



REGULAR MEETING OF THE MILPITAS CITY COUNCIL

AGENDA

TUESDAY, APRIL 19, 2022

CITY COUNCIL CHAMBERS, 455 E CALAVERAS BLVD, MILPITAS, CA
7:00 PM (PUBLIC BUSINESS)

For assistance in the following languages, you may call:

Đối với Việt Nam, gọi 408-586-2400

Para sa Tagalog, tumawag sa 408-586-3051

Para español, llame 408-586-3072

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

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

Meeting shall be livestreamed - Go to:

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

YouTube: <https://www.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 in person or by registering for the zoom meeting in advance. To register you will need to provide an email address (not disclosed) and a name. To minimize technical difficulties, please make sure that you have the latest version of the Zoom Application. Below is the link to register for this meeting only:

https://ci-milpitas-ca-gov.zoom.us/webinar/register/WN_KvXKMOX1T3Sfp0jIqc97pw

After you register 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 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.

MILPITAS CITY COUNCIL CODE OF CONDUCT

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

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

PLEDGE OF ALLEGIANCE

INVOCATION (Councilmember Chua)

PRESENTATIONS (7:05 PM)

- Arbor Day (Proclamation)
- National Autism Acceptance Month (Proclamation)
- Parkinson's Awareness Month (Proclamation)

PUBLIC FORUM (7:10 PM)

Those in the audience and via Zoom are invited to address City Council on any subject not on tonight's agenda. In-person speakers wishing to address the Council are requested, but not required to complete a Speaker Card and submit it to the Mayor. In-person speakers will then be asked to come up to the podium and state their name for the record. Those interested in speaking via Zoom may do so by following the instructions on page one (1) of the agenda. Comments may be limited to three (3) minutes or less at the Mayor's discretion. 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.

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

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS (7:15 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 future 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 (7:25 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 the City Council Calendar of Meetings for April and May 2022 (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)

Recommendation: Receive the City Council Calendar of Meetings for April and May 2022.

C2. Approve the City Council Regular Meeting Minutes of April 5, 2022 (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)

Recommendation: Approved the City Council Regular Meeting minutes of April 5, 2022.

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

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

C4. Receive and Review the List of Agenda Items Requested by City Councilmembers (Contact: Mayor and City Councilmembers, 408-586-3000)

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

C5. Approve and Authorize the City Manager to Execute a Stormwater Management Facilities Operation & Maintenance Agreement for BP Products North America Inc. at 1575 Landess Avenue (Staff Contact: Steve Erickson, Engineering Director/City Engineer, 408-586-3301)

Recommendation: Approve and authorize the City Manager to execute a Stormwater Management Facilities Operation and Maintenance Agreement for BP Products North America Inc. for the Gas Station and Convenience Store Project at 1575 Landess Avenue.

C6. Approve and Authorize the City Manager to Execute a Stormwater Management Facilities Operation & Maintenance Agreement for Robinson Oil Corporation at 1787 South Main Street (Staff Contact: Steve Erickson, Engineering Director/City Engineer, 408-586-3301)

Recommendation: Approve and authorize the City Manager to execute a Stormwater Management Facilities Operation and Maintenance Agreement for Robinson Oil Corporation for the Gas Station and Convenience Store Project at 1787 South Main Street.

C7. Approve Updates to the Commission Bylaws, the Bylaw Addendum for the Arts Commission, the Bylaw Addendum for the Parks, Recreation and Cultural Resources Commission, and associated Commissioner Handbook updates (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)

Recommendation: Approve updates to the Commission Bylaws, the Bylaw Addendum for the Arts Commission, the Bylaw Addendum for the Parks, Recreation and Cultural Resources Commission, and associated Commissioner Handbook updates.

C8. Approve the Purchase of a Police Vehicle, Find the Procurement to be in the Best Interest of the City, and Authorize the City Manager to Execute Any Documents Necessary to Effectuate the Purchase (Staff Contact: Jared Hernandez, Chief of Police, 408-586-2406)

Recommendation: Approve the purchase of a Police vehicle, find the procurement to be in the best interest of the City, and authorize the City Manager to execute any documents necessary to effectuate the Purchase.

C9. Approve an Amendment of a Software License and Services Agreement with Mark43 by Adding the Evidence Data Migration and Morpho Mugshot Interface, Increasing the Not-to-Exceed Amount from \$1,049,956.00 to \$1,085,456.00 (Staff Contact: Steven Fox, Police Captain, 408-586-2525)

Recommendation: Approve an amendment of a Software License and Services Agreement with Mark43 by adding the Evidence Data Migration and Morpho Mugshot Interface, increasing the not-to-exceed amount from \$1,049,956.00 to \$1,085,456.00.

C10. Receive the 2021 General Plan Annual Progress Report and Authorize Submittal of the Report to the Governor's Office of Planning and Research (OPR) (Staff Contact: Jay Lee, Principal Planner, 408-586-3077)

Recommendation: Receive the 2021 General Plan Annual Progress Report and authorize the submittal of the report to the Governor's Office of Planning and Research (OPR).

C11. Receive an Update on the Emergency Replacement of Two (2) Boilers and Install of a Temporary Heating System for the Public Works, Information Technology, and Police Department Building and Determine that the Condition Continues to Constitute an Emergency (Staff Contact: Tony Ndah, Public Works Director, 408-586-2602)

Recommendation: (1) Receive an update on the emergency replacement of two (2) boilers and the installation of a temporary heating system for the Public Works, Police, and Information Technology Department buildings; and (2) Determine by a four-fifths vote that the condition continues to constitute an emergency.

C12. Receive an Update on the Repair of Pump No. 3 at the Main Lift Sewer Pump Station and Authorize Staff to Pay Final Invoices to Koffler Electric Totaling \$90,095.32 (Staff Contact: Tony Ndah, Public Works Director, 408-586-2602)

Recommendation: Receive an update on the emergency repair of Pump No. 3 at the Main Lift Sewer Pump Station.

C13. Agreement with Best, Best & Krieger, LLP for Specialized/Supplemental Legal Services (Staff Contact: Ashwini Kantak, Assistant City Manager, 408-586-3053)

Recommendation: Approve and authorize the City Manager to execute an agreement for specialized/supplemental legal services with Best Best & Krieger LLP.

C14. Adopt a Resolution Supporting the Submission of Projects for 2023 Community Project Funding (Staff Contact: Walter C. Rossmann, Deputy City Manager, 408-586-3012)

Recommendation: Adopt a resolution supporting the submission of projects for 2023 Community Project Funding.

PUBLIC HEARINGS (7:30 PM)

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

15. Introduce an Ordinance Adopting a Controlled Equipment Use Policy per California Assembly Bill 481 (Staff Contact: John Torrez, Assistant Chief of Police, 408-586-2408)

Recommendation: Introduce an ordinance adopting a Controlled Equipment Use Policy per California Assembly Bill 481.

16. Conduct a Public Hearing and Adopt a Resolution Approving Issuance of the California Municipal Finance Authority Multifamily Housing Revenue Bonds in an Aggregate Principal Amount Not to Exceed \$47,000,000.00 for the Benefit of Milpitas Pacific Associates to Provide for the Financing of an Affordable Housing Project at 308 Sango Court (Staff Contact: Sharon Goei, Building Safety and Housing Director, 408-586-3260)

Recommendation: (1) Open the public hearing under the requirements of the Tax and Equity Fiscal Responsibility Act (TEFRA) and the Internal Revenue Code of 1986, as amended (the "Code"); (2) Move to close the public hearing following any comments; and (3) Adopt a resolution approving the issuance of the Multifamily Housing Revenue Bonds in an aggregate principal amount not to exceed \$47,000,000.00 by the California Municipal Finance Authority (CMFA) for the benefit of Milpitas Pacific

Associates to provide for the financing of the 308 Sango Court project. Such adoption is solely for the purposes of satisfying the requirements of TEFRA, the Code, and the California Government Code Section 6500 regarding Joint Exercise of Powers.

17. Adopt a Resolution Approving the Fiscal Year 2022-23 Master Fee Schedule (Staff Contact: Lauren Lai, Finance Director, 408-586-3111)

Recommendation: Adopt a resolution approving the Fiscal Year 2022-23 Master Fee Schedule.

COMMUNITY DEVELOPMENT (8:30 PM)

18. Homelessness Task Force Options (Staff Contact: Ashwini Kantak, Assistant City Manager, 408-586-3053 and Sharon Goei, Building Safety and Housing Director, 408-586-3260)

Recommendation: Receive staff report related to the Homelessness Task Force recommendations and provide direction to staff on next steps.

19. Receive Report on Recommended Changes to the Municipal Code to Remove and Prohibit Property in Public and Provide Direction to Staff (Staff Contact: Christopher J. Diaz, City Attorney, 408-586-3040)

Recommendation: Receive report on recommended changes to the Municipal Code to remove and prohibit property in public and provide direction to staff.

COMMUNITY SERVICES AND SUSTAINABLE INFRASTRUCTURE (9:15 PM)

20. Review the Proposed Streets, Parks and Facilities Naming Policy and Provide Feedback to Staff (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)

Recommendation: (1) Review the Proposed Streets, Parks and Facilities Naming Policy and provide feedback to staff; (2) Review City Naming Lists and provide feedback to staff; and (3) Authorize staff to begin process for naming McCandless Park.

LEADERSHIP AND SUPPORT SERVICES (9:45 PM)

21. Approve Employment Agreement with, and Appoint Michael Mutalipassi to Serve as City Attorney (Staff Contact: Jeannine Seher, Human Resources Director, 408-586-3086)

Recommendation: Approve Employment Agreement with Michael Mutalipassi and appoint him to serve as City Attorney for the City of Milpitas.

REPORTS OF MAYOR & COUNCILMEMBERS (10:45 PM) - from assigned Commissions, Committees and Agencies

22. Per Mayor Tran, Discuss a California Statewide Communities Development Authority (CSCDA) Program for the Eleanor Project to Provide Middle-Income Workforce Housing (Contact: Mayor Tran, 408- 586-3029) - See Attached Letter and Memo

ADJOURNMENT (11:00 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 408-586-3001 for more information.

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

March 2022						
S	M	T	W	T	F	S
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May 2022						
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Item # C1.

Milpitas City Council Calendar

April 2022

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					10:00 AM -Wastewater Facility Site Visit (CM)	
3	7:00 PM -Parks, Recreation & Cultural Resources Commission (CM)	5:30 PM -Closed Session 7:00 PM -City Council	2:00 PM -Santa Clara VTA Monthly Briefing - Northeast Group (CM) 5:30 PM -Veterans Commission (RT) 7:00 PM -Community Advisory Commission (EC)	4:30 PM -Milpitas Chamber of Commerce Board (EC) 5:30 PM -Santa Clara VTA Board of Directors (CM) 6:00 PM -Community Outreach: Budget Meeting	3:00 PM -City Council Transportation Subcommittee (RT/CM)	
10	4:30 PM -Economic Development and Trade Commission (KD)	4:00 PM -Milpitas HOPE Suicide Prevention Task Force 4:30 PM -Main Street Subcommittee (CM/EC)	12:00 PM -Santa Clara Valley Water Commission (CM) 7:00 PM -Silicon Valley Clean Energy Board of Directors (EC) 7:00 PM -Planning Commission	5:30 PM -Milpitas Chamber of Commerce Board Meeting (EC) 6:00 PM -Cities Assoc Legislative Action Committee (CM) 6:40 PM -Cities Assoc City Selection Committee (CM) 7:00 PM -Youth Advisory Commission (EC) 7:00 PM -Cities Assoc of SCC Board of Directors (CM)	*4:30 PM -City Council Finance Subcommittee (RT/CM)	
17	7:00 PM -Science, Technology, and Innovation Commission (RT)	5:00 PM -Special City Council Meeting 7:00 PM -City Council	6:00 PM -Energy and Environmental Sustainability Commission (EC)	10:00 AM -Santa Clara VTA Congestion Mgmt Prog Planning Comm-CMPP (CM) 12:00 PM -SCC Joint Powers Authority Board of Directors (EC) 6:30 PM -BAWSCA Board of Directors Mtg (CM)	9:00 AM -Special VTA Board of Directors Workshop (CM) 4:00 PM -City/School Collaborative Subcommittee – City hosting (RT/CM) 5:00 PM -Spelling Bee Event @ Teen Center	10:00 AM -Solar/Micro Grid & Earth Day City Event (Comm. Center Parking lot)
24		1:30 PM -Senior Advisory Commission (EC)	5:30 PM -Cities Assoc. of SCC - Recycling and Waste Reduction Commission (AP) 7:00 PM -Planning Commission			

**Finance Subcommittee will only meet as needed*

April 2022						
S	M	T	W	T	F	S
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MILPITAS CITY COUNCIL CALENDAR

May 2022

June 2022						
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26	27	28	29	30		

Item # C1.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1 9:00 AM -Asian Pacific American Month Flag Raising Event (Cesar Chavez Plaza)	2 7:00 PM -Parks, Recreation & Cultural Resources Commission (CM)	3 7:00 PM -Closed Session 7:00 PM -City Council	4 2:00 PM -Santa Clara VTA Monthly Briefing - Northeast Group (CM) 7:00 PM -Community Advisory Commission (EC)	5 10:30 AM -South Bay Odor Stakeholders Group Quarterly Meeting (RT) 5:30 PM -Santa Clara VTA Board of Directors (CM) 5:30 PM -Milpitas Chamber of Commerce Board (EC)	6	7 10:00 AM -Senior Center Open House
8	9 4:30 PM -Economic Development and Trade Commission (KD)	10 4:00 PM -Milpitas HOPE Suicide Prevention Task Force 5:30 PM -Special Council Meeting: FY2022-23 Budget Study Session	11 7:00 PM -Planning Commission 7:00 PM -Silicon Valley Clean Energy Board of Directors (EC)	12 7:00 AM -Bike to Wherever Day (various locations) 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)	13 3:00 PM -City Council Transportation Subcommittee (RT/CM) *4:30 PM -City Council Finance Subcommittee (RT/CM) 7:45 PM -Classic Movies Under the Stars (Civic Center Plaza)	14
15 9:00 AM -Public Safety Day Flag Raising Event (Veterans Plaza)	16 7:00 PM -Science, Technology, and Innovation Commission (RT) 7:00 PM -Library and Education Commission (EC) (Milpitas Public Library)	17 7:00 PM -Closed Session 7:00 PM -City Council	18 6:00 PM -Energy and Environmental Sustainability Commission (EC)	19 10:00 AM -VTA Congestion Mgmt Program Planning Committee (CM) 3:00 PM -VTA Safety, Security, Transp. Planning & Operations Committee (CM) 4:00 PM -Treatment Plant Advisory Committee (CM) 6:30 PM -Bay Area Water Supply Conserv Agency (CM) 7:00 PM -Public Safety and Emergency Preparedness Commission (KD)	20	21
22	23 7:00 PM -Arts Commission (RT)	24	25 1:30 PM -SCC Emergency Operational Area Council Meeting (CM) 2:00 PM -City Council Housing Subcommittee (AP/EC) 7:00 PM -Planning Commission	26 4:00 PM -Silicon Valley Regional Interoperability Authority (SVRIA) (KD)	27 4:00 PM -City/School Collaborative Subcom – school hosting (RT/CM)	28
29	30 9:00 AM -Memorial Day Ceremony (Veterans Plaza)  City Hall Closed	31				

**Finance Subcommittee will only meet as needed*



REGULAR MEETING OF THE MILPITAS CITY COUNCIL

AGENDA

TUESDAY, APRIL 5, 2022

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

5:30 PM (CLOSED SESSION)

7:00 PM (PUBLIC BUSINESS)

The City Council of the City of Milpitas convened on the regular City Council meeting day of April 5, 2022, in the City Council Chamber at City Hall, 455 E. Calaveras Blvd., Milpitas, and via teleconference/Zoom webinar.

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

Mayor Tran called the regular City Council meeting to order at 5:30 PM. Roll Call was taken by City Clerk Wood.

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

ABSENT: None

ADJOURN TO CLOSED SESSION

(a) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9(d)(2)

City as Defendant - See document attached in agenda packet

(b) CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

Agency designated representative: Jeannine Seher, Human Resources Director

Bargaining unit: IAFF

(c) PUBLIC EMPLOYEE APPOINTMENT/HIRING

Pursuant to California Government Code Section 54957

Position: City Attorney

(d) CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

Agency Designated Representative: Jeannine Seher, Human Resources Director

Unrepresented Employee: City Attorney

(e) PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to California Government Code Section 54957

Position: City Manager

CLOSED SESSION ANNOUNCEMENT:

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

City Attorney Diaz stated there was no reportable action on items a, d, and e. Council had no reportable action on items b and c.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Tran.

INVOCATION

Councilmember Chua led the invocation.

PRESENTATIONS

Mayor Tran proclaimed the month of April as National Public Safety Telecommunications Week and presented the proclamation to Communications Dispatcher Rachelle Boyd and Communications Dispatch Supervisor Lena Sillas. Mayor Tran also proclaimed the month of April as Vietnamese-American Heritage Month and Fair Housing Month.

Fair Housing Director for Project Sentinel Molly Current provided information on fair housing.

PUBLIC FORUM

Those in the audience and via Zoom are invited to address City Council on any subject not on tonight's agenda. In-person speakers wishing to address the Council are requested, but not required to complete a Speaker Card and submit it to the Mayor. In-person speakers will then be asked to come up to the podium and state their name for the record. Those interested in speaking via Zoom may do so by following the instructions on page one (1) of the agenda. Comments may be limited to three (3) minutes or less at the Mayor's discretion. 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.

The following people spoke under Public Forum:

1. Rose Riggs
2. Warren Wettenstein
3. Voltaire Montemayor

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

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 future agenda for City Council discussion.

City Manager McHarris announced the City received 344 eligible applications for the ARPA Small Business Assistant Grant Program and 81 businesses qualified for the direct \$5,000 grant assistance based on the Council directive to prioritize key industries. The remaining 263 businesses will enter a lottery scheduled for Friday, April 8 at 2:00 p.m.

Mayor Tran attended the Milpitas High School Trojan Olympics and the Milpitas Chamber of Commerce Crab Feed. He made the following request:

1. To agendaize a discussion for the next meeting a CSCDA for the Eleanor building.

Vice Mayor Montano attended the Milpitas High School Trojan Olympics and the Milpitas Chamber of Commerce Crab Feed. She made the following requests:

1. Add crossing guards at McCandless and Montague Expressway.
2. Add Mexican Independence Day to the list of events.

Mayor Tran made an amendment to the crossing guards' item and ask that staff bring back a comprehensive report on the crossing guards' program.

Vice Mayor Montano accepted the amendment.

Councilmember Chua made the following requests:

1. Support SB 919 related to catalytic converters.
2. Asked Supervisor Otto Lee to look at funding a pilot project for DIY (do it yourself) catalytic converter etching kits to distribute to residents.
3. Explore an ordinance or policy for commercial retail parking areas in Milpitas to reduce thefts and increase security.

Councilmember Phan attended the annual policymaker conference in Yosemite, commented on the encampment resolution funding program, and would like housing staff to look at the program.

Councilmember Dominguez commented on the divider and wall north of Abel Street and made the following request:

1. Staff look at the center divider to help improve safety, and report back by the budget meeting to see if there is an opportunity to fund traffic mitigation.
2. Staff prepare a report on ghost guns in the City of Milpitas and look at any State bills that the Council should be aware of to write a letter of support.
3. Bring back a conversation in the budget meeting to fund "walking beats" in commercial and high crime areas.
4. A pilot program to help fund cameras for businesses on Main Street to monitor activity and would like this to come back to Council for direction and funding.

Mayor Tran made an amendment to the ghost guns proposal to tie it into the gun's buyback program as a further incentive to the program. He also asked that Councilmember Dominguez work with the City Manager to find funding sources for the "walking beats."

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

READING OF THE CITY COUNCIL CODE OF CONDUCT

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

APPROVAL OF AGENDA

Motion: to approve the April 5, 2022, regular meeting agenda.

Motion/Second: Mayor Tran / Councilmember Dominguez

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

CONSENT CALENDAR

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Motion: to approve the Consent Calendar.

Motion/Second: Mayor Tran / Vice Mayor Montano

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

Vice Mayor Montano asked to postpone item 16 to the next meeting.

Motion: to postpone item 16 to the next meeting.

Motion/Second: Vice Mayor Montano / Mayor Tran

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

Vice Mayor Montano asked to move item 20 after item 14.

Motion: to move item 20 after item 14.

Motion/Second: Vice Mayor Montano / Mayor Tran

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

C1. Receive the City Council Calendar of Meetings for April 2022 (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)

Received the City Council Calendar of Meetings for April 2022.

C2. Approve the City Council Regular Meeting Minutes of March 15, 2022 (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)

Approved the City Council Regular Meeting minutes of March 15, 2022.

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

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

C4. Receive and Review the List of Agenda Items Requested by City Councilmembers (Contact: Mayor and City Councilmembers, 408-586-3000)

Reviewed the list of items that have been requested by City Councilmembers.

C5. Adopt a Resolution Granting an Easement to Pacific Gas and Electric Company and Authorizing the City Manager to Execute the Grant of Easement, and Any and All Necessary Documents, in a Form Approved by the City Attorney, For the Access, Construction, and Maintenance of PG&E Owned Electric Facilities Infrastructure to Serve the Fire Station No. 2 Property (Staff Contact: Steve Erickson, Engineering Director/City Engineer, 408-586-3301)

Adopted **Resolution No. 9136** granting an easement to Pacific Gas and Electric Company and authorizing the City Manager to execute the Grant of Easement, and any and all necessary property related documents, in a form approved by the City Attorney, for the access, construction, and maintenance of PG&E owned electric facilities infrastructure to serve the Fire Station No. 2 property.

C6. Receive an Update on the Repair of Pump No. 3 at the Main Lift Sewer Pump Station and Determine that the Condition Continues to Constitute an Emergency (Staff Contact: Tony Ndah, Public Works Director, 408-586-2602)

Received an update on the emergency repair of Pump No. 3 at the Main Lift Sewer Pump Station; and determined by a unanimous vote that the condition continues to constitute an emergency.

C7. Approve and Authorize the City Manager to Execute a Funding Agreement with the Santa Clara Valley Transportation Authority (VTA) for the 2016 Measure B Innovative Transit Service Models Program; Approve New Fiscal Year 2021-22 Capital Improvement Program Project No. 3493 Milpitas OnDemand; Approve a Budget Appropriation of \$1,355,916.00 including Measure B Innovative Transit Service Models Program Funds (\$1,084,732.00), developer contributions (\$200,000.00), and General Government CIP Fund (\$71,184.00) into Project No. 3493; and Adopt a Resolution to Approve and Authorize the City Manager to Execute a Subscription and Services Agreement with RideCo in a Not-to-Exceed Amount of \$1,355,916.00 for Consultant Services Related to Milpitas OnDemand and Making Sole Source Findings and Findings that the Procurement is in the Best Interest of the City (Staff Contact: Ned Thomas, Planning Director, 408-586-3273 and Jay Lee, Principal Planner, 408-586-3077)

Approved and authorized the City Manager to execute a funding agreement with the Santa Clara Valley Transportation Authority (VTA) for the 2016 Measure B Innovative Transit Service Models Program; approved the new Fiscal Year 2021-22 Capital Improvement Program Project No. 3493 Milpitas OnDemand; approve a budget appropriation of \$1,355,916.00 including Measure B Innovative Transit Service Models Program Funds (\$1,084,732.00), developer contributions (\$200,000.00), and General Government CIP Fund (\$71,184.00) into Project No. 3493; and adopted **Resolution No. 9137** approving and authorizing the City Manager to execute a subscription and services agreement with RideCo in a not-to-exceed amount of \$1,355,916.00 for consultant services related to Milpitas OnDemand and making sole source findings and findings that the procurement is in the best interest of the City.

C8. Adopt a Resolution Releasing Unclaimed Funds with a Value less than \$15 amounting to \$171.82 (Staff Contact: Lauren Lai, Finance Director/Risk Manager, 408-586-3111)

Adopted **Resolution No. 9138** releasing Unclaimed Funds with a value less than \$15 amounting to \$171.82.

C9. Consider the Request Received by the City Clerk and Approve Fee Waiver of \$1,500.00 for the Milpitas Community Educational Endowment & Samuel Ayer Alumni Association for an Event on September 30, 2022, and Approve a Fee Waiver of \$420.00 for the Christian Worship Center

for a Community Easter Egg Hunt on April 16, 2022. (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)

Approved a Fee Waiver of \$1,500.00 for the Milpitas Community Educational Endowment & Samuel Ayer Alumni Association for an event on September 30, 2022, and approved a Fee Waiver of \$420.00 for the Christian Worship Center Community Easter Egg Hunt on April 16, 2022.

C10. Accept Committee Member and Commissioner Resignations (Staff Contact: Wendy Wood, City Clerk, 408-586-3001)

Accepted the resignation of Committee Member Dhanwant Dhaliwal from the Measure F Oversight Committee, accepted the resignation of Sukhpreet Badesha from the Arts Commission, and directed the City Clerk to post the notices of the unscheduled vacancies.

C11. Adopt a Resolution Approving the Application for \$224,543 Per Capita Grant Funds from the State Department of Parks and Recreation and Designating the City Manager as the Authorized Signer on the Grant Agreement with the State of California (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)

Adopted **Resolution No. 9139** approving the submittal of an application for Per Capita Grant Funds from the State Department of Parks and Recreation and Designating the City Manager as the authorized signer on the grant agreement with the State of California.

C12. Accept the Report for Key 2021 Approved State Laws Impacting Municipal Operations (Staff Contact: Walter C. Rossmann, Deputy City Manager, 408-586- 3012)

Accepted the report for Key 2021 approved State Laws impacting municipal operations.

C13. Consider the Recommendation from Mayor Tran for the Appointment to a City Commission (Contact: Mayor Tran, 408- 586-3029)

Received Mayor Tran's recommendation and approve the appointment to the Energy and Environmental Sustainability Commission for a non-voting student member.

PUBLIC HEARINGS

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

14. Conduct a Public Hearing to Discuss the FY2022-25 Consolidated Plan Goals and Funding Allocations for FY2022-23 Community Development Block Grant and Corresponding Annual Action Plan (Staff Contact: Sharon Goei, Building Safety and Housing Director, 408-586-3260)

Building Safety and Housing Director Goei introduced the item and Housing and Neighborhood Services Administrator Musallam presented the staff report.

Mayor Tran opened the public hearing.

The following people spoke:

1. Voltaire Montemayor
2. Georgia Bacil
3. Teresa Johnson
4. Alaina Purcell Schroeder
5. Nicole Steward
6. Allysson McDonald

7. Marina Sanchez
8. Sheri Burns
9. Linda Phillips
10. Heather Griffin
11. Jordan Dancer
12. Renee Lorentzen

Mayor Tran closed the public hearing.

During staff presentation and Council discussion, it was noted that the amount of funding applicants requested is significantly more than the amount of funding anticipated to be available. Thus, a plan that proportionally allocates funding will need to be developed. Also, there was a discussion on evaluating which organizations were going to receive ARPA funding and that staff would bring back this information as part of the final proposed plan and recommendation for the second public hearing.

After discussion, motion: to move forward with the FY2022-25 Consolidated Plan Goals and funding allocations for FY2022-23 Community Development Block Grant with full funding to the established non-profits.

Councilmember Chua seconded the motion, commented on the Filipino Chamber of Commerce partnering with the Milpitas Chamber of Commerce, and made a friendly amendment to have staff find a way to subgroup the requests.

Mayor Tran accepted the friendly amendment.

Motion/Second: Mayor Tran / Councilmember Chua

Councilmember Dominguez made a friendly amendment to request that any money left over from overlapping service be used to provide funding for the Hope for the Unhoused.

Mayor Tran declined the friendly amendment.

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Phan, Vice Mayor Montano, Mayor Tran

NOES: Dominguez

Building Safety and Housing Director Goei clarified that the motion would include the consolidated plan goals.

Mayor Tran confirmed.

After Building Safety and Housing Director Goei's clarification Councilmember Dominguez requested to change her vote.

Motion: to reconsider the item.

Motion/Second: Councilmember Dominguez / Mayor Tran

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

Motion: to move forward the FY2022-25 Consolidated Plan Goals and funding allocation direction for FY2022-23 Community Development Block Grant with full funding to the established non-profits with an amendment requesting staff find a way to subgroup the requests.

Motion/Second: Mayor Tran / Councilmember Chua

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

COMMUNITY DEVELOPMENT

15. Receive a Presentation and Provide Direction to Staff on a Draft Zoning Ordinance Amendment amending Sections of Title V, Chapter 100, and Title XI, Chapter 10, of the Milpitas Municipal Code Relating to Mobile Food Vending (Food Trucks) (Staff Contact: Ned Thomas, Planning Director, 408-586-3273 and Avery Stark, Associate Planner, 408-586-3288)

Planning Director Thomas presented the staff report and Associate Planner Stark provided additional information.

The following people spoke during public comment:

1. Voltaire Montemayor
2. Felix M.

Mayor Tran asked for staff to include waste bin requirements and a designated restroom requirement for mobile food trucks at a location for more than five days.

Vice Mayor Montano asked to increase the curfew for food trucks to 11:00 p.m.

After discussion, motion: to provide direction to staff on the Zoning Ordinance Amendment setting forth regulations related to mobile food vending, changing the operating time to 11:00 p.m., including a waste bin requirement, and including a restroom requirement for food trucks that are parked five days or more in one place.

Motion/Second: Mayor Tran / Vice Mayor Montano

Motion carried by the following roll call vote:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

COMMUNITY SERVICES AND SUSTAINABLE INFRASTRUCTURE

16. Review the Proposed Streets, Parks and Facilities Naming Policy and Provide Feedback to Staff (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)

This item was continued to the next meeting.

17. Receive a Presentation on Responses to Council Inquiries and Other Matters Related to the Proposed 2023-2027 Capital Improvement Program and Provide Feedback to Staff (Staff Contact: Michael Silveira, CIP Manager, 408-586-3303)

CIP Manager Silveira presented staff report.

Police Chief Hernandez and Public Works Director Ndah presented additional information on the Council Inquiry items.

Information Technology Director Nam presented additional information on the Council Chamber Audio Video System replacement project.

Mayor Tran requested the Pavement Marker Pilot Program be postponed, commented on the Sports Center visitor bleachers and asked staff to explore some more cost-effective seating for an amount not to exceed \$100,000, and look for temporary strategies to be used in the meantime. He also commented on the Council Chamber Audio Visual System Replacement and stated he would like the CIP funds to focus on public safety.

Vice Mayor Montano agreed with the Mayor's requests and commented on concerns with the McCandless and Curtis Well Projects.

Mayor Tran stated that he would like to add the Mount Shasta/South Park Victoria intersection CIP project and traffic calming at Kennedy and North Park Victoria.

The following people spoke during public comment:

1. Voltaire Montemayor

18. Receive a Presentation on the Draft Climate Action Plan Update and Provide Direction to Staff (Staff Contact: Elaine Marshall, Deputy Public Works Director, 408-586-2603)

Deputy Public Works Director Marshall, and Air Quality and Climate Change Specialist with Ascent Environmental Inc., Hannah Kornfield presented the staff report.

The following people spoke during public comment:

1. Voltaire Montemayor
2. Felix M.
3. Tiffany Vuong

Vice Mayor Montano commented on rebates for upgrading appliances in older homes and asked staff to study the number of residents in Milpitas who own electric vehicles to help determine the number of charging stations needed.

Councilmember Phan asked for a more ambitious plan to include the elimination of the use of fossil fuels to achieve net-zero emissions, upgrading the City's fleet to get it closer to 100% zero emissions by 2030, reducing fossil fuel as a backup by 2030, asked for a status update on what the City is doing with microgrid technology, have an expedited solar permitting process, and engaging the school districts on solar projects.

19. Receive Report on Community Odor Monitoring Pilot Program Results (Staff Contact: Tony Ndah, Public Works Director, 408-586-2602)

This item was not heard.

LEADERSHIP AND SUPPORT SERVICES

- *20. Receive Report Regarding Mayoral/Council Term Limits and Provide Direction to Staff on Future Ballot Measures, If Any (Staff Contact: Christopher J. Diaz, City Attorney, 408-586-3040 and Ashwini Katak, Assistant City Manager, 408-586-3053)**

***This item was taken out of order after item 14.**

City Attorney Diaz presented the staff report.

Council discussed eliminating the office of an elected Mayor, changing the length of the Mayor and Councilmember term limits, changing the term limits from consecutive to lifetime, and setting different term limits for the elected Mayor and City Councilmembers.

There was a consensus of the majority of Council to change the term limits for Councilmembers from three four-year terms to two four-year terms with the option for a third term if they run for the Mayoral seat and keep the terms limits as consecutive.

Council discussed keeping the office of Mayor as elected and change the terms from three two-year terms to two two-year terms with the option for a third term if they run for Council. After further debate Council requested this discussion on the Mayoral seat come back at a later time.

ADJOURNMENT

Mayor Tran adjourned the meeting at 11:42 PM.

Draft meeting minutes submitted by City Clerk, Wendy Wood

MILPITAS CITY COUNCIL AGENDA PREVIEW LIST

May 3, 2022

CLOSED SESSION

INVOCATION (assigned to Mayor Tran)

PRESENTATION

- Affordable Housing and Building Safety Month (Proclamation)
- National Mental Health Awareness Month (Proclamation)
- Older Americans Month (Proclamation)

CONSENT CALENDAR

1. Receive City Council calendar for May 2022 (City Clerk)
2. Approve City Council Regular Meeting minutes of April 19, 2022 (City Clerk)
3. Preview list of items for May 17, 2022 (City Clerk)
4. Adopt a Resolution designating, Project No. 4304 Street Resurfacing 2022-2023 and Project No. 4303 Street Resurfacing 2021-2022 to be Funded by SB1 The Road Repair and Accountability Act of 2017 (Steve Erickson)
5. Adopt a Resolution Requesting the Allocation of Transportation Development Act (TDA), Article 3 Funding for the City's American Disability Act (ADA) Curb Ramp Transition Program, Project No. 4283 (Steve Erickson)
6. Second reading of Ordinance adopting a Controlled Equipment Use Policy per California Assembly Bill 481 (John Torrez)

PUBLIC HEARING

7. Hold a Public Hearing and Adopt a Resolution Approving the 2023-2027 Capital Improvement Program for the City of Milpitas (Steve Erickson)

COMMUNITY DEVELOPMENT

8. Tobacco Retail License Program (Ned Thomas) Receive a Follow-up Presentation from Staff and Provide Direction on Policy Options to Regulate Tobacco Retail Permitting, Flavored Tobacco and Electronic Cigarette Products, and Tobacco Retail Locations (Ned Thomas and Jay Lee)
9. Receive a Presentation from Staff and Provide Direction on Conceptual Plans for a Proposed Five-Story Mixed-use Development Project, with up to 98 Multi-family Residential Units and 2,000 sq. ft. of Ground-Floor Commercial-Retail Space, on a 1.25-acre Vacant Site Located in the MXD Mixed-use Zoning District at 255 South Main Street (APN 083-096-008) (Ned Thomas and Lillian VanHua)
10. Mil on Main, 1380 South Main Street (Sharon Goei)

COMMUNITY SERVICES

PUBLIC SAFETY

LEADERSHIP

11. Review List of Agenda Item Requests from Individual Councilmembers and Provide Direction to Staff, through the Prioritization Process, on the Items in Groups 1; and Provide Additional Clarification to Staff, if any, on Group 2 Items (Ashwini Kantak and Walter Rossmann,)

REPORTS

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

			NOTE: Deferred and completed items are not listed		
2022	OPEN				
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:
1	Bring back a conversation in the budget meeting to fund "walking beats" in the commercial and high crime areas	Dominguez	A	4/5/2022	Councilmember Dominguez will work with the City Manager to find sources
2	Have staff prepare a report on ghost guns in the City of Milpitas and look at any State bills that the Council should be aware of to write a letter of support; tie it into the gun's buyback program to add a further incentive for the ghost guns	Dominguez; Tran	A	4/5/2022	
3	Have staff look at the center divider, see what can be done to help improve safety, and come back with a report by the budget meeting to see if there is an opportunity to fund traffic mitigation	Dominguez	A	4/5/2022	
4	Explore an ordinance or policy for parking areas in Milpitas to reduce thefts and increase security in the commercial retail areas	Chua	A	4/5/2022	
5	Add Mexican Independence Day to the list of events	Montano	A	4/5/2022	Staff will bring forward an amendment to the flag-raising event resolution.
6	Crossing guards at McCandless and Montague Expressway	Montano	A	4/5/2022	
7	Consider funding to implement and create a homelessness encampment response team to be dispatched to encampment sites to address concerns, talked about creating a position to provide mental health assistance, and would like this to be brought back for discussion at the budget meeting	Dominguez	A	3/15/2022	Will be brought forward as part of the FY 22-23 budget discussion

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

Item # C4.

8	Consider expanding the Fee Waiver Policy eligibility to non-profit organizations outside of Milpitas but the events are specific to Milpitas residents	Chua	A	3/15/2022	Scheduled for Spring Quarterly City Council Workplan Items Prioritization Discussion (could be an amendment to the existing City Council Donation and Fee Waiver/Reduction Policy)
9	Discuss a strategy to invest money into a neighborhood foot patrol and develop a program within the Milpitas Police Department to increase foot patrol in high crime areas	Dominguez	A	3/15/2022	Scheduled for Spring Quarterly City Council Workplan Items Prioritization Discussion
10	Discuss looking at another CSCDA opportunity with Elanor property for middle-income housing.	Tran	A	3/15/2022	Discussion scheduled for 4/19/2022
11	Include a visitor side bleacher strategy for the Milpitas Knights Pee-Wee football program in the budgeting process	Tran	A	3/15/2022	Discussed at the 4/5/2022 City Council meeting, staff was directed to identify a low cost option to increase seating capacity vs. adding bleachers.
12	City Attorney to look at encampment ordinances from the cities of Oakland and Los Angeles, or other regional cities and bring a discussion on the existing policies to back to Council before the July recess	Tran	A	3/15/2022	Scheduled for discussion at the 4/19/2022 City Council meeting
13	Create a plan for future solar paneling at City facilities	Montano	A	3/1/2022	Scheduled for Spring Quarterly City Council Workplan Items Prioritization Discussion
14	Add a mobile stage to the Juneteenth event	Tran	A	3/1/2022	
15	Requested the City Attorney's office explore encampment ordinances from the City of Oakland, Los Angeles, or other regional cities and would like a discussion on the existing policies to be brought back before the July recess.	Tran	A	2/15/2022	Scheduled for Spring Quarterly City Council Workplan Items Prioritization Discussion
16	Requested information on how early in the morning trash collection can start and check if the time can be pushed out so that it does not disrupt the nearby neighborhood	Dominguez	A	2/8/2022	Email sent to the City Council on 3/15/2022

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

Item # C4.

17	Requested a program to help support the safety of the shopping center, creating a partnership with the businesses, and allocating at least \$70,000 to support security	Dominguez	A	2/1/2022	Post the pandemic lock-downs, during the last six to nine months, the Police Department has primarily focused on crime prevention community engagement events for residential areas and has been in process to expand such events to our business community with crime prevention information and events anticipated to be scheduled for late February/early March. The funding allocation will be scheduled for the Spring Quarterly City Council Workplan Items Prioritization Discussion. The funding allocation will be discussed at 4/19/2022 Council meeting.
18	Look into putting the City Hall address on the building facade	Montano	A	2/1/2022	Scheduled for Spring Quarterly City Council Workplan Items Prioritization Discussion
19	Designate the California Oak Tree as the City's official heritage tree	Montano	A	2/1/2022	Scheduled for Spring Quarterly City Council Workplan Items Prioritization Discussion
20	Evaluate reopening the childcare center with a non-profit organization running the center	Montano	A	2/1/2022	Scheduled for Spring Quarterly City Council Workplan Items Prioritization Discussion
21	Look into possible rebates for Commercial businesses similar to Valley Water District's conservation rebate program for residents	Montano	A	2/1/2022	Staff responded via email on March 15, 2022
22	Requested a meeting for the subcommittee for the Old Town Main Street be scheduled next month	Montano	A	1/18/2022	Meeting was scheduled for 4/12/2022
23	Requested that Police Department work with Safeway shopping center businesses, minority owned small businesses, and the Chambers of Commerce to provide a business watch presentation	Dominguez	A	1/18/2021	Scheduled for Spring Quarterly City Council Workplan Items Prioritization Discussion
24	Explore a lease for the vacant land adjacent to the Library for City use	Tran	A	1/18/2022	Scheduled for Spring Quarterly City Council Workplan Items Prioritization Discussion

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

25	Requested staff to look into an ordinance for the number of people allowed in a house.	Montano	A	12/7/2021	Scheduled for Spring Quarterly City Council Workplan Items Prioritization Discussion
26	Requested staff check to see if the City has an ordinance for house numbers	Chua	A	12/7/2021	Email to be sent to the City Council
27	Request for the City to make the temporary third-party food deliver fee caps permanent and add additional provisions for enforcement	Phan	A	11/16/2021	Scheduled for Spring Quarterly City Council Workplan Items Prioritization Discussion
28	Staff to look into mural Art on Great Mall Parkway on the VTA owned Light rail pillars	Montano	A	11/16/2021	Scheduled for Spring Quarterly City Council Workplan Items Prioritization Discussion
29	Look at creating an ordinance for a blanket business permit that would grandfather and waive all fees for any business started separate from their original business if they are creating anything that is helping save lives during the pandemic.	Dominguez	A	11/2/2021	Scheduled for Spring Quarterly City Council Workplan Items Prioritization Discussion
30	Staff to look into County reimbursements to the City for the extra services provided to HomeKey.	Chua	A	11/2/2021	Email sent to the City Council on 4/08/2022
31	Host a Town Hall at City Hall in January, February, and March for the community to share comments about the issue of the unhoused.	Tran	A	11/2/2021	This item was postponed by Mayor Tran due to the Omicron variant and a rise in COVID-19 cases

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

Item # C4.

	ACTIVE				
	Topic	Submitted by:	A, F, CM, or CCM	Date requested or Rec'd Form	STATUS and/or DATE scheduled on City Council meeting agenda:
32	Fee waiver for the Filipino American South Bay Community to hold pop-up resource fair at a City Park	Dominguez	A	3/1/2022	Staff has engaged with representatives of the organization to identify potential eligibility avenues such as partnering with a Milpitas based non-profit organization consistent with the Policy.
33	Agendize an update to the Lobbyist Ordinance for the next meeting	Chua	A	3/1/2022	Council Agenda; At the 3/15/2022 Council Meeting, City Attorney was directed to bring back a proposed ordinance amendment for further
34	Fee waiver for the Christian Worship Center's Easter egg hunt	Tran	A	3/1/2022	Scheduled for Council Consideration on the 4-05-2022 meeting; 4/05/2022 approved
35	A reform of the City's Speed hump policy	Tran	A	3/1/2022	The review of the Speed Hump Policy is an ongoing Council referral. Staff agendized the item for the April 8, 2022 Transportation Subcommittee meeting
36	Reduce the park rental fees for the Samuel Ayer High School reunion	Montano; Tran	A	2/1/2022; ; 3/01/2022	Scheduled for Council Consideration on the 4-05-2022 meeting; 4/05/2022 approved
37	Requested an appropriation in an amount not to exceed \$250,000 to procure a contract to address the streetlights that are pending fieldwork.	Tran	A	2/1/2022	At this time, staff has sufficient Council approved resources to address the remaining streetlight outages; however, will bring relevant actions for Council consideration, if needed.
38	Requested that staff study the placement of a City sign for the Milpitas Police Department and explore the cost of a new sign	Dominguez	A	1/18/2021	Staff has been working on upgrading signage and landscaping around the Police Department and Public Works Building.

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

Item # C4.

39	Have a picture of Albert Vogel Sr. put up in the Senior Center	Montano	A	10/19/2021	Approved to move forward at the 1/11/2022 Council meeting; Staff engaged the artist of the existing mural regarding this Council approved item.
40	Requested that the City provide the Commissioners with an appreciation gifts	Chua	A	10/19/2021	Approved to move forward at the 1/11/2022 Council meeting; staff has order the gift and
41	Requested an agenda item on November 2 Council meeting allowing the Council to rescind direction given to 1355 California Circle and include direction to allow the project application to move forward without being tied to a specific plan	Chua	A	10/19/2021	At the 1/18/2022 council meeting, Council voted 4-1 to rescind the direction and direct staff and the application to explore option one in the presentation to amend the General Plan and remove Council policy for the preparation of a Specific Plan
42	Requested the executive staff to look into reflective road markers as an effective way to reduce cars doing donuts in the street	Chua	A	10/19/2021	At the 11/12/21 Transportation Subcommittee, the Subcommittee directed to bring back this request to Council as part of the 2022-23 budget process. Staff provided that information at the CIP Study Session on 2/8/2022. Based on Council discussion during the 4/5/2022 City Council meeting, the Council did not direct staff to include this item in the 2023-2027 CIP.
43	Requested staff look into increasing the number of Park and Recreation Commissioners from seven to nine.	Montano	A	10/5/2021	1/11/2022 Council meeting; update to commission by-laws and Commissioner handbook scheduled for approval at the 4/19/2022 meeting; Proposed Bylaw changes scheduled for Council consideration
44	Requested staff work with the Vice Mayor and Mayor to explore and discuss building height limits near the hillside by January 2022	Tran	A	9/21/2021	Approved to move forward at the 1/11/2022 Council meeting; I scheduled for 6/21/2022
45	Requested the City extend the outdoor dining options through March of next year	Phan	A	9/21/2021	Planning Director to provide information on current outdoor dining extension

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

46	Work with the school district to have a contest to create art murals for the pillars on Main Street	Montano	A	9/7/2021	Approved to move forward at the 1/11/2022 Council meeting
47	Partner with the Rotary Club of Silicon Andhra to promote the stem cell donor outreach with a webinar and campaign to help increase the number of donors	Chua	A	8/17/2021	Staff will include the stem cell donor information in regularly scheduled wellness event
48	Include a bust of Maria Lemire on the Mural in front of the Senior Center	Montano	A	8/17/2021	Approved to move forward at the 1/11/2022 Council meeting
49	City to highlight mental health resources on the website	Dominguez	A	8/17/2021	Staff will issue an Email
50	Look into allowing outdoor music and would like the ordinance brought back to Council.	Montano	A	8/5/2021	Approved to move forward at the 1/11/2022 Council meeting; scheduled for 6/21/2022
51	Look into opening up the Senior Center on Saturdays for half a day	Chua	A	8/5/2021	As presented by staff on 1/11/2022, this pilot is scheduled for completion in fall 2022. In preparation for the pilot, staff will issue a survey to seniors asking for the types of services they are seeking; hire staff based on the feedback; and start the three-month pilot in September 2022.
52	Look into bringing back a roller rink	Montano	A	8/5/2021	Approved to move forward at the 1/11/2022 Council meeting. Funding for the program will need to be prioritized through the FY 22-23 budget process.
53	Look into how the City can be a resource for small businesses to help guide them on what to do in terms of ADA (Americans with Disabilities Act) requirements due to the quick changes made to facilities during the pandemic	Chua	A	8/5/2021	SVEDA/SV Joint Venture hosted the "SV Small Businesses & ADA Compliance" webinar on 11/3/21. Several Milpitas business reps, & staff from Econ. Dev. & Building participated. Staff met with reps from CA Comm. on Disability Access to discuss business education & outreach.

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

Item # C4.

54	Discussion in the next fiscal year, to have a sliding scale permitting program for seniors and low-income residence for necessary safety renovations	Tran	A	5/4/2021	8/09/2021 Council voted 5-0 to move this item forward and modify the existing Milpitas Assistance program to include seniors; Staff will bring this item for funding consideration as part of the FY 2022-23 budget process
55	Discussion to reduce the City's Senior Center facilities deposit	Montano	A	5/4/2021	8/09/2021 Council voted 5-0 to refer this item as part of the development of the FY 2022-23 Master Fee Schedule; Will be brought forward on 4/19 as part of Master Fee Schedule discussion
56	Requested that the City have mini-libraries in the low-income areas of the City.	Montano	A	4/20/2021	8/09/2021 Council voted 3-1-1 to move this item forward, staff to follow up with Vice Mayor Montano on specific vision. Staff met with the Vice Mayor. The City will continue to facilitate libraries as needed but will not take a lead role in funding or operating them.
57	Staff to create a plan on how to increase the number of local businesses doing business with the City	Chua	A	4/6/2021	At 8/9/2021 Council meeting, Council voted that this item may have to come back for additional discussion because there may be some legal considerations.
58	Staff to look into creating a rose garden with a children's memorial site	Montano	A	4/6/2021	8/09/2021 Council voted 4-1 to discuss details with Vice Mayor Montano and refer this item as part of the development of the 2023-2027 CIP; The funding for this project will be included in the 2023-2027 Capital Improvement Program scheduled for adoption on May 3, 2022.

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

Item # C4.

59	Staff to look into creating "Welcome to Milpitas" signs in key areas of in the City	Montano	A	4/6/2021	8/09/2021 Council voted 5-0 to move this item forward and Council provided direction that the signs should align with the efforts currently underway with the Metro Plan and Main Street Gateway Specific Plan process and work with private development. Staff was directed to work with Vice Mayor on additional clarification. In November, Vice Mayor Montano noted a preference for a location on South Main Street. This project will be added to unfunded project list of the 2023-2027 CIP to allow time for staff to research potential grant funding and outreach to local business and service clubs.
60	Staff to provide information to place a measure on the ballot to change the directly elected Mayor to a rotational at-large position	Tran	CCM	3/16/2021	To be brought forward in Spring of 2022, once new City Attorney is in place; scheduled for 3/15/2022; rescheduled for 4/05/2022
61	Staff to provide information on a landmark policy for the City of Milpitas	Tran	A	3/16/2021	8/09/2021 Council voted 5-0 to move this item forward; this item will be included for funding consideration in the development of the FY 2023-27 CIP for assessment of historical and cultural resources and development of landmark policy; The funding for the assessment of historical and cultural resources and development of a landmark policy will be included in the 2023-2027 Capital Improvement Program scheduled for adoption on May 3, 2022. This project will be scheduled to begin in FY 2022-23.

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

Item # C4.

62	Amendment to the existing ordinance for third-party food delivery vendor services to prohibit regulatory response fees	Phan	A	2/16/2021	Agendized for discussion on 3/16/2021, deferred to 4/06/2021; CC direction for City Attorney to prepare a report; At the 11/12/2021 Transportation Subcommittee, the Subcommittee directed to bring back this request to Council as part of the FY 2022-23 budget process.
63	Ordinance to ban vaping in the City	Montano	A	12/15/2020	Ordinance regarding a ban on use in certain areas adopted by Council on 6/15/2021. Policy related to access to products will be brought forward in Spring 2022
64	Review City policy on speed bumps	Tran	A	12/15/2020	Presented to Transportation Subcommittee on 02/12/2021; voted on 3/16/2021 to revisit this item; Scheduled for April 8, 2022 Transportation Subcommittee Meeting
65	Consider change in term limits for Mayor + Councilmembers	Montano	A	6/16/2020	8/4/2020: Voted 3 -2 to pursue; 2/02/2021 to agendize for a future meeting; 3/16/2021 voted 3-1-1 to move forward. Scheduled for 3/15/2022; rescheduled for 4/05/2022; 4/05/2022 could give direction to move forward with Councilmember term limits and discuss the Mayoral seat at a later date



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve and Authorize the City Manager to Execute a Stormwater Management Facilities Operation & Maintenance Agreement for BP Products North America Inc. at 1575 Landess Avenue (Staff Contact: Steve Erickson, Engineering Director/City Engineer 408-586-3301)
Category:	Consent Calendar-Community Development
Meeting Date:	4/19/2022
	<u>Recommendation:</u> Approve and authorize the City Manager to execute a Stormwater Management Facilities Operation and Maintenance Agreement for BP Products North America Inc. for the Gas Station and Convenience Store Project at 1575 Landess Avenue.

Background:

On June 27, 2018, the Property Owner received entitlements from the City allowing for the development of the Property, including the construction of a 3,180 sq. ft. gasoline service station and convenience store, a new canopy structure over existing fuel dispensers, a new trash enclosure, offsite and onsite improvements, landscaping, irrigation, and stormwater treatment measures on a 0.56-acre site located at 1575 Landess 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 installed (**Attachment 1**).

The BP Arco project constructed stormwater Bio-treatment devices and BP Products North America Inc. will be responsible for the perpetual maintenance and operation of the bio-treatment areas specified in Agreement. BP Products North America Inc 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 comply with Federal and State law and to allow for the required City annual inspection of installed stormwater Bio-treatment devices, staff recommends approval of the Operations and Maintenance Agreement.

Fiscal Impact:

As required by the Stormwater Management Facilities Operation and Maintenance Agreement, the project developer/owner will pay the City for the required annual inspections of the installed stormwater Bio-treatment facilities.

California Environmental Quality Act:

The City Council's approval of the agreement was already reviewed under the California Environmental Quality Act (CEQA) at the time the City Council approved the entitlements for the project thru an initial environmental assessment. The Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), which assessment determined that the proposed project is exempt from further CEQA review, each as a separate and independent basis, pursuant to Section 15183 (Projects consistent with a Community Plan, General Plan and Zoning), Section 15302 (Replacement and Reconstruction) and Section 15303 (New Construction or Conversion of Small Structure) of the CEQA Guidelines. On this basis, the City Council relies on the previous CEQA review conducted in approving this agreement.

Recommendation:

Approve and authorize the City Manager to execute a Stormwater Management Facilities Operation and Maintenance Agreement for BP Products North America Inc. Gas Station and Convenience Store project at 1575 Landess Avenue.

Attachment:

1. Stormwater Management Facilities Operation and Maintenance Agreement with Exhibit A & B

**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: 088-36-002

**STORMWATER MANAGEMENT FACILITIES
OPERATION AND MAINTENANCE AGREEMENT**

This Stormwater Management Facilities Operation and Maintenance Agreement ("AGREEMENT") is made and entered into this _____ day of _____ 2022 ("Effective Date"), by and between BP Products North America Inc. a corporation organized under and by virtue of the laws of the State of Maryland ("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 a new gas station with convenience store, utilities, and associated offsite and onsite improvements landscaping, irrigation, and stormwater treatment measures on a 0.56 acre site located at 1575 Landess Avenue in Milpitas and more commonly known as BP Arco, Project Nos. PJ 5035, (the "Project") on the Property; and subject to conditions set forth in the following (collectively "City Approvals"):

1. Resolution No. 17-018 approving Site Development Permit No. SD17-0008,

2. Resolution No. 17-018 approving Conditional Use Permit No. UP17-0014

- 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: Dan Fiden,
US Portfolio & Business Development
Director
BP Products North America Inc.
30 South Wacker Drive, Ste 900
Chicago, IL 60606

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:

By: **BP Products North America Inc.,**
a corporation organized under and by virtue of the laws of the State of Maryland

By: _____
Name: Dan Fiden
Title: US Portfolio & Business Development Director

CITY:

CITY OF MILPITAS,
A MUNICIPAL CORPORATION

By: _____
Steven McHarris, City Manager

Approved as to form:

By: _____
Christopher J. Diaz, City Attorney

Approved:

By: _____
Lauren Lai, CPA, MPA
Finance Director/Risk Manager

Recommended for approval:

By: _____
Steve Erickson, PE
Director of Engineering/City Engineer

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

The land referred to in this commitment is situated in the City of Milpitas, County of Santa Clara, State of California, and is described as follows:

All of Parcel B as shown on that certain map entitled, Amended Record of Survey of a Portion of Parcel A As said Parcel is shown on that certain Record of Survey filed September 28, 1961, in Book 138, Maps, Pages 33, 34 and 35, Santa Clara County Records, also being Portion of Lot 30 of the Partition of the Milpitas Rancho, filed in Book C miscellaneous maps, Page 428, Santa Clara County Records, and lying within the City of Milpitas, California, which map was filed in the office of the recorder Santa Clara County, California, on August 10, 1996 in Book 213 of Maps, at Page 25.

10 FEET WIDE PUBLIC SERVICE UTILITY EASEMENT

Legal Description

All that real property situate in the City of Milpitas, County of Santa Clara, State of California being a portion of Parcel B as said Parcel is show on the Amended Record of Survey, filed for record on August 10, 1966, in Book 213 of Maps, at page 25, Santa Clara County Records and being more particularly described as follows:

The Southerly 10.00 feet, Southeasterly 10.00 feet, and Easterly 10.00 feet, measured at right exhibitangles, of said Parcel B.

EXHIBIT B
Operation and Maintenance Plan

Stormwater Management Plan

**BP Arco
1575 Landess Avenue
Milpitas, CA**

Prepared by:

PM Design Group
2455 Bennett Valley Road
Suite A102
Santa Rosa, CA 95404
Michelle Maynard, P.E.

