shall not be canceled or changed so as to no longer meet

the specified County insurance requirements without 30 days' prior written notice of such cancellation or change being delivered to the County of Santa Clara or their designated agent.

D. Insurance Required

1. Commercial General Liability Insurance - for bodily injury (including death) and property damage which provides limits as follows:

   a. Each occurrence - $1,000,000

   b. General aggregate - $1,000,000

   c. Products/Completed Operations aggregate - $1,000,000

   d. Personal Injury - $1,000,000

2. General liability coverage shall include:

   a. Premises and Operations

   b. Products/Completed

   c. Personal Injury liability

   d. Severability of interest

3. General liability coverage shall include the following endorsement, a copy of which shall be provided to the County:

   Additional Insured Endorsement, which shall read:

   > "County of Santa Clara, and members of the Board of Supervisors of the County of Santa Clara, and the officers, agents, and employees of the County of Santa Clara, individually and collectively, as additional insureds."

   Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by the County of Santa Clara, its officers, agents, and employees shall be excess only and not contributing with insurance provided under this policy. Public Entities may also be added to the additional insured endorsement as applicable and the Grantee shall be notified by the contracting department of these requirements.

4. Fidelity Bond

Before receiving any reimbursement under this Agreement, Grantee will furnish County with evidence that all officials, employees, and agents handling or having access to funds received or disbursed under this Agreement, or authorized to sign or countersign checks, are covered by a BLANKET FIDELITY BOND in an amount of AT LEAST fifteen percent (15%) of the maximum financial obligation of the County cited herein. If such bond is canceled or reduced, Grantee will notify County immediately, and County may withhold further payment to Grantee until proper coverage has been obtained. Failure to give such notice may be cause for termination of this Agreement, at the option of County.

E. Special Provisions

The following provisions shall apply to this Agreement:

1. The foregoing requirements as to the types and limits of insurance coverage to be maintained by the Grantee and any approval of said insurance by the County or its insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Grantee pursuant to this Agreement, including but not limited to the provisions concerning indemnification.

2. The County acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self-insurance on the part of the Grantee. However, this shall not in any way limit liabilities assumed by the Grantee under this Agreement. Any self-insurance shall be approved in writing by the County upon satisfactory evidence of financial capacity. Grantees obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions.

3. Should any of the work under this Agreement be sublet, the Grantee shall require each of its subcontractors of any tier to carry the aforementioned coverages, or Grantee may insure subcontractors under its own policies.

Exhibit B

Grant Application

ALL-INCLUSIVE PLAYGROUND GRANT PROGRAM PROPOSAL

A joint application submitted by:

City of Milpitas and Milpitas Unified School District

ALL-INCLUSIVE PLAYGROUND GRANT PROGRAM PROPOSAL

City of Milpitas/Milpitas Unified School District

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APPENDIX D: APPLICATION PACKET REQUIREMENTS AND CHECKLIST

1. ☐ AIPG Application Form. See Appendix E. The Master Application Form must be completed and signed by the applicant's authorized representative.
2. ☐ Project Proposal. See Appendix F. In conjunction with the AIPG Application Form (Appendix E), attach a written description of the project proposal. Provide a written response to each of the evaluation factors in the order in which they appear.
3. ☐ Grant Scope/Cost Estimate. See Appendix G. The Grant Scope should be detailed enough to itemize each project work item and must be consistent with the cost estimate.
4. ☐ Property Owner Approval. Attach lease, license, or agreement executed by property owner and applicant committing the use of the property for a minimum of 20 years for use as an all-inclusive playground on a continuous uninterrupted basis.
5. ☐ Funding Sources Form. See Appendix H. List the funding sources that will be used to finance the grant project.
6. ☐ CEQA. Grant projects require compliance with the California Environmental Quality Act (CEQA). Prior to any grant funds being disbursed, CEQA must be completed. If you have completed CEQA, please submit one of the documents listed below with your application. If CEQA is not completed, please describe any steps taken to comply with CEQA.
   - Notice of Exemption filed with, and stamped by, the county clerk, *or*
   - Initial Study with a Negative Declaration and a copy of the Notice of Determination filed with, and stamped by the county clerk, *or*
   - Initial Study and an Environmental Impact Report and a copy of the Notice of Determination filed with, and stamped by the county clerk.
7. ☐ 501(c)(3) Certification. Attach copy of 501(c)(3) certification.
8. ☐ Photos of Project Site. Attach a minimum of four (4) color photographs in 4" x 6" format of the project site and site context presented in 8.5" x 11" format. No more than two photographs per page. Include descriptions of each photograph.
9. ☐ Required Regulatory Permits. Attach a list of existing and additional permits required to complete the grant project, if applicable, the status of each, and indicate when permit approval would occur.
10. ☐ Public Access Schedule. Attach a schedule of public accessibility, including hours of operation.
11. ☐ Project Use Diagram. Provide floor plan of the Project area and proposed uses of each area, specifically designated public access areas and proposed use of other areas._
12. ☐ Timeline. Attach a timeline indicating the key milestones (such as design, engineering, construction) for project completion.

APPENDIX E: ALL-INCLUSIVE PLAYGROUND APPLICATION FORM

County of Santa Clara
ALL-INCLUSIVE PLAYGROUND GRANT PROGRAM

PROJECT NAME **McCandless Park and Mattos School Playground Project**	Requested GRANT Amount	**$1,000,000**
	Grantee Cash Contribution	**$1,000,000**
	Other Funding Sources	**$0**
PROJECT PHYSICAL ADDRESS (including zip code) **1700/1750 McCandless Drive - Milpitas, CA 95935**	TOTAL PROJECT COST	**$2,000,000**
	Nearest Cross Street **McCandless Drive and Montague Expressway**	
GRANT APPLICANT (entity applying for the grant) Lead Agency: **City of Milpitas**	GRANT APPLICANT's Mailing Address (City of Milpitas) **455 E. Calaveras Blvd. Milpitas, CA 95035**	

AUTHORIZED REPRESENTATIVE AS SHOWN IN RESOLUTION OR CERTIFICATION LETTER **Renee Lorentzen, Recreation Director**	**rlorentzen@ci.milpitas.ca.gov**	**408-586-3409**
Name *(typed or printed)* and Title	Email address	Phone
DIRECTOR/PRESIDENT/CEO **Julie Edmonds-Mares, City Manager**	**jedmonds-mares@ci.milpitas.ca.gov**	**408-586-3050**
Name *(typed or printed)* and Title	Email address	Phone
DAY-TO-DAY CONTACT for ADMINISTRATION of the GRANT *(if different from AUTHORIZED REPRESENTATIVE)* **Renee Lorentzen, Recreation Director**	**rlorentzen@ci.milpitas.ca.gov**	**408-586-3409**
Name *(typed or printed)* and Title	Email address	Phone

GRANT SCOPE: I/we represent and warrant that this Application Package describes the intended use of the requested grant to complete the project items listed in the attached Cost Estimate Form and if such grant is awarded I/we fully intend and shall comply with all terms and conditions of the All-Inclusive Playground Grant Application and Procedural Guide including the Grant Agreement attached as Appendix J. I declare under penalty of perjury, under the laws of the State of California, that the information contained in this Application Package, including required attachments, is accurate.

Renee Lorentzen — May 30, 2018

Signature AUTHORIZED REPRESENTATIVE as shown in Resolution — Date

Print Name **Renee Lorentzen**

Title **Director, Recreation and Community Services**

CITY OF MILPITAS

455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479
GENERAL INFORMATION: 408-586-3000, TDD: 586-3013, www.ci.milpitas.ca.gov

Date: May 30, 2018

To: AIPG Review Committee

Regarding: Joint Use Agreement and Certification Letter

Dear: AIPG Review Committee,

The City of Milpitas (City) is pleased to be collaborating with Milpitas Unified School District (MUSD) on the McCandless Park and Mattos School All-Inclusive playgrounds project. The playgrounds are located within the McCandless/Mattos Joint-Use site area which was formally approved by both the District Board and City Council in 2016. Both the City and MUSD leadership will work cooperatively on this integrated playground project if the All-Inclusive Playground Grant funding is awarded by the County of Santa Clara.

Additionally, the City of Milpitas and Milpitas Unified School District designate Renee Lorentzen, Director of Recreation and Community Services for the City of Milpitas as the Authorized Representative for the All-Inclusive Playground Grant, acting on behalf of both the City of Milpitas and MUSD. As such, Ms. Lorentzen will have signature authority for both parties related to the AIPG application, as well as being designated as AIPG Administrator if awarded grant funding by the County.

Sincerely,

Julie Edmonds-Mares, City Manager
City of Milpitas

Date: 5/30/18

Cheryl Jordan, Superintendent
Milpitas Unified School District

Date: 5-29-18

APPENDIX F: PROJECT PROPOSAL

1. Project Description

- **Describe the proposed project and the specific work items to be funded by the grant.**

The City of Milpitas (City) and Milpitas Unified School District (MUSD) are submitting a joint grant proposal with a request of **$1,000,000** to be applied toward the construction of two new connecting playground areas in a new City public park and new MUSD elementary school. The new McCandless Park and Mattos School are on neighboring parcels and include joint use areas to maximize both spaces for student and general public use. McCandless Park is a 4.2-acre park with amenities that include a community garden, walking paths, accessible PAR course equipment, youth sport field, shaded picnic areas, restrooms, and playground areas. Mattos School is a new K-6 school with state-of-the-art classrooms, playgrounds, and basketball courts. The matching funds request of **$1,000,000** would be allocated toward taking the existing conceptual design plans for both playgrounds, from conventional play use to connected "all-Inclusive" playgrounds, inspired by the forward-thinking models of both the Magical Bridge Playground model in Palo Alto and the Rotary PlayGarden in San Jose!

The complete conversion of the existing conceptual playground plans for both the park and school to the "all-inclusive" model, will give emphasis to play-use for all abilities and all ages. Our playground concepts will envelope its visitors into a larger-than-life Butterfly Garden! The two adjoining playgrounds would feature play zones with an integrated design that allows for the needs of all that want to play, regardless of their individual physical, developmental, sensory, visual, auditory and/or cognitive ability. The McCandless Park and Mattos School playgrounds project will be a destination park for Milpitas, Santa Clara County, and the larger Bay Area. Upon arriving to the playgrounds, visitors will immediately see the bright and beautiful flowers, as tall as trees, and the arch of the Harmony musical element, just waiting for someone to come and play beneath it. Visually and tactilely inviting to visitors are a series of distinct play zones on patterned play surfaces mimicking flower petals. Throughout the playgrounds are elements for all to traverse, slide, swing, touch and listen to in their own way. Connected by pathways and bridges, and protected by fencing, our inclusive design featuring elements of butterfly wings, crawling caterpillars, and an open barn structure, allows for a unique experience and complete use of the park by everyone who visits. Moreover, the Mattos School playground portion of the plan enables the MUSD to advance their goal of promoting an inclusive approach to classroom and play space for students with disabilities and special needs.

To further promote the McCandless Park and Mattos School playgrounds as a destination location, the larger park design includes, in close proximity to the playgrounds, restroom facilities and shaded picnic areas to allow for visitors to play, picnic, learn, and enjoy the park in its entirety before heading home or back to their classroom.

The specific work items proposed for funding through this grant are:

- Purchase and installation of durable PIP (poured in place) rubber safety surfacing and also compacted decomposed granite material for the pathway connecting the two playgrounds
- Purchase and installation of state-of-the-art "all-inclusive" playground equipment, carefully considered to the meet the varied recreational and play needs of participants of all ages and abilities
- Purchase and installation of multi-functional, accessible PAR Course stations intended for participants of all ages, abilities and fitness levels
- Purchase and installation of game tables, benches and water fountains
- Construction of concrete seat walls and high quality perimeter safety fencing (with self-closing gates) surrounding both playground areas
- Playground equipment footing increase
- Purchase and installation of various site amenities to visually integrate the two adjoining playground areas

- **Who will be responsible for performing what activities (work items)?**

The primary Park Project Team consists of staff from the City of Milpitas' Engineering Department, Public Works Department, the Recreation and Community Services Department, MUSD Liaison and project consultants, IBI Group. The Engineering team is responsible for the oversight of the park design and build. They also directly manage the project consultants. The consultants are responsible for managing the park design and its designer consultant in its entirety from conceptual to construction. The Public Works staff is responsible for the review of project plans for park utilities, the review of park features for projected maintenance costs, and plan development. The Recreation and Community Services Staff is responsible for all public outreach and community meeting data, park amenity development, and park use programming. The MUSD Liaison works with the entire project team, particularly Recreation and Community Services staff, on cohesion of the playground locations and design features.

2. All-Inclusive Playground Issues/Needs/Public Purpose

- **How does the project address the need for accessible spaces for seniors, children and parents with physical or cognitive disabilities within Santa Clara County?**

The McCandless Park and Mattos School playgrounds project would further address the needs for accessible spaces for seniors, children and parents with physical or cognitive disabilities within Santa Clara County by adding another innovative, integrated, all-inclusive playground structures. To date, only the San Jose Rotary PlayGarden, and the Palo Alto Magical Bridge Playground offer all-inclusive playground design features for County of Santa Clara residents. Playground opportunities for people with varied disabilities is limited at the present time.

The playgrounds project site is located in Milpitas' Transit Area and is accessible to park users by all modes of conventional and alternate transportation. Near the park will be a new BART Station, and already existing Light Rail and VTA Bus Lines. The park shares a property line with Mabel Mattos Elementary School and as part of a joint use agreement between the City and MUSD, a large parking lot is available for park visitor use. The development of the park, the elementary school, and concurrent residential development of the Transit Area are bringing new and improved accessible sidewalks to and from the park. Milpitas as a city, and the park and school playgrounds location on the south side of town, are centrally located in Silicon Valley. As a result, we believe our playgrounds are poised for heavy use by residents of Milpitas and also those in the northeastern section of the south bay.

The park and school playgrounds project is ADA compliant in all aspects related to play equipment and space requirements. What our design also provides for is an opportunity for adults with a disability to play with their young family members or friends while at a playground. We want to provide the opportunity for visitors, young and old, regardless of who has a limitation, to enjoy the entire playground experience. As part of our design, there is an accessible PAR course area for visitors to the park who want to focus on physical fitness. Additionally, features we are planning to integrate have been shown to positively address various cognitive challenges such as processing information, reasoning, comprehension, memory, expressing information/emotions, and the ability to control impulses.

Creating a climate where everyone can participate, and at their own independent pace, is a top priority. As an example, built-in "retreat" spots throughout the playground area will also aid in creating safe space(s) to back away from a play activity when over-stimulated, then allow participants to re-engage again, when ready. We feel this promotes positive decision-making, control of experience and "empowerment through play."

- **Describe how the design goes above and beyond minimum standards set by the Americans with Disabilities Act, to ensure that seniors, children and parents with disabilities can truly make use of the playground.**

The playgrounds in their current pre-grant conceptual design have the required ADA accessibility to the playground structure, surfacing and some individual playground features. The award of this grant allows us to energize the designs and go above

and beyond the required standards to provide a park that the City of Milpitas, Milpitas Unified School District, and Santa Clara County can take extreme pride in. Having a design that is integrated for all abilities throughout the park has so much more to offer than a park that has separate accessible pieces. In instances where accessible playground equipment is placed without purposefulness and consideration of the user and their entire playground experience, park visitors with special needs and/or varied abilities often find themselves isolated from the main play attraction. We want the McCandless Park and Mattos School playgrounds to allow every user, regardless of ability, to play, lead and follow in play with their peers.

The most distinguishing characteristic of the McCandless Park and Mattos School playgrounds project is that these connected playground spaces are designed for the developmental needs of every participant of every ability. In children, for example, meaningful play is critical throughout childhood and beyond. Play is the means by which all children develop physical, social-emotional, sensory, cognitive, and communication skills. Through play, children develop increasing complexity in these skills, gradually mastering their behavior and capabilities as they voluntarily enter into situations that reflect an image of themselves as empowered, active, and capable. These experiences, in turn, create a sense of ownership in play. Through independent participation in play, children secure these developmental benefits, improving their overall physical health and psychological and emotional well-being. We believe these same benefits are transferable to all playground users irrespective of age and/or ability.

The playgrounds project plan would include railings for ramps and transition areas and will feature hand railing to accommodate the needs of those in wheelchairs (or younger children who are sight impaired). The two playground structures would also incorporate entry points to each individual play zone. The purpose of this would be to create a sense of "safety" and "comfort" within each distinct play area for the participants. Participants in a zone with spinning equipment for instance, needn't worry about being hit from behind from someone on a swing. We want park visitors to be able to know what to expect in the area they are playing in, and therefore, feel a sense of safety.

Seating walls will help define our distinct play zones while also providing valuable resting spots for adults and children. Our proposed play zones include: swing zone, spin zone, slide zone, treehouse play zone, net climbing zone, harmony musical garden zone and cozy retreat zones throughout the playgrounds. We would like to highlight that the playgrounds project areas planned are located in close proximity to a dedicated parking lot for the school and park. For those with physical disabilities, this allows for greater ease in getting to the playground spaces. A number of public parks are nestled in neighborhoods where only street parking and/or small parking lots are available for park visitors.

The McCandless Park and Mattos School playgrounds seek to encourage multigenerational play. Engaging play areas such as our harmony musical garden will provide developmentally meaningful play experiences regardless of age and/or ability. This play space, for instance, will incorporate varied play elements that are both collaborative and appealing, while also integrating various musical components nestled next to our beautiful butterfly garden.

As an added feature, the playgrounds are connected by a pathway that will have two inclusive PAR Course stations along both sides. We envision this being used primarily by adults and seniors, although available for all ages, who have varied abilities and fitness levels. This feature will hopefully engage the community in self-paced, low-impact physical activity while enjoying time with their families on site.

- **Describe what elements of this project make the playground accessible not only to those with disabilities who are in wheelchairs, but also those with disabilities who are not in wheelchairs. These should include elements to address the needs of people with Autism Spectrum, Sensory Challenges, Visual and Auditory Impairments, medically fragile individuals, Cognitive, Developmental and Physical Disabilities. Specifically identify which elements of your proposed design address which disability. As an example, understanding playground users with autism may get overstimulated with ramps and connected play equipment, what is included in your design to address this?**

The McCandless Park and Mattos School playgrounds project will include elements that positively address the needs of people with Autism Spectrum Disorder, sensory challenges, visual and auditory impairments, medically fragile individuals, cognitive, developmental and physical disabilities. The one common theme that will be the built-in are "cozy retreat" zones for participants. Each of the distinct play zones will integrate a "retreat" area or "quiet spot" for participants to find sanctuary from over-stimulation and/or excessive noise. Retreat areas allow participants to observe and gain a sense of comfort within a play activity or voluntarily step-away from the activity to rest or achieve a sense of calmness before re-engaging again in play. Our playgrounds would leverage this feature as the cornerstone consideration to address the needs of people with Autism Spectrum Disorder (and also certain sensory and social-emotional challenges). Moreover, the play equipment would also be spaced accordingly to account for people with sensory challenges and who, as a result, possibly struggle with spatial awareness. Additionally, both playgrounds would use ADA-approved surfacing material to ensure that the play space is safe for all participants.

Social opportunities are one of the most important benefits of play for child development. Our playgrounds seek to offer an environment that reinforces positive social-emotional development through play that includes a participant's experience, expression, management of emotions and the ability to establish positive

relationships with others. We're looking to provide a play environment that encompasses social interaction, cooperation, self-confidence, comprehension of one's own feelings, as well as an understanding of the feelings and emotional state of others. Our multi-faceted playground areas afford participants the opportunity to flow from one space to the next effortlessly. This, we believe, will positively influence enhanced social-emotional and relationship building opportunities.

On the cognitive domain, our inclusive playgrounds will engage users in play that reinforces problem-solving and critical thinking skills. Inclusive playgrounds, we feel, should offer opportunities for participants to develop cognition as they problem solve, engage in abstract thinking, and learn through various experiences and discovery.

Participants with physical or motor functioning disabilities, such as Cerebral Palsy, would benefit from the two connecting playgrounds because of the proposed multi-functional and "all-inclusive" play equipment. A person in a wheelchair, for instance, could enjoy similar sensory benefits from swinging, sliding, spinning, etc. because we'd incorporate equipment to address that need. The Magical Bridge, for instance, offers a few models of play equipment that we'd seek to integrate. For example, a "spinning piece" of equipment that is built-in at ground-level (with its base flush with the flooring). The bar raises up to allow for a wheelchair to comfortably roll onto the play equipment, then slides down over the participant to support him/her during the spinning activity. A slide feature that incorporates platforms for a person in a wheelchair to comfortably position themselves on the slide as well as a safe landing platform at the bottom. The rollers built-in to this slide feature allows for the person to glide effortlessly down the slide. The comparable slide "sensation" is therefore accomplished. Additionally, ramps, wide platforms and PIP (poured in place) rubber safety surfacing throughout the playground areas will allow for easy accessibility for those with physical disabilities and also medically fragile individuals.

Visually impaired participants will benefit from sensory-rich play and activities that incorporate bright colors and tactile activities such as a drum panel, horns and chime panels. In consideration of participants with uneasiness and/or apprehension to open space-type of play areas, both playground spaces will include perimeter fencing with self-closing gates similar to the design utilized by the Magical Bridge Playground in Palo Alto.

A grant for the McCandless Park and Mattos School playgrounds would allow us to incorporate interactive play panels to stimulate fine motor skills, include various play equipment opportunities for swinging, swaying, sliding, spinning and balancing, and create space for climbing, crawling, and rocking along graduated levels of ability.

The McCandless Park and Mattos School playgrounds would like to be viewed as a play destination that serves as a catalyst in promoting structured and unstructured play activities between participants with disabilities and without disabilities. A

destination playground that creates greater equity, awareness, breaks down barriers, fosters friendships, and models the positive benefit of community.

- **How will the project benefit the community and make a regionally significant, long-term contribution to Santa Clara County?**

  Trends of use at the Magical Bridge Playground in Palo Alto have shown that families seeking comprehensive play opportunities will travel outside their own city limits to enjoy adaptive, all-inclusive playgrounds. Having two connecting all-inclusive playgrounds in Milpitas would be regionally significant because of the growing need throughout the County of Santa Clara for these types of innovative playground designs. Our goal for the two connecting McCandless Park and Mattos School playgrounds is to be a destination for all-inclusive play throughout Santa Clara County and beyond. Milpitas' population is currently at 77,528 and continues to grow. With the new Milpitas BART Station currently under construction and increased high-density housing, Milpitas' population is poised to grow exponentially higher in the next 5-10 years. As a result, the two McCandless Park and Mattos School all-inclusive playgrounds would serve to meet the needs of its city residents and of a growing Bay Area 365 days a year.

3. Public Access

- **Explain how the finished project will be publicly accessible as defined in the eligibility criteria. Explain the general availability of access of this project to the public, including year-round hours of operation.**

  Both the McCandless Park and Mattos School playgrounds would be available to the public, including students at the Mabel Mattos Elementary School, from dawn to dusk, every day, 365 days of the year.

  We also anticipate increased usage by families during youth sports practices and games at the youth field, scheduled school field trips, special events, as well as general usage from families living in the Transit Area neighborhoods. Moreover, the newly constructed high density housing complexes across from park and school are within close proximity and park users can conveniently use a new pedestrian bridge or new crosswalks to enter the playgrounds. The location of the park is easily accessible to pedestrians, vehicles, and in very close proximity to BART, Light Rail and VTA public transit. Although referenced as an imperative amenity to the all-inclusive playgrounds, the site parking lots have already been budgeted and constructed by the MUSD and City. Both agencies are committed to both playgrounds being accessible.

- **Describe how the project includes multi-lingual signage appropriate to the diverse community where the project is located, including providing information regarding playground usage, and wayfinding or directional signage, including for play areas that may be located away from the street.**

  Milpitas' community reflects the diversity of Santa Clara County. Over 80 different dialects are spoken in Milpitas alone. Our plans for signage include both wayfinding signs from the main entrances of the park, (the parking lot and also from a pedestrian bridge) as well as the required age-appropriate safety signage at the playground areas. Signs will be translated in English, Chinese, Vietnamese, Hindi, and Spanish. Signs will also have braille for park visitors who are sight impaired. Directional signage on major city streets will direct people to the playgrounds.

4. Budget

- **Describe the total project cost, and how it was determined, e.g. is the project budget based on concept level estimates, detailed design level estimates, or formal engineers based on construction plans and specifications.**

  The McCandless Park and Mattos School playgrounds project and its budget is currently at a concept design level. Estimates provided are based off of the park acreage and market rate for site work as advised by our project consultants, engineers and landscape architects. As these will be a completely new park and school playgrounds, the project cost provided as part of this grant is for hard costs identified for the two playground areas, pathway connecting the two play spaces, and their services. We've identified **$1,000,000** (1/2 of total project cost of $2,000,000) as our project funding amount eligible for this grant match. City and District staff time on this project are contributing to the management and success of the project, but not being billed to the project costs.

- **Summarize the total project costs on the grant Scope/Cost Estimate Form (Appendix G – page 21). Supplemental information may be provided.**

  The following are project costs currently allocated for the McCandless Park and Mattos School playground project:

  - Purchase and install PIP (poured in place) rubber safety surfacing and DG pathway - $450,000
  - Purchase and install all-inclusive playground equipment - $622,000
  - Site work including perimeter fencing for both playgrounds - $460,000
  - Construct concrete seat walls and shade structures for playground areas - $220,000
  - Playground equipment footing increase - $25,000
  - Purchase and install game tables, benches and water fountains - $27,000

- Purchase and install nature-themed site amenities and landscaping- $69,000
- Purchase and install PAR Course stations for all ages and abilities - $90,000
- Signage - $37,000

Total Cost = $2,000,000

- **If the project is part of a long-range project (multi-phased), how many phases are required to complete the project?**

  This project is a single phase project.

5. Project Readiness

- **Describe the funds currently available to complete the project. While not all funding must be in place to apply for the grant, a funding plan must be in place to secure all funds necessary to complete the project. If sufficient funds are not currently available to complete the project, please describe how much is committed from what source(s), and provide a detailed plan for fund raising that includes your organizations track record and internal or external expertise in fundraising. Please attach a copy of outside funding commitment letters or agreements.**

  Funds for the McCandless Park project are available and allocated in the City of Milpitas' Capital Improvement Program. Funding sources as part of this project are through Transit Area Specific Plan (TASP) impact fees which were paid by developers in the neighborhoods who will be utilizing this great park! There is currently $10,375,00 allocated for this park project. Milpitas Unified School District intends to fund their portion of the playground construction through their internal building fund that currently totals $2,600,000.

- **Summarize the total funding sources on the Funding Sources Form (Appendix H, page 22). List the date funds were committed from an entity other than the applicant, if funding has not been formally approved, note TBD under date.**

  There is currently no funding requested or committed from an outside entity.

- **Describe what permits and entitlements are required for the project, and your progress and plan, if applicable, toward attaining them.**

  - PG&E Permit - made contact and potholing has started (for gas line location)
  - Water District - low level discussions

- Fish and Game – low level discussions on an ADA pedestrian bridge into the park
- Building Permit - no contact yet
- Electrical Permit - no contact yet
- Structural Permit - no contact yet

- **Provide a project timeline with detailed schedule of project activities enumerated.**

1. Design and Development
    a. Phase 1 - Schematic/Design Dev (3 months)
    b. City Review (0.5 months)
    c. Phase 2 - 50% Design (2 months)
    d. City Review (0.5 months)
    e. Phase 2 - 95% Design (1 month)
    f. City Review (0.5 months)
    g. Phase 2 - 100% Design (1 month)
    h. City Review (0.5 month)
2. Council Approves Project and Authorizes Advertisement for Bids
    a. May 21, 2019 (1 month)
3. Phase 3 – Bid (3 months)
4. Council Approves Construction Contract
    a. Aug. 20, 2019 (1 month)
    b. City Process/Execute Contract (1 month)
5. Phase 4 – Construction (8 months)
6. Open playgrounds **- May 2020**

6. Long-Term Maintenance and Operation

- **Describe the plan for long-term maintenance and upkeep that is funded beyond the scope of the grant.**

All play structure and playground areas are inspected weekly in accordance with CPSC requirements and include, but is not limited to the following:

- Broken equipment such as loose bolts, missing end caps, cracks, loose parts, etc.
- Broken glass and other foreign/hazardous debris
- Cracks in plastics
- Loose anchoring
- Insect damage
- Problems with surfaces
- Displaced loose-fill
- Holes, flakes and other issues with unitary surfacing
- User modifications such as ropes tied to parts, or equipment rearranged.
- Vandalism

- Worn, loose, damaged, or missing components
- Wood splitting
- Rusted or corroded metals, rot

Maintenance repairs are made in accordance to the manufacturer's recommendations and ASTM/CPSC Standards.

Additionally, the McCandless Park and Mattos School playgrounds will be serviced 7 days a week, 365 days a year for the regular litter pick-up, servicing of the garbage/recycling enclosures, and cleaning of debris. In addition to the weekly play structure and playground area inspection, we intend to pressure wash the entire playground area (walkways, tables, seating, garbage/recycling enclosures, and equipment) quarterly and have all the equipment wiped down once per week during the weekend service. We will also schedule sanding, repair, and any necessary re-finishing of any wood items to ensure durability and playground appeal. Any large repairs or replacement of elements will be incorporated into the City Capital Improvement Program.

- **What funding sources or other resources will be used to maintain and operate the property in the future?**

Funding for regular park maintenance comes from the City of Milpitas' General Fund. Other funding sources for maintenance and repairs above and beyond normal day to day wear can also come from the City of Milpitas' Park Fund which is made up of required developer impact fees. Regarding the connecting MUSD playground space, MUSD has an existing maintenance budget that would ensure the long-term maintenance and upkeep of the play structure, pathways, landscaping, signage and safety surfaces on the MUSD portion of the project.