PMDG Job No: C-BPW16043.0

September 1, 2017

REVISED

November 22, 2019
&
February 25, 2020

TABLE OF CONTENTS

I. PROJECT SETTING	
I.A. Project Description	1
I.B. Existing Conditions	1
I.C. Opportunities and Constraints for Stormwater Control	2
I.D. Hydromodification Applicability	2
II. SELECTION AND PRELIMINARY DESIGN OF STORMWATER TREATMENT BMPs	3
II.A. General Characteristics of the Treatment Facilities	3
II.B. General Characteristics of the On-Site Soils	3
III. SOURCE CONTROL MEASURES	4
TABLE 1 – SOURCES AND SOURCE CONTROL BMP'S	4
IV. PERMITTING AND CODE COMPLIANCE ISSUES	5
V. DOCUMENTATION OF DRAINAGE DESIGN	6
TABLE 2 – DRAINAGE MANAGEMENT AREAS	6
TABLE 3 – HYDRAULIC GRADE LINE CALCULATIONS	7
VI. CERTIFICATIONS	
VI.A Owner's Certifications	8
VI.B Engineer's Certification	9
<u>APPENDICES</u>	
A. STORMWATER REQUIREMENTS C.3 DATA FORM	10
B. INFILTRATION/HARVESTING AND USE FEASIBILITY SCREENING WORKSHEET	15
C. VICINITY MAP	19
D. BMP SIZING CALCULATIONS	20
E. DESIGN DRAWINGS	31
F. STORM DRAIN MODELING	36
G. OPERATIONS AND MAINTENANCE PLAN	47
H. GEOTECHNICAL ENGINEERING SERVICES REPORT	56

I. PROJECT SETTING

I.A. Project Description

The ARCO remodel project proposes to redevelop an existing fueling station on a 0.56-acre site located in a C2 general commercial section at 1575 Landess Avenue in Milpitas, California (APN # 088-36-002). The project will consist of the demolition of an existing convenience store building located on the northwest corner of Landess Avenue and South Park Victoria Drive. The new improvements consist of the construction of a new 3,180 square foot convenience store, new pavement and a new parking lot.

The proposed surface drainage for the site will generally follow the existing runoff pattern. Drainage is directed away from the new buildings and existing fuel canopy to bio-retention areas for stormwater treatment. The runoff of the replaced impervious surface, including the building rooftops and parking area, will be treated by the bio-retention system. Any overflow from the bio-retention areas will be piped directly to the existing storm drain manhole on South Park Victoria Drive.

Project information and sizing is in the C.3. Data Form included in Appendix A. Harvesting and Use is not considered feasible according to the Screening Worksheet included in Appendix B.

There is a significant low point in the northeast corner that combined with the elevation drop and the location will preclude the use of LID treatment in the surrounding area. The use of a trench drain will minimize the area to 187 square feet. However, this minimal, untreated area represents the necessary grade breaks in front of the existing driveway, which will remain untouched. However, this untreatable impervious area will be covered by an "interceptor tree credit" for a planted Evergreen tree near the trash enclosure.

Although there are only minimal natural resources associated with this site every effort has been made to maximize storm water BMP's and preserve existing landscaping and trees. Please see Appendix A for further description of project impact.

I.B. Existing Site Condition

The site is currently fully developed (Vicinity Map - Appendix C). It is relatively flat with majority of the site covered by paved area. The existing landscaping areas are extremely limited and the storm runoff is untreated and sheet flows to the streets and landscape areas.

I.C. Opportunities and Constraints for Stormwater Control

Opportunities:

- Capture onsite stormwater which currently runs to the street untreated and direct it through bio-retention area.
- Landscaping available for planting Interceptor Trees
- Label all drain inlets (in pavement area) with "No Dumping - Flows to the Bay" stencils.
- Cover the new trash enclosure.
- Direct drainage from within the trash enclosure to the sanitary sewer.

Constraints:

- The existing site and proposed site designs are constrained by the size of the lot as requirements for parking and vehicle and fuel truck circulation. In order to meet the require parking and circulation design requirements most of the site must be paved.
- The existing site soil is clay to sandy clay loam, a type D soil, as per the Geotechnical Engineering Services Report (Appendix H). This low-permeable soil will limit infiltration.

I.D. Hydromodification Applicability

A review of the HMP Applicability Map for the City of Milpitas indicates that the project site's "subwatersheds and catchments are greater than or equal to 65% impervious" therefore hydromodification is not applicable for this site.

II. SELECTION AND DESIGN OF STORMWATER TREATMENT BMPs

We have selected a Bio-Retention as the BMP of choice to treat the proposed new impervious areas (building roof, new pavement and new parking lot).

- Runoff from each of these areas will pass through bio-retention.
- Overflow from both bioretention areas will be directed to new storm drain piping connecting to the existing storm drain line on South Park Victoria Drive.

We have selected an Interceptor Tree for a stormwater treatment credit for the driveway on S. Park Victoria Avenue that will account for runoff unable to be captured.

II.A. General Characteristics of the Treatment Facilities

- The selected treatment facility consists of bio-retention, which is selected to treat the anticipated pollutants of concern for this project.
- Two treatment facilities will be used – one southeast and one southwest.
- Site drainage and division, utility lines, bio-retention facilities, and details are shown in the Design Drawings included in Appendix E.
- The Operations and Maintenance Plan for the treatment facilities is attached as Appendix G.

II.B. General Characteristics of On-Site Soils

- Infiltration rates of existing onsite soil is 0.02 inches per hour according to the Geotechnical Report included as Appendix H.

III. Source Control Measures

The following activities planned for this development have potential to enable pollutants to be conveyed by storm runoff:

- Landscape maintenance
- Refuse disposal for the retail building
- Refueling of underground storage tank
- Refer to Table 1 'Sources and Source Control BMPs

TABLE - 1 Sources and Source Control BMPs

Potential Source	Permanent BMPs	Operational BMPs
Landscape / outdoor pesticide use.	• Any native trees, shrubs, and ground cover will be preserved to the maximum extent possible. • Landscaping will be designed to minimize required irrigation and runoff, to promote surface infiltration, and to minimize the use of fertilizers and pesticides that can contribute to stormwater pollution. • Plantings will be selected to be appropriate to anticipated soil and moisture conditions. • Where possible, pest-resistant plants will be selected, especially for locations adjacent to hardscape. • Plants will be selected that are appropriate for site soils, slopes, climate, sun, wind, rain, land use, air movement, ecological consistency, use of recycled water (where applicable), and plant interactions.	• Landscaping contractor. Contract to state, "that landscaping is to be maintained using Integrated Pest Management (IPM) principles, with minimal or no use of pesticides".
Refuse areas	The refuse area will be covered or graded such that it drains to an internal drain inlet that connects to the sanitary sewer system.	• Management will enter into a contract for periodic refuse pick up at the site. • Trash enclosure will be periodically inspected to remove debris. Drain will be periodically inspected to remove debris and prevent blockage.
Outdoor storage of equipment or materials	No outdoor storage of equipment or materials will be allowed at this facility.	N/A
Vehicle and equipment cleaning.	No vehicle and equipment cleaning will be allowed at this facility.	N/A

TABLE - 1 Sources and Source Control BMPs (continued)

Potential Source	Permanent BMPs	Operational BMPs
Fire Sprinkler Test Water	Fire Sprinkler test valves will be equipped with a means to divert test water to the sanitary sewer.	
Miscellaneous drain or wash water	Condensate drain lines will discharge to the sanitary sewer system or to landscaped areas. Rooftop mounted equipment will be roofed or covered to prevent pollutants from entering runoff	N/A
Sidewalks, parking lots and drive isles	New hardscape areas drain to Bio-retention area.	Sidewalks, parking lots, and drive isles shall be swept regularly to prevent accumulation of litter and debris. Debris from pressure washing shall be collected and not allowed to enter the storm drain system. Washwater containing any cleaning agent or degreaser shall be collected and not discharged to a storm drain.
Building Roof Area	Drainage from the building roof area will be conveyed by downspouts directly to the sidewalk and then to the Bio-Retentions for treatment. Roofing, gutters, and trim shall not be copper or other unprotected metal that could leach into runoff.	Downspouts and gutters will be periodically inspected to remove debris and prevent blockage.

IV. Permitting and Code Compliance Issues

There are no known conflicts between the proposed stormwater control plan and Santa Clara County ordinances or policies. Any conflicts that are found will be resolved through the design review process or during subsequent permitting.

V. Documentation of Drainage Design

TABLE - 2 Drainage Management Areas

DMA Name	Surface Type	Impervious Area (square feet)	Pervious Area (square feet)
DMA 1	ROOF, SIDEWALK, PAVEMENT AND LANDSCAPING	11,099	1,120
DMA 2	SIDEWALK, CANOPY, AND PAVEMENT	10,076	0
O-1	PAVEMENT	187	0

IMP Descriptions

DMA 1 and DMA 2 will be treated by bioretention facilities, labeled as IMP 1 and IMP 2, respectively. IMPs were sized using the Worksheets - Sizing for Flow- and Volume- Based Treatment Measures (Combination Flow and Volume Approach) included in Appendix D. IMP 1 was sized based on DMA 1 specifications and for a ponding depth of 0.5 ft, the surface area will need to be 396 square feet. This surface area will meet the treatment capacity required. IMP 2 was sized based on DMA 2 specifications and showed a surface area of 302.28 square feet and ponding depth of 0.417 ft. The bioretention facility ponding depth was sized at 5 inches and the surface area at 311 square feet, which meets the treatment capacity required. These results are presented on the Water Quality Management Plan in the Design Drawings in Appendix E.

O-1 will be reduced by stormwater credit via an interceptor tree. The 15 gallon Evergreen Sweet Bay tree is located adjacent to the existing driveway in the landscape planter beside the trash enclosure. The tree is shown on the Water Quality Management Plan and on the Planting Plan (L1), both included in the Design Drawings in Appendix E.

Storm Drain Calculations

Rainfall patterns used for the 10-year storm were based on the Rainfall Intensity Charts for the City of Milpitas. Hydraflow Hydrographs Extension for AutoCAD Civil 3D was used for steady-state storm simulation of the 10-year storm and are included in Appendix F. The flow rate for DMA 1 during a 10-year storm is 0.657 cfs. The flow rate for DMA 2 during a 10-year storm is 0.632 cfs.

Stormwater runoff for DMA 1 and 2 will be treated through the bioretention facilities (IMP 1 and IMP 2, respectively) and then routed through the proposed storm drain pipes. The overflow structure for IMP 2 connects to IMP 1 with the proposed 10" storm drain pipe. The pipe bends once after the fueling canopy before final connection to IMP 1 overflow device. IMP 1 overflow device then connects to the public storm drain line on the other side of South Park Victoria Drive. The connection is made with a 15" RCP Class III at a newly proposed manhole.

For DMA 1, stormwater runoff collection is divided into two segments. The first segment represents 3,180 sqft of roof surface area and 1,120 sqft of the landscaping behind the building. This runoff would amount to 0.2 cfs, which will be contained in the 6" slotted pipe will handle this flow even if half full, equation below:

$$\text{Manning's Equation: } Q = (1.49/n) * A [R^{(2/3)}] * \sqrt{S}$$

Where $n = 0.010$, $A = 0.10 \text{ ft}^2$, $D = 0.5 \text{ ft}$, $P = 0.8$, $R_h = 0.13$ ($R_h = A/P$), $S = 0.005$

$Q = 0.21 \text{ cfs}$.

The second segment represents 7,919 sqft of pavement and sidewalk runoff. When runoff leaves the landscaping from the first segment, it will capture the second segment. Therefore the slotted pipe expands to 8" to accommodate the entire DMA 1 surface runoff of 0.657 cfs. After all is captured it enters IMP 1. Assuming the pipe is flowing more than half full, the 8" storm drain line could handle up to 0.9 cfs at a 6 inch depth of flow as shown in Manning's equation below:

$$n = 0.010, A = 0.28 \text{ ft}^2, D = 0.66 \text{ ft}, P = 1.4, R_h = 0.2 (R_h = A/P), S = 0.005$$

$$Q = 0.9 \text{ cfs.}$$

For DMA 2, stormwater runoff from pavement flows into IMP 2 via curb cuts, while stormwater runoff from the canopy roof (1,966 sq ft; 0.126 cfs) drains flows through two 4-inch pipes prior to discharging into IMP 2. These pipes connect before discharging into IMP 1. Therefore, a 4" storm drain line flowing full would handle this flow, see equation below: $n = 0.010, A = 0.09 \text{ ft}^2, R_h = 0.33 \text{ ft}/4 = 0.08, S = 0.005$
 $Q = 0.18 \text{ cfs.}$

If stormwater is not infiltrated, runoff will exit IMP 2 through a 10" pipe that travels to IMP 1. Assuming the pipe is flowing full, the 10" storm drain line could handle up to 2.02 cfs as shown in the equation below: $n = 0.010, A = 0.55 \text{ ft}^2, R_h = 0.83 \text{ ft}/4 = 0.21, S = 0.005$
 $Q = 2.02 \text{ cfs.}$

The volume and flow for IMP 2 then combines with the non-infiltrated volume for IMP1; however, after this combination, the storm drain pipe size increases to a 15" storm drain pipe. Assuming the pipe is flowing full, the 15" storm drain line could handle up to 4.3 cfs as shown in the equation below: $n = 0.013, A = 1.23 \text{ ft}^2, R_h = 1.25 \text{ ft}/4 = 0.31, S = 0.0044$
 $Q = 4.3 \text{ cfs.}$

Therefore, both the 10" pipe and the 15" pipe size will be sufficiently sized for the 10-year storm event. The discharge piping containing the treated stormwater runoff was then modeled to determine the hydraulic grade line (HGL). HGL calculations were run in Storm Sewers Extension for AutoCAD Civil 3D and are included in Appendix F. The results indicate the stormwater runoff in a 10-year storm will be contained below ground surface as shown in the table below.

TABLE - 3 Hydraulic Grade Line Calculations

Inlet ID	Ground Surface (ft)	10YR	10YR
		HGL Junction	Below Ground (ft)
IMP2 Overflow	102.40	100.32	2.08
IMP1 Overflow	102.05	99.86	2.99
Manhole in ROW	104.72	99.91	4.85

VI. Certifications

VI.A. Owner's Certification

Owner's Certification

Owner
1575 Landess Avenue
Milpitas, CA

The applicant accepts responsibility for interim operation and maintenance of stormwater treatment and flow-control facilities until such time as this responsibility is formally transferred to a subsequent owner.

By: _____
Signature

Date: _____

Name: _____
Print Name

Title: _____

V.I.B. Engineer's Certification

**PM Design Group
2455 Bennett Valley Road, Suite A102
Santa Rosa, CA 95404**

I certify under penalty of law that this document and all attachments were prepared under my jurisdiction or supervision in accordance with a system designated to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathered information, to the best of my knowledge and belief, the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

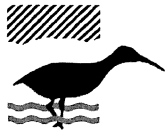


Name: Michelle Maynard
Michelle Maynard, P.E.
Civil Engineer

Date: 2/25/2020

APPENDIX A

Stormwater Requirements C.3 Data Form



**Santa Clara Valley
Urban Runoff
Pollution Prevention Program**

Date Form Completed: 02/25/20

Item # C5.

Completed by: Michelle Maynard

Provision C.3 Data Form

Which Projects Must Comply with Stormwater Requirements?

All projects that create and/or replace **10,000 sq. ft.** or more of impervious surface on the project site must fill out this worksheet and submit it with the development project application.

All restaurants, auto service facilities, retail gasoline outlets, and uncovered parking lot projects (stand-alone or part of another development project, including the top uncovered portion of parking structures) that create and/or replace **5,000 sq. ft.** or more of impervious surface on the project site must also fill out this worksheet.

Interior remodeling projects, routine maintenance or repair projects such as re-roofing and re-paving, and single family homes that are not part of a larger plan of development are **NOT** required to complete this worksheet.

What is an Impervious Surface?

An impervious surface is a surface covering or pavement that prevents the land's natural ability to absorb and infiltrate rainfall/stormwater. Impervious surfaces include, but are not limited to rooftops, walkways, paved patios, driveways, parking lots, storage areas, impervious concrete and asphalt, and any other continuous watertight pavement or covering. Pervious pavement, underlain with pervious soil or pervious storage material (e.g., drain rock), that infiltrates rainfall at a rate equal to or greater than surrounding unpaved areas OR that stores and infiltrates the water quality design volume specified in Provision C.3.d of the Municipal Regional Stormwater Permit (MRP), is not considered an impervious surface.

For More Information

For more information regarding selection of Best Management Practices for stormwater pollution prevention or stormwater treatment contact: _____

1. Project Information

Project Name: Arco Site No. 538 **APN #** 088-36-002

Project Address: 1575 Landess Avenue, Milpitas, CA

Cross Streets: Landess Avenue & S. Park Victoria Drive

Applicant/Developer Name: PM Design Group, Inc.

Project Phase(s): 1 of 1 **Engineer:** Michelle Maynard

Project Type (Check all that apply): ☐ New Development ☒ Redevelopment

☒ Private ☐ Public

☐ Residential ☒ Commercial ☐ Industrial ☐ Mixed Use ☐ Institutional

☐ Restaurant ☐ Uncovered Parking ☒ Retail Gas Outlet ☐ Auto Service (SIC code) _____

☐ Other _____ (5013-5014, 5541, 7532-7534, 7536-7539)

Project Description: Demolition of existing building, two driveways and associated paving. Construction of new building, pavement, and associated parking areas. Fueling tanks to remain.

Project Watershed/Receiving Water (creek, river or bay): Coyote Creek

2. Project Size

a. Total Site Area: <u>0.56</u> acres		b. Total Site Area Disturbed: <u>0.61</u> acres (including clearing, grading, or excavating)			
<i>Site Totals</i>	Total Existing (Pre-project) Area (ft ²)	Existing Area Retained ¹ (ft ²)	Existing Area Replaced ² (ft ²)	New Area Created ² (ft ²)	Total Post- Project Area (ft ²)
c. Total Impervious Area (IA)	21,140	1,306	19,127	0	20433
d. Total new and replaced impervious area			19,127		
e. Total Pervious Area (PA) ³	3,594				4,301
f. Total Area (IA+PA)	24,734				24,734
g. Percent Replacement of IA in Redevelopment Projects: (Existing IA Replaced ÷ Existing Total IA) x 100% <u>90.48</u> %					

3. State Construction General Permit Applicability:

a. Is #2.b. equal to 1 acre or more?

☐ Yes, applicant must obtain coverage under the State Construction General Permit (see https://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.html)

☒ No, applicant does not need coverage under the State Construction General Permit.

4. MRP Provision C.3 Applicability:

a. Is #2.d. equal to **10,000** sq. ft. or more, or **5,000** sq. ft. or more for restaurants, auto service facilities, retail gas outlets, and stand-alone uncovered parking?

☒ Yes, C.3. source control, site design and treatment requirements apply

☐ No, C.3. source control and site design requirements may apply – check with local agency

b. For redevelopment projects, is #2.g. equal to 50% or more?

☒ Yes, C.3. requirements (site design and source control, as appropriate, and stormwater treatment) apply to the entire site

☐ No, C.3. requirements only apply to the impervious area created and/or replaced

c. Does the project create and/or replace 5,000 sf or more of impervious surface parking?

☐ Yes, C.3. requirements may apply to the entire site – check with local agency

☐ No

5. Hydromodification Management (HM) Applicability:

a. Does the project create and/or replace one acre or more of impervious surface AND is the total post-project impervious area greater than the pre-project (existing) impervious area?

☒ Yes (continue)

☐ No – exempt from HM, go to page 3

b. Is the project located in an area of HM applicability (green area) on the HM Applicability Map? (www.scvurppp.org/hmp-map)

☐ Yes, the project must implement HM requirements

☒ No, the project is exempt from HM requirements

¹ “Retained” means to leave existing IA in place. An IA that goes through maintenance (e.g., pavement resurfacing/slurry seal/grind), but no change in grade is considered “retained”.

² The “new” and “replaced” IA are based on the total area of the site and not specific locations on site. For example, impervious parking created over a pervious area is not “new” IA, if an equal amount of pervious area replaces IA somewhere else on the site. Constructed IA on a site that does not exceed the total pre-project IA will be considered “replaced” IA. A site will have “new” IA only if the total post-project IA exceeds the total pre-project IA (total post-project IA – total pre-project IA = New IA).

³ Include bioretention areas, infiltration areas, green roofs, and pervious pavement in PA calculations.

6. Selection of Specific Stormwater Control Measures:

Site Design Measures

- ☒ Minimize land disturbed (e.g., protect trees and soil)
- ☒ Minimize impervious surfaces (e.g., reduction in post-project impervious surface)
- ☐ Minimum-impact street or parking lot design (e.g., parking on top of or under buildings)
- ☐ Cluster structures/ pavement
- ☒ Disconnected downspouts (direct runoff from roofs, sidewalks, patios to landscaped areas)
- ☐ Pervious pavement
- ☐ Green roof
- ☒ Other self-treating⁴ area (e.g., landscaped areas)
- ☐ Self-retaining⁴ area
- ☐ Interceptor trees³
- ☐ Rainwater harvesting and use (e.g., rain barrel, cistern for designated use)⁵
- ☐ Preserved open space: _____ ac. or sq. ft. (circle one)
- ☐ Protected riparian and wetland areas/buffers (Setback from top of bank: _____ ft.)
- ☐ Other _____

Source Control Measures

- ☐ Wash area/racks, drain to sanitary sewer⁵
- ☒ Covered dumpster area, drain to sanitary sewer⁶
- ☐ Sanitary sewer connection or accessible cleanout for swimming pool/spa/fountain⁶
- ☒ Beneficial landscaping (minimize irrigation, runoff, pesticides and fertilizers; promotes treatment)
- ☐ Outdoor material storage protection
- ☐ Covers, drains for loading docks, maintenance bays, fueling areas
- ☒ Maintenance (pavement sweeping, catch basin cleaning, good housekeeping)
- ☒ Storm drain labeling
- ☐ Other _____

Treatment Measures

- ☐ None (all impervious surface drains to self-retaining areas)

LID Treatment

- ☒ Bioretention area
- ☐ Flow-through planter
- ☐ Tree Well Filter or Trench with bioretention soils
- ☐ Rainwater harvest/use (e.g., cistern or rain barrel for designated use, sized for C.3.d treatment)
- ☐ Infiltration trench
- ☐ Infiltration well/dry well
- ☐ Subsurface Infiltration System (e.g. vault or large diameter conduit over drain rock)
- ☐ Other _____

Non-LID Treatment Methods

- ☐ Proprietary high flow rate tree box filter⁷
- ☐ Proprietary high flow media filter (sand, compost, or proprietary media)⁷
- ☐ Vegetated filter strip⁸
- ☐ Extended detention basin⁸
- ☐ Vegetated swale⁸
- ☐ Other _____

Flow Duration Controls for Hydromodification Management (HM)

- ☐ Extended Detention basin
- ☐ Underground tank or vault
- ☐ Bioretention with outlet control
- ☐ Other _____

⁴ See SCVURPPP C3 Handbook for definitions. <https://scvurppp.org/2016/06/20/c-3-stormwater-handbook-june-2016/>

⁵ Optional site design measure; does not have to be sized to comply with Provision C.3.d treatment requirements.

⁶ Subject to sanitary sewer authority requirements.

⁷ These treatment measures are only allowed if the project qualifies as a "Special Project".

⁸ These treatment measures are only allowed as part of a multi-step treatment process (i.e., for pretreatment).

7. Stormwater Treatment Measure (STM) Sizing for Projects with Treatment Requirements

Stormwater Treatment Measure (STM)	Hydraulic Sizing Criteria Used*
Bioretention Area - IMP 1	3
Bioretention Area - IMP 2	3
	Choose from list
	Choose from list

*Key: 1a: Volume – WEF Method
 1b: Volume – CASQA BMP Handbook Method
 2a: Flow – Factored Flood Flow Method
 2b: Flow – CASQA BMP Handbook Method
 2c: Flow – Uniform Intensity Method
 3: Combination Flow and Volume Design Basis

8. Alternative Certification: Was the treatment system sizing and design reviewed by a qualified third-party professional that is not a member of the project team or agency staff?

☒ Yes ☐ No Name of Third-party Reviewer EOA, Inc.

9. Operation & Maintenance Information

A. Property Owner's Name Monica MacDonald- BP West Coast Products
 B. Responsible Party for Stormwater Treatment/Hydromodification Control O&M:
 a. Name: BP West Coast Products, LLC. Monica MacDonald
 b. Address: 30 S Wacker Dr, 8S-363, Chicago, IL 60606
 c. Phone/E-mail: 630-379-7617/monica.macdonald@bp.com

This section to be completed by Municipal staff.

O&M Responsibility Mechanism

Indicate how responsibility for O&M is assured. Check all that apply:

- ☐ O&M Agreement
☐ Other mechanism that assigns responsibility (describe below):

This section to be completed by Municipal staff (Note: This is an optional section that agencies should modify per their internal review and tracking process.)

Reviewed By:

Community Development Department

Planning Division: _____

Building Division: _____

Public Works Department

Engineering: _____

Other (Specify): _____

Return form to: _____

Data entry performed by: _____

APPENDIX B

Infiltration/Harvesting and Use Feasibility Screening Worksheet



Infiltration/Harvesting and Use Feasibility Screening Worksheet

Apply these screening criteria for **C.3 Regulated Projects*** required to implement Provision C.3 stormwater treatment requirements. See the Glossary (Attachment 1) for definitions of terms marked with an asterisk (*). Contact municipal staff to determine whether the project meets **Special Project*** criteria. If the project meets Special Project criteria, it may receive LID treatment reduction credits.

1. Applicant Info

Site Address: 1575 Landess Avenue, Milpitas, CA, CA APN: 088-36-002
Applicant Name: PM Design Group, Inc. Phone No.: 360-216-1461
Mailing Address: 2455 Bennett Valley Road, Suite A212, Santa Rosa, CA 95404

2. Feasibility Screening for Infiltration

Do site soils either (a) have a **saturated hydraulic conductivity*** (Ksat) that will NOT allow infiltration of 80% of the annual runoff (that is, the Ksat is LESS than 1.6 inches/hour), or, if the Ksat rate is not available, (b) consist of Type C or D soils?¹

- ☒ Yes (continue) ☐ No – complete the Infiltration Feasibility Worksheet. If infiltration of the C.3.d amount of runoff is found to be feasible, there is no need to complete the rest of this screening worksheet.

3. Recycled Water Use

Check the box if the project is installing and using a recycled water plumbing system for non-potable water use.

- ☐ The project is installing a recycled water plumbing system, and installation of a second non-potable water system for harvested rainwater is impractical, and considered infeasible due to cost considerations. Skip to Section 6.

4. Calculate the Potential Rainwater Capture Area* for Screening of Harvesting and Use

Complete this section for the entire project area. If rainwater harvesting and use is infeasible for the entire site, and the project includes one or more buildings that each have an individual roof area of 10,000 sq. ft. or more, then complete Sections 4 and 5 of this form for each of these buildings.

4.1 Table 1 for (check one): ☒ The whole project ☐ Area of 1 building roof (10,000 sq.ft. min.)

Table 1: Calculation of the Potential Rainwater Capture Area*				
The Potential Rainwater Capture Area may consist of either the entire project area or one building with a roof area of 10,000 sq. ft. or more.				
	1	2	3	4
	Pre-Project Impervious surface ² (sq.ft.), if applicable	Proposed Impervious Surface ² (IS), in sq. ft.		Post-project landscaping (sq.ft.), if applicable
		Replaced ³ IS	Created ⁴ IS	
a. Enter the totals for the area to be evaluated:	21140	13,519	5371	3,131
b. Sum of replaced and created impervious surface:	N/A	18,890		N/A
c. Area of existing impervious surface that will NOT be replaced by the project.	1306	N/A		N/A

¹ Base this response on the site-specific soil report, if available. If this is not available, consult soil hydraulic conductivity maps in Attachment 3.

² Enter the total of all impervious surfaces, including the building footprint, driveway(s), patio(s), impervious deck(s), unroofed porch(es), uncovered parking lot (including top deck of parking structure), impervious trails, miscellaneous paving or structures, and off-lot impervious surface (new, contiguous impervious surface created from road projects, including sidewalks and/or bike lanes built as part of new street). Impervious surfaces do NOT include vegetated roofs or pervious pavement that stores and infiltrates rainfall at a rate equal to immediately surrounding, unpaved landscaped areas, or that stores and infiltrates the **C.3.d amount of runoff***.

³ "Replaced" means that the project will install impervious surface where existing impervious surface is removed.

⁴ "Created" means the project will install new impervious surface where there is currently no impervious surface.

* For definitions, see Glossary (Attachment 1).

- 4.2 Answer this question ONLY if you are completing this section for the entire project area. If existing impervious surface will be replaced by the project, does the area to be replaced equal 50% or more of the existing area of impervious surface? (Refer to Table 1, Row "a". Is the area in Column 2 > 50% of Column 1?)

- ☒ Yes, C.3. stormwater treatment requirements apply to areas of impervious surface that will remain in place as well as the area created and/or replaced. This is known as the 50% rule.
- ☐ No, C.3. requirements apply only to the impervious area created and/or replaced.

- 4.3 Enter the square footage of the **Potential Rainwater Capture Area***. If you are evaluating only the roof area of a building, or you answered "no" to Question 4.2, this amount is from Row "b" in Table 1. If you answered "yes" to Question 4.2, this amount is the sum of Rows "b" and "c" in Table 1.:

20196 square feet.

- 4.4 Convert the measurement of the **Potential Rainwater Capture Area*** from square feet to acres (divide the amount in Item 4.3 by 43,560):

0.46 acres.

5. Feasibility Screening for Rainwater Harvesting and Use

- 5.1 Use of harvested rainwater for landscape irrigation:

Is the onsite landscaping LESS than 2.5 times the size of the **Potential Rainwater Capture Area*** (Item 4.3)? (Note that the landscape area(s) would have to be contiguous and within the same Drainage Management Area to use harvested rainwater for irrigation via gravity flow.)

- ☒ Yes (continue) ☐ No – Direct runoff from impervious areas to **self-retaining areas*** OR refer to Table 11 and the curves in Appendix F of the LID Feasibility Report to evaluate feasibility of harvesting and using the C.3.d amount of runoff for irrigation.

- 5.2 Use of harvested rainwater for toilet flushing or non-potable industrial use:

- a. Residential Projects: Proposed number of dwelling units: _____
Calculate the dwelling units per impervious acre by dividing the number of dwelling units by the acres of the **Potential Rainwater Capture Area*** in Item 4.4. Enter the result here:

Is the number of dwelling units per impervious acre LESS than 100 (assuming 2.7 occupants/unit)?

- ☐ Yes (continue) ☐ No – complete the Harvest/Use Feasibility Worksheet.

- b. Commercial/Industrial Projects: Proposed interior floor area: 3180 (sq. ft.)

Calculate the proposed interior floor area (sq.ft.) per acre of impervious surface by *dividing the interior floor area (sq.ft.) by the acres of the **Potential Rainwater Capture Area*** in Item 4.4. Enter the result here:*

6,913

Is the square footage of the interior floor space per impervious acre LESS than 70,000 sq. ft.?

- ☒ Yes (continue) ☐ No – complete the Harvest/Use Feasibility Worksheet

- c. School Projects: Proposed interior floor area: _____ (sq. ft.)

Calculate the proposed interior floor area per acre of impervious surface by *dividing the interior floor area (sq.ft.) by the acres of the **Potential Rainwater Capture Area*** in Item 4.4. Enter the result here:*

Is the square footage of the interior floor space per impervious acre LESS than 21,000 sq. ft.?

- ☐ Yes (continue) ☐ No – complete the Harvest/Use Feasibility Worksheet

* For definitions, see Glossary (Attachment 1).

d. Mixed Commercial and Residential Use Projects

- Evaluate the residential toilet flushing demand based on the dwelling units per impervious acre for the residential portion of the project, following the instructions in Item 5.2.a, except you will use a prorated acreage of impervious surface, based on the percentage of the project dedicated to residential use.
- Evaluate the commercial toilet flushing demand per impervious acre for the commercial portion of the project, following the instructions in Item 5.2.a, except you will use a prorated acreage of impervious surface, based on the percentage of the project dedicated to commercial use.

e. Industrial Projects: Estimated non-potable water demand (gal/day): _____

Is the non-potable demand LESS than 2,400 gal/day per acre of the Potential Rainwater Capture Area?

- ☐ Yes (continue) ☐ No – refer to the curves in Appendix F of the LID Feasibility Report to evaluate feasibility of harvesting and using the C.3.d amount of runoff for industrial use.

6. Use of Biotreatment

If only the “Yes” boxes were checked for all questions in Sections 2 and 5, or the project will have a recycled water system for non-potable use (Section 3), then the applicant may use appropriately designed bioretention facilities for compliance with C.3 treatment requirements. The applicant is encouraged to maximize infiltration of stormwater if site conditions allow.

7. Results of Screening Analysis

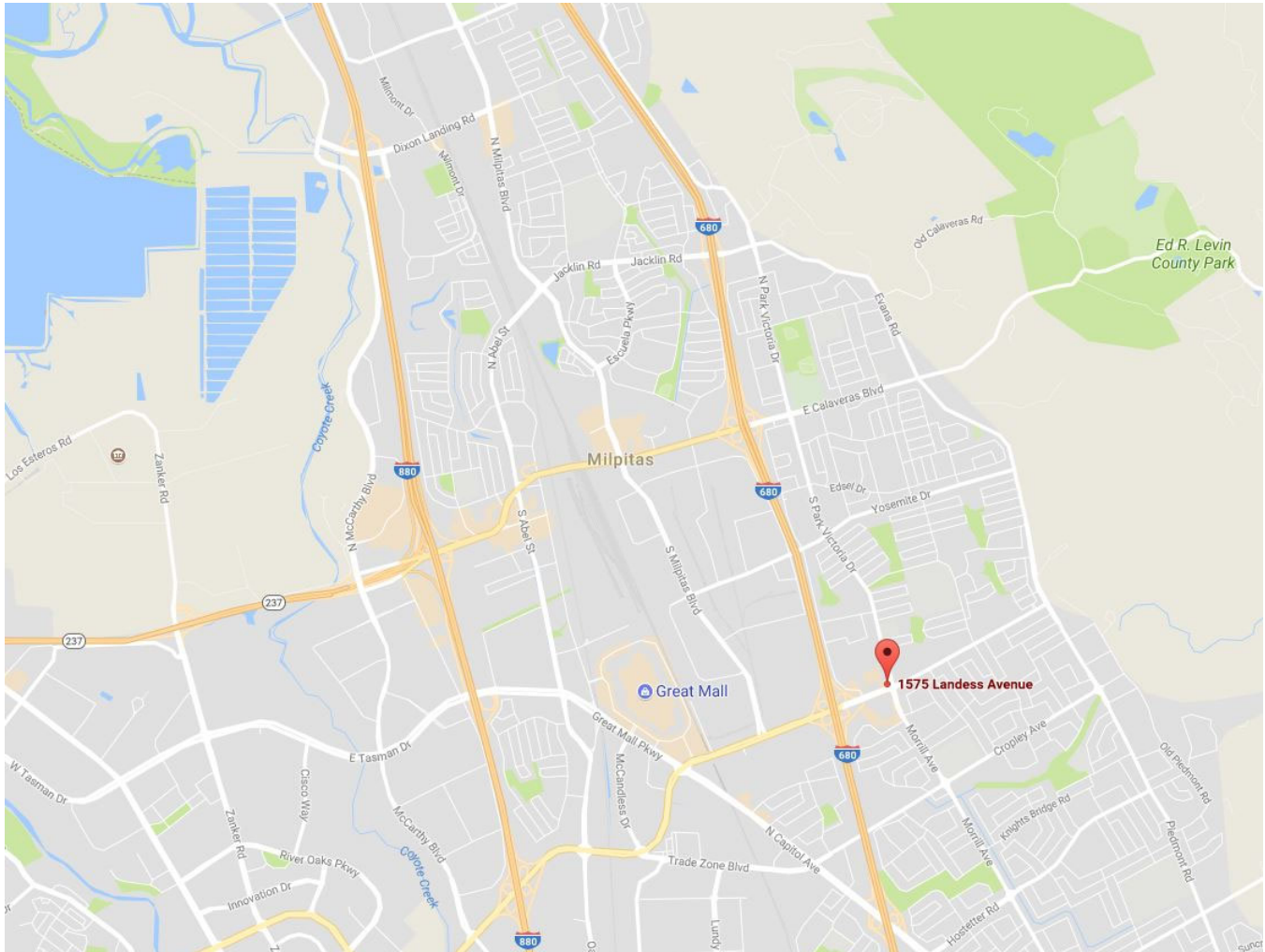
Based on this screening analysis, the following steps will be taken for the project (check all that apply):

- ☒ Implement biotreatment measures (such as an appropriately designed bioretention area).
- ☐ Conduct further analysis of infiltration feasibility by completing the Infiltration Feasibility Worksheet.
- ☐ Conduct further analysis of rainwater harvesting and use (check one):
 - ☐ Complete the Rainwater Harvesting and Use Feasibility Worksheet for:
 - ☐ The entire project
 - ☐ Individual building(s), if applicable, describe: _____
 - ☐ Evaluate the feasibility of harvesting and using the C.3.d amount of runoff for irrigation, based on Table 11 and the curves in Appendix F of the LID Feasibility Report
 - ☐ Evaluate the feasibility of harvesting and using the C.3.d amount of runoff for non-potable industrial use, based on the curves in Appendix F of the LID Feasibility Report.

* For definitions, see Glossary (Attachment 1).

APPENDIX C

VICINITY MAP



**1575 Landess Avenue
Milpitas, CA**

APPENDIX D

BMP SIZING CALCULATIONS

Section II. Sizing for Volume-Based Treatment Measures, continued

DMA 1

*Section II.B — Sizing Volume-Based Treatment Measures based on the Adapted CASQA
Stormwater BMP Handbook Approach*

The equation that will be used to size the BMP is:

$$\text{Design Volume} = (\text{Rain Gage Correction Factor}) \times (\text{Unit Basin Storage Volume}) \times (\text{Drainage Area})$$

Step 1. Determine the drainage area for the BMP, A = 0.28 acres

Step 2. Determine percent imperviousness of the drainage area:

- a. Estimate the amount of impervious surface (rooftops, hardscape, streets, and sidewalks, etc.) in the area draining to the BMP: 0.2548 acres
- b. % impervious area = (amount of impervious area/drainage area for the BMP) $\times$ 100
 % impervious area = **(Step 2.a/Step 1)** $\times$ 100
 % impervious area = 91 %

Step 3. Find the mean annual precipitation at the site (MAP_{site}). To do so, estimate where the site is on Figure B-1 and estimate the mean annual precipitation in inches from the rain line (isopleth) nearest to the project site.⁶ Interpolate between isopleths if necessary.

$$\text{MAP}_{\text{site}} = \underline{15} \text{ inches}$$

Step 4. Identify the reference rain gage closest to the project site from Table B-2b and record the MAP_{gage} :

$$\text{MAP}_{\text{gage}} = \underline{13.9} \text{ inches}$$

Table B-2b: Precipitation Data for Three Reference Gages

Reference Rain Gages	Mean Annual Precipitation (MAP_{gage}) (in)
San Jose Airport	13.9
Palo Alto	13.7
Morgan Hill	19.5

⁶ Check with the local municipality to determine if more detailed maps are available for locating the site and estimating MAP.

DMA 1**Section II. Sizing for Volume-Based Treatment Measures, continued***Section II.B —Adapted CASQA Stormwater BMP Handbook Approach (continued)*

Step 5 Determine the rain gage correction factor for the precipitation at the site using the information from **Step 3** and **Step 4**.

$$\text{Correction Factor} = \text{MAP}_{\text{site}} (\text{Step 3}) / \text{MAP}_{\text{gage}} (\text{Step 4})$$

$$\text{Correction Factor} = 1.08$$

Step 6. Identify the representative soil type for the BMP drainage area.

- a) Identify from Figure B-1 or from site soils data, the soil type that is representative of the pervious portion of the project shown here in order of increasing infiltration capability:

____ Clay (D) ____ Sandy Clay (D) ____ Clay Loam (D)

X ____ Silt Loam/Loam (B) ____ Not Applicable (100% Impervious)

- b) Does the site planning allow for protection of natural areas and associated vegetation and soils so that the soils outside the building footprint are not graded/compacted? **N** (Y/N)

If your answer is no, and the soil will be compacted during site preparation and grading, the soil's infiltration ability will be decreased. Modify your answer to a soil with a lower infiltration rate (e.g., Silt Loam to Clay Loam or Clay).

Modified soil type: Clay Loam

Step 7. Determine the average slope for the drainage area for the BMP: 1.1 %

Step 8. Determine the unit basin storage volume from sizing curves.

- a) Slope $\leq$ 1%

Use the figure at the end of this Appendix entitled "Unit Basin Volume for 80% Capture, 1% Slope" corresponding to the nearest rain gage: Figure B-2, B-3, or B-4 for San Jose, Palo Alto, or Morgan Hill, respectively. Find the percent imperviousness of the drainage area (from **Step 2**) on the x-axis. From there, find the line corresponding to the soil type (from **Step 6**), and obtain the unit basin storage volume on the y-axis.

$$\text{Unit Basin Storage for 1\% slope (UBS}_{1\%}) = 0.58 \text{ (inches)}$$

- b) Slope $\geq$ 15%

Use the figure at the end of this Appendix entitled "Unit Basin Volume for 80% Capture, 15% Slope" corresponding to the nearest rain gage: Figure B-5, B-6, or B-7 for San Jose, Palo Alto, or Morgan Hill, respectively. Find the percent imperviousness of the drainage area (from **Step 2**) on the x-axis. From there, find the line corresponding to the soil type (from **Step 6**), and obtain the unit basin storage volume on the y-axis.

$$\text{Unit Basin Storage for 15\% slope (UBS}_{15\%}) = 0.6 \text{ (inches)}$$

DMA 1

Section II. Sizing for Volume-Based Treatment Measures, continued

Section II.B. —Adapted CASQA Stormwater BMP Handbook Approach (continued)

- c) Slope > 1% and < 15%

Find the unit basin volumes for 1% and 15% using the techniques in **Steps 8.a** and **8.b** and interpolate by applying a slope correction factor per the following formula:

$$\begin{aligned} \text{UBS}_x &= \text{UBS}_{1\%} + (\text{UBS}_{15\%} - \text{UBS}_{1\%}) \times (X\% - 1\%) / (15\% - 1\%) \\ &= (\text{Step 8a}) + (\text{Step 8b} - \text{Step 8a}) \times (X\% - 1\%) / (15\% - 1\%) \end{aligned}$$

Where UBS_x = Unit Basin Storage volume for drainage area of intermediate slope, X %

$$\text{Unit Basin Storage volume (UBS}_x) = 0.58 \text{ (inches)}$$

(corrected for slope of site)

Step 9. Determine the Adjusted Unit Basin Storage Volume for the site, using the following equation:

$$\text{Adjusted UBS} = \text{Rain Gage Correction Factor} \times \text{Unit Basin Storage Volume}$$

$$\text{Adjusted UBS} = (\text{Step 5}) \times (\text{Step 8})$$

$$\text{Adjusted UBS} = 0.626 \text{ inches}$$

Step 10. Determine the BMP Design Volume, using the following equation:

$$\text{Design Volume} = \text{Adjusted Unit Basin Storage Volume} \times \text{Drainage Area}$$

$$\text{Design Volume} = (\text{Step 9}) \times (\text{Step 1}) \times 1 \text{ foot}/12 \text{ inch}$$

$$\text{Design Volume} = 0.0146 \text{ acre-feet} \times 43,560 \text{ square feet/acre} = 636 \text{ cubic feet}$$

DMA 1

Section IV. Sizing for Flow- and Volume- Based Treatment Measures (Combination Flow and Volume Approach)

For bioretention areas and flow-through planters, the following approach may be used to take into consideration both the flow of stormwater through the planting media and the volume of stormwater in the surface ponding area. Note that the approach assumes that all of the design rainfall becomes runoff, and thus it is appropriate for use where the drainage area to the treatment measure is mostly impervious. Contributing pervious surfaces can be converted to equivalent impervious surface using the procedure outlined in Step 1.

Step 1. **Contributing drainage area to the treatment measure:** 12219 sq. ft.

Is the contributing drainage area 100% impervious? ☐ Yes ☒ No

If yes, skip to Step 2c and fill in the drainage area as the effective impervious area.

Step 2. Determine the effective impervious surface area draining to the treatment measure:

a. Impervious surface area draining to the treatment measure: 11099 sq. ft.

b. Pervious surface area draining to the treatment measure: 1120 sq. ft.

For small grass or landscaped areas, multiply the pervious surface area by a runoff coefficient of 0.10 to compute the equivalent impervious surface area.

c. Effective impervious area = (pervious area × 0.10) + impervious area

Effective impervious area = (Step 2.b × 0.10) + Step 2.a

Effective impervious area = 11211 sq. ft.

Step 3. Determine the required treatment volume using Adapted CASQA Stormwater BMP Handbook Approach (Worksheet Section II.B, Steps 9 and 10). Copy the results here:

Adjusted Unit Basin Storage (UBS) Volume: 0.626 in.

Water Quality Design (WQD) Volume: 636 cu. ft.

Step 4. Determine the design rainfall intensity (Uniform Intensity Approach, Section III.C, Step 3):

Design Rainfall Intensity: 0.2 in/hr

Step 5. Assume that the rain event that generates the Unit Basin Storage Volume of runoff occurs at the design rainfall intensity for the entire length of the storm. Calculate the duration of the storm by dividing the adjusted Unit Basin Storage Volume by the design rainfall intensity. In other words, determine the amount of time required for the Unit Basin Storage Volume to be achieved at the design intensity rate.

Duration = UBS Volume (inches) ÷ Rainfall Intensity (inches/hour)

Duration = (Step 3) ÷ 0.2 in/hr = 3.13 hrs.

DMA 1

IV. Sizing for Flow- and Volume-Based Treatment Measures, continued

- Step 6. Make a preliminary estimate of the surface area of the bioretention facility by multiplying the area of impervious surface to be treated by a sizing factor of **0.03**.

$$\text{Estimated Surface Area} = \text{Total Effective Impervious Area} \times 0.03$$

$$\text{Estimated Surface Area} = \frac{11211}{(\text{Step 2.c})} \text{ sq. ft.} \times 0.03 = \underline{336} \text{ sq. ft.}$$

- Step 7. Calculate the volume of runoff that filters through the biotreatment soil at a rate of 5 inches per hour (the design surface loading rate for bioretention facilities), for the duration of the storm calculated in Step 5.

$$\text{Volume of Treated Runoff} = \text{Estimated Surface Area} \times 5 \text{ in/hr} \times (1 \text{ ft}/12 \text{ in}) \times \text{Duration}$$

$$\text{Volume of Treated Runoff} = \frac{336}{(\text{Step 6})} \text{ sq. ft.} \times 5/12 \times \frac{3.13}{(\text{Step 5})} \text{ hrs.} = \underline{438} \text{ cu. ft.}$$

- Step 8. Calculate the portion of the water quality design (WQD) volume remaining after treatment is accomplished by filtering through the biotreatment soil. The result is the amount that must be stored in the ponding area above the bioretention surface area estimated in Step 6.

$$\text{Volume in ponding area} = \text{WQD Volume} - \text{Volume of Treated Runoff}$$

$$\text{Volume in ponding area} = \frac{636}{(\text{Step 3})} \text{ cu. ft.} - \frac{438}{(\text{Step 7})} \text{ cu. ft.} = \underline{198} \text{ cu. ft.}$$

- Step 9. Calculate the depth of the volume in the ponding area by dividing this volume by the estimated surface area in Step 6.

$$\text{Depth of ponding} = \text{Volume in Ponding Area} \div \text{Estimated Surface Area}$$

$$\text{Depth of ponding} = \frac{198}{(\text{Step 8})} \text{ cu. ft.} \div \frac{396}{(\text{Step 6})} \text{ sq. ft.} = \underline{0.5} \text{ ft.}$$

- Step 10. Check to see if the average ponding depth is between 0.5 and 1.0 feet (6 and 12 inches), which is the range of allowable ponding depths in a bioretention facility or flow-through planter (**0.5 feet is recommended**). If the ponding depth is less than 0.5 feet, the bioretention design can be optimized with a smaller surface area (i.e., repeat Steps 6 through 9 with a smaller surface area). If the ponding depth is greater than 1 foot, a larger surface area will be required (i.e., repeat Steps 6 through 9 with a larger surface area).

Section II. Sizing for Volume-Based Treatment Measures, continued

DMA 2

*Section II.B — Sizing Volume-Based Treatment Measures based on the Adapted CASQA
Stormwater BMP Handbook Approach*

The equation that will be used to size the BMP is:

$$\text{Design Volume} = (\text{Rain Gage Correction Factor}) \times (\text{Unit Basin Storage Volume}) \times (\text{Drainage Area})$$

Step 1. Determine the drainage area for the BMP, A = 0.23 acres

Step 2. Determine percent imperviousness of the drainage area:

- a. Estimate the amount of impervious surface (rooftops, hardscape, streets, and sidewalks, etc.) in the area draining to the BMP: 0.23 acres
- b. % impervious area = (amount of impervious area/drainage area for the BMP) $\times$ 100
 % impervious area = **(Step 2.a/Step 1)** $\times$ 100
 % impervious area = 100 %

Step 3. Find the mean annual precipitation at the site (MAP_{site}). To do so, estimate where the site is on Figure B-1 and estimate the mean annual precipitation in inches from the rain line (isopleth) nearest to the project site.⁶ Interpolate between isopleths if necessary.

$$\text{MAP}_{\text{site}} = \underline{15 \text{ inches}}$$

Step 4. Identify the reference rain gage closest to the project site from Table B-2b and record the MAP_{gage} :

$$\text{MAP}_{\text{gage}} = \underline{13.9 \text{ inches}}$$

Table B-2b: Precipitation Data for Three Reference Gages

Reference Rain Gages	Mean Annual Precipitation (MAP_{gage}) (in)
San Jose Airport	13.9
Palo Alto	13.7
Morgan Hill	19.5

⁶ Check with the local municipality to determine if more detailed maps are available for locating the site and estimating MAP.

Section II. Sizing for Volume-Based Treatment Measures, continued

DMA 2

Section II.B —Adapted CASQA Stormwater BMP Handbook Approach (continued)

Step 5 Determine the rain gage correction factor for the precipitation at the site using the information from **Step 3** and **Step 4**.

$$\text{Correction Factor} = \text{MAP}_{\text{site}} (\text{Step 3}) / \text{MAP}_{\text{gage}} (\text{Step 4})$$

$$\text{Correction Factor} = 1.08$$

Step 6. Identify the representative soil type for the BMP drainage area.

- a) Identify from Figure B-1 or from site soils data, the soil type that is representative of the pervious portion of the project shown here in order of increasing infiltration capability:

____ Clay (D) X Sandy Clay (D) ____ Clay Loam (D)

____ Silt Loam/Loam (B) ____ Not Applicable (100% Impervious)

- b) Does the site planning allow for protection of natural areas and associated vegetation and soils so that the soils outside the building footprint are not graded/compacted? N (Y/N)

If your answer is no, and the soil will be compacted during site preparation and grading, the soil's infiltration ability will be decreased. Modify your answer to a soil with a lower infiltration rate (e.g., Silt Loam to Clay Loam or Clay).

Modified soil type: Clay

Step 7. Determine the average slope for the drainage area for the BMP: 1.75 %

Step 8. Determine the unit basin storage volume from sizing curves.

- a) Slope $\leq 1\%$

Use the figure at the end of this Appendix entitled "Unit Basin Volume for 80% Capture, 1% Slope" corresponding to the nearest rain gage: Figure B-2, B-3, or B-4 for San Jose, Palo Alto, or Morgan Hill, respectively. Find the percent imperviousness of the drainage area (from **Step 2**) on the x-axis. From there, find the line corresponding to the soil type (from **Step 6**), and obtain the unit basin storage volume on the y-axis.

$$\text{Unit Basin Storage for 1\% slope (UBS}_{1\%}) = 0.58 \text{ (inches)}$$

- b) Slope $\geq 15\%$

Use the figure at the end of this Appendix entitled "Unit Basin Volume for 80% Capture, 15% Slope" corresponding to the nearest rain gage: Figure B-5, B-6, or B-7 for San Jose, Palo Alto, or Morgan Hill, respectively. Find the percent imperviousness of the drainage area (from **Step 2**) on the x-axis. From there, find the line corresponding to the soil type (from **Step 6**), and obtain the unit basin storage volume on the y-axis.

$$\text{Unit Basin Storage for 15\% slope (UBS}_{15\%}) = 0.606 \text{ (inches)}$$

Section II. Sizing for Volume-Based Treatment Measures, continued

DMA 2

Section II.B. —Adapted CASQA Stormwater BMP Handbook Approach (continued)

c) Slope > 1% and < 15%

Find the unit basin volumes for 1% and 15% using the techniques in **Steps 8.a** and **8.b** and interpolate by applying a slope correction factor per the following formula:

$$\begin{aligned} \text{UBS}_x &= \text{UBS}_{1\%} + (\text{UBS}_{15\%} - \text{UBS}_{1\%}) \times (X\% - 1\%) / (15\% - 1\%) \\ &= (\text{Step 8a}) + (\text{Step 8b} - \text{Step 8a}) \times (X\% - 1\%) / (15\% - 1\%) \end{aligned}$$

Where UBS_x = Unit Basin Storage volume for drainage area of intermediate slope, X %

$$\text{Unit Basin Storage volume (UBS}_x) = \boxed{0.581} \text{ (inches)}$$

(corrected for slope of site)

Step 9. Determine the Adjusted Unit Basin Storage Volume for the site, using the following equation:

$$\text{Adjusted UBS} = \text{Rain Gage Correction Factor} \times \text{Unit Basin Storage Volume}$$

$$\text{Adjusted UBS} = (\text{Step 5}) \times (\text{Step 8})$$

$$\text{Adjusted UBS} = \boxed{0.628} \text{ inches}$$

Step 10. Determine the BMP Design Volume, using the following equation:

$$\text{Design Volume} = \text{Adjusted Unit Basin Storage Volume} \times \text{Drainage Area}$$

$$\text{Design Volume} = (\text{Step 9}) \times (\text{Step 1}) \times 1 \text{ foot}/12 \text{ inch}$$

$$\text{Design Volume} = \boxed{0.0120} \text{ acre-feet} \times 43,560 \text{ square feet/acre} = \boxed{524} \text{ cubic feet}$$

DMA 2

Section IV. Sizing for Flow- and Volume- Based Treatment Measures (Combination Flow and Volume Approach)

For bioretention areas and flow-through planters, the following approach may be used to take into consideration both the flow of stormwater through the planting media and the volume of stormwater in the surface ponding area. Note that the approach assumes that all of the design rainfall becomes runoff, and thus it is appropriate for use where the drainage area to the treatment measure is mostly impervious. Contributing pervious surfaces can be converted to equivalent impervious surface using the procedure outlined in Step 1.

Step 1. **Contributing drainage area to the treatment measure:** 10,076 sq. ft.

Is the contributing drainage area 100% impervious? X Yes No
If yes, skip to Step 2c and fill in the drainage area as the effective impervious area.

Step 2. Determine the effective impervious surface area draining to the treatment measure:

a. Impervious surface area draining to the treatment measure: 10,076 sq. ft.

b. Pervious surface area draining to the treatment measure: 0 sq. ft.

For small grass or landscaped areas, multiply the pervious surface area by a runoff coefficient of 0.10 to compute the equivalent impervious surface area.

c. Effective impervious area = (pervious area × 0.10) + impervious area

Effective impervious area = (Step 2.b × 0.10) + Step 2.a

Effective impervious area = 10,076 sq. ft.

Step 3. Determine the required treatment volume using Adapted CASQA Stormwater BMP Handbook Approach (Worksheet Section II.B, Steps 9 and 10). Copy the results here:

Adjusted Unit Basin Storage (UBS) Volume: 0.628 in.

Water Quality Design (WQD) Volume: 524 cu. ft.

Step 4. Determine the design rainfall intensity (Uniform Intensity Approach, Section III.C, Step 3):

Design Rainfall Intensity: 0.2 in/hr

Step 5. Assume that the rain event that generates the Unit Basin Storage Volume of runoff occurs at the design rainfall intensity for the entire length of the storm. Calculate the duration of the storm by dividing the adjusted Unit Basin Storage Volume by the design rainfall intensity. In other words, determine the amount of time required for the Unit Basin Storage Volume to be achieved at the design intensity rate.