- **Who is responsible for the maintenance and operation of the property and ensuring its on-going availability for public use?**

The City and MUSD are currently finalizing a Maintenance agreement outlining the responsible agency for the Joint Use areas and playgrounds at the McCandless Park and Mattos School. The City Public Works Department and the MUSD Department of Maintenance and Operations will handle their respective areas of maintenance and site operations.

- **Provide an example of your organizations maintenance practices and program for a comparable project.**

Most recently, the City of Milpitas opened a new public park about 3 acres in size. This park, Bob McGuire Park, is also in the City's Transit Area, and is complete with pathways, tennis courts, picnic areas and playground space. Maintenance repairs are made in accordance to the manufacturer's recommendations and ASTM/CPSC

Standards. Public Works staff or their contractors perform weekly maintenance on this park that includes inspections in accordance with CPSC requirements for:

- Broken equipment such as loose bolts, missing end caps, cracks, loose parts, etc.
- Broken glass and other foreign/hazardous debris
- Cracks in plastics
- Loose anchoring
- Insect damage
- Problems with surfaces
- Displaced loose-fill
- Holes, flakes and other issues with unitary surfacing
- User modifications such as ropes tied to parts, or equipment rearranged.
- Vandalism
- Worn, loose, damaged, or missing components
- Wood splitting
- Rusted or corroded metals, rot

Both Playground areas will be subject to the same level of practices and programs.

7. Project Administration/Professional Capability/Schedule

- **Describe the personnel and methods to be utilized to carry out the project.**

The project team consists of high-level management staff and respected Bay Area consultants. For this project, we implement a team approach but with a clear project lead who manages the project consultants, project timeline, and deliverables. The team approach ensures that the varying project details are reviewed by and vetted by the Departments that are responsible for the park development, but also the programming, care and maintenance of the park after it is opened to the public.

Regarding the Mabel Mattos playground construction, all members of the MUSD team have extensive relevant project experience that include the construction of our new elementary school on site and many K-6th grade play structures. The team recently completed our Measure E Bond Measure that included playgrounds, landscaping and wayfinding work across thirteen project sites.

- **What individual or team will manage the project from the time the grant is awarded until project completion?**

The Project Team is as follows:

Steve Erickson, Engineering CIP Manager (Project Lead)

- Renee Lorentzen, Director of Recreation and Community Services (City of Milpitas)
- Tony Ndah, Director of Public Works (City of Milpitas)

- Robert Hill, Manager-Public Works Department (City of Milpitas)
- Maren Schram, Associate Civil Engineer (City of Milpitas)
- IBI Group, Project Consultants
- Joe Flatley, Director of Facilities Modernization (MUSD Liaison)

- **What experience does this individual or management team have which qualifies them to manage the project?**

  The City of Milpitas staff on this project team are all seasoned project managers and subject matter experts in their respective fields. All members have worked together as a team for over almost a decade on numerous park construction projects including new construction and renovation projects, facility, and infrastructure Capital Improvement Program projects. Project team leads Steve Erickson, Director of Engineering, Renee Lorentzen, Director of Recreation and Community Services, and Public Works Manager, Rob Hill completed four park and sport field projects (over $20M) in the last 18 months alone.

  Concerning the playground construction on the Mabel Mattos Elementary School side, the work would be managed by an internal team of District staff including the Director of Facilities Modernization, Joe Flatley, a licensed architect with the State of California. Assisting Mr. Flatley will be Bond Administrative Assistant, Deana Harn. Joe and Deana have recently completed a $95M bond program, Measure E, which included many playground structures.

- **Is the proposed project schedule realistic and achievable?**

  The draft project schedule is realistic and achievable. The timeframe indicated has been successful in other park projects in Milpitas.

- **Describe the status of needed agreements/permits towards the completion of the project.**

  - PG&E Permit – made contact and potholing has started (for gas line location)
  - Water District – low level discussions
  - Fish and Game – low level discussions
  - Building Permit – no contact made yet
  - Electrical Permit – no contact made yet
  - Structural permit – no contact made yet

8. Land Tenure

- **If the grant is a tenant or operator, please provide the lease or agreement executed by the property owner and the tenant/operator that adequately safeguards the twenty-year use requirement and commitment.**

The Park is built on City of Milpitas property. The School is built on MUSD property.

APPENDIX G: GRANT SCOPE/COST ESTIMATE FORM

APPLICANT City of Milpitas/MUSD **PROJECT NAME** McCandless Park and Mabel School Playground Project

WORK TO BE PERFORMED*	GRANTEE MATCH	AIPG GRANT	TOTAL
WORK TO BE PERFORMED*	**GRANTEE MATCH**	**AIPG GRANT**	**TOTAL**
Purchase and install playground PIP (poured in place) rubber safety surfacing for both playgrounds, as well as decomposed granite pathway connecting the two play areas.	$267,250	$182,750	$450,000
Purchase and install state-of-the-art playground structures including comprehensive, all-inclusive play equipment for both playground areas.	$468,860	$212,500	$681,360
Site work including playground perimeter fencing (with self-closing gates) as a safety feature for both distinct playground areas.	$200,320	$200,320	$400,640
Playground Equipment Footing Increase.	$12,500	$12,500	$25,000
Purchase and install games tables, benches and water fountains at both playground areas.	$13,500	$13,500	$27,000
Construction of concrete seat walls and shade structures to accommodate anticipated playground and family gathering-type usage.	$148,500	$71,500	$220,000
Purchase and install two multi-functional PAR Course stations designed for all ages and abilities on both sides of the pathway.	**$45,000**	**$45,000**	**$90,000**
Nature-themed site amenities and landscaping throughout the two playground areas (and pathway) intended to visually tie-in the two interconnected play areas.	$45,750	$23,250	$69,000
Signage	$18,500	$18,500	$37,000
TOTAL PROJECT AMOUNT	$1,220,180	$779,820	$2,000,000

Only items which are funded by grantee cash/match or AIPG grant funds and are readily auditable 'hard costs' may be listed in the Grant Scope/Cost Estimate. Do not list In-Kind Contributions.

The APPLICANT understands that this form establishes the expected GRANT deliverables.

Signature Renee Lorentzen
APPLICANT'S AUTHORIZED REPRESENTATIVE

Date October 15, 2018

EXHIBIT

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF MILPITAS, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

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

Parcel B, as shown on that certain Parcel Map entitled, "Milpitas Unified School District Being All of Parcels 2 and 3 of the Parcel Map filed in Book 536 of Maps at Pages 41, 42 & 43, Records of Santa Clara County, California", filed for record on September 21, 2016, in Book 897 of Maps, page(s) 3 thru 6, Official Records of Santa Clara County.

ACKNOWLEDGMENT

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

State of California
County of Santa Clara)

On September 19, 2016 before me, Mary A. Lavelle, Notary Public
(insert name and title of the officer)

personally appeared Thomas C. Williams,
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.

MARY A. LAVELLE
Commission # 2036646
Notary Public - California
Santa Clara County
My Comm. Expires Aug 12, 2017

Signature Mary A Lavelle (Seal)

Grant Deed
1660 McCandless

GRANT DEED
(continued)

APN/Parcel ID(s): 086-41-016
086-41-017

Dated: September 1, 2016

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

City of Milpitas a Municipal Corporation of the State of California

BY: _____
Thomas C. Williams

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 _____ before me, _____, Notary Public,
(here insert name and title of the officer)

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

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

WITNESS my hand and official seal.

_____
Signature

(Seal)

APPENDIX H: FUNDING SOURCES FORM

APPLICANT City of Milpitas **PROJECT NAME** McCandless Park and Mattos School Playground Project

FUNDING. SOURCE	DATE COMMITTED (if applicable)	AMOUNT
AIPG Funding	**TBD**	$1,000,000
City of Milpitas CIP Fund (TASP Developer Fees)	07/2017	$758,933
Milpitas Unified School District-Building Fund	11/2017	$241,067
		$
		$
		$
		$
		$
		$
TOTAL FUNDING SOURCES **Must Equal Estimated Total PROJECT Cost**		$2,000,000
CONTINGENCY		$

List the amount and source of funds currently available to complete the project. While not all funding must be in place to apply for the grant, a funding plan must be in place to secure all funds necessary to complete the project. If sufficient funds are not currently available to complete the project, please list other anticipated sources of funding. List the date funds were committed from an entity other than the applicant; if funding has not been formally approved, note TBD. On a separate sheet, provide a detailed plan for fund raising that includes your organizations track record and internal or external expertise in fundraising.

Signature Renee Lorentzen
APPLICANT'S AUTHORIZED REPRESENTATIVE

Date May 30, 2018

Applicant: City of Milpitas/Milpitas Unified School District

CEQA

(City of Milpitas) The McCandless Park parcel was included as part of the City of Milpitas Transit Area Specific Plan (TASP) EIR in 2007. Attached is the letter of compliance for the TASP EIR from the State of California.

The City of Milpitas will comply with all CEQA requirements for this project.

(MUSD) On 12/27/2015 the District concluded its Environmental Impact Report (EIR) process for the new elementary school on McCandless Drive. The Final EIR was stamped by the County on 11/13/2015, Document Number 979.

In addition, of this playground is fully consistent with the current planned use of the site and consistent and complementary to the scope of the EIR. Per our environmental consultant, Chris Dugan of MIG Environmental, no further action, including a Notice of Exemption is required for the District to move forward with this an additional playground on this project site.

STATE OF CALIFORNIA

GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH

STATE CLEARINGHOUSE AND PLANNING UNIT

ARNOLD SCHWARZENEGGER
GOVERNOR

CYNTHIA BRYANT
DIRECTOR

December 24, 2007

Scott Gregory, c/o Veronica Bejines
City of Milpitas
455 E. Calaveras Boulevard
Milpitas, CA 95035

Subject: Milpitas Transit Area Specific Plan
SCH#: 2006032091

Dear Scott Gregory, c/o Veronica Bejines:

The State Clearinghouse submitted the above named Draft EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on December 21, 2007, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

> "A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Terry Roberts

Terry Roberts
Director, State Clearinghouse

Enclosures
cc: Resources Agency

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

Applicant: City of Milpitas/Milpitas Unified School District

Non Profit Status

The City of Milpitas is a local municipality and not registered as a charitable organization. Staff was advised by County Grant Administration staff that municipalities are qualified to apply for this grant.

Milpitas Unified School District non-profit status is indicated in the attached letter.

MILPITAS
UNIFIED SCHOOL DISTRICT

• Business Services • 1331 E Calaveras Blvd, Milpitas, CA 95035 • (408) 635-2600

October 20, 2016

TO: Administrators, Principals, and Program Managers

FROM: Wendy Zhang (WZ)
Assistant Superintendent, Business Services

SUBJECT: Recognition of Exemption under Section 501(c) (3) of the Internal Revenue Code

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Frequently corporations and organizations request the District's 501(c) (3) nonprofit status number when a teacher or school applies for or receives a grant. In response to those requests, we attempted to obtain a 501(c) (3) number. A summary of the IRS response follows:

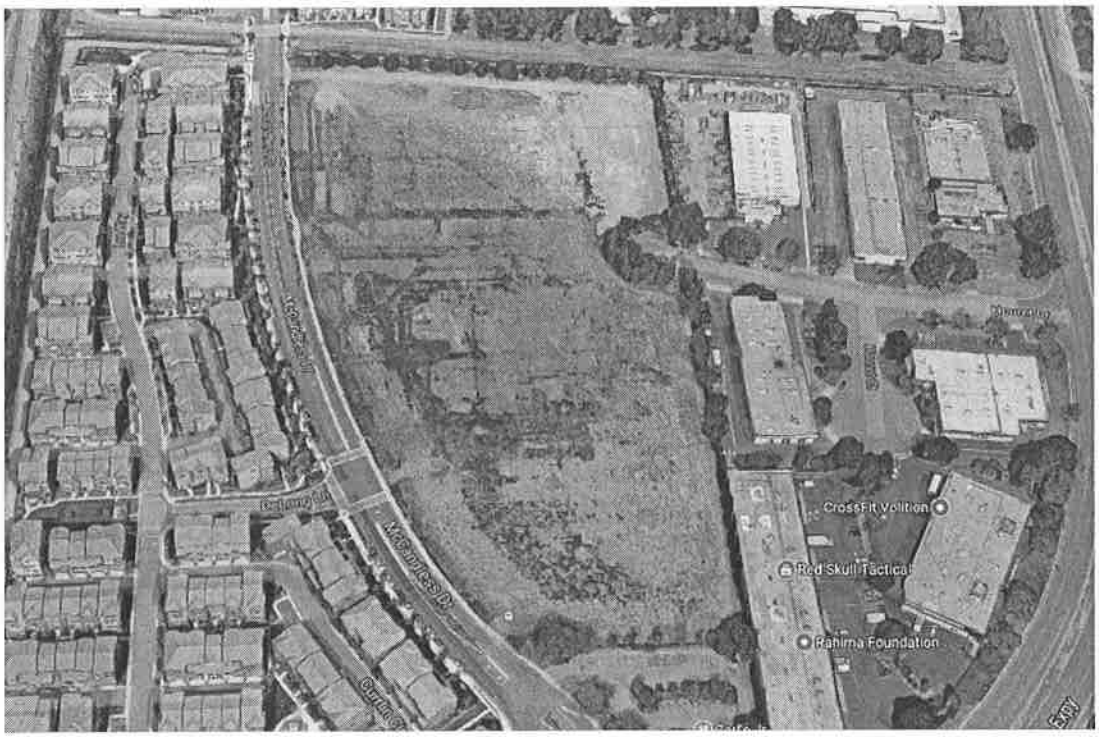
TAX-EXEMPT CHARITABLE ORGANIZATIONS
An organization affiliated with a State, a county, or municipal government may qualify for exemption from federal income tax under section 501(c) (3) of the Code, if (1) it is not an integral part of the government, and (2) it does not have governmental powers inconsistent with exemption (such as the power to tax or to exercise enforcement or regulatory powers). Note that entities may meet the requirements of both sections 501(c) (3) and 115 under certain circumstances. See Revenue Procedure 20013-12, 2003-1 C.B. 316.

As a state or local government, or integral part of a state or local government, MUSD is eligible to receive charitable contributions, which are deductible for federal income tax purposes under Code section 170 (c) (1), if used for public purposes.

Also, as a governmental unit referred to in section 170 (c) (1), MUSD would qualify as an appropriate recipient of grants from private foundations for which the private foundation would not have to exercise expenditure responsibility as provided for by section 53.4945-5(a)(a)(4) of the Foundation and Similar Excise Taxes Regulations.

The District will not pursue a ruling beyond this letter. You may give a copy of this letter to a corporation or foundation requesting confirmation of the District's nonprofit status. Please retain a copy of this letter in your permanent files for future reference. If you have questions, please contact me at 408-635-2600 extension 6023.

Photos of Project Site



Aerial view from south side of Project Site

Aerial view from west side of Project Site

Photos of Project Site

3D Aerial view from west side of Project Site

Aerial View of Project Site

Applicant: City of Milpitas/Milpitas Unified School District

Required Regulatory Permits

- PG&E Permit – made contact and potholing has started (for gas line location)
- Water District – low level discussions
- Fish and Game – low level discussions
- Building Permit – no contact made yet
- Electrical Permit – no contact made yet
- Structural permit – no contact made yet

(City of Milpitas) The final assessment and obtaining of any Regulatory Permits will be during the "Construction Documents/Agency Approvals" section of the project timeline, anticipated in April – August 2019.

(MUSD) The Division of the State Architect is the sole governing agency for the Mabel Mattos playground site.

Division of the State Architect (DSA)
Oakland Regional Office
1515 Clay St # 1201, Oakland, CA 94612

This has the potential to be an access compliance only application at DSA. Agency fees for DSA are very reasonable and typically total 1% of the total project construction budget. DSA consistently produces just one round of plan check comments and very seldom adds project scope during construction.

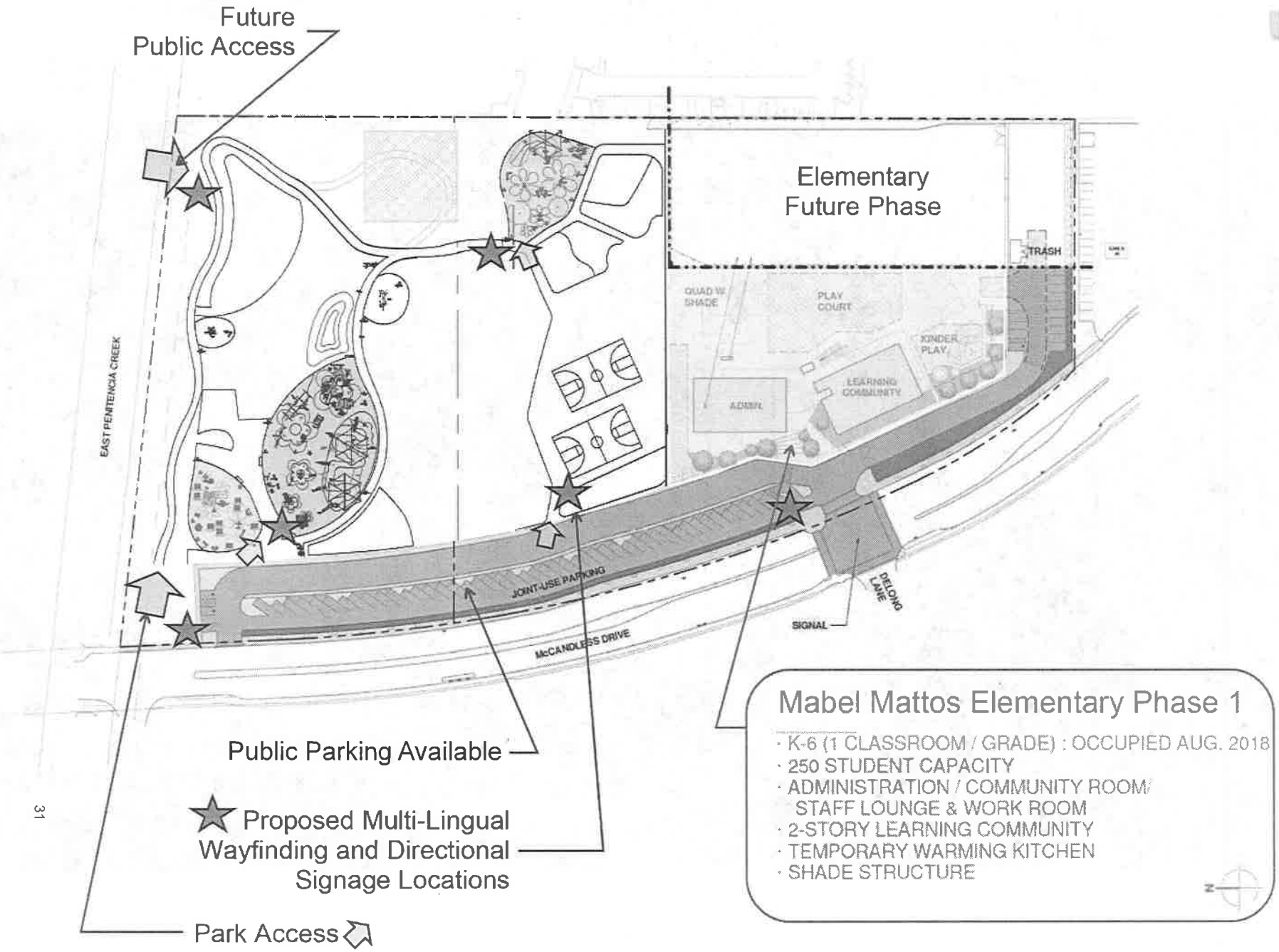
Applicant: City of Milpitas/Milpitas Unified School District

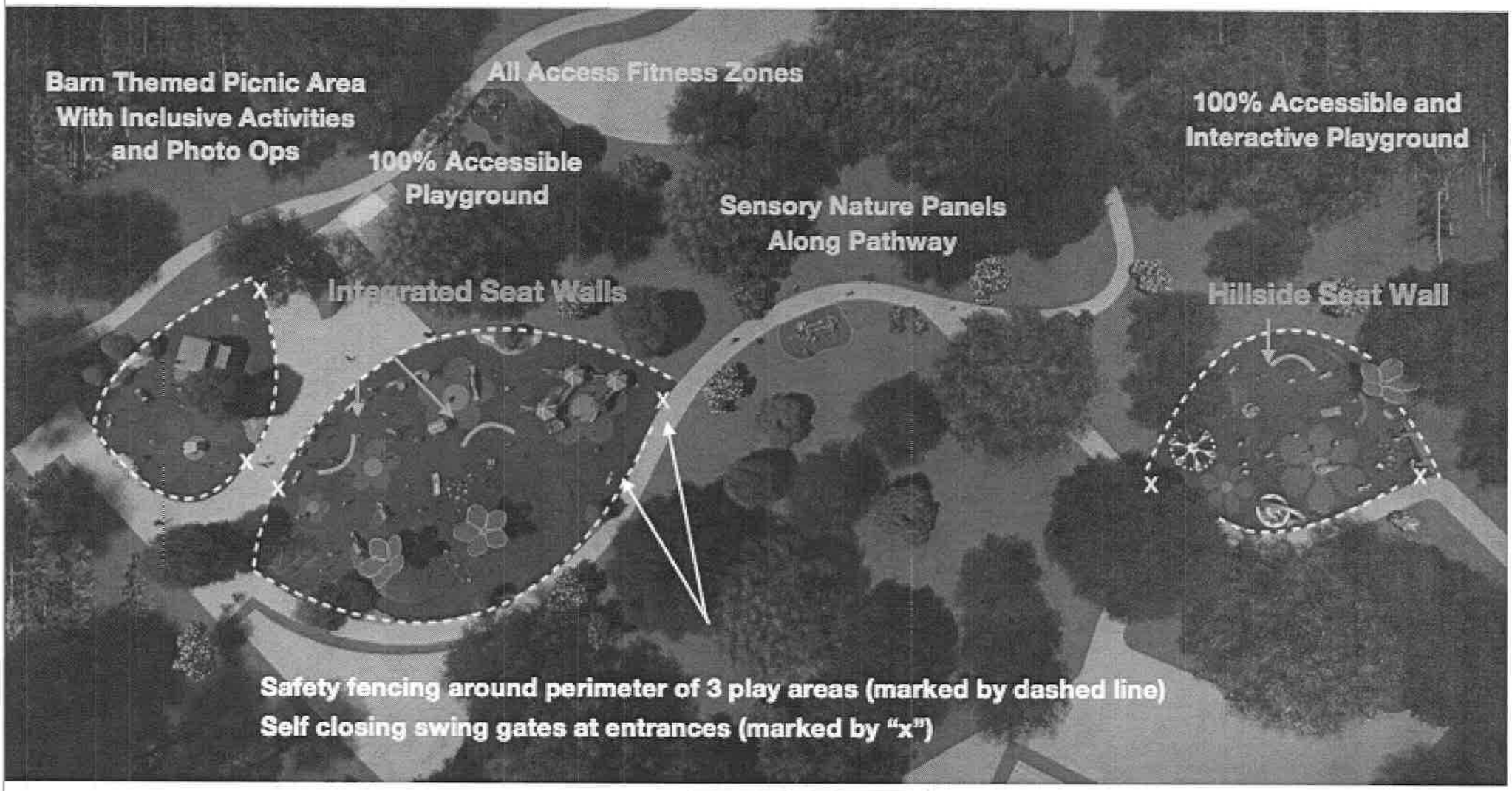
Public Access Schedule

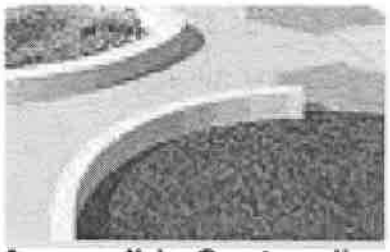
City of Milpitas Public Parks are open 365 days a year from dawn to dusk. The Public Access schedule for McCandless Park will be 365 days a year from dawn to dusk.

The Mabel Mattos Elementary School portion of the playgrounds project will also be available to the public 365 days a year from dawn to dusk.