Duration = UBS Volume (inches) ÷ Rainfall Intensity (inches/hour)

Duration = (Step 3) ÷ 0.2 in/hr = 3.14 hrs.

DMA 2

IV. Sizing for Flow- and Volume-Based Treatment Measures, continued

- Step 6. Make a preliminary estimate of the surface area of the bioretention facility by multiplying the area of impervious surface to be treated by a sizing factor of **0.03**.

$$\text{Estimated Surface Area} = \text{Total Effective Impervious Area} \times 0.03$$

$$\text{Estimated Surface Area} = \frac{10,076}{(\text{Step 2.c})} \text{ sq. ft.} \times 0.03 = \frac{302.28}{\text{sq. ft.}}$$

- Step 7. Calculate the volume of runoff that filters through the biotreatment soil at a rate of 5 inches per hour (the design surface loading rate for bioretention facilities), for the duration of the storm calculated in Step 5.

$$\text{Volume of Treated Runoff} = \text{Estimated Surface Area} \times 5 \text{ in/hr} \times (1 \text{ ft}/12 \text{ in}) \times \text{Duration}$$

$$\text{Volume of Treated Runoff} = \frac{302.28}{(\text{Step 6})} \text{ sq. ft.} \times 5/12 \times \frac{3.14}{(\text{Step 5})} \text{ hrs.} = \frac{395.48}{\text{cu. ft.}}$$

- Step 8. Calculate the portion of the water quality design (WQD) volume remaining after treatment is accomplished by filtering through the biotreatment soil. The result is the amount that must be stored in the ponding area above the bioretention surface area estimated in Step 6.

$$\text{Volume in ponding area} = \text{WQD Volume} - \text{Volume of Treated Runoff}$$

$$\text{Volume in ponding area} = \frac{524}{(\text{Step 3})} \text{ cu. ft.} - \frac{395.48}{(\text{Step 7})} \text{ cu. ft.} = \frac{128.52}{\text{cu. ft.}}$$

- Step 9. Calculate the depth of the volume in the ponding area by dividing this volume by the estimated surface area in Step 6.

$$\text{Depth of ponding} = \text{Volume in Ponding Area} \div \text{Estimated Surface Area}$$

$$\text{Depth of ponding} = \frac{128.52}{(\text{Step 8})} \text{ cu. ft.} \div \frac{302.28}{(\text{Step 6})} \text{ sq. ft.} = \frac{0.425}{\text{ft.}}$$

- Step 10. Check to see if the average ponding depth is between 0.5 and 1.0 feet (6 and 12 inches), which is the range of allowable ponding depths in a bioretention facility or flow-through planter (**0.5 feet is recommended**). If the ponding depth is less than 0.5 feet, the bioretention design can be optimized with a smaller surface area (i.e., repeat Steps 6 through 9 with a smaller surface area). If the ponding depth is greater than 1 foot, a larger surface area will be required (i.e., repeat Steps 6 through 9 with a larger surface area).

APPENDIX E

DESIGN DRAWINGS

CAUTION NOTICE TO CONTRACTOR
THE CONTRACTOR IS SPECIFICALLY CAUTIONED THAT THE LOCATION AND/OR ELEVATION OF EXISTING UTILITIES AS SHOWN ON THESE PLANS ARE BASED ON RECORDS OF THE VARIOUS UTILITY COMPANIES AND, WHERE POSSIBLE, MEASUREMENTS TAKEN IN THE FIELD. THE INFORMATION IS NOT TO BE RELIED ON AS BEING EXACT OR COMPLETE. THE CONTRACTOR MUST CALL THE APPROPRIATE UTILITY COMPANY AT LEAST 7 DAYS BEFORE ANY EXCAVATION TO REQUEST EXACT FIELD LOCATION OF UTILITIES. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO RELOCATE ALL EXISTING UTILITIES HORIZONTALLY AND VERTICALLY WHICH CONFLICT WITH THE PROPOSED IMPROVEMENTS SHOWN ON THE PLANS.

BENCHMARKS
CITY OF MILPITAS BENCH MARK POINT NAME: SON-SPV
BRASS DISK IN MONUMENT WELL AT INTERSECTION, SOUTH PARK VICTORIA DRIVE AND SONOMA DRIVE. ELEVATION=96.42' (NAVD88)

PAVING NOTE
ALL GRADING AND PAVING SHALL BE IN ACCORDANCE WITH THE PROJECT GEOTECHNICAL REPORT TITLED: "GEOTECHNICAL ENGINEERING SERVICES REPORT" BY "PROFESSIONAL SERVICE INDUSTRIES, INC." (PSI); DATED DECEMBER 13, 2017; PSI PROJECT NO. 575-1284. THIS REPORT SHALL BE CONSIDERED A PART OF THESE PLANS.

FLOODNOTE
ACCORDING TO THE F.I.R.M. NO. 06085C0067J, THE SUBJECT PROPERTY LIES IN ZONE X DEFINED AS AREAS DETERMINED TO BE OUTSIDE 500-YEAR FLOOD PLAN.
PER MAP REVISION DATED FEBRUARY 19, 2014.

BASIS OF BEARINGS
THE BEARING NORTH 13°02'51" WEST OF THE CENTERLINE OF SOUTH PARK VICTORIA DRIVE, AS SAID DRIVE IS SHOWN ON THE PARCEL MAP FILED IN BOOK 326 OF MAPS AT PAGE 47, SANTA CLARA COUNTY RECORDS WAS TAKEN AS THE BASIS OF BEARINGS FOR THIS MAP.

LEGEND:

- PROPERTY LINE
PROPOSED CURB & GUTTER
LIMITS OF FULL DEPTH SAWCUT
EXISTING CONTOUR
PROPOSED CONTOUR
- SECTION (WITH NUMBER AND PAGE REFERENCED)
- ADA RAMP
BOLLARD
TRAFFIC/HANDICAP SIGN
DIRECTIONAL SIGN
SPEAKER BOX
MENU BOARD
LIGHT POLE
BUILDING UP LIGHTS
AREA DRAIN
HP HIGH POINT
LP LOW POINT
- GREASE TRAP
CLEAN-OUT
DOUBLE CLEAN-OUT
GAS METER
WATER METER
IRRIGATION METER
MANHOLE
CURB INLET
DRAINAGE SLOPE AND DIRECTION
STORM WATER TREATMENT
GRADE BREAK
LIP OF GUTTER OR SWALE

- XXXX EX EXISTING SPOT ELEVATION
XXXX TP TOP OF PAVEMENT ELEVATION
XXXX TC TOP OF CURB
XXXX GT GUTTER (FLOWLINE, OR BOTTOM OF CURB AS APPLICABLE)
XXXX GR GROUND
XXXX FF FINISH FLOOR
- XXXX SW SIDEWALK
XXXX TG TOP OF GRATE
XXXX INV INVERT

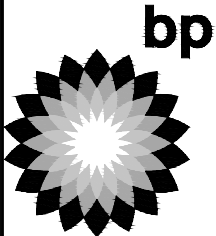
GRADING KEY NOTES:

1. VERIFY ALL CONFORM GRADES AT RIGHT-OF-WAY WITH OFFSITE IMPROVEMENT PLANS (UNDER SEPARATE COVER).
2. CURB RAMP.
3. PATH OF TRAVEL NOT TO EXCEED 5% IN THE DIRECTION OF TRAVEL WITH A 2% MAXIMUM CROSS SLOPE.
4. PROVIDE SWALE IN LANDSCAPE AREA.
5. CONCRETE DRAINAGE SWALE DRAINS TO BASIN THROUGH CURB CUT.
6. SAWCUT ALONG EXISTING TANK SLAB. VERIFY CONFORM ELEVATIONS.
7. CONTRACTOR SHALL EXPOSE AND VERIFY THE FOOTING FOR THE EXISTING WALL PRIOR TO ANY NEW CONSTRUCTION ACTIVITIES, IF ANY CONFLICT IS FOUND WITH PROPOSED NEW WORK, NOTIFY PROJECT CIVIL ENGINEER IMMEDIATELY.
8. ACCESSIBLE PARKING STALLS. SLOPES NOT TO EXCEED 2% IN ANY DIRECTION.
9. EXISTING FUEL ISLAND AND DISPENSER TO REMAIN (PROTECT IN PLACE). FUEL AREA SLAB TO BE REPLACED.
10. TOP OF PAVEMENT AT CANOPY DRIP LINE
11. STORM WATER TREATMENT (SWT) BASIN. SEE STORM WATER TREATMENT PLAN, SHEET C 500.
12. STORM WATER TREATMENT OVERFLOW DRAIN. SEE STORM DRAIN PLAN, SHEET C 530.
13. FORM GUTTER LIP FLAT WITH FLOW LINE OF GUTTER.
14. DIRECT LANDSCAPE AREA TO DURASLOT DRAIN.
15. DOWNSPOUTS TO DISCHARGE TO DURASLOT TRENCH DRAIN.
16. STORMWATER TREATMENT WALL HEIGHT DECREASES BY 2 INCHES FOR 12 INCHES AT CURB CUT ENTRANCES.

2455 Bennett Valley Rd.
Suite A102
Santa Rosa, CA 95404
Ph. 760-583-3388
Kyle Flaming PE
Civil Engineer



REGISTRATION SEAL



Seal FEBRUARY 25, 2020

ARCO BRANDED (SITE # 538)
1575 LANDESS AVENUE
MILPITAS, CA

REV	DATE	DESCRIPTION	NAME	WB
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PLOT DATE 2/25/2020



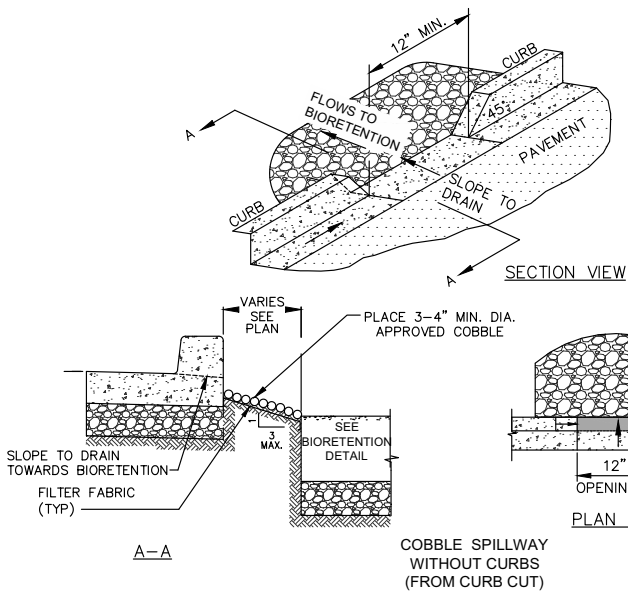
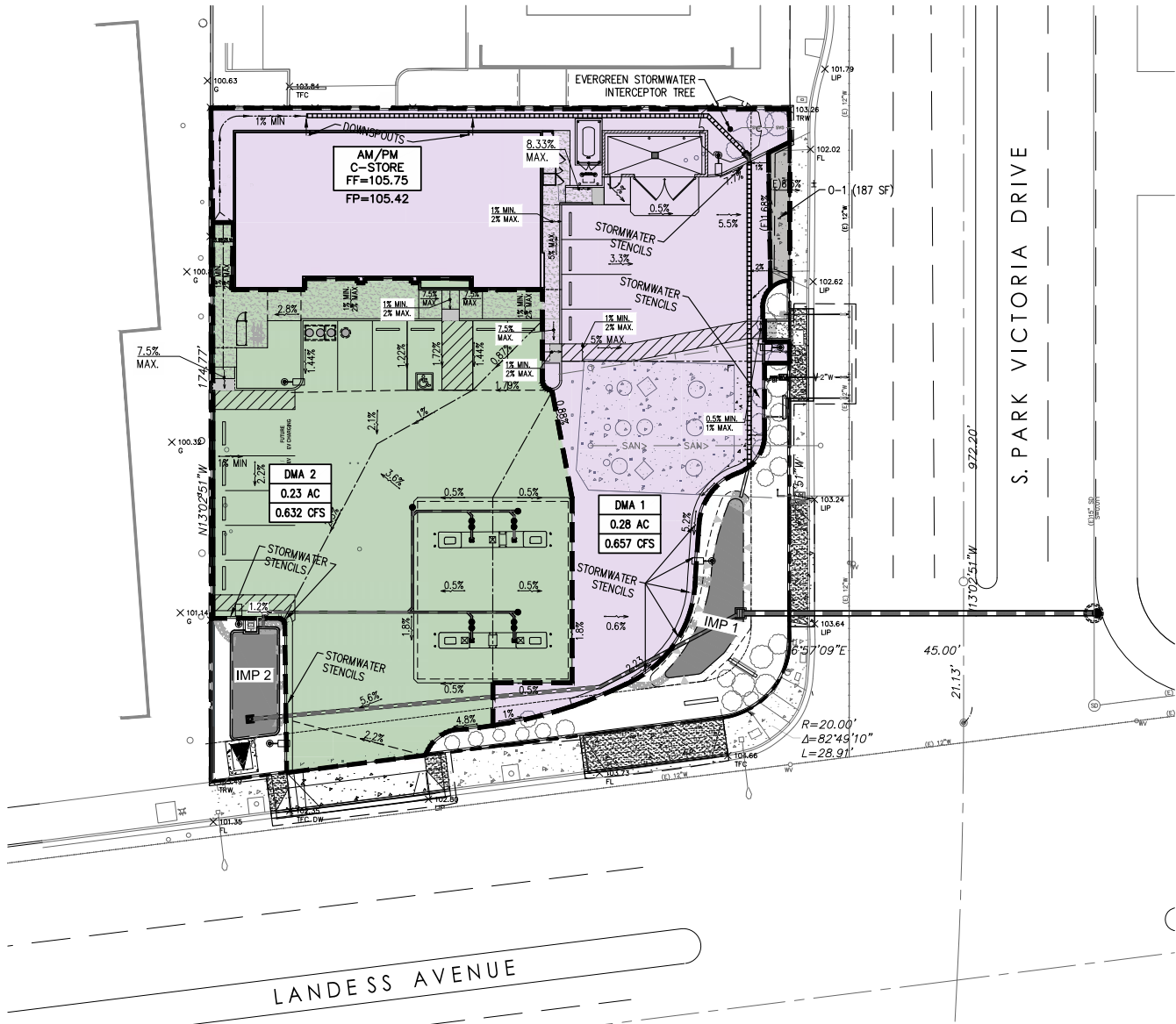
Know what's below.
Call before you dig.

RADING PLAN

CAUTION NOTICE TO CONTRACTOR
THE CONTRACTOR IS SPECIFICALLY CAUTIONED THAT THE LOCATION AND/OR ELEVATION OF EXISTING UTILITIES AS SHOWN ON THESE PLANS ARE BASED ON RECORDS OF THE VARIOUS UTILITY COMPANIES AND, WHERE POSSIBLE, MEASUREMENTS TAKEN IN THE FIELD. THE INFORMATION IS NOT TO BE RELIED ON AS BEING EXACT OR COMPLETE. THE CONTRACTOR MUST CALL THE APPROPRIATE UTILITY COMPANY AT LEAST 7 DAYS BEFORE ANY EXCAVATION TO REQUEST EXACT FIELD LOCATION OF UTILITIES. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO RELOCATE ALL EXISTING UTILITIES HORIZONTALLY AND VERTICALLY WHICH CONFLICT WITH THE PROPOSED IMPROVEMENTS SHOWN ON THE PLANS.

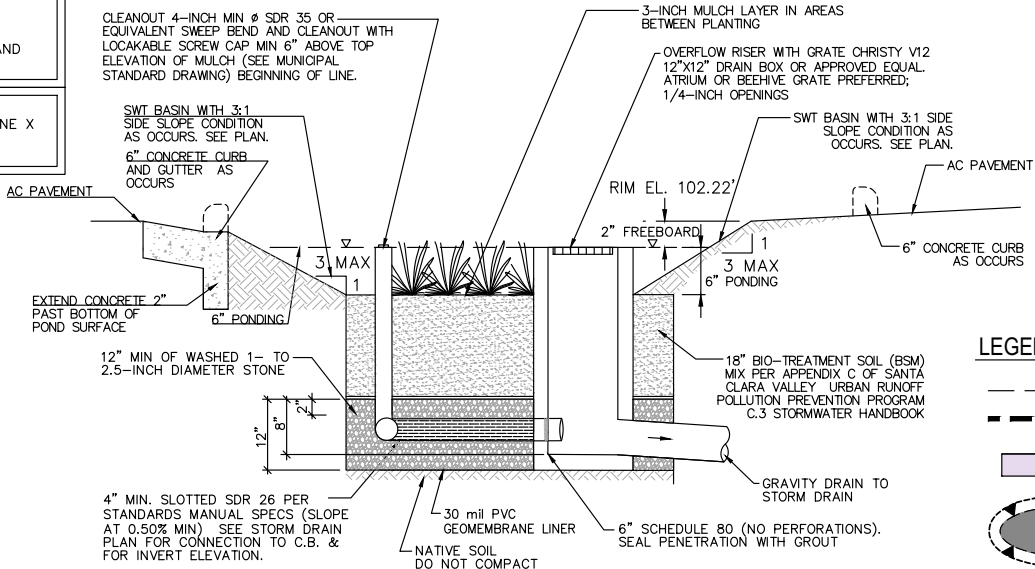
BENCHMARKS
CITY OF MILPITAS BENCH MARK POINT NAME: SON-SPV
BRASS DISK IN MONUMENT WELL AT INTERSECTION, SOUTH PARK VICTORIA DRIVE AND SONOMA DRIVE. ELEVATION=96.42' (NAVD88)

FLOODNOTE
ACCORDING TO THE F.I.R.M. NO. 06085C0067J, THE SUBJECT PROPERTY LIES IN ZONE X DEFINED AS AREAS DETERMINED TO BE OUTSIDE 500-YEAR FLOOD PLAN. PER MAP REVISION DATED FEBRUARY 19, 2014.

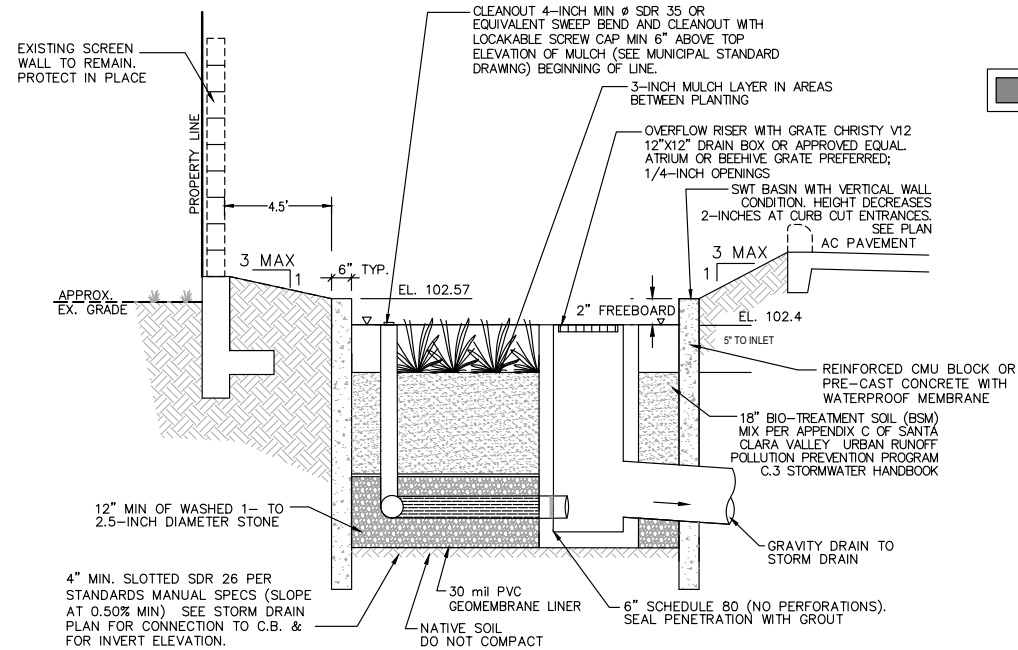


SPILLWAY AND PIPE DISCHARGE CONNECTION DETAILS

NO SCALE



N.T.S. - IMP 1 - BIORETENTION FACILITY, CROSS SECTION (STORM WATER TREATMENT BASIN) - (SWT)



N.T.S. - IMP 2 - BIORETENTION FACILITY, CROSS SECTION (STORM WATER TREATMENT BASIN) - (SWT)

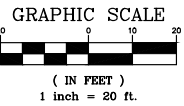
BMP NUMERIC SIZING CALCULATION

AREA ID	SURFACE	TOTAL AREA (S.F.)	BMP TO BE USED	BMP ID	DESIGN CAPTURE VOLUME (C.F.)	TREATMENT AREA REQUIRED (S.F.)	TREATMENT AREA PROVIDED (S.F.)
DMA 1	SIDEWALK, ROOF, PAVEMENT, LANDSCAPE	12,219	BIORETENTION	IMP 1	636.0	396	396
DMA 2	SIDEWALK, CANOPY, PAVEMENT, LANDSCAPE	10,076	BIORETENTION	IMP 2	524.0	302	314
TOTAL		22,295				602	710



STORM DRAIN STENCIL

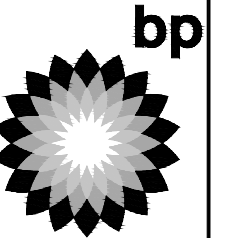
NO SCALE



LEGEND:

- LIMIT OF DRAINAGE AREA
- - - - - LIMIT OF DEVELOPMENT
- IMPERVIOUS AREA (DRAINAGE MANAGEMENT AREAS AS SHOWN)
- BIORETENTION (SWT) WITH SIDE SLOPES (SEE DETAIL)
- COBBLE (ENERGY DISSIPATER)
- DRAINAGE SLOPE AND DIRECTION
- OUTLET STRUCTURE
- BIORETENTION (SWT) W/ STRUCTURAL WALLS
- X Area
- X.XX AC Acreage
- X.XX CFS Q_{10}

2455 Bennett Valley Rd.
Suite A102
Santa Rosa, CA 95404
Ph. 760-583-3388
Kyle Flaming PE
Civil Engineer



Seal FEBRUARY 25, 2020

ARCO BRANDED (SITE # 538)

1575 LANDESS AVENUE
MILPITAS, CA

NAME	WB	DESCRIPTION	PLAN CHECK COMMENTS	DATE	REV	DATE	PROJECT NO.	DATE	ISSUE DATE
				9/05/19	1		BPW 16043.0	02/25/20	
							DRAWN BY:		
							CHECKED BY:		
							UNICE		

C 500

77

PLOT DATE 2/25/2020

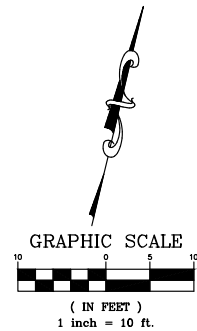
WATER QUALITY MANAGEMENT PLAN

CAUTION NOTICE TO CONTRACTOR
THE CONTRACTOR IS SPECIFICALLY CAUTIONED THAT THE LOCATION AND/OR ELEVATION OF EXISTING UTILITIES AS SHOWN ON THESE PLANS ARE BASED ON RECORDS OF THE VARIOUS UTILITY COMPANIES AND, WHERE POSSIBLE, MEASUREMENTS TAKEN IN THE FIELD. THE INFORMATION IS NOT TO BE RELIED ON AS BEING EXACT OR COMPLETE. THE CONTRACTOR MUST CALL THE APPROPRIATE UTILITY COMPANY AT LEAST 7 DAYS BEFORE ANY EXCAVATION TO REQUEST EXACT FIELD LOCATION OF UTILITIES. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO RELOCATE ALL EXISTING UTILITIES HORIZONTALLY AND VERTICALLY WHICH CONFLICT WITH THE PROPOSED IMPROVEMENTS SHOWN ON THE PLANS.

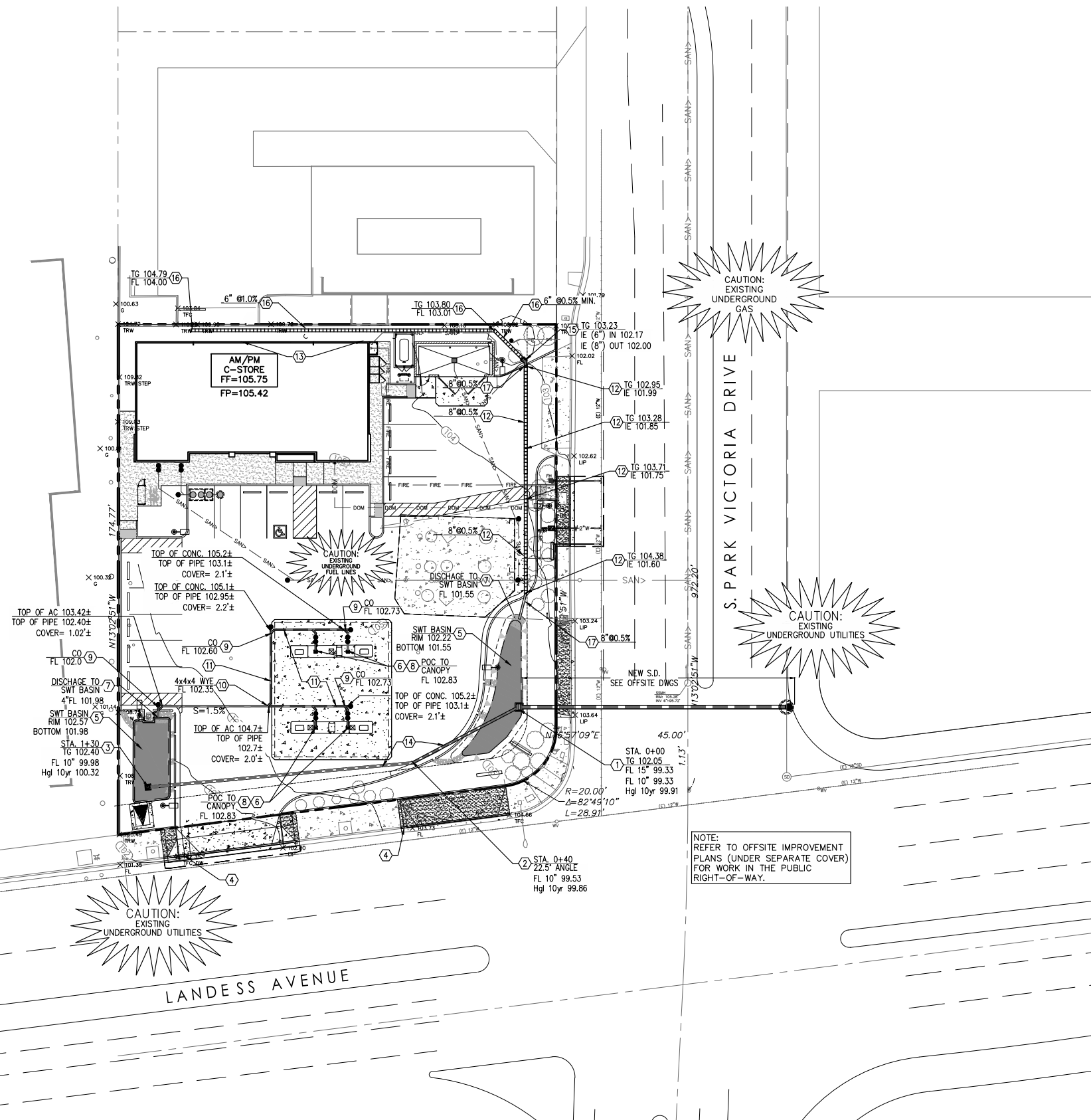
BASIS OF BEARINGS
THE BEARING NORTH 13°02'51" WEST OF THE CENTERLINE OF SOUTH PARK VICTORIA DRIVE, AS SAID DRIVE IS SHOWN ON THE PARCEL MAP FILED IN BOOK 326 OF MAPS AT PAGE 47, SANTA CLARA COUNTY RECORDS WAS TAKEN AS THE BASIS OF BEARINGS FOR THIS MAP.

BENCHMARKS
CITY OF MILPITAS BENCH MARK POINT NAME: SON-SPV
BRASS DISK IN MONUMENT WELL AT INTERSECTION, SOUTH PARK VICTORIA DRIVE AND SONOMA DRIVE. ELEVATION=96.42' (NAVD88)

FLOODNOTE
ACCORDING TO THE F.I.R.M. NO. 06085C0067J, THE SUBJECT PROPERTY LIES IN ZONE X DEFINED AS AREAS DETERMINED TO BE OUTSIDE 500-YEAR FLOOD PLAN. PER MAP REVISION DATED FEBRUARY 19, 2014.



- LEGEND:
- PROPERTY LINE
 - PROPOSED CURB & GUTTER
 - LIMITS OF FULL DEPTH SAWCUT
 - EXISTING CONTOUR
 - PROPOSED CONTOUR
 - ELECTRIC LINE
 - GAS LINE
 - FIRE LINE
 - ADA RAMP
 - BOLLARD
 - TRAFFIC/HANDICAP SIGN
 - DIRECTIONAL SIGN
 - SPEAKER BOX
 - MENU BOARD
 - LIGHT POLE
 - BUILDING UP LIGHTS
 - AREA DRAIN
 - POST INDICATOR VALVE
 - DOUBLE CHECK DETECTOR ASSEMBLY
 - XXXX FF FINISH FLOOR
 - XXXX SW SIDEWALK
 - XXXX TG TOP OF GRATE
 - SANITARY SEWER LINE
 - DOMESTIC WATER LINE
 - TELEPHONE LINE
 - STORM DRAIN
 - GREASE TRAP
 - CLEAN-OUT
 - DOUBLE CLEAN-OUT
 - GAS METER
 - WATER METER
 - IRRIGATION METER
 - MANHOLE
 - CURB INLET
 - DRAINAGE SLOPE AND DIRECTION
 - FIRE DEPT. CONNECTION
 - FIRE HYDRANT
 - SDMH



STORM DRAIN KEY NOTES:

- 24" X 24" I.D. GRATED DRAIN INLET FOR USE AS A BASIN OVERFLOW OVERFLOW / TRANSITION STRUCTURE FOR THE NEW 15" STORM LINE TO THE SITE. SEE OFFSITE IMPROVEMENT PLANS FOR ADDITIONAL INFORMATION. USE CHRISTY PRECAST (OLDCASTLE PRECAST 800-486-7070) MODEL U21 OR APPROVED EQUAL.
- 10" SDR-35 PVC 22.5° ANGLE FITTING.
- BASIN OVERFLOW STRUCTURE, CHRISTY V12 OR APPROVED EQUAL.
- EXISTING THROUGH CURB DRAIN LINE AND BACK OF DRIVEWAY DRAIN STRUCTURE TO BE REMOVED.
- STORM WATER TREATMENT BASIN.
- CONNECT CANOPY RAINWATER LEADER TO STORM DRAIN.
- PIPE DISCHARGE INTO STORM WATER TREATMENT BASIN.
- STORM DRAIN DOUBLE CLEAN-OUT.
- STORM DRAIN SINGLE CLEAN-OUT.
- WYE CONNECTION.
- 4" SDR-35 PVC. SLOPE AT 0.5% MINIMUM. MAINTAIN A MINIMUM 1.0 FEET OF COVER.
- HS-20 TRAFFIC RATED DURASLOT DRAIN WITH 8" PIPE.
- OUTLET BUILDING RAINWATER LEADERS TO FACE OF BUILDING/FOUNDATION TO DRAIN INTO LANDSCAPE AREA. PROVIDE CONCRETE SPLASH BLOCK PER OWNERS OR AGENCIES STANDARDS, IF THEY HAVE ONE. REFER TO ARCHITECT PLANS FOR CONNECTION DETAILS.
- 10" SDR-35 PVC. SLOPED AT 0.50%.
- AREA DRAIN, CHRISTY V12 OR APPROVED EQUAL.
- DURASLOT DRAIN WITH 6" PIPE.
- DURASLOT DRAIN LINE FROM DURASLOT SYSTEM TO SLOPE 0.5% SLOPE (MIN) TO SWT BASIN OR AREA DRAIN PER PLAN. FROM NOTED LOCATION ON PLAN DEPTH OF DURASLOT COUPLE BAND VARIES IN HEIGHT, DOWN TO OUTLET AT BASIN.



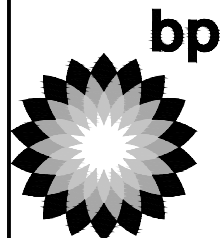
2455 Bennett Valley Rd.
Suite A102
Santa Rosa, CA 95404

Ph. 760-583-3388

Kyle Flaming PE
Civil Engineer



REGISTRATION SEAL



Seal FEBRUARY 25, 2020

ARCO BRANDED (SITE # 538)

1575 LANDESS AVENUE
MILPITAS, CA

NAME	WB
DESCRIPTION	PLAN CHECK COMMENTS
REV	DATE
1	9/05/19
PROJECT NO:	BPW16043.0
DRAWN BY:	WB
CHECKED BY:	JMCE
ISSUE DATE:	02/25/20

TORM DRAIN PLAN

C 530

78

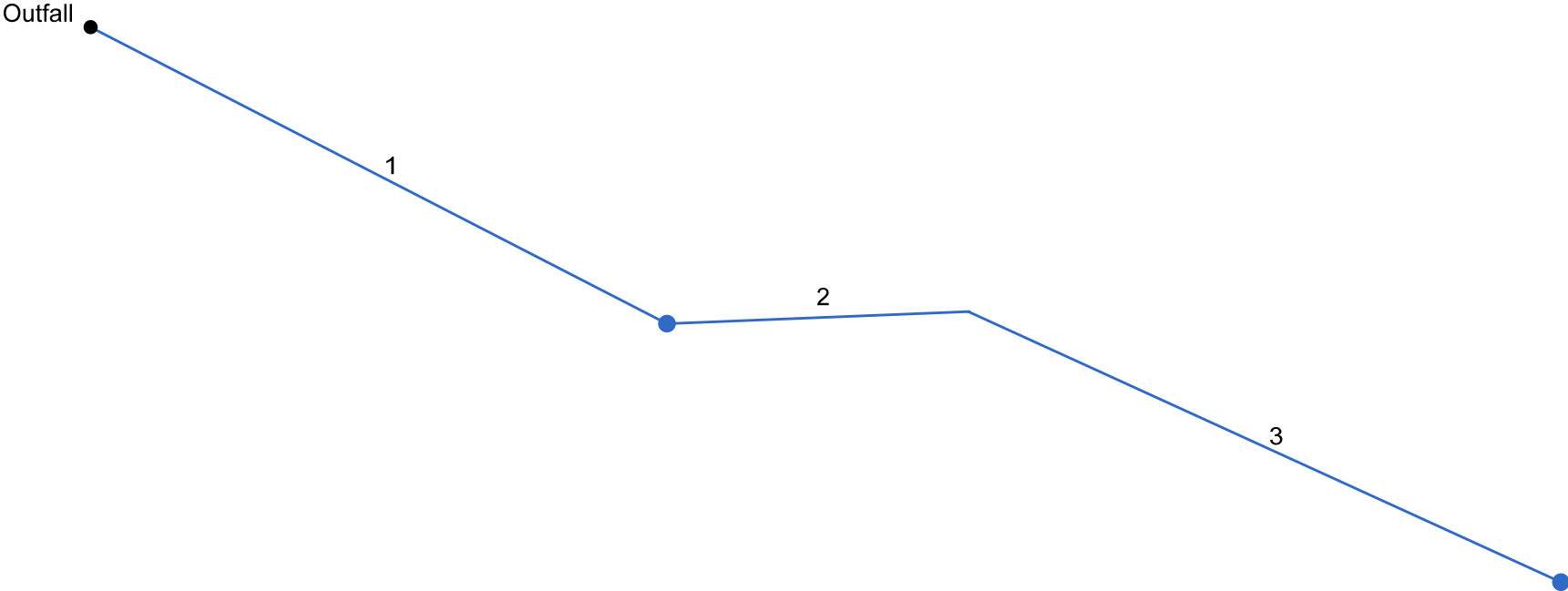
PLOT DATE 2/25/2020

APPENDIX F

STORM DRAIN MODELING

Hydraflow Storm Sewers Extension for Autodesk® AutoCAD® Civil 3D® Plan

Item # C5.



Storm Sewer Summary Report

Item # C5.

Line No.	Line ID	Flow rate (cfs)	Line Size (in)	Line shape	Line length (ft)	Invert EL Dn (ft)	Invert EL Up (ft)	Line Slope (%)	HGL Down (ft)	HGL Up (ft)	Minor loss (ft)	HGL Junct (ft)	Dns Line No.	Type
3	IMP2	0.59	10	Cir	90.000	99.53	99.98	0.500	99.86	100.32	n/a	100.32	2	Grate
2	BTWN2-1	0.56	10	Cir	40.000	99.33	99.53	0.500	99.91	99.86	n/a	99.86	1	None
1	IMP1	1.15	15	Cir	90.290	98.94	99.33	0.432	99.36	99.80	0.11	99.91	End	Grate

Project File: new_lines.stm

Number of lines: 3

Run Date: 2/25/2020

NOTES: Return period = 10 Yrs.

Hydraulic Grade Line Computations

Item # C5.

Line (1)	Size (in) (2)	Q (cfs) (3)	Downstream								Len (ft) (12)	Upstream								Check		JL coeff (K) (23)	Minor loss (ft) (24)
			Invert elev (ft) (4)	HGL elev (ft) (5)	Depth (ft) (6)	Area (sqft) (7)	Vel (ft/s) (8)	Vel head (ft) (9)	EGL elev (ft) (10)	Sf (%) (11)		Invert elev (ft) (13)	HGL elev (ft) (14)	Depth (ft) (15)	Area (sqft) (16)	Vel (ft/s) (17)	Vel head (ft) (18)	EGL elev (ft) (19)	Sf (%) (20)	Ave Sf (%) (21)	Enrgy loss (ft) (22)		
3	10	0.59	99.53	99.86	0.33	0.20	2.95	0.13	99.98	0.000	90.000	99.98	100.32	0.34**	0.21	2.85	0.13	100.44	0.000	0.000	n/a	1.00	n/a
2	10	0.56	99.33	99.91	0.58	0.20	1.38	0.12	100.03	0.000	40.000	99.53	99.86	0.33**	0.20	2.80	0.12	99.98	0.000	0.000	n/a	0.58	n/a
1	15	1.15	98.94	99.36	0.42	0.36	3.15	0.15	99.52	0.525	90.290	99.33	99.80	0.47	0.42	2.75	0.12	99.91	0.359	0.442	0.399	0.94	0.11

Project File: new_lines.stm

Number of lines: 3

Run Date: 2/25/2020

Notes: ; ** Critical depth. ; c = cir e = ellip b = box

General Procedure:

Hydraflow computes the HGL using the Bernoulli energy equation. Manning's equation is used to determine energy losses due to pipe friction. In a standard step, iterative procedure, Hydraflow assumes upstream HGLs until the energy equation balances. If the energy equation cannot balance, supercritical flow exists and critical depth is temporarily assumed at the upstream end. A supercritical flow Profile is then computed using the same procedure in a downstream direction using momentum principles.

Col. 1 The line number being computed. Calculations begin at Line 1 and proceed upstream.

Col. 2 The line size. In the case of non-circular pipes, the line rise is printed above the span.

Col. 3 Total flow rate in the line.

Col. 4 The elevation of the downstream invert.

Col. 5 Elevation of the hydraulic grade line at the downstream end. This is computed as the upstream HGL + Minor loss of this line's downstream line.

Col. 6 The downstream depth of flow inside the pipe (HGL - Invert elevation) but not greater than the line size.

Col. 7 Cross-sectional area of the flow at the downstream end.

Col. 8 The velocity of the flow at the downstream end, (Col. 3 / Col. 7).

Col. 9 Velocity head (Velocity squared / 2g).

Col. 10 The elevation of the energy grade line at the downstream end, HGL + Velocity head, (Col. 5 + Col. 9).

Col. 11 The friction slope at the downstream end (the S or Slope term in Manning's equation).

Col. 12 The line length.

Col. 13 The elevation of the upstream invert.

Col. 14 Elevation of the hydraulic grade line at the upstream end.

Col. 15 The upstream depth of flow inside the pipe (HGL - Invert elevation) but not greater than the line size.

Col. 16 Cross-sectional area of the flow at the upstream end.

Col. 17 The velocity of the flow at the upstream end, (Col. 3 / Col. 16).

Col. 18 Velocity head (Velocity squared / 2g).

Col. 19 The elevation of the energy grade line at the upstream end, HGL + Velocity head, (Col. 14 + Col. 18) .

Col. 20 The friction slope at the upstream end (the S or Slope term in Manning's equation).

Col. 21 The average of the downstream and upstream friction slopes.

Col. 22 Energy loss. Average Sf/100 x Line Length (Col. 21/100 x Col. 12). Equals (EGL upstream - EGL downstream) +/- tolerance.

Col. 23 The junction loss coefficient (K).

Col. 24 Minor loss. (Col. 23 x Col. 18). Is added to upstream HGL and used as the starting HGL for the next upstream line(s).

10 - Year

Hydrograph Reports.....	1
Hydrograph No. 1, Rational, DMA 1.....	1
Hydrograph No. 2, Rational, DMA 1 - Building Roof and Landscaping.....	2
Hydrograph No. 3, Rational, DMA 2 - Roof Canopy.....	3
Hydrograph No. 4, Rational, DMA 2 - Pavement and Sidewalk.....	4
IDF Report.....	5

Hydrograph Report

1

Item # C5.

Hydraflow Hydrographs Extension for AutoCAD® Civil 3D® 2018 by Autodesk, Inc. v2018.3

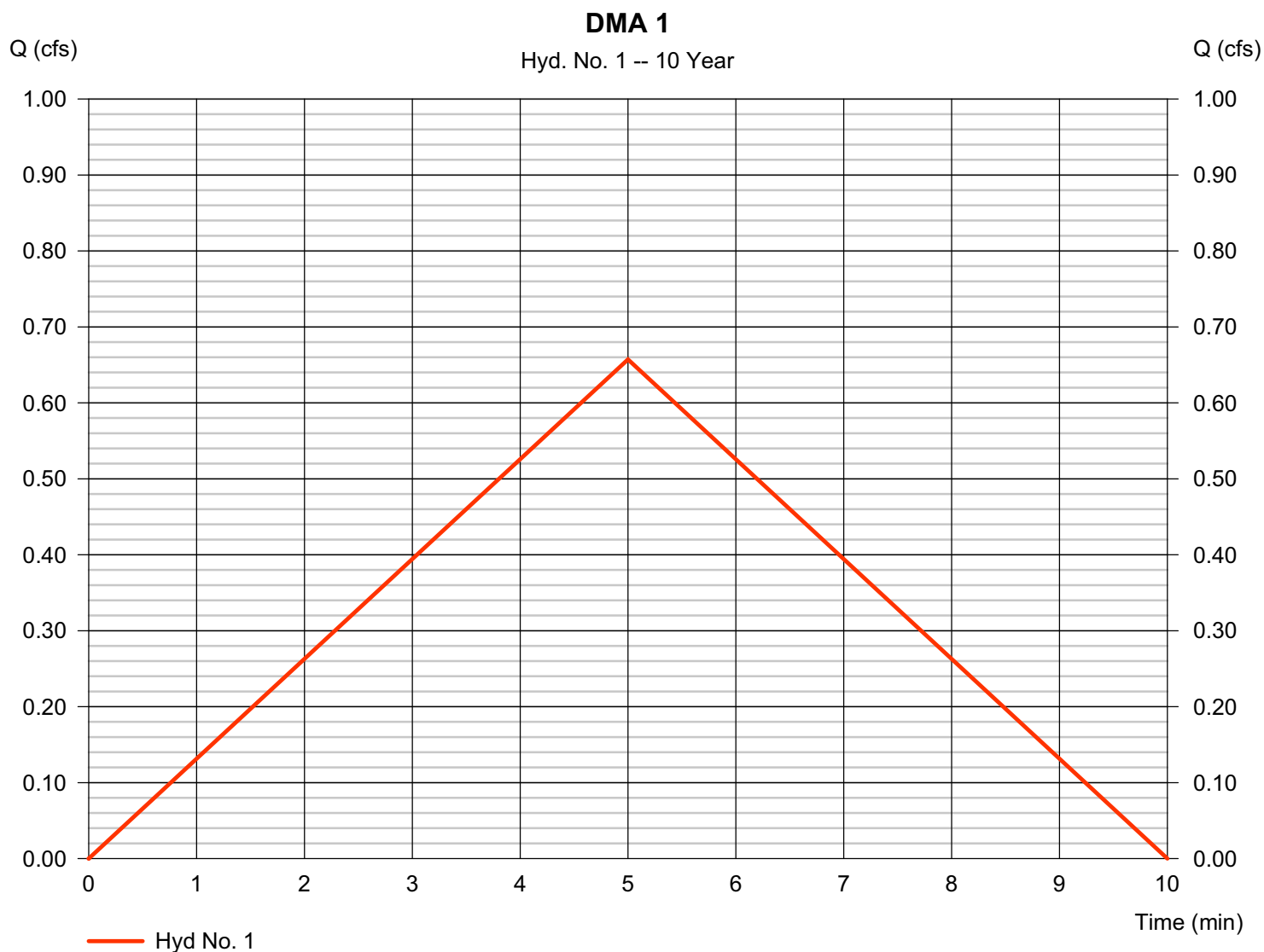
Tuesday, 02 / 25 / 2020

Hyd. No. 1

DMA 1

Hydrograph type	= Rational	Peak discharge	= 0.657 cfs
Storm frequency	= 10 yrs	Time to peak	= 5 min
Time interval	= 1 min	Hyd. volume	= 197 cuft
Drainage area	= 0.280 ac	Runoff coeff.	= 0.83*
Intensity	= 2.828 in/hr	Tc by User	= 5.00 min
IDF Curve	= based on rainfall charts milpitas.105c/Rec limb fact		= 1/1

* Composite (Area/C) = $[(0.255 \times 1.00) + (0.026 \times 0.10)] / 0.280$



Hydrograph Report

2

Item # C5.

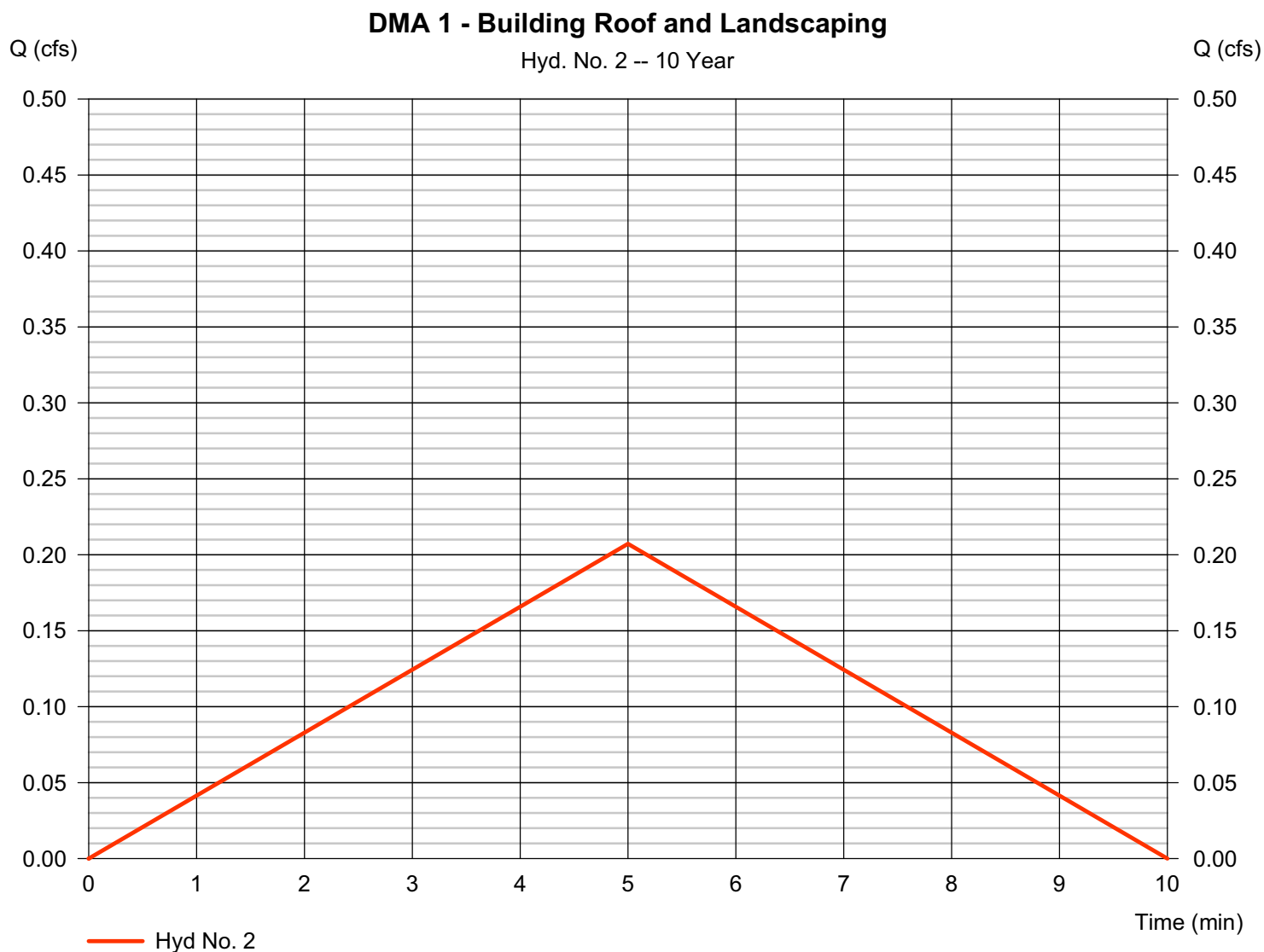
Hydraflow Hydrographs Extension for AutoCAD® Civil 3D® 2018 by Autodesk, Inc. v2018.3

Tuesday, 02 / 25 / 2020

Hyd. No. 2

DMA 1 - Building Roof and Landscaping

Hydrograph type	= Rational	Peak discharge	= 0.207 cfs
Storm frequency	= 10 yrs	Time to peak	= 5 min
Time interval	= 1 min	Hyd. volume	= 62 cuft
Drainage area	= 0.099 ac	Runoff coeff.	= 0.74
Intensity	= 2.828 in/hr	Tc by User	= 5.00 min
IDF Curve	= based on rainfall charts milpitas.105c/Rec limb fact		= 1/1



Hydrograph Report

3

Item # C5.

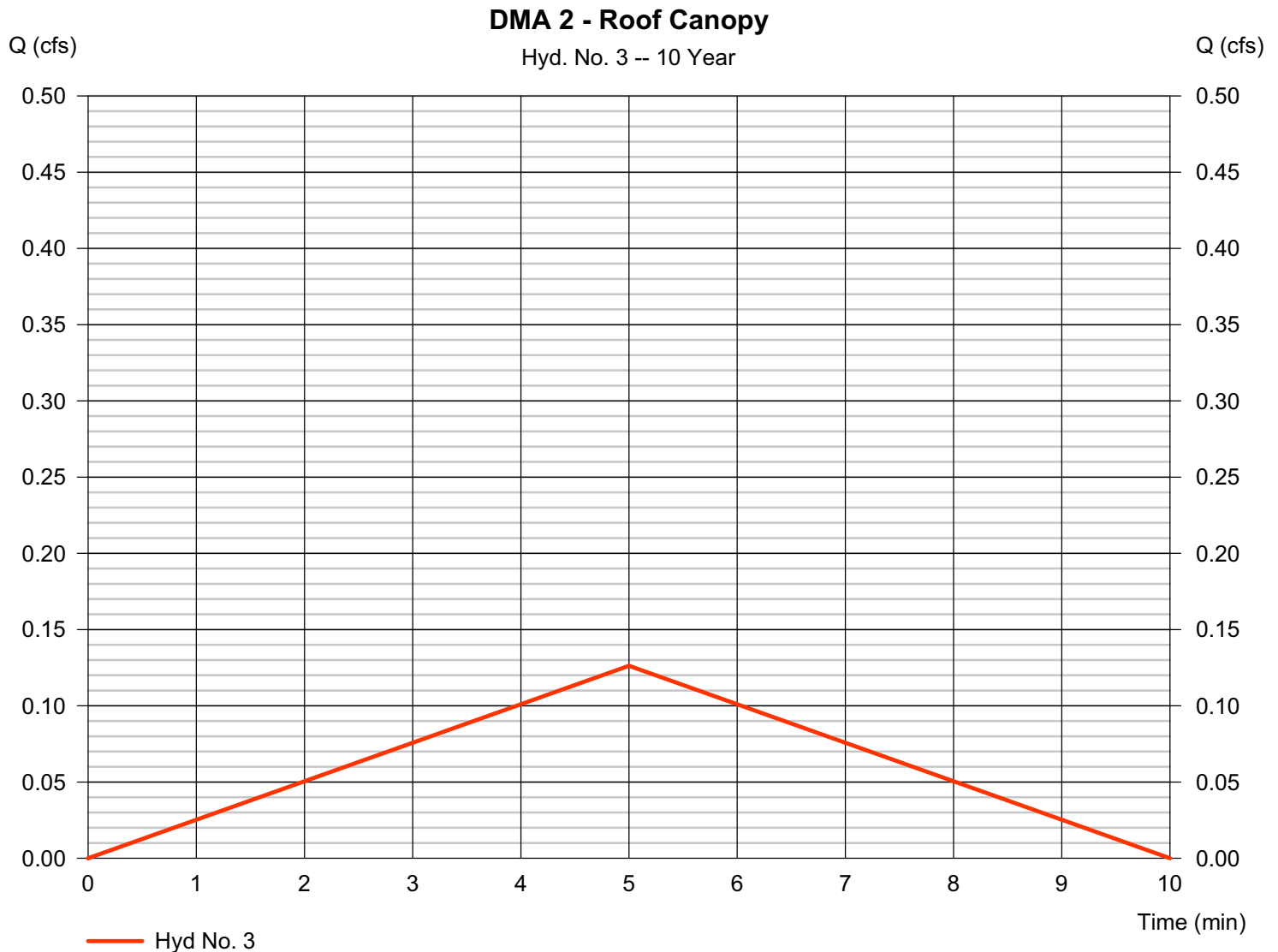
Hydraflow Hydrographs Extension for AutoCAD® Civil 3D® 2018 by Autodesk, Inc. v2018.3

Tuesday, 02 / 25 / 2020

Hyd. No. 3

DMA 2 - Roof Canopy

Hydrograph type	= Rational	Peak discharge	= 0.126 cfs
Storm frequency	= 10 yrs	Time to peak	= 5 min
Time interval	= 1 min	Hyd. volume	= 38 cuft
Drainage area	= 0.045 ac	Runoff coeff.	= 0.99
Intensity	= 2.828 in/hr	Tc by User	= 5.00 min
IDF Curve	= based on rainfall charts milpitas.105c/Rec limb fact		= 1/1



Hydrograph Report

4

Item # C5.

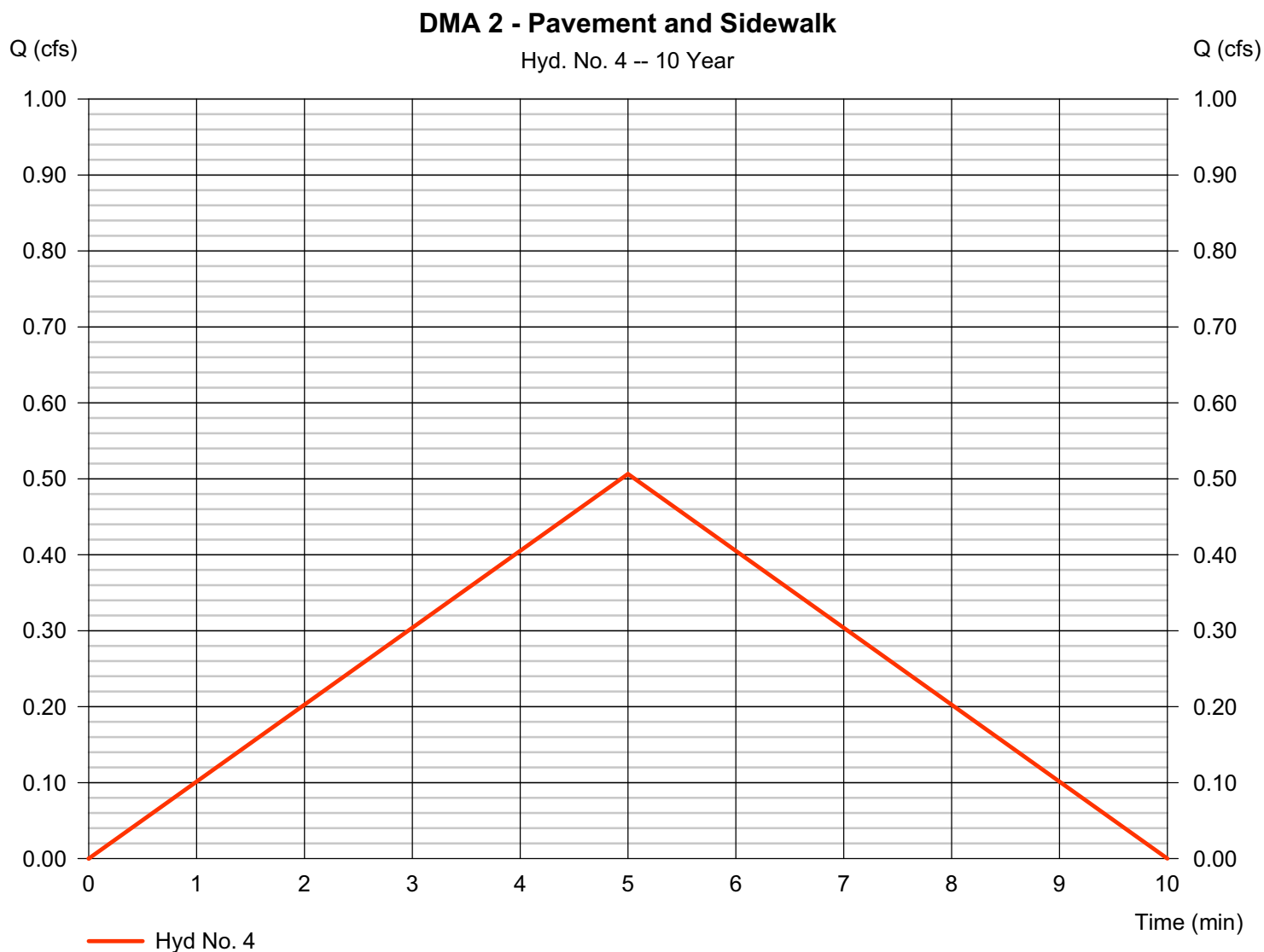
Hydraflow Hydrographs Extension for AutoCAD® Civil 3D® 2018 by Autodesk, Inc. v2018.3

Tuesday, 02 / 25 / 2020

Hyd. No. 4

DMA 2 - Pavement and Sidewalk

Hydrograph type	= Rational	Peak discharge	= 0.506 cfs
Storm frequency	= 10 yrs	Time to peak	= 5 min
Time interval	= 1 min	Hyd. volume	= 152 cuft
Drainage area	= 0.181 ac	Runoff coeff.	= 0.99
Intensity	= 2.828 in/hr	Tc by User	= 5.00 min
IDF Curve	= based on rainfall charts milpitas.105c/Rec limb fact		= 1/1



Hydraflow Rainfall Report

5

Item # C5.

Hydraflow Hydrographs Extension for AutoCAD® Civil 3D® 2018 by Autodesk, Inc. v2018.3

Tuesday, 02 / 25 / 2020

Return Period (Yrs)	Intensity-Duration-Frequency Equation Coefficients (FHA)			
	B	D	E	(N/A)
1	0.0000	0.0000	0.0000	-----
2	0.0000	0.0000	0.0000	-----
3	0.0000	0.0000	0.0000	-----
5	0.0000	0.0000	0.0000	-----
10	6.9108	0.2000	0.5420	-----
25	0.0000	0.0000	0.0000	-----
50	0.0000	0.0000	0.0000	-----
100	0.0000	0.0000	0.0000	-----

File name: basedonrainfallchartsmlpitas.IDF

$$\text{Intensity} = B / (T_c + D)^E$$

Return Period (Yrs)	Intensity Values (in/hr)											
	5 min	10	15	20	25	30	35	40	45	50	55	60
1	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
3	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
5	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
10	2.83	1.96	1.58	1.36	1.20	1.09	1.00	0.93	0.88	0.83	0.79	0.75
25	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
50	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
100	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

T_c = time in minutes. Values may exceed 60.

1 - Commercial\Independent\Petroleum\C-BPW16043.0 - Milpitas, CA\03 - Project Info\Stormwater\SWMP\milpitas.pcp

Storm Distribution	Rainfall Precipitation Table (in)							
	1-yr	2-yr	3-yr	5-yr	10-yr	25-yr	50-yr	100-yr
SCS 24-hour	1.30	0.00	0.00	1.60	2.81	4.95	2.80	6.39
SCS 6-Hr	0.00	0.00	0.00	1.22	0.00	0.00	2.41	0.00
Huff-1st	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Huff-2nd	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Huff-3rd	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Huff-4th	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Huff-Indy	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Custom	1.30	0.00	0.00	0.00	0.00	0.00	0.00	0.00

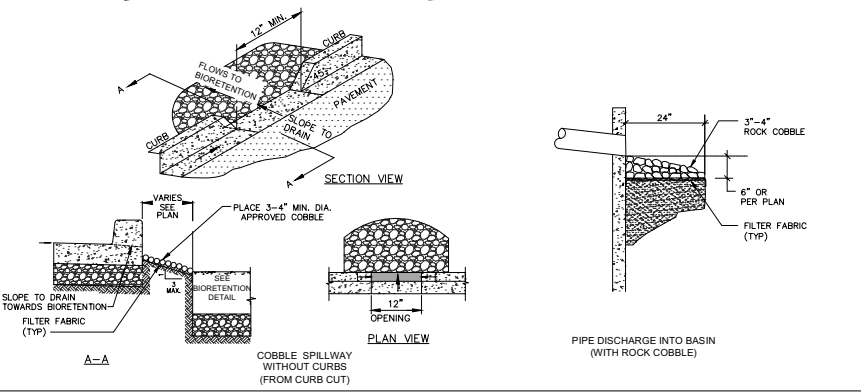
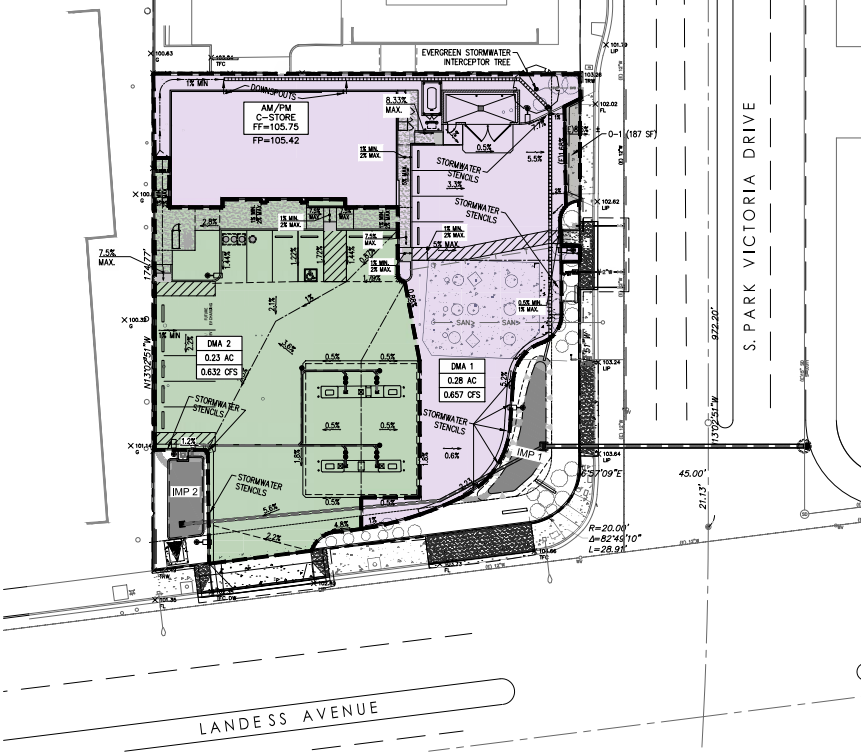
APPENDIX G

BMP Operation and Maintenance Plan

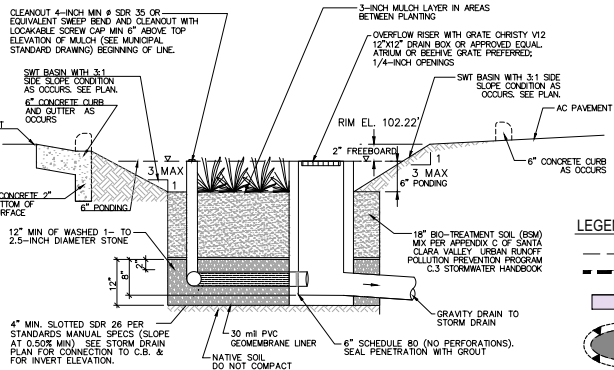
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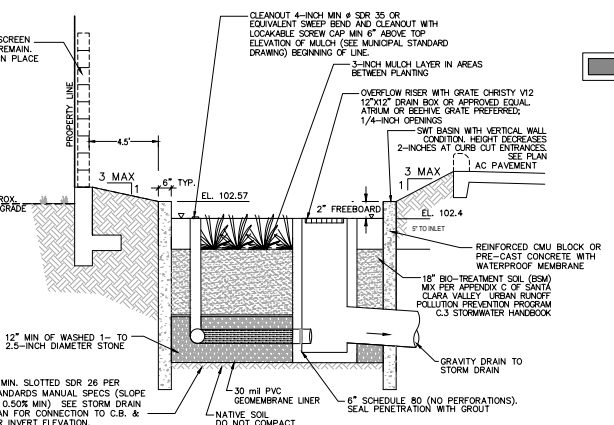
FLOODNOTE
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PER MAP REVISION DATED FEBRUARY 19, 2014.



SPILLWAY AND PIPE DISCHARGE CONNECTION DETAILS



N.T.S. - IMP 1 - BIORETENTION FACILITY, CROSS SECTION (STORM WATER TREATMENT BASIN - (SWT))



N.T.S. - IMP 2 - BIORETENTION FACILITY, CROSS SECTION (STORM WATER TREATMENT BASIN - (SWT))

- LEGEND:**
- LIMIT OF DRAINAGE AREA
 - - - - - LIMIT OF DEVELOPMENT
 - IMPERVIOUS AREA (DRAINAGE MANAGEMENT AREAS AS SHOWN)
 - BIORETENTION (SWT) WITH SIDE SLOPES (SEE DETAIL)
 - COBBLE (ENERGY DISSIPATER)
 - DRAINAGE SLOPE AND DIRECTION
 - OUTLET STRUCTURE
 - BIORETENTION (SWT) W/ STRUCTURAL WALLS
 - X Area
 - XXX Acreage
 - Q₁₀

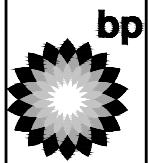
BMP NUMERIC SIZING CALCULATION						
AREA ID	SURFACE	TOTAL AREA (S.F.)	BMP TO BE USED	BMP ID	DESIGN CAPTURE VOLUME (C.F.)	TREATMENT AREA REQUIRED (S.F.)
DMA 1	SIDEWALK, ROOF, PAVEMENT, LANDSCAPE	12,219	BIORETENTION	IMP 1	636.0	396
DMA 2	SIDEWALK, CANOPY, PAVEMENT, LANDSCAPE	10,076	BIORETENTION	IMP 2	524.0	302
TOTAL		22,295				602
						710



STORM DRAIN STENCIL

PM DESIGN
Civil Engineering

2455 Bennett Valley Rd.
Suite A102
Santa Rosa, CA 95404
Ph: 760-583-3388
Kyle Fleming PE
Civil Engineer



Seal FEBRUARY 25, 2020

ARCO BRANDED (SITE # 538)
1575 LANDESS AVENUE
MILPITAS, CA

NO. OF S.D.	DESCRIPTION	DATE	REVISION
1	DESIGN	02/25/20	
2	CONSTRUCTION		
3	AS-BUILT		
4	FINAL		

C 500

PLOT DATE 2/25/2020

Means to Finance and Implement BMP Maintenance

Proper operation and maintenance of Stormwater Management Facilities will be the responsibility of the property owner in perpetuity.

The applicant will prepare and submit, for review and approval by Santa Clara County, a Stormwater Control Operation and Maintenance Agreement before sale, transfer, or permanent occupancy of the site. The applicant accepts responsibility for maintenance of stormwater management facilities until such responsibility is transferred to another entity.

It is the responsibility of Owner and the facility management to provide for the regular maintenance of both structural and non-structural BMP's. Owner shall pass on this responsibility to successive owners/restaurant managers to insure that the intent of the Water Quality Management Plan is carried out for the entire life of the site. Non-structural BMP's shall be implemented per the Water Quality Management Plan. Structural BMP's shall be inspected at a minimum of every six months or less as required by Santa Clara County to ensure that the BMP's are in compliance with the regulations set forth in the Water Quality Management Plan. Structural BMP's shall be cleaned and operational no later than October 1st of each year before the start of the rainy season. Records shall be kept on site indicating when maintenance has been performed on each structural or non-structural BMP. BMP maintenance records shall be made available to County officials upon request.

Owner agrees to annex into a Community Facilities District to be established and to execute and record a covenant running with the land, Stormwater Management Facilities Operation and Maintenance Agreement, and right-of-entry with Santa Clara County.

Summary of Maintenance Requirements

Bio-retentions remove pollutants as the runoff passes through sandy loam and open-graded gravel layers. A perforated pipe under drain conveys treated stormwater to the site storm drain system. Routine maintenance is needed to ensure that flow is unobstructed, that erosion is prevented, and that soils are held together by plant roots and are plants are biologically active. Typical routine maintenance consists of the following:

- Inspect bio-retention for evidence of instability or erosion and correct as necessary. Clear any obstructions and remove any accumulation of sediment. Examine rock or other material used as a splash pad and replenish if necessary.
- Inspect overflow inlets for signs of sediment build up or plugging.
- Inspect bioretention area for ponded water. If ponded water does not drain within 2-3 days, till and replace the surface soil and replant.
- Observe performance of engineering soil layers in the Bio-retention areas for uniform percolation throughout. If portions of the Bio-retention do not drain at the required 5"/hour, the soil layers should be removed and replaced. Remove any debris or accumulations of sediment.
- Examine the vegetation to ensure that it is healthy and dense enough to provide filtering and to protect soils from erosion. Replenish mulch as necessary, remove fallen leaves and debris, prune large shrubs or trees and mow turf areas. Confirm that irrigation is adequate and not excessive. Replace dead plants and remove invasive vegetation.

BMP Inspection and Maintenance Schedule and Checklist

Schedule	Observation	Maintenance Activity
Before the start of each rainy season and after each heavy rain event.	Bio-retentions: - Inspect vegetation for evidence of damage or instability. - Observe plant growth. Vegetation should be dense enough to provide filtering and to protect soils from erosion. - Inspect for ponded water. - Inspect vegetation for invasion of plants and weeds. - Check that mulch is at appropriate depth (3-inches per soil specifications). Inspect energy dissipation at the inlet to ensure it is functioning adequately, and there is no scour of the surface mulch.	- Remove any damaged, diseased, or unstable vegetation and replace in-kind with viable vegetation. - Remove fallen leaves and debris, prune large shrubs or trees and mow turf areas. - Till and replace the surface soil and replant if ponded water does not drain within 2-3 days. - Remove any invasive plants, weeds or undesirable vegetation and if necessary replace in-kind with viable healthy plantings. - Replenish mulch as necessary to meet specs.
Before the start of each rainy season and after each heavy rain event.	Bio-retention Curb Cut Inlets: - Inspect drain inlets for accumulation of debris and sediment. - Inspect drain inlets for obstructions to inlet and out piping including perforated planter drain lines.	- Remove any debris and sediment. Clean inlet as necessary. - Remove any obstructions to inlet and outlet piping. Clean inlet as necessary.
Before the start of each rainy season and after each heavy rain event.	Drainage System Structures, i.e. Overflow and underdrains: - Inspect drainage structures for accumulation of debris and sediment. - Inspect drain inlets for obstructions to inlet and out piping.	- Remove any debris and sediment. Clean inlet as necessary. - Remove any obstructions to inlet and outlet piping.
Before the start of each rainy season and after each heavy rain event.	Catch Basin and Trash Screen: Inspect catch basin and trash screen for accumulation of debris and sediment.	Remove any debris and sediment. Clean inlet as necessary.
Before the start of each rainy season.	Building Roof Area: Inspect roof gutters and downspouts for accumulation of debris or obstructions.	Remove any debris and obstructions and clean gutters as necessary.

Use of Pesticides

The use of pesticides and quick release fertilizers shall be minimized, and the principles of integrated pest management (IMP) 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. Provided 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 preschedule 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.

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

Stormwater BMP Inspection Report

The property owner will prepare and submit, for review by the City of Milpitas, these Stormwater documents to the City of Milpitas annually. The property accepts responsibility for maintenance of stormwater management facilities until such responsibility is transferred to another entity.

Stormwater Treatment Measure Information:

The property contains two bioretention areas, located as described below and as shown on the attached site plan.

- Bioretention Area – IMP 1 – is located at the corner of S. Park Victoria Drive and Landess Avenue.
- Bioretention Area – IMP 2 – is located at the southwest corner of the site.

Stormwater BMP Inspection and Maintenance Log

Property Name	
Address	
Begin Date	End Date

Date	BMP ID#	BMP Description	Inspected by:	Cause for Inspection	Exceptions Noted	Comments and Actions Taken

Sediment Removal:

Total amount of accumulated sediment removed from the stormwater treatment measures during the reporting period : _____ cubic yards.

How was the sediment disposed?

- ☐ landfill
- ☐ other, explain _____

Instructions: Record all inspections and maintenance for all treatment BMPs on this form. Use additional log sheets and/or attach extended comments or documentation as necessary. Submit a copy of the completed log, with the individual inspection and maintenance checklists and the annual independent inspectors' report to the municipality, and start a new log at that time.

- BMP ID# — Always use ID# from the Operation and Maintenance Manual.
- Inspected by — Note all inspections and maintenance on this form, including the required independent annual inspection.
- Cause for inspection — Note if the inspection is routine, pre-rainy-season, post-storm, annual, or in response to a noted problem or complaint.
- Exceptions noted — Note any condition that requires correction or indicates a need for maintenance.
- Comments and actions taken — Describe any maintenance done and need for follow-up.

Designation of Individuals Responsible for Stormwater Treatment BMP Operation and Maintenance	
Date Completed	
Facility Name	
Facility Address	
Designated Contact for Operation and Maintenance	
Name:	Title or Position:
Telephone:	Alternate Telephone:
Email:	
Off-Hours or Emergency Contact	
Name:	Title or Position:
Telephone:	Alternate Telephone:
Email:	
Corporate Officer (authorized to execute contracts with the City, Town, or County)	
Name:	Title or Position:
Address:	
Telephone:	Alternate Telephone:
Email:	

Record individual inspections and maintenance for all treatment BMPs on the inspection and maintenance checklist on the next page.

Annual Summary of Stormwater BMP Inspection and Maintenance Log

Identifying Number of Source and Treatment Control	Date of Inspection	Operation & Maintenance Activities Performed and Date(s) Conducted	Additional Comments

Certification:

I hereby certify, under the 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: _____

Print Name

Company Name

Address

Phone Number: _____ Email: _____

Submittal

Please submit the Operations and Maintenance Inspection reports, Maintenance, Plan, and Inspection and Maintenance checklist for each BMP to the following address:

City of Milpitas
455 E. Calaveras Blvd.
Milpitas, CA 95035
Attn: Land Developer Engineer

APPENDIX H

Geotechnical Engineering Services Report



**GEOTECHNICAL ENGINEERING
SERVICES REPORT**

For the
**PROPOSED AM/PM
FUELING STATION REMODEL**

**1575 Landess Avenue,
Milpitas, California**

**GEOTECHNICAL ENGINEERING
SERVICES REPORT**

For the
**PROPOSED AM/PM
FUELING STATION REMODEL**

**1575 Landess Avenue,
Milpitas, California**

Prepared for

BP Products North America, Inc.
150 W. Warrenville Road
Building 605, 3rd Floor
Naperville, Illinois 60563

Prepared by

Professional Service Industries, Inc.
4703 Tidewater Avenue, Suite B
Oakland, California 94601
Telephone (510) 434-9200

PSI PROJECT NO. 575-1284

December 13, 2017

December 13, 2017

Ms. Michelle Knapp

BP Products North America, Inc. (BP)150 W. Warrenville Road, Bldg. 605, 3rd Floor
Naperville, Illinois 60563

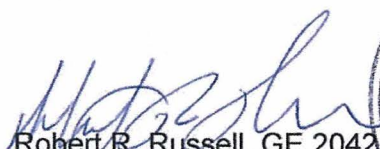
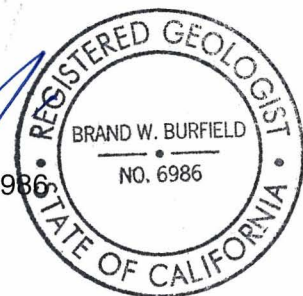
Subject: **Geotechnical Engineering Services Report**
Proposed AM/PM Fueling Station Remodel
1575 Landess Avenue, Milpitas, California
PSI Project No. 575-1284

Dear Ms. Knapp:

Professional Service Industries, Inc. (PSI), an Intertek company, is pleased to submit our Geotechnical Engineering Services Report for the above-referenced project in Milpitas, California. This report includes the results of field and laboratory testing and geotechnical recommendations for foundation, as well as general site development.

We appreciate the opportunity to perform this Geotechnical Study and look forward to continued participation during the design and construction phases of this project. If you have any questions pertaining to this report, or if we may be of further service, please contact our office.

Respectfully submitted,

PROFESSIONAL SERVICE INDUSTRIES, INC.
Robert R. Russell, GE 2042
Geotechnical Engineer
Brand Burfield, PG 6986
Project Geologist

Reviewed by Michael Place, Principal Consultant

TABLE OF CONTENTS

1.0 PROJECT INFORMATION	1
1.1 PROJECT AUTHORIZATION	1
1.2 SITE LOCATION AND DESCRIPTION.....	1
1.3 PROJECT UNDERSTANDING	1
1.4 PURPOSE AND SCOPE OF SERVICES.....	2
2.0 SUBSURFACE EXPLORATION	3
2.1 SITE GEOLOGY.....	3
2.2 PRE-FIELD ACTIVITIES	3
2.3 SUBSURFACE EXPLORATION AND CONDITIONS	3
2.3.1 Standard Penetration Test (SPT) Borings	3
2.3.2 Soil Description	4
2.3.3 General Boring Notes	4
2.4 GROUNDWATER	4
2.5 INFILTRATION RATE EVALUATION	5
2.6 LABORATORY EVALUATION.....	5
3.0 SEISMIC CONSIDERATIONS	6
3.1 REGIONAL SEISMICITY	6
3.2 SEISMIC ANALYSIS	6
3.3 HAZARD ASSESSMENT.....	7
4.0 GEOTECHNICAL RECOMMENDATIONS	9
4.1 GENERAL	9
4.2 SITE PREPARATION.....	9
4.3 ENGINEERED FILL	10
4.4 EXCAVATIONS.....	11
4.4.1 Excavations/Slopes	11
4.4.2 Utility Trench Excavation and Backfill.....	11
4.5 FOUNDATIONS	12
4.5.1 Shallow Building Foundations	12
4.5.2 Canopy Foundations.....	13
4.6 CONCRETE FLOOR SLAB	15
4.7 DRAINAGE CONSIDERATIONS	16
4.8 PAVEMENT RECOMMENDATIONS	16
4.8.1 General Pavement Notes	17
4.9 CORROSIVITY	18
4.10 CONSTRUCTION MONITORING	18
5.0 GENERAL	19
5.1 USE OF REPORT.....	19
5.2 LIMITATIONS	19
6.0 REFERENCES	20

FIGURES

Figure 1: Site Location Map

Figure 2: Site Plan and Boring Location Map

APPENDIXES

Appendix A – Exploration Logs and Drilling Permit

Appendix B – Laboratory Test Results

Appendix C – Liquefaction Analysis

1.0 PROJECT INFORMATION

1.1 Project Authorization

Professional Service Industries, Inc. (PSI) is pleased to submit our Geotechnical Engineering Services Report for the proposed AM/PM Fueling Station remodel in Milpitas, California. Our work was performed in general accordance with the BP “Geotech Services Scope of Work” dated March 1, 2017. Our work was authorized by Ms. Michelle Knapp of BP by issuing a Purchase Order (PO#4532530202, dated October 24, 2017) in response to our geotechnical pricing proposal.

1.2 Site Location and Description

The subject site is a trapezoidal-shaped property measuring about ½ acre in plan area. The site is located at the northwest corner of the intersection of South Park Victoria Drive and Landess Avenue, with a street address of 1575 Landess Avenue in Milpitas, California (see Figure 1 - Site Location Map).

The property is bounded to the north and west by commercial properties, to the south by Landess Avenue followed by commercial properties and to the east by South Park Victoria Drive followed by a commercial property. At the time of our fieldwork, the site was developed with an existing ARCO filling station and AM/PM mini-mart, fuel pumps, a fueling canopy, and paved parking and drive areas (see Figure 2). Based on topographic information obtained from Google Earth, the site is relatively level with elevations ranging from approximately 101 to 106 feet above mean sea level.

1.3 Project Understanding

Based on the scaled Site Plan provided by your office (PM Design, 2017), PSI understands that the existing gas station/mini-mart building is to be demolished and it is proposed to construct a new ARCO station/AM/PM mini-mart as a replacement. We understand from information provided that the new building will consist of a 1-story, 3,180 square foot building, to be located to the northwest of the existing structure. We have assumed that the existing underground storage tanks and canopy will be re-used and that new canopies or USTs will not be needed.

Expected structural loading was not made available at the time this report was prepared, but based on the type of development planned and on our previous experience with similar projects PSI anticipates strip and column footing loads on the order of 3 kips and 30 kips respectively. Other improvements are likely to include pavements and utilities. Also, for the purposes of this report, we have assumed finish exterior grades to be near (+/- two feet) existing grades. A site plan with the locations of the proposed structures is presented as Figure 2.

Should any of the above information or assumptions made by PSI be inconsistent with the planned construction, we request that you contact us immediately to allow us to make any necessary modifications to our recommendations.

1.4 Purpose and Scope of Services

The purpose of our geotechnical evaluation was to assess the subsurface soil conditions at the site in order to provide appropriate recommendations for site preparation and foundation design. Our evaluation was in general accordance with the scope of work outlined in the BP “Geotech Services Scope of Work” dated March 1, 2017.

Our scope of services included 2 Standard Penetration Test (SPT) borings, drilled to depths of up to approximately 21½ to 51½ feet below the existing surface grade (bgs) in the area of the proposed new structure. This report briefly outlines the testing procedures, presents available project information, describes the site and subsurface conditions, and presents geotechnical recommendations regarding the following:

- Site topographic information and surface conditions;
- Review of subsurface conditions including groundwater;
- Review of field and laboratory test procedures and test data;
- Information on potentially expansive, deleterious, chemically active or corrosive materials;
- Figures including a site plan with boring locations and boring logs;
- California Building Code (CBC) site class and seismic site coefficients for use in seismic design (CBSC, 2016);
- An assessment of the potential for soil liquefaction during a seismic event;
- Site preparation and grading considerations, including recommended fill material characteristics and compaction requirements for general site fill and slab/pavement subgrades, including an assessment as to the suitability of on-site soils for use as fill;
- Recommendations pertaining to design and construction of foundations, floor slabs and pavements, including allowable soil bearing pressures, anticipated bearing depths and estimated settlements; and,
- Comments regarding factors that may impact construction and performance of the proposed construction.

The scope of services did not include an environmental assessment for determining the presence or absence of wetlands or hazardous or toxic materials in the soil, bedrock, surface water, groundwater, or air on or below, or around this site. Any statements in this report or on the boring logs regarding odors, colors, and unusual or suspicious items or conditions are strictly for information purposes only.

2.0 SUBSURFACE EXPLORATION

2.1 Site Geology

The subject site is located within a large region known as the Coast Ranges geomorphic province. This province is characterized by extensively folded, faulted, and fractured earth materials. These structural features trend in a northwesterly direction and make up the prominent system of northwest-trending mountain ranges separated by straight-sided sediment filled valleys (CGS, 2002).

The subject site is situated on the alluvial plains near the northern end of the Santa Clara Valley, approximately 4½ miles southeast of the San Francisco Bay. Our review of readily available, pertinent geologic literature (Dibblee, 1973) indicates that the subject site is underlain by late Quaternary aged alluvium (Qa), described as gravel sand and clay.

2.2 Pre-Field Activities

Prior to initiation of field drilling activities, PSI outlined the site and marked the proposed boring locations in white paint, and contacted Underground Service Alert (USA) a minimum of 48 hours prior to beginning work to locate any potential buried utilities. The USA inquiry identification number (or “Ticket Number”) for the utility locate request was #W729901352-00W. Additionally, PSI hired Subdynamic Locating Services, a subcontract private utility location service, to check the proposed boring locations for underground utilities.

2.3 Subsurface Exploration and Conditions

In order to evaluate soil conditions at the site, PSI advanced 2 Standard Penetration Test (SPT) soil borings within the new building area to depths of about 21½ to 51½ feet below existing grade bgs. Locations of the soil borings, as well as the existing and proposed improvements, are shown on Figure 2.

2.3.1 Standard Penetration Test (SPT) Borings

The SPT borings were drilled by HEW Drilling of East Palo Alto, California with a CME 75 drill rig using hollow-stem auger drilling methods. Boring B-1 and B-2 were advanced in the proposed new building area to depths of approximately 21½ to 51½ feet below the existing ground surface (bgs). At the completion of drilling, the borings were backfilled with soil cuttings and topped with concrete to match the existing surface grades.

During the sampling procedure, Standard Penetration Tests (SPT) were performed in accordance with ASTM D1586 and relatively undisturbed samples were obtained in general accordance with ASTM D3550. The SPT for soil borings were performed by driving a 2-inch diameter split-spoon sampler into the undisturbed subsurface materials located at the bottom of the advanced borehole with repeated blows of a 140-pound hammer falling a vertical distance of 30 inches. The number of blows required to drive the sampler the last 12 inches of an 18-inch penetration depth is a measure of the soil consistency. For ASTM D3550 (California Modified Sampler) the split barrel sampler possesses a 3-inch outside diameter and is driven in the same

manner as the SPT. The field blow counts obtained from the California Modified sampler, as indicated in the boring logs, are multiplied by a factor of 0.65 to obtain an approximate correlation to SPT blow counts (SPT-N value). Samples were identified in the field, placed in sealed containers, and transported to the laboratory for further classification and testing.

2.3.2 Soil Description

In the new building area (borings B-1 and B-2), the site was surfaced with about 2 to 3 inches of asphalt underlain by about 3 to 4 inches of aggregate base. Beneath the pavement, the subsurface soil encountered at the boring locations generally consisted of stiff to hard consistency sandy lean clay that extended to a depth of about 40 feet below grade. The sandy lean clay soil was underlain by medium dense clayey sand and very dense poorly graded sand with gravel that extended to the maximum depth explored.

2.3.3 General Boring Notes

The above subsurface information is of a generalized nature to highlight the major subsurface stratification features and material characteristics. The boring logs, included in Appendix A, should be reviewed for specific information at the boring locations. These records include soil descriptions, stratification, penetration resistance, locations of the samples and laboratory test data. The stratification shown on the logs represent the conditions only at the actual location at the time of our exploration. Variations may occur and should be expected between boring locations. The stratification that represents the approximate boundary between subsurface materials and the actual transition may be gradual. It should be noted that, although the test borings are drilled and sampled by experienced professionals, it is sometimes difficult to record changes in stratification within narrow limits, especially at great depths. In the absence of foreign substances, it is also sometimes difficult to distinguish between discolored soils and clean fill soil.

The pavement thicknesses shown on the boring logs are approximate measurements and represent the conditions only at the actual boring locations at the time of our exploration. Variations may occur and should be expected between boring locations. Additionally, Petromat-type fabric in the pavement section is difficult to discern during drilling and may or may not be present in the existing pavements. As such, the pavement description given in this report is not intended to be used to evaluate the suitability or estimate the quantity for disposal.

2.4 Groundwater

Groundwater was encountered at a depth of approximately 45 feet below grade in boring B-1 at the time of drilling. Groundwater was not encountered within the other exploration either during or upon completion of drilling. Based on a review of the Seismic Hazard Zone Report for the Calaveras Reservoir Quadrangle (CDMG, 2001) we estimate that the historic high groundwater at the site is about 33 feet below grade. As such, groundwater is not expected to impact the proposed construction. It is possible, however, that transient, saturated ground conditions at shallower depths could develop at a later time during periods of heavy precipitation, landscape watering, leaking water lines, or other unforeseen causes. Variations in groundwater levels should be expected seasonally, annually, and from location to location.

2.5 Infiltration Rate Evaluation

One infiltration test boring (I-1) was advanced to a depth of about 5 feet bgs in the approximate location indicated on the provided boring location plan (PM Design, 2017). The infiltration boring was advanced to evaluate the feasibility of a proposed bioretention feature. The test depth was selected based on the expected depth of the bioretention feature. The approximate location of the infiltration test boring is indicated on Figure 2.

Once advanced to the test depth, the bottom of the boring was filled with approximately 6 inches of Cemex Lapis Lustre #3 sand. A 5-foot section of perforated PVC piping (slotted well casing) with an inside diameter of approximately 4 inches was installed inside the boring on top of the gravel, with solid piping above, extending upward to the ground surface. Approximately 5 feet of the #3 sand was placed within the annular space around the pipe. The pipe was then filled with a minimum of 5 feet of clean water above the soil to be tested (bottom of the hole) and maintained at a minimum depth of 5 feet for 4 hours to presoak the native soil material.

Following the presoak of the test hole, an infiltration test was performed by filling the pipe with about 3 feet of water and recording the drop in the water level within the pipe at approximate 15-minute intervals for 1 hour. The water level was measured to the nearest 0.01 foot (approximately $\frac{1}{8}$ inch) with a flat tape water level meter using the top of the pipe as a reference point. After 1 hour, the process was repeated 2 additional times. The total running time for all three trials was approximately 3 hours. The results of our tests are as follows:

I-1 (5 feet bgs) Test Results –

- An un-factored end of test percolation rate of approximately 0.3 gallons per square foot per day, which is approximately equivalent to 0.02 inches per hour, was obtained.

PSI recommends that a factor of safety of at least 2 be utilized in the design of the any infiltration facility. Local regulatory agencies may also require additional safety factors be applied to the measured infiltration rate and PSI recommends that design rates be determine in general accordance with local requirements.

2.6 Laboratory Evaluation

Selected samples of the subsurface soils encountered were returned to our laboratory for further evaluation to aid in classification of the materials, and to help assess their strength and expansive nature. The laboratory evaluation consisted of visual and textural examinations, moisture and density tests, Atterberg Limit tests, expansion index testing and sieve analysis (percent passing the No. 200 sieve). Sulfate, chloride, pH and resistivity testing were also performed to evaluate the corrosive potential of the site soils. A brief discussion of the laboratory tests performed and a portion of the test results are presented in Appendix B. The remaining test results are shown on the boring logs in Appendix A. Samples that were not altered by laboratory testing will be retained for 30 days from the date of this report and will then be discarded.

3.0 SEISMIC CONSIDERATIONS

3.1 Regional Seismicity

Generally, seismicity within California can be attributed to faulting due to regional tectonic movement. This includes the Hayward Fault, the Calaveras Fault, and most parallel and subparallel faulting within the State. The portion of California which includes the subject site is considered seismically active. Seismic hazards within the site can be attributed to potential groundshaking resulting from earthquake events along nearby or more distant faulting.

According to regional geologic literature (Blake, 2000; USGS, 2016), the closest known late Quaternary fault is the Hayward Fault, located approximately 1 mile northeast of the site. The CDMG Special Studies Zones map (CDMG, 1982) indicates that a mapped trace of the Hayward Fault lies about 0.9 miles northeast of the site. Several potentially active and pre-Quaternary faults also occur within the regional vicinity. The site is subject to a Maximum Magnitude Event of 7.3 Magnitude along the Hayward Fault. The Maximum Magnitude Event is defined as the maximum earthquake that appears capable of occurring under the presently known tectonic framework.

3.2 Seismic Analysis

According to the Alquist-Priolo Special Studies Zones Act of 1972 (revised 1994), active faults are those that have been shown to display surface rupture during the last 11,000 years (i.e., Holocene time). PSI did not observe any mapped faults crossing the site on readily available resources (Dibblee, 1973; USGS, 2016).

The site will be affected by seismic shaking as a result of earthquakes on major active faults located throughout the northern California area. As part of the current, 2016 California Building Code (CBC), the design of structures must consider dynamic forces resulting from seismic events. These forces are dependent upon the magnitude of the earthquake event as well as the properties of the soils that underlie the site. As part of the procedure to evaluate seismic forces, the code requires the evaluation of the Seismic Site Class, which categorizes the site based upon the characteristics of the subsurface profile within the upper 100 feet of the ground surface.

To define the Site Class for this project, we interpreted the results of our soil test borings drilled within the project site and estimated appropriate soil properties below the base of the borings to a depth of 100 feet. The estimated soil properties were based upon data available in published geologic reports as well as our experience with subsurface conditions in the general site area. Based upon this, the subsurface conditions within the site are consistent within the characteristics of Site Class D (stiff soil profile).

In accordance with the 2016 California Building Code (CBSC), the USGS probabilistic ground acceleration values (ASCE 7 Chapter 20, 2010) for latitude 37.4163° and longitude -121.8755° obtained from the USGS Seismic Design Maps web page (USGS, 2017) are presented in the following table;

Ground Motion Values*

Period (sec)	Mapped MCE Spectral Response Acceleration** (g)		Site Coefficients		Adjusted MCE Spectral Response Acceleration (g)		Design Spectral Response Acceleration (g)	
0.2	S_s	1.807	F_a	1.0	S_{Ms}	1.807	S_{Ds}	1.205
1.0	S_1	0.722	F_v	1.5	S_{M1}	1.083	S_{D1}	0.722

*2% Probability of Exceedance in 50 years

**At B-C interface (i.e. top of bedrock)

MCE = Maximum Considered Earthquake

The Site Coefficients, F_a and F_v presented in the above table were also obtained from the noted USGS webpage, as a function of the site classification and mapped spectral response acceleration at the short (S_s) and 1-second (S_1) periods, but can also be interpolated from CBC Tables 1613.3.3(1) and 1613.3.3(2). Based on the above values, a Seismic Design Category D is considered appropriate for the site.

3.3 Hazard Assessment

Lurching and Shallow Ground Rupture – Evidence of active fault rupture was not observed within the explored areas of the site at the time of our subsurface exploration and as noted above, PSI did not observe any mapped faults crossing the site in readily available resources. As such, the potential for ground rupture from faulting at the site is considered to be low.

Liquefaction – Soil liquefaction and seismically-induced settlement typically occur in saturated cohesionless soils; and in clays and plastic silts with low plasticity indexes with moisture contents near their liquid limits, due to cyclic softening where the groundwater is relatively shallow (within 50 feet of the ground surface). During an earthquake, ground shaking causes a rapid increase in the porewater pressure within the soil mass under undrained conditions. The generation of excess porewater pressures causes a corresponding decrease in the soil's effective stress, which can result in a sudden loss of soil bearing strength and ground surface settlement within the liquefied (and softened) soil layers. Soil liquefaction potential is generally affected by soil types, mineral contents, ground acceleration, duration of shaking, and frequency content of the earthquake ground motion, among other factors.

The Seismic Hazard Zones map for the Calaveras Reservoir Quadrangle (CDMG, 2001) indicates that the site is not located within a designated liquefaction hazard zone. However, a designated liquefaction hazard zone is located in close proximity to the site. Based on this setting, a detailed liquefaction analysis was performed to assess the liquefaction potential of the site soils. To evaluate the liquefaction potential, the computer software program, LiquefyPro (CivilTech, 2007) was utilized. A ground acceleration (PGA_M) of 0.697g and an earthquake

magnitude (Mw) of 6.63, both obtained from the USGS website, were incorporated into the analysis. The soil profile identified within Boring B-1 and a groundwater depth of 33 feet (historic high) were also used.

As noted in SP 117A, low plastic silts and clays are potentially susceptible to soil liquefaction only if their plasticity indices are less than 12 and the ratio of their in-situ moisture contents relative to the soil's liquid limit is greater than 85%. To assess the liquefaction susceptibility of the site clay soils, laboratory testing was performed and is summarized in the table below.

Sample	Moisture Content (w)	Liquid Limit (LL)	Plasticity Index (PI)	w/LL	Potentially Susceptible
B-1 @ 25 feet	9%	32	16	28%	No
B-1 @ 35 feet	8%	33	17	24%	No

The results of this analysis indicate that the clayey sand soil layer between about 40 to 45 feet below grade is potentially susceptible to soil liquefaction upon application of the design earthquake. The analysis also indicates that a total seismic-induced settlement of about 0.6 inches is possible with an estimated differential settlement of about 0.4 inch over a 40-foot horizontal span. It is our opinion that the magnitudes of estimated total and differential seismic settlement are within tolerable limits and ground modification or other remedial measures are not needed. A copy of the liquefaction analysis is included within Appendix C.

Secondary Liquefaction Effects – Based on the relative thickness of the overlaying non-liquefiable soils relative to the thickness of the potentially liquefiable soil, it is our opinion that the potential for surface manifestations (sand boils, loss of bearing, etc.) are very low (Ichihara, 1985). Due to the absence of any nearby channels/free-faces, the limited thickness of the liquefiable soils and the lack of soil with N-values less than 15, the potential for lateral spreading is considered to be nil.

Landsliding and Slope Stability – Seismically induced landsliding is not considered a hazard on, or adjacent to the project site due to the absence of significant steep slopes in or around the project area.

4.0 GEOTECHNICAL RECOMMENDATIONS

4.1 General

Soil deposits, generally consisting of very stiff to hard lean clay underlain by medium dense clayey sand and very dense gravelly sands were encountered at the site. Based on the results of our field exploration, the near surface soils appear to be suitable for foundation support provided the recommendations in this report are followed. PSI recommends that the proposed structure be supported by conventional continuous strip footings or isolated spread footings bearing on existing soils compacted to a firm and unyielding state and/or properly compacted Engineered Fill, as recommended in the Site Preparation section of this report.

The proposed construction at the site should be performed in accordance with the following recommendations, the current edition of the California Building Code, and local governmental standards which have jurisdiction over this project. Our recommendations have been developed on the basis of the described project characteristics and subsurface conditions encountered. If there are any changes in these project criteria, including project location on the site, a review should be made by PSI to determine if modifications to the recommendations are warranted.

Once final design plans and specifications are available, a general review by PSI is recommended to check that the evaluations made in preparation of this report are correct and that earthwork and foundation recommendations are properly interpreted and implemented.

4.2 Site Preparation

Initial site preparation should include demolition of the existing building and any other improvement which is not to remain. Removal of the existing structure should include removal of the foundations, floor slab and any other below-grade component. Pavements which are not planned for re-use should also be removed. Existing utilities that are in conflict with the new construction should be removed or re-routed as needed. All debris resulting from the stripping and demolition operations should be legally disposed off-site. Soils disturbed by the demolition of the existing improvements should be removed to undisturbed soil and be stockpiled for future use.

All grading operations should be performed in accordance with our recommendations, the requirements of the current edition of the CBC, and local governmental standards which have jurisdiction over this project.

Following demolition, removal of soils disturbed by the demolition and clearing operations and lowering of grades as needed, we recommend that the building and areas to support new improvements should be proof rolled with a heavy rubber tired piece of construction equipment approved by and in the presence of the Geotechnical Engineer. Any soil that is observed to excessively yield or deflect during the proof rolling operation should be removed to a suitable subgrade as determined by the Geotechnical Engineer.

It is recommended that the exposed subgrade soil, within all areas to receive Engineered Fill or to support surface improvements (new foundation members, slabs and pavements) be scarified to a depth of about 12 inches, be moisture conditioned to about 2 percent above or below the soil's optimum moisture content and compacted to a minimum of 90 percent relative compaction (based on ASTM D1557). This earthwork should extend a minimum 5 feet beyond the proposed improvement areas, where feasible.

4.3 Engineered Fill

Engineered Fill material required at this site should not contain rocks greater than 3-inches in diameter or greater than 30 percent retained on the $\frac{3}{4}$ -inch sieve, and should not contain more than 3 percent (by weight) of organic matter or other unsuitable material. The Expansion Index (EI) for the material should not exceed 50. Based on our subsurface investigation, existing on-site soils are generally suitable for use as Engineered Fill, however, this should be confirmed by a PSI representative during grading. Import materials meeting the above requirements should be approved by the Geotechnical Engineer prior to use as Engineered Fill.

Engineered Fill should be compacted to at least 90 percent of the maximum dry density as determined by the modified Proctor (ASTM D1557). The moisture content of Engineered Fill should be maintained at approximately 2 percent above or below the material's optimum moisture content as determined by the same index during compaction. If the Engineered Fill is too dry, water should be uniformly applied across the affected fill area. If the Engineered Fill is too wet, it must be dried. In either event, the Engineered Fill should be thoroughly mixed by disking to obtain relatively uniform moisture content throughout the lift immediately prior to compaction. The upper 12 inches of the pavement subgrade should be compacted to at least 95% of the soil's maximum dry density.

Engineered Fill should be placed in maximum lifts of 8-inches of loose material. Each lift of Engineered Fill should be tested by a PSI soils technician, working under the direction of our Project Geotechnical Engineer, prior to placement of subsequent lifts.

Compaction of the backfill should be checked with a sufficient number of density tests by a representative of the Geotechnical Engineer to determine if adequate compaction is being achieved by the contractor. The properly compacted Engineered Fill should extend horizontally outward beyond the exterior perimeter of the foundations a distance equal to the height of fill or 5 feet, whichever is greater, prior to significant sloping. In addition, Engineered Fill should extend horizontally outward beyond the exterior perimeter of the pavements or footings a distance equal to the height of fill, at a minimum, prior to significant sloping.

4.4 Excavations

Excavation and construction operations for the foundations may expose the on-site soils to inclement weather conditions. The stability of exposed soils will rapidly deteriorate due to precipitation or the action of heavy or repeated construction traffic. Accordingly, foundation area excavations and pavement subgrade areas should be adequately protected from the elements, and from the action of repetitive or heavy construction loading.

4.4.1 Excavations/Slopes

Any permanent cut or fill slopes should not exceed 2 Horizontal to 1 Vertical (2H:1V). Excavations extending below a 1H:1V plane extending down from any adjacent footings should be shored for safety. All excavations should be inspected by a representative of the geotechnical engineer during construction to allow any modifications to be made due to variation in the soil types. All work should be performed in accordance with Department of Labor Occupational Safety and Health Administration (OSHA) guidelines. Job site safety is the responsibility of the project contractor.

In Federal Register, Volume 54, No. 209 (October 1989), the United States Department of Labor, Occupational Safety and Health Administration (OSHA) amended its "Construction Standards for Excavations, 29 CFR, part 1926, subpart P". This document was issued to better insure the safety of personnel entering trenches or excavations. It is mandated by this federal regulation that excavations, whether they be utility trenches, basement excavations, or footing excavations, be constructed in accordance with the new OSHA guidelines.

The contractor is solely responsible for designing and constructing stable, temporary excavations and should shore, slope, or bench the sides of the excavations as required to maintain stability of both the excavation sides and bottom. The contractor's "responsible person," as defined in 29 CFR Part 1926, should evaluate the soil exposed in the excavations as part of the contractor's safety procedures. In no case should slope height, slope inclination, or excavation depth, including utility trench excavation depth, exceed those specified in local, state, and federal state regulations.

We are providing this information solely as a service to our client. PSI does not assume responsibility for construction site safety or the contractor's or other parties' compliance with local, state, and federal safety or other regulations.

4.4.2 Utility Trench Excavation and Backfill

Excavation excavations should be made in accordance with applicable Federal and State Occupational Safety and Health Administration regulations. Utility trenches at the site may need to be sloped or shored from the ground surface due to the potential for caving, dependent upon the depth of new utilities. Actual inclinations will ultimately depend on the soil conditions encountered during earthwork. While we may provide certain approaches for trench excavations, the contractor should be responsible for selecting the excavation technique, monitoring the trench excavations for safety, and providing shoring, as required, to protect personnel and adjacent improvements. The information provided below is for use by the owner

and engineer and should not be interpreted to mean that PSI is assuming responsibility for the contractor's actions or site safety. The soils encountered in our subsurface explorations may be classified as Type B soil according to the most recent OSHA regulations and may be sloped, without shoring at no steeper than 1H:1V for temporary excavations. In our opinion, excavations should be safely sloped or shored. The contractor should be aware that excavation and shoring should conform to the requirements specified in the applicable local, state, and federal safety regulations, such as OSHA Health and Safety Standards for Excavations, 29 CFR Part 1926, or successor regulations. We understand that such regulations are being strictly enforced, and if not followed, the contractor may be liable for substantial penalties.

Excavation and construction operations may expose the on-site soils to inclement weather conditions. The stability of exposed soils may deteriorate due to a change in moisture content or the action of heavy or repeated construction traffic. Accordingly, foundation and pavement area excavations should be protected from the elements and from the action of repetitive or heavy construction loadings.

Utility trenches below the slab, footings and pavement areas should be backfilled with engineered fill.

4.5 Foundations

4.5.1 Shallow Building Foundations

Following demolition and site preparation, as recommended in Section 4.2, it is our opinion that conventional continuous and isolated spread footings are suitable for the support of the proposed structure. All footings should be supported by suitable bearing existing soils and/or by properly compacted Engineered Fill. Continuous footings should be founded at least 18 inches below lowest adjacent finished grade and have a minimum width of 18 inches. Isolated spread footings should be at least 24 inches wide and supported at a depth of 18 inches below the lowest adjacent grade. Footings with the above recommended minimum dimensions and with subgrade prepared in accordance with section 4.2 of this report may be designed for an allowable bearing pressure of 3,000 pounds per square foot (psf). The allowable soil bearing pressure may be increased by one-third for loads of short duration, including wind and seismic forces. Appropriate foundation reinforcement should be provided in accordance with the Structural Engineer's design.

Horizontal loads acting on shallow foundations are resisted by friction along the foundation base and by passive pressure against the footing face, which is perpendicular to the line of applied force. The coefficient of friction between the base of the footing and the subgrade soils may be assumed to be 0.30. A passive soil resistance equal to a uniform pressure of 250 psf may be used for compacted soil or firm native soil against the face of the footing (assuming a level ground surface).

The foundation excavations should be observed by a representative of PSI prior to steel or concrete placement to assess that the foundation materials are capable of supporting the design loads and are consistent with the materials discussed in this report. Soft or loose soil

zones encountered at the bottom of the foundation excavations should be removed and replaced with Engineered Fill or recompacted in-place, as recommended by the geotechnical engineer.

After opening, foundation excavations should be observed and concrete placed as quickly as possible to avoid exposure of the foundation bottoms to wetting and drying. Surface run-off water should be drained away from the excavations and not be allowed to pond. If possible, the foundation concrete should be placed during the same day the excavation is made. If it is required that foundation excavations be left open for more than one day, they should be protected to reduce evaporation or entry of moisture.

We estimate that foundations designed constructed in accordance with the above recommendations will experience a total static settlement of less than 1-inch with a differential settlement of less than ½-inch over a 40-foot span within the building area. While settlement of this magnitude is generally considered tolerable for structures of the type proposed, the design of masonry walls should include provisions for liberally spaced, vertical control joints to minimize the effects of “cosmetic cracking.”

4.5.2 Canopy Foundations

It is PSI’s opinion that any new canopy may be supported by shallow foundations or drilled piers.

Shallow canopy foundation elements should be founded on suitable in-situ soils, compacted to a firm and unyielding state (as determined by PSI) or Engineered Fill and may also be dimensioned based on an allowable soil bearing pressure of 3,000 psf, provided they are embedded at least 2 feet below existing and finish site grades. This recommended allowable soil bearing pressure may be increased by ⅓ for temporary seismic or wind loading.

If drilled piers are to be utilized for canopy foundation elements they should consist of an augured shaft having typical diameters of approximately 12 to 60 inches in diameter. They are drilled to a design depth and filled with reinforced concrete. Design parameters related to drilled pier foundations have been prepared based on the field explorations, further observation of the selected bulk samples in the laboratory, published references, and engineering judgment. In general, the design parameters were developed from the observed material type and the SPT data collected.

Piers installed in accordance with the recommendations stated above are calculated to provide an allowable capacity are shown in the table below. Piers should be a minimum of 5 feet deep and skin friction within the upper 2 feet should be neglected. PSI will need observe the subgrade conditions prior to rebar and concrete placement for the piers. Pier calculations were made using Terzaghi and Peck (1967) for cohesive soils, incorporating a factor of safety of 3.0 for end bearing capacity and 2.5 for skin friction.

Unit Design Values for Drilled Piers

Layer	From (feet)	To (feet)	Allowable Skin Friction (ksf)	Allowable Bearing Capacity (ksf)
1	0	2	-	-
2	2	5	0.7	-
3	5	10	0.7	6
4	10	20	0.7	10

PSI recommends that the drilling contractor review the field exploration logs of this report before starting excavations for the drilled piers. Though not anticipated, if groundwater or sloughing soils are encountered, it should be expected that the advancement of casing and placement of concrete will be more difficult and special measures will be required to prevent caving. A representative of the Geotechnical Engineer should be on site to observe and document the installation of the deep foundation system.

When the drilling processes are completed for the pier, the reinforcing steel and the concrete should be placed immediately after the final cleanout pass is conducted on the base. The tremie method of concrete placement should be adopted when placing concrete below the groundwater table to prevent segregation of the concrete materials. If concrete is placed by the free-fall method into a dry excavation, it should be placed to avoid contact with the excavation sidewalls to prevent segregation. During simultaneous concrete placement and casing removal operations, sufficient concrete should be maintained inside the casing to offset the hydrostatic head of the ground water outside the casing and minimize the intrusion of soil into the concrete.

Concrete placed in the pier excavations should have a slump in the range of 7 to 9 inches to reduce the potential for the formation of voids as the temporary pier casing is extracted. The concrete mix should be designed to attain the required 28-day design strength when placed at this slump. PSI should be retained to observe and document the drilled pier construction and to evaluate whether the subsurface and pier bearing conditions are as anticipated in this report. The contractor should submit their procedures for drilled pier installation to the Geotechnical Engineer for approval prior to the start of the drilled pier construction.

We estimate that the shallow foundations or piers will experience less than 1 inch of immediate, post-construction settlement within the area of the structures supported on pipe piers, with less than ½ inch of differential settlement between piers with a lateral surface distance of 40 feet apart from each other.

4.6 Concrete Floor Slab

Concrete slab-on-grade floors can be supported on properly compacted existing soil and/or Engineered Fill after site preparation and fill placement procedures, as described in previous sections of this report, are complete.

The slab section may be designed by the structural engineer using a modulus of subgrade reaction of 125 pounds per square inch per inch and assuming a low expansion potential, based on values typically obtained from 1-foot by 1-foot plate load tests. However, depending on how the slab load is applied, the value may need to be geometrically modified. The value should be adjusted for larger areas using the following expression for cohesive and cohesionless soil:

Modulus of Subgrade Reaction, $k_s = \frac{k}{B}$ for cohesive soil; and,

$$k_s = k * \left(\frac{B + 1}{2B} \right)^2 \text{ for cohesionless soil}$$

where: k_s = coefficient of vertical subgrade reaction for loaded area;

k = coefficient of vertical subgrade reaction for a 1 by 1 square foot area; and,

B = width of area loaded, in feet.

Based on geotechnical considerations, it is recommended that the interior slabs be at least 4 inches in thickness, and reinforced in accordance with the Structural Engineer's requirements. Care should be taken by the contractor to ensure that the reinforcement is placed and maintained at slab mid-height. Floor slabs should be suitably reinforced and jointed so that a small amount of independent movement can occur without causing damage.

Slabs should be underlain by capillary break material that is at least 4 inches thick, consisting of clean sand or gravel. In moisture-sensitive flooring areas or areas used to store moisture-sensitive materials, such as carpeted or linoleum covered areas, a 10-mil visqueen moisture retarder should be placed beneath the slab at mid-height within the capillary break material. The visqueen sheet should be sealed along the edges to prevent lateral migration of soil moisture from adjacent non-visqueen areas. Prior to placement of clean sand and slab-on-grade, the visqueen sheet should be thoroughly inspected for cracks, punctures, tears, and holes. If necessary, the visqueen should be replaced or patched to assure a fully functional entity.