Project Use Diagram



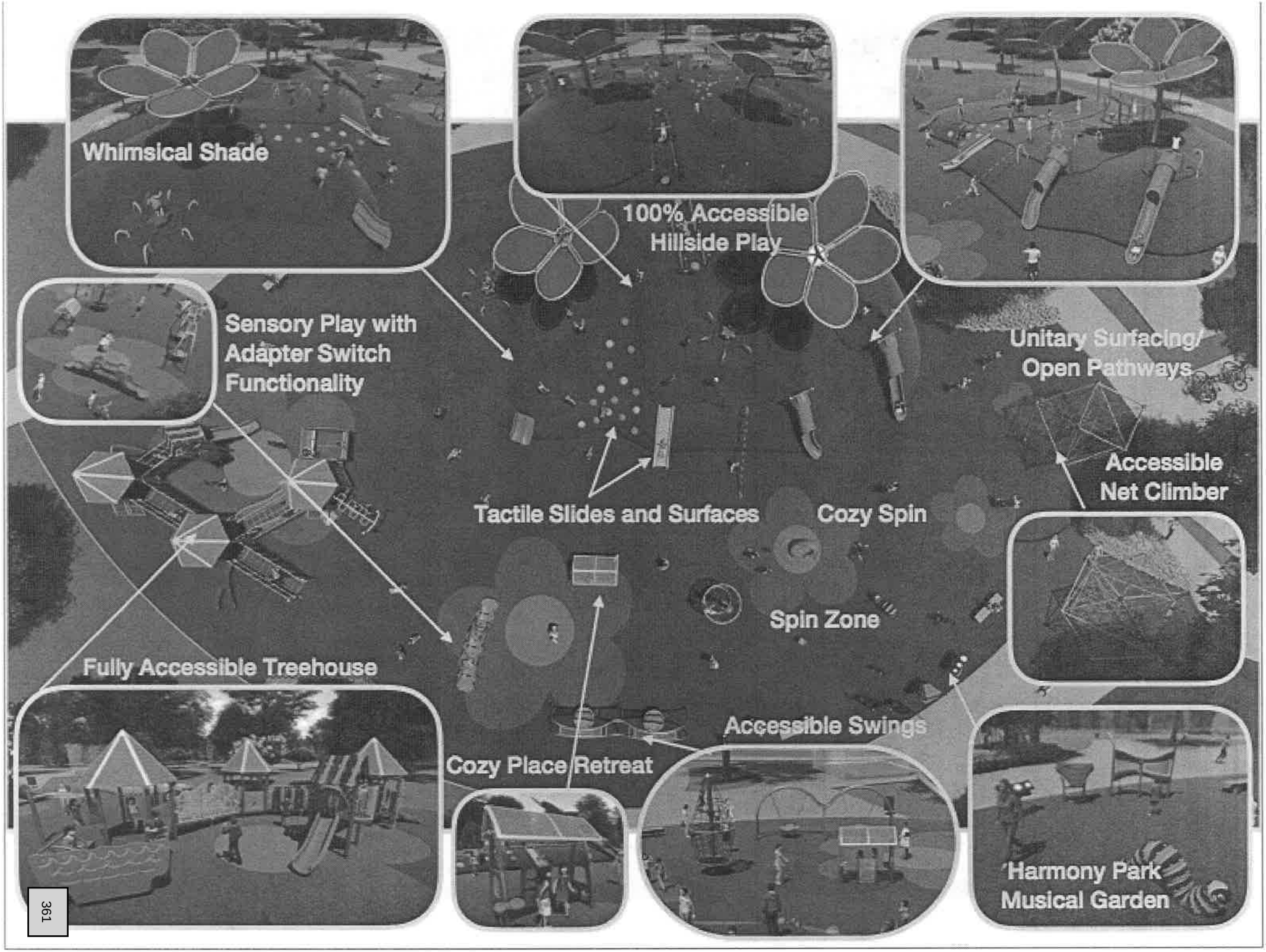


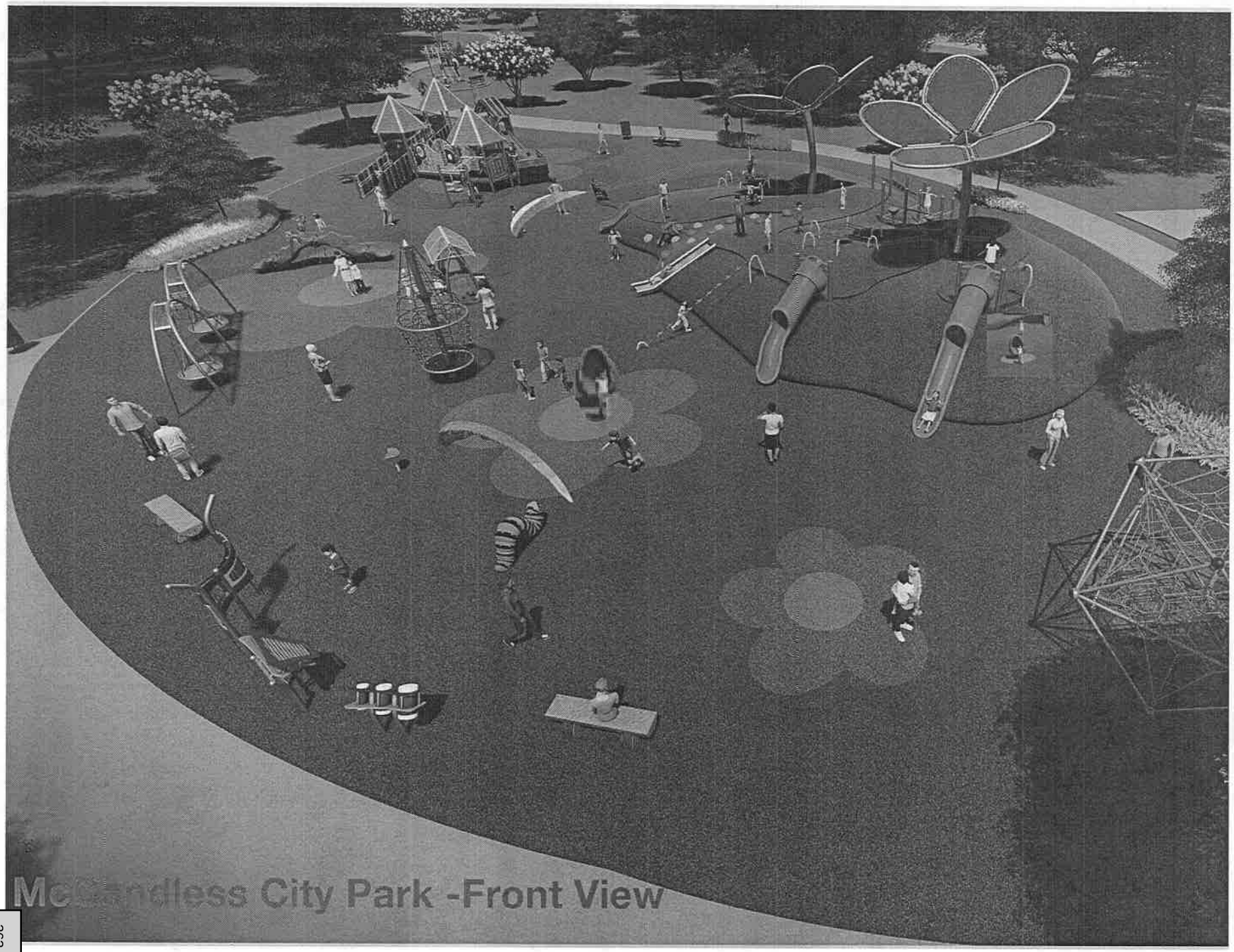


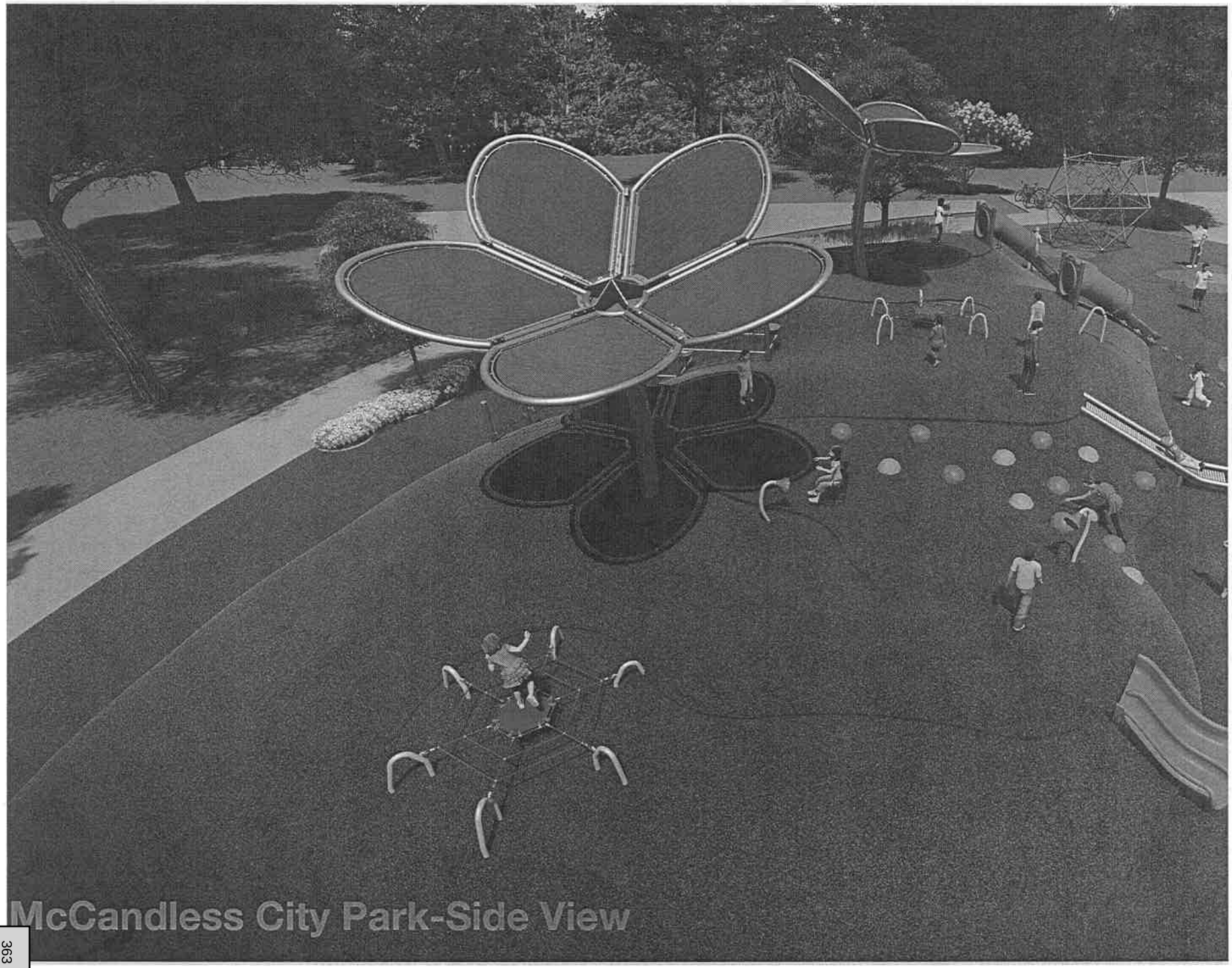
Accessible Seat walls

4' Safety Fencing

Self Closing Gate

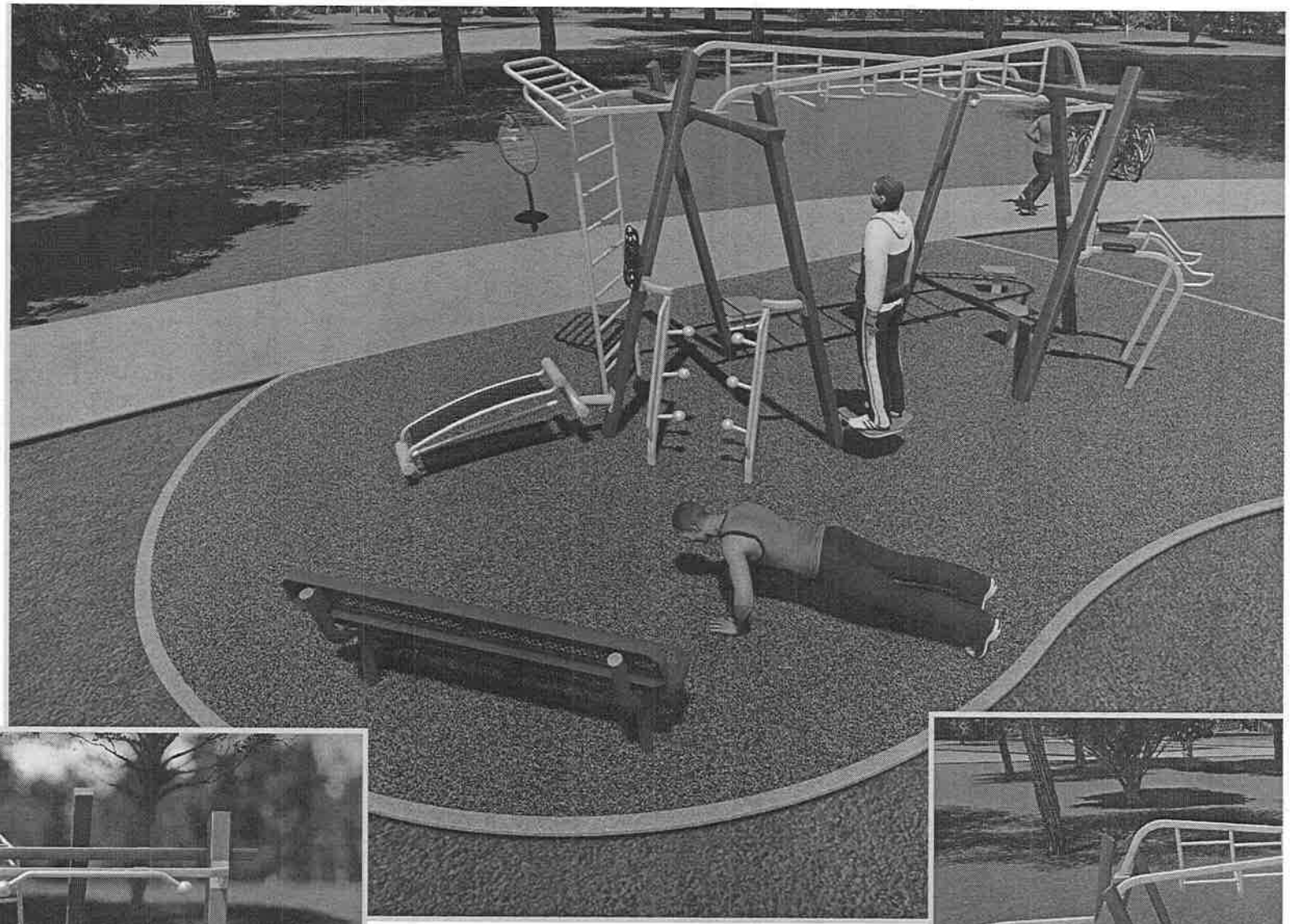

Whimsical Shade
100% Accessible Hillside Play
Sensory Play with Adapter Switch Functionality
Unitary Surfacing/ Open Pathways
Accessible Net Climber
Tactile Slides and Surfaces
Cozy Spin
Spin Zone
Fully Accessible Treehouse
Accessible Swings
Cozy Place Retreat
Harmony Park Musical Garden

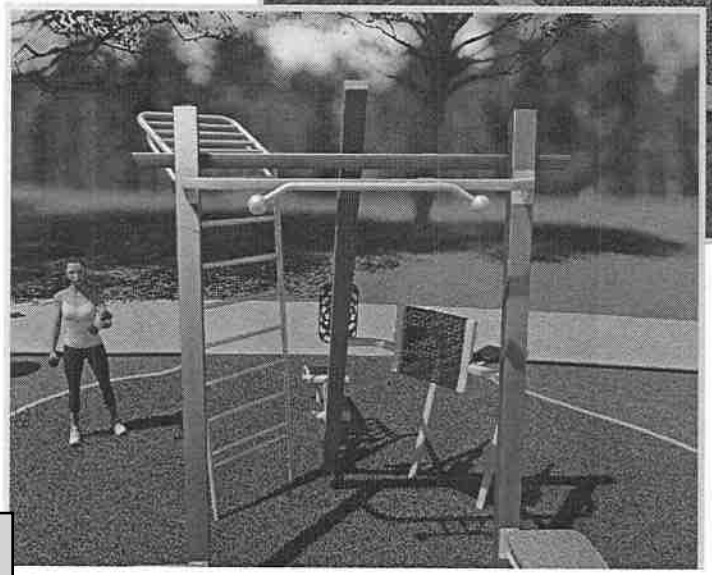

McCandless City Park -Front View



McCandless City Park-Side View

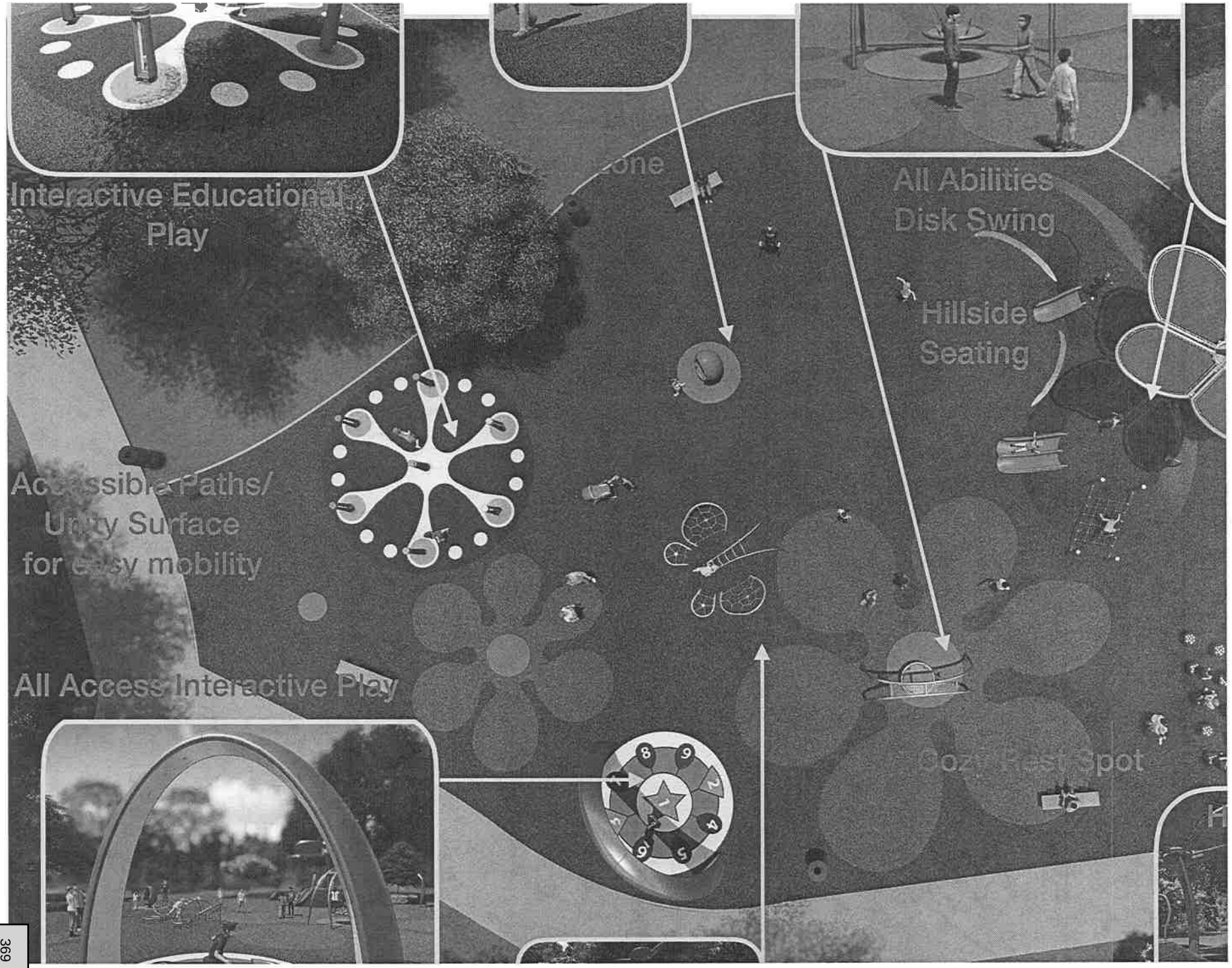
McCandless City Park-Back View



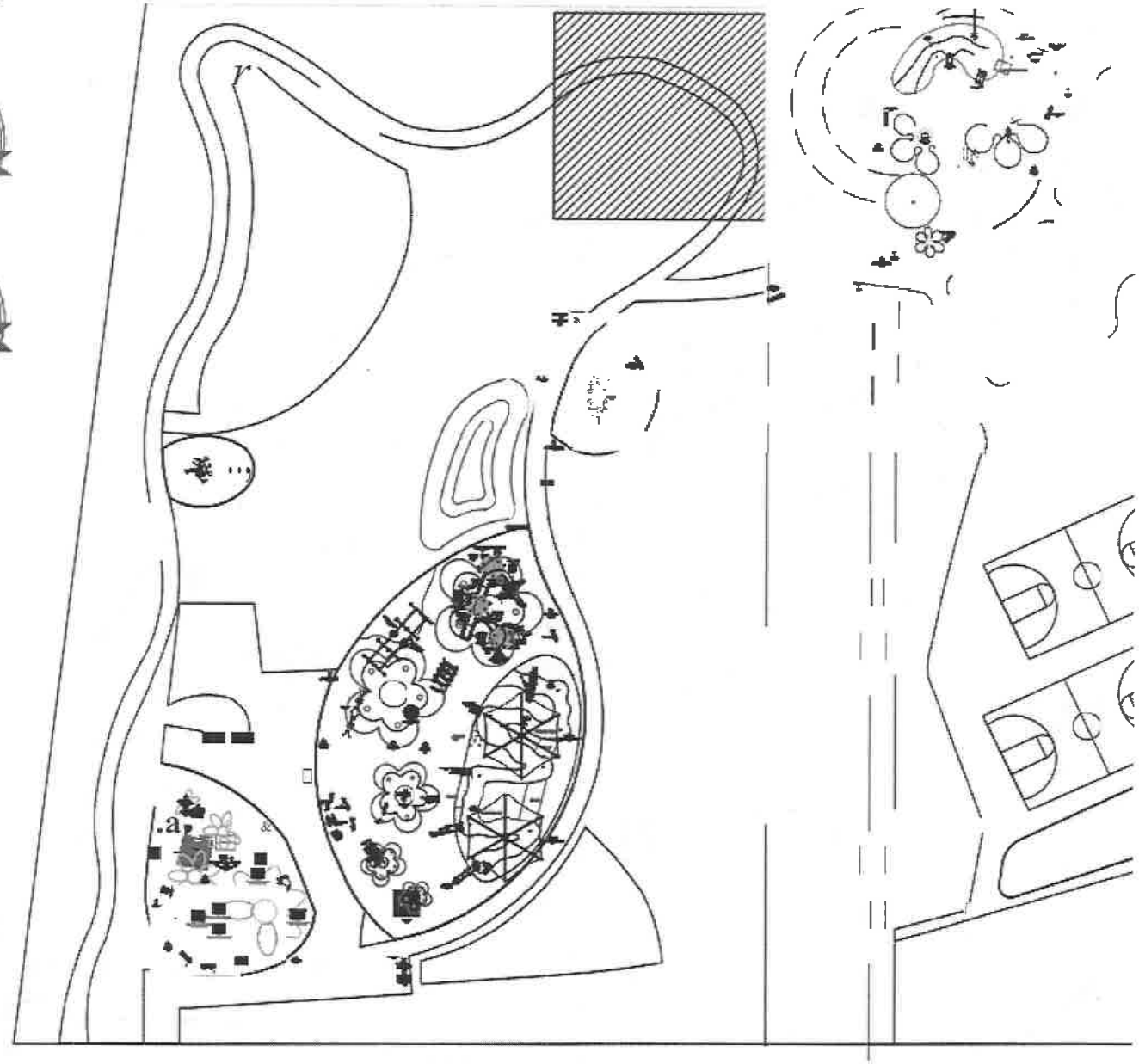


McCandless/ School Site-Side View

McCandless/ School Site-Arts Area


Interactive Educational
Play
All Abilities
Disk Swing
Hillside
Seating
Accessible Paths/
Unity Surface
for easy mobility
All Access Interactive Play

practices in 4 categories



Surfacing

GTImpax Poured Rubber Surfacing
with Concrete Sub-base
50% Color - Fall height as needed

Applicant: City of Milpitas/Milpitas Unified School District

Timeline

The integrated timeline for McCandless Park and Mattos School playground project is:

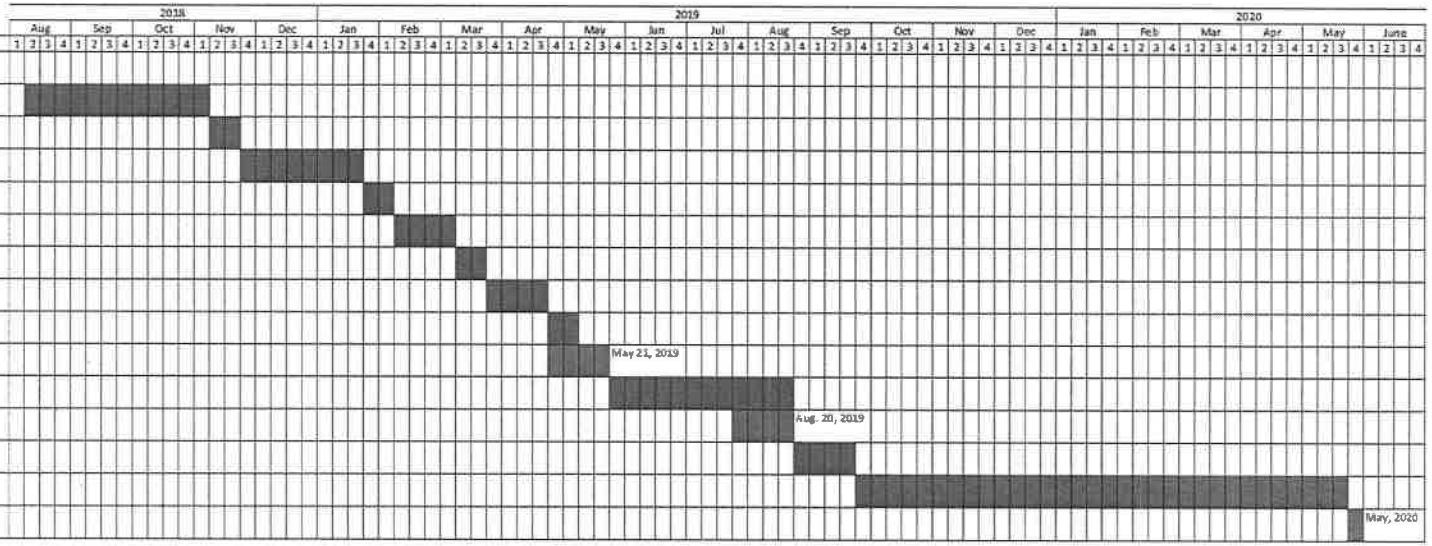
Design Development: August 2018 – April 2019

Construction Documents/Agency Approvals: April – August 2019

Construction & Completion: September 2019 – May 2020

McCandless Park/Mattos School
Project Timeline

Item	Description	
	Park - to be verified with Designer	
1	Phase 1 - Schematic/Design Dev	3 months
	City Review	0.5 months
2	Phase 2 - 50% Design	2 months
	City Review	0.5 months
	Phase 2 - 95% Design	1 month
2	City Review	0.5 months
	Phase 2 - 100% Design	1 month
	City Review	0.5 months
	Council Approves Project and Authorizes Advertisement for Bids	1 month
3	Phase 3 – Bid	3 months
	Council Approves Construction Contract	1 month
	City Process/Execute Contract	1 month
4	Phase 4 - Construction	8 months
	Open Portion of Park	May 2020



JOINT USE AGREEMENT

(Milpitas Unified School District/City of Milpitas)

THIS AGREEMENT ("**Joint Use Agreement**") is effective July 1, 2016 by and between the City of Milpitas, a municipal corporation, ("**City**") and the Milpitas Unified School District, a public school district organized and existing under the laws of the State of California, ("**District**"). District and City may be referred to in this Joint Use Agreement individually as a "**Party**," and collectively as the "**Parties.**"

RECITALS

A. City currently owns approximately 10.9 acres of unimproved real property located at the corner of McCandless Drive and Penitencia Creek East Channel, City of Milpitas, County of Santa Clara, commonly known as the "**McCandless Property**."

B. District is purchasing approximately 6.7 acres of the McCandless Property from City under that Purchase and Sale Agreement between City and District effective October 21, 2014, as amended ("**Purchase Agreement**").

C. Upon the close of escrow, District will own the 6.7 acre portion of the McCandless Property legally described on Exhibit A-1 – Legal Description of District Property ("**District Property**"), to be used for construction and operation of a new elementary school.

D. Upon the close of escrow, City will continue to own the remaining approximately 4.2 acre portion of the McCandless Property adjacent to the District Property, legally described on Exhibit A-2 – Legal Description of City Property ("**City Property**"), to be used as a municipal park. District Property and City Property are depicted on Exhibit B. Exhibits A-1, A-2 and B are attached hereto and by this reference made a part of this Joint Use Agreement.

E. Under this Joint Use Agreement, District and City will share the use of portions of their adjacent properties as delineated on Exhibit B, collectively the "**Joint Use Property.**"

F. Sections 10900 *et. seq.* of the Education Code ("**Community Recreation Act**") authorizes cities and school districts to maintain and operate joint use facilities such as basketball courts and outdoor playing fields in order to reduce capital and operational costs to both governmental jurisdictions and provide recreational areas for the community as a whole.

G. Section 10910 of the Education Code provides that the governing body of any school district may use or grant the use of grounds of the school district to any other public authority for the purposes of joint use, whenever such use does not interfere with school uses.

H. It is to the mutual benefit of City and District to contribute jointly to the establishment, operation and maintenance of recreational facilities and shared parking facilities which can serve the needs of both the general public and District.

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

1. Joint Use Property. The Joint Use Property consists of the following:

1.1 Field. The 1.2 acre portion of City Property adjacent to the District Property depicted on Exhibit B, along with the 1.2 acre portion of District Property adjacent to City Property on Exhibit B, together totaling 2.4 acres ("**Field**").

1.2 Basketball Courts. The 0.25 acre portion of District Property adjacent to the Field depicted on Exhibit B ("**Basketball Courts**").

1.3 Parking Area. The marked parking spaces along the western border of the McCandless Property ("**West Parking Lot**" or "**Parking**") consisting of 1.17 acres, as designated on Exhibit B. The Field, Basketball Courts and West Parking Lot may be referred to individually as the Field, Basketball Courts or Parking, or collectively as the "**Joint Use Property,**" as depicted in its entirety on Exhibit B.

1.4 Access to Joint Use Property. Each Party shall have access to the Joint Use Property according to the terms and conditions of this Joint Use Agreement.

2. Purchase Price Adjustment. If the Parties mutually agree to adjust the purchase price of the District Property based on the percentage of District Property subject to this Joint Use Agreement, the Parties will amend the Purchase Agreement to reflect the adjustment prior to the close of escrow.

3. Term.

3.1 Term Commencement Date. This Joint Use Agreement shall become effective upon approval by the governing bodies of both Parties and full execution of the Joint Use Agreement ("**Effective Date**"). The term of the Joint Use Agreement shall commence on the completion of construction of the District's elementary school and the City's proposed park and both Parties acceptance of all construction improvements ("**Commencement Date**"). Within thirty (30) days after the Commencement Date, the Parties agree to memorialize the Term Commencement Date and the Expiration Date and attach it to this Joint Use Agreement.

3.2 Term Expiration Date. The initial term of this Joint Use Agreement shall be forty (40) years beginning from the Commencement Date ("**Initial Term**") and ending after forty years, consistent with the forty year time period set forth in Exhibit B of the Purchase Agreement for expiration of the Power of Termination (Civil Code 885.010 et seq.), unless extended by mutual written agreement of the Parties. **On or before the Expiration Date the Parties shall meet to determine whether or not to extend the Initial Term and make any other modifications to the Joint Use Agreement. If the Parties fail to extend this Joint Use Agreement in writing by the Expiration Date, the Parties shall continue to operate under the terms of this Joint Use Agreement until such time that the Parties mutually agree in writing to terminate. In the event one Party seeks to terminate and the other does not, the Parties shall be required to exhaust the Remedies provided for in Section 11.7 of this Agreement.**

4. Use. The Joint Use Property shall be used by the Parties exclusively for public education, recreation and parking as described below.

5. **District and City Use.**

5.1 District.

5.1.1. Field. District shall have exclusive use of the Field Monday through Friday, during the time period which begins ninety (90) minutes before the start of the school day and ends ninety (90) minutes after the close of the school day (estimated to be 4:15 p.m.) on every day that school is in session during the school year and summer school. District shall also have exclusive use of the Field for special events scheduled at the meetings described below.

5.1.2. Basketball Courts. District shall have exclusive use of the Basketball Courts Monday through Friday, during the time period which begins ninety (90) minutes before the start of the school day and ends ninety (90) minutes after the close of the school day (estimated to be 4:15 p.m.) on every day that school is in session during the school year and summer school. District shall also have exclusive use of the Basketball Courts for special events scheduled at the meetings described below.

5.1.3. Parking. The West Parking Lot shall be available for use by both the District and City at all times.

5.2 City.

5.2.1. Field. City shall have use of the Field for community use at all times the Field is not reserved for District's exclusive use or for previously scheduled District special events. City shall provide to District a schedule for its community use and special events at the meetings described below.

5.2.2. Basketball Courts. City shall have use of the Basketball Courts for community use at all times the Basketball Courts are not reserved for District's exclusive use or for previously scheduled District special events. City shall provide to District a schedule for its community use and special events at the meetings described below.

5.2.3. Parking. City shall have use of the West Parking Lot for community use at all times.

5.3 Exclusions. Restrooms and community rooms on District Property, the marked parking spaces along the southern border of the District Property, and the 0.54 acre portion of District Property adjacent to the Basketball Courts containing an outdoor play area are not included in this Joint Use Agreement.

5.4 Fitness Course. In the event the City constructs a Fitness Course ("**Fitness Course**") on a portion of City Property, District students shall have access to the Fitness Course under terms and condition mutually agreed upon by the Parties upon completion of the Fitness Course construction.

5.5 Alterations to Joint Use Property. Neither Party may alter the Joint Use Property in a manner that impacts the other Party's use of the Joint Use Property or impacts the other Party's costs associated with the Joint Use Property without the other Party's prior written consent, which may be granted in such Party's reasonable judgment. Should a Party provide written consent, both Parties shall execute an amendment to this Joint Use Agreement to ensure compliance with the Education Code and Community Recreation Act and ensure that the Parties contribute jointly to the establishment, operation and maintenance of the Joint Use Property.

6. Special Events. City and District shall meet annually (at a minimum) prior to the beginning of each school year to schedule use of the Joint Use Property. **The Parties shall also meet as needed for special events and changes to the schedule only if those special events and changes to the schedule could not have been included in the Master Schedules (defined in Section 7.2) despite reasonable and good faith efforts.**

7. **Meetings and Schedules.**

7.1 Operations Committee. City and District shall each designate an equal number of representatives to meet as an operations committee ("**Operations Committee**") to establish a written schedule for District and City exclusive and special event use of the Joint Use Property ("**Joint Use Schedule**"), coordinate the preparation and execution of a mutually satisfactory Operations and Maintenance Agreement (defined in Section 9.1), establish an annual maintenance schedule to be included in the Annual Operating Agreement (defined in Section 7.3), and discuss any issue related to the Joint Use Property.

7.1.1 Meetings. The Operations Committee shall meet annually (at a minimum), prior to the beginning of each school year and more often as needed.

7.1.2 Authority. Except where such actions would contradict a term of this Joint Use Agreement or the Operations and Maintenance Agreement (defined in Section 9.1), the Operations Committee shall have the authority to make decisions regarding the day-to-day operations of the Joint Use Property, including scheduling Special Events. Following each Operations Committee Meeting, a summary of actions shall be submitted to the governing boards of each Party.

7.2 Scheduling.

7.2.1 At least thirty days prior to each Operations Committee Meeting, City shall provide to District a copy of its master schedule for City scheduled activities for the coming year ("**City Master Schedule**").

7.2.2 At least thirty days prior to each Operations Committee Meeting, District shall provide to City a copy of its master schedule, including school calendar, bell schedule and school events for the coming year ("**District Master Schedule**").

7.2.3 After each Operations Committee Meeting, a "**Joint Use Schedule**" including applicable information from District Master Schedule and City Master Schedule shall be published. District and City shall distribute copies of the most current Joint Use Schedules to the Parties listed in the notice section of this Joint Use Agreement and, if there

are significant updates in between meetings, District and City shall distribute updates throughout the year as necessary. The Joint Use Schedules shall also be available at the District's administration office and Milpitas City Hall.

7.3 Maintenance Discussions. At the Operations Committee Meetings, the Parties will (i) coordinate and develop a maintenance schedule in compliance with the Operations and Maintenance Agreement (defined in Section 9.1); and (ii) do a joint walk-through of the Joint Use Property to review routine maintenance and determine what adjustments need to be made to the maintenance schedule. The maintenance schedule and any other operational decisions made at the annual Joint Use Meeting shall be recorded in an annual operating agreement that shall be consistent with the Operations and Maintenance Agreement ("Operating Agreement for Year _____") and copies maintained by each Party.

7.4 Additional Meetings. During the school year, either Party may request an additional Operations Committee Meeting if there are modifications required for the Joint Use Schedule or Operating Agreement and the Parties shall cooperate to satisfy those requests.

8. Supervision and Compliance With Law. Each Party is responsible for supervision of the Joint Use Property during the time of its use. Each Party shall comply with, and shall secure compliance by persons within its control and authority of all state and federal laws and regulations now in force, or which may be in force in the future, pertaining to the Joint Use Property. City and District shall each comply with the other Party's rules and regulations during the time of its use of that portion of the Joint Use Property owned by that Party.

9. Maintenance and Repair.

9.1 Operations and Maintenance Agreement. The Operations Committee shall coordinate the preparation and execution of a mutually satisfactory agreement for the maintenance of the Joint Use Property ("**Operations and Maintenance Agreement**"). The Operations and Maintenance Agreement shall define each Party's maintenance obligations for the Field, Basketball Courts, and Parking, and shall provide that the costs of such maintenance shall be equally split between the Parties, except when such costs are otherwise allocated in this Joint Use Agreement.

9.2 Routine Clean-up of Joint Use Property During Exclusive Use. District and City shall each be responsible for the routine clean-up of the Joint Use Property during the time of that Party's use. Such routine clean-up includes maintaining the areas in good order and condition and free of litter ("**Routine Clean-Up**").

9.3 Annual Monitoring of Soil Contamination. The Department of Toxic Substances Control ("**DTSC**") requires, as a condition of its approval, that the District perform annual monitoring of soil contamination on portions of the McCandless Property, including the Joint Use Property. The Parties shall cooperate to allow such monitoring activities to be conducted on the locations specified prior to commencement ("**DTSC Monitoring**").

9.4 Improvements and Replacement of Equipment.

9.4.1. After construction of the Joint Use Property, no additional improvements shall be installed until costs, plans and specifications for the improvements are reviewed and approved by both Parties.

9.4.2. The Parties shall mutually agree upon replacement of equipment or improvements to the Field and Basketball Courts. The Parties shall share the cost of the improvements or replacements equally unless the other Party caused damage to the equipment, in which case the Party causing the damage shall pay the total replacement cost.

10. Utilities.

10.1 Water. City intends to extend recycled water piping to the Joint Use Field. Should City extend recycled water to the Joint Use Field, the Parties shall split the costs of extending recycled water piping to the Joint Use Field equally along with the cost of using such recycled water to maintain the Joint Use Field equally. If City does not extend recycled water to the Joint Use Field, the Parties shall endeavor to split the water costs associated with maintaining the Joint Use Field equally. In all other events each Party shall pay for its own water usage related to the Joint Use Property.

10.2 Electricity, Sewer and Other Utilities. After operation of the Joint Use Property commences, the Operations Committee shall review costs of shared utilities and determine cost allocation. For purposes of this paragraph 10.2 commencement of operation shall mean when construction of both City Property and District Property is complete and the Joint Use Property is available for use.

11. General Terms and Conditions.

11.1 Indemnity. During the term of this Joint Use Agreement, the indemnification requirements in this paragraph 11.1 and the insurance requirements in paragraph 11.2 may be satisfied by a program of self-insurance or commercial insurance. City agrees to defend, indemnify and save District, its agents and employees harmless from any and all liability, claims, damages, or injuries to any person caused by the independent acts of City, its agents, licensees, invitees and employees in connection with the performance of this Joint Use Agreement and the use or maintenance of the Joint Use Property. District agrees to defend, indemnify and save City, its agents, licensees, invitees and employees harmless from any and all liability, claims, damages, or injuries to any person caused by the independent acts of District, its agents, licensees, invitees and employees in connection with the performance of this Joint Use Agreement and the use or maintenance of the Joint Use Property.

11.2 Insurance. Each Party shall maintain the following programs of insurance coverage:

11.2.1. General Liability insurance with limits of not less than the following, and naming the other Party as an additional insured:

General Aggregate:	$2 million
Personal Injury:	$1 million

Each Occurrence: $1 million

11.2.2. Workers' Compensation and Employers Liability insurance providing workers' compensation benefits, as required by the State of California.

11.2.3. The insurance coverage requirements in this paragraph 11 shall be subject to review and adjustment to reflect coverage recommended by the Parties' insurance advisors over the term of this Joint Use Agreement. Any such adjustment shall be set forth in a written amendment to the Joint Use Agreement signed by both Parties.

11.3 Entry and Inspection. Each Party reserves, and shall always have the right, to enter upon the Joint Use Property at reasonable times for the purpose of viewing and ascertaining the condition of the property.

11.4 Waiver. The waiver by either Party of any breach or of any term, covenant, or condition herein contained shall not be deemed to be a waiver of any other breach, term, covenant, or condition of this Joint Use Agreement.

11.5 Notices. Any notice required or permitted under this Joint Use Agreement shall be in writing, delivered to the Party at the address set forth below, and shall be deemed effectively delivered upon (i) personal delivery or electronic delivery, (ii) one day after deposit for overnight delivery by Federal Express or a comparable national express courier, (iii) two days after deposit in the United States mail, by first-class mail, postage prepaid, or (iv) receipt via facsimile or electronic mail. A Party may designate another address for notice purposes upon written notice pursuant to the provisions of this paragraph. The Parties shall provide each other after-hours emergency contact phone numbers of appropriate supervisory staff, which shall be periodically updated.

DISTRICT

Milpitas Unified School District
Attn: Superintendent
1331 East Calaveras Blvd.
Milpitas, CA 95035
Phone: (408) 635-2600
Fax: (408) 635-2616
Email: cjordan@musd.org

With a copy to:

Fagen Friedman & Fulfrost, LLP
Attn: Kelley Owens, Esq.
1525 Faraday Avenue Suite 300
Carlsbad, CA 92008
Phone: (760) 304-6000
Fax: (760) 304-6011
Email: kowens@f3law.com

CITY

City of Milpitas
Attn: City Manager
455 East Calaveras Blvd., 3rd Floor
Milpitas, CA 95035
Phone: (408) 586-3050
Email: twilliams@ci.milpitas.ca.gov

With a copy to:
City of Milpitas
Attn: City Attorney
455 East Calaveras Blvd.
Milpitas, CA 95035
Phone: (408) 586-3040
Email: cdiaz@ci.milpitas.ca.gov

11.6 Defaults. Should either Party fail to perform any covenant, condition or agreement contained in this Joint Use Agreement, including but not limited to those listed below, and the default is not cured within thirty (30) days after written notice is served on the defaulting Party by the non-defaulting Party, then the defaulting Party shall be in default under this Joint Use Agreement; provided however, to the extent that more than thirty (30) days are reasonably required to cure any default, the defaulting Party shall not be in default so long as it commences such cure within the thirty (30)-day period and thereafter diligently pursues such cure to completion.

11.6.1. Failure to Pay. The failure of either Party to pay when due any expenses, monies or charges required by this Joint Use Agreement to be paid.

11.6.2. Failure to Act. The failure of either Party to do any act, other than the payment of expenses, monies or charges required by this Joint Use Agreement to be done.

11.6.3. Prohibited Act. Either Party causing, permitting or suffering to be done any act (i) required by this Joint Use Agreement to have prior written consent or mutual consent, unless such consent is so obtained, or (ii) prohibited by this Joint Use Agreement.

11.7 Remedies. In the event of a default under this Joint Use Agreement, the Parties shall follow the dispute resolution procedures below.

11.7.1. Informal Negotiation. The Parties shall negotiate in good faith and attempt to resolve any dispute, controversy or claim arising out of or relating to this Joint Use Agreement ("**Dispute**") within 30 days after the date that one Party gives written notice of such Dispute to the other Party.

11.7.2. Non-binding Mediation. If, after informal negotiation, the Dispute remains unresolved, either Party may require that a non-binding mediation take place. In such mediation, representatives of the Parties with the authority to resolve the Dispute shall meet with a mutually agreed upon mediator. If the Parties are unable to agree upon a mediator, then either

Party may request the American Arbitration Association to appoint a mediator. The mediator's fee and expenses shall be paid one-half by each Party.

11.7.3. Binding Arbitration. If, after non-binding mediation, the Dispute remains unresolved, the Parties agree to submit to binding arbitration pursuant to California Code of Civil Procedure section 1280 *et seq*. The non-prevailing Party shall pay the arbitrator's fee, but in all other respects each Party shall bear its own costs and attorneys' fees.

11.8 Governing Law. The Parties agree that the laws of the State of California shall be used in interpreting this Joint Use Agreement, shall govern all disputes under this Joint Use Agreement and will determine all rights thereunder.

11.9 Complete Agreement. This Joint Use Agreement contains the complete expression of the whole agreement between the Parties and there are no promises, representations, agreements, warranties, or inducements either expressed verbally or implied except as are fully set forth herein. This Joint Use Agreement cannot be amended, enlarged, modified, or changed in any respect except by written agreement between the Parties.

11.10 Nondiscrimination. District, City, and all others who from time to time may use the property and recreational facilities described in this Joint Use Agreement with the permission and on the terms and conditions specified by both Parties shall not discriminate in any manner against any person or persons on account of race, color, gender, creed, national origin, age or mental or physical disability.

11.11 Exhibits.

Exhibit A-1 Legal Description of District Property

Exhibit A-2 Legal Description of City Property

Exhibit B Depiction of Joint Use Property

[Signatures on following pages]

Signature Page
for

JOINT USE AGREEMENT

IN WITNESS WHEREOF, this Joint Use Agreement is executed by the City of Milpitas, acting by and through its City Council that has authorized the Mayor to execute, and by the Milpitas Unified School District, acting by and through its Board of Education that has authorized the superintendent or his designee to execute.

CITY OF MILPITAS

By: _____

Name: JOSE S. ESTEVES

Title: MAYOR

Date: 6/28/2016

MILPITAS UNIFIED SCHOOL DISTRICT

By: _____

Name: GUADALUPE ALI-SANTOSA

Title: PRESIDENT, BOARD OF TRUSTEES

Date: 07/06/2016

APPROVED AS TO FORM

By: _____

Name: CHRISTOPHER DIAZ

Title: CITY ATTORNEY

Date: 6/28/2016

APPROVED AS TO FORM

By: _____

Name: KATHLEEN J McKEE

Title: ATTORNEY FOR DISTRICT

Date: 6-30-16

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EXHIBIT A-1
DISTRICT PROPERTY (ELEMENTARY SCHOOL)

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF MILPITAS, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING ALL OF PARCEL 2 AND A PORTION OF PARCEL 3, AS SAID PARCELS ARE SHOWN ON THE PARCEL MAP OF "MC CANDLESS TECHNOLOGY", FILED FOR RECORD ON DECEMBER 5, 1984, IN BOOK 536 OF MAPS AT PAGES 41-43, SANTA CLARA COUNTY RECORDS, TOGETHER WITH A PORTION OF HOURET DRIVE AS SAID PORTION IS SHOWN AND DEDICATED ON SAID PARCEL MAP OF "MC CANDLESS TECHNOLOGY", BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID PARCEL 2;

THENCE ALONG THE GENERAL EASTERLY LINES OF PARCEL 2 AND 3, THE FOLLOWING SEVEN (7) COURSES:

1.) NORTH 0°08'26" EAST, 546.62 FEET;
2.) NORTH 68°44'33" WEST, 26.61 FEET THE BEGINNING OF A TANGENT CURVE TO THE LEFT;
3.) ALONG SAID CURVE HAVING A RADIUS OF 20.00 FEET, THROUGH A CENTRAL ANGLE OF 35°05'48", AN ARC LENGTH OF 12.25 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE RIGHT, TO WHICH BEGINNING A RADIAL LINE BEARS SOUTH 13°50'22" EAST;
4.) ALONG SAID CURVE HAVING A RADIUS OF 46.00 FEET, THROUGH A CENTRAL ANGLE OF 250°11'37", AN ARC LENGTH OF 200.87 FEET TO THE BEGINNING OF A REVERSE CURVE TO THE LEFT, TO WHICH BEGINNING A RADIAL LINE BEARS SOUTH 56°21'15" WEST;
5.) ALONG SAID CURVE HAVING A RADIUS OF 20.00 FEET, THROUGH A CENTRAL ANGLE OF 35°05'48", AN ARC LENGTH OF 12.25 FEET;
6.) SOUTH 68°44'33" EAST, 0.35 FEET;
7.) NORTH 0°08'26" EAST, 53.88 FEET;

THENCE LEAVING THE EAST LINE OF SAID PARCEL 3, NORTH 89°51'34" WEST, 544.46 FEET TO THE WEST LINE OF SAID PARCEL 3 AND THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT, TO WHICH BEGINNING A RADIAL LINE BEARS SOUTH 81°35'01" WEST;

THENCE SOUTHEASTERLY ALONG THE WESTERLY LINES OF SAID PARCEL 3 AND 2, THE FOLLOWING THREE (3) COURSES:

1) ALONG SAID CURVE HAVING A RADIUS OF 1,762.00 FEET, THROUGH A CENTRAL ANGLE OF 17°12'47", AN ARC LENGTH OF 529.35 FEET TO THE BEGINNING OF A COMPOUND CURVE TO THE LEFT, TO WHICH BEGINNING A RADIAL LINE BEARS SOUTH 64°22'14" WEST;
2) ALONG SAID CURVE HAVING A RADIUS OF 682.00 FEET, THROUGH A CENTRAL ANGLE OF 11°38'05", AN ARC LENGTH OF 138.49 FEET TO THE BEGINNING OF A COMPOUND CURVE TO THE LEFT, TO WHICH BEGINNING A RADIAL LINE BEARS SOUTH 52°44'09" WEST;
3) ALONG SAID CURVE HAVING A RADIUS OF 400.00 FEET, THROUGH A CENTRAL ANGLE OF 10°03'25", AN ARC LENGTH OF 70.21 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL 2;

THENCE ALONG THE SOUTH LINE OF SAID PARCEL 2, SOUTH 89°51'34" EAST, 269.11 FEET TO THE POINT OF BEGINNING.

CONTAINING 291,853 SQUARE FEET OR 6.70 ACRES, MORE OR LESS.

EXHIBIT A-2
LEGAL DESCRIPTION OF CITY PROPERTY

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF MILPITAS, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF PARCEL 3, AS SAID PARCEL IS SHOWN ON THE PARCEL MAP OF "MC CANDLESS TECHNOLOGY", FILED FOR RECORD ON DECEMBER 5, 1984, IN BOOK 536 OF MAPS AT PAGES 41-43, SANTA CLARA COUNTY RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL 3;

THENCE ALONG THE NORTHERLY LINE OF SAID PARCEL 3, SOUTH 83°45'38" EAST, 573.71 FEET TO THE NORTHEAST CORNER THERETO;

THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 3, SOUTH 0°08'26" WEST, 295.38 FEET;

THENCE LEAVING SAID EASTERLY LINE, NORTH 89°51'34" WEST, 544.46 FEET TO A POINT ON THE WESTERLY LINE OF SAID PARCEL 3 AND THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT, TO WHICH BEGINNING A RADIAL LINE BEARS SOUTH 81°35'01" WEST;

THENCE ALONG SAID WESTERLY LINE, ALONG SAID CURVE HAVING A RADIUS OF 1,762.00 FEET, THROUGH A CENTRAL ANGLE OF 5°51'39", AN ARC LENGTH OF 180.24 FEET;

THENCE CONTINUING ALONG SAID WESTERLY LINE, NORTH 2°33'20" WEST, 177.24 FEET TO THE POINT OF BEGINNING.

CONTAINING 182,349 SQUARE FEET OR 4.19 ACRES, MORE OR LESS.

EXHIBIT B
DEPICTION OF JOINT USE AREAS

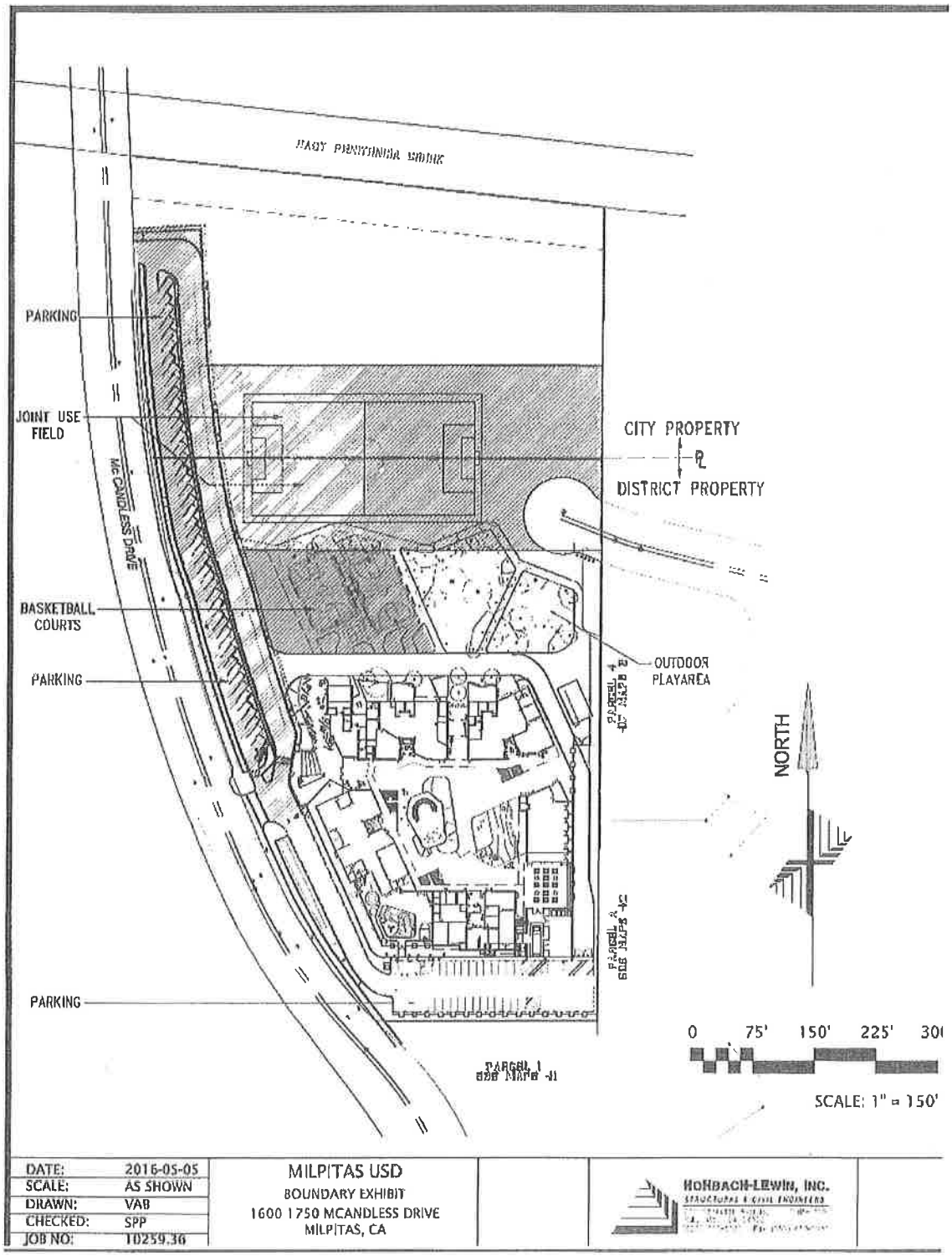

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Exhibit C

Insurance Requirements and Proof of Insurance

INSURANCE REQUIREMENTS FOR GRANT AGREEMENT

Indemnity

The Grantee shall indemnify, defend, and hold harmless the County of Santa Clara (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by Grantee and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County. The Grantee shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Grantee contests its obligation to indemnify, defend and/or hold harmless the County under this Agreement and does not prevail in that contest.

Insurance

Without limiting the Grantee's indemnification of the County, the Grantee shall provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the following insurance coverages and provisions:

A. Evidence of Coverage

Prior to commencement of this Agreement, the Grantee shall provide a Certificate of Insurance certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, a certified copy of the policy or policies shall be provided by the Grantee upon request.

This verification of coverage shall be sent to the requesting County department, unless otherwise directed. The Grantee shall not receive a Notice to Proceed with the work under the Agreement until it has obtained all insurance required and such insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Grantee.

B. Qualifying Insurers

All coverages, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Insurance Manager.

C. Notice of Cancellation

All coverage as required herein shall not be canceled or changed so as to no longer meet the specified County insurance requirements without 30 days' prior written notice of such cancellation or change being delivered to the County of Santa Clara or their designated agent.

D. Insurance Required

1. Commercial General Liability Insurance - for bodily injury (including death) and property damage which provides limits as follows:

   a. Each occurrence - $1,000,000

   b. General aggregate - $1,000,000

   c. Products/Completed Operations aggregate - $1,000,000

   d. Personal Injury - $1,000,000

2. General liability coverage shall include:

   a. Premises and Operations

   b. Products/Completed

   c. Personal Injury liability

   d. Severability of interest

3. General liability coverage shall include the following endorsement, a copy of which shall be provided to the County:

   Additional Insured Endorsement, which shall read:

   > "County of Santa Clara, and members of the Board of Supervisors of the County of Santa Clara, and the officers, agents, and employees of the County of Santa Clara, individually and collectively, as additional insureds."

   Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by the County of Santa Clara, its officers, agents, and employees shall be excess only and not contributing with insurance provided under this policy. Public Entities may also be added to the

additional insured endorsement as applicable and the Grantee shall be notified by the contracting department of these requirements.

4. Fidelity Bond

Before receiving any reimbursement under this Agreement, Grantee will furnish County with evidence that all officials, employees, and agents handling or having access to funds received or disbursed under this Agreement, or authorized to sign or countersign checks, are covered by a BLANKET FIDELITY BOND in an amount of AT LEAST fifteen percent (15%) of the maximum financial obligation of the County cited herein. If such bond is canceled or reduced, Grantee will notify County immediately, and County may withhold further payment to Grantee until proper coverage has been obtained. Failure to give such notice may be cause for termination of this Agreement, at the option of County.

E. Special Provisions

The following provisions shall apply to this Agreement:

1. The foregoing requirements as to the types and limits of insurance coverage to be maintained by the Grantee and any approval of said insurance by the County or its insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Grantee pursuant to this Agreement, including but not limited to the provisions concerning indemnification.

2. The County acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self-insurance on the part of the Grantee. However, this shall not in any way limit liabilities assumed by the Grantee under this Agreement. Any self-insurance shall be approved in writing by the County upon satisfactory evidence of financial capacity. Grantees obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions.

3. Should any of the work under this Agreement be sublet, the Grantee shall require each of its subcontractors of any tier to carry the aforementioned coverages, or Grantee may insure subcontractors under its own policies.

Pooled Liability Assurance Network JPA

1750 Creekside Oaks Drive, Suite 200, Sacramento, CA 95833
916-244-1100

Liability Certificate of Coverage

Additional Covered Party

Certificate Number: 45532954

Certificate Holder: County of Santa Clara

298 Garden Hill Drive
Los Gatos, CA 95032

Covered Party: City of Milpitas

Description of Covered Activity: As respects the Agreement between the County of Santa Clara and the City of Milpitas regarding grant funding for McCandless Park and Mabel Mattos Elementary School under the 2018 All-Inclusive Playground Grant Program; the County of Santa Clara, and members of the Board of Supervisors of the County of Santa Clara, and the officers, agents, and employees of the County of Santa Clara, individually and collectively, are additional covered parties with regard to any negligent acts or omissions of the City of Milpitas, its officers, officials, employees, and volunteers.

Memorandum of Coverage Number: GAL 2018-19 **Effective Date:** 11/26/2018 **Expiration Date:** 7/1/2019

Limits: $1,000,000 (per occurrence)

The Following Coverage is in effect: General and automobile liability as defined in the Memorandum of Coverage on file with the covered party named above.

Pursuant to the definition of Covered Party in the Liability Memorandum of Coverage, the certificate holder named above is an additional covered party for covered claims arising out of the covered activity stated above and is subject to the limits stated above.

This coverage shall be primary and non-contributory.

This is to certify that the coverage listed above has been issued to the Covered Party named above for the coverage period indicated, notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate may be issued or may pertain. The coverage afforded as described herein is subject to all the terms, exclusions, and conditions of the Memorandum of Coverage of the PLAN, which is available for your review upon request.

Coverage is in effect from 12:01 a.m. Pacific Time of effective date to 12:01 a.m. Pacific Time of expiration date as stated above and will not be canceled, limited, or allowed to expire except upon 30-day notice to the certificate holder.

Date Issued: 11/27/2018

Renewal: Yes **Excess Certificate Issued:** No

Authorized Representative Signature: Jon Paulsen

CITY OF MILPITAS
AGENDA REPORT
(AR)

Item Title:	**Conduct Third Study Session on the Milpitas Metro Specific Plan (Update of 2008 Transit Area Specific Plan) with a Presentation, Discussion and City Council direction on Key Plan policies related to Land Use Density and Intensity**
Category:	Community Development
Meeting Date:	1/19/2021
Staff Contacts:	Ned Thomas, Planning Director, 408-586-3273 Kevin Riley, TASP Manager 408-586-3292
Recommendations:	1. Receive a presentation from staff. 2. Provide feedback and direction on key land use, density and commercial intensity policies to guide preparation of the Draft Milpitas Metro Specific Plan (MMSP).

Background:

The City's consultant, Urban Field Studio (UFS) and City staff continue work on the Milpitas Metro Specific Plan [the update of the 2008 Transit Area Specific Plan (TASP)]. Since the first Council study session on June 30, 2020, the Milpitas Transit Center has opened with Bay Area Rapid Transit (BART) service connecting the area and the Santa Clara Valley Transportation Authority (VTA) light rail system to the greater Bay Area. On September 15, 2020, the Council held a study session during a regular meeting and provided comments to the planning team on key elements of the Plan. On September 30, 2020, the consultants hosted a live Community Meeting on the Zoom platform and then provided an online Open House so that community members not able to attend on September 30 could hear the presentation, provide written comments and participate in the polling.

Since the last Council session on the Metro Plan on September 15, 2020, the consultant and staff have completed extensive work on advancing the update of the original 347-acre 2008 Transit Area Specific Plan (TASP). To summarize the purpose of this effort, particularly for those who have not been engaged in this effort, the TASP update has been renamed to the Milpitas Metro Specific Plan (MMSP) and will address those areas that have not yet developed in accordance with the 2008 Plan as well as new areas proposed to be annexed to the Plan area. While most of the planned 7,109 housing units in the TASP were entitled or developed over the past 12 years, there remain approximately 150 acres of land that have not been redeveloped or recently entitled in any way (some sites with currently viable uses may not change). Very little of the planned commercial or office uses have been developed or proposed. The proposed annexation areas of approximately 50 acres have potential development opportunities for residential and commercial development that will be addressed in the Metro Plan.

The online Open House (open September 30 - October 26, 2020) and community meeting on September 30 provided another opportunity for interaction and additional input from the public. The community meeting was consulted via Zoom webinar, and included a presentation, real-time polling via Poll Everywhere throughout the presentation, Q&A at the end of the presentation, and public comment. Some participants just listened to the planning team's presentation, but there were comments expressing concern about the landfill odors, transit and connectivity in general, train noise, the need for water-saving measures, public safety and homelessness. 101 people participated in the Online Open House, which offered the same content and opportunities to provide feedback as the Community Meeting. The Open House was publicized via email and social media.

After limited participation during the first weeks of the Open House consultants offered gifts cards and significantly increased participation. The first attachment is a summary of the Open House.

The next step in project development is to review the draft Plan Framework with City Council. The Plan Framework is made up of the foundational policies of the plan, upon which the rest of the plan is built. Reviewing the Plan Framework will be accomplished over the course of three City Council Sessions in 2021, as follows:

- *January 19:* Land Use, Density and Commercial Intensity
- *February 2:* Transportation, Mobility, Circulation and Traffic
- *February 16:* Parks, Trails, Streetscape, Infrastructure/BIP/TADIF, Placemaking and Sustainability

An additional policy review session or sessions will be scheduled if necessary.