Some minor cracking of slabs can be expected due to shrinkage. The potential for this slab cracking can be reduced by careful control of water/cement ratios in the concrete. The contractor should take appropriate curing precautions during the pouring of concrete in hot weather to reduce cracking of slabs. We recommend that a slipsheet (or equivalent) be utilized if grouted fill, tile, or other moisture-sensitive floor covering is planned directly on concrete slabs. All slabs should be designed in accordance with structural considerations. The floor slab should be liberally jointed in accordance with ACI guidelines to help control cracking, resulting from differential movement and concrete shrinkage.

Care should be taken that the grades slope away from the building and landscaping with irrigation is not placed adjacent to the building. Surface water should not be allowed to migrate under the building.

4.7 Drainage Considerations

Surface water must not be allowed to pond adjacent to the foundations. To preclude drainage problems, we recommend continuous roof gutters for the proposed structures. We recommend that roof drains be connected to a tight-line pipe leading to storm drain facilities. Pavement surfaces and open space areas should be sloped such that surface water runoff is collected and routed to suitable discharge points. We also recommend that ground surfaces adjacent to buildings be sloped to facilitate positive drainage away from the buildings. It should be noted that the subsurface (retaining wall) drainage and surface drainage systems must be kept separate.

A positive slope gradient of 2 percent down and away from the building perimeter should be applied to the finished subgrade (inclusive of topsoil). This slope should extend no less than 5 feet away from the outside building perimeter, with drainage swales provided to remove runoff from around the structure. Any utility trench that enters the perimeter of a structures should be excavated with a slight slope down and away from the perimeter of the structure.

Landscaped or planted areas should not be placed within 10 feet of the footings of the proposed structures. Where concrete flat work such as sidewalks are placed next to the structure, concrete should be placed adjacent to the foundation to prevent a planter strip that would trap surface water between the foundation and the sidewalk. For vegetation planted near the buildings, plants that require very little moisture should be used. Irrigation systems (drip and/or sprinkler heads) should not direct water where it could saturate foundation soil.

4.8 Pavement Recommendations

Preparation of the subgrade soils for new pavements should be prepared in general accordance with the site preparation recommendations (Section 4.2) including scarification and recompaction. While specific traffic loads and volumes for the project have not been provided, we are providing recommended light-duty and medium to heavy-duty pavement sections, which have been successfully utilized for this type of development in the project area with similar traffic loading.

For these preliminary pavement sections, we have assumed an R-value of 15 for the site subgrade soils and a Traffic Index of 4.5 and 6.5 for the light duty and heavy-duty sections, respectively. R-value testing should be performed on the actual pavement subgrade material at the time of site grading.

Light Duty (Automobile Parking; TI=4.5)

3 inches Asphalt Concrete (Caltrans Standard Specs. Section 39) over

7 inches Class II Aggregate Base (Caltrans Standard Specs. Section 26)

Heavy Duty (Entrance and Drive Lanes; TI=6.5)

3½ inches Asphalt Concrete (Caltrans Standard Specs. Section 39)

12½ inches Class II Aggregate Base (Caltrans Standard Specs. Section 26)

A rigid pavement section merits consideration for areas to receive relatively high concentrated sustained loads such as trash dumpster enclosures. For these areas, we recommend a minimum concrete thickness of 6 inches over 4 inches of compacted aggregate base. The concrete used for rigid pavement should have a minimum 28-day flexural strength of 600 psi and a maximum slump of 4 inches. The subgrade should be prepared as described in the Site Preparation section above. Pavement joints, reinforcing, and details should be designed in accordance with applicable American Concrete Institute (ACI) standards.

All aggregate base and the upper 12 inches of subgrade should be compacted to at least 95 percent of the maximum dry density as determined by ASTM Designation D1557 or to a firm and unyielding state as determined by PSI. All materials and methods of construction should conform to good engineering practices and be in conformance with the requirements of the local jurisdiction.

4.8.1 General Pavement Notes

The above recommended pavement sections represent minimum design thicknesses and, as such, periodic maintenance should be anticipated. Also, these recommended pavement sections should be confirmed or modified by your Civil Engineer, based on actual traffic and the owner's requirements. The pavement section materials and construction should comply with the Caltrans Standard Specifications and local municipality requirements.

Where pavement areas are adjacent to heavily watered landscaping areas, we recommend some measure of moisture control be taken to prevent the subgrade soils from becoming saturated. It is recommended that the concrete curbing adjacent to the landscape areas extend into the prepared subgrade to reduce the potential for irrigation water to saturate subgrade soils.

Note that the pavement thicknesses shown on the boring logs are approximate measurements and represent the conditions only at the actual boring locations at the time of our exploration. Variations may occur and should be expected between boring locations. Additionally, Petromat-type fabric in the pavement section is difficult to discern during drilling and may or may not be present in the existing pavements. As such, the pavement description given in this report is not intended to be used to estimate the quantity for disposal, if necessary.

4.9 Corrosivity

Testing was performed to evaluate the corrosivity of the on-site soils and the potential for attack on concrete and subsurface utility pipes, specifically cast iron and ductile iron. The testing included pH, sulfate, chloride and electrical resistivity. The results of the chemical analysis are as follows:

Boring Number	Sample Depth (feet)	pH	Resistivity (ohm-cm)	Water Soluble Sulfates (ppm)	Water Soluble Chlorides (ppm)
B-1	1 to 4	7.9	1,000	130	35.2

ppm = parts per million

Concrete mix designs should follow the minimum requirements of the California Building Code. Laboratory testing of selected soil samples indicates that the on-site soils possess a negligible sulfate exposure, indicating a low degree of corrosivity with respect to concrete. Based on this result, it is our opinion that special sulfate-resistant concrete mix designs are not warranted and that the use of Type I or II cement is suitable for concrete in contact with on-site soils. Final concrete mix designs should be evaluated after sulfate tests have been performed on the actual subgrade material.

Corrosivity testing was also performed to determine whether the on-site soils have the potential to attack subsurface utility pipes, specifically cast iron and ductile iron. Based on the resistivity test results, the soils are characterized as being *highly corrosive* to cast iron or ductile iron piping (Roberge, 2000). PSI does not practice in the field of corrosion engineering. We recommend that a qualified corrosion engineer be consulted to determine if special corrosion protection is warranted for this site. Testing for corrosivity of any fill soils should be conducted during site grading to verify our recommendations.

4.10 Construction Monitoring

It is recommended that PSI be retained to examine and identify soil exposures created during project construction to document that soil conditions are as anticipated. We further recommend that any Engineered Fills be continuously observed and tested by our representative to evaluate the thoroughness and uniformity of their compaction. If possible, samples of fill materials should be submitted to our laboratory for evaluation prior to placement of fills on site. Costs for the recommended observations during construction are beyond the scope of this current consultation.

5.0 GENERAL

Our conclusions and recommendations described in this report are subject to the following general conditions:

5.1 Use of Report

This report is for the exclusive use of BP Products North America, Inc. and their representatives to use for the design of the proposed structure described herein and preparation of construction documents. The data, analyses, and recommendations may not be appropriate for other structures or purposes. We recommend that parties contemplating other structures or purposes contact us. In the absence of our written approval, we make no representation and assume no responsibility to other parties regarding this report.

After the plans and specifications are more complete, the geotechnical engineer should be retained and provided the opportunity to review the final design plans and specifications to check that our engineering recommendations have been properly incorporated into the design documents.

5.2 Limitations

The recommendations contained in this report are based on the available subsurface information obtained by PSI, and design details furnished for the proposed project. If there are any revisions to the plans for this project, or if deviations from the subsurface conditions noted in this report are encountered during construction, PSI should be notified immediately to determine if changes in the foundation recommendations are required. If PSI is not retained to perform these functions, PSI will not be responsible for the impact of those conditions on the project.

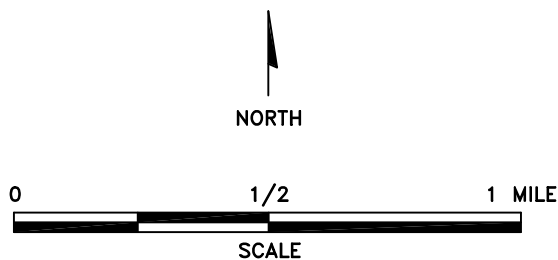
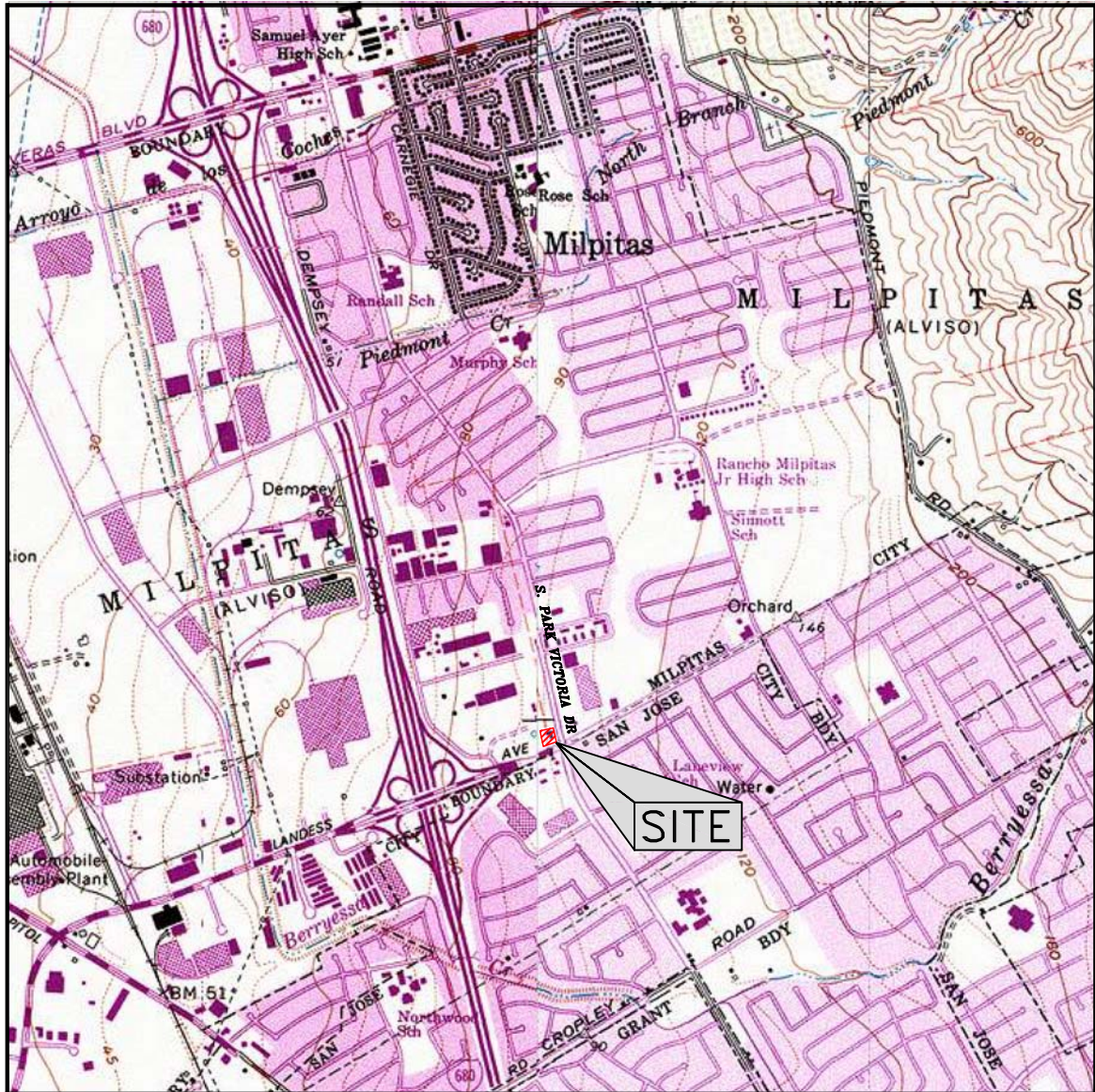
PSI did not provide any service to investigate or detect the presence of moisture, mold or other biological contaminants in or around any structure, or any service that was designed or intended to prevent or lower the risk of the occurrence of the amplification of the same. Client acknowledges that mold is ubiquitous to the environment with mold amplification occurring when building materials are impacted by moisture. Client further acknowledges that site conditions are outside of PSI's control, and that mold amplification will likely occur, or continue to occur, in the presence of moisture. As such, PSI cannot and shall not be held responsible for the occurrence or recurrence of mold amplification.

Services performed by PSI for this project have been conducted with that level of care and skill ordinarily exercised by members of the profession currently practicing in this area. No warranty, expressed or implied, is made.

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FIGURES



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Project Name:
PROPOSED AM/PM MINI-MART
1575 LANDESS AVENUE, MILPITAS, CALIFORNIA

Title:
SITE LOCATION MAP

Drawn By: B.B.
Date: 12/17
File No.: 1284-1-1

Approved By: M.P.
Project No.: 575-1284-1

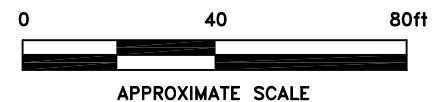
1

125



LEGEND

- - APPROXIMATE PROPERTY BOUNDARY
- PROPOSED NEW BUILDING
- B-2 ● - APPROXIMATE BORING LOCATION
- I-1 ○ - APPROXIMATE PERCOLATION TEST BORING LOCATION



NOTE

PROPOSED IMPROVEMENTS
TAKEN FROM PM DESIGN,
"SITE PLAN - BORING
LOCATIONS, ARCO BRANDED
SITE #538, 1575 LANDESS
AVENUE, MILPITAS, CA.,"
SHEET NO. SB-1,
DATED 8-16-17.

intertek **psi**
Total Quality. Assured.

4703 Tidewater Avenue, Suite B
Oakland, California 94601
(510) 434-9200

Project Name:
PROPOSED AM/PM MINI-MART
1575 LANDESS AVENUE, MILPITAS, CALIFORNIA

Drawn By:
B.B.

Date:
12/17

File No.:
1284-1-2

Figure No.:

Title:
SITE PLAN AND BORING
LOCATION MAP

Approved By:
M.P.

Project No.:
575-1284-1

APPENDIX A

**EXPLORATION LOGS
AND DRILLING PERMIT**

SAMPLE IDENTIFICATION

The Unified Soil Classification System (USCS), AASHTO 1988 and ASTM designations D2487 and D-2488 are used to identify the encountered materials unless otherwise noted. Coarse-grained soils are defined as having more than 50% of their dry weight retained on a #200 sieve (0.075mm); they are described as: boulders, cobbles, gravel or sand. Fine-grained soils have less than 50% of their dry weight retained on a #200 sieve; they are defined as silts or clay depending on their Atterberg Limit attributes. Major constituents may be added as modifiers and minor constituents may be added according to the relative proportions based on grain size.

DRILLING AND SAMPLING SYMBOLS

SFA: Solid Flight Auger - typically 4" diameter flights, except where noted.	☒ SS: Split-Spoon - 1 3/8" I.D., 2" O.D., except where noted.
HSA: Hollow Stem Auger - typically 3 1/4" or 4 1/4" I.D. openings, except where noted.	■ ST: Shelby Tube - 3" O.D., except where noted.
M.R.: Mud Rotary - Uses a rotary head with Bentonite or Polymer Slurry	▮ RC: Rock Core
R.C.: Diamond Bit Core Sampler	↓ TC: Texas Cone
H.A.: Hand Auger	☞ BS: Bulk Sample
P.A.: Power Auger - Handheld motorized auger	☒ PM: Pressuremeter
	CPT-U: Cone Penetrometer Testing with Pore-Pressure Readings

SOIL PROPERTY SYMBOLS

N: Standard "N" penetration: Blows per foot of a 140 pound hammer falling 30 inches on a 2-inch O.D. Split-Spoon.
N ₆₀ : A "N" penetration value corrected to an equivalent 60% hammer energy transfer efficiency (ETR)
Q _u : Unconfined compressive strength, TSF
Q _p : Pocket penetrometer value, unconfined compressive strength, TSF
w%: Moisture/water content, %
LL: Liquid Limit, %
PL: Plastic Limit, %
PI: Plasticity Index = (LL-PL), %
DD: Dry unit weight, pcf
▽, ▽, ▼ Apparent groundwater level at time noted

RELATIVE DENSITY OF COARSE-GRAINED SOILS ANGULARITY OF COARSE-GRAINED PARTICLES

Relative Density	N - Blows/foot	Description	Criteria
Very Loose	0 - 4	Angular:	Particles have sharp edges and relatively plane sides with unpolished surfaces
Loose	4 - 10	Subangular:	Particles are similar to angular description, but have rounded edges
Medium Dense	10 - 30	Subrounded:	Particles have nearly plane sides, but have well-rounded corners and edges
Dense	30 - 50	Rounded:	Particles have smoothly curved sides and no edges
Very Dense	50 - 80		
Extremely Dense	80+		

GRAIN-SIZE TERMINOLOGY

Component	Size Range
Boulders:	Over 300 mm (>12 in.)
Cobbles:	75 mm to 300 mm (3 in. to 12 in.)
Coarse-Grained Gravel:	19 mm to 75 mm (3/4 in. to 3 in.)
Fine-Grained Gravel:	4.75 mm to 19 mm (No.4 to 3/4 in.)
Coarse-Grained Sand:	2 mm to 4.75 mm (No.10 to No.4)
Medium-Grained Sand:	0.42 mm to 2 mm (No.40 to No.10)
Fine-Grained Sand:	0.075 mm to 0.42 mm (No. 200 to No.40)
Silt:	0.005 mm to 0.075 mm
Clay:	<0.005 mm

PARTICLE SHAPE

Description	Criteria
Flat:	Particles with width/thickness ratio > 3
Elongated:	Particles with length/width ratio > 3
Flat & Elongated:	Particles meet criteria for both flat and elongated

RELATIVE PROPORTIONS OF FINES

Descriptive Term	% Dry Weight
Trace:	< 5%
With:	5% to 12%
Modifier:	>12%



GENERAL NOTES

(Continued)

CONSISTENCY OF FINE-GRAINED SOILS

<u>Q_u - TSF</u>	<u>N - Blows/foot</u>	<u>Consistency</u>
0 - 0.25	0 - 2	Very Soft
0.25 - 0.50	2 - 4	Soft
0.50 - 1.00	4 - 8	Firm (Medium Stiff)
1.00 - 2.00	8 - 15	Stiff
2.00 - 4.00	15 - 30	Very Stiff
4.00 - 8.00	30 - 50	Hard
8.00+	50+	Very Hard

MOISTURE CONDITION DESCRIPTION

<u>Description</u>	<u>Criteria</u>
Dry:	Absence of moisture, dusty, dry to the touch
Moist:	Damp but no visible water
Wet:	Visible free water, usually soil is below water table

RELATIVE PROPORTIONS OF SAND AND GRAVEL

<u>Descriptive Term</u>	<u>% Dry Weight</u>
Trace:	< 15%
With:	15% to 30%
Modifier:	>30%

STRUCTURE DESCRIPTION

<u>Description</u>	<u>Criteria</u>	<u>Description</u>	<u>Criteria</u>
Stratified:	Alternating layers of varying material or color with layers at least ¼-inch (6 mm) thick	Blocky:	Cohesive soil that can be broken down into small angular lumps which resist further breakdown
Laminated:	Alternating layers of varying material or color with layers less than ¼-inch (6 mm) thick	Lensed:	Inclusion of small pockets of different soils
Fissured:	Breaks along definite planes of fracture with little resistance to fracturing	Layer:	Inclusion greater than 3 inches thick (75 mm)
Slickensided:	Fracture planes appear polished or glossy, sometimes striated	Seam:	Inclusion 1/8-inch to 3 inches (3 to 75 mm) thick extending through the sample
		Parting:	Inclusion less than 1/8-inch (3 mm) thick

SCALE OF RELATIVE ROCK HARDNESS

<u>Q_u - TSF</u>	<u>Consistency</u>
2.5 - 10	Extremely Soft
10 - 50	Very Soft
50 - 250	Soft
250 - 525	Medium Hard
525 - 1,050	Moderately Hard
1,050 - 2,600	Hard
>2,600	Very Hard

ROCK BEDDING THICKNESSES

<u>Description</u>	<u>Criteria</u>
Very Thick Bedded	Greater than 3-foot (>1.0 m)
Thick Bedded	1-foot to 3-foot (0.3 m to 1.0 m)
Medium Bedded	4-inch to 1-foot (0.1 m to 0.3 m)
Thin Bedded	1¼-inch to 4-inch (30 mm to 100 mm)
Very Thin Bedded	½-inch to 1¼-inch (10 mm to 30 mm)
Thickly Laminated	1/8-inch to ½-inch (3 mm to 10 mm)
Thinly Laminated	1/8-inch or less "paper thin" (<3 mm)

ROCK VOIDS

<u>Voids</u>	<u>Void Diameter</u>
Pit	<6 mm (<0.25 in)
Vug	6 mm to 50 mm (0.25 in to 2 in)
Cavity	50 mm to 600 mm (2 in to 24 in)
Cave	>600 mm (>24 in)

GRAIN-SIZED TERMINOLOGY

(Typically Sedimentary Rock)	
<u>Component</u>	<u>Size Range</u>
Very Coarse Grained	>4.76 mm
Coarse Grained	2.0 mm - 4.76 mm
Medium Grained	0.42 mm - 2.0 mm
Fine Grained	0.075 mm - 0.42 mm
Very Fine Grained	<0.075 mm

ROCK QUALITY DESCRIPTION

<u>Rock Mass Description</u>	<u>RQD Value</u>
Excellent	90 - 100
Good	75 - 90
Fair	50 - 75
Poor	25 - 50
Very Poor	Less than 25

DEGREE OF WEATHERING

Slightly Weathered:	Rock generally fresh, joints stained and discoloration extends into rock up to 25 mm (1 in), open joints may contain clay, core rings under hammer impact.
Weathered:	Rock mass is decomposed 50% or less, significant portions of the rock show discoloration and weathering effects, cores cannot be broken by hand or scraped by knife.
Highly Weathered:	Rock mass is more than 50% decomposed, complete discoloration of rock fabric, core may be extremely broken and gives clunk sound when struck by hammer, may be shaved with a knife.

SOIL CLASSIFICATION CHART

Item # C5.

NOTE: DUAL SYMBOLS ARE USED TO INDICATE BORDERLINE SOIL CLASSIFICATIONS

MAJOR DIVISIONS			SYMBOLS		TYPICAL DESCRIPTIONS
			GRAPH	LETTER	
COARSE GRAINED SOILS MORE THAN 50% OF MATERIAL IS LARGER THAN NO. 200 SIEVE SIZE	GRAVEL AND GRAVELLY SOILS MORE THAN 50% OF COARSE FRACTION RETAINED ON NO. 4 SIEVE	CLEAN GRAVELS (LITTLE OR NO FINES)		GW	WELL-GRADED GRAVELS, GRAVEL - SAND MIXTURES, LITTLE OR NO FINES
				GP	POORLY-GRADED GRAVELS, GRAVEL - SAND MIXTURES, LITTLE OR NO FINES
		GRAVELS WITH FINES (APPRECIABLE AMOUNT OF FINES)		GM	SILTY GRAVELS, GRAVEL - SAND - SILT MIXTURES
				GC	CLAYEY GRAVELS, GRAVEL - SAND - CLAY MIXTURES
	SAND AND SANDY SOILS MORE THAN 50% OF COARSE FRACTION PASSING ON NO. 4 SIEVE	CLEAN SANDS (LITTLE OR NO FINES)		SW	WELL-GRADED SANDS, GRAVELLY SANDS, LITTLE OR NO FINES
				SP	POORLY-GRADED SANDS, GRAVELLY SAND, LITTLE OR NO FINES
		SANDS WITH FINES (APPRECIABLE AMOUNT OF FINES)		SM	SILTY SANDS, SAND - SILT MIXTURES
				SC	CLAYEY SANDS, SAND - CLAY MIXTURES
FINE GRAINED SOILS MORE THAN 50% OF MATERIAL IS SMALLER THAN NO. 200 SIEVE SIZE	SILTS AND CLAYS LIQUID LIMIT LESS THAN 50			ML	INORGANIC SILTS AND VERY FINE SANDS, ROCK FLOUR, SILTY OR CLAYEY FINE SANDS OR CLAYEY SILTS WITH SLIGHT PLASTICITY
				CL	INORGANIC CLAYS OF LOW TO MEDIUM PLASTICITY, GRAVELLY CLAYS, SANDY CLAYS, SILTY CLAYS, LEAN CLAYS
				OL	ORGANIC SILTS AND ORGANIC SILTY CLAYS OF LOW PLASTICITY
	SILTS AND CLAYS LIQUID LIMIT GREATER THAN 50			MH	INORGANIC SILTS, MICACEOUS OR DIATOMACEOUS FINE SAND OR SILTY SOILS
				CH	INORGANIC CLAYS OF HIGH PLASTICITY
				OH	ORGANIC CLAYS OF MEDIUM TO HIGH PLASTICITY, ORGANIC SILTS
HIGHLY ORGANIC SOILS			PT	PEAT, HUMUS, SWAMP SOILS WITH HIGH ORGANIC CONTENTS	

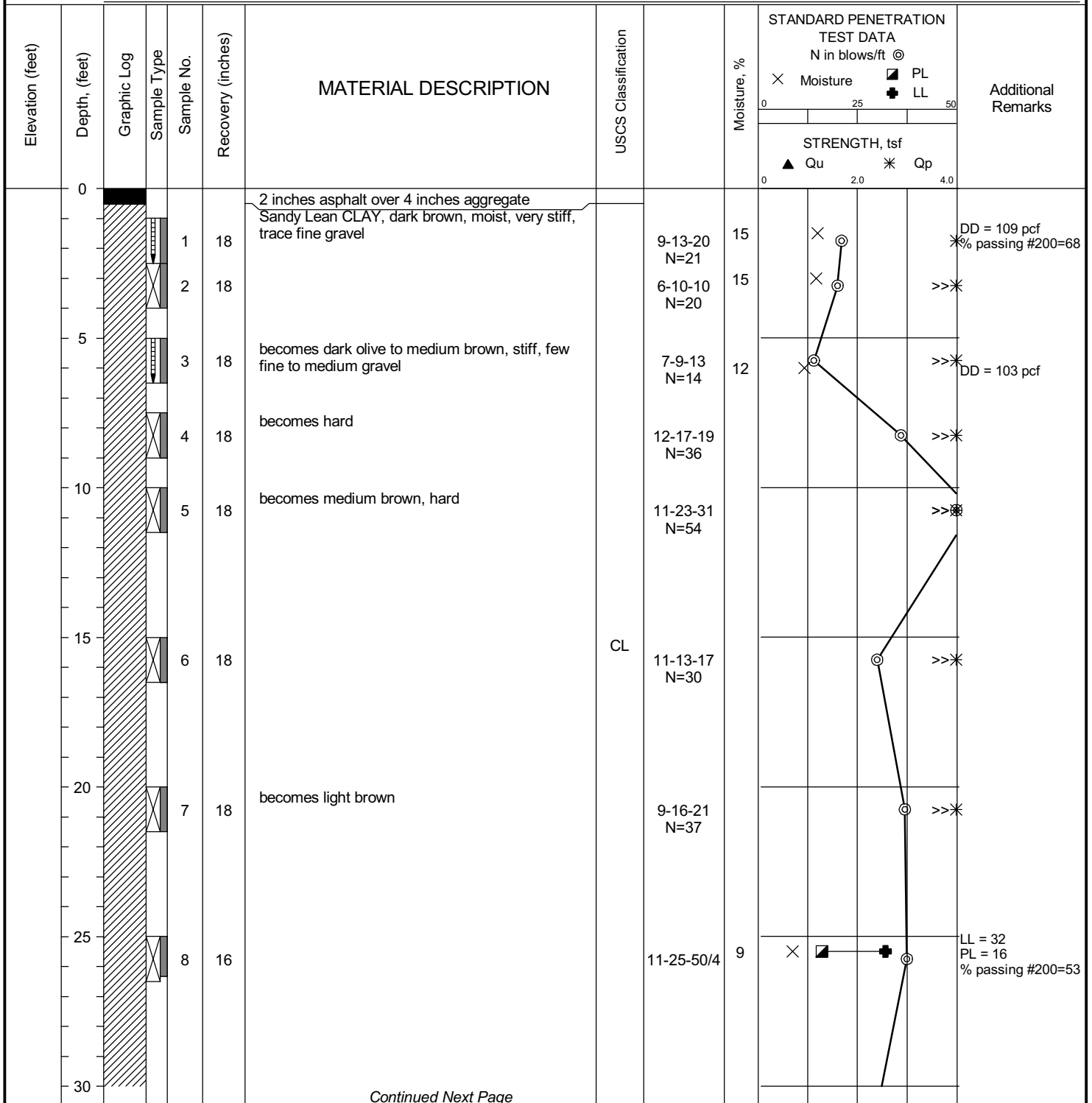


DATE STARTED: 11/20/17 **DRILL COMPANY:** HEW Drilling
DATE COMPLETED: 11/20/17 **DRILLER:** Perfecto **LOGGED BY:** M. Uribe
COMPLETION DEPTH: 51.5 ft **DRILL RIG:** CME 75
BENCHMARK: N/A **DRILLING METHOD:** Hollow Stem Auger
ELEVATION: N/A **SAMPLING METHOD:** 3" CMS & SPT
LATITUDE: 37.4162° **HAMMER TYPE:** Automatic
LONGITUDE: -121.8755° **EFFICIENCY:** N/A
STATION: N/A **OFFSET:** N/A **REVIEWED BY:** M. Place
REMARKS:

BORING B-1

Water  While Drilling 45 feet

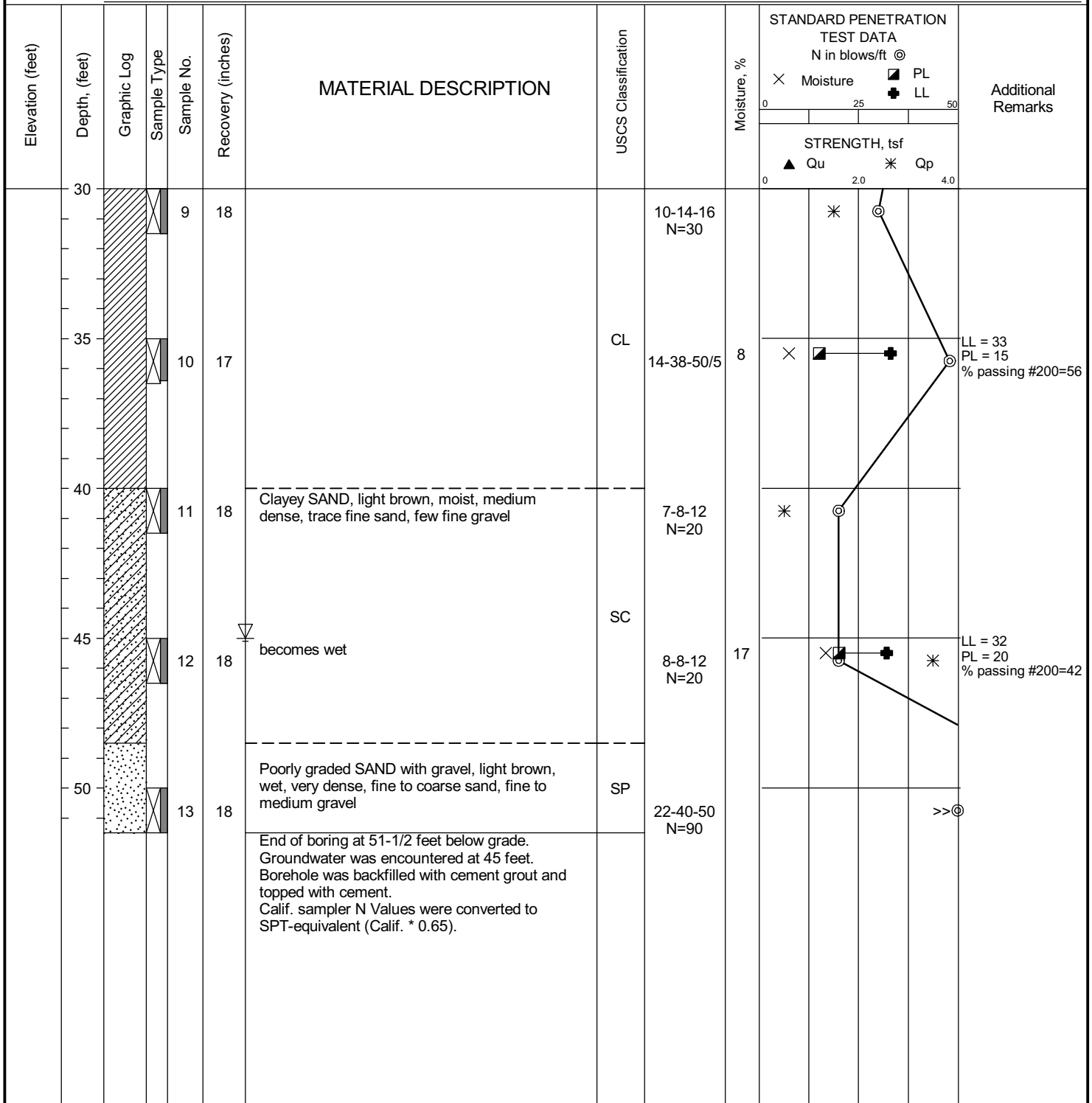


BORING LOCATION:

DATE STARTED: 11/20/17 **DRILL COMPANY:** HEW Drilling
DATE COMPLETED: 11/20/17 **DRILLER:** Perfecto **LOGGED BY:** M. Uribe
COMPLETION DEPTH: 51.5 ft **DRILL RIG:** CME 75
BENCHMARK: N/A **DRILLING METHOD:** Hollow Stem Auger
ELEVATION: N/A **SAMPLING METHOD:** 3" CMS & SPT
LATITUDE: 37.4162° **HAMMER TYPE:** Automatic
LONGITUDE: -121.8755° **EFFICIENCY:** N/A
STATION: N/A **OFFSET:** N/A **REVIEWED BY:** M. Place
REMARKS:

BORING B-1

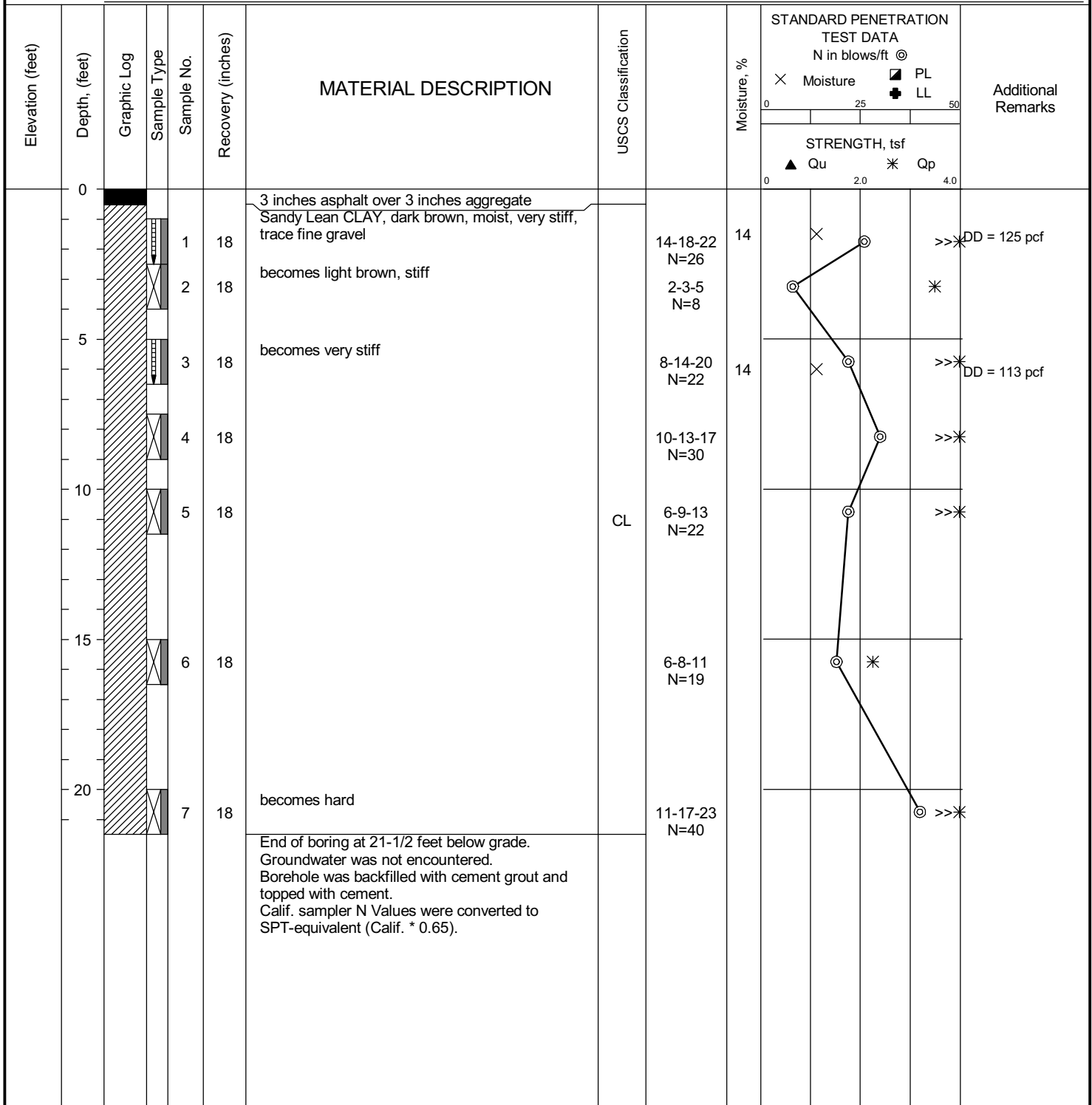
Water  While Drilling 45 feet


BORING LOCATION:

DATE STARTED: 11/20/17 **DRILL COMPANY:** HEW Drilling
DATE COMPLETED: 11/20/17 **DRILLER:** Perfecto **LOGGED BY:** M. Uribe
COMPLETION DEPTH: 21.5 ft **DRILL RIG:** CME 75
BENCHMARK: N/A **DRILLING METHOD:** Hollow Stem Auger
ELEVATION: N/A **SAMPLING METHOD:** 3" CMS & SPT
LATITUDE: 37.4162° **HAMMER TYPE:** Automatic
LONGITUDE: -121.8755° **EFFICIENCY:** N/A
STATION: N/A **OFFSET:** N/A **REVIEWED BY:** M. Place
REMARKS:

BORING B-2

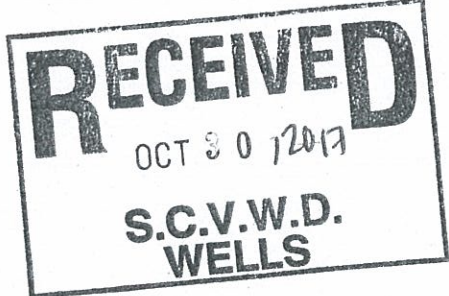
Water

**BORING LOCATION:**

APPLICATION TO DRILL EXPLORATORY

Item # C5.

GS
B-15
Page 1 of 2

Date Issued: <u>11/02/17</u>		Expiration Date: <u>11/02/17</u>		District Permit No.: <u>E20171102001</u>	
Client (if different from property owner): Same as property owner		Property Owner: BP West Coast Products, LLC		Name of Business/Residence at Site: ARCO-AM/PM Fueling Station	
Client's Address: City, State, Zip		Property Owner's Address: 4 Centerpointe Drive, Suite #200 City, State, Zip La Palma, CA 90623		Address of Site: 1575 Landess Avenue City, State, Zip Milpitas, CA 95035	
Telephone No.:		Telephone No.: (847) 346-7112 <u>DAVID ALLEN</u>		Assessor's Parcel No. of Site: Book <u>088</u> Page <u>36</u> Parcel <u>002</u>	
Consulting Company Name: Professional Service Industries, Inc.			Drilling Company Name: HEW Drilling Company, Inc. 088-36-002		
Address: 4703 Tidewater Avenue, Suite B City, State, Zip Oakland, CA 94601			Address: 1045 Weeks Street City, State, Zip East Palo Alto, CA 94303		
Telephone No.: (510) 434-9200			Telephone No.: (650) 322-2851		C-57/C-61 License No.: 604987
☐ Check if address or phone number has changed			☐ Check if address or phone number has changed		
In space at right, sketch location of proposed boring(s) in sufficient detail to identify location. In addition to distances to nearest street and intersection, show distances to any existing structures, landmarks, or topographic features. How many borings will be installed on parcel? <u>1</u> ☐ Proposed borings on District property/easement (See General Condition F, page 2.) ☐ Within 50 feet of the top of a creek bank or District facility Proposed depth of boring(s): ☒ 45 to 150 feet ☐ 151 to 300 feet ☐ Over 300 feet NOTE: No permit is required for borings under 45 feet deep.			SITE PLAN (Please draw accurately) <u>SEE ATTACHED BORING LOCATION MAP</u>  		
Boring Type: ☒ Hollow stem ☐ Rotary ☐ CPT ☐ Hydropunch ☐ Other:		Boring Use: ☒ Geotechnical Investigation ☐ Environmental Investigation ☐ Material Emplacement ☐ Sensor Emplacement ☐ Other:			
SIGNATURES					
I understand and agree that all work associated with this permit is required to be done in accordance with Santa Clara Valley Water District (District) Well Ordinance 90-1, the District Well Standards, and conditions of this permit (see page 2). I certify that the information given in this permit is correct to the best of my knowledge and that the signature below, whether original, electronic, or photocopied, is authorized and valid, and is affixed with the intent to be enforceable. I also certify that a right of entry/encroachment agreement has been formalized between the well owner and property owner, if parties differ.					
Signature of Property Owner/Agent: Allen, David F Digitally signed by Allen, David F Date: 2017.10.25 16:07:19 -07'00'		Print/Type Name: David Allen		Date: 10/25/2017	
Signature of Client/Agent: Allen, David F Digitally signed by Allen, David F Date: 2017.10.25 16:08:04 -07'00'		Print/Type Name: David Allen		Date: 10/25/2017	
Signature of Driller/Agent: <u>SEE ATTACHED DRILLER'S SIGNATURE</u>		Print/Type Name: Evelyn Jung		Date: 10/25/2017	
Signature of Consultant/Agent: brand.burfield@psiusa.com Digitally signed by brand.burfield@psiusa.com Date: 2017.10.26 14:55:32 -07'00'		Print/Type Name: Brand Burfield		Date: 10/26/2017	

APPLICATION TO DRILL EXPLORATORY

Item # C5.

FC 285 (03-26-15)

Page 1 of 2

Date Issued: <u>11/2/17</u>		Expiration Date: <u>11/2/18</u>		District Permit No.: <u>E20171102001</u>	
Client (if different from property owner): Same as property owner		Property Owner: BP West Coast Products, LLC		Name of Business/Residence at Site: ARCO-AM/PM Fueling Station	
Client's Address: City, State, Zip		Property Owner's Address: 30 S Wacker Drive, Suite 900 City, State, Zip Chicago, IL 60606		Address of Site: 1575 Landess Avenue City, State, Zip Milpitas, CA 95035	
Telephone No.:		Telephone No.: (847) 346-7112		Assessor's Parcel No. of Site: Book <u>088</u> Page <u>36</u> Parcel <u>002</u>	
Consulting Company Name: Professional Service Industries, Inc.			Drilling Company Name: HEW Drilling Company, Inc. 088-36-002		
Address: 4703 Tidewater Avenue, Suite B City, State, Zip Oakland, CA 94601			Address: 1045 Weeks Street City, State, Zip East Palo Alto, CA 94303		
Telephone No.: (510) 434-9200			Telephone No.: (650) 322-2851		C-57/C-61 License No.: 604987
☐ Check if address or phone number has changed			☐ Check if address or phone number has changed		
In space at right, sketch location of proposed boring(s) in sufficient detail to identify location. In addition to distances to nearest street and intersection, show distances to any existing structures, landmarks, or topographic features. How many borings will be installed on parcel? <u>1</u> ☐ Proposed borings on District property/easement (See General Condition F, page 2.) ☐ Within 50 feet of the top of a creek bank or District facility Proposed depth of boring(s): ☒ 45 to 150 feet ☐ 151 to 300 feet ☐ Over 300 feet NOTE: No permit is required for borings under 45 feet deep.			SITE PLAN (Please draw accurately) 		
Boring Type:		Boring Use:			
☒ Hollow stem ☐ Rotary ☐ CPT ☐ Hydropunch ☐ Other:		☒ Geotechnical Investigation ☐ Environmental Investigation ☐ Material Emplacement ☐ Sensor Emplacement ☐ Other:			
SIGNATURES					
I understand and agree that all work associated with this permit is required to be done in accordance with Santa Clara Valley Water District (District) Well Ordinance 90-1, the District Well Standards, and conditions of this permit (see page 2). I certify that the information given in this permit is correct to the best of my knowledge and that the signature below, whether original, electronic, or photocopied, is authorized and valid, and is affixed with the intent to be enforceable. I also certify that a right of entry/encroachment agreement has been formalized between the well owner and property owner, if parties differ.					
Signature of Property Owner/Agent:		Print/Type Name:		Date:	
Signature of Client/Agent:		Print/Type Name:		Date:	
Signature of Driller/Agent:		Print/Type Name: Evelyn Jung		Date: <u>10-25-17</u>	
Signature of Consultant/Agent:		Print/Type Name: Brand Burfield		Date:	

IMPORTANT: A minimum 24-hour notice must be given to Santa Clara Valley Water District Well Inspection Department prior to installing the annular seal. Call (408) 265-2607, ext. 2660. Please allow 10 working days to process permit application.

GENERAL CONDITIONS

- A. District (telephone 408-630-2660) must be notified a minimum of one working day before the exploratory boring is backfilled. An authorized District representative must be on site to witness the sealing operation. This requirement may be waived by an authorized District representative. If the District waives the inspection requirement, the District may request the permittee(s) to furnish certification under penalty of perjury that the seal was constructed in accordance with the District Well Standards.
- B. This permit is valid only for the purpose specified herein. Boring destruction methods authorized under this permit may not be changed except by written approval of an authorized District representative, and only if the District believes that such a change will result in equal or superior compliance with the District and State Well Standards (e.g., if the District representative finds that site conditions warrant such a change).
- C. This permit is only valid for the Assessor's Parcel No. indicated on it.
- D. This permit may be voided if it contains incorrect information.
- E. Borings shall be sealed within 24 hours following completion of testing or sampling activities. Borings shall not be left in such a condition as to allow for the introduction of surface waters or foreign materials into them. Borings shall be secured such that they do not endanger public health.
- F. If any work associated with this permit will take place on District property/easement, an encroachment or construction permit must be granted by the District's Community Projects Review Unit (telephone 408-630-2350, -2217, or -2253).
- G. The permittee(s) shall assume entire responsibility for all activities and uses under this permit and shall indemnify, defend, and hold the District, its officers, agents, and employees, free and harmless from any and all expense, cost, and liability in connection with or resulting from the granting or exercise of this permit including, but not limited to, property damage, personal injury, and wrongful death.
- H. Permittees are required to be in full compliance with Cal/OSHA California Labor Code Section 6300.
- I. A current C-57 or C-61 Contractor's License is required for work associated with this permit.
- J. Permittee, permittee's contractors, consultants, or agents shall be responsible to assure that all materials or waters generated during drilling, boring destruction, and/or other activities associated with this permit will be safely handled, properly managed, and disposed of according to all applicable federal, state, and local statutes regulating such. In no case shall these materials and/or waters be allowed to enter, or potentially enter, on- or off-site storm sewers, dry wells, or waterways or be allowed to move off the property where the work is being completed.
- K. The driller and consultants (if applicable) shall have an active copy of their Worker's Compensation Insurance on file with District.
- L. This permit shall expire if not exercised within 180 calendar days of its approval, unless an extension of the permit expiration date is granted by an authorized District representative.
- M. This permit shall be kept on site during all activities associated with it and shall immediately be presented to an authorized District representative upon request.
- N. Permittee shall notify Underground Service Alert (USA) at 1-800-227-2600 or 811 prior to any digging.

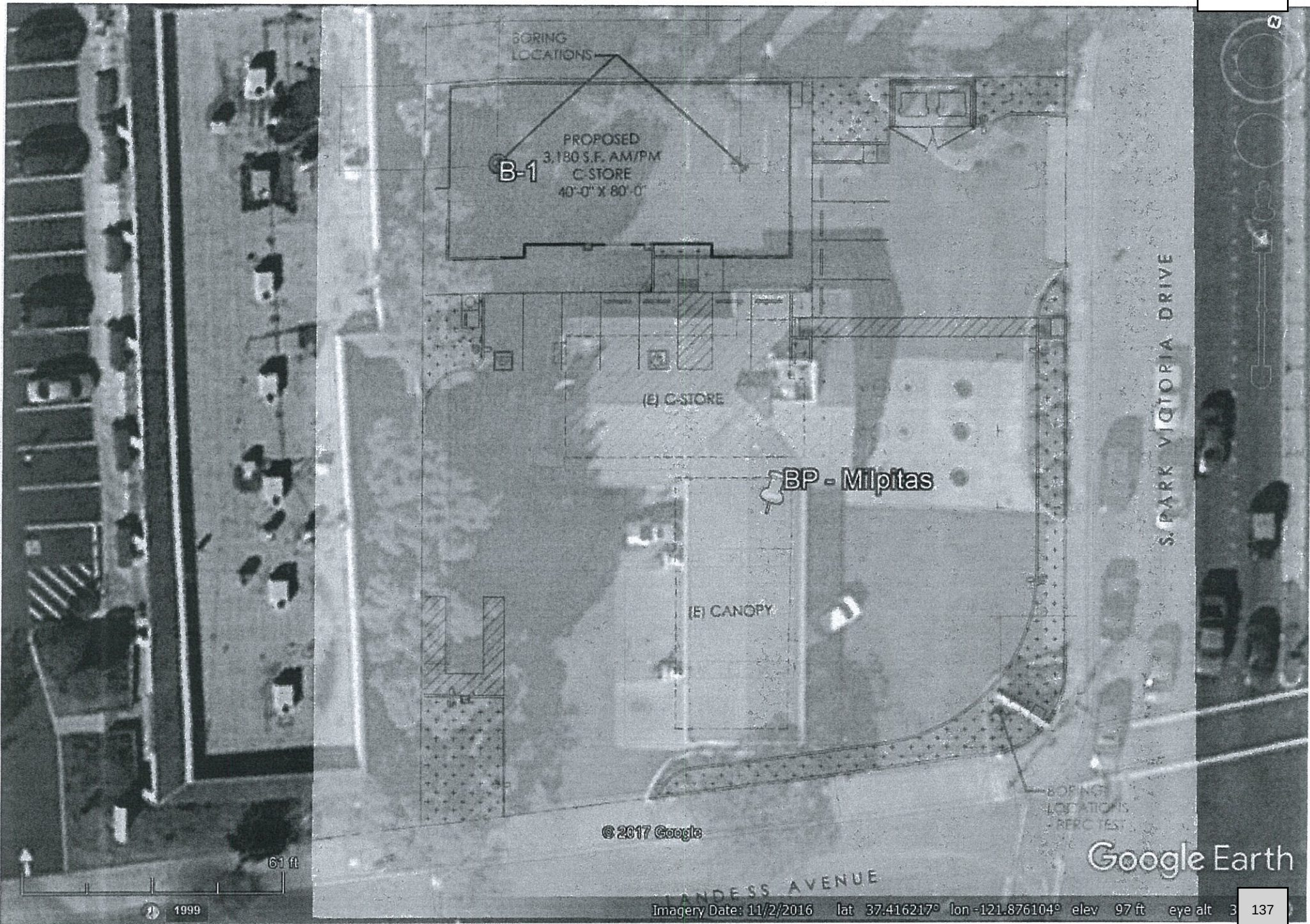
Permit Approved by:

[Signature]

Date:

11/2/17

Please allow 10 working days to process this application.



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Google Earth

APPENDIX B

LABORATORY TEST RESULTS

LABORATORY TEST RESULTS

Laboratory Testing Program

Laboratory tests were performed on representative soil samples to determine their relative engineering properties. Tests were performed in general accordance with test methods of the American Society for Testing Materials or other accepted standards. The following presents a brief description of the various test methods used.

Classification - Soils were classified visually according to the Unified Soil Classification System. Visual classifications were supplemented by laboratory testing of selected samples in general accordance with ASTM D2487. The soil classifications are shown on the boring logs in Appendix A.

In-Situ Moisture / Density - The in-place moisture content and dry unit weight of selected samples were determined using relatively undisturbed samples from the linear rings of a 2.38-inch I.D. modified California Sampler. The moisture content of representative SPT samples was also determined. The dry unit weight and moisture contents are shown on the boring logs.

Expansion Index - Expansion Index testing was performed on a representative sample of the on-site soils, remolded and surcharged to 144 pounds per square foot in general accordance with the Uniform Building Code Standard No. 18-2. The result of this test is provided in the text of this report and below.

Atterberg Limits – The liquid limit, plastic limit, and plasticity index of selected representative samples were determined in accordance with ASTM D4318. The liquid limit and plastic indices are shown on the Boring Logs and below.

Material Finer than #200 – Select samples from the borings were analyzed for grain size in general conformance with ASTM C 117. In general, oven dried samples are passed through a 0.75 μm (#200) sieve by adding water and washing fine grained material through the screen then drying back the retained material and comparing it to the total sample mass to find the percent retain and passing the #200 sieve. The percent passing the #200 sieve is shown on the Boring Logs.

Soil Sulfate / Chloride Test – In order to estimate the concrete degradation potential of soils, the soluble sulfate and chloride content of a representative sample of the on-site soil, provided in the text of this report, was determined in accordance with EPA Test Method 300.0.

pH (Potential of Hydrogen) – The measure of acidity or alkalinity of a material is referred to as the pH factor, which increases with alkalinity and decreases with acidity. The corrosivity potential of iron increases with low pH (4-5) while the corrosivity potential of copper increases with high pH (10-11). The pH value of a representative sample of the on-site soil, provided in the text of this report, was determined in accordance with EPA Test Method 9045B.

Resistivity – The electrical resistivity of a soil is a measure of its resistance to electrical current flow. Corrosion of buried ferrous metals is an electrochemical process which is related to the flow of electrical current from the metal to the soil. Lower electrical resistivity (higher currents) result from higher moisture and chemical contents in the soil. Resistivity is minimal when the soil is saturated. The resistivity of a representative sample of the on-site soil, provided in the text of this report, was determined in accordance with AASHTO Test Method T 288-91.

RESULTS OF EXPANSION INDEX TEST
(UBC 18-2)

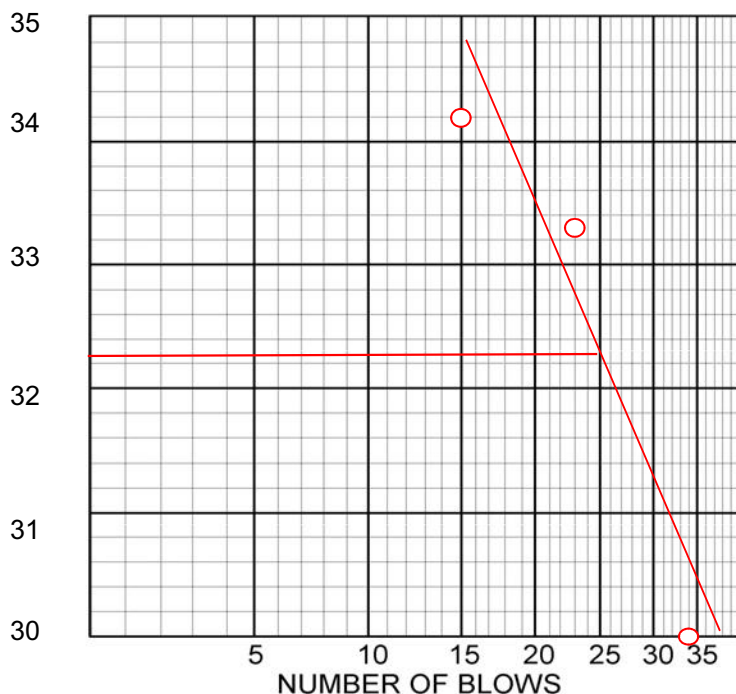
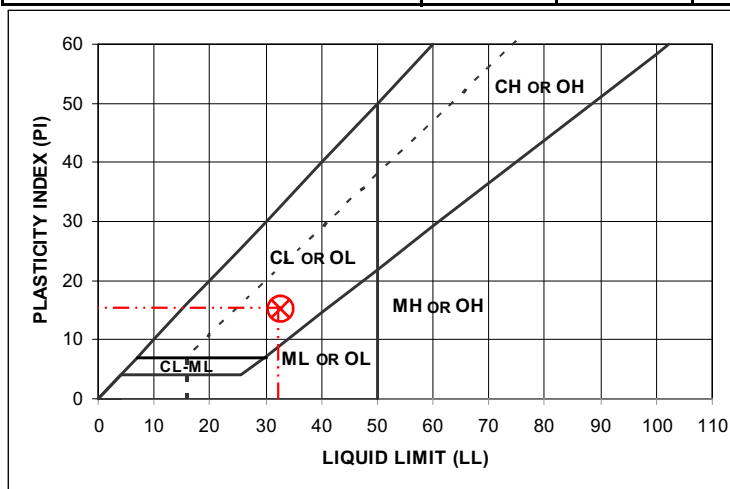
Item # C5.