The second attachment to this agenda report is an information report from UFS examining some key policies critical to the preparation of the Metro Plan. In addition to this background material, there will be a team presentation to explore important policies that will help shape the pending Draft of the Plan. Comments from the Council and the public are welcome, but critical for the evening will be to receive concurrence with these policies or otherwise obtain a consensus on specific direction from the Council on key policies that will be critical to guiding the goals and objectives to be contained in the Draft edition of the Metro Plan that will come back to the Council later in the spring of 2021.

Land Use and Density will be the focus of this meeting. For the Milpitas Metro Specific Plan, the consultant team conducted capacity tests based on what kind of construction is anticipated for the area to determine land use policies and densities to allow. The presentation will cover the amount of new land uses to allow in the plan, the zoning for subdistricts, and the land use policies that will be considered.

The MMSP continues what the TASP started, in transforming a formerly industrial office park into a transit-oriented neighborhood. The land uses that will be discussed include residential, commercial retail, commercial office, and hotel.

The highlighted policies on which the planning team will be seeking a consensus at this session of the Council will include:

- Land Use Goals focused on: A Mixed-Use District; Transit Orientation; Housing Production; Ground-Floor Activity; Public Services; Community Spaces; Commercial Uses;
- The Land Use Map, showing proposed distribution of uses; and
- Density of Housing and Intensity of Other Uses.

The detailed presentation of these policies is in the report from the consultant team (attachment in agenda packet) and in the meeting presentation materials.

Analysis:

Housing is especially important in the MMSP to address the City's housing (RHNA) obligations. The character of the neighborhood as an urban transit-oriented center will translate to denser housing than the neighborhoods surrounding it. It is important to note that, consistent with current City plans and policies, this area remains the most appropriate place for housing growth in the City of Milpitas. If housing is not planned for here it will need to be planned elsewhere in the City.

Some of the sites and areas in the Milpitas Metro District that have not recently redeveloped are logically anticipated to have certain uses; for example, parcels and areas that are clearly within residential neighborhoods should remain primarily if not wholly residential. This example could include the conversion of some of the industrial parcels on Tarob and Sango Courts (The Tango Subdistrict) in keeping with the surrounding residential development already complete or under construction. However, new development will likely be at slightly higher densities in order to promote affordable housing and address the City's housing

(RHNA) obligations. This transformation would be supported by the planning and implementation of associated parklands, roads and trails.

As was discussed at the September 15 Council session, planning for the significant 20-year development potential of the Great Mall is a substantial element of the Metro Plan. It should be recognized that the ultimate potential for the 99+ acres of the Great Mall site is likely greater than what would be reasonably anticipated or accomplished in a 20-year plan because economic cycles over time will influence investment in the uses and intensity and density of development. Whether any changes to that site come in sooner or later economic cycles is unknown but planning policies regarding this site have crucial implications for what opportunities might be available elsewhere in the Plan area.

Similarly, the industrial properties east of the Transit Center, and specifically in the 45-acre Plan expansion area east of Berryessa Creek known as the Innovation District, take on significant importance in outlining commercial and employment opportunities that would be very well served by the transit operations in the new Transit Center. While these property owners and business interests may be reluctant to invest in redevelopment in the near future, they may see things differently as the economy recovers with the assumption that the Covid-19 pandemic is controlled and fades over time.

Policy Alternative:
This is an informational item for Council feedback and direction and is the third of several sessions for providing the Council with the progress of the update work for the Milpitas Metro Specific Plan.

Fiscal Impact:
This is an informational item. As such, there is no fiscal impact.

California Environmental Quality Act:
This report represents ongoing work on the Milpitas Metro Specific Plan. It is anticipated that an Environmental Impact Report (EIR) will be prepared for consideration prior to adoption of the Plan.

Recommendations:
1. Receive a presentation from staff.
2. Discuss the presentation and provide direction to staff on a proposed policy framework for land use, densities, and intensities to guide preparation of the Draft Milpitas Metro Specific Plan (MMSP).

Attachments:
a) Summary of Community Responses from online Open House
b) Informational Report from Urban Field Studio

OPEN HOUSE SUMMARY

Milpitas Metro Specific Plan (TASP Update)

October 30, 2020

SURVEY BACKGROUND

- Originally from September 30 – October 12, 2020
- Deadline extended to October 26, 2020
- 101 responses from Open House survey and Community Meeting live poll
- Distributed through City emails, newsletters, and social media

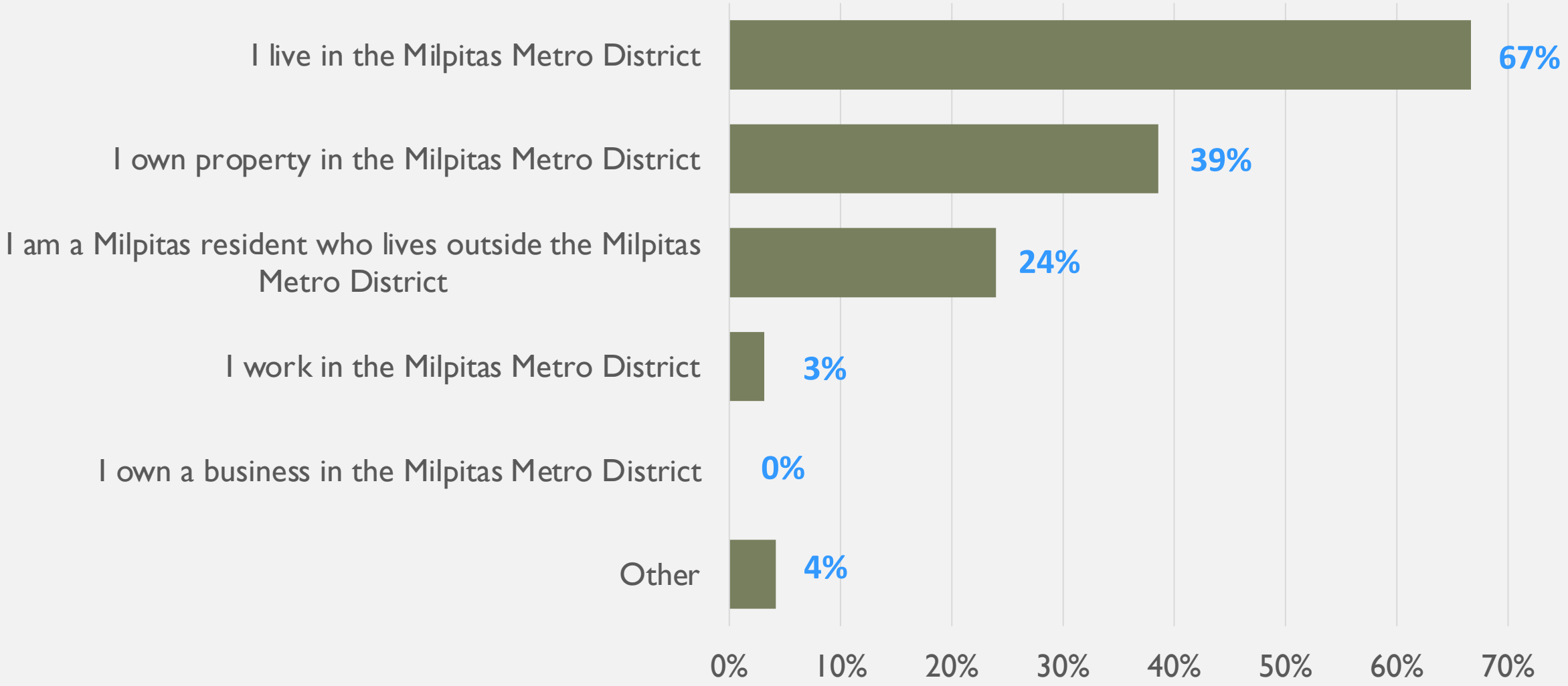
SURVEY CONTENT

- Demographics
- Milpitas Metro Objectives
- Great Mall Subdistrict
- Completing Connections
- Open Space
- Other Comments

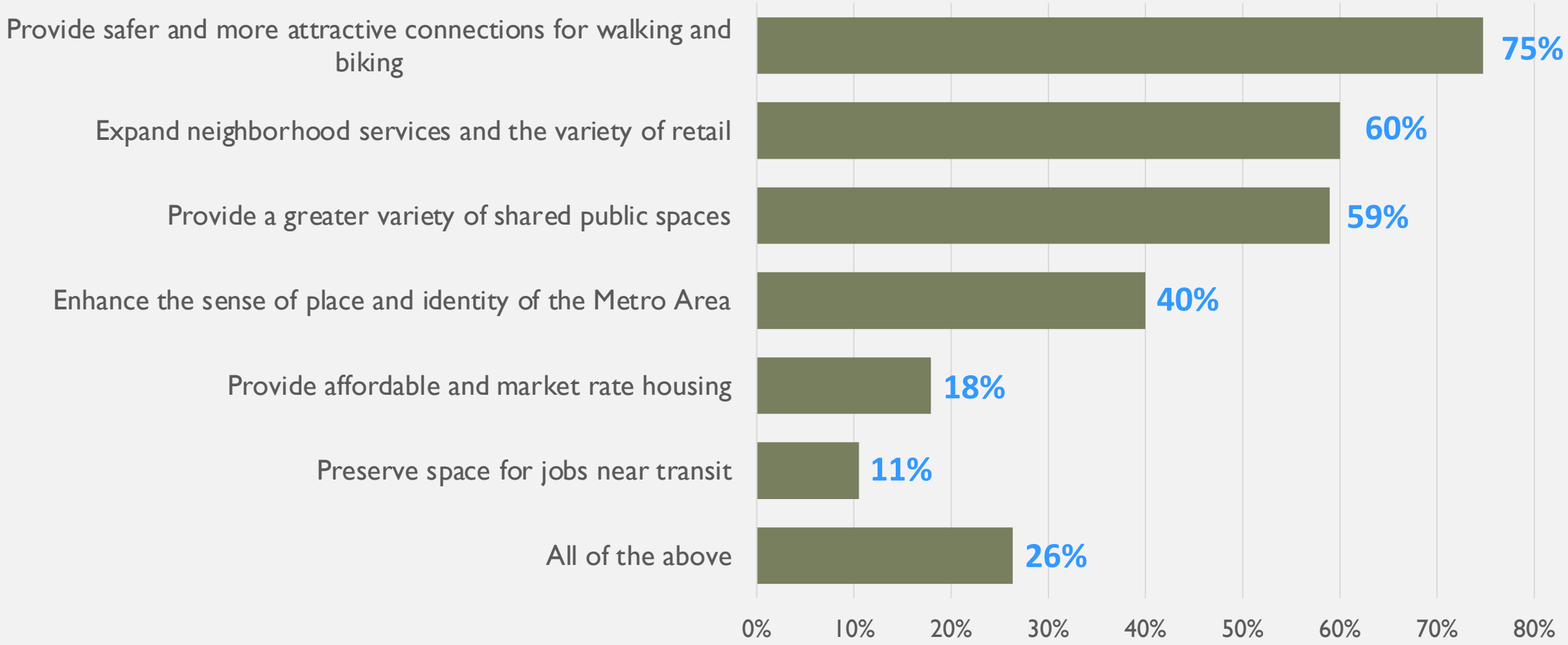
TAKEAWAYS

1. The community largely **agrees with the draft Objectives and ideas for the Great Mall Subdistrict**.
2. There are strong concerns about the Plan **creating safety/crime issues, building too much housing, and increasing traffic congestion**.
3. Creating and improving **pedestrian and bicycle connections** are generally considered a higher priority than vehicular traffic.
4. The community would like to see more open space, particularly **plazas, community event spaces, and trails**.
5. The top 3 priorities for the Plan Area are providing **open space, fun destinations, and safer streets**.

DEMOGRAPHICS OF RESPONDENTS



WHICH DRAFT OBJECTIVES DO YOU AGREE WITH?



WHICH DRAFT OBJECTIVES DO YOU DISAGREE WITH? WHY?

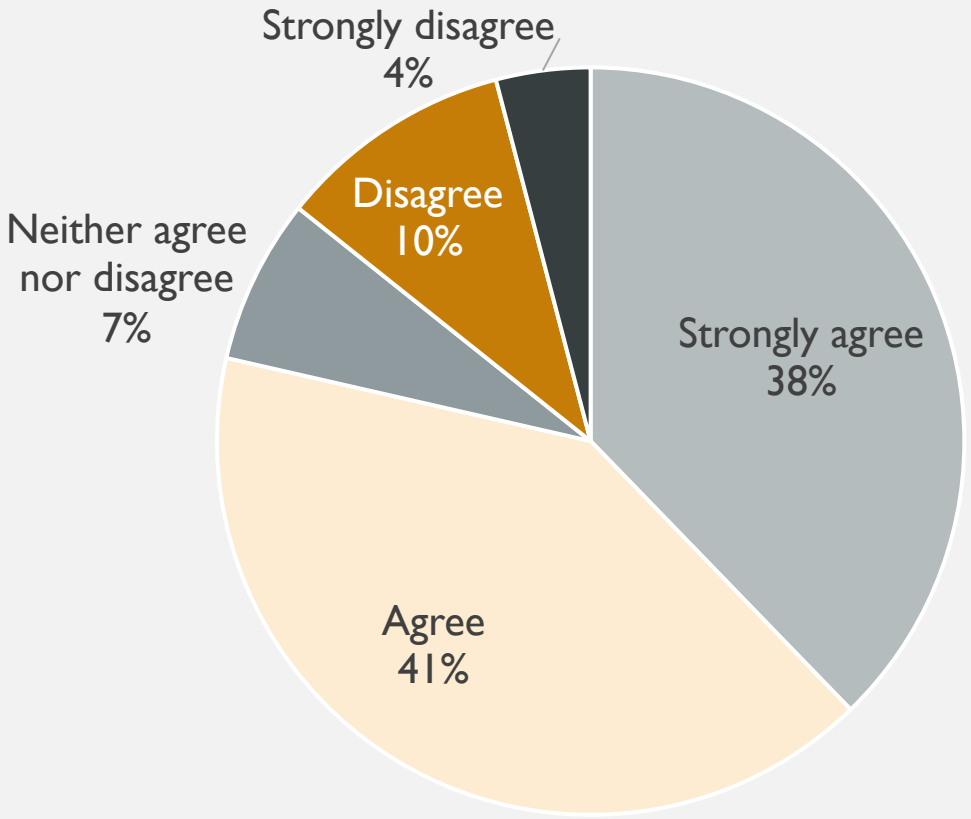
Common Themes Mentioned

- No more affordable housing – Sentiment that affordable housing will increase crime and decrease property values
- Generally, no more housing (market-rate or affordable)

GREAT MALL SUBDISTRICT

DO THE IDEAS FOR THE GREAT MALL SUBDISTRICT REFLECT YOUR PRIORITIES?

79% of respondents agree with the ideas for the Great Mall Subdistrict.
However 60% of respondents wrote in comments discussing concerns about the Great Mall Subdistrict.



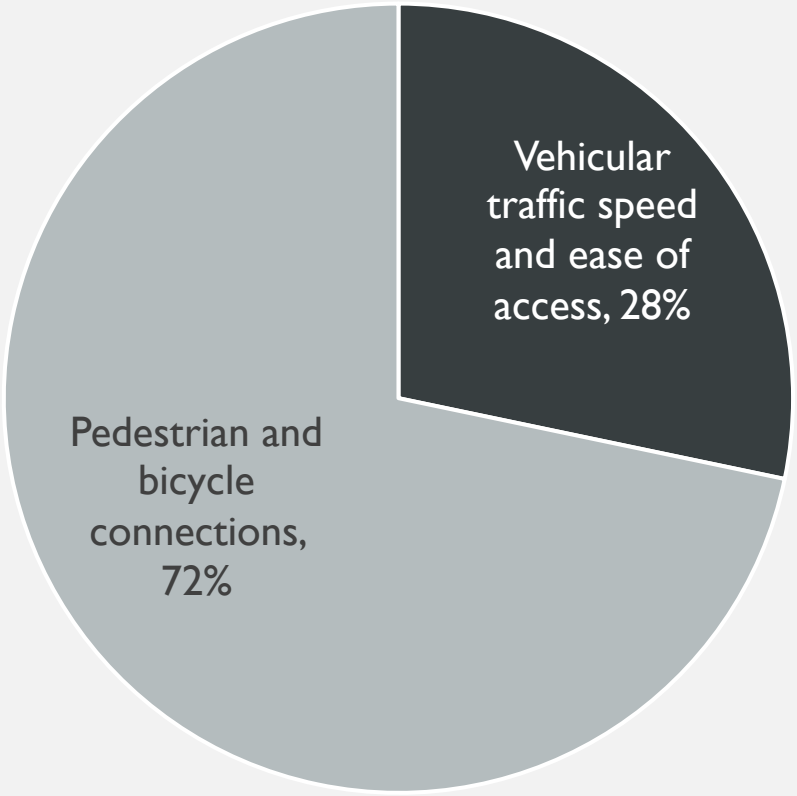
Concerns about the Great Mall Subdistrict

- Safety
- Not enough parking
- Too much housing
- Traffic congestion
- Needs creative open space that is conducive for social gatherings
- Needs more greenery/landscaping
- Not walkable

COMPLETING CONNECTIONS

NEW/IMPROVED CONNECTIONS IN THE PLAN AREA

Which is a higher priority to you?



Top 3 Priorities for Improvement

1. Pedestrian overcrossings
2. Creek trail improvements
3. Great Mall Parkway streetscape enhancements

IDEAS FOR GREAT MALL STREETSCAPE IMPROVEMENTS

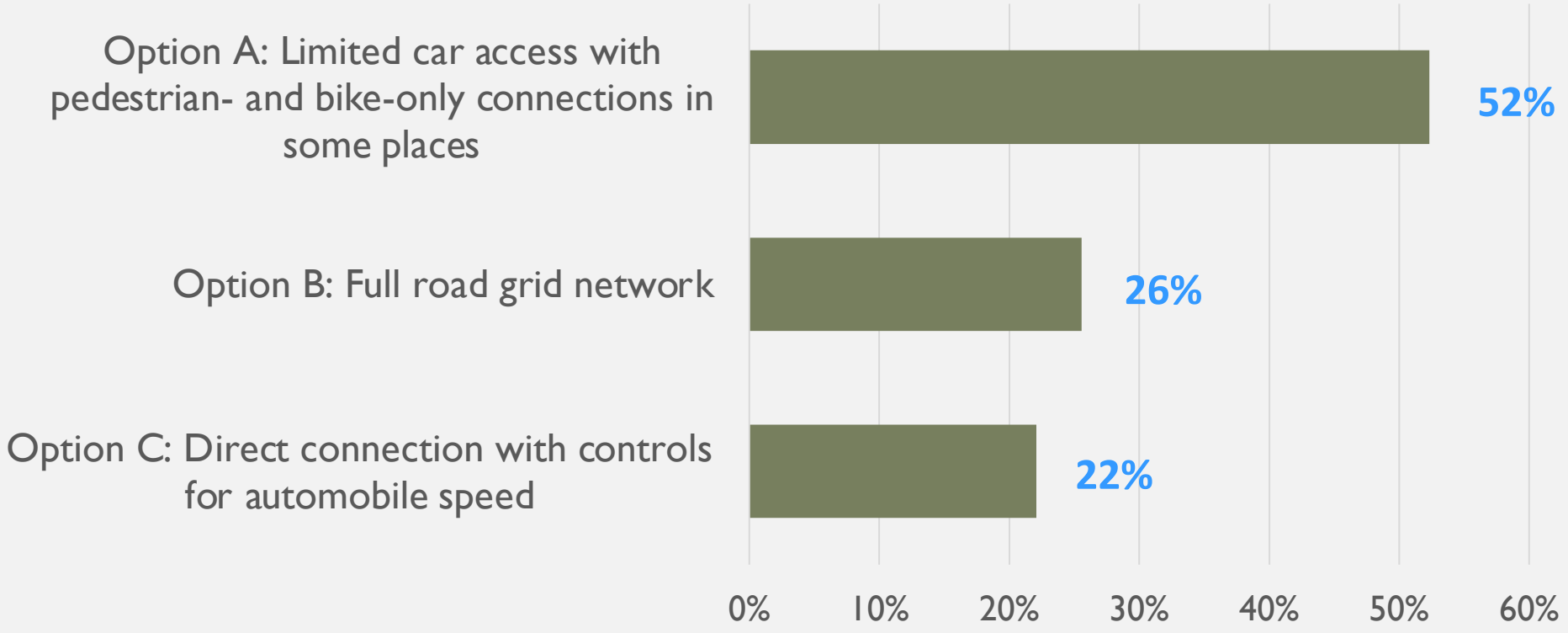
Participants were asked to write-in streetscape improvements that they would like to see on Great Mall Parkway.

Common Themes Mentioned

- Public art – suggestions that art should have a unified identity
- Enhance overhead structure
- Protected bike lanes
- Lighting

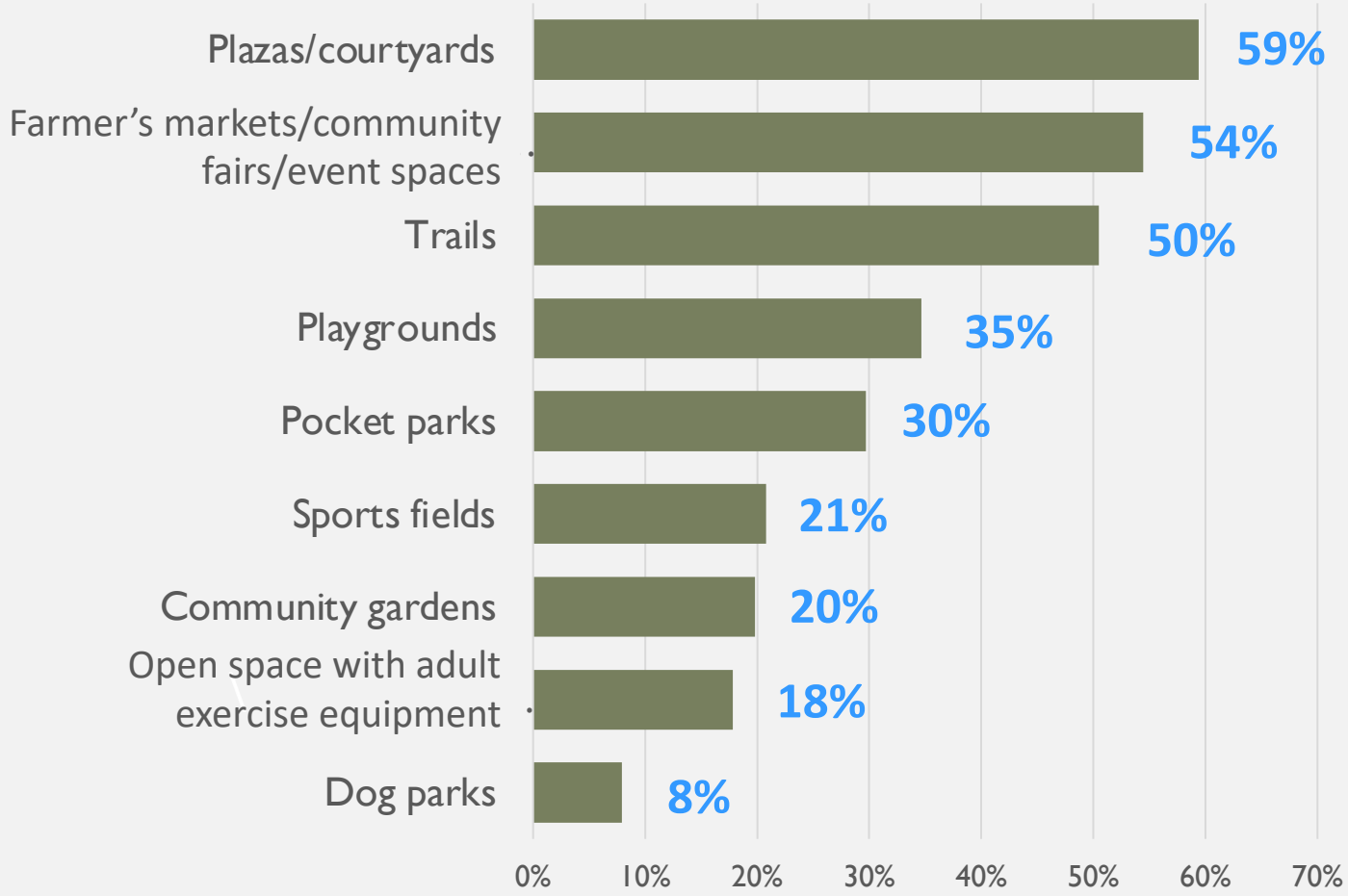
CONNECTIONS IN TAROB AND SANGO COURT

Participants were asked to identify the type of road design they would like to see to increase access to Tarob and Sango Court.



OPEN SPACE PREFERENCES

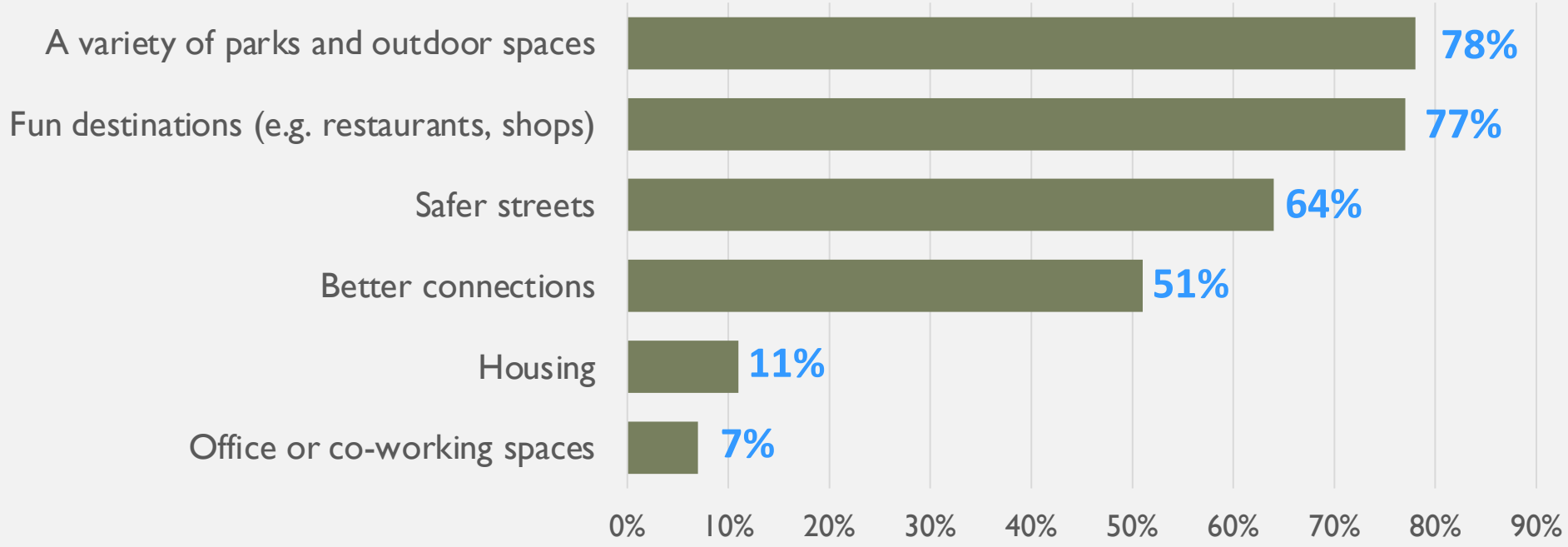
Participants were asked to select their top 3 choices for open spaces in the Plan Area



- Top 3 preferences for types of open spaces were plazas/courtyards, farmer's markets/community event spaces, and trails

COMPLETING THE METRO METRO AREA

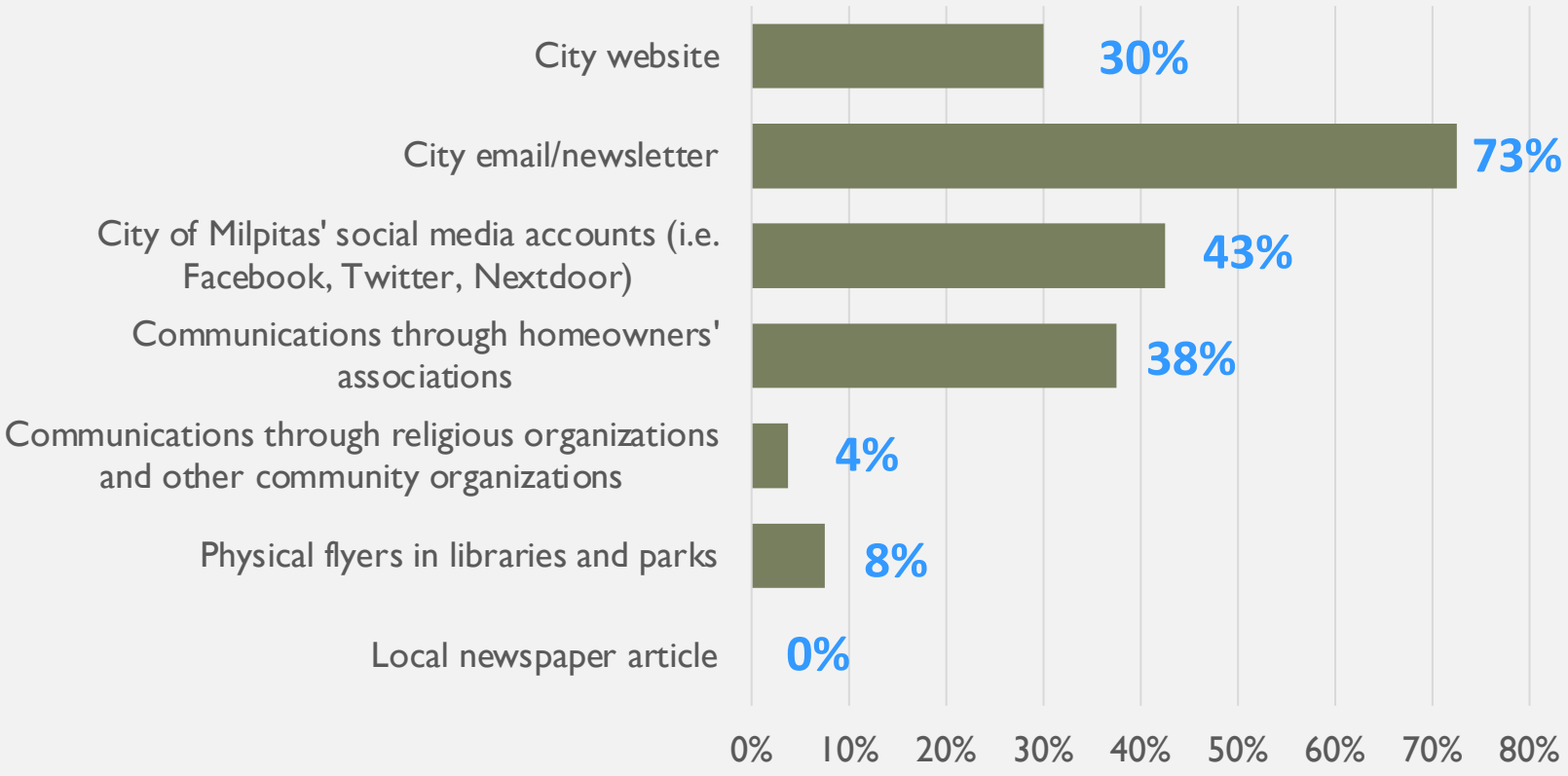
Participants were asked to select their top 3 priorities for what they believe is still needed to make the Milpitas Metro Area complete.



- The need for open space and more greenery/landscaping was reiterated again in the write-in comment section

FUTURE PUBLIC COMMUNICATIONS

PREFERRED METHODS OF COMMUNICATION



How People Heard about the Open House

- Word of mouth from friends/family – 51%
- City email/newsletter – 32%
- City's social media – 17%

Milpitas Metro Specific Plan - Land Use and Density Policies

Agenda Report Attachment prepared for the City Council Meeting on January 19, 2021

Prepared by Urban Field Studio and M-Group

This report is a briefing on Milpitas Metro Specific Plan policies that are being considered for the plan. The presentation delivered on January 19 will include:

- Milpitas Metro Specific Plan Status Update
- Community Engagement Update
- Land Use and Density Policies

The City Council will be asked to weigh in on the following questions:

1. Do you support the Land Use policies as described, or do you have changes you would like to propose?
2. Do you support the locations for land uses described?
3. Do you support the densities and intensities of land uses described?

Milpitas Metro Specific Plan Status Update

The Framework for the Milpitas Metro Specific Plan (MMSP) has been drafted, and the Plan Draft is being prepared. Key policy ideas will be presented for consideration by the City Council over the three meetings and grouped by topic.

January 19 - Land Use and Density
February 2 - Transportation, Mobility, Circulation, Traffic
March 2 - Parks, Trails, Streetscape, Sustainability, Placemaking and Infrastructure

There will also be a Study Session with the Planning Commission following these three meetings.

The Milpitas Metro Specific Plan (MMSP) will supersede the Transit Area Specific Plan (TASP) and be notably briefer. The relevant portions of the TASP will be included, along

with updated goals, policies, and actions to complete the Milpitas Metro neighborhood. The MMSP effort is being coordinated with other City Plans and current planning efforts, including the following plans:

- General Plan Update (ongoing)
- Parks and Recreation Master Plan (ongoing)
- Active Transportation Master Plan (ongoing)
- Urban Water Management Plan (ongoing)
- Housing Element (upcoming)
- Gateway Specific Plan (upcoming)

This plan was originally scheduled to conclude in April 2021, however it has been extended in order to provide planning and environmental review for housing development in order to comply with RHNA and property owner interest in housing development in the Great Mall Subdistrict. The Milpitas Metro Specific Plan will be drafted during Spring 2021 as the Environmental Impact Report commences. The project is anticipated to be completed at the end of 2021.

In our meeting with the City Council in September 2020, the Council expressed support for the seven Plan Vision Elements:

The Milpitas Metro Plan Vision

1. To create a more complete neighborhood.
2. To expand neighborhood services and the variety of retail.
3. To preserve space for jobs near transit.
4. To provide affordable and market-rate housing.
5. To provide safer and more attractive multimodal connections for walking and biking.
6. To provide a greater variety of shared public spaces.
7. To enhance the sense of place and identity of the Metro Area.

This vision statement will form the foundation for the MMSP. Additionally, a foundational premise for the TASP/Metro Plan is and has always been to facilitate higher density and intensity of development close to the mass transit hub for the purposes of meeting the City's jobs and revenue needs and complying with State housing obligations.

Community Engagement Update

Public outreach for the Milpitas Metro Specific Plan has included many different participation opportunities. All community outreach has been conducted online due to the pandemic. A map-based community survey and stakeholder interviews were conducted over the summer of 2020 and gathered input from 300 Milpitas residents. An online Open House and Community Meeting were held during the Fall of 2020, and reached 101 people. Responses were primarily from residents in the Plan Area and other Milpitas residents.

Community Meeting and Open House Takeaways:

1. The community largely agrees with the Plan Vision and ideas for the Great Mall Subdistrict.
2. There are concerns about the Plan creating safety/crime issues, building too much housing, and increasing traffic congestion.
3. Creating and improving pedestrian and bicycle connections are generally considered a higher priority than vehicular traffic.
4. The community would like to see more open space, particularly plazas, community event spaces, and trails.
5. The top 3 priorities for the Plan Area are **providing open space, fun destinations,** and **safer streets.**

A complete summary of the Open House input is available as an additional attachment of the January 19, 2020, MMSP Agenda Report.

Land Use and Density Policies

This section details the proposed approach for enabling and regulating development and land uses in the Milpitas Metro District. It covers development principles, the proposed land use map, land use goals and policies, and development capacity and density. The Development Principles are high-level guiding policies for approaching development, land use and density. The Land Use Map shows where particular land uses are proposed to be allowed and indicates density. The Land Use Goals and Policies are proposed policies that will govern land use and development. The Land Use and Density subsection describes capacity studies developed by the planning team, and proposed land use densities and intensities.

Development Principles

Development on large and small sites throughout the Milpitas Metro Plan area will adhere to the following principles:

1. Large sites will be divided into zones that prioritize creating a walkable street grid, accessible spaces, and development opportunity areas.
2. Phased projects will prioritize the development of affordable housing and public amenities.
3. The MMSP will establish design guidelines for buildings and the public realm to ensure a high-quality environment, walkable scale, and a strong sense of place.
4. The MMSP will both encourage and limit residential, Commercial, Retail, and Hotel development, though future plan updates may increase site capacity allowances.
5. Development will be lower scale adjacent to existing residential neighborhoods and higher along Great Mall Parkway and other arterials.
6. Property owners will be encouraged to develop and maintain privately owned public spaces.
7. Development will be subject to the same fees throughout Milpitas Metro.

Land Use Map

The following maps show existing and proposed land uses in the Milpitas Metro District. These draft land uses will be codified into zones following their approval. While current Milpitas zones are used in *Figure 2. Proposed Land Uses*, it is likely that new zones will be developed specifically for Milpitas Metro. Notable changes between existing and proposed land uses include the following:

- The Innovation District is added to the MMSP plan area, and will be zoned for Research and Development at a Floor Area Ratio (FAR) of 2.5.
- Parcels along Main Street are added to the MMSP plan area, and parcels that have not been redeveloped will be zoned to allow buildings of up to seven stories.
- Parcels proximate to the Multimodal Station, including along Milpitas Boulevard Extension and in the southern partition of the Great Mall Subdistrict will be zoned to encourage employment or office uses, and may also be permitted to see residential development.
- Parcels in the Tango subdistrict will be allowed to develop with mid-rise or approximately 5-story multifamily buildings.
- In the Great Mall Subdistrict, the most intensive density and intensity will be encouraged along Great Mall Parkway. The portion of the site adjacent to the existing residential development will be low rise, and the remainder of the site will be zoned for mid-rise development.

- Retail, commercial and/or flex uses on the ground floor will be required in select locations in the Great Mall Subdistrict that are economically viable.

The proposed zoning is not intended to restrict the amount of retail square footage on the Great Mall property. The property owners may elect to expand, maintain or reduce total retail square footage as redevelopment takes place. Simon Properties, the owners of the Great Mall, are experts in retail development and operations and have expressed the intention to maintain the existing footprint of the Great Mall for the time being, and have indicated that near-term residential development is likely to occur on surface parking lots.

Figure 1. Existing Land Use Map shows the current land uses in the Milpitas Metro District.

Figure 1: Existing Land Use Map

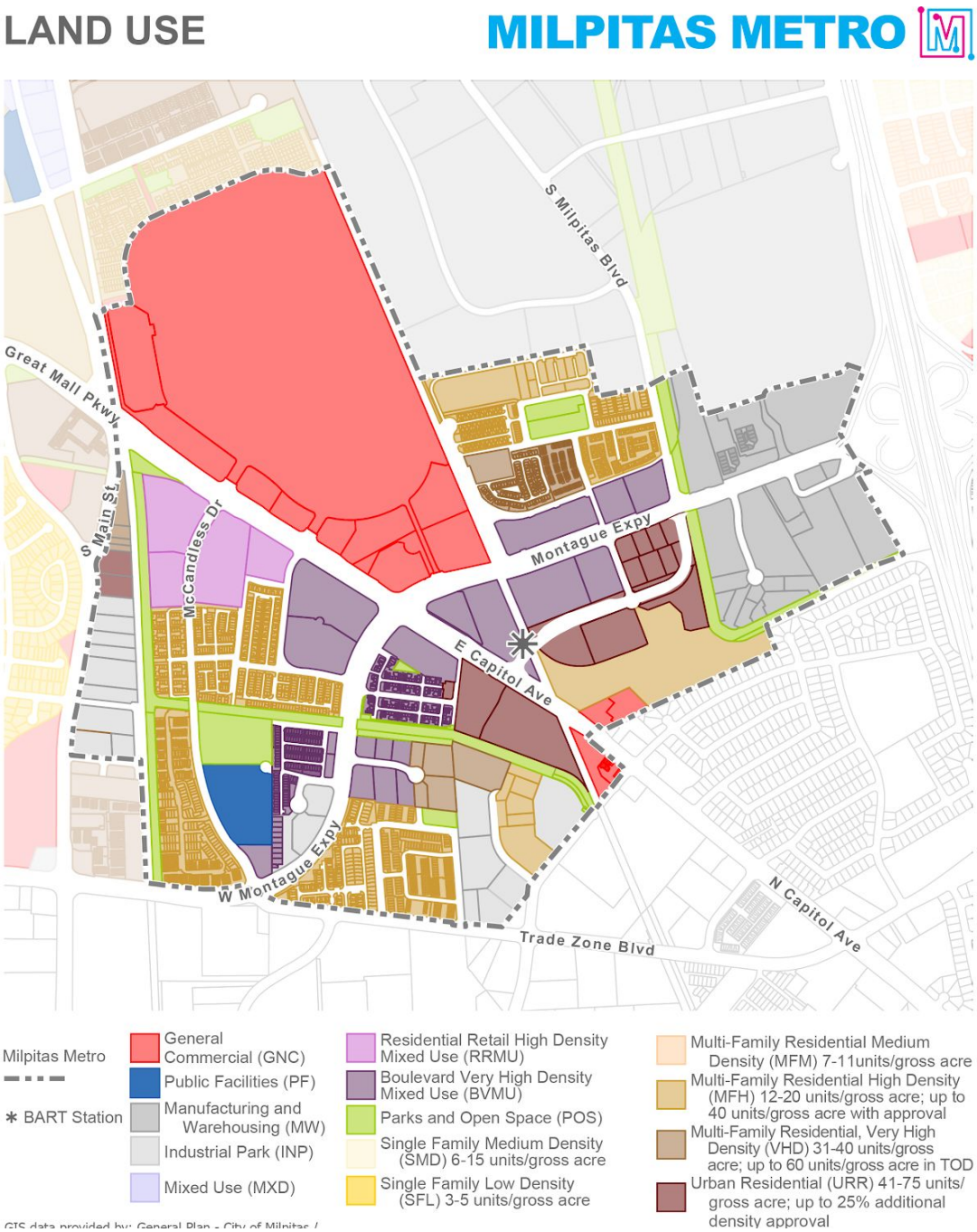
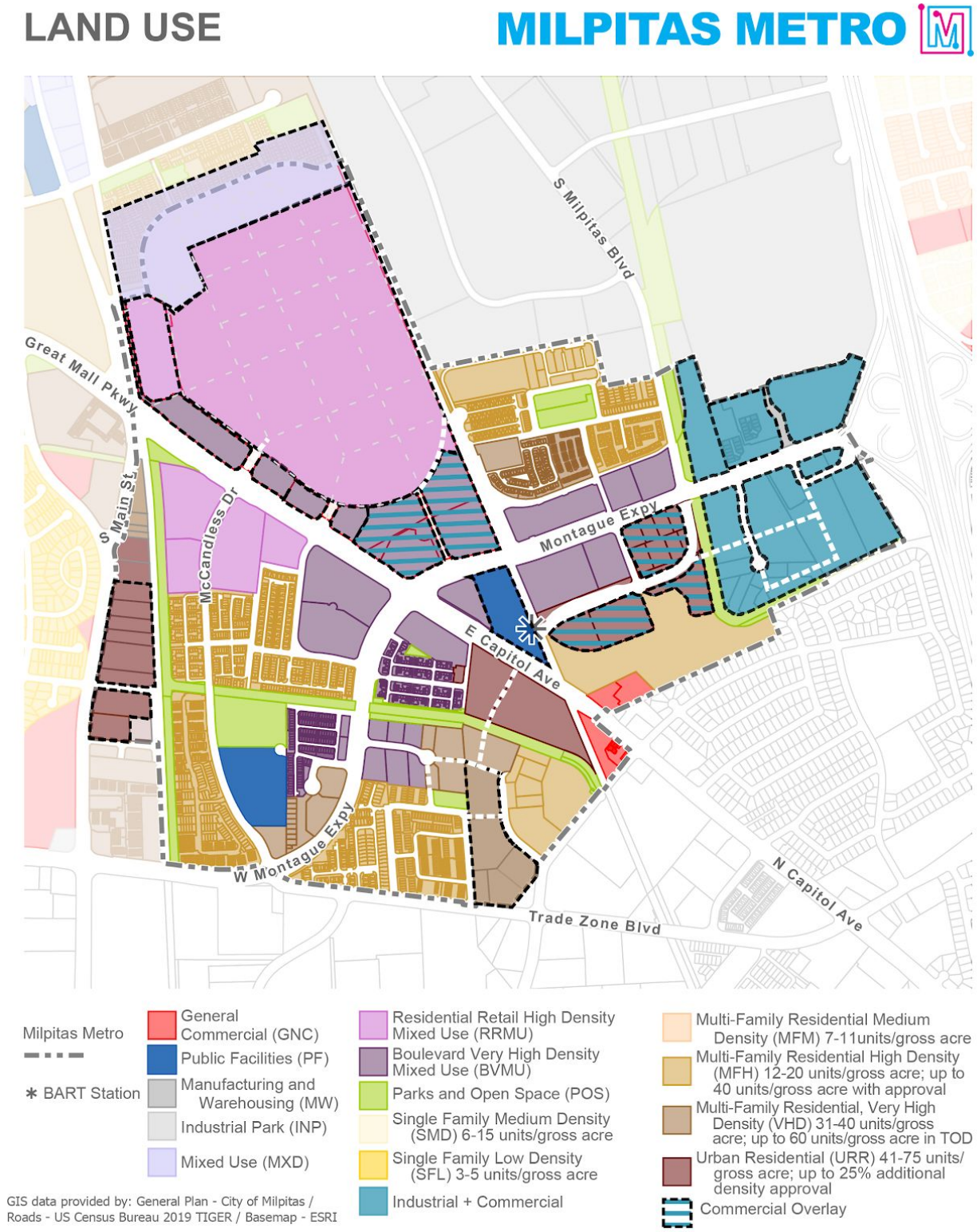


Figure 2: Proposed Land Use Map, below, shows the proposed approximate land uses in the Milpitas Metro District. Land use colors for areas of change match existing land uses. The Milpitas Metro Plan is likely to develop new zoning regulations that will be similar to these land uses but may not precisely mirror them. Larger sites are divided given the development principles. The scale and location of uses are also governed by the development principles.

Figure 2: Proposed Land Use Map



Land Use Goals and Policies

This subsection outlines the proposed land use goals and policies for the MMSP. These policies will become the base structure for land use policies in the plan. The plan structure will be as follows:

- Vision
    - Principles
    - Topic Areas (eg. Land Use, Transportation, Parks, etc.)
        - Goals (eg. LU1, LU2, T1, T2, etc.)
            - Strategies (eg. LU 1.1, LU 1.2, etc.)
                - Action Items (eg. LU 1.1.1, LU 1.1.2, etc.)

The Goals lay out the direction or intent of the plan in a key area of concern. Strategies indicate how Goals may be accomplished. In some cases, the plan will provide more detail in Action Items, which will indicate specifically how a particular strategy will be implemented.

This subsection includes Goals and Strategies related to land use and density or intensity. Action Items will be developed after the direction of the Goals and Strategies is supported by City Council.

LU 1. **Mix of Uses.** Provide a mix of land uses, including residential, neighborhood-serving, local and regional retail and entertainment destinations, commercial office and research and development facilities, as well as parks and public facilities, in order to create a complete neighborhood.

LU 1.1. Locate land uses according to the Land Use Map.

LU 2. **Transit Orientation.** Capitalize on the transit-orientation of the planning area to support transit ridership, reduce traffic congestion and greenhouse gas emissions, and support livability

LU 2.1. Locate the highest density residential and commercial development closest to the transit stations and major corridors to take advantage of transit and circulation infrastructure

LU 2.2. Provide opportunities for hotels along major arterials that maximize access and visibility; are close to shopping, entertainment, and dining; and enjoy good access to BART and light rail.

LU 3. **Housing.** Plan for the development of between 5,000-7,000 housing units in Milpitas Metro during this planning period (2021-2040).

LU 3.1. Accommodate housing for a range of income levels and housing types that capitalize on the transit-orientation of the district and support neighborhood retail services.

LU 3.2. Encourage development intensities that support transit ridership, neighborhood retail and active open spaces.

LU 3.3. As a way of providing more flexibility to help developers to design and build financially feasible projects, the Milpitas Metro Specific Pan establishes a system that regulates Floor Area Ratio (FAR) in residential and commercial development, replacing height and density regulations.

LU 3.4. Promote a diverse mix of housing typologies, including a variety of ownership models as well as typologies such as live/work, co-living, seniors, students, etc.

LU 3.5. Provide incentives for the development of below market rate (affordable) housing.

LU 4. **Retail and Active Ground Floors.** Support a mix of neighborhood and regional serving retail and active ground floors that are compatible with surrounding land uses and are economically viable, as seen in the Land Use Map.

LU 4.1. Require that development in areas shown on the Land Use Map provide uses and/or building design features that activate the ground floor.

LU 4.2. Ensure that development is designed to accommodate flexible uses that can accommodate a pivot in business type as economies evolve.

LU 4.3. Ensure that retail spaces will support successful businesses through the use of design and siting

LU 4.4. All ground-floor non-residential spaces shall be designed with active frontages that encourage window shopping, pedestrian activity, and visual interest.

LU 4.5. Site neighborhood-serving retail adjacent to residential areas, with views of public streets

LU 4.6. Prohibit drive-through establishments and other new development whose design prioritizes automobile access

LU 5. **Public Services.** Expand infrastructure and public services in parallel with new development.

LU 5.1. Consider locating a Police Substation in the Innovation District adjacent to the BART station along Milpitas Boulevard Extension (show precise location on map)

LU 6. **Community Spaces.** Locate shared public spaces within each subdistrict in areas easily accessible for residents. Shared public spaces are the most critical element to ensure that high-density residential neighborhoods are livable and attractive.

LU 7. **Office.** Accommodate small businesses, larger office users, R&D and technology users.

LU 7.1. Promote the development and appeal of flexible office and research and development uses in the Innovation District by ensuring strong connections to transit and the Milpitas Metro district.

LU 7.2. Promote the development of a dynamic office and R&D center in the Innovation District by concentrating office uses

LU 7.3. Support small-format offices (generally less than 5,000 sq. ft.) within residential mixed-use buildings, where retail is not required, and through co-working configurations.

Land Use and Density - Capacity Tests

A large portion of the TASP Area identified for housing was built out between 2008 and 2020 with housing, transforming a low-density office park into a transit-oriented neighborhood. Recent projects have included retail spaces, as anticipated in the TASP. Much of the anticipated commercial development has not occurred, however. The remaining portion of undeveloped land in the area, to be addressed with the MMSP, will include a mix of uses, including commercial uses, to support walkability and the development of a complete neighborhood.

The planning team conducted a capacity study to test the type of development that would be desirable and could fit on the remaining parcels. The existing zoning allows for a scale of mixed-use development that can be seen along Great Mall Parkway, which generally includes 5+ story tall residential buildings with ground-floor retail. In some cases, especially close to the Transit Center and along major arterials, buildings that are taller may be economically viable. The existing TASP allows for taller buildings next to transit.
Figure 3. Capacity Study

The capacity study shown in *Figure 3. Capacity Study* is a test of what could be developed in Milpitas Metro and is not a proposal of new development. In this illustration, housing is yellow, office is blue, retail is red and hotel is purple. There is retail at the ground floor of apartment buildings along Great Mall Parkway, whis is more visible in later illustrations. The primary variables examined in this study are location and height. Taller buildings would allow more residential units or commercial/retail space. While this study shows a capacity of 6,000 dwelling units, it would be possible to develop more units in the plan area. This plan is anticipated to limit development in the Metro Area to approximately 7,000 dwelling units while setting aside capacity for more development in later plan cycles, including RHNA/Housing Element cycles and Milpitas Metro Specific Plan cycles, if desired by the City.

The MMSP will assume additional housing development in the plan area than was laid out in the TASP, because The Milpitas Metro District is one of the most appropriate areas of the City of Milpitas to develop affordable housing, accommodate RHNA, and create a more urban, transit-oriented core. The transit-rich area also includes the Great Mall, which is a regional retail destination that could be enhanced with the addition of housing. About half of the assumed new capacity for housing will be considered at the Great Mall with the other half spread out over the remaining plan area sites.

A complete neighborhood is not complete if it is only made up of housing, regional retail that residents visit rarely, and a transit center. Focused, neighborhood-scale retail at key

hubs and commercial buildings will also be included in the MMSP. The Great Mall subdistrict considers a shift of some large format indoor retail into outward-facing, experiential retail, including the addition of smaller neighborhood commercial retail - the kind that is more appropriate for neighborhood services like restaurants and small businesses.

While the office development market has been slow in Milpitas, and it is possible dedicated office land uses may diminish post-pandemic, it is still considered a possibility for office and R&D to be viable in the Innovation District because of its proximity to the Milpitas Transit Center and I-680/880. There is potential for a significant office campus in the Innovation District given the capacity established in the General Plan update for the area that established a development capacity of 2.5 FAR, which is included in the capacity study for the MMSP.

Table 1 below summarizes the Development Capacity considered for the MMSP compared to what was planned for the TASP and what was entitled to date. Table 2 below summarizes the amount of development anticipated in the MMSP by subdistrict.

Table 1: Development Capacity Comparison to TAP

Land Use	Existing Developmen t in 2008	TASP Planned New Development	Total TASP Planned Development	Entitled by 2019	Additional Projected for MMSP
Dwelling Units	468	7,109	7,577	*6,955*	7,000
Office (sf)	52,780	993,843	1,050,000	*10,630*	3,000,000
Retail (sf)	1,970,000	287,075	2,240,000	*186,500*	300,000
Hotel (rooms)	292	350	642	*0*	700

Table 2. Development Capacity by Subdistrict

Land Use	Great Mall	Innovation District / BART Station Area	Tango	McCandless	Additional Projected for MMSP
Dwelling Units	3500	1000	1300	1200	7,000
Office (sf)	500,000	2,500,000	0	0	3,000,000
Retail (sf)	250,000	40,000	10,000	0	300,000
Hotel (rooms)	350	350	0	0	700

City Council Feedback Requests

1. Do you support the Land Use policies as described above, or do you have changes you would like to propose?
2. Do you support the locations for land uses described?
3. Do you support the densities and intensities of land uses described?

CITY OF MILPITAS
AGENDA REPORT
(AR)

Item Title:	**Approve and Authorize the City Manager to Execute the Bay Area Air Quality Management District's "Cut the Commute Pledge" and Adopt a Resolution to Support Expanded Telecommuting and Other Measures to Reduce Single-Occupancy Vehicle Trips**
Category:	Community Services and Sustainable Infrastructure
Meeting Date:	1/19/2021
Staff Contact:	**Steve Chan, 408-586-3324** **Jeannine Seher, 408-586-3086**
Recommendation:	Approve and authorize the City Manager to execute the Bay Area Air Quality Management District's "Cut the Commute Pledge" and adopt a resolution to support expanded telecommuting and other measures to reduce Single-Occupancy Vehicle trips.

Background:

At the October 9, 2020 City Council Transportation Subcommittee meeting, staff presented an update on the Bay Area Management District's (BAAQMD) "Cut the Commute Pledge", which is supported by the Santa Clara Counties Cities Association **(Attachment 1).** BAAQMD introduced the "Cut the Commute Pledge" last July, asking public agencies and private companies to allow employees the option of working from home to help alleviate air pollution and improve quality of life. This pledge seeks to have employers allow at least 25% of their employees to work remotely, allow for flexibility in working from home, and commit to include a formalized remote work policy as a component of their employee benefits package. The Subcommittee was in support of BAAQMD's "Cut the Commute Pledge" to expand telecommute and work from home options for employees. It was requested that staff bring the item to the full City Council for consideration.

Climate change and air pollution, caused by the emission of carbon dioxide (CO2), oxides of nitrogen (NOx) and fine particulates from automobiles with combustion engines, represents a profound threat to air quality, public health, environment, and economy. The Environmental Protection Agency estimates the average gasoline passenger vehicle emits .89 pounds of CO2 per mile. Motor vehicle transportation is considered the largest source of greenhouse gas in the San Francisco Bay Area, accounting for nearly 40 percent of all greenhouse gas emissions. While commute trips make up less than a third of personal trips, they tend to be longer distance trips and make up most peak hour trips when traffic congestion is the worst. Single-occupancy vehicle (SOV) commute trips also account for most of the commute trips. For these reasons, reducing SOV commute trips can have a significant impact on reducing congestion and improving air quality.

The COVID-19 pandemic and the County's March 16, 2020 shelter-in-place order has changed travel in the Bay Area, and there has been a significant reduction in traffic volume on Bay Area roadways. As a majority of Bay Area employers transitioned to telecommuting, roadway congestion subsided and there was an estimated 70% decrease in vehicle miles traveled in the first three months of the shelter-in-place order which resulted in reductions in total emissions of 15% for fine particulates, 30% for NOx and 20% for CO2. BAAQMD found a 32% reduction in carbon dioxide emissions in the first seven weeks of shelter-in-place order, and it is desired to see these reductions continue.

The COVID-19 pandemic will eventually end, however, local municipalities, Bay Area Air Quality Management District (BAAQMD), Valley Transportation Authority, and other stakeholders are encouraging the Bay Area workforce to continue telecommuting, to use public transit, or to find other alternative modes of transportation as a means to continue the reduction in roadway congestion and vehicle pollution emissions through the "Cut the Commute Pledge".

The City currently provides employee commuter benefits with subsidies for transit pass purchase. Telecommuting is also available to employees whose work is conducive to working from home with department head approval.

Analysis:

The "Cut the Commute Pledge" commits an employer to formalize a remote work policy and allow at least 25 percent (or 1-2 days a week) for employees whose work requirements allow for that flexibility the option of remote work to help alleviate air pollution, improve quality of life, and help reduce economic cost. Nineteen employers have signed the pledge.

Many Bay Area employers have devoted a significant amount of time, and effort to make the telecommute option viable. Telework permitted the City to continue normal business functions and sustain employee productivity during COVID-19. It should also be noted that Senate Bill 1128 Commuter Benefits Program that was signed into law September 22, 2016 makes it mandatory for all Bay Area employers with 50 or more full-time employees to provide transportation benefits to employees and a telecommute policy would also meet the requirements of the law.

While telework can reduce air pollution, given the types of services the City provides, there are many types of work for which remote work is not feasible. At present, a little more than 40% of the City's regular full-time employees can telework all or part of their workweek.

For workers where telework is not possible, reduction in SOV commute trips and better air quality goals can be met by increasing use of public transportation and other alternative modes of travel. People are more inclined to use public transportation if it is convenient and faster than driving in a single occupancy vehicle. The increase in the installation of safe bike lanes and pedestrian pathway amenities makes them more attractive to use.

Staff recommends the City Council support BAAQMD's "Cut the Commute Pledge" by adopting the proposed resolution **(Attachment 2)** to support expanded telecommuting and other measures to reduce SOV trips and improve air quality. The proposed resolution includes the following:

- Support the implementation of policies that will increase options, incentives and abilities for employees to use variety of public transit options and other alternative modes of travel;
- Direct staff to develop an analysis and recommendations related to increasing the number of employees who are able to work remotely;
- Direct staff to develop an analysis and recommendations related to increasing the success of public transit through land use policies that reduce the need for single occupancy vehicles; and
- Support advocating for measures that increase public funding for public mass transit and local shuttle, a form of micro-transit, in order to compensate for reduction in fare box revenue due to employees working remotely and to ensure that public transportation is available for those who cannot afford private transportation and those who prefer public transportation.