SAMPLE LOCATION	EXPANSION INDEX
B-1 Bulk Near-Surface (1-4 feet) Soil	40 (Low)

Atterberg Limits
(ASTM D4318-98 AASHTO T89/90)

Project Name:	BP - Milpitas	Project Number:	575-1284
Laboratory Number:	0575 (Oakland, CA)	Date Tested:	December 5, 2017
Sample Description:	Boring B-1, SP-8, Depth 25.5 ft		

	LIQUID LIMIT			PLASTIC LIMIT		
CAN NUMBER	30	36	39	43	34	35
WEIGHT OF CAN	28.33	28.37	28.36	28.44	28.53	28.6
WEIGHT OF CAN + WET SOIL	35.96	34.82	35.81	35.01	34.65	34.95
WEIGHT OF CAN + DRY SOIL	34.2	33.21	33.91	34.07	33.79	34.06
WEIGHT OF WATER	1.76	1.61	1.9	0.94	0.86	0.89
WEIGHT OF DRY SOIL	5.87	4.84	5.55	5.63	5.26	5.46
MOISTURE CONTENT	30.0	33.3	34.2	16.7	16.3	16.3
NUMBER OF BLOWS	34	23	15			



Boring Number	B-1
Sample Depth	25.5
Density	
Weight of Sample + Ring [a]	
Weight of Ring [b]	
Weight of Sample [c=a-b]	0
Diameter of Ring	2.4
Area of Ring [A]	4.52
Height of the Sample [h]	1
Wet Density of the Sample [d=(c*3.81)/(A*h)]	0.00
Moisture Content	
Tare Number	31
Tare Weight (g) [e]	273.50
Wet Weight + Tare (g) [f]	591.90
Dry Weight + Tare (g) [g]	566.70
Weight of Water (g) [h=f-g]	25.2
Weight of Dry Sample (g) [i=g-e]	293.2
Moisture Content (%) [j=(h/i)*100]	8.6
Dry Density [k=d/(1+j/100)]	

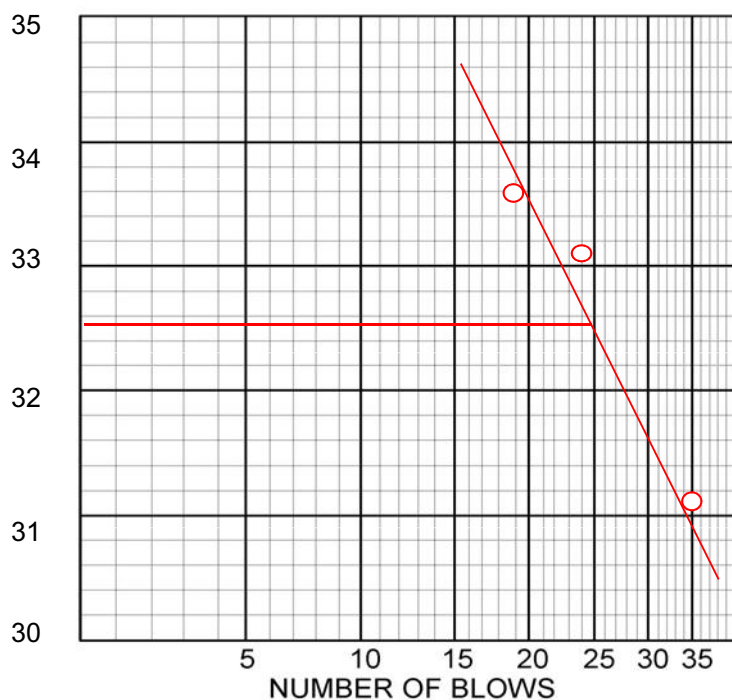
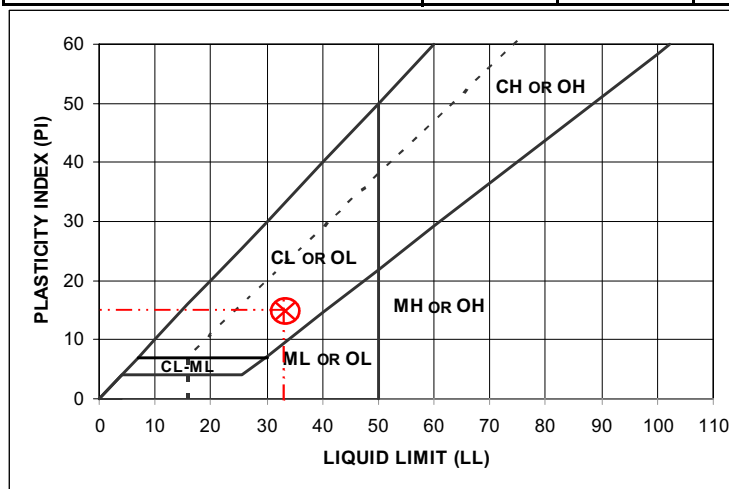
Liquid Limit	32
Plastic Limit	16
Plasticity Index	16

Equation of "A" – Line
Horizontal at PI=4 to LL=25.5,
Then $PI = 0.73 (LL - 20)$
Equation of "U" – Line
Vertical at LL=16 to PI=7,
Then $PI = 0.9 (LL - 8)$

Atterberg Limits
(ASTM D4318-98 AASHTO T89/90)

Project Name:	BP - Milpitas	Project Number:	575-1284
Laboratory Number:	0575 (Oakland, CA)	Date Tested:	December 5, 2017
Sample Description:	Boring B-1, SP-10, Depth 35.5 ft		

	LIQUID LIMIT			PLASTIC LIMIT		
CAN NUMBER	25	24	41	21	38	32
WEIGHT OF CAN	28.65	28.31	28.24	28.41	28.46	28.39
WEIGHT OF CAN + WET SOIL	35.77	34.91	37.59	34.11	33.21	34.42
WEIGHT OF CAN + DRY SOIL	34.08	33.27	35.24	33.36	32.6	33.61
WEIGHT OF WATER	1.69	1.64	2.35	0.75	0.61	0.81
WEIGHT OF DRY SOIL	5.43	4.96	7	4.95	4.14	5.22
MOISTURE CONTENT	31.1	33.1	33.6	15.2	14.7	15.5
NUMBER OF BLOWS	35	24	19			



Boring Number	B-1
Sample Depth	35.5
Density	
Weight of Sample + Ring [a]	
Weight of Ring [b]	
Weight of Sample [c=a-b]	0
Diameter of Ring	2.4
Area of Ring [A]	4.52
Height of the Sample [h]	1
Wet Density of the Sample [d=(c*3.81)/(A*h)]	0.00
Moisture Content	
Tare Number	85
Tare Weight (g) [e]	282.20
Wet Weight + Tare (g) [f]	565.50
Dry Weight + Tare (g) [g]	545.70
Weight of Water (g) [h=f-g]	19.8
Weight of Dry Sample (g) [i=g-e]	263.5
Moisture Content (%) [j=(h/i)*100]	7.5
Dry Density [k=d/(1+j/100)]	

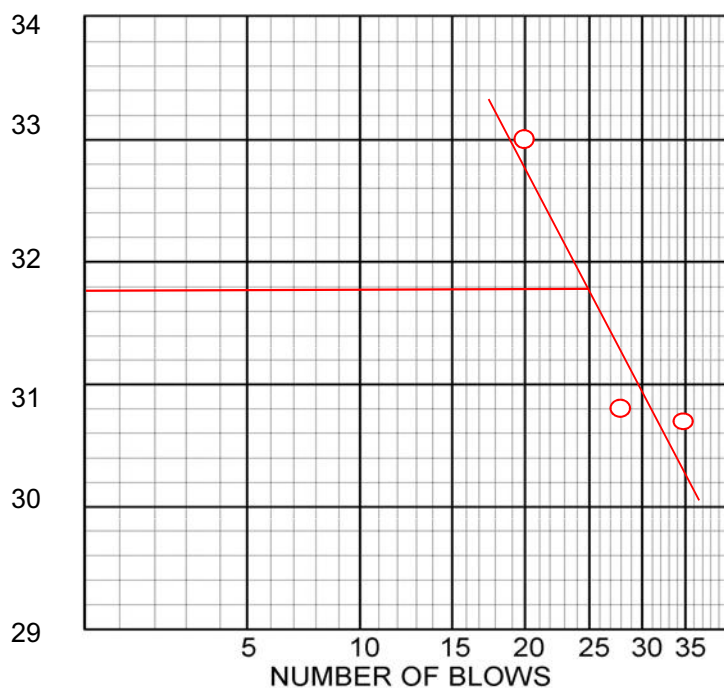
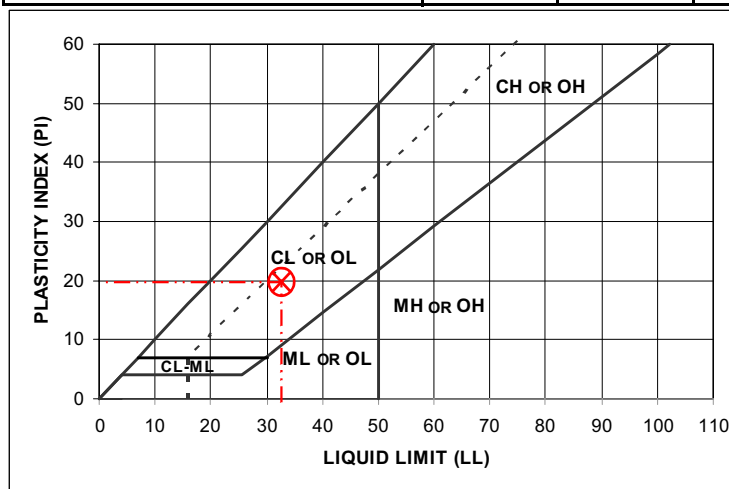
Liquid Limit	33
Plastic Limit	15
Plasticity Index	18

Equation of "A" - Line
Horizontal at PI=4 to LL=25.5,
Then PI= 0.73 (LL - 20)
Equation of "U" - Line
Vertical at LL=16 to PI=7,
Then PI= 0.9 (LL - 8)

Atterberg Limits
(ASTM D4318-98 AASHTO T89/90)

Project Name:	BP - Milpitas	Project Number:	575-1284
Laboratory Number:	0575 (Oakland, CA)	Date Tested:	December 5, 2017
Sample Description:	Boring B-1, SP-12, Depth 45.5 ft		

	LIQUID LIMIT			PLASTIC LIMIT		
CAN NUMBER	12	19	28	11	26	44
WEIGHT OF CAN	28.38	28.19	28.49	28.47	28.26	28.49
WEIGHT OF CAN + WET SOIL	34.34	35.66	36.06	33.18	34.51	35.14
WEIGHT OF CAN + DRY SOIL	32.94	33.9	34.18	32.41	33.48	34.02
WEIGHT OF WATER	1.4	1.76	1.88	0.77	1.03	1.12
WEIGHT OF DRY SOIL	4.56	5.71	5.69	3.94	5.22	5.53
MOISTURE CONTENT	30.7	30.8	33.0	19.5	19.7	20.3
NUMBER OF BLOWS	35	28	20			



Boring Number	B-1
Sample Depth	45.5
Density	
Weight of Sample + Ring [a]	
Weight of Ring [b]	
Weight of Sample [c=a-b]	0
Diameter of Ring	2.4
Area of Ring [A]	4.52
Height of the Sample [h]	1
Wet Density of the Sample [d=(c*3.81)/(A*h)]	0.00
Moisture Content	
Tare Number	87
Tare Weight (g) [e]	282.10
Wet Weight + Tare (g) [f]	770.00
Dry Weight + Tare (g) [g]	700.20
Weight of Water (g) [h=f-g]	69.8
Weight of Dry Sample (g) [i=g-e]	418.1
Moisture Content (%) [j=(h/i)*100]	16.7
Dry Density [k=d/(1+j/100)]	

Liquid Limit	32
Plastic Limit	20
Plasticity Index	12

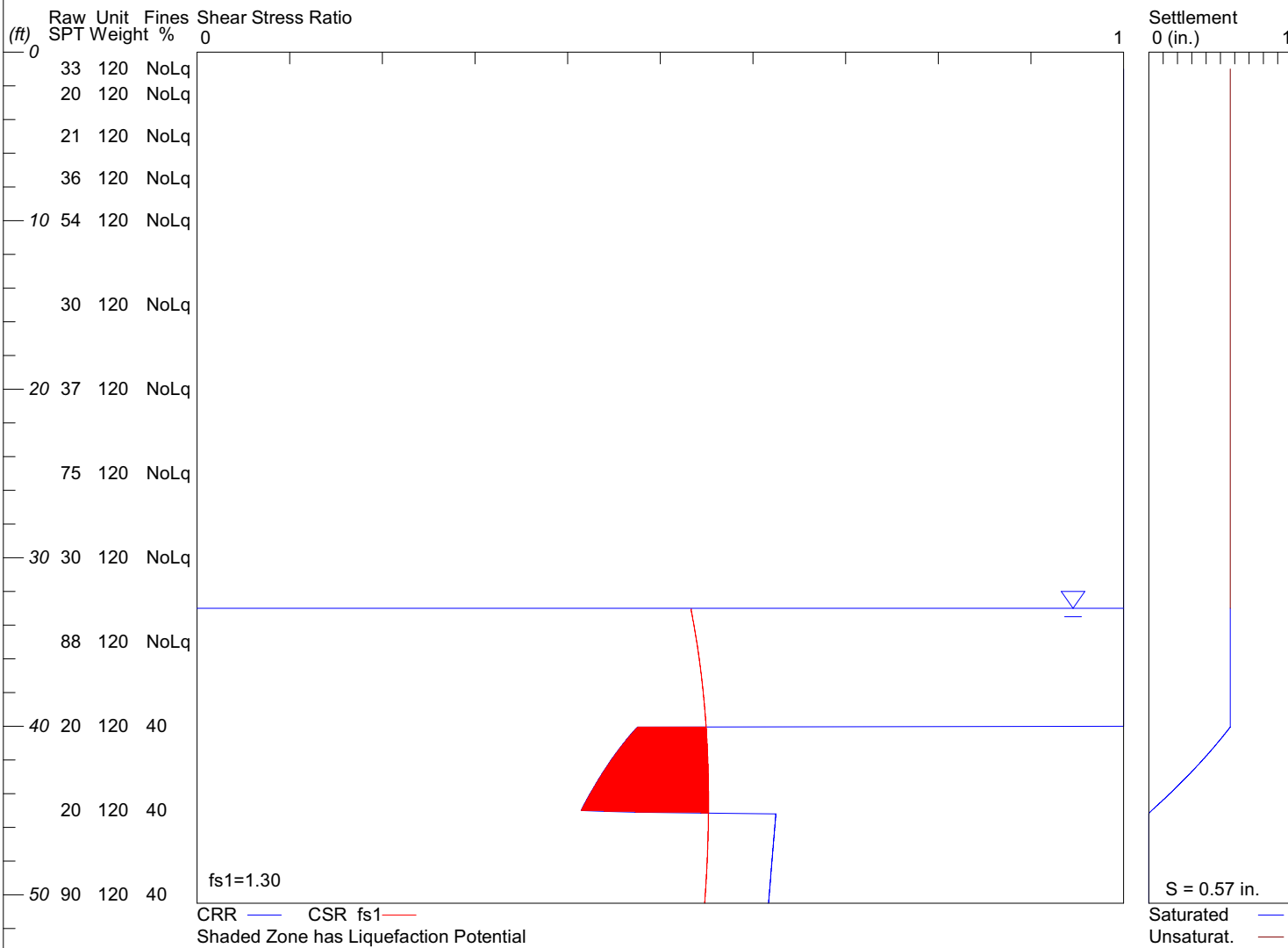
Equation of "A" – Line
Horizontal at PI=4 to LL=25.5,
Then PI= 0.73 (LL - 20)
Equation of "U" – Line
Vertical at LL=16 to PI=7,
Then PI= 0.9 (LL - 8)

APPENDIX C

LIQUEFACTION ANALYSIS

LIQUEFACTION ANALYSIS

BP Milpitas

Hole No.=1 Water Depth=33 ft
**Magnitude=6.63
Acceleration=0.697g**


LIQUEFACTION ANALYSIS SUMMARY
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Item # C5.

Font: Courier New, Regular, Size 8 is recommended for this report.
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Input File Name: P:\712 GEO - Also See 578 Geo\2017 Projects\Oakland Projects\
BP - Milpitas\B-1.liq

Title: BP Milpitas
Subtitle:

Surface Elev.=
Hole No.=1
Depth of Hole= 50.50 ft
Water Table during Earthquake= 33.00 ft
Water Table during In-Situ Testing= 45.00 ft
Max. Acceleration= 0.7 g
Earthquake Magnitude= 6.63

Input Data:

Surface Elev. =
Hole No. = 1
Depth of Hole = 50.50 ft
Water Table during Earthquake = 33.00 ft
Water Table during In-Situ Testing = 45.00 ft
Max. Acceleration = 0.7 g
Earthquake Magnitude = 6.63
No-Liquefiable Soils: CL, OL are Non-Liq. Soil

1. SPT or BPT Calculation.
 2. Settlement Analysis Method: Ishihara / Yoshimine
 3. Fines Correction for Liquefaction: Idriss/Seed
 4. Fine Correction for Settlement: During Liquefaction*
 5. Settlement Calculation in: Liq. zone only
 6. Hammer Energy Ratio, Ce = 1.25
 7. Borehole Diameter, Cb = 1
 8. Sampling Method, Cs = 1.2
 9. User request factor of safety (apply to CSR), User = 1.3
Plot one CSR curve (fs1 = User)
 10. Use Curve Smoothing: Yes*
- * Recommended Options

In-Situ Test Data:

Depth ft	SPT	gamma pcf	Fines %
1.00	33.00	120.00	NoLiq
2.50	20.00	120.00	NoLiq
5.00	21.00	120.00	NoLiq
7.50	36.00	120.00	NoLiq
10.00	54.00	120.00	NoLiq
15.00	30.00	120.00	NoLiq
20.00	37.00	120.00	NoLiq
25.00	75.00	120.00	NoLiq
30.00	30.00	120.00	NoLiq
35.00	88.00	120.00	NoLiq
40.00	20.00	120.00	40.00
45.00	20.00	120.00	40.00
50.00	90.00	120.00	40.00

Output Results:

Settlement of Saturated Sands = 0.57 in.
Settlement of Unsaturated Sands = 0.00 in.
Total Settlement of Saturated and Unsaturated Sands = 0.57 in.
Differential Settlement = 0.284 to 0.375 in.

Depth ft	CRRm	CSRfs	F.S.	S_sat. in.	S_dry in.	S_all in.
1.00	2.00	0.59	5.00	0.57	0.00	0.57
1.05	2.00	0.59	5.00	0.57	0.00	0.57
1.10	2.00	0.59	5.00	0.57	0.00	0.57

[illegible]

[illegible]

149

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38.65	2.00	0.55	5.00	0.57	0.00	0.57
38.70	2.00	0.55	5.00	0.57	0.00	0.57
38.75	2.00	0.55	5.00	0.57	0.00	0.57
38.80	2.00	0.55	5.00	0.57	0.00	0.57
38.85	2.00	0.55	5.00	0.57	0.00	0.57
38.90	2.00	0.55	5.00	0.57	0.00	0.57
38.95	2.00	0.55	5.00	0.57	0.00	0.57
39.00	2.00	0.55	5.00	0.57	0.00	0.57
39.05	2.00	0.55	5.00	0.57	0.00	0.57
39.10	2.00	0.55	5.00	0.57	0.00	0.57
39.15	2.00	0.55	5.00	0.57	0.00	0.57
39.20	2.00	0.55	5.00	0.57	0.00	0.57
39.25	2.00	0.55	5.00	0.57	0.00	0.57
39.30	2.00	0.55	5.00	0.57	0.00	0.57
39.35	2.00	0.55	5.00	0.57	0.00	0.57
39.40	2.00	0.55	5.00	0.57	0.00	0.57
39.45	2.00	0.55	5.00	0.57	0.00	0.57
39.50	2.00	0.55	5.00	0.57	0.00	0.57
39.55	2.00	0.55	5.00	0.57	0.00	0.57
39.60	2.00	0.55	5.00	0.57	0.00	0.57
39.65	2.00	0.55	5.00	0.57	0.00	0.57
39.70	2.00	0.55	5.00	0.57	0.00	0.57
39.75	2.00	0.55	5.00	0.57	0.00	0.57
39.80	2.00	0.55	5.00	0.57	0.00	0.57
39.85	2.00	0.55	5.00	0.57	0.00	0.57
39.90	2.00	0.55	5.00	0.57	0.00	0.57
39.95	2.00	0.55	5.00	0.57	0.00	0.57
40.00	2.00	0.55	5.00	0.57	0.00	0.57
40.05	0.48	0.55	0.87*	0.57	0.00	0.57
40.10	0.47	0.55	0.86*	0.56	0.00	0.56
40.15	0.47	0.55	0.86*	0.56	0.00	0.56
40.20	0.47	0.55	0.86*	0.55	0.00	0.55
40.25	0.47	0.55	0.86*	0.55	0.00	0.55
40.30	0.47	0.55	0.86*	0.55	0.00	0.55
40.35	0.47	0.55	0.86*	0.54	0.00	0.54
40.40	0.47	0.55	0.85*	0.54	0.00	0.54
40.45	0.47	0.55	0.85*	0.53	0.00	0.53
40.50	0.47	0.55	0.85*	0.53	0.00	0.53
40.55	0.47	0.55	0.85*	0.52	0.00	0.52
40.60	0.47	0.55	0.85*	0.52	0.00	0.52
40.65	0.47	0.55	0.85*	0.51	0.00	0.51
40.70	0.46	0.55	0.85*	0.51	0.00	0.51
40.75	0.46	0.55	0.84*	0.50	0.00	0.50
40.80	0.46	0.55	0.84*	0.50	0.00	0.50
40.85	0.46	0.55	0.84*	0.49	0.00	0.49
40.90	0.46	0.55	0.84*	0.49	0.00	0.49
40.95	0.46	0.55	0.84*	0.48	0.00	0.48
41.00	0.46	0.55	0.84*	0.48	0.00	0.48
41.05	0.46	0.55	0.84*	0.47	0.00	0.47
41.10	0.46	0.55	0.83*	0.47	0.00	0.47
41.15	0.46	0.55	0.83*	0.46	0.00	0.46
41.20	0.46	0.55	0.83*	0.46	0.00	0.46
41.25	0.46	0.55	0.83*	0.45	0.00	0.45
41.30	0.46	0.55	0.83*	0.45	0.00	0.45
41.35	0.46	0.55	0.83*	0.44	0.00	0.44
41.40	0.45	0.55	0.83*	0.44	0.00	0.44
41.45	0.45	0.55	0.82*	0.43	0.00	0.43
41.50	0.45	0.55	0.82*	0.43	0.00	0.43
41.55	0.45	0.55	0.82*	0.42	0.00	0.42
41.60	0.45	0.55	0.82*	0.42	0.00	0.42
41.65	0.45	0.55	0.82*	0.41	0.00	0.41
41.70	0.45	0.55	0.82*	0.41	0.00	0.41
41.75	0.45	0.55	0.82*	0.40	0.00	0.40
41.80	0.45	0.55	0.82*	0.40	0.00	0.40
41.85	0.45	0.55	0.81*	0.39	0.00	0.39
41.90	0.45	0.55	0.81*	0.39	0.00	0.39
41.95	0.45	0.55	0.81*	0.38	0.00	0.38
42.00	0.45	0.55	0.81*	0.38	0.00	0.38
42.05	0.45	0.55	0.81*	0.37	0.00	0.37
42.10	0.45	0.55	0.81*	0.36	0.00	0.36
42.15	0.45	0.55	0.81*	0.36	0.00	0.36
42.20	0.44	0.55	0.81*	0.35	0.00	0.35
42.25	0.44	0.55	0.81*	0.35	0.00	0.35
42.30	0.44	0.55	0.80*	0.34	0.00	0.34
42.35	0.44	0.55	0.80*	0.34	0.00	0.34

42.40	0.44	0.55	0.80*	0.33	0.00	0.33
42.45	0.44	0.55	0.80*	0.33	0.00	0.33
42.50	0.44	0.55	0.80*	0.32	0.00	0.32
42.55	0.44	0.55	0.80*	0.32	0.00	0.32
42.60	0.44	0.55	0.80*	0.31	0.00	0.31
42.65	0.44	0.55	0.80*	0.30	0.00	0.30
42.70	0.44	0.55	0.80*	0.30	0.00	0.30
42.75	0.44	0.55	0.79*	0.29	0.00	0.29
42.80	0.44	0.55	0.79*	0.29	0.00	0.29
42.85	0.44	0.55	0.79*	0.28	0.00	0.28
42.90	0.44	0.55	0.79*	0.28	0.00	0.28
42.95	0.44	0.55	0.79*	0.27	0.00	0.27
43.00	0.44	0.55	0.79*	0.26	0.00	0.26
43.05	0.43	0.55	0.79*	0.26	0.00	0.26
43.10	0.43	0.55	0.79*	0.25	0.00	0.25
43.15	0.43	0.55	0.79*	0.25	0.00	0.25
43.20	0.43	0.55	0.78*	0.24	0.00	0.24
43.25	0.43	0.55	0.78*	0.24	0.00	0.24
43.30	0.43	0.55	0.78*	0.23	0.00	0.23
43.35	0.43	0.55	0.78*	0.22	0.00	0.22
43.40	0.43	0.55	0.78*	0.22	0.00	0.22
43.45	0.43	0.55	0.78*	0.21	0.00	0.21
43.50	0.43	0.55	0.78*	0.21	0.00	0.21
43.55	0.43	0.55	0.78*	0.20	0.00	0.20
43.60	0.43	0.55	0.78*	0.19	0.00	0.19
43.65	0.43	0.55	0.78*	0.19	0.00	0.19
43.70	0.43	0.55	0.77*	0.18	0.00	0.18
43.75	0.43	0.55	0.77*	0.18	0.00	0.18
43.80	0.43	0.55	0.77*	0.17	0.00	0.17
43.85	0.43	0.55	0.77*	0.16	0.00	0.16
43.90	0.43	0.55	0.77*	0.16	0.00	0.16
43.95	0.42	0.55	0.77*	0.15	0.00	0.15
44.00	0.42	0.55	0.77*	0.15	0.00	0.15
44.05	0.42	0.55	0.77*	0.14	0.00	0.14
44.10	0.42	0.55	0.77*	0.13	0.00	0.13
44.15	0.42	0.55	0.77*	0.13	0.00	0.13
44.20	0.42	0.55	0.76*	0.12	0.00	0.12
44.25	0.42	0.55	0.76*	0.12	0.00	0.12
44.30	0.42	0.55	0.76*	0.11	0.00	0.11
44.35	0.42	0.55	0.76*	0.10	0.00	0.10
44.40	0.42	0.55	0.76*	0.10	0.00	0.10
44.45	0.42	0.55	0.76*	0.09	0.00	0.09
44.50	0.42	0.55	0.76*	0.08	0.00	0.08
44.55	0.42	0.55	0.76*	0.08	0.00	0.08
44.60	0.42	0.55	0.76*	0.07	0.00	0.07
44.65	0.42	0.55	0.76*	0.06	0.00	0.06
44.70	0.42	0.55	0.76*	0.06	0.00	0.06
44.75	0.42	0.55	0.76*	0.05	0.00	0.05
44.80	0.42	0.55	0.75*	0.05	0.00	0.05
44.85	0.42	0.55	0.75*	0.04	0.00	0.04
44.90	0.42	0.55	0.75*	0.03	0.00	0.03
44.95	0.41	0.55	0.75*	0.03	0.00	0.03
45.00	0.41	0.55	0.75*	0.02	0.00	0.02
45.05	0.44	0.55	0.80*	0.01	0.00	0.01
45.10	0.47	0.55	0.86*	0.01	0.00	0.01
45.15	0.54	0.55	0.99*	0.00	0.00	0.00
45.20	0.62	0.55	1.13	0.00	0.00	0.00
45.25	0.62	0.55	1.13	0.00	0.00	0.00
45.30	0.62	0.55	1.13	0.00	0.00	0.00
45.35	0.62	0.55	1.13	0.00	0.00	0.00
45.40	0.62	0.55	1.13	0.00	0.00	0.00
45.45	0.62	0.55	1.13	0.00	0.00	0.00
45.50	0.62	0.55	1.13	0.00	0.00	0.00
45.55	0.62	0.55	1.13	0.00	0.00	0.00
45.60	0.62	0.55	1.13	0.00	0.00	0.00
45.65	0.62	0.55	1.13	0.00	0.00	0.00
45.70	0.62	0.55	1.13	0.00	0.00	0.00
45.75	0.62	0.55	1.13	0.00	0.00	0.00
45.80	0.62	0.55	1.13	0.00	0.00	0.00
45.85	0.62	0.55	1.13	0.00	0.00	0.00
45.90	0.62	0.55	1.13	0.00	0.00	0.00
45.95	0.62	0.55	1.13	0.00	0.00	0.00
46.00	0.62	0.55	1.13	0.00	0.00	0.00
46.05	0.62	0.55	1.13	0.00	0.00	0.00
46.10	0.62	0.55	1.13	0.00	0.00	0.00

Item # C5.

[illegible]

49.90	0.62	0.55	1.13	0.00	0.00	0.00
49.95	0.62	0.55	1.13	0.00	0.00	0.00
50.00	0.62	0.55	1.13	0.00	0.00	0.00
50.05	0.62	0.55	1.13	0.00	0.00	0.00
50.10	0.62	0.55	1.13	0.00	0.00	0.00
50.15	0.62	0.55	1.13	0.00	0.00	0.00
50.20	0.62	0.55	1.13	0.00	0.00	0.00
50.25	0.62	0.55	1.13	0.00	0.00	0.00
50.30	0.62	0.55	1.13	0.00	0.00	0.00
50.35	0.62	0.55	1.13	0.00	0.00	0.00
50.40	0.62	0.55	1.13	0.00	0.00	0.00
50.45	0.62	0.55	1.13	0.00	0.00	0.00
50.50	0.62	0.55	1.13	0.00	0.00	0.00

Item # C5.

* F.S.<1, Liquefaction Potential Zone
(F.S. is limited to 5, CRR is limited to 2, CSR is limited to 2)

Units: Unit: qc, fs, Stress or Pressure = atm (1.0581tsf); Unit weight = pcf;
Depth = ft; Settlement = in.

1 atm (atmosphere) = 1 tsf (ton/ft²)
CRRm Cyclic resistance ratio from soils
CSRsf Cyclic stress ratio induced by a given earthquake (with user request
 factor of safety)
F.S. Factor of Safety against liquefaction, F.S.=CRRm/CSRsf
S_sat Settlement from saturated sands
S_dry Settlement from Unsaturated Sands
S_all Total Settlement from Saturated and Unsaturated Sands
NoLiq No-Liquefy Soils



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve and Authorize the City Manager to Execute a Stormwater Management Facilities Operation & Maintenance Agreement for Robinson Oil Corporation at 1787 South Main Street (Staff Contact: Steve Erickson, Engineering Director/City Engineer 408-586-3301)
Category:	Consent Calendar-Community Development
Meeting Date:	4/19/2022
	<u>Recommendation:</u> Approve and authorize the City Manager to execute a Stormwater Management Facilities Operation and Maintenance Agreement for Robinson Oil Corporation for the Gas Station and Convenience Store Project at 1787 South Main Street.

Background:

On October 25, 2017, the Planning Commission approved Site Development Permit No. SD16-0007, Conditional Use Permit No. UP17-0026, and Variance No. VA17-0002 allowing the development of the Property, including the construction of a 3,780 square foot canopy structure over the fuel dispensers, a new trash enclosure, offsite and onsite improvements, landscaping, irrigation, and stormwater treatment measures on a 0.68-acre site located at 1787 South Main Street.

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 the LID stormwater treatment facilities (**Attachment 1**).

The Robben Robbie Gas Station #66 project constructed stormwater Bio-treatment devices and Robinson Oil Corporation will be responsible for the perpetual maintenance and operation of the bio-treatment areas specified in Agreement. Robinson Oil Corporation 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 Operations and Maintenance 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 comply with Federal and State law and to allow for the on-going maintenance and City annual inspection of installed stormwater Bio-treatment devices, staff recommends approval of the Agreement.

Fiscal Impact:

As required by the Stormwater Management Facilities Operation and Maintenance Agreement, the project developer/owner will pay the City for the required annual inspections of the installed stormwater Bio-treatment facilities in accordance with the requirements of Regional Water Quality Control Board ("RWQCB").

California Environmental Quality Act:

The City Council's approval of the agreement was already reviewed under the California Environmental Quality Act (CEQA) at the time the City Council approved the entitlements for the project thru an initial environmental assessment. The Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), which assessment determined that the proposed project is exempt from further CEQA review, pursuant to State CEQA Guidelines Section 15302 for "Replacement and Reconstruction," as project consists of a service station, fuel dispensers, canopy structure, parking lot, trash enclosure and landscape, similar to the property's previous use as a service station and auto repair establishment. The project is also exempt under State CEQA Guidelines Section 15303 for "New Construction or Conversion of Small Structures," as the project is construction of a commercial use not exceeding 10,000 square feet in floor area in an urbanized area and does not involve the use of significant amounts of hazardous substances. Furthermore, none of the exceptions to the categorical exemptions stated in State CEQA Guidelines section 15300.2 apply. On this basis, the City Council relies on the previous CEQA review conducted in approving this agreement.

Recommendation:

Approve and authorize the City Manager to execute a Stormwater Management Facilities Operation and Maintenance Agreement for Robinson Oil Corporation Gas Station and Convenience Store Project at 1787 S Main St.

Attachment:

1. Stormwater Management Facilities Operation and Maintenance Agreement
2. Exhibit A
3. Exhibit B

**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: 086-21-073

STORMWATER MANAGEMENT FACILITIES OPERATION AND MAINTENANCE AGREEMENT

This Stormwater Management Facilities Operation and Maintenance Agreement ("AGREEMENT") is made and entered into this _____ day of _____ 2022 ("Effective Date"), by and between Robinson Oil Corporation, a California Corporation ("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 a Site Development permit for a gasoline service stations, five multi-product fuel dispensers, and a 3,780 square foot canopy structure over the fuel dispensers, utilities, and associated offsite and onsite improvements landscaping, irrigation, and stormwater treatment measures on a 0.68 acre site located at 1787 South Main Street in Milpitas and more commonly known as Rotten Robbie, Project No. PJ 5007, (the "Project") on the Property; and subject to conditions set forth in the following (collectively "City Approvals"):

1. Resolution No. 17-020 approving Site Development Permit No. SD16-0007; and

2. Resolution No. 17-020 approving Conditional Use Permit No. UP17-0026; and
3. Resolution No. 17-020 approving Variance No. VA17-0002

- 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:

Robinson Oil Corporation
Attn: Stephen F. White
955 Martin Avenue
Santa Clara, CA 95050

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:

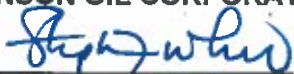
This Agreement, including all Exhibits attached hereto, represents the entire understanding of the parties as to those matters contained herein. In the event that the terms specified in any of the Exhibits attached hereto conflict with any of the terms specified in the body of this Agreement, the terms 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:

ROBINSON OIL CORPORATION a California Corporation

By: 
Name: Stephen F. White
Title: Vice-President

CITY:

**CITY OF MILPITAS,
A MUNICIPAL CORPORATION**

By: _____
Steven McHarris, City Manager

Approved as to form:

By: _____
Christopher J. Diaz, City Attorney

Approved:

By: _____
Lauren Lai, CPA, MPA
Finance Director/Risk Manager

Recommended for approval:

By: _____
Steve Erickson, PE
Director of Engineering/City Engineer

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

EXHIBIT B
Operation and Maintenance Plan

LEGAL DESCRIPTION**LANDS OF ROBINSON OIL CORPORATION**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF MILPITAS, IN THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

A PORTION OF THE LANDS OF ROBINSON OIL CORPORATION AS DESCRIBED IN THAT CERTAIN GRANT DEED RECORDED MARCH 24, 2014 AS DOCUMENT NO. 22550286, OFFICIAL RECORDS OF SANTA CLARA COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE CENTERLINE OF SOUTH MAIN STREET WITH THE CENTERLINE OF MONTAGUE EXPRESSWAY AS CENTERLINES ARE SHOWN ON THAT CERTAIN PARCEL MAP FILES FOR RECORD ON OCTOBER 30, 1990 IN BOOK 620 OF MAPS, AT PAGE 46 AND 47; THENCE FROM SAID POINT OF COMMENCEMENT ALONG SAID CENTERLINE OF MONTAGUE EXPRESSWAY; THENCE NORTH 83°18'20" WEST, A DISTANCE OF 297.63 FEET; THENCE NORTH 19°34'15" EAST, A DISTANCE OF 81.12 TO THE TRUE POINT OF BEGINNING;

THENCE FROM SAID TRUE POINT OF BEGINNING; NORTH 19°34'15" EAST, A DISTANCE OF 169.15 FEET;

THENCE SOUTH 89°44'20" EAST, A DISTANCE OF 151.00 FEET;

THENCE SOUTH 00°15'40" WEST, A DISTANCE OF 104.63 FEET TO A POINT ON A 70.00 FOOT RADIUS TANGENT CURVE TO THE RIGHT, THROUGH AN INCLUDED ANGLE OF 96°26'00" AND ARC DISTANCE OF 117.82 FEET; THENCE SOUTH 83°18'20" EAST, A DISTANCE OF 129.91 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 29,623 SQUARE FEET, MORE OR LESS.

APN: 086-21-073

Stormwater Control Report for Rotten Robbie #66

1787 South Main Street, Milpitas, CA 95035

September 11, 2018

Owner:

Dave Mordick c/o Robinson Oil
955 Martin Avenue
Santa Clara, CA 95050
(408) 327-4300

Preparer's Name:

Robert "JR" Beard, PE
LHB & Associates
867 Pacific Street, Suite 120
San Luis Obispo, CA 93401
(805) 540-5240



Table of Contents

I. Project Data	1
II. Setting	1
II.A. Project Location and Description	1
II.B. Existing Site Features and Conditions.....	2
II.C. Opportunities and Constraints for Stormwater Control.....	3
III. Low Impact Development Design Strategies....	3
III.A. Optimization of Site Layout	3
III.A.1. Limitation of development envelope	3
III.A.2. Preservation of natural drainage features	3
III.A.3. Setbacks from creeks, wetlands, and riparian habitats	3
III.A.4. Minimization of imperviousness	3
III.A.5. Use of drainage as a design element	3
III.B. Use of Permeable Pavements.....	3
III.C. Dispersal of Runoff to Pervious Areas	3
III.D. Stormwater Control Measures	4
IV.Documentation of Drainage Design	4
IV.A. Descriptions of each Drainage Management Area	4
IV.A.1. Table of Drainage Management Areas	4
IV.A.2. Drainage Management Area Descriptions	4
IV.B. Tabulation and Sizing Calculations	4
IV.B.1. Information Summary for LID Facility Design	4
IV.B.2. Areas Draining to Bioretention Facilities	4
V. Source Control Measures	6
V.A. Site activities and potential sources of pollutants.....	6
V.B. Source Control Table	6
V.C. Features, Materials, and Methods of Construction of Source Control BMPs.....	6
VI.Stormwater Facility Maintenance	6
VI.A. Ownership and Responsibility for Maintenance in Perpetuity.....	6
VI.B. Summary of Maintenance Requirements for Each Stormwater Facility	6
VII. Construction Checklist	7
VIII. Certifications.....	7

Figures

Figure 1 Vicinity Map

Appendix

Appendix A - Stormwater Requirements C.3 Data Form

Appendix B - Infiltration/Harvesting Infeasibility Worksheet (NOT REQUIRED - OMITTED)

Appendix C - Special Project Worksheet (NOT REQUIRED - OMITTED)

Appendix D - Soil Properties

Appendix E - MRP Calculation Worksheet (NOT REQUIRED - OMITTED)

Appendix F - BMP Sizing Calculations (NOT REQUIRED - OMITTED)

Appendix G - Stormwater Control Plan

Appendix H - Stormwater Control Plan Details

Appendix I - Operation and Maintenance (O&M) Plan

I. Project Data

Table 1. Project Data

Project Name/Number	Rotten Robbie #66 - Milpitas
Application Submittal Date	March 28, 2018
Project Location	1787 South Main Street, Milpitas, CA 95035
Project Phase No.	NA
Project Type and Description	The purpose of this project is to construct a gas station with convenience store, which entails construction of a 3,200 square feet commercial/retail building and 3,780 square feet fuel canopy with five (5) multi-product fuel dispensers. Additionally, the off-sale of alcohol is proposed.
Total Project Site Area (acres)	0.74
Total New Impervious Surface Area	22,706
Total Replaced Impervious Surface Area	0
Total Pre-Project Impervious Surface Area	0
Total Post-Project Impervious Surface Area	22,706
Net Impervious Area	NA
Project Zoning	MP - Industrial Park
Project General Plan	INP - Industrial Park
Assessor's Parcel Number	086-21-069

II. Setting

II.A. Project Location and Description

The purpose of this stormwater report is to evaluate the existing and proposed stormwater management for the project.

It is proposed to construct a 3,200 square feet commercial retail building, 3,780 square fuel canopy, and install three (3) underground storage tanks containing fuel products with five (5) multi-product dispensers for use in private fueling.

Surrounding uses include commercial offices and church to the north, Shell Gas Station to the East, U-Haul rental truck to the south, and commercial offices to the west.

Design objective is to follow the development standards of the City of Milpitas Zoning Code, and adhere to Santa Clara Valley Urban Runoff Pollution Prevention Program standards.

Refer to Figure 1 for project location.

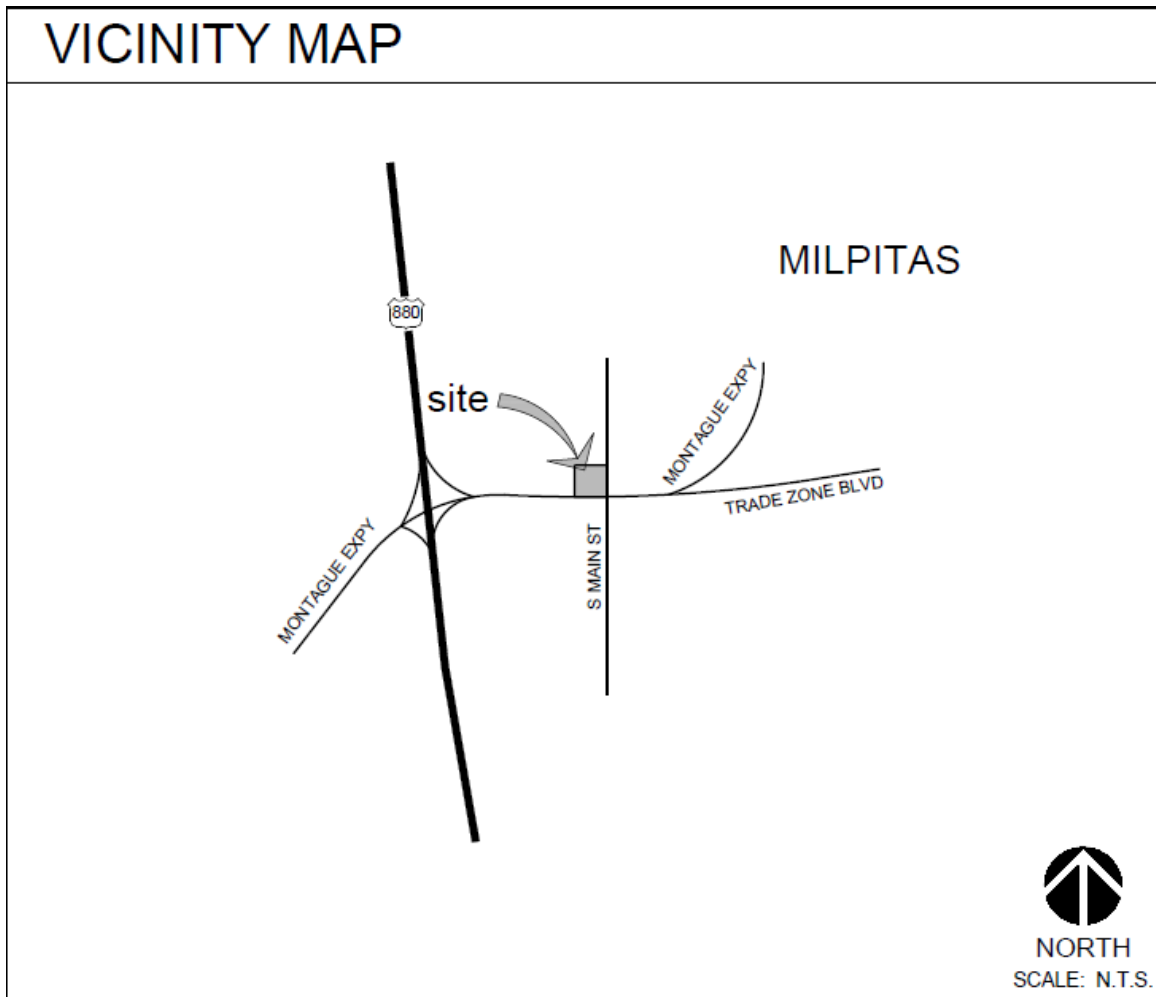


Figure 1

II.B. Existing Site Features and Conditions

The existing site is formerly a 76 Gas Station that consisted of a service building, fuel pumps, and underground storage tanks. The site has been since completely demolished and is currently barren.

The site is relatively flat with a 2% slope. The existing stormwater currently infiltrates or surface flows to the street. There is a street frontage drain inlet located on South Main Street to collect stormwater surface flow.

There are no wetlands or watercourses nearby. The closest watercourse is Coyote Creek, which is located approximately 3,900 feet to the west.

Project site is surrounded by paved street frontage at the south and east, commercial at the north and west.

II.C. Opportunities and Constraints for Stormwater Control

The project site historically drains to South Main Street; the proposed design will maintain the same overland flow. As such, bio retention systems will be installed at the low points of the project site to receive the stormwater before releasing to existing storm drain system.

Landscape buffers are along the entire perimeter of the site which will allow for self-treating and infiltration.

Proposed use for this site is a gas station that will be 25% pervious and 75% impervious. Stormwater generated from pollutants from vehicular circulation will be captured in bio-retention areas to be treated prior to release into the storm drain system.

The soil conditions of the site are not ideal for infiltration. A soils report prepared by Korbmacher Engineering, dated February 15, 2018, indicated site soils as clay with a low infiltration rate. Available groundwater was encountered at approximately 20 feet below ground surface.

III. Low Impact Development Design Strategies

III.A. Optimization of Site Layout

III.A.1. Limitation of development envelope

Site limitations include proximity of building structure foundations, and underground storage tanks near bio-retention areas. Additionally, the proposed use of the project site is as a gas station. Fueling areas require that stormwater be diverted away via grade breaks, interception swale, or other means.

III.A.2. Preservation of natural drainage features

Drainage pattern shall maintain existing overflow route. Replacement of pervious surface with impervious will be addressed via bio-retention areas to be used for infiltration.

III.A.3. Setbacks from creeks, wetlands, and riparian habitats

There are no creeks, wetlands, or riparian habitats near the project site.

III.A.4. Minimization of imperviousness

Parking areas have been minimized as much as feasible to minimize imperviousness.

III.A.5. Use of drainage as a design element

Landscape areas will assist in stormwater infiltration. Additionally, grading is proposed to be diverted from fueling area via grade breaks.

III.B. Use of Permeable Pavements

No permeable pavements are proposed.

III.C. Dispersal of Runoff to Pervious Areas

All stormwater runoff will be diverted to bio-retention areas.

III.D. Stormwater Control Measures

Control measures include bio-retention areas that will infiltrate and have a bypass overflow system. The convenience store and fuel canopy will drain to the bio-retention areas via overland flow and bubble-up riser's.

IV. Documentation of Drainage Design

IV.A. Descriptions of each Drainage Management Area

IV.A.1. Table of Drainage Management Areas

DMA Name	Surface Type	Area (square feet)
DMA 1	Roof, Pavement, Landscape	6,813
DMA 2	Pavement, Landscape	10,319
DMA 3	Roof, Pavement, Landscape	12,497

IV.A.2. Drainage Management Area Descriptions

DMA 1, totaling 6,813 square feet, drains a convenience store roof, and pavement. DMA 1 drains to TCM 1. Bio-retention area will collect stormwater, treat, and infiltrate as much as feasible, and overflow into existing storm drain system.

DMA 2, totaling 10,319 square feet, drains pavement. DMA 2 drains to TCM 2. Bio-retention area will collect stormwater, treat, and infiltrate as much as feasible, and overflow into existing storm drain system.

DMA 3, totaling 12,497 square feet, drains a canopy roof, and pavement. DMA 3 drains to TCM 3. Bio-retention area will collect stormwater, treat, and infiltrate as much as feasible, and overflow into existing storm drain system.

IV.B. Tabulation and Sizing Calculations

IV.B.1. Information Summary for LID Facility Design

Total Project Area (Square Feet)	29,629
Applicable Requirements	C.3, Santa Clara Valley Urban Runoff Pollution Prevention Program

IV.B.2. Areas Draining to Bioretention Facilities

DMA Name	DMA Area (square feet)	Post-project surface type	DMA Runoff factor	DMA Area × runoff factor	TCM Name		
					TCM 1		
1	1,078	Concrete	1	1,078	TCM Sizing factor	Minimum TCM Size	Proposed TCM Size
1	3,081	Roof	1	3,081			
Total				4,278	0.04	172 S.F.	359 S.F.

DMA Name	DMA Area (square feet)	Post-project surface type	DMA Runoff factor	DMA Area × runoff factor	SCM Name		
					TCM 2		
2	324	Roof	1	324	TCM Sizing factor	Minimum TCM Size	Proposed TCM Size
2	709	Concrete	1	709			
2	8,160	Parking	1	8,160			
Total				9,193	0.04	368	373

DMA Name	DMA Area (square feet)	Post-project surface type	DMA Runoff factor	DMA Area × runoff factor	SCM Name		
					TCM 3		
3	3,780	Roof	1	3,780	TCM Sizing factor	Minimum TCM Size	Proposed TCM Size
3	5,455	Parking	1	5,455			
Total				9,235	0.04	370	712

V. Source Control Measures

V.A. Site activities and potential sources of pollutants

Refueling operations will occur onsite leading to possible pollutants such as hydrocarbons, oils, gasoline, and diesel fuel from vehicles.

V.B. Source Control Table

Refer to Attachments, Stormwater Requirements C.3 Data Form, Selection of Specific Stormwater Control Measures.

V.C. Features, Materials, and Methods of Construction of Source Control BMPs

Source control BMPs entail use of bio-retention areas to treat runoff stormwater and infiltrate into underlying soils.

VI. Stormwater Facility Maintenance

VI.A. Ownership and Responsibility for Maintenance in Perpetuity

Owner shall execute any necessary agreements, and accept responsibility for operation and maintenance of facilities until that responsibility is formally transferred.

VI.B. Summary of Maintenance Requirements for Each Stormwater Facility

The following activities should be scheduled at least annually. The frequency should be adjusted in response to the needs of each particular facility.

Clean up. Remove any soil or debris blocking planter inlets or overflows. Remove trash that typically collects near inlets or gets caught in vegetation.

Prune or cut back plants for health and to ensure flow into inlets and across the surface of the facility. Remove and replant as necessary. When replanting, maintain the design surface elevation and minimize the introduction of soil.

Control weeds by manual methods and soil amendment. In response to problem areas or threatening invasions, corn gluten, white vinegar, vinegar-based products such as Burnout, or non-selective natural herbicides such as Safer's Sharpshooter may be used.

Add mulch. Aged mulch, also called compost mulch, reduces the ability of weeds to establish, keeps soil moist, and replenishes soil nutrients. Mulch may be added from time to time to maintain a mulch layer thickness of 1" to 2", but only if the underlying soil surface beneath the mulch layer is a minimum 6" below the overflow elevation, consistently throughout the surface area of the facility.

Check signage. Remove graffiti and replace if necessary.

Check irrigation, if any, to confirm it is adequate but not excessive.

Landscape maintenance personnel should be aware of the following:

Do not add fertilizer to bioretention facilities. Compost tea, available from various nurseries and garden supply retailers, may be applied at a recommended rate of 5 gallons mixed with 15 gallons of water per acre, up to two weeks prior to planting and once per year between March and June. Do not apply when temperatures are below 50°F or above 90°F or when rain is forecast in the next 48 hours.

Do not use synthetic pesticides on bioretention facilities. Beneficial nematodes and non-toxic controls may be used. Acceptable natural pesticides include Safer® products and Neem oil.

VII. Construction Checklist

Stormwater Control Plan Page #	BMP Description	See Plan Sheet #s
EXHIBIT	SCM 1, BIO-RETENTION	C3.2
EXHIBIT	SCM 2, BIO-RETENTION	C3.2
EXHIBIT	SCM 3, BIO-RETENTION	C3.2

VIII. Certifications

The preliminary design of stormwater treatment facilities and other stormwater pollution control measures in this plan are in accordance with the current edition of the Santa Clara Valley Urban Runoff Pollution Prevention Program C.3 Stormwater Handbook.

Appendix A
Stormwater Requirements C.3 Data Form



City of Milpitas – Stormwater Requirements C.3 Data Form

Santa Clara Valley Urban Run-Off Pollution Prevention Program

Which Projects Must Comply with Stormwater Requirements?

All projects that create and/or replace **10,000 sq. ft.** or more of impervious surface on the project site must fill out this worksheet and submit it with the development project application.

All restaurants, auto service facilities, retail gasoline outlets, and uncovered parking lot projects (stand-alone or part of another development project, including the top uncovered portion of parking structures) that create and/or replace **5,000 sq. ft.** or more of impervious surface on the project site must also fill out this worksheet.

Interior remodeling projects, routine maintenance or repair projects such as re-roofing and re-paving, and single family homes that are not part of a larger plan of development are **NOT** required to complete this worksheet.

What is an Impervious Surface?

An impervious surface is a surface covering or pavement that prevents the land's natural ability to absorb and infiltrate rainfall/stormwater. Impervious surfaces include, but are not limited to rooftops, walkways, paved patios, driveways, parking lots, storage areas, impervious concrete and asphalt, and any other continuous watertight pavement or covering. Pervious pavement, underlain with pervious soil or pervious storage material (e.g., drain rock), that infiltrates rainfall at a rate equal to or greater than surrounding unpaved areas OR that stores and infiltrates the water quality design volume specified in Provision C.3.d of the Municipal Regional Stormwater Permit (MRP) is not considered an impervious surface.

For More Information

For more information regarding selection of Best Management Practices for stormwater pollution prevention or stormwater treatment in Santa Clara County: http://www.scvurppp-w2k.com/c3_handbook_2012.shtml

1. Project Information

Project Name: ROTTEN ROBBIE #66 **APN #** 086-21-069

Project Address: 1787 SOUTH MAIN STREET, MILPITAS, CA 95035

Cross Streets: MAIN STREET AND MONTAGUE EXPRESSWAY

Applicant/Developer Name: JOHN HICKS c/o HICKS PROJECT MANAGEMENT

Project Phase(s): 1 of 1 **Engineer:** ROBERT "JR" BEARD

Project Type (Check all that apply): ☒ New Development ☐ Redevelopment

☐ Residential ☒ Commercial ☐ Industrial ☐ Mixed Use ☐ Public ☐ Institutional

☐ Restaurant ☐ Uncovered Parking ☒ Retail Gas Outlet ☐ Auto Service (SIC code) _____

☐ Other _____ (5013-5014, 5541, 7532-7534, 7536-7539)

Project Description: Proposed development includes construction of a 3,200 SF convenience store, (5) multi-product fueling dispensers, and a 3,780 SF canopy over the fuel dispensers.