The BAAQMD's "Cut the Commute Pledge" and adoption of the proposed resolution to support expanded telecommuting and other measures to reduce SOV trips will aid the City Council of Milpitas in attaining environmental sustainability by encouraging other choices to SOV use in the city. Additionally, telecommute is a job benefit that enhances the city's ability to attract top talent and improve employee retention.

Policy Alternative:
Alternative: Do not approve and authorize the City Manager to sign BAAQMD's "Cut the Commute Pledge" and do not adopt a resolution to support expanded telecommuting and other measures to reduce single vehicle-occupancy vehicle trips.

Pros: Supervision and management of employees on-site may be easier.

Cons: The City would be not able to offer teleworking as a benefit to enhance employee recruitment and retention. Not moving forward with this item would also not align with the City's goal of environmental sustainability. Additionally, the City would not be able to take advantage of telework investments to sustain reductions in SOV travel for the economy reopening throughout and beyond the COVID-19 recovery phases or further commit to encourage other alternatives to SOV trips.

Fiscal Impact:
Not Applicable

California Environmental Quality Act:
None

Recommendations:
1) Approve and Authorize the City Manager to execute the Bay Area Air Quality Management Agency's "Cut the Commute Pledge."
2) Adopt a Resolution to support expanded telecommuting and other measures to reduce Single-Occupancy Vehicle trips.

Attachments:
1: Bay Area Air Quality Management District - Cut the Commute Pledge
2: Resolution

Cut the Commute Pledge

The Cut the Commute Pledge offers an opportunity for representatives of Bay Area companies and organizations to pledge to provide remote work options for their employees.

The shelter-in-place orders issued to protect the public from the spread of COVID-19 necessitated a major shift in how Bay Area employers operate, and many employees quickly made the adjustment to remote work.

As shelter-in-place orders are eased or lifted, let's rethink how we conduct business and consider the substantial benefits remote work can bring to us all:

- Cleaner air and reduced climate impacts
- Reduced traffic congestion
- Saves money and time spent in traffic
- Improved employee recruitment, retention, and productivity
- Money saved on commercial real estate and parking facilities
- Enhanced employee work-life balance
- Resiliency - provides a blueprint to continue business during a crisis

The benefits of remote work are numerous. All that is needed now is leadership, vision, and commitment.

Are you ready to step forward and adopt an innovative remote work policy after the shelter-in-place? By signing this pledge, your company or organization commits to extending remote work options by at least 25 percent (or 1-2 days a week) for employees whose work requirements allow for that flexibility, though you can pledge more! For those employees that don't have that flexibility, your company or organization will encourage alternatives to driving alone.

Help improve air quality and quality of life for all Bay Area residents!

View the Air District's Remote Work Policy Clearinghouse web page for a complete remote work toolkit, featuring resources and guidance, model teleworking agreements, and information on equity considerations and ergonomics.

To sign the Pledge, please confirm that you are a representative for your company:

I'm a representative for my company

Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, CA 94105
1-800-HELP AIR | (415) 749-4900
© Copyright 2019 Spare the Air

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS TO SUPPORT EXPANDED TELECOMMUTING AND OTHER MEASURES TO REDUCE SINGLE-OCCUPANCY VEHICLE TRIPS

WHEREAS, climate change and air pollution, caused by the emission of carbon dioxide (CO_2), oxides of nitrogen (NO_x) and fine particulates from automobiles with combustion engines, represents a profound threat to the Bay Area's air quality, public health, environment, and economy; and

WHEREAS, NO_x is a noxious gas that has been linked to respiratory problems and other health conditions and also reacts with other chemicals in the atmosphere to form fine particulate pollution, and fine particulate matter; and

WHEREAS, the Environmental Protection Agency estimates the average gasoline passenger vehicle emits .89 of a pound of CO_2 per mile; and

WHEREAS, about 1 in 12 workers in the Bay Area are super commuters and drive more than 90 minutes each way to and from work; and

WHEREAS, the average Bay Area household spends $13,350 a year on transportation; and

WHEREAS, the California Highway Patrol reported 197,146 fatal and injury traffic crashes statewide in 2017; and

WHEREAS, the COVID-19 shelter-in-place orders issued to protect the public from the spread of COVID-19 necessitated a shift in how Bay Area employers operate, and many employees quickly made the adjustment to remote work; and

WHEREAS, the Bay Area Air Quality Management District estimated that the COVID-19 shelter-in-place orders resulted in a decrease of an estimated 70% of Bay Area vehicle miles traveled in the first three months, which resulted in estimated reductions in total emissions of 15% for fine particulates, 30% for NO_x and 20% for CO_2; and

WHEREAS, under Senate Bill 1128, the Commuter Benefits Program is mandatory for all employers in the Bay Area with 50 or more full-time employees, and remote work qualifies to meet the program requirements; and

WHEREAS, the option to work from home or another off-site location is critical to reducing single occupancy vehicle trips; and

WHEREAS, there will be employees post COVID-19 who will not be able to work remotely, but could use public transportation if applicable options are available; and

WHEREAS, the increase of the use of public transportation including mass transit and local shuttle, a form of microtransit, reduces the number of single occupant vehicle trips; and

WHEREAS, people are more inclined to use public transportation if it is convenient and faster than driving in a single occupancy vehicle and cities and counties can increase the speed of public transportation through land use decisions; and

WHEREAS, the increase in bike lanes and other land use decisions, such as the inclusion of complete streets, increases safety and the perception of safety thereby increasing the number of people who will use bicycles to meet their transportation needs; and

WHEREAS, the increase in bicycle and pedestrian travel has been shown to provide population-level health benefits and reduced health care costs; and

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

1. The City Council strongly supports the goal of reducing single occupancy vehicle trips in the Bay Area and supports the implementation of policies that will increase options, incentives and abilities for employees to use variety of public transit options and other alternative modes of travel.

2. The City Council strongly supports advocating for measures that increase public funding for public mass transit and microtransit in order to compensate for reduction in fare box revenue due to employees working remotely and to ensure that public transportation is available for those who cannot afford private transportation and those who prefer public transportation.

3. The City Council hereby gives direction to staff to develop an analysis and recommendations related to increasing the number of employees who are able to work remotely.

4. The City Council hereby gives direction to develop an analysis and recommendations related to increasing the success of public transit through land use policies that reduce the need for single occupancy vehicles.

PASSED AND ADOPTED this_____day of_____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

_____
Pam Caronangan, Acting City Clerk

_____
Rich Tran, Mayor

APPROVED AS TO FORM:

_____
Christopher J. Diaz, City Attorney

CITY OF MILPITAS
AGENDA REPORT
(AR)

Item Title:	Approve Updates to the Commissioner Handbook and Commission Bylaws
Category:	Leadership and Support Services
Meeting Date:	1/19/2021
Staff Contact:	Renee Lorentzen, 408-586-3409, Ashwini Kantak, 408-586-3053
Recommendation:	Approve Updates to the Commissioner Handbook, Commission Bylaws, and Bylaws Addendums for the Arts and Public Safety and Emergency Preparedness Commissions

Background:
On August 21, 2018, City Council approved a new Commissioner Handbook that includes rules and procedures for Commissioners and Alternates, rules for attendance, protocols to be followed during a meeting, and annual Work Plans.

On April 16, 2019 City Council approved Commission Bylaws and associated addendums for 11 City Commissions to accompany the approved Handbook. The Addendums capture each individual Commission's advisory area, meeting date, time, and location, and any special membership requirements or recommended areas of interest. Planning Commission Bylaws are separate from this document and are included in the City's Municipal Code.

At the January 5, 2021 City Council meeting, Council requested that staff return with updates to the existing Commissioners Handbook and standardized Commission Bylaws to:

1) Remove Commissioner Term Limits, and
2) Allow for one (1) youth seat (non-voting) on each advisory Commission, except for the Youth Advisory Commission

Analysis:
The Commissioners Handbook and Commission Bylaws affords consistency across Commissions and allows for the efficient management and support of those Council advisory bodies. In addition to the Handbook and Commission Bylaws, addendums for both the Arts Commission and Public Safety and Emergency Preparedness Commission are required as their Membership sections included language allowing two (2) youth seats (non-voting). That language is recommended for deletion since it is proposed for inclusion in the Commission Bylaws. There are currently no youth serving in those positions now.

Policy Alternatives:

Alternative 1: Do not approve Updates to the Commissioners Handbook and Commission Bylaws

Pros: Not approving the updated Commissioner Handbook and Commission Bylaws would maintain the status quo and would impose lifetime term limits which were originally intended to encourage participation from community members that had not previously served on the Commissions.

Cons: Not approving updates to the Commissioners Handbook and standardized Commission Bylaws would not maximize community participation from experienced community members that are interested in serving the community. It would also not create additional youth seats on several Commissions, thereby not accomplishing the City Council's goal of desired increase of youth participation on City Commissions.

Reason not recommended: Will not maximize participation from long time community members and youth in Commissions, which advise City Council on topics important to the City Council and residents and businesses of Milpitas.

Fiscal Impact:
None

Recommendation:
Approve Updates to the Commissioner Handbook and Commission Bylaws

Attachments:
Draft Commission Bylaws.2021
Draft Commissioner Handbook.2021
Draft Arts Commission Bylaws Addendum.2021
Draft Public Safety and Emergency Preparedness Commission Bylaws Addendum.2021

CITY OF MILPITAS
COMMISSION BY-LAWS

Section 1. Purpose

A Commission serves as an active advisory group to the City Council on a variety of topics as directed by the City Council. These Commission By-Laws are applicable to all Commissions except for the Planning Commission, which is governed by the Municipal Code, Chapter 500. In addition to these By-Laws, each Commission shall have an addendum that is specific to the Commission and includes information about the Commission scope, member eligibility, and meeting frequency.

Section 2. Membership

A Commission is composed of seven (7) members and two (2) alternates appointed by the Mayor and approved by the City Council. All members and alternates shall be Milpitas residents, 18 years or older, unless otherwise noted in the Commission Bylaws Addendum. In addition to the seven (7) members and two (2) alternates, one (1) Milpitas resident enrolled in grades 9-12 may also be appointed as non-voting member by the Mayor and confirmed by the City Council for all Commissions except for the Youth Advisory Commission. The City Council may appoint a Council liaison to serve on the Commission in a non-voting capacity.

Section 3. Term of Office & Removal

The term of office is three years, or until the seat is filled, for every Commission and is tied to specific seats, not actual Commission members or alternates. A Commission member or alternate is appointed for the term of the seat, which can be less than three years, based on the time of appointment. A Commission member can re-apply at the end of each term.

Members and alternates are expected to attend all meetings. When any member or alternate has three or more absences in a 12-month period, the City Clerk's Office shall forward this information to the City Council for review and possible removal of the member or alternate from the Commission. Any member or alternate of the Commission may be removed from office at any time by a simple majority vote of the City Council at a regularly scheduled Council meeting, with or without cause.

Members and alternates may apply for reappointment by submitting a letter or e-mail of interest to the Mayor with a copy to the City Clerk prior to the expiration of his/her term of office. Any member or alternate of the Commission who wishes to resign MUST submit a letter of resignation or email to the Mayor with a copy to the City Clerk. Resignations will be confirmed by the City Council at a regularly scheduled Council meeting.

Section 4. Vacancies

Vacancies will be filled for the unexpired portion of the term by the Mayor with the approval of the City Council.

Section 5. Officers

A Chair and Vice Chair will be selected annually at the first meeting of the calendar year from the appointed members for a term of one year. The Chair will call for meetings and preside over all sessions. In the absence of the Chair and Vice Chair, the member with longest continuous service on the Commission will preside.

Section 6. Meetings

Commissions shall hold regular meetings at a predetermined day, week, time and location. All meetings shall be open to the public. Should a scheduled meeting occur on a holiday, said meeting will be deferred to the same day of the following week or to a date agreed upon by a majority of the Commission. Special meetings may be called by majority vote, the Chair, Staff Liaison, or the City Council. No meetings will be held in the month of July. Notice of any special meeting shall be given as required by law. Except as otherwise provided by these Bylaws, the Commission shall follow the latest edition of Robert's Rules of Order for the orderly conduct of meetings.

Section 7. Quorum

Any FOUR (4) voting members, including alternates, shall constitute a quorum for the transaction of business.

Section 8. Voting and Seating of Alternates

Voting authority is extended to the SEVEN (7) regular members. An alternate member shall vote only if seated in the absence of a regular member. In the event that a regular member is absent, alternate members shall be seated in order of their alternate position. If a member arrives after an alternate has been seated, the alternate shall remain as the voting member until the end of the meeting.

Section 9. Duties of Commission to be Advisory Only

It is intended that the Commission shall be an advisory body to the City Council.

Section 10. Subcommittees

Other committees within the Commission will be subcommittees of the Commission. The Commission may appoint such subcommittees, with at least one Commission member on the subcommittee, but not more than three members so as not to constitute a quorum.

Section 11. Assistance of Staff

The City Manager of the City of Milpitas shall provide the Commission with such information and staff assistance as the Commission may from time to time request subject to the limitations imposed by the City Council. The staff member designated by the City Manager shall attend meetings of the Commission, meetings of the Commission subcommittee as necessary, and submit such reports as said Commission may request and as deemed necessary or desirable,

subject to limitations imposed by the City Council. The role of the Staff Liaison on a Commission is defined and should be referred to in the City of Milpitas Commissioner Handbook.

Section 12. Amendments

These Bylaws are subject to change through amendments approved by the City Council.

PASSED AND ADOPTED JANUARY 19, 2021.

Addendums:

1) Arts Commission
2) Community Advisory Commission
3) Economic Development and Trade Commission
4) Energy and Environmental Sustainability Commission
5) Library and Education Advisory Commission
6) Parks, Recreation and Cultural Resources Commission
7) Public Safety and Emergency Preparedness Commission
8) Senior Advisory Commission
9) Science, Technology, and Innovation Commission
10) Veterans Commission
11) Youth Advisory Commission

CITY OF MILPITAS

COMMISSIONERS HANDBOOK

2021

Welcome to City of Milpitas

Service as a Volunteer Commissioner

CITY OF MILPITAS

OFFICE OF MAYOR RICH TRAN

455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479
PHONE: 408-586-3050, FAX: 408-586-3056, www.ci.milpitas.ca.gov

Welcome and congratulations on joining the City of Milpitas team as a City Commissioner or Alternate! I am delighted that you are joining us, as your appointment is important to your Commission's role in advising the Milpitas City Council as topics and initiatives important to the Milpitas community.

Included in this Commissioner Handbook is information on areas such as participating in a public meeting, attendance, and the role of Commissioners, the staff and council liaisons. I am hopeful that you will use this handbook as a guide to help you at your meetings and as you work with your Commission on your annual Work Plan and advisory areas.

I look forward to all the great work you will do on your Commission and on behalf of the Milpitas City Council, thank you for your service to the Milpitas community!

Sincerely,

Rich Tran
Mayor

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CITY OVERVIEW

City of Milpitas is a California municipality of approximately 78,000 residents, and was incorporated as a General Law City in January of 1954. Elected City Officers are the Mayor (term of 2 years) and four elected City Councilmembers (terms of 4 years each). Those leaders are elected by Milpitas voters on the ballot in November elections held each even year.

City Council is the body responsible for making all major policy decisions and direction for the City of Milpitas, including adoption of the City's annual budget. The City Council votes at regular City Council meetings on all expenditures, major land use plans, infrastructure projects and facility and program activities. The Council relies on input from many sources, including the 12 Advisory Commissions along with other Task Forces, Ad Hoc Committees and residents at large.

CURRENT CITY COMMISSIONS

As of the publication of this manual, the following are 12 City of Milpitas Commissions for which residents may volunteer to serve by Mayoral appointment:

Arts Commission
Community Advisory Commission
Economic Development and Trade Commission
Energy and Environmental Sustainability Commission
Library and Education Advisory Commission
Parks, Recreation and Cultural Resources Commission
Planning Commission
Public Safety and Emergency Preparedness Commission
Senior Advisory Commission
Science, Technology and Innovation Commission
Veterans Commission
Youth Advisory Commission

All Commissions will consist of 7 appointed Commissioners. All Commissions, except the Planning Commission, will also have 2 appointed Alternate Members, and all Commissions, except the Youth Advisory Commission, may have one (1) Milpitas resident enrolled in grades 9-12, as a non-voting member.

AD HOC CITIZEN TASK FORCES AND COMMITTEES

From time to time, as needs arise, the Milpitas City Council may choose to appoint residents to serve on ad hoc advisory bodies. Examples have included the Citizens Budget Task Force, Campaign Finance Reform Committee and Citizens Task Force on Water Rates. Each body to which members are appointed by the City Council shall report back to the Council at appropriate intervals and upon conclusion of the task

assigned by the Council. Members' service concludes once a final report is provided to City Council, or as City Council directs.

Role of Commissioners, Alternate Members, Chair & Vice Chair, City Staff and City Council

Commissioners serve as voluntary members from the community advising the City Council on policies related to the purpose of their Commission. They are expected to attend all meetings, actively participate and deliberate, and vote on any matters that are requested for recommendation to the City Council.

Alternate Members serve only in the absence of a voting member. When a voting Commissioner is absent from a regularly scheduled Commission meeting, the Commission Chair shall call upon an alternate to be seated at the table or dais to participate in a voting role at the meeting. If a regular voting Commissioner arrives subsequently, that person shall not participate as a voting member.

Once per year, Commissioners will vote to elect a **Chair and Vice Chair of the Commission**. The Chair is responsible for leading the regular meetings of the Commission. The Chair shall call the meeting to order, state items to be discussed on the agenda, permit all members the opportunity to be heard, allow for comments from the public, call for a vote when required and work directly with the staff liaison to ensure a successful meeting. The Vice Chair shall serve the role of Chair in the absence of the Chair. No Commissioner shall serve more than three consecutive years as the Chair or Vice Chair of any Milpitas Commission.

A **City staff liaison** to your Commission is available to provide staff support and work closely with the Chair to develop the meeting agendas and any information gathered for benefit of the Commissioners. Staff shall assist in guiding the work of the Commission, provide agendas and take meeting minutes. The City Manager shall assign appropriate staff liaison(s) to each Commission.

Keep in mind that volunteer City Commissioners do not direct or delegate work tasks to staff or Council liaisons. Commission annual work plan activities and assignments are to be completed by Commissioners.

The City Attorney may be available to provide legal advice when asked by the staff liaison regarding the Brown Act, parliamentary procedure, or on topics related to the Commission's business. Except for the Planning Commission, the City Attorney will not attend Commission meetings on a regular basis.

Milpitas Mayor and City Council together serve as the ultimate deliberative body regarding all business and policy matters for the City of Milpitas. Significant work by Commissions shall result in recommendations to the City Council, which will then vote to approve any City policy or expenditure.

Membership – Application Process, Method of Appointment, Departure, Terms of Service and Term Limits

Requirement to serve: the main requirement to be appointed to a Commission is to be a current resident of Milpitas over age 18 (except Youth Advisory Commission). The City Council may appoint one (1) Milpitas resident enrolled in grades 9-12, as a non-voting member, to a Commission (except the Planning and Youth Advisory Commission).

Additional requirements for select Commissions are reflected in the approved By-Laws. For example, members of the Economic Development Commission are not required to be residents, however, they shall represent various segments of the business community.

APPLICATION & APPOINTMENT

To apply for service on any City of Milpitas Commission, residents or interested persons shall complete a Commission Application and submit the form to the City Clerk. Form may be submitted in person, by US postal mail or by e-mail. Form is available at the City Clerk's office and on the City website. If requested, applicants may be asked to complete a supplemental questionnaire.

Copies of applications are provided to the Mayor for his/her consideration. Per Government Code, the Mayor of a General Law city holds the power of appointment, upon confirmation by the City Council. The Mayor may appoint two Councilmembers to a City Council Subcommittee to review applications, interview applicants and make recommendations for appointment or re-appointment to all Commissions. The City Council must vote to affirm all appointments to Commissions by the Mayor.

Applicants may express interest in serving on more than one Commission. However, residents may only serve on one Commission at a time, except by special exception of the City Council. City employees may not be appointed to Commissions.

RE-APPOINTMENT

Appointed Commissioners may seek to be re-appointed upon the expiration of their current term. Re-appointment to a new term is not automatic, but rather must be

recommended by the Mayor and confirmed by the City Council. Those seeking re-appointment to a new term shall contact the Mayor to express their request.

The length of a Commissioner's term of service on a Commission is specified in the Commission by-laws and these do vary by Commission. Alternate members (non-voting) may have shorter terms than voting Commissioners.

When a Commission term is vacant and a new member is appointed to fill the vacancy, the term of service and expiration of the term remains the same as the original appointment, i.e. the expiration and length of the term is static.

Alternate members are appointed by the Mayor and Council, and shall be available to be seated as a voting member at a regular Commission meeting when a voting Commissioner is absent. Alternate members do not deliberate or vote when all regular members are present at the Commission meeting.

Bylaws and Orientation by Staff

All City of Milpitas Commissions have written By-Laws by which Commissioners and staff abide, which are written by the City Attorney. By-laws may be viewed on the City's website and are provided to all Commissioners from their staff liaison.

A template for the basic edition of all Commission by-laws is included with this handbook, in the appendix.

Links to all Commission's By-laws can be found online on each Commission page: http://www.ci.milpitas.ca.gov/our-government/commission/

The staff liaison shall provide an orientation in person to newly appointed Commissioners. Extensive training is provided in particular to the Planning Commission, commensurate with those duties related to land use decision making – serving as a quasi-judicial body - per the Milpitas Municipal Code. Staff shall ensure that contact information is provided by the Commissioner allowing communication via email for distribution of agendas or other important information.

A nameplate is created for each new Commissioner. Business cards up to 50 each annually may be printed by staff, in house, on City standard format for Commissioners for City business purposes only. City of Milpitas business cards with City logo may not be printed privately or by an outside party.

ANNUAL WORKPLAN

Each Commission shall discuss and prepare its annual work plan, which shall be submitted and approved by City Council. The work plan is a list of the anticipated topics, assignments and goals that Commissioners will focus on over a 12 months' period. In turn, the Council may request an annual report listing accomplishments of each Commission based on the work plan. All Reports may be presented at one meeting to the City Council annually.

ANNUAL BUDGET

City Council shall allocate $1,000 annually for each Commission. Funds are to be used towards City Council approved Work Plan tasks and projects, and administrative costs related to the Commission. Those Commissions that determine a need for additional funding shall return to City Council with a stated request for more funds and the purpose for those. City Council shall approve or deny any request for such expenditures.

REQUIRED ATTENDANCE / POLICY FOR REMOVAL

All appointed Commissioners (and Committee or other ad hoc body members) are expected to attend all regular meetings. Meetings are scheduled at specified times each month or at regular intervals. Attendance and participation in the business of the Commission is necessary for the success of the Commission in achieving its annual work plan goals. When a Commissioner is unable to attend a meeting, it is courteous to notify the City staff liaison and Commission Chair of expected absence.

If any Commissioner is absent from three or more meetings in a year, that information will be reported to the City Council and can be grounds for removal. This policy allows for another resident to be appointed to the Commission. Attendance is tracked by staff and the City Clerk shall report to the City Council quarterly.

RESIGNATION

If a Commissioner is no longer available to serve, he or she must submit resignation in writing by sending a written communication to the Mayor and the City Clerk. This is per adopted City Council Resolution No. 7702. The written resignation must then be accepted by City Council via action on consent calendar at a regular meeting.

By state law, a 20-day Notice of Vacancy must then be posted by the City Clerk to invite new applicants for the vacant Commission seat.

PARTICIPATION

When attending Commission meetings, all voting members have the opportunity and right to participate and be heard. The Chair of the Commission holds the

responsibility for decorum at the meetings, and shall permit each Commissioner to offer comments and make any motions on matters on the meeting agenda.

Additionally, some Commissions expect participation by Commissioners outside of the regular meetings. For example, Planning Commissioners may attend the annual Planners Institute offered by the League of California Cities. Several Commissions participate in various joint events throughout the year and other participation in Commission events may be required, as identified in the adopted annual work plan.

CELEBRATION

The Mayor and City Council appreciate the service of each and every Commissioner. As a way to express their appreciation, once each year in the spring, the City Council hosts an event to honor current Commissioners for their service. This may be a luncheon event at the Community Center or another facility. Each Mayor and City Council will determine and plan the celebration annually, as desired and budgeted, for the Commissioners, Alternate Members and their guests to enjoy.

FUNDRAISING

Several Commission work plans (approved by City Council) call for fundraising efforts, and those funds may then be utilized for events, contribution to non-profits, or for service provision. Money raised on behalf of the City of Milpitas will be held by the City of Milpitas as part of and in accordance with best practices of the city's Finance Department. Any requests for funds to be dispersed will require City Council approval. City staff will work with Commissions to ensure proper accounting procedures and practices are followed to reflect compliance with City and state regulations alongside ethical action.

ETHICS AND EXPECTED STANDARDS OF PERFORMANCE

City Commissioners are representatives of the City while serving in their role as volunteer Commissioners, both while in attendance at meetings and while present at City functions as a Commissioner. All Commissioners and Alternate Members shall adhere to ethical behavior at all times and that entails compliance with the City of Milpitas Standard Operating Procedure 16-1 "Code of Conduct for Public Officials" (see appendix). The code requires dedicated service, equal treatment, understanding potential for and avoiding conflicts of interest, and not participating in political activity while performing Commission duties.

City officials including appointed City Commissioners shall be required to participate in state-mandated ethics training (commonly referred to as AB1234). Such training is available online from the FPPC, on YouTube, and from the City Attorney.

Here are links to ethics training courses available:

Fair Political Practices Commission:
http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/ethics-training.html

Institute for Local Government:
http://www.ca-ilg.org/ethics-education-ab-1234-training

Upon completion of the training, Commissioners shall file a signed certificate with the City Clerk, which shall remain on file in the Clerk's office for the length of service of the Commissioner.

California's Ralph M. Brown Act

The Brown Act or Open Meetings law is found in the California Government Code section 54950 et seq. This significant law was enacted in 1953 to guarantee the public's right to attend and participate in all meetings of local legislative bodies. Those bodies include commissions, committees, boards or other body of a local agency, whether permanent or temporary, decision-making (such as Planning Commission) or advisory (all others). Most importantly, according to this law, all meetings must be properly noticed for participants and for the public. City staff must ensure this occurs for all Commissions.

Notably, a majority of the members of any Commission may not discuss or deliberate on any business within the subject matter jurisdiction of the Commission except at a noticed meeting, and this includes in person interactions as well as serial or indirect communications.

The agenda for a regular meeting must be posted in a location at the meeting site and freely accessible to members of the public at least 72 hours before the meeting. Any meeting not established as a regular meeting is a "Special" meeting and a special meeting agenda must be posted at least 24 hours prior to the meeting. Agendas must be posted at the building where the meeting occurs, and in Milpitas, also on the City's website. Agendas for all meetings held at Milpitas City Hall are posted on the outside board for this purpose at the northwest entry to the building.

Meetings that are not properly noticed are not permitted. That would include "serial" meetings – which would be when one Commissioner contacts another, who then contacts another Commissioner by phone, e-mail or in person. All business of the Commission must be listed on the agenda, posted, and discussed at a public meeting held in an accessible location. Therefore, care must be taken to ensure that if a quorum (half of the members + 1) is gathered at a public or private place, no public business shall be discussed. For this purpose, e-mail communication between Commissioners should be avoided including the use of "Reply All" to any staff notices sent via e-mail to the entire Commission.

City of Milpitas Open Government Ordinance

In 2005, Milpitas City Council adopted the Open Government Ordinance and amended it in 2009. This is the local version of the City's "Sunshine Law" and ensures that all public business of the city government is conducted in public. It enhances Brown Act requirements. This law is available to read and review in the City's published Milpitas Municipal Code online, as Title I Chapter 310 found here:

https://library.municode.com/ca/milpitas/codes/code_of_ordinances?nodeId=TITIAD_CH310OPGOOR .

Parliamentary Procedure at Meetings

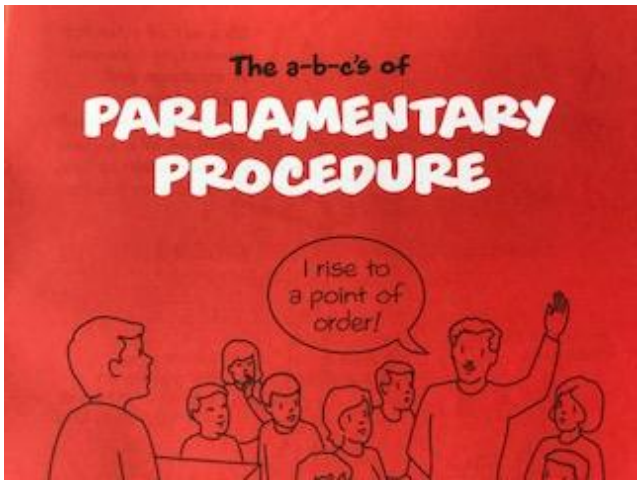
Meetings shall operate using standard parliamentary procedures following an approved meeting agenda. Most entities follow Robert's Rules of Order (or, in the alternative Rosenberg's). Procedures generally include:

1. Establish and post a written agenda.
2. Agenda includes a Call to Order, Roll Call, note start and ending times.
3. Action by Motions made, seconded, discussed and voted upon.
4. Adjourn the meeting to conclude or continue the meeting.

One Commissioner can make a motion to approve an action, another member shall second the motion aloud, and then the Commission Chair shall call for a vote. Staff will record the number of votes in favor, the number opposed and any abstaining. The Chair will announce the result of the vote. Voting is most frequently done by voice, aloud, and may also be done by roll call or by a show of hands.

Motions may also be voted upon to open and close a public hearing, to adjourn (end) the meeting, or other necessary actions of the Commission. Training on these technical procedures is available and staff liaisons will schedule for new members.