Project Watershed/Receiving Water (creek, river, or bay): Penitencia Creek

2. Project Size

a. Total Site Area: 0.74 acre	b. Total Site Area Disturbed: 0.74 acre (including clearing, grading, or excavating)			
	Existing Area (ft²)	Proposed Area (ft²)		Total Post-Project Area (ft²)
		Replaced	New	
Impervious Area				
Roof	0	0	7304	7304
Parking	0	0	13615	13615
Sidewalks and Streets	0	0	1787	1787
c. Total Impervious Area	0		22706	22706
d. Total new and replaced impervious area		22706		
Pervious Area				
Landscaping	29629	6923	0	6923
Pervious Paving	0	0	0	0
Other (e.g. Green Roof)	0	0	0	0
e. Total Pervious Area	29629	6923	0	6923
f. Percent Replacement of Impervious Area in Redevelopment Projects (Replaced Total Impervious Area ÷ Existing Total Impervious Area) x 100% = (N/A) %				

3. State Construction General Permit Applicability:

a. Is #2.b. equal to one acre or more?

- ☐ Yes, applicant must obtain coverage under the State Construction General Permit (i.e., file a Notice of Intent and prepare a Stormwater Pollution Prevention Plan) (see www.swrcb.ca.gov/water_issues/programs/stormwater/construction.shtml for details).
- ☒ No, applicant does not need coverage under the State Construction General Permit.

4. MRP Provision C.3 Applicability:a. Is #2.d. equal to **10,000** sq. ft. or more, or **5,000** sq. ft. or more for restaurants, auto service facilities, retail gas outlets, and uncovered parking?

- ☒ Yes, C.3. source control, site design, and treatment requirements apply.
- ☐ No, C.3. source control and site design requirements may apply – check with local agency

b. Is #2.f. equal to 50% or more?

- ☒ Yes, C.3. requirements (site design, source control, as appropriate, and stormwater treatment) apply to entire site.
- ☐ No, C.3. requirements only apply to impervious area created and/or replaced.

5. Hydromodification Management (HM) Applicability:

a. Does project create and/or replace one acre or more of impervious surface AND is the total post-project impervious area greater than the pre-project (existing) impervious area?

- ☐ Yes (continue) ☒ No – exempt from HM, go to page 3

b. Is the project located in an area of HM applicability (green area) on the HM Applicability Map? (www.scvurppp-w2k.com/hmp_maps.htm)

- ☐ Yes, project must implement HM requirements
- ☐ No, project is exempt from HM requirements

6. Selection of Specific Stormwater Control Measures:**Site Design Measures**

- ☒ Minimize land disturbed
- ☒ Minimize impervious surfaces
- ☒ Minimum-impact street or parking lot design
- ☐ Cluster structures/pavement
- ☒ Disconnected downspouts
- ☐ Pervious pavement
- ☐ Green roof
- ☐ Microdetention in landscape
- ☒ Other self-treating area
- ☐ Self-retaining area
- ☐ Rainwater harvesting and use (e.g., rain barrel, cistern connected to roof drains) ¹
- ☐ Preserved open space:
_____ ac. or sq. ft
(circle one)
- ☐ Protected riparian and wetland areas/buffers
(Setback from top of bank: _____ ft.)
- ☐ Other _____

Source Control Measures

- ☐ Alternative building materials
- ☐ Wash area/racks, drain to sanitary sewer²
- ☒ Covered dumpster area, drain to sanitary sewer²
- ☐ Sanitary sewer connection or accessible cleanout for swimming pool/spa/fountain²
- ☒ Beneficial landscaping (minimize irrigation, runoff, pesticides and fertilizers; promotes treatment)
- ☒ Outdoor material storage protection
- ☒ Covers, drains for loading docks, maintenance bays, fueling areas
- ☒ Maintenance (pavement sweeping, catch basin cleaning, good housekeeping)
- ☒ Storm drain labeling
- ☐ Other _____

Treatment Systems

- ☐ None (all impervious surface drains to self-retaining areas)

LID Treatment

- ☐ Rainwater harvest and use (e.g., cistern or rain barrel sized for C.3.d treatment)
- ☐ Infiltration basin
- ☐ Infiltration trench
- ☐ Exfiltration trench
- ☐ Underground detention and infiltration system (e.g. pervious pavement drain rock, large diameter conduit)

Biotreatment ³

- ☒ Bioretention area
- ☐ Flow-through planter
- ☐ Tree box with bioretention soils
- ☐ Other _____

Other Treatment Methods

- ☐ Proprietary tree box filter⁴
- ☐ Media filter (sand, compost, or proprietary media)⁴
- ☐ Vegetated filter strip⁵
- ☐ Dry detention basin⁵
- ☐ Other _____

Flow Duration Controls for Hydromodification Management (HM)

- ☐ Detention basin
- ☐ Underground tank or vault
- ☒ Bioretention with outlet control
- ☐ Other _____

¹ Optional site design measure; does not have to be sized to comply with Provision C.3.d treatment requirements.

² Subject to sanitary sewer authority requirements.

³ Biotreatment measures are allowed only with completed feasibility analysis showing that infiltration and rainwater harvest and use are infeasible.

⁴ These treatment measures are only allowed if the project qualifies as a "Special Project".

⁵ These treatment measures are only allowed as part of a multi-step treatment process.

7. Treatment System Sizing for Projects with Treatment Requirements

Indicate the hydraulic sizing criteria used and provide the calculated design flow or volume:

Treatment System Component	Hydraulic Sizing Criteria Used ³	Design Flow or Volume (cfs or cu.ft.)
BIO-RETENTION (4% IMPERVIOUS SURFACE AREA)	2C	0.07 CFS

³Key: 1a: Volume – WEF Method
 1b: Volume – CASQA BMP Handbook Method
 2a: Flow – Factored Flood Flow Method
 2b: Flow – CASQA BMP Handbook Method
 2c: Flow – Uniform Intensity Method
 3: Combination Flow and Volume Design Basis

8. **Alternative Certification:** Was the treatment system sizing and design reviewed by a qualified third-party professional that is not a member of the project team or agency staff?

☐ Yes ☒ No Name of Reviewer: _____

9. Operation & Maintenance Information

A. Property Owner's Name: DAVE MORDICK c/o ROBINSON OIL

B. Responsible Party for Stormwater Treatment/Hydromodification Control O&M:

a. Name: DAVE MORDICK
 b. Address: 955 MARTIN AVENUE, SANTA CLARA, CA 95050
 c. Phone/E-mail: (408) 327-4300 / DMORDICK@ROTTENROBBIE.COM

This section to be completed by City of Milpitas staff.

O&M Responsibility Mechanism

Indicate how responsibility for O&M is assured. Check all that apply:

- ☐ O&M Agreement
☐ Other mechanism that assigns responsibility (describe below):

Reviewed:

Planning Department

Planning Division: _____

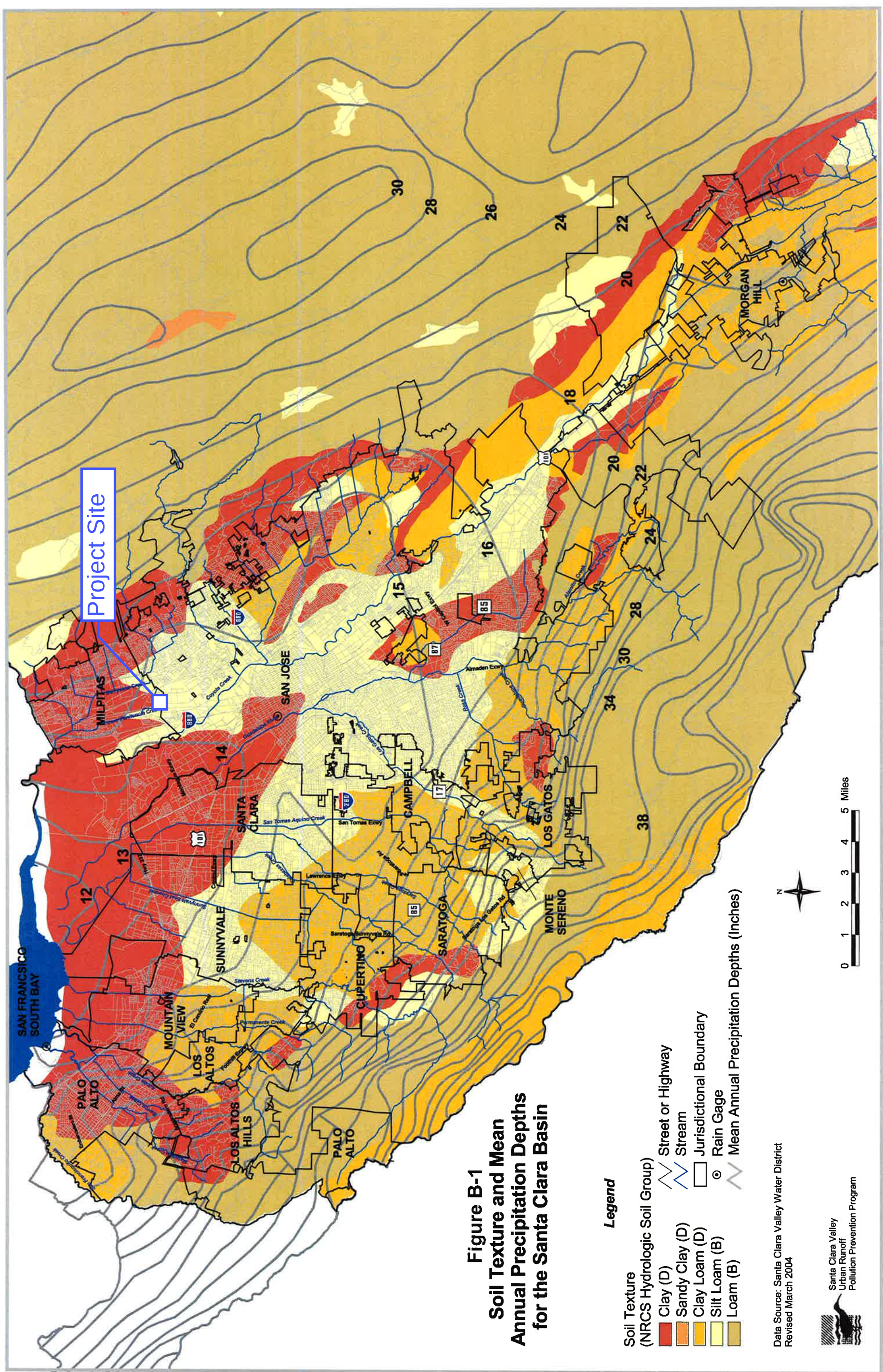
Other (Specify): _____

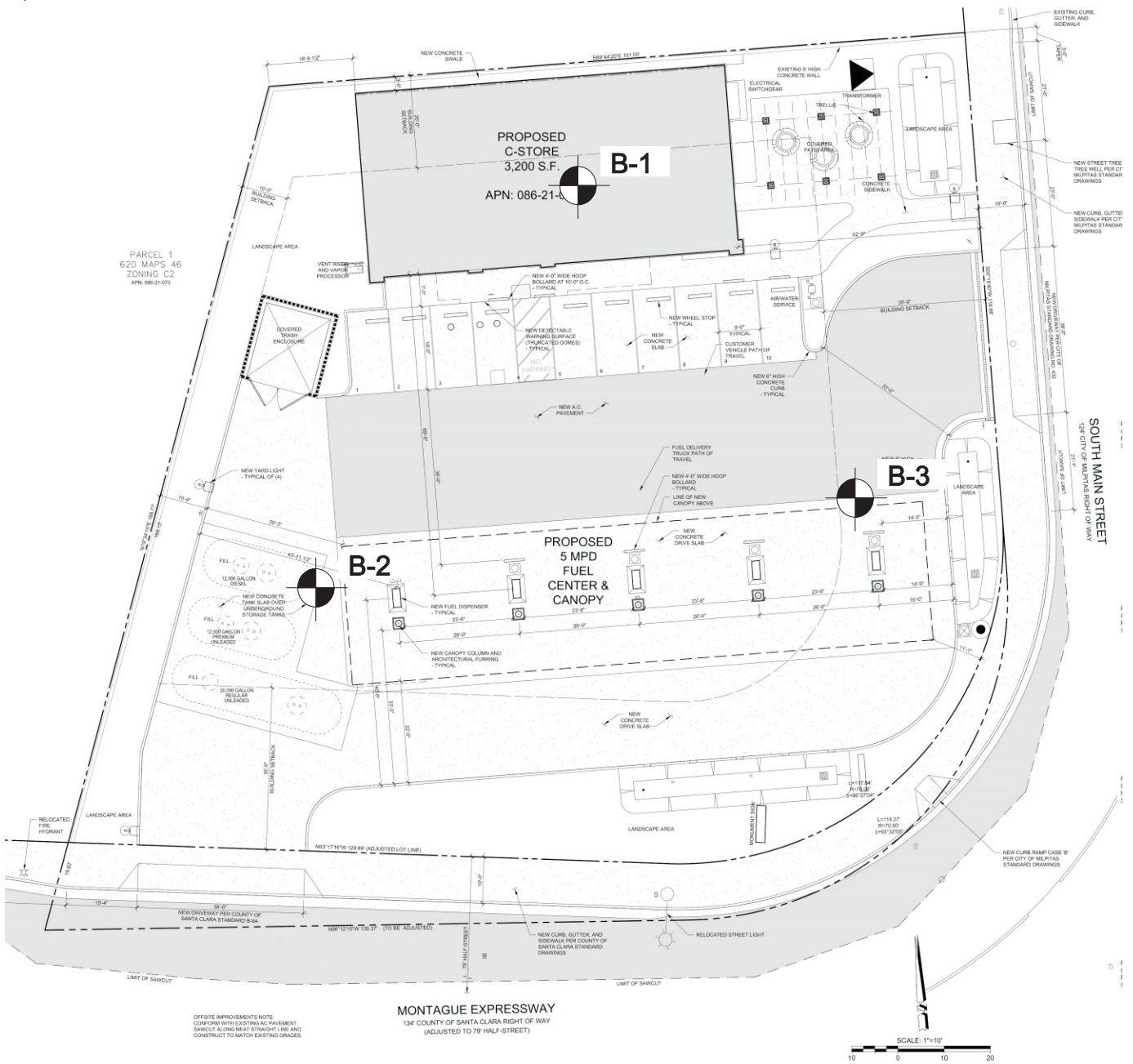
Public Works Department

Land Development: _____

Other (Specify): _____

Appendix D
Soil Properties





Not to scale



PROJECT NO. 17169

DATE 1/18

BORING LOCATION MAP

Rotten Robbie #66
1787 South Main Street
Milpitas, California

FIGURE NO.

4

191

UNIFIED SOIL CLASSIFICATION SYSTEM

MAJOR DIVISIONS	LTR	DESCRIPTION
COARSE-GRAINED SOILS	GRAVEL AND GRAVELLY SOILS	GW WELL-GRADED GRAVELS OR GRAVEL SAND MIXTURES. LITTLE OR NO FINES
		GP POORLY-GRADED GRAVELS OR GRAVEL SAND MIXTURE, LITTLE OR NO FINES
		GM SILTY GRAVELS, GRAVEL-SAND-SILT MIXTURES
		GC CLAYEY GRAVELS, GRAVEL-SAND-CLAY MIXTURES
	SAND AND SANDY SOILS	SW WELL-GRADED SANDS OR GRAVELLY SANDS, LITTLE OR NO FINES
		SP POORLY-GRADED SANDS, OR GRAVELLY SANDS, LITTLE OR NO FINES
		SM SILTY SANDS, SAND-SILT MIXTURES
		SC CLAYEY SANDS, SAND-CLAY MIXTURES

MAJOR DIVISIONS	LTR	DESCRIPTION
FINE-GRAINED SOILS	SILTS AND CLAYS LL < 50	ML INORGANIC SILTS AND VERY FINE SANDS, ROCK FLOUR, SILTY OR CLAYEY FINE SANDS OR CLAYEY SILTS WITH SLIGHT PLASTICITY
		CL INORGANIC CLAYS OF LOW TO MEDIUM PLASTICITY, GRAVELLY CLAYS, SANDY CLAYS, SILTY CLAYS, LEAN CLAYS
		OL ORGANIC SILTS AND ORGANIC SILT-CLAYS OF LOW PLASTICITY
	SILTS AND CLAYS LL > 50	MH INORGANIC SILTS, MICACEOUS OR DIATOMACEOUS FINE, SANDY OR SILTY SOILS, ELASTIC SILTS
		CH INORGANIC CLAYS OF MEDIUM TO HIGH PLASTICITY, FAT CLAYS
		OH ORGANIC CLAYS OF MEDIUM TO HIGH PLASTICITY, ORGANIC SILTS
	HIGHLY ORGANIC SOILS	Pt PEAT AND OTHER HIGHLY ORGANIC SOILS

NOTES

THE LINES SEPARATING STRATA ON THE LOGS REPRESENT APPROXIMATE BOUNDARIES ONLY. THE ACTUAL TRANSITION MAY BE GRADUAL. NO WARRANTY IS PROVIDED AS TO THE CONTINUITY OF SOIL STRATA BETWEEN BORINGS. LOGS REPRESENT THE SOIL SECTION OBSERVED AT THE BORING LOCATION ON THE DATE OF DRILLING ONLY.

KEY TO SYMBOLS

	MODIFIED CALIFORNIA SAMPLER, 2.0-ID
	MODIFIED CALIFORNIA SAMPLER, 2.5-ID
	SHELBY TUBE SAMPLE
SP	STANDARD PENETRATION SPLIT-SPOON SAMPLE
	WATER LEVEL OBSERVED IN BORING
*	NO RECOVERY
NFWE	NO FREE WATER ENCOUNTERED



Korbmacher
Engineering Inc.

PROJECT NO. 17169

DATE 1/18

BORING LOG LEGEND

Rotten Robbie #66
1787 South Main Street
Milpitas, California

FIGURE NO.

5

192

Logged By: R. DeanBoring Elev: Existing GradeDrill Rig: B-53RBoring Diam: 6 in.Type of Hammer: CableDate Drilled: 10 January 2018Wt. of Hammer/Drop: 140 lbs/30 in.

Item # C6.

Depth, ft	Soil Description	Consistency	USCS Symbol	FIELD		LABORATORY					
				Sample	Blows per ft.	Moisture Content %	Dry Density, pcf	Plasticity Index %		Unc. Compression Laboratory	% Fines (#200 Sieve)
								LL	PI		
	Sandy Silty CLAY, some fine gravel, brown with black mottling, moist	Very Stiff	CL								
					27	12	109	30	12	>9000	
5	Sandy Silty CLAY, some fine gravel, brown, moist	Stiff	CL								
					14	17	104			3000	
10											
					25	23	109			5000	
15	Silty CLAY, grayish brown, moist	Stiff	CL								
					20						
	Bottom of boring at 15 feet. NFWF Boring backfilled with cement grout.										
20											
25											
30											


Korbmacher
 Engineering Inc.

PROJECT NO. 17169

DATE 1/18

LOG OF BORING NO. B-1

 Rotten Robbie #66
 1787 South Main Street
 Milpitas, California

FIGURE NO.

6

193

Logged By: R. DeanBoring Elev: Existing GradeDrill Rig: B-53Boring Diam: 6 in.Type of Hammer: CableDate Drilled: 10 January 2018Wt. of Hammer/Drop: 140 lbs/30 in.

Item # C6.

Depth, ft	Soil Description	Consistency	USCS Symbol	FIELD LABORATORY							
				Sample	Blows per ft.	Moisture Content %	Dry Density, pcf	Plasticity Index %		Unc. Compression Laboratory	% Fines (#200 Sieve)
								LL	PI		
5 <											


Korbmacher
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PROJECT NO. 17169

DATE 1/18

LOG OF BORING NO. B-2

 Rotten Robbie #66
 1787 South Main Street
 Milpitas, California

FIGURE NO.

7

194

Logged By: R. DeanBoring Elev: Existing GradeDrill Rig: B-53RBoring Diam: 6 in.Type of Hammer: CableDate Drilled: 10 January 2018Wt. of Hammer/Drop: 140 lbs/30 in.

Item # C6.

Depth, ft	Soil Description	Consistency	USCS Symbol	FIELD		LABORATORY					Unc. Compression Laboratory	% Fines (#200 Sieve)
				Sample	Blows per ft.	Moisture Content %	Dry Density, pcf	Plasticity Index %				
								LL	PI			
30	Silty CLAY, olive brown, moist	Very Stiff	CL									
35				SP	25							
40				SP	28	26	100	49	25		99	
45				SP	27							
50	Silty CLAY, some fine sand, brown, moist	Hard	CL	SP	47							
55	Bottom of boring at 50 feet. Groundwater encountered at 19 feet below existing grade. Boring backfilled with cement grout.											


Korbmacher
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PROJECT NO. 17169

DATE 1/18

LOG OF BORING NO. B-2, CONT'D

 Rotten Robbie #66
 1787 South Main Street
 Milpitas, California

FIGURE NO.

8

195

Logged By: R. Dean Boring Elev: Existing Grade
 Drill Rig: B-53R Boring Diam: 6 in.
 Type of Hammer: Cable Wt. of Hammer/Drop: 140 lbs/30 in.
 Date Drilled: 10 January 2018

Item # C6.

Depth, ft	Soil Description	Consistency	USCS Symbol	FIELD		LABORATORY					
				Sample	Blows per ft.	Moisture Content %	Dry Density, pcf	Plasticity Index %		Unc. Compression Laboratory	% Fines (#200 Sieve)
								LL	PI		
	Sandy Silty CLAY, some gravel, brown to grayish brown with black mottling, moist	Stiff	CL		27	8	127				
5	Silty CLAY, some fine sand and gravel, brown, moist, some hydrocarbon odor	Medium Stiff to Stiff	CL		14	16	114				8000
10				25	15	115				4000/8000	
15	Silty CLAY, grayish brown, some iron oxide staining, moist	Very Stiff	CL		20	25	103				2500/4000
20				29							
	Bottom of boring at 20 feet. Groundwater encountered at 19 feet below existing grade. Boring backfilled with cement grout.										
25											
30											



Korbmacher
Engineering Inc.

PROJECT NO. 17169

DATE 1/18

LOG OF BORING NO. B-3

Rotten Robbie #66
1787 South Main Street
Milpitas, California

FIGURE NO.

196

Appendix G
Stormwater Control Plan



LHB & Associates, Ltd.
867 Pacific Street, Suite 120
San Luis Obispo, CA 93401
ph 805.540.5240
fax 805.540.5241
www.LHBassoc.com

CONSULTANTS

1	REVISIONS
	CITY PLAN CHECK B-BP17-0583
	3 MARCH 2018
2	CITY PLAN CHECK B-BP17-0583
	6 JULY 2018

SUBMITTAL DATES

OWNER:

O.T.B.:

DRAWN BY:

DRAWN BY:

CHECKED BY:

ROTTEN ROBBIE #66
MILPITAS, CALIFORNIA
1787 SOUTH MAIN STREET
MILPITAS, CALIFORNIA 95035

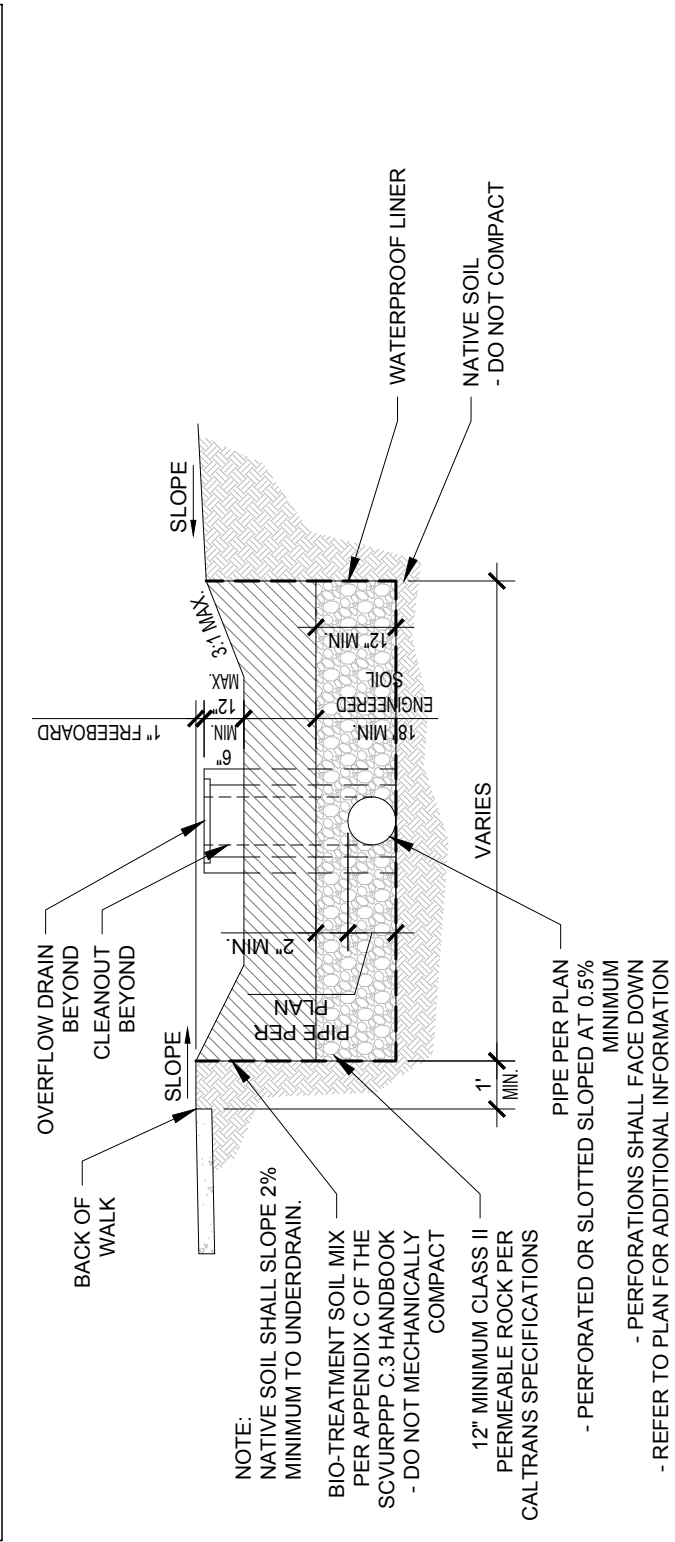
SHEET TITLE

STORMWATER CONTROL PLAN

SHEET NO.

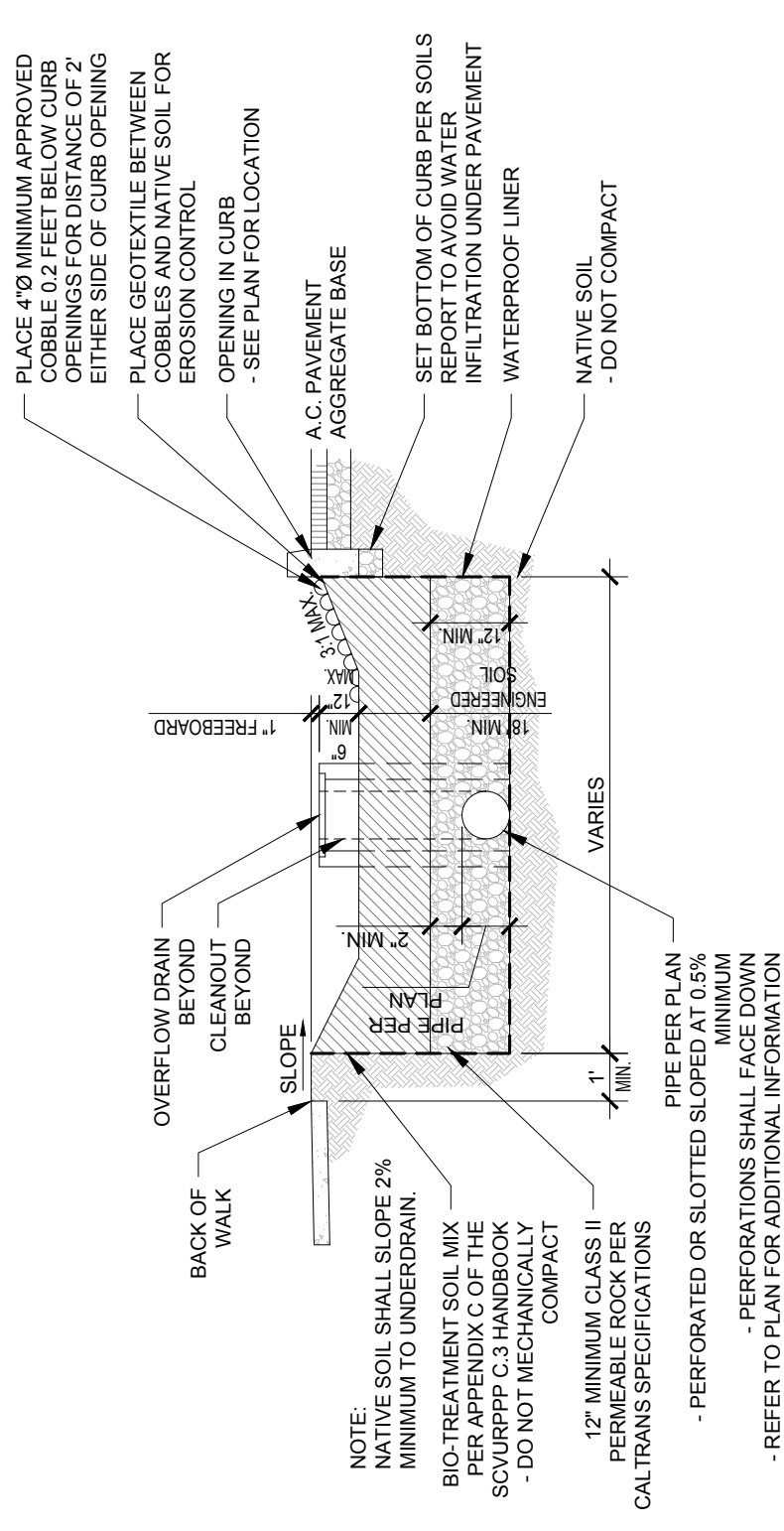
C3.2

PERVIOUS AND IMPERVIOUS SURFACES COMPARISON TABLE				
a. TOTAL SITE AREA 0.74 ACRES		b. TOTAL SITE AREA DISTURBED, 0.74 ACRES		
	EXISTING AREA (SQUARE FEET)	PROPOSED AREA REPLACED	NEW	TOTAL POST-PROJECT AREA (SQUARE FEET)
IMPERVIOUS AREA				
ROOF	0	0	7,304	7,304
PARKING	0	0	13,615	13,615
SIDEWALKS AND STREETS	0	0	1,787	1,787
c. TOTAL IMPERVIOUS AREA	0	0	22,706	22,706
d. TOTAL NEW AND REPLACED IMPERVIOUS AREA				
		22,706		
PERVIOUS AREA				
LANDSCAPING	20,629			
PERVIOUS PAVING	0	6,923	0	6,923
OTHER (E.G. GREEN ROOF)	0	0	0	0
e. TOTAL PERVIOUS AREA	20,629	6,923	0	6,923
f. PERCENT REPLACEMENT OF IMPERVIOUS AREA IN REDEVELOPMENT PROJECTS REPLACED TOTAL IMPERVIOUS AREA / EXISTING TOTAL IMPERVIOUS AREA x 100% = (N/A)				



BIO-RETENTION 1 - SECTION

SCALE: N.T.S.



BIO-RETENTION 2 & 3 - SECTION

SCALE: N.T.S.

NOTES:

NOTES:

1. "ENGINEERED SOIL" MUST MAINTAIN A MINIMUM PERCOLATION RATE OF 5" PER HOUR THROUGHOUT THE LIFE OF THE FACILITY AND MUST BE SUITABLE FOR MAINTAINING PLANT LIFE WITH A MINIMUM OF FERTILIZER USE PER SCVURPPP C.3 HANDBOOK.

2. SOIL MIX MUST BE SUBMITTED TO MUNICIPALITY FOR APPROVAL.

3. NO FILTER FABRIC SHALL BE USED. REFER TO SOILS REPORT PREPARED BY KORBMACHER ENGINEERING INC., DATED MAY 11, 2012 FOR ADDITIONAL INFORMATION.

4. 3" MINIMUM DEPTH OF FLOAT RESISTANT MULCH PER SCVURPPP C.3 HANDBOOK

5. SURFACE AREA OF THE BIO-RETENTION SOIL SHALL EQUAL 4% OF THE AREA OF THE SITE THAT DRAINS TO TREATMENT MEASURE, UNLESS SIZING CALCULATIONS ARE SUBMITTED DEMONSTRATING THAT PROVISION C.3 REQUIREMENTS ARE MET USING A SMALLER SURFACE AREA.

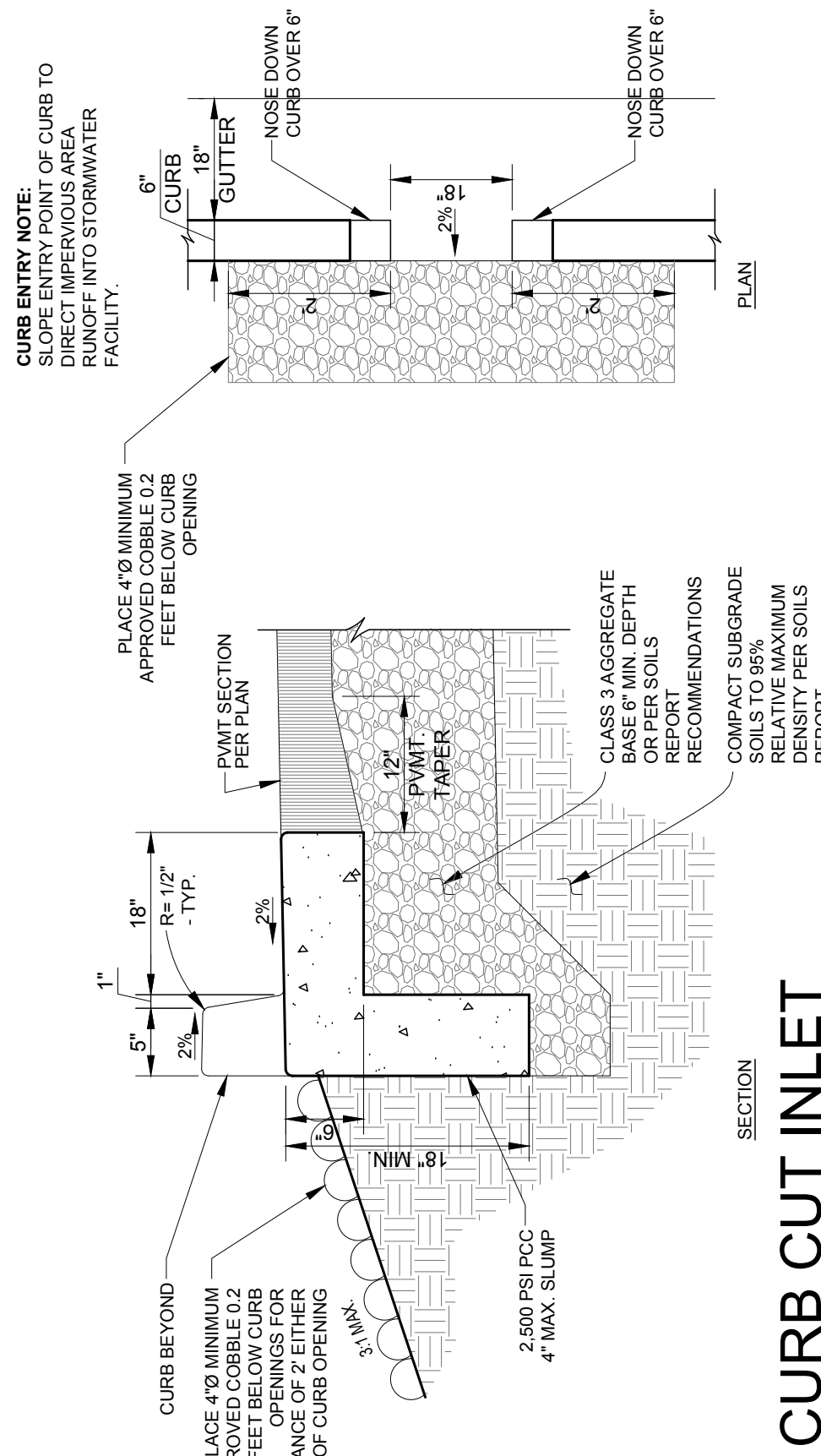
TCM MAINTENANCE:

ROBINSON OIL IS RESPONSIBLE FOR TCM MAINTENANCE.

POST CONSTRUCTION STORM WATER MANAGEMENT NOTES:

POST CONSTRUCTION STORM WATER MANAGEMENT NOTES:

1. **POST-CONSTRUCTION POLLUTION CONTROL MEASURES:** THE FOLLOWING MEASURES ARE REQUIRED TO REDUCE THE AMOUNT OF POLLUTANTS THAT REACH THE BIOTREATMENT AREA.
 2. **DRY WEATHER CLEANING:** ONCE A MONTH, ALL SWEEP OR VACUUM THE PARKING LOT AT LEAST ONCE EVERY MONTH.
 3. **USE OF ASPHALT SEALING:** PLAN IN CONFORMANCE WITH THE CITY REQUIREMENTS, REPAIR CRACKS AND OTHER SPILLS USING ASBESTOS-FREE SEALING MATERIAL AS SOON AS SIGNIFICANT OCCURRENCES AND DISPOSE OF APPROPRIATELY.
 4. **LIMIT USE OF FERTILIZERS:** IN LANDSCAPED AREA TO THE ABSOLUTE MINIMUM.
 5. **KEEP TRASH ENCLOSURES COVERED AT ALL TIMES.**
 6. **MAINTAIN LANDSCAPED AREA REGULARLY:** CHECK FOR WATER PONDING AND ADJUST GRADING AS NEEDED TO MAKE THE RUNOFF FLOW TO DRAIN INLETS IN CONFORMANCE WITH THE CITY'S REQUIREMENTS.
 7. **STENCIL ALL ON-SITE STORAGE DRAIN INLETS IN CONFORMANCE WITH THE CITY'S REQUIREMENTS.**

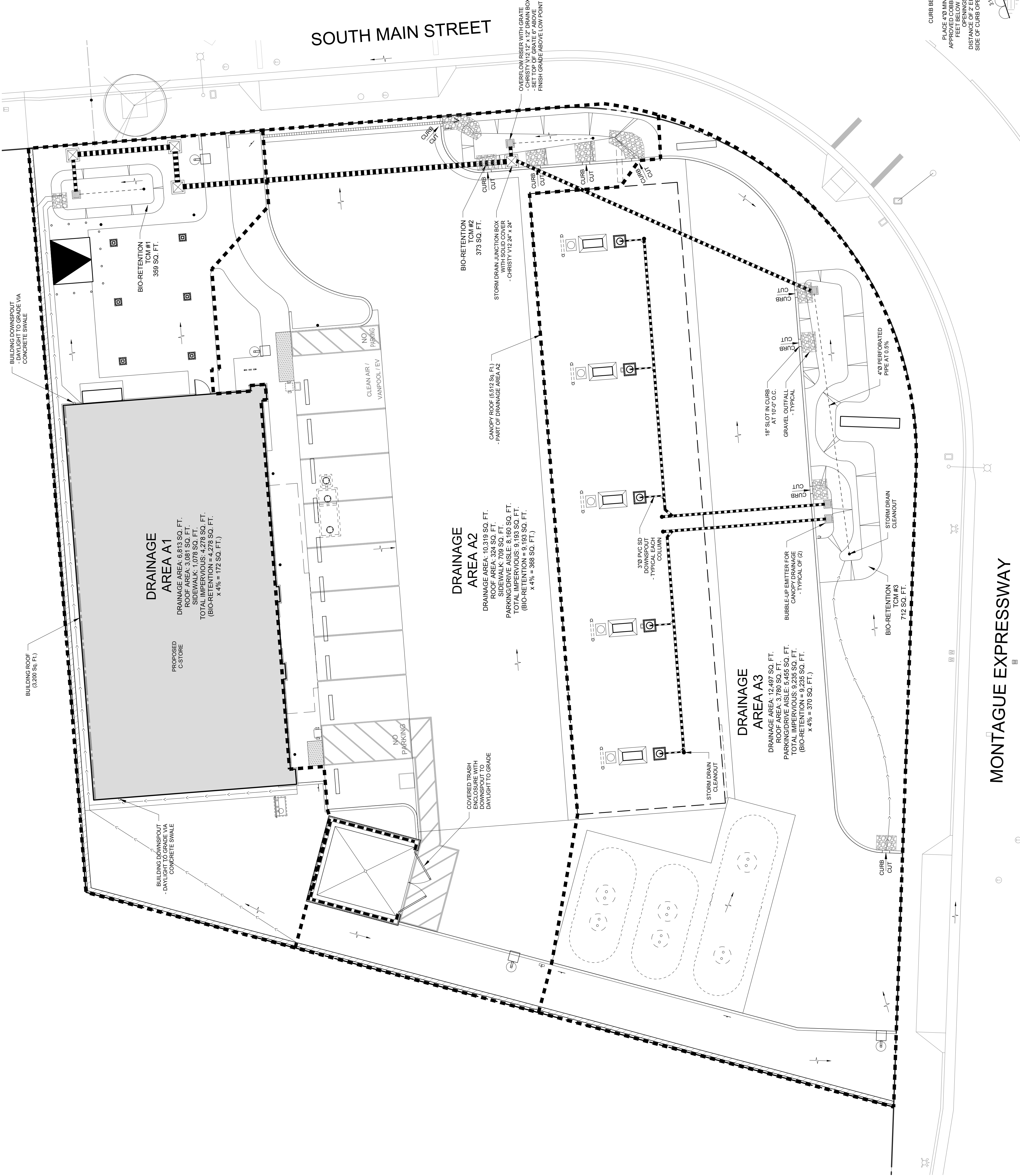


CURB ENTRY NOTE:
SLOPE ENTRY POINT OF CURB TO
DIRECT IMPERVIOUS AREA
RUNOFF INTO STORMWATER
FACILITY

SECTION

CURB CUT INLET

SCALE: N.T.S.



MONTAGUE EXPRESSWAY

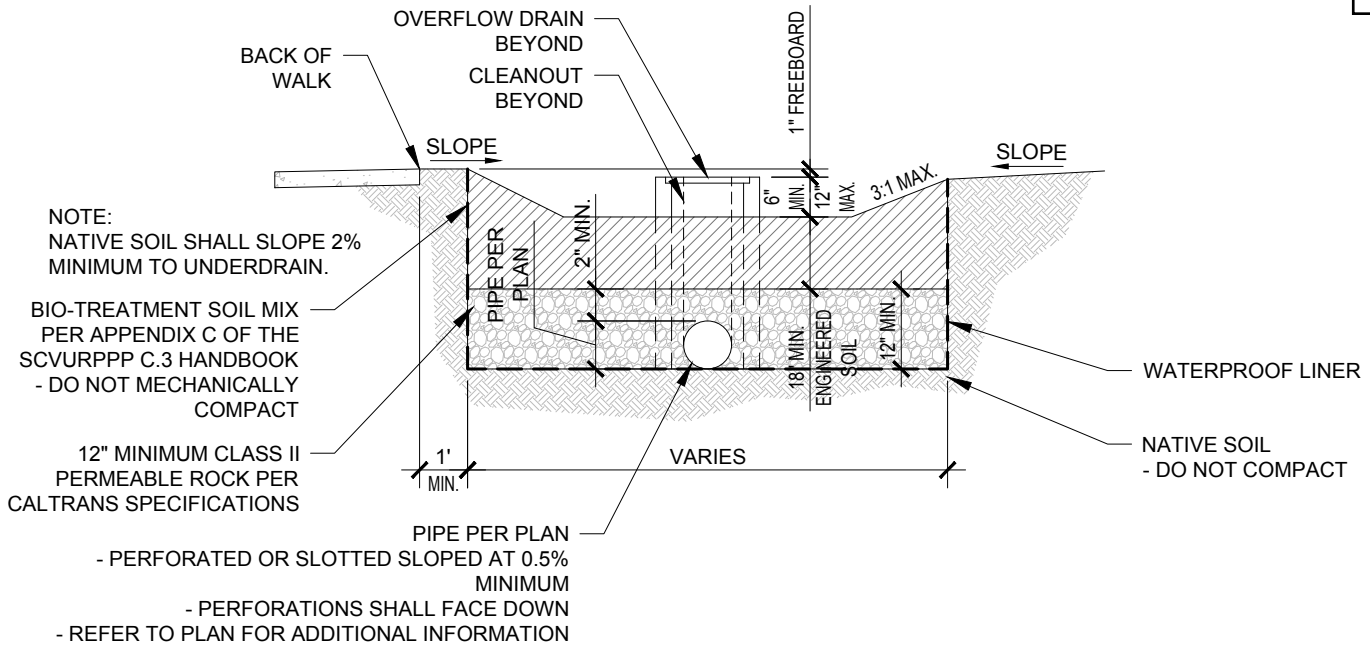
TREATMENT CONTROL SUMMARY TABLE					
AREA	TOW #	IMPERVIOUS AREA	BIO-RETENTION HYDRAULIC SIZING CRITERIA 2C	BIO-RETENTION AREA REQUIRED	BIO-RETENTION AREA PROVIDED
A1	1	4,278 S.F.	4,278 S.F. x 4%	172 S.F.	359 S.F.
A2	2	9,193 S.F.	9,193 S.F. x 4%	368 S.F.	373 S.F.
A3	3	9,235 S.F.	9,235 S.F. x 4%	370 S.F.	712 S.F.

STORMWATER CONTROL PLAN



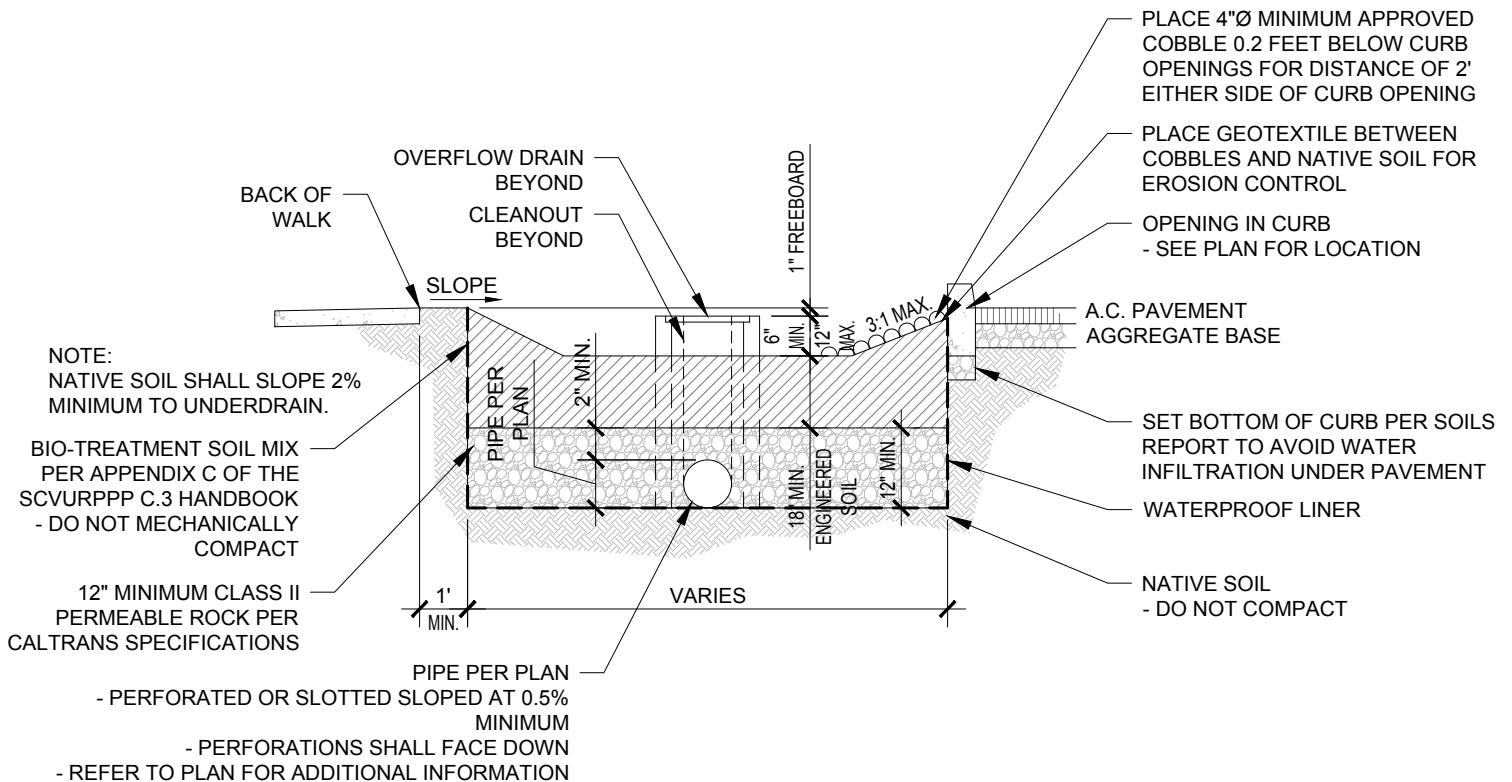
SCALE: 1" = 10'-0"

Appendix H
Stormwater Control Plan Details



BIO-RETENTION 1 - SECTION

SCALE: N.T.S.



BIO-RETENTION 2 & 3 - SECTION

SCALE: N.T.S.

Appendix I
Operation and Maintenance (O&M) Plan

**O&M Plan
for
Rotten Robbie #66**

1787 South Main Street, Milpitas, CA 95035

March 28, 2018

BMP Operation and Maintenance Plan

Owner:

Dave Mordick c/o Robinson Oil
955 Martin Avenue
Santa Clara, CA 95050
(408) 327-4300

Preparer's Name:

Robert "JR" Beard, PE
LHB & Associates
867 Pacific Street, Suite 120
San Luis Obispo, CA 93401
(805) 540-5240

A. Responsibility for Maintenance

Robinson Oil (Owner) will be responsible for maintaining the storm water treatment measures. Owner assumes the obligations of Stormwater Management facilities Operation and Maintenance Agreement as the Developer and the City of Milpitas. The executed agreement - after recorded – will be included as an attachment to the O&M plan.

B. Organization Chart – An organizational chart of responsible individuals and entities, with contact phone numbers, is provided as follows:

Dave Mordick
Maintenance, Construction & Environmental Compliance Manager
(408) 327-4325

C. O&M Agreement

An Operation and Maintenance agreement between the City of Milpitas and Owner will be recorded with the County of Santa Clara prior to the final occupancy phase. The recorded document is included as attachment A to this O&M plan.

D. Means to Implement BMP Maintenance

Proper maintenance and operation of the stormwater management facilities identified in the final SWCP will be the responsibility of the Owner to be established for this Project. Management Facilities Operation and Maintenance Agreement, will be executed, before transfer or final occupancy at the site. The Owner accepts responsibility for maintenance of stormwater management facilities until such responsibility is legally transferred to another entity.

E. Records

The Owner will maintain annual records of the operation and maintenance of BMP's identified in this O&M. The records will consist of inspections per the BMP Maintenance Schedule in this O&M. The Stormwater Management Plan will be available to the City upon request.

F. Summary of Drainage Areas and BMP's

- A. Drainage Areas - A drawing showing the location and type of all treatment area is included on Attachment B.
- B. Details of Treatment BMPs - Details of individual treatment BMP's are shown on Attachment B

G. BMP Maintenance Schedules

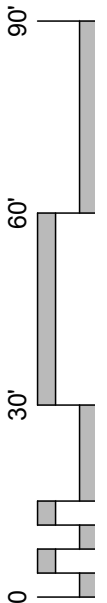
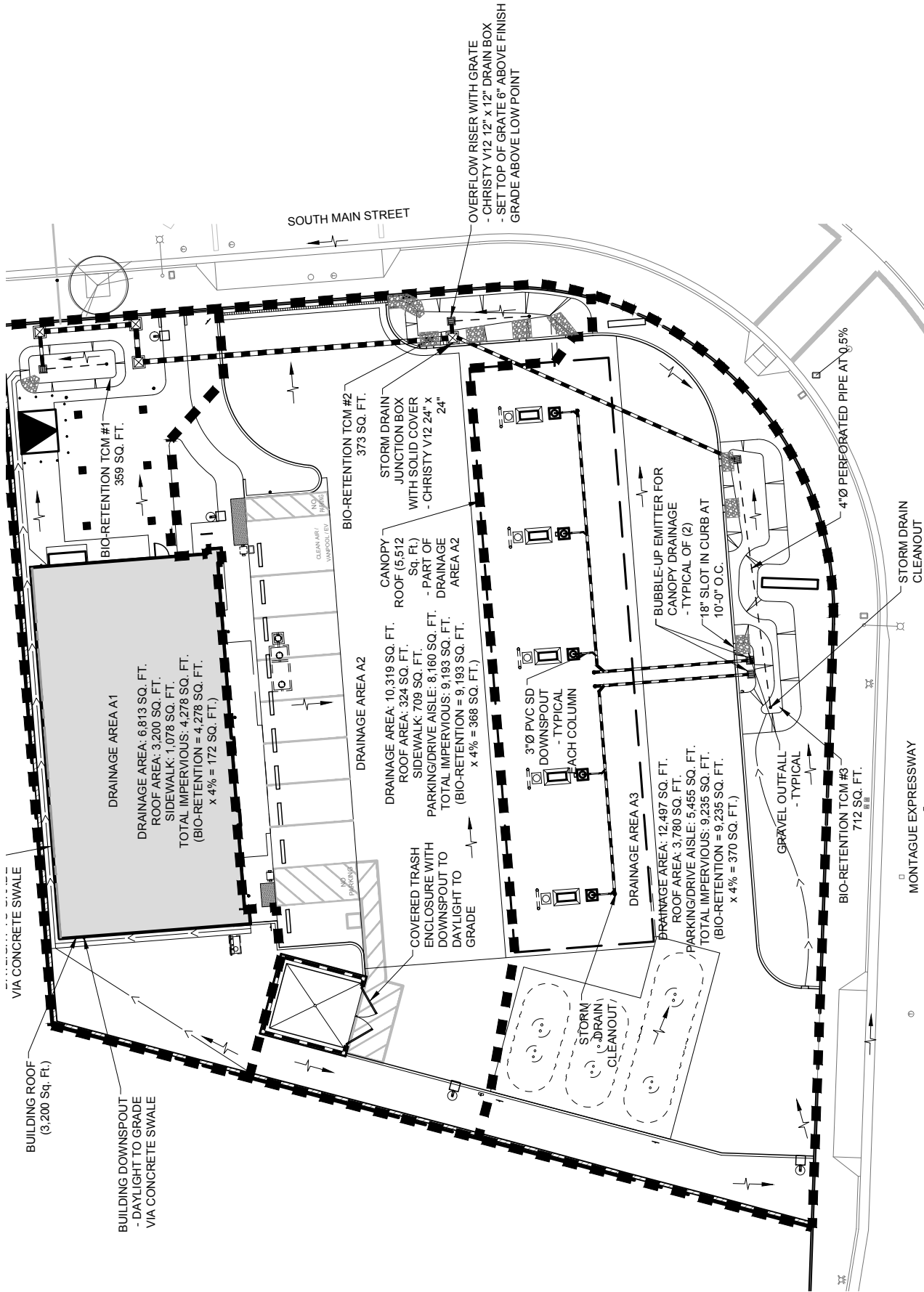
- A. Summary of Inspection and Maintenance for all BMPs
A summary of inspection schedules are shown on Attachment C. Annual inspections shall be conducted during the months of September or October, prior to October 15 (prior to the rainy season). Bi-annual inspections shall be conducted during the months of September or October, and again during April (before April 15, end of the rainy season). Inspections shall be completed using the Inspection Maintenance Forms (Attachment D). Additional inspections may be required throughout the rainy season if excessive debris is found within the swales, or the swales do not drain completely in 48-hours after a rain event.

Service Agreement Information

Maintenance of the bio-retention will be contracted with a qualified landscape maintenance company.

ATTACHMENT A
RECORDED MAINTENANCE AGREEMENT BETWEEN CITY AND OWNER

ATTACHMENT B
MAP AND SUMMARY OF DRAINAGE AREAS, BMP'S, AND BMP DETAILS



AREA	TCM #	IMPERVIOUS AREA	BIO-RETENTION HYDRAULIC SIZING CRITERIA 2C	BIO-RETENTION AREA REQUIRED	BIO-RETENTION AREA PROVIDED
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A2	2	9,193 S.F.	9,193 S.F. x 4%	368 S.F.	373 S.F.
A3	3	9,235 S.F.	9,235 S.F. x 4%	370 S.F.	712 S.F.