The City Clerk can provide to each Commissioner one copy of the copyrighted booklet "The a-b-c's of Parliamentary Procedure" published by Channing Bete.



Resources Available for Commissioners

City of Milpitas web page for Commissions:
www.ci.milpitas.ca.gov/our-government/commission/commission-member-resources/

League of California Cities www.cacities.org
(Ethics, Brown Act and other training available online)

Fair Political Practices Commission www.fppc.ca.gov
(Training available on YouTube regarding Forms)

Parliamentary Procedure video www.youtube.com/watch?v=FfnBGolKmbM
http://www.rulesonline.com/

Roberts Rules of Order http://robertsrulesmadesimple.com/

Conflict of Interest guidelines

State of California Fair Political Practices Commission ("FPPC") regulates reporting of potential conflicts of interest, according to the Political Reform Act. It mandates the filing of annual forms, known as Form 700/Statement of Economic Interests in accordance with the City's adopted Conflict of Interest Code. City Council, specified City staff, and certain City Commissioners must file Form 700 with the City Clerk each year. Its purpose is to reveal any potential conflicts of interest, relative to any financial interests held solely within the City of Milpitas. Forms must be filed initially when first appointed (Assuming Office), annually by April 1 each year, and then once more when departing the Commission upon resignation or conclusion of the term (Leaving Office).

More information and Form 700 is online at www.fppc.ca.gov . Contact the Milpitas City Clerk with any questions.

Commissions required to file Form 700:
Arts Commission
Community Advisory Commission
Economic Development & Trade Commission
Energy & Environmental Sustainability Commission
Parks, Recreation and Cultural Resources Commission
Planning Commission
Science, Technology & Innovation Commission

APPENDICES

A. Sample Commission By-Laws

B. Standard Operating Procedure 16-1 “Code of Conduct for Public Officials”

C. FPPC Form 700 Statement of Economic Interests

D. City Council Resolution No. 7702 – notification upon resignation

APPENDIX A

Sample Commission Bylaws

CITY OF MILPITAS
COMMISSION BY-LAWS

Section 1. Purpose

A Commission serves as an active advisory group to the City Council on a variety of topics as directed by the City Council. These Commission By-Laws are applicable to all Commissions except for the Planning Commission, which is governed by the Municipal Code, Chapter 500. In addition to these By-Laws, each Commission shall have an addendum that is specific to the Commission and includes information about the Commission scope, member eligibility, and meeting frequency.

Section 2. Membership

A Commission is composed of seven (7) members and two (2) alternates appointed by the Mayor and approved by the City Council. All members and alternates shall be Milpitas residents, 18 years or older, unless otherwise noted in the Commission Bylaws Addendum. In addition to the seven (7) members and two (2) alternates, one (1) Milpitas resident enrolled in grades 9-12 may also be appointed as non-voting member by the Mayor and confirmed by the City Council for all Commissions except for the Youth Advisory Commission. The City Council may appoint a Council liaison to serve on the Commission in a non-voting capacity.

Section 3. Term of Office & Removal

The term of office is three years, or until the seat is filled, for every Commission and is tied to specific seats, not actual Commission members or alternates. A Commission member or alternate is appointed for the term of the seat, which can be less than three years, based on the time of appointment. A Commission member can re-apply at the end of each term.

Members and alternates are expected to attend all meetings. When any member or alternate has three or more absences in a 12-month period, the City Clerk's Office shall forward this information to the City Council for review and possible removal of the member or alternate from the Commission. Any member or alternate of the Commission may be removed from office at any time by a simple majority vote of the City Council at a regularly scheduled Council meeting, with or without cause.

Members and alternates may apply for reappointment by submitting a letter or e-mail of interest to the Mayor with a copy to the City Clerk prior to the expiration of his/her term of office. Any member or alternate of the Commission who wishes to resign MUST submit a letter of resignation or email to the Mayor with a copy to the City Clerk. Resignations will be confirmed by the City Council at a regularly scheduled Council meeting.

Section 4. Vacancies

Vacancies will be filled for the unexpired portion of the term by the Mayor with the approval of the City Council.

Section 5. Officers

A Chair and Vice Chair will be selected annually at the first meeting of the calendar year from the appointed members for a term of one year. The Chair will call for meetings and preside over all sessions. In the absence of the Chair and Vice Chair, the member with longest continuous service on the Commission will preside.

Section 6. Meetings

Commissions shall hold regular meetings at a predetermined day, week, time and location. All meetings shall be open to the public. Should a scheduled meeting occur on a holiday, said meeting will be deferred to the same day of the following week or to a date agreed upon by a majority of the Commission. Special meetings may be called by majority vote, the Chair, Staff Liaison, or the City Council. No meetings will be held in the month of July. Notice of any special meeting shall be given as required by law. Except as otherwise provided by these Bylaws, the Commission shall follow the latest edition of Robert's Rules of Order for the orderly conduct of meetings.

Section 7. Quorum

Any FOUR (4) voting members, including alternates, shall constitute a quorum for the transaction of business.

Section 8. Voting and Seating of Alternates

Voting authority is extended to the SEVEN (7) regular members. An alternate member shall vote only if seated in the absence of a regular member. In the event that a regular member is absent, alternate members shall be seated in order of their alternate position. If a member arrives after an alternate has been seated, the alternate shall remain as the voting member until the end of the meeting.

Section 9. Duties of Commission to be Advisory Only

It is intended that the Commission shall be an advisory body to the City Council.

Section 10. Subcommittees

Other committees within the Commission will be subcommittees of the Commission. The Commission may appoint such subcommittees, with at least one Commission member on the subcommittee, but not more than three members so as not to constitute a quorum.

Section 11. Assistance of Staff

The City Manager of the City of Milpitas shall provide the Commission with such information and staff assistance as the Commission may from time to time request subject to the

limitations imposed by the City Council. The staff member designated by the City Manager shall attend meetings of the Commission, meetings of the Commission subcommittee as necessary, and submit such reports as said Commission may request and as deemed necessary or desirable, subject to limitations imposed by the City Council. The role of the Staff Liaison on a Commission is defined and should be referred to in the City of Milpitas Commissioner Handbook.

Section 12. Amendments

These Bylaws are subject to change through amendments approved by the City Council.

APPENDIX B

CITY OF MILPITAS, CALIFORNIA

STANDARD OPERATING PROCEDURE 16-1

Effective: 03-02-1970
Revised: 03-17-1976
06-02-2004

SUBJECT: CODE OF CONDUCT FOR PUBLIC OFFICIALS

The proper operation of democratic government requires that public officials and employees be independent, impartial, and responsible to the people. The purpose of this Code of Conduct is to establish ethical standards of conduct for all such persons and to direct disclosure by such public officials and employees of private, financial or other interests in matters affecting the City. This Code is distinct from the Milpitas Code of Ethics, which applies solely to elected and appointed officials, campaign candidates, city management, and senior staff.

The municipal officials and employees of the City of Milpitas, whether elected or appointed, are "public officials and employees" within the meaning and intent of this Code.

1. Responsibilities of public office.

   a. Public officials and employees are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their primary concern. Their conduct in both their official and private affairs should be above reproach.

   b. Public officials and employees are bound to uphold the Constitution of the United States and the Constitution of the State of California and to carry out impartially the laws of the nation, state, and municipality.

2. Dedicated Service.

   Public officials and employees should not exceed their authority or breech law or ask others to do so and they should work in full cooperation with other public officials and employees unless prohibited from doing so by law or by officially recognized confidentiality of their work.

3. Fair and Equal Treatment.

   a. Unilateral Communications. No public official or employee should encourage, make, or accept any application or communication from any party made out of the presence and without the knowledge of other

parties in a matter under consideration when such application or communication is designed to influence an official decision or the conduct of the official or other officials, employees, or agencies in order to obtain favored treatment or special consideration to advance the personal or private interests of himself/herself or others.

Any written unilateral communication received by a public official or employee in matters where all interested parties should have equal opportunity for a hearing should be made part of the record by the recipient. Any oral unilateral communication received under such condition should be written down in substance by the recipient and also made a part of the record.

b. Use of Public Property. No public official or employee shall request, use, or permit the use of city-owned vehicles, equipment, materials, or property for personal convenience or profit, except when such services are available to the public generally or are provided as municipal policy for the use of such official or employee in the conduct of official business.

4. Conflict of Interest.

a. No public official or employee, whether paid or unpaid, shall engage in any business or transaction or shall have a financial interest or other personal interest, direct or indirect, which is incompatible with the proper discharge of his/her official duties in the public interest or would tend to impair his/her independence of judgment or action in the performance of said official duties. Personal, as distinguished from financial interests, includes an interest arising from blood or marriage relationships, personal friendships, fraternal relationships or close business or political associations.

b. Specific conflicts of interests are enumerated below for the guidance of officials. This list is merely illustrative and not exclusive:

(1) Incompatible Employment. No public official or employee shall engage in or accept private employment or render services from private interests when such employment or services is incompatible with the proper discharge of his/her official duties or would tend to impair his/her independence of judgment or action in the performance of said official duties. In the event a public official or employee should possess a financial or personal interest in any business or transaction, any presumption of conflict of interest in his/her public duties shall be removed by disclosure of the nature and extent of such investment to the proper authority for the records of said authority.

(2) Disclosure of Confidential Information. No public official or employee shall, without proper legal authorization, disclose confidential information concerning the property, government, or affairs of the City. Nor shall they use such information to advance the financial or other private interests of themselves over others.

(3) Gifts and Favors. No public official or employee shall accept any gift at any time, whether in the form of a service, loan, thing, or promise, from any person, firm or corporation, which to his/her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the City; nor shall any such official or employee accept a gift, favor or thing of value that may tend to influence him/her in the discharge of his/her duties, or grant in the discharge of said duties any improper favor, service, or thing of value. The following exceptions may be permitted with the approval of the City Manager:

(a) A gift of candy or other perishable food items to the City or department, which is to be kept in the office area and shared by all employees;

(b) A gift justified by a personal relationship, which exists outside the realm of City business.

In situations where a public official or employee receives a gift, which is extremely embarrassing to return, the City Manager's Office has draft copies of letters, which might be enclosed to return the gift to the party who sent it. Anonymous gifts should be given to the City Manager's Office for disposal to a local charity if it has no useful purpose to the City.

(4) Representing Private Interests Before City Agencies or Courts. No public official or employee whose salary is paid in whole or in part by the City shall appear in behalf of private interests before any agency of the City; nor shall they represent private interests in any action or proceeding against the interest of the City or in any litigation to which the City is a party.

(5) Contracts with the City. The public has a right to assume that City employees are given no special advantages by virtue of their employment. Whether or not any special advantage exists, an employee's private involvement in any item bought or sold by the City is subject to criticism and misunderstanding and should be avoided. In accordance with Section 1090 of the Government

Code, City officers and employees are prohibited from bidding on or buying any items offered for sale by the City. This prohibition includes:

(a) The auction and sale of bicycles, personal property, and other items confiscated or held for safekeeping by the City; and

(b) The use of intermediaries to purchase such items for a City of Milpitas employee.

No public official or employee shall become a vendor selling any item to the City. Further, said officials and employees shall not participate in City purchases to buy anything for themselves, friends or relatives. Nor shall City purchases be used to secure personal price advantages.

Public officials and employees are cautioned from accepting "discounts" or other advantages offered by vendors to "City Employees." While these may be legitimate business promotions from ethical businesses, employees should first ensure that they are not compromising themselves or placing the City in a potentially embarrassing position through a conflict with their official duties.

(6) Disclosure of Interest in Legislation. Any public official or employee who appears before the City Council and has a financial or private interest in any pending City legislation should disclose such interest on the record of the City Council and thereafter abstain from participating in discussions with or giving an opinion to the Council.

(7) City officials or employees who discover lost or stolen property should immediately turn it in to the Police Department. If the property is discovered while on duty, the official or employee is not entitled to receive unclaimed property in accordance with the Civil Code. However, except for peace officers, unclaimed property discovered when off duty may be claimed in accordance with the law.

5. Political Activity.

In accordance with Title VI, Chapter 101, Section 18, of the City Ordinance Code, no public official or employee shall during hours of work or when dressed in a uniform required in any department of the City or when wearing any City insignia required or permitted in any department of the City or while identifying

themselves as an officer or employee of the City of Milpitas, participate in any City, District, County, State, Federal, or other political activity or participate in any nomination, campaign or election.

This does not prevent any officer or employee from:

a. Becoming or continuing to be a member of a political club or organization;

b. Attending political meetings;

c. Enjoying entire freedom from all interference in voting;

d. Speaking or accepting election or appointment to public office while on leave of absence;

e. Seeking signatures for any initiative or referendum petition directly affecting rates of pay, hours of work, retirement, civil service or other working conditions provided such activity is not carried on during hours of work;

f. Distributing badges, pamphlets, dodgers, or hand bills or other participation in any campaign in connection with such petition if the activity is not carried on during hours of work or when dressed in the uniform required in any department of the City.

A violation of any provisions of this Code may constitute a cause for suspension, removal from office or employment or other disciplinary action.

The Council amended this SOP and renamed it to Code of Conduct for Public Officials by Resolution No. 7414 effective June 1, 2004.

16-1/SOP/6-04

APPENDIX C

FPPC Form 700 Statement of Economic Interests

CALIFORNIA FORM 700
FAIR POLITICAL PRACTICES COMMISSION

STATEMENT OF ECONOMIC INTERESTS
COVER PAGE
A PUBLIC DOCUMENT

Date Initial Filing Received
Official Use Only

Please type or print in ink.

NAME OF FILER (LAST) (FIRST) (MIDDLE)

1. Office, Agency, or Court

Agency Name *(Do not use acronyms)*

Division, Board, Department, District, if applicable | Your Position

► If filing for multiple positions, list below or on an attachment. *(Do not use acronyms)*

Agency: _____ Position: _____

2. Jurisdiction of Office ***(Check at least one box)***

☐ State
☐ Multi-County _____
☐ City of _____
☐ Judge or Court Commissioner (Statewide Jurisdiction)
☐ County of _____
☐ Other _____

3. Type of Statement ***(Check at least one box)***

☐ **Annual:** The period covered is January 1, 2018, through December 31, 2018.
-or-
The period covered is ____/____/_____, through December 31, 2018.

☐ **Assuming Office:** Date assumed ____/____/_____

☐ **Candidate:** Date of Election _____ and office sought, if different than Part 1: _____

☐ **Leaving Office:** Date Left ____/____/_____
(Check one circle.)
○ The period covered is January 1, 2018, through the date of leaving office.
-or-
○ The period covered is ____/____/_____, through the date of leaving office.

4. Schedule Summary (must complete) ► ***Total number of pages including this cover page:*** _____

Schedules attached

☐ **Schedule A-1** - *Investments* – schedule attached
☐ **Schedule A-2** - *Investments* – schedule attached
☐ **Schedule B** - *Real Property* – schedule attached
☐ **Schedule C** - *Income, Loans, & Business Positions* – schedule attached
☐ **Schedule D** - *Income – Gifts* – schedule attached
☐ **Schedule E** - *Income – Gifts – Travel Payments* – schedule attached

-or- ☐ ***None*** - *No reportable interests on any schedule*

5. Verification

MAILING ADDRESS STREET CITY STATE ZIP CODE
(Business or Agency Address Recommended - Public Document)

DAYTIME TELEPHONE NUMBER ( ) | EMAIL ADDRESS

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete. I acknowledge this is a public document.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date Signed _____ *(month, day, year)*

Signature _____ *(File the originally signed paper statement with your filing official.)*

Clear Page Print

FPPC Form 700 (2018/2019)
FPPC Advice Email: advice@fppc.ca.gov
FPPC Toll-Free Helpline: 866/275-3772 www.fppc.ca.gov
Page - 5

RESOLUTION NO. 7702

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPTIAS AMENDING THE CITY OF MILPITAS CITY COUNCIL HANDBOOK TO CLARIFY THE PROCEDURES FOR RESIGNATION OF COMMISSIONERS, COMMITTEE MEMBERS OR BOARDMEMBERS FROM CITY COMMISSIONS, COMMITTEES OR BOARDS

WHEREAS, the City of Milpitas ("City") City Council Handbook currently does not provide for a procedure by which Commissioners, Committee members or Board members of City commissions, committees or boards may resign; and

WHEREAS, the City Council wishes to clarify the procedure for resignation from a City commission, committee or board.

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Milpitas hereby amends the Section titled "Procedures for Making Appointments and Reappointments" at page 32 of the City Council Handbook by adding a paragraph at the end of the section to read as follows:

> "A member of any City commission, committee or board who wishes to resign from their position must submit a written notice of resignation to the City Clerk. Such resignation shall become effective upon receipt of the written notice by the City Clerk. If a written notice of resignation designates an effective date, such resignation shall become effective on the date set in the notice, except when that date extends beyond the commissioner, committee member or board member's term, in which case the effective date of the resignation shall be the date the commissioner's term ends."

PASSED AND ADOPTED this 18th day of September 2007, by the following vote:

AYES: (5) Mayor Esteves, Vice Mayor Livengood, and Councilmembers Giordano, Gomez and Polanski

NOES: (0) None

ABSENT: (0) None

ABSTAIN: (0) None

ATTEST:

Mary Lavelle

Mary Lavelle, City Clerk

APPROVED:

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

for Steve Mattas

Steven T. Mattas, City Attorney

Resolution No. 7702

CITY OF MILPITAS
COMMISSION BYLAWS
Addendum: Arts Commission

The Arts Commission was established by the Milpitas City Council on October 17, 2000.

Advisory Area

This Commission will advise Council on matters pertaining to the arts in Milpitas, as well as serve as the advisory body for the Public Art Program.

Meetings

The Arts Commission shall hold meetings the 4th Mondays of January, March, May, September and November at 7:00 PM at the Committee Conference Room in City Hall, or a another designated location.

PASSED AND ADOPTED JANUARY 19, 2021.

CITY OF MILPITAS
STANDARD COMMISSION
BYLAWS
Addendum: Public Safety and Emergency Preparedness Commission

The Public Safety and Emergency Preparedness Commission was originally established by the Milpitas City Council on May 17, 1998. On August 21, 2018, the City Council added the advisory areas of public safety, crime, and quality of life.

Advisory Area
This Commission will advise the Council on matters pertaining to emergency preparedness and disaster planning, public safety, crime, and resident quality of life.

Membership
All members and alternates shall be Milpitas residents, OR own a business or be currently employed at a business located within the City limits of Milpitas.

Members of the Public Safety and Emergency Preparedness Commission are most appropriate, but not limited to the following areas of expertise or interest:

- Resident
- Business (may include, but not limited to, manufacturing, restaurant, hotel, commercial, food retailer, etc.)
- Community Interest Non-profit Group

The City Council may confirm a Milpitas Unified School District Board Member to serve on the Commission. This Member is selected by the Milpitas Unified School District Board and confirmed by Council at a City Council meeting.

Meetings
The Public Safety and Emergency Preparedness Commission shall hold meetings the 3rd Thursday of every January, March, May September and November, at 7:00 PM at the Training Room in Fire Station #1, or a designated location.

PASSED AND ADOPTED APRIL 16, 2019.

MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS

Request No.	Topic	Submitted by	A, F, CM, or CCM	Date requested or Rec'd Form	STATUS and/or DATE scheduled on City Council meeting agenda:
2021					
23	Discuss impacts fees for Midtown	Montano	CCM	1/5/2021	For future meeting
22	Update on planning grant for ADU marketing.	Chua	A	1/5/2021	Target date: 3/16/2021
21	Establish "ADU Mondays"	Chua	A	1/5/2021	Target date: 3/16/2021
20	Amend Accessory Dwelling Units (ADU) ordinance to address unpermitted ADUs	Chua	A	1/5/2021	Target date: 3/16/2021
19	Update "My Milpitas" App for COVID-19 information	Phan	A	1/5/2021	
18	Revise Community Garden Strategy	Dominguez	A	1/5/2021	Target date: 3/2/2021
17	Pollination protection	Dominguez	A	1/5/2021	Target date: 2/2/2021
16	Performance Evaluation (Contract) of City Attorney.	Tran	A	1/5/2021	For 2/2/2021 closed session item
15	Postponement (not waiver) of City business fees towards spring.	Tran	A	1/5/2021	Target date: 2/2/2021
14	Schedule and host a "Milpitas Business Expo" in late 2021	Chua	A	12/15/2020	
13	Expedite process for Measure F Oversight Committee	Chua	A	12/15/2020	Staff explained planned process, appts. to be brought to Council in Feb. 2021
12	Report from staff on 2nd federal stimulus package - action plan on funds	Chua	A	12/15/2020	
11	Form "Beautify Milpitas" subcommitte - for a future Task Force or Commission	Chua	A	12/15/2020	
10	Amend ordinance to remove affordable housing in-lieu fee	Chua	A	12/15/2020	Agendized on 1/5/21, CC direction to agendize for further meeting.
9	Plan to put utility fines into a fund to help small businesses in the City	Montano	A	12/15/2020	
8	Consider "Old Town" Main St. revitalization, funding, economic dev., improve area	Montano	A	12/15/2020	
7	Ordinance to ban vaping in the City	Montano	A	12/15/2020	

MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS

6	Econonomic Development Corporation (EDC)	Montano	A	12/15/2020 and 01/05/2021	Target date: 1/26/2021
5	Form a Homelessness Task Force	Tran	A	12/15/2020	1/5/2021
4	Propose building height limits in area east of Milpitas Blvd.	Tran	A	12/15/2020	
3	Review City policy on speed bumps	Tran	A	12/15/2020	
2	Consider change in Commission structure, on term limits	Tran	A	12/15/2020	1/5/2021
1	Consider satellite consular offices (post Covid)	Montano	A	6/2/2020	

2020	**TOPICS SCHEDULED OR COMPLETED**				
	Discussion of Minute Man as City's image, when City branding comes back	Phan	A	8/18/2020	discuss when report on "Branding" is on CC agenda in 2021
	Consider adding state certification NEC for electrical work done in the City (safety)	Dominguez	A	6/30/2020	unnecessary (staff is cert.)
	Establish a Day Worker Program	Montano	A	6/16/2020	Mayor & Vice Mayor brainstorm in future
	Form a Historical Commission	Montano	A	6/2/2020	already part of PRCRC. Can discuss with all Commissions on 01-05-2021
	Mayor shall recommend a Milpitas resident to serve on VTA Bike Committee	Dominguez	A	11/17/2020	12/15/20: resident Kristal Caidoy appointed to VTA BPAC
	Vote on County 2020-2025 Plan to end Homelessness	Dominguez	A	11/17/2020	12/1/20 adopted Resolution in support
	Revisit contract provisions of executive staff (CM + CA) best working environment	Phan	A	11/10/2020	discussed @Closed Session 11/17/2020
	Revisit CC Housing Subcommittee, consider dismantling ; bring items to Council	Dominguez	A	11/10/2020	12/01/20: Did not vote to eliminate Subcommittee
	Discuss a "safety first" or other event in lieu of National Night Out (per CAC)	Phan (Nuñez)	A	10/20/2020	Dec. 15: for 2021 @Public Safety month, new Police Chief
	Emergency request to cap rents on small businesses (tenants) in Milpitas	Dominguez	A	10/6/2020	On 12/01/20. Not supported
	Opportunity to share ideas for US census & on City "sponsored" events	Dominguez	A	9/1/2020	12/01: remove census topic, move events to CC retreat 2021

MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS

	Bring back update report & discuss status of playing fields for girls' softball in Milp.	Dominguez	A	10/20/2020	To City/Schools Subcomm. then CC. See C. Montano 10/14 Bobby Sox softball
	Consider naming "Milpitas Hills"	Dominguez	A	10/20/2020	to Econ. Dev. Commission first. Return later to City Council
	Discuss budget reductions in next FY with input from residents, employees	Nuñez	A	10/6/2020	on 10/20/2020, to 11/10, 11/17
	Discuss potential litigation - re: govts' action on Jamboree-Project Homekey	Tran	A	10/6/2020	multiple Closed Sessions - Oct. 2020
	Resolution on financial status of the City, steps to be taken	Nuñez	A	8/18/2020	Resolution adopted 9/01/2020
	Require implicit bias training for City Council, Commissioners & staff	Dominguez	A	6/16/2020	approved 8/18/2020
	Read "Code of Conduct" aloud prior to each City Council meeting	Montano	A	6/2/2020	approved 8/18/2020. City Attorney began this practice 9/01/20
	Discussion/staff report on Beautify Milpitas, graffiti abatement, resources	Montano	A	6/30/2020	8/18/20: Directed to staff develop program requiring min. staff resource & return to CC
	Celebrate Mexican Independence Day annually on September 16	Montano	A	6/2/2020	approved on consent 8/18/2020
	Consider change in term limits for Mayor + Councilmembers	Montano	A	6/16/2020	8/4/2020: Voted 3 -2 to pursue
	Discussion of campaign finance reform and/or Open Government Ordinance	Phan	A	6/30/2020	withdrawn @8/4/2020 CC meeting
	Community Workforce Agreement (PLA)	Nuñez	A	2/18/2020	8/4/2020: directed staff to draft agreement, find CIP projects to apply & work w/labor org
	Responsible Construction Ordinance	Phan	A	2/4/2020	8/4/2020: City Atty shall return with draft Ord.
	List of city charges/costs that could be waived for small businesses	Dominguez	A	6/16/2020	6/30/2020 info memo
	Emergency item for next agenda: extend tenant eviction protections	Dominguez	A	6/16/2020	withdrawn, covered by other govt
	Discussion on possible tax measures	Tran, Phan	A	4/21/2020	5/15/2020
	Support for Laura's Law	Phan	A	2/4/2020	5/19/2020
	(possible ban on vaping - no) Restrict smoking in multi-unit bldgs - yes	Montano	A	1/7/2020	Ordinance pending. Discussed 3/03/2020 Affirmed 6/02/2020

MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS

	Resolution in support of elimination of discrimination v. women	Dominguez	A	1/7/2020	5/19/20 Reso. Adopted 8/04/20 Ord. adopted	
	Request for Dumpster Days	Tran	A	1/7/2020	5/12/2020 in FY 2020-21 budget. Mayor requested for follow-up on 1/5/2021 City Council meeting	
	Adopt Resolution similar to County's re: xenophobia, discrimination	Dominguez	A	4/21/2020	5/5/2020	
	Support community distribution of masks	Dominguez	A	4/7/2020	4/21/2020	
	Proclamation and support for face coverings	Montano	A	4/7/2020	4/21/2020. CC directed City Manager to	
	Establish Milpitas coronavirus testing site	Phan	A	4/7/2020	done	
	Consider Community Museum and Park on Main St.	Nuñez, Phan	F	8/20/2019	to Rules 8/23/2019	3/24 and 6/02/2020. Pending
	Discuss having 4th of July parade	Nuñez	A	2/18/2020	not under discussion	
	Parade for MHS Trojans Football	Tran, City Mar	A	1/21/2020	1/28/2020	
	Report on speed cameras like Fremont (radar displays) - no enforcement	Phan	A	1/7/2020	1/28/2020, 3/24/2020, 4/14/2020	
	Street/traffic calming update	Nuñez	A	1/7/2020	3/3/2020	
	Report on parking in The Pines	Nuñez	A	1/7/2020	2/18/2020	
	Info. on new SB 50 (housing, transit bill)	Phan	A	1/7/2020	by memo to City Council	

CCM: City Council Meeting
A: @Announcements
F: on a Form
CM: to/from City Manager

MILPITA CITY COUNCIL
AGENDA PREVIEW LIST

FEBRUARY 2, 2021

CLOSED SESSION

INVOCATION (assigned to Vice Mayor Montano)

PRESENTATION - none

CONSENT CALENDAR

1. Receive City Council calendar for February 2021 (City Clerk)
2. Approve City Council meeting minutes of January 12 and 19, 2021 (Dep. City Clerk)
3. Adopt a Resolution to set Public Hearing date for Annual Weed Abatement Program (Albert Zamora)
4. Waive Second Reading and Adopt Ordinance No. 65.150 Regarding Responsible Construction (Christopher J. Diaz and Steve McHarris)
5. Adopt a Resolution Granting Acceptance of Trash Removal Devices, Phase 1, Project No. 3713, Authorizing City Engineer to File a Notice of Completion, and Authorize him to Issue a Notice of Final Acceptance. (Steve Erickson)
6. Adopt a Resolution Authorizing City Manager to Execute Amendment No. 1 to Grant Agreement with County for the Alviso Adobe Renovation, Project No. 5055 (Steve Erickson)
7. Adopt a Resolution Granting Acceptance of Fire Station No. 2 Demolition, Project No. 3447, Authorizing the City Engineer to file a Notice of Completion, and Authorizing him to issue a Notice of Final Acceptance (Steve Erickson)
8. Adopt a Resolution amending the City's Alternative Retirement Plan administered through Public Agency Retirement Services (PARS) (Jeannine Seher)
9. Approve and Authorize City Manager to Execute Agreement with City of San Jose for Pavement Restoration of Landess between Highway 680 and Piedmont Rd (Steve Erickson)
10. Authorize City Manager to Execute Master Project Agreement with Valley Water District for Flood Protection Improvements within creeks and Authorize Reimbursement to District for City Improvements Completed as part of the Flood Protection Work, Project No. 3452 (Steve Erickson)

COMMUNITY DEVELOPMENT

11. Milpitas Metro Plan update: Mobility/Circulation/traffic (Ned Thomas)

COMMUNITY SERVICES

12. Receive a Presentation on the Trail and Bikeway Masterplan Update, Project No. 3448 (Steve Chan)

LEADERSHIP

13. Mayor's appointments to Measure F Oversight Committee (Mayor/Walter Rossmann)

REPORTS

14. Per Mayor's Recommendations, Re-appoint and Appoint Commissioners for Respective Commissions (Mayor Tran)
15. Review list of Future Agenda Items Requested by City Councilmembers (Mayor & CC/City Clerk)

PREVIEW NEXT AGENDA

16. Preview list of items for February 16, 2021 (City Clerk)