NOTES:

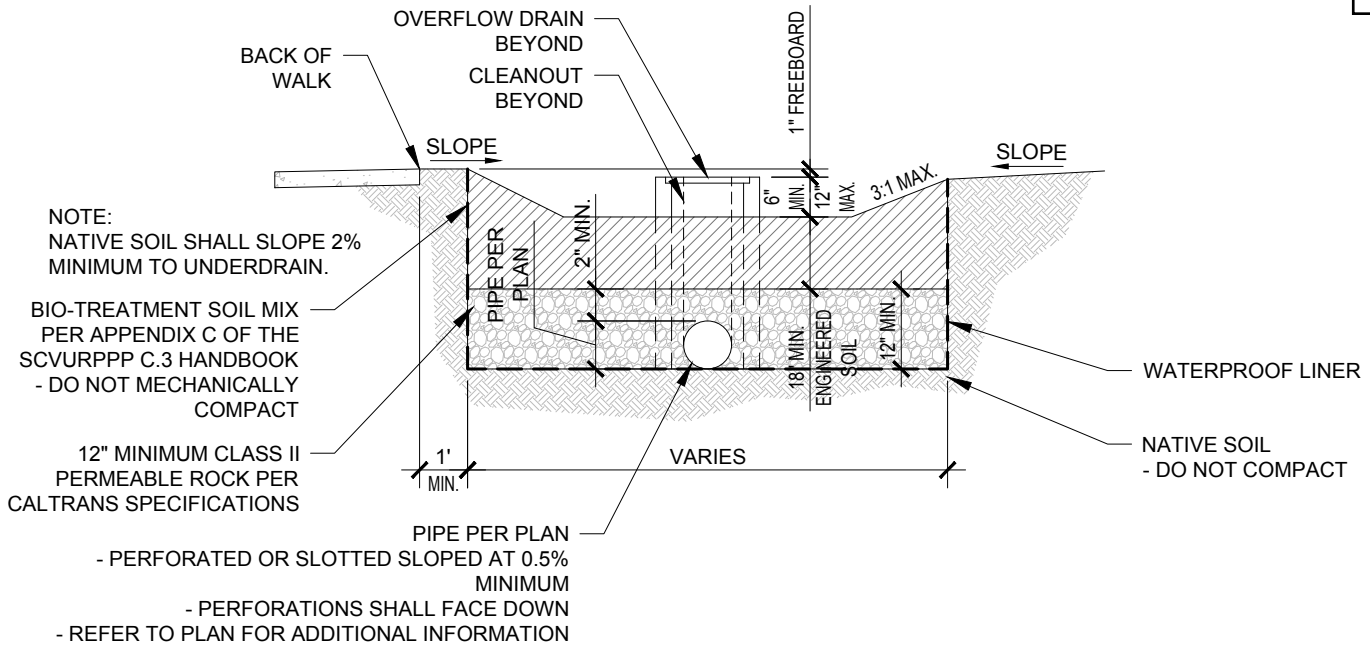
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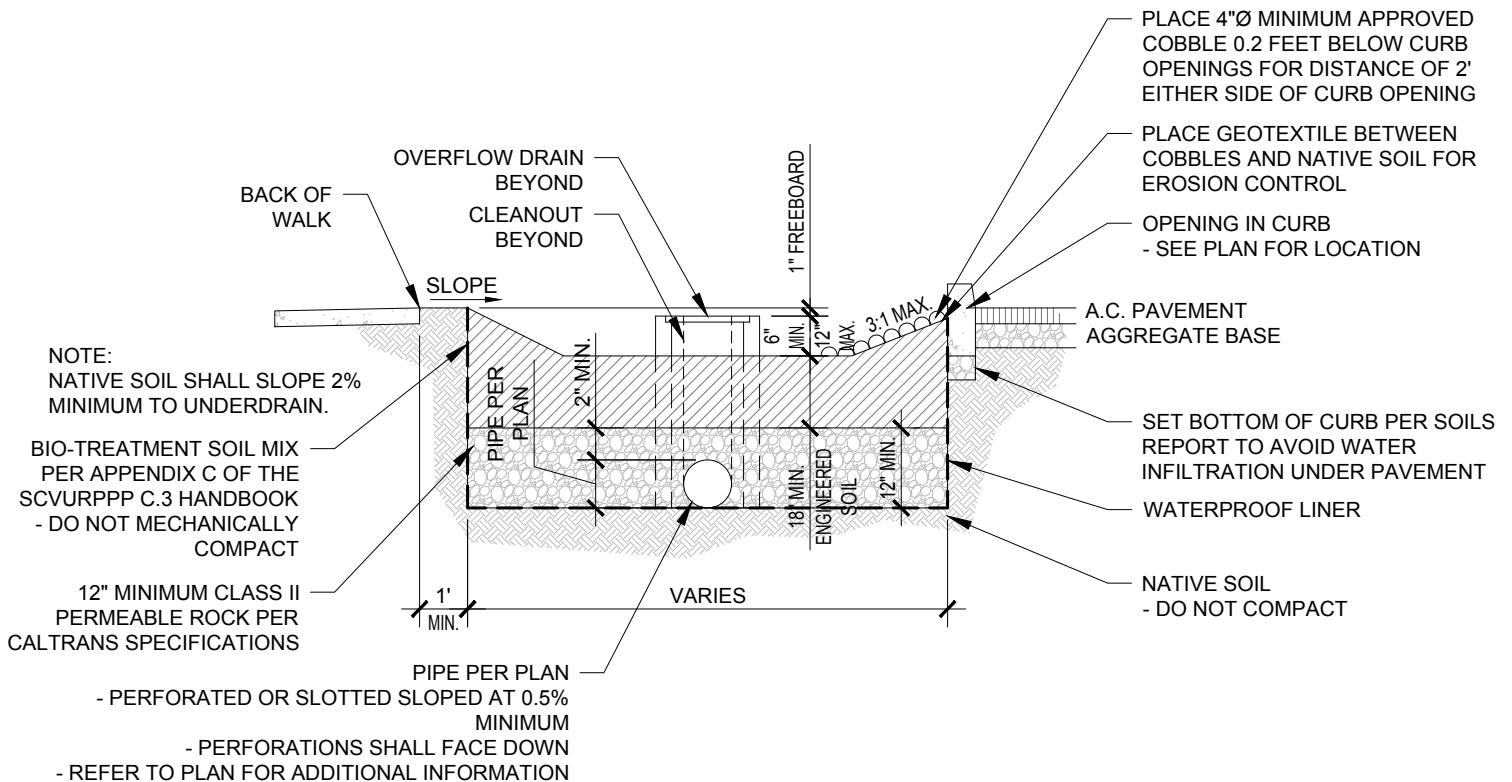
POST CONSTRUCTION STORM WATER MANAGEMENT NOTES:

1. POST-CONSTRUCTION CONTINUOUS SITE MAINTENANCE IS REQUIRED TO REDUCE THE AMOUNT OF POLLUTANTS THAT REACH THE BIO-RETENTION AREAS.
2. DRY SWEEP THE FUELING AREA ROUTINELY. ALSO, SWEEP OR VACUUM THE PARKING LOT AT LEAST ONCE EVERY MONTH.
3. PREPARE A SPILL CLEAN UP PLAN IN CONFORMANCE WITH THE CITY'S REQUIREMENTS. REMOVE OIL AND OTHER SPILLS USING ABSORBENT MATERIAL AS SOON AS SUCH SPILLAGE OCCURS AND DISPOSE OF APPROPRIATELY.
4. LIMIT USE OF FERTILIZERS IN LANDSCAPED AREA TO THE ABSOLUTE MINIMUM.
5. KEEP TRASH ENCLOSURES COVERED AT ALL TIMES.
6. MAINTAIN LANDSCAPED AREA REGULARLY. CHECK FOR WATER PONDING AND ADJUST GRADING AS NEEDED TO MAKE THE RUNOFF FLOW TO BIO-RETENTION AREAS.
7. STENCIL ALL ON-SITE STORM DRAIN INLETS IN CONFORMANCE WITH THE CITY'S REQUIREMENTS.



BIO-RETENTION 1 - SECTION

SCALE: N.T.S.



BIO-RETENTION 2 & 3 - SECTION

SCALE: N.T.S.

ATTACHMENT C

SUMMARY OF INSPECTION AND MAINTENANCE OF ALL BMP'S

BMP Inspection and Maintenance Schedule		
BMP	Maintenance Operations	Schedule
Storm Drain System	- Inspect the storm drain system (including area drains, roof drains, and bubblers), at the beginning and end of the rainy season. - Remove any sediment, trash, litter, rocks, and branches from surface gutters/channels and storm drain inlets. - Flush storm drain pipes as necessary to remove sediment and debris to ensure full pipe capacity. - Properly dispose of all sediment and debris according to State and City regulations.	Twice Annually at the beginning (October) and end (April) of the rainy season.
Vector Control	- Abate any potential vectors by filling ground holes in and around the BMPs, and by insuring there are no areas where water stands longer than 48 hours following a storm. - Contact the Santa Clara County Vector Control District for information and advice if mosquito larvae are present and persistent. - Mosquito larvicides should be applied only when absolutely necessary and by a licensed contractor.	As needed.
General Landscape	Collect garden clippings, pruning waste, and tree trimming. Chip if necessary, and compost or take to the local municipal yard waste recycling center.	During each landscape maintenance visit when applicable
Bioretention	- Place mulch layer to ensure BMP is effective and attractive. Plants must remain healthy and trimmed if overgrown. Level of mulch must always remain below curb elevation per original design. - Inspect vegetation. Prune and weed the bioretention area. Replace dead plants. Treat diseased plants as needed. - Soils must be maintained to efficiently filter the stormwater. Inspect and correct any potential erosion. Remove any accumulated trash and debris. - Inspect for sediment and debris. Use a commercially available regenerative air or vacuum sweepers to remove sediment and debris. - Inspect subdrain system, cleanouts, area drains, and overflow field inlets. Remove any accumulated trash, debris, and accumulated sediment. - Reconstruct portions of bioretention area if routine maintenance does not maintain infiltration rates and eliminate prolonged ponding.	During each landscape maintenance visit when applicable During each landscape maintenance visit when applicable Anytime as needed. Minimum twice per year, once before (October) and once after (April) the rainy season. Twice per year, once before (October) and once after (April) the rainy season Twice per year, once before (October) and once after (April) the rainy season Anytime as needed. Minimum twice per year, once before (October) and once after (April) the rainy season

ATTACHMENT D

MAINTENANCE LOG

Submit the Operation and Maintenance Inspection reports, Maintenance Plan, and Inspection and Maintenance Checklist for each BMP to the following address:
City of Milpitas, 455 E. Calaveras Blvd. Milpitas, CA 95035, ATTN: Land Development Engineer

Facility Name:
Address:
Begin Date: End Date:

Date	BMP ID#	BMP Description ID	Inspected By	Cause for Inspection	Exceptions Noted (Write ID code-see potential inspection results)	Comments and Actions Taken

Instructions: Record all inspections and maintenance for all treatment BMPs on this form. Use additional log sheets and/or attach extended comments or documentation as necessary. Submit a copy of the completed log with the annual independent inspectors' report to the municipality, and start a new log at that time.

- BMP ID# — Always use ID# from the Operation and Maintenance Manual.
- Inspected by — Note all inspections and maintenance on this form, including the required independent annual inspection.
- Cause for inspection — Note if the inspection is routine, pre-rainy-season, post-storm, annual, or in response to a noted problem or complaint.
- Exceptions noted — Note any condition that requires correction or indicates a need for maintenance. Write ID code per potential inspection Results
- Comments and actions taken — Describe any maintenance done and need for follow-up.

Potential Inspection Results with Definitions

ID	Inspection Results	Definitions
I. All BMP Types		
1	No Visible/Apparent Problems No visible or apparent problems with BMP function. BMP appears to be well-maintained.	No Visible/Apparent Problems No visible or apparent problems with BMP function. BMP appears to be well-maintained.
2	Significant Engineering/Design Flaws	Significant Engineering/Design Flaws
3	Unauthorized Modifications	Unauthorized Modifications
4	BMP Destroyed or Eliminated BMP destroyed, removed or eliminated from property.	BMP Destroyed or Eliminated BMP destroyed, removed or eliminated from property.
5	Trash/Debris Accumulation or Dumping	Trash/Debris Accumulation or Dumping
6	Evidence of Contamination & Pollution Evidence or presence of oil, gasoline, contaminants or other pollutants.	Evidence of Contamination & Pollution Evidence or presence of oil, gasoline, contaminants or other pollutants.
7	BMP Access Obstructed Access to BMP obstructed or limited	BMP Access Obstructed Access to BMP obstructed or limited
8	Obnoxious Odors Unpleasant odors within/from BMP	Obnoxious Odors Unpleasant odors within/from BMP
9	Fencing- Missing or Broken Bars Any defect in or damage to the fence or gate that permits easy entry to a facility.	Fencing- Missing or Broken Bars Any defect in or damage to the fence or gate that permits easy entry to a facility.
10	BMP Cannot Be Located BMP cannot be located for the inspection	BMP Cannot Be Located BMP cannot be located for the inspection
II. Biofiltration		
A. General		
11	Uneven or Clogged Flow Spreader Flow spreader uneven or clogged so that flows are not uniformly distributed across the BMP.	Uneven or Clogged Flow Spreader Flow spreader uneven or clogged so that flows are not uniformly distributed across the BMP.
12	Leaking or Malfunctioning Irrigation System Irrigation system leaking or malfunctioning	Leaking or Malfunctioning Irrigation System Irrigation system leaking or malfunctioning
B. Sediment and Erosion Issues		
13	Sediment Accumulation	Sediment Accumulation
14	Erosion/Scouring Eroded or scoured areas due to flow channelization, higher flows, wind or water.	Erosion/Scouring Eroded or scoured areas due to flow channelization, higher flows, wind or water.
C. Vegetation Maintenance Issues		
15	Poor Vegetation Coverage	Planted vegetation is sparse or bare or eroded patches occur in more than 10% of the BMP. Growth of planted vegetation is poor because sunlight does not reach swale.
16	Invasive/Nuisance Vegetation or Weeds	Planted vegetation is excessively tall; nuisance weeds, invasive or noxious vegetation are overgrown; vegetation reduces free movement of water through BMP.
17	Tree/Brush Growth Growth does not allow maintenance access or interferes with maintenance activity	Tree/Brush Growth Growth does not allow maintenance access or interferes with maintenance activity
D. Drainage Issues		
18	Standing Water/Excessive Ponding/Soggy Soil	Water is observed within the BMP (between storms) and appears not to drain freely or soil is excessively soggy. Excessive ponding of water within vegetated swale or other BMP.
19	Mosquito Habitat	Suitable habitat exists for mosquito production (e.g., standing water for more than 72 hours in areas accessible to mosquitos).
20	Clogged or Obstructed Inlets/Outlets	Inlet/outlet clogged or obstructed with sediment and/or debris.
21	Constant Baseflow/Damage	Small quantities of water flow through the vegetated swale, even when it has been dry for weeks, and an eroded, muddy channel has formed in the swale bottom, constant baseflow from irrigation runoff.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve Updates to the Commission Bylaws, the Bylaw Addendum for the Arts Commission, the Bylaw Addendum for the Parks, Recreation and Cultural Resources Commission, and associated Commissioner Handbook updates (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	4/19/2022
	<u>Recommendation:</u> Approve updates to the Commission Bylaws, the Bylaw Addendum for the Arts Commission, the Bylaw Addendum for the Parks, Recreation and Cultural Resources Commission, and associated Commissioner Handbook updates.

Background:

On April 16, 2019, Milpitas City Council approved standardized Commission Bylaws and associated addendums for 11 City Commissions. The standardized Commission Bylaws detail a Commission's operations including but not limited to purpose, membership, and quorum. In the standardized Bylaws a Commission's membership is seven (7) commissioners and (2) alternates. Commission Bylaw addendums capture each individual Commission's advisory area, meeting date, time, and location, and any special membership requirements or recommended areas of interest.

On January 19, 2021, City Council approved minor changes to a few of the commission addendums to include standardized language to allow for one (1) youth seat (non-voting) on each advisory Commission, except for the Youth Advisory Commission. Prior to this change the Arts Commission Bylaw addendum allowed for two (2) youth seats (non-voting) with one seat to be filled by a Calaveras Hills High School student and the other to be filled by a Milpitas High School student. With this action, associated updates were made to the Commissioners Handbook, created in 2018. The Handbook outlines standard rules and procedures of being a commissioner or alternate, attendance, protocol, and terms.

As part of the January 11, 2022 prioritization of City Council Agenda Item Requests, the City Council directed staff to return to Council with an agenda item increasing the number of commission members for the Parks, Recreation and Cultural Resources Commission (PRCRC) from seven to nine commissioners with the number of alternate members remaining the same. Council directed the increase due to a significant annual work plan.

On January 24, 2022, the Arts Commission inquired about the status of its second student commissioner spot and requested staff research why the second student commissioner candidate representing Cal Hills was not approved. Staff subsequently discovered the Arts Commission's second student position had inadvertently been dropped from the bylaws. When informed, Arts Commissioners requested it be reinstated as quickly as possible.

Analysis:

This staff report recommends commission bylaw addendum changes for the Arts Commission and the PRCRC as outlined below and the respective necessary changes to the Commission Bylaws and Commissioner Handbook.

Arts Commission

The Commission's one (1) youth seat is currently filled by a Milpitas High School student. Members of the Arts Commission have worked diligently with the staff at Calaveras Hills High School and have a student interested in joining the Arts Commission in a non-voting capacity. Youth participation from both schools gives a well-rounded Milpitas youth perspective to arts programs and advisory topic areas to the City Council. Eliminating one of the youth seats (non-voting) from the Arts Commission addendum last year was an oversight and both staff and the Arts Commission recommend that the addendum be amended and the second youth seat authorized.

PRCRC

Consistent with City Council direction, the attached Recreation and Cultural Resources Commission Bylaws Addendum is modified increasing the number of commission members for the Parks, Recreation and Cultural Resources Commission (PRCRC) from seven to nine commissioners.

California Environmental Quality Act:

The City Council's action in making changes to the Commission Bylaws is exempt from environmental review pursuant to CEQA Guideline 15378(b)(5) as an organizational or administrative activity of the City that will not result in any direct or indirect physical changes in the environment.

Fiscal Impact:

None.

Recommendation:

Approve Updates to the Commission Bylaws, the Bylaw Addendum for the Arts Commission, the Bylaw Addendum for the Parks, Recreation and Cultural Resources Commission, and associated Commissioner Handbook updates.

Attachments:

1. Draft Commission Bylaws
2. Draft Parks, Recreation and Cultural Resources Commission Bylaws
3. Draft Arts Commission Bylaws Addendum
4. Draft Commissioner Handbook

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, unless otherwise noted in the Commission Bylaws Addendum. 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, unless otherwise noted in the Commission Bylaws Addendum. 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, unless otherwise noted in the Commission Bylaws Addendum.

Section 8. Voting and Seating of Alternates

Voting authority is extended to the SEVEN (7) regular members, unless otherwise noted in the Commission Bylaws Addendum. 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, unless otherwise noted in the Commission Bylaws Addendum.

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
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 another designated location.

Membership

The City Council may confirm two (2) Milpitas resident student representatives who are currently enrolled in a MUSD high school or continuation school. Students will assume a non-voting liaison role on the Commission and represent the youth and teen community on the Commission advisory areas.

PASSED AND ADOPTED JANUARY 19, 2021.

**CITY OF MILPITAS
STANDARD COMMISSION
BYLAWS**

Addendum: Parks, Recreation and Cultural Resources Commission

The Parks, Recreation and Cultural Resources Commission was originally established by the Milpitas City Council on May 25, 1964. It was combined with the Cultural resources Preservation Board in 1992. On August 21, 2018, the City Council added the advisory areas of bicycle and pedestrian matters of the dissolved Bicycle and Pedestrian Commission.

Advisory Area

This Commission will advise the Council on matters pertaining to recreation, bicycle and pedestrian trails and access, historic preservation, planning and development of new and existing parks and facilities, and identifying, protecting, and enhancing structures and other features reflecting special aspects of the City's Cultural heritage.

Membership

This Commission is composed of nine (9) members and two (2) alternates appointed by the Mayor and approved by the City Council.

Quorum

Any five (5) voting members, including alternates, shall constitute a quorum for the transaction of business.

Voting

Voting authority is extended to the nine (9) regular members.

Subcommittees

The Commission may appoint such subcommittees, with at least one Commission member on the subcommittee, but not more than four members so as not to constitute a quorum.

Meetings

The Parks, Recreation and Cultural Resources Commission shall hold meetings the 1st Monday of every month except July, at 7:00 PM at the Committee Conference Room in City Hall, or a designated location.

PASSED AND ADOPTED APRIL 16, 2019.



CITY OF MILPITAS

COMMISSIONERS HANDBOOK

2022

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

INDEX

I.	City Overview, Current City Commissions & Ad Hoc bodies	4
II.	Role of Commissioners, Chair & Vice Chair, City Staff	5
III.	Membership – Application & Appointment, Re-appointment, Term Limits and Orientation	6 – 7
IV.	Work plan, Budget, Attendance, Resignation & Participation	8
V.	Celebration and Fundraising	9
VI.	Ethics	10
VII.	California’s Ralph M. Brown Act and City of Milpitas Open Government Ordinance	11
VIII.	Parliamentary Procedure at Meetings	12
IX.	Resources and Conflict of Interest Guidelines	13
X.	Appendices	14

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 seven (7) appointed Commissioners, except the Parks, Recreation and Cultural Resources Commission which will consist of nine (9) appointed Commissioners. All Commissions, except the Planning Commission, will also have 2 appointed Alternate Members, and all Commissions, except the Planning Commission and Youth Advisory Commission, may have one (1) Milpitas resident enrolled in grades 9-12, as a non-voting member. The Arts Commission may have two (2) Milpitas resident enrolled in grades 9-12, as non-voting members.

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). The City Council may appoint two (2) Milpitas residents enrolled in grades 9-12, as non-voting members.

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=TITIA_D_CH310OPGOOR.

Parliamentary Procedure at Meetings

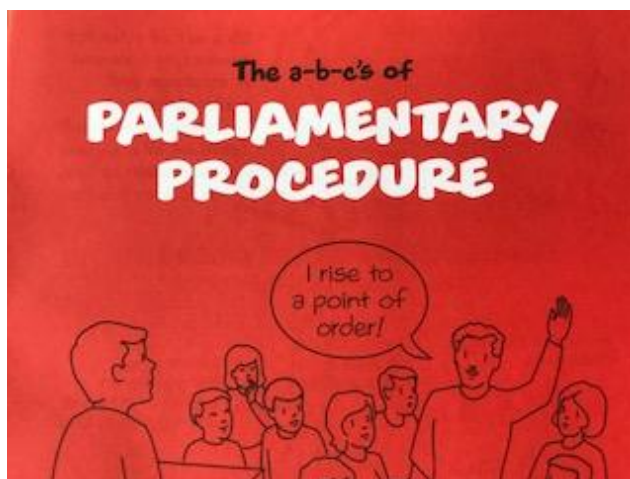
Meetings shall operate using standard parliamentary procedures following an approved meeting agenda. Most entities follow Robert's Rules of Order (or, in the alternative Rosenberg's). Procedures generally include:

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 breach 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



STATEMENT OF ECONOMIC INTERESTS

Date Initial Filing Received
Official Use Only

COVER PAGE

A PUBLIC DOCUMENT

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☐ Judge or Court Commissioner (Statewide Jurisdiction)☐ Multi-County☐ County of☐ City of☐ Other

3. Type of Statement (Check at least one box)

☐ Annual: The period covered is January 1, 2018, through December 31, 2018.☐ Leaving Office: Date Left ____/____/____
(Check one circle.)

-or-

The period covered is ____/____/____, through December 31, 2018.

☐ The period covered is January 1, 2018, through the date of leaving office.

-or-

☐ Assuming Office: Date assumed ____/____/____☐ The period covered is ____/____/____, through the date of leaving office.☐ Candidate: Date of Election ____ and office sought, if different than Part 1: ____

4. Schedule Summary (must complete) ► Total number of pages including this cover page: ____

Schedules attached

☐ Schedule A-1 - Investments - schedule attached☐ Schedule C - Income, Loans, & Business Positions - schedule attached☐ Schedule A-2 - Investments - schedule attached☐ Schedule D - Income - Gifts - schedule attached☐ Schedule B - Real Property - 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

Signature

(month, day, year)

(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

APPENDIX D

RESOLUTION NO. 7702

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING THE CITY OF MILPITAS CITY COUNCIL HANDBOOK TO CLARIFY THE PROCEDURES FOR RESIGNATION OF COMMISSIONERS, COMMITTEE MEMBERS OR BOARD MEMBERS 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:

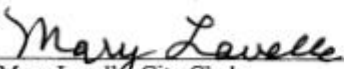
AYES: (5) Mayor Esteves, Vice Mayor Livengood, and Councilmembers Giordano, Gomez and Polanski

NOES: (0) None

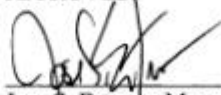
ABSENT: (0) None

ABSTAIN: (0) None

ATTEST:


Mary Lavelle, City Clerk

APPROVED:


Jose S. Esteves, Mayor

APPROVED AS TO FORM:


Steven T. Mattas, City Attorney

Resolution No. 7702



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve the Purchase of a Police Vehicle, Find the Procurement to be in the Best Interest of the City, and Authorize the City Manager to Execute Any Documents Necessary to Effectuate the Purchase (Staff Contact: Jared Hernandez, Chief of Police, 408-586-2406)
Category:	Consent Calendar-Public Safety
Meeting Date:	4/19/2022
	<u>Recommendation:</u> Approve the purchase of a Police vehicle, find the procurement to be in the best interest of the City, and authorize the City Manager to execute any documents necessary to effectuate the purchase.

Background:

The Milpitas Police Department currently manages a fleet of police vehicles assigned to Field Services and Special Operations staff throughout the department's 24-7 operation. The City of Milpitas has a contractual obligation under the Milpitas Police Officer Association's (MPOA) Memorandum of Understanding to provide vehicles for police operations. It is imperative the police department maintain its fleet of vehicles to effectively provide public safety services to the community.

A Police Department vehicle was recently damaged during a critical incident and is not suitable for service. This vehicle is one of nine (9) vehicles currently utilized by the eleven (11) staff members assigned to the Special Operations Division. The damaged vehicle has reduced the fleet of vehicles assigned to the Special Operations Division to eight (8). There is currently insufficient vehicles available for Detectives to effectively perform their duties and there is an immediate need to replace this vehicle.

Municipal Code Section 1-2-3.03 titled "Procurements where competitive methods are not practicable" provides that the City is not required to engage in competitive procurement as authorized by the City Council to be "in the best interest of the City".

Analysis:

Typically, the City purchases vehicles using a Sourcewell cooperative agreement such as the National Auto Fleet Group (NAFG) one of the largest cooperative vehicle suppliers in the country, especially for sedans. The use of cooperative agreements, which are a result of competitive solicitations, is typically more effective and efficient than for the City to undergo a competitive procurement process. However, purchases through these agreements are severely impacted by the current supply shortage of vehicles in the automobile market and have an extended delivery period. There are currently no vehicles available for government wholesale purchase through NAFG. NAFG also has very limited vehicle availability for retail purchase as the majority of retail vehicles are sold before they are delivered to the dealership due to the backlog of orders and retail vehicles are not available to the City through the existing cooperative agreement with NAFG.

Staff also contacted several local dealerships. Local dealerships also have very limited inventory and are not interested in responding to competitive solicitations. Therefore, as all viable options have been exhausted, staff requests Council authority to purchase a police vehicle directly from a dealership with available inventory consistent with Municipal Code Section 1-2-3.03(d). With this authority, staff will be able to replace the vehicle as soon as possible and restore the fleet to previous levels in support of effective police operations.

Policy Alternative:

Alternative 1: Do not authorize the purchase of a police vehicle without a competitive process.

Pros: The City may not incur the open retail market cost of a police vehicle.

Cons: The substantial delay would mean the Police Department would not have enough vehicles for operations.

Reason not recommended: Due to supply chain and the priority of public safety, the Police Department needs to replace this vehicle as soon as possible.

Fiscal Impact:

The police department can absorb the cost of a new vehicle in its existing FY 2021-22 operating budget.

California Environmental Quality Act:

The action being requested is not a project as defined by CEQA (CEQA Guidelines exemption 15378(b)(2)).

Recommendation:

1. Approve the Purchase of a Police Vehicle, Find the Procurement to be in the Best Interest of the City, and Authorize the City Manager to Execute Any Documents Necessary to Effectuate the Purchase.

Attachments:



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve an Amendment of a Software License and Services Agreement with Mark43 by Adding the Evidence Data Migration and Morpho Mugshot Interface, Increasing the Not-to-Exceed Amount from \$1,049,956.00 to \$1,085,456.00 (Staff Contact: Steven Fox, Police Captain, 408-586-2525)
Category:	Consent Calendar-Public Safety
Meeting Date:	4/19/2022
	<u>Recommendation:</u> Approve an amendment of a Software License and Services Agreement with Mark43 by adding the Evidence Data Migration and Morpho Mugshot Interface, increasing the not-to-exceed amount from \$1,049,956.00 to \$1,085,456.00.

Background:

On June 15, 2021, City Council approved and authorized the City Manager to execute an agreement with Mark43 for a Law Enforcement Records Management System (RMS). Since then, the Milpitas Police Department and Mark43 have commenced work on the configuration and implementation of the RMS system.

Analysis:

During the implementation process, staff concluded that additional data migration and the purchase of the Morpho Mugshot Interface module would enhance the overall efficiency and effectiveness of the RMS system. The RMS is scheduled to go live in August 2022.

Evidence Data Migration

Evidence management is a critical function of the Milpitas Police Department. There are legal requirements that must be met to ensure there is proper chain of custody and overall integrity of property and evidence collected and retained by the Police Department. Currently, the Department utilizes a property and evidence management software developed by Porter Lee Corporation to document, catalog, and inventory incoming and outgoing evidence items to satisfy chain of custody documentation required by law. The Porter Lee Corporation software was implemented in 2006. The system is antiquated and is not compatible with the new Mark43 RMS system. Further, the current system no longer meets industry standards and product reliability/support has been progressively declining.

A data migration of the records stored in the Porter Lee Corporation software to the Mark43 system will ensure best practices related to the documentation of the chain of custody for incoming and outgoing evidence items; will increase staff efficiency for querying evidence related data as it will be housed in one centralized database as opposed to two separate systems; and will ensure previous evidence related data is integrated in a compatible format with the new Mark43 RMS system. If a data migration is not completed, Police Department staff will be required to utilize the Mark43 RMS system and the Porter Lee Corporation software concurrently, which will increase the amount of time required for property and evidence related tasks and increase the likelihood for errors pertaining to property and evidence. As the reliability/support for the Porter Lee Corporation software has been progressively declining, there is a great risk of a complete system failure and loss of data for evidence items that have yet to be adjudicated in a court proceeding or disposed of in accordance with established rules and regulations.

Morpho Mugshot Interface

Police Department staff rely on several resources to accurately confirm an individual's identity, one of which is the Santa Clara County Mugshot Database. This database stores photographs and corresponding information about those individuals booked into custody at either the Santa Clara County jail or at another law enforcement agency within Santa Clara County. The addition of the Morpho Mugshot Interface to the new Mark43 RMS will allow Police Department staff to view recent booking photographs of individuals within the Mark43 RMS directly, thereby reducing the need to search separate databases. This will minimize potential misidentification of individuals and lessen the need for staff to verify an individual's identity through multiple resources; therefore, increasing the overall efficiency of the identification process.

Policy Alternatives:

Alternative 1: Do not approve the amendment to the software license and services agreement with Mark43.

Pros: There are no identified benefits to this alternative.

Cons: In failing to add the Evidence Data Migration and Morpho Mugshot interface to the RMS system, the department runs the risk of not effectively and efficiently adhering to chain of custody requirements and best practices and losing prior evidence data currently stored on a separate antiquated system.

Reason not recommended: Adding the needed evidence data migration and mugshot interface will increase the overall effectiveness of the new Mark43 records management system.

Fiscal Impact:

The total cost of the original agreement over the initial six-year period is \$1,049,956.00. With the approval of the amendment, there is a one-time cost of \$35,500.00, increasing the not-to-exceed amount of the total agreement to \$1,085,456.00. The one-time cost of \$35,500.00 will be paid from funds available in CIP 3423 Police Records Management System. Funding source for CP 3423 come from the General Fund and the General Government CIP Fund, currently the available balance is \$581,289 as of April 13, 2022.

California Environmental Quality Act:

The proposed action is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines sections 15378(b)(2) and 15378(b)(5) as ongoing administrative or organizational activities to ensure proper record keeping in the Police Department that will not result in direct or indirect physical changes in the environment.

Recommendation:

Approve an amendment of a Software License and Services Agreement with Mark43 by Adding the Evidence Data Migration and Morpho Mugshot Interface, increasing the not-to-exceed amount from 1,049,956.00 to \$1,085,456.00.

Attachments:

1. Original Software License and Services Agreement
2. Amendment No. 1 to Software License and Services Agreement

RFP No. 2424 – Law Enforcement Records Management System**CITY OF MILPITAS
SOFTWARE LICENSE AND SERVICES AGREEMENT**

THIS SOFTWARE LICENSE AND SERVICES AGREEMENT ("**Agreement**") is entered into as of Jun-30-2021, (the "**Effective Date**") by and between Mark43, Inc., a Delaware corporation with its principal place of business at 250 Hudson Street, 3rd Floor, New York, NY 10013 ("**Licensor**" or "**Mark43**") and the City of Milpitas, a California municipal corporation ("**Licensee**" or "**City**"). This Agreement may refer to Mark43 and City individually as a "party" or jointly as the "parties."

RECITALS

A. In conjunction with the City of Milpitas Police Department operations, the City desires to acquire a law enforcement records management system as detailed in the Request for Proposals (RFP) No. 2424;

B. In its proposal dated June 29, 2020 and submitted in response to the City's RFP (the "**Proposal**"), Mark43 represents that it has the knowledge, experience and expertise in public safety technology, and the desire to provide the City with the law enforcement records management system software solution as set forth in its Proposal; and

C. Mark43 is the owner of its proprietary Mark43 RMS SaaS Software (the "**Software Services**").

D. Mark43/Licensor desires to grant to City/Licensee and City/Licensee desires to obtain from Mark43/Licensor a nonexclusive license to use the Software Services solely in accordance with the terms and on the conditions set forth in this Agreement.

AGREEMENT

THEREFORE, in consideration of the premises, agreements, covenants, representations and warranties herein contained, and for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Licensor and Licensee agree as follows:

1. LICENSE.

1.1 Use of the Software. During the Term, Licensor hereby grants to Licensee such rights and licenses to the Software Services as set forth in Section 2 of Exhibit A of this Agreement.

1.2. Licensor Promotion. Licensee hereby grants to Licensor a non-exclusive, worldwide, royalty-free license to use, reproduce, distribute and publicly display Licensee's name in connection with Licensor's corporate resume. Subject to prior written approval from Licensee, Licensor may issue a press release generally describing the transaction contemplated by this Agreement or otherwise state that Licensee is a user of a Licensor product.

2. INTEGRATION/ADDITIONAL SERVICES. Licensor shall provide such reasonable assistance

as is necessary to integrate the Software Services to operate in the manner contemplated herein. See Exhibit A, Section 4.2, Schedule A, and Schedule B.

3. LICENSE FEES.

3.1 Fees. In consideration of the rights granted in this Agreement, Licensee shall pay to Licensors fees not-to-exceed the amount of **\$1,049,956.00** for the Initial Term, as further described in Schedule A of Exhibit A.

3.2 Payment Terms. All payments shall be due within thirty (30) days of the invoice date for so long as this Agreement remains in effect. See Section 5 of Exhibit A.

4. PROPRIETARY RIGHTS. Reserved. See Section 3 of Exhibit A.

5. CONFIDENTIALITY. Reserved. See Section 7 of Exhibit A.

6. WARRANTIES. See Section 8 of Exhibit A.

7. TERM AND TERMINATION.

7.1 TERM.

- (a) **Initial Term.** The initial term of this Agreement begins on the Effective Date and will continue for six (6) years, unless and until terminated in accordance with Section 7.2 (the “**Initial Term**”).
- (b) **Renewal Terms.** Upon expiration of the Initial Term or any Renewal Term, this Agreement will automatically renew for successive one (1) year (each, a “**Renewal Term**”) at the rates set forth on Schedule A of Exhibit A, unless either party provides the other with written notice of non-renewal at least thirty (30) days prior to the expiration of the then-current term.

7.2 Temporary Suspension and Termination.

- (a) **Termination for Breach by Either Party.** Either party may terminate this Agreement upon written notice to the other party, if the other party breaches a material term of this Agreement and such breach remains uncured for thirty (30) days after the other party’s receipt of such notice.
- (b) **Suspension of Services.** To the extent permitted by Applicable Law, in addition to any other rights or remedies it may have under this Agreement or by Applicable Law, Licensors may immediately suspend provision of the Software Services without liability to Licensee: (a) if Licensee breaches Section 2.5 (Restrictions on Use) or Section 2.6 (Security Obligations) of Exhibit A; (b) to avoid harm or liability to Licensors, its Affiliates or its other customers, including in the case of denial of service attacks or other disruptions; (c) if required by Applicable Law or legally required by a governmental authority; or (d) if Licensee’s account is more than sixty (60) days past due with respect to non-disputed amounts, until paid in full. Licensee shall remain liable for any fees and other amounts payable under this Agreement during any period of suspension. Licensors will use commercially reasonable efforts to restore Licensee’s rights to use and access those portions of the Software Services or

accounts that gave rise to the suspension promptly after Licensee has resolved the problem giving rise to the suspension.

- (c) **Termination for Non-Appropriation.** Licensee's payment obligation under this Agreement extends only to funds appropriated annually by Licensee's governing body for the purpose of this Agreement. For each succeeding fiscal period covered by this Agreement, Licensee's applicable agency or department responsible for this Agreement agrees to include in its budget request appropriations sufficient to cover the annual financial obligations under this Agreement. Licensee's governing body has no obligation to make appropriations for the Agreement in lieu of appropriations for new or other contracts. If Licensee is appropriated insufficient funds to continue annual payments under this Agreement, Licensee may terminate this Agreement by giving Licensor not less than thirty (30) days' prior written notice. Upon termination under this paragraph, Licensor shall be entitled to compensation for all Software Services rendered prior to the effective termination date. Licensor's assumption of risk of possible non-appropriation is a part of the consideration for the Agreement. This Section controls against any and all other provisions of the Agreement.
- (d) **Termination for Convenience.** Licensee may terminate this Agreement at any time without cause upon ninety (90) days' prior written notice to Licensor. No refund of amounts paid by Licensee shall be provided upon termination for convenience.

7.3 Effect of Termination. In the event of any termination or expiration of this Agreement,

- (a) Licensee will pay Licensor all amounts payable hereunder as of the termination or expiration date or Licensor shall provide a prorated refund of amounts paid by Licensee where termination occurs for breach by Licensor prior to the first twelve (12) months of the Term;
- (b) all rights and licenses granted hereunder to Licensee (as well as all rights granted to any Authorized Users of Licensee) will immediately cease, including but not limited to all use of the SaaS Services; and
- (c) Licensor will provide records to Licensee in accordance with its transition assistance services ("**Transition Assistance**") as set forth in Schedule C of Exhibit A.
- (d) Licensee will, upon written request of Licensor, either return to Licensor or provide Licensor with written certification of the destruction of, all documents, computer files and other materials containing any Confidential Information of Licensor that are in Licensee's possession or control.

7.4 Survival. The following provisions will survive any termination or expiration of this Agreement: Section 7.3 ("Effect of Termination"); Section 8 ("Indemnity"); Exhibit A, Section 3.1 ("Ownership of Subscriber Data"), Exhibit A, Section 4 ("Third-Party Components and Applications"), Exhibit A, Section 7 ("Confidentiality"), Exhibit A, Section 8.3 ("Disclaimer"), Exhibit A, Section 9 ("Limitation of Liability"), Exhibit A, Section 10 ("Indemnification"), Exhibit A, Section 11 ("Miscellaneous"), Exhibit A, Schedule C ("Transition Assistance") and this Section 7.4 ("Survival").

8. INDEMNITY. Licensor shall indemnify Licensee as detailed in Exhibit A, Section 10 (Indemnification). In addition, to the fullest extent permitted by law, Licensor shall defend (with counsel mutually agreeable to both parties, with Licensee's approval not to be unreasonably withheld), indemnify and hold Licensee, its officials, officers, employees, 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, arising out of any third-party claim in any manner arising out of, pertaining to, or incident to any gross negligence or willful misconduct of Licensor, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Licensor's Services or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Licensor's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Licensor, Licensee, its officials, officers, employees, agents, or volunteers. FOR THE AVOIDANCE OF DOUBT, LICENSOR'S INDEMNIFICATION OBLIGATIONS SET FORTH IN THIS SECTION 8 SHALL BE SUBJECT TO THE LIABILITY EXCLUSIONS AND LIMITATIONS OF DAMAGES SET FORTH IN SECTIONS 9.1 AND 9.2 OF EXHIBIT A.

9. INSURANCE. Upon execution of this Agreement, Licensor shall provide evidence satisfactory to the Licensee it has all insurance required under **Exhibit B (Insurance Requirements)**, attached hereto and incorporated herein by this reference.

10. VERIFICATION OF EMPLOYMENT ELIGIBILITY. By executing this Agreement, Licensor 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 subcontractors of any tier to comply with the same.

11. GENERAL

11.1 Force Majeure. Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder on account of strikes, electrical or other shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, governmental action, labor conditions, earthquakes, material shortages, or any other cause beyond the reasonable control of such party.

11.2 Independent Contractors. Nothing in this Agreement shall be construed as creating an employer-employee relationship, a partnership, or a joint venture between the parties. Nothing contained herein will be construed to give any party any right or authority to create or assume any obligation of any kind on behalf of any other party. Because the Licensor will be acting as an independent contractor, the Licensee assumes no responsibility for the Licensor's acts.

11.3 Governing Law. This Agreement shall be governed by the laws of the State of California, and without reference to its conflicts of law as though entered into between California residents and to be performed entirely within the State of California, and both Licensee and Licensor consent to jurisdiction and venue in the state and federal courts sitting in the State of California and in particular, within Santa Clara County, California.

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

11.5 Modification and Waiver. No modification to this Agreement, nor any waiver of any rights, will be effective unless assented to in writing by the party to be charged, and the waiver of any breach or default shall not constitute a waiver of any other right hereunder or any subsequent breach or default. No term included in any invoice, estimate, confirmation, acceptance, purchase order or any other similar document in connection with this Agreement will be effective unless expressly stated otherwise in a separate writing signed by Licensee and Licensor.

11.6 Notices. All notices required or permitted under this Agreement will be in writing and delivered by courier or overnight delivery service, or by certified mail to the following or such other addresses as the respective parties may designate by like notice from time to time. In each instance, notice will be deemed given upon receipt or within five (5) days of delivery, whichever is later.

LICENSEE:

City of Milpitas
1265 North Milpitas Blvd.
Milpitas, California 95035
Attn: Mike Luu, IS Director

LICENSOR:

Mark43, Inc.
250 Hudson Street
3rd Floor
New York, NY 10013
Attn: David Jochim
Email: dave@mark43.com

Copy to:

Mark43, Inc.
250 Hudson Street
3rd Floor
New York, NY 10013
Attn: General Counsel
Email: contractnotices@mark43.com

All communications will be sent to the addresses set forth above or to such other address as may be specified by either party to the other in accordance with this Section. Either party may change its address for notices under this Agreement by giving written notice to the other party.

11.7 Assignment. Neither party shall be permitted to assign or otherwise transfer this Agreement intentionally or by operation of law or otherwise, in whole or in part, without the prior written consent of the other party, provided, however, that a party may, without the consent of the other party, but upon written notice to the other party, assign or otherwise transfer this Agreement to any of its affiliates or to an entity with or into which it is merged or consolidated or to which it sells its stock or other equity interests or all or substantially all of its assets.

11.8 Organization. Within five (5) business days of the Effective Date, Licensor shall assign a Project Manager who shall be authorized to act on Licensor's behalf under this Agreement. The Project Manager shall not be removed from this Agreement or reassigned without the prior written consent of the Licensee, which consent shall not be unreasonably withheld or delayed.

11.9 Third Party Rights. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Licensee and the Licensor.

11.10 Equal Opportunity Employment. Licensor 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.

11.11 Successors. 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.

11.12 Prohibited Interests. Licensor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Licensor, to solicit or secure this Agreement. Further, Licensor 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 Licensor, 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, Licensee shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of Licensee, during the term of his or her service with Licensee, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

11.13 Wage Theft Prevention.

a. Licensor, and any subcontractor it employs to complete Services 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, LICENSOR 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 LICENSOR OR ITS SUBCONTRACTORS HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. LICENSOR FURTHER AFFIRMS THAT IT OR ITS SUBCONTRACTOR(S) HAS EITHER FULLY SATISFIED EACH JUDGMENT, DECISION OR ORDER, OR, IF ANY JUDGMENT, DECISION OR ORDER HAS NOT BEEN FULLY SATISFIED, LICENSOR AFFIRMS THAT IT OR ITS SUBCONTRACTOR(S) IS CURRENTLY SATISFYING SAID JUDGMENT, DECISION OR ORDER THROUGH A PAYMENT OR ALTERNATIVE PLAN APPROVED BY THE APPLICABLE COURT/GOVERNMENT AGENCY AND THAT LICENSOR OR ITS SUBCONTRACTOR(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 Licensor or a subcontractor it employs to perform work under this Agreement has violated any applicable wage and hour law, or Licensor learns of such a judgment, decision, or order that was not previously disclosed in its bid/proposal, Licensor shall inform the Licensee 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. Licensor or its subcontractor(s) shall, within thirty (30) calendar days after notifying the Licensee, either (i) fully satisfy any such judgment, decision, or order and provide the Licensee with documentary evidence of satisfying said judgment, decision or order; or (ii) provide the Licensee documentary evidence of a payment or other alternative plan approved by the court/government agency to satisfy the judgment, decision or order. If the Licensor or its subcontractor is subject to a payment or other alternative plan, the Licensor or its subcontractor 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 Licensee, 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 Licensee 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.

11.14 Entire Agreement. This Agreement, with its exhibits, represents the entire understanding of Licensee and Licensors 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.

11.15 Order of Precedence. In the event of a conflict in the provisions of the Agreement, the following shall prevail in the order set forth below:

- (a) Agreement
- (b) Agreement Exhibits A (and associated **Schedules A through F**), B and C attached hereto and incorporated herein by reference, and
- (c) Licensors' Proposal, which is incorporated herein and made a part of this Agreement by this reference, except Sections 2 (System Architecture), Section 3, Form D (Interface Identification), Section 4 (System Testing and Acceptance), Section 5 (Implementation Approach), Section 8 (Cost Proposal).

11.16 Headings. The titles and headings contained in this Agreement are for reference purposes only and shall not in any manner limit the construction or interpretation of this Agreement.

11.17 Counterparts. This Agreement may be executed, including by electronic signature, in two or more counterparts, each of which shall be an original and all such counterparts together shall constitute one and the same instrument. Electronically executed or electronically transmitted (including via facsimile transmission) signatures have the full force and effect of original signatures.

[Signatures on following page]

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

CITY OF MILPITAS*Approved By:*

DocuSigned by:



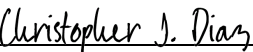
Steven C. McHarris
Interim City Manager

Jun-30-2021

Date

Approved As To Form:

DocuSigned by:



Christopher J. Diaz
City Attorney

Approved:

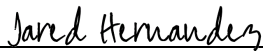
DocuSigned by:



Lauren Lai, CPA, MPA
Risk Manager/Director of Finance

Approved As To Content:

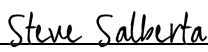
DocuSigned by:



Jared Hernandez
Acting Chief of Police

MARK43, INC.

DocuSigned by:



Signature

Steve Salberta

Name

Chief Financial officer

Title

Jun-29-2021

Date

Exhibit A

**SOFTWARE LICENSE AND SERVICES
ADDITIONAL TERMS**

(See attached)

**EXHIBIT A:
SOFTWARE LICENSE AND SERVICES
ADDITIONAL TERMS
FOR LAW ENFORCEMENT RECORDS MANAGEMENT SYSTEM
(RFP NO. 2424)**

1. **DEFINITIONS.** For purposes of this Exhibit A, and all Schedules attached hereto, the following terms shall have the meanings set forth below:
- 1.1 **"Affiliate"** means, with respect to any entity, any other entity who, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such entity. The term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities, by contract or otherwise.
 - 1.2 **"Affiliated Agency"** means any other government agency to which Subscriber is legally or contractually bound to share information.
 - 1.3 **"Applicable Law(s)"** means, with respect to any party, any federal, state or local statute, law, ordinance, rule, administrative interpretation, regulation, order, writ, injunction, directive, judgment, decree or other requirement of any international, federal, state or local court, administrative agency or commission or other governmental or regulatory authority or instrumentality, domestic or foreign, applicable to such party or any of its properties, assets or business operations.
 - 1.4 **"Applications"** means the applications purchased by Subscriber as described in Schedule A.
 - 1.5 **"Authorized Users"** means employees of Subscriber and any Affiliated Agency who are authorized to access and use the Applications through the applicable security designation(s), pursuant to which full or limited access to the applicable Applications may be granted.
 - 1.6 **"Documentation"** means the user guides and user manuals for the SaaS Services that Mark43 provides to Subscriber.
 - 1.7 **"Go Live"** means the date of cutover to each respective Mark43 Application.
 - 1.8 **"Integrated Application"** means a third-party product, database or application requested by Subscriber and approved by Mark43 that will be installed, linked or enabled by Subscriber for use in connection with the SaaS Services (e.g. NCIC).
 - 1.9 **"Integrated Application Data"** means all data, information, content and other materials stored on an Integrated Application.
 - 1.10 **"Integrated Application Provider"** means any third party, including other vendors, state agencies and local agencies, that control products and/or databases with which Mark43 SaaS Services are to be interfaced.
 - 1.11 **"Intellectual Property Rights"** means all intellectual and industrial property rights, whether now existing or existing in the future, including without limitation, (i) all patent rights, including any rights in pending patent applications and any related rights; (ii) all copyrights and other related rights throughout the world in works of authorship, including all registrations and applications therefor; (iii) all trademarks, service marks, trade dress or other proprietary trade designations, including all registrations and applications therefor (iv) all rights throughout the world to proprietary know-how, trade secrets and other confidential information, whether arising by law or pursuant to any contractual obligation of non-disclosure; and (v) all other rights covering industrial or intellectual property recognized in any jurisdiction.
 - 1.12 **"Professional Services"** means any implementation, training, project management, consulting and other services (outside the scope of the Support Services) that are described in a Statement of Work.
 - 1.13 **"SaaS Services"** means the Applications, Software, and related software-as-a-service, hosting, maintenance and/or support services made available by Mark43 for remote access and use by Subscriber, including any Documentation thereto.
 - 1.14 **"Services"** means the services provided or required to be provided by or through Mark43, including without limitation, SaaS Services and Professional Services.
 - 1.15 **"Software"** means the object code version of Mark43's computer software and all Updates made available by Mark43 to Subscriber under this Agreement.

- 1.16 **“Statement of Work”** means a detailed plan of work to be agreed by the Parties in conjunction with this Agreement and attached to this Agreement as Exhibit C.
- 1.17 **“Subscriber”** means the City of Milpitas.
- 1.18 **“Subscriber Data”** means all data, information, content and other materials stored or transmitted by Subscriber and any Authorized User through the SaaS Services (i) in their user accounts; and (ii) on any Integrated Application, excluding any Third-Party Data and any Mark43 Data.
- 1.19 **“Term”** means the Initial Term and any Renewal Terms.
- 1.20 **“Third-Party Component”** means a third-party application incorporated in, integrated with or accessed through the SaaS Services (e.g. a mapping provider).
- 1.21 **“Third-Party Data”** means any data, information, content and other materials made available by any third party, including without limitation through a Third-Party Component.
- 1.22 **“Updates”** means any and all new releases, new versions, patches and other updates for the SaaS Services that Mark43 makes generally available without additional charge to its other subscribers of the SaaS Services.
- 1.23 **“Website”** means any Internet website through which Mark43 provides the SaaS Services under this Agreement.
- 1.24 **“Work Product”** means all materials, software, tools, data, inventions, works of authorship and other innovations of any kind that Mark43, or personnel working for or through Mark43, may make, conceive, develop or reduce to practice, alone or jointly with others, in the course of performing Professional Services or as a result of such Professional Services, whether or not eligible for patent, copyright, trademark, trade secret or other legal protection.

2. PROVISION OF THE SERVICES AND SOFTWARE.

- 2.1 **SaaS Services.** Subject to the terms of this Agreement, and during the Term, Mark43 hereby grants a non-exclusive, non-transferable, non-sublicensable license to Subscriber and its Authorized Users to access and use the SaaS Services through the Website for Subscriber’s internal purposes and in accordance with the terms and conditions of this Agreement. Mark43 will be responsible for hosting the Website, and Subscriber and its Authorized Users will be responsible for obtaining internet connections and other third-party software, hardware and services necessary for it to access the Website through the Internet, including without limitation as set forth in Schedule D. Subscriber will be responsible to Mark43 for compliance with the restrictions on use and other terms and conditions of this Agreement by any of its Authorized Users.
- 2.2 **Professional Services.** Mark43 offers Professional Services in connection with the SaaS Services as further described on Schedule A and the Statement of Work. To the extent any Professional Services involve the development of any customization or configuration to the SaaS Services, all Intellectual Property Rights to such customization or configuration will be solely owned by Mark43 and will be deemed to be included in the definition of SaaS Services and licensed to Subscriber on the terms set forth herein.
- 2.3 **Access to Documentation.** Mark43 will provide Subscriber via the Website or other means with access to the Documentation, as may be updated from time to time. Subscriber may print copies of, use, and permit its Authorized Users to use, the Documentation solely in connection with the use of the SaaS Services.
- 2.4 **Support Services.** Subject to the terms and conditions of this Agreement, Mark43 will provide to Subscriber the support services detailed on Schedule B (the **“Support Services”**).
- 2.5 **Restrictions on Use.** Subscriber and its Authorized Users will not (and will not permit any third party to): (i) share Subscriber’s or any Authorized User’s login credentials; (ii) reverse engineer, decompile, disassemble, or otherwise attempt to discern the source code, underlying ideas, algorithms, file formats, or interface protocols of the SaaS Services or of any files contained in or generated by the SaaS Services; (iii) copy, modify, adapt or translate the SaaS Services or the Third-Party Data, or otherwise make any use, resell, distribute or sublicense the SaaS Services or the Third-Party Data other than in connection with this Agreement; (iv) make the SaaS Services available on a “service bureau” basis or allow any third parties to use the SaaS Services; (v) disclose the SaaS Services or any of its components to third parties; (vi) remove or modify any proprietary marking or restrictive legends placed on the SaaS Services or the Third-Party Data; (vii) use the SaaS Services or the Third-Party Data in violation of any Applicable Law; (viii) use the SaaS Services to create or augment

any mapping-related dataset (including a mapping or navigation dataset, business listings database, mailing list, or telemarketing list) for use in an implementation that is not connected to the Services; (ix) introduce into the Services any viruses, worms, defects, Trojan horses, malware, or any items of a destructive nature; (x) use the Services to post advertising or listings; (xi) use the Services to defame, abuse, harass, stalk, or threaten others; (xii) permit access or use of the Services by any individual outside the United States; (xiii) hide or obscure any Authorized User's location; (xiv) attempt to gain access to the Services or Software or their related systems or networks in a manner not set forth in the Documentation. Subscriber and its Authorized Users will not access the SaaS Services if in direct competition with Mark43, and will not allow access to the SaaS Services by any party who is in direct competition with Mark43, except with Mark43's prior written consent. Subscriber shall comply with additional restrictions on use of the Services in accordance with the Third-Party Component Terms.

- 2.6 Security Obligations.** Subscriber agrees it and its Authorized Users shall securely manage their respective password(s) for access to the SaaS Services. Subscriber agrees it shall notify Mark43 promptly in the event it becomes aware of any unauthorized access or use of the SaaS Services, or of any of its or its Authorized Users passwords or accounts. Unless expressly stated otherwise in this Agreement, a single username or password may not be used by more than one (1) Authorized User. In addition, Authorized Users may log into the SaaS Services from only one location at any given time; concurrent usage (or sign in) under a single username is prohibited, unless Subscriber has a business justification for concurrent usage, in which case Subscriber is responsible for providing approval for such usage to the applicable Authorized Users. Subscriber is responsible for all activities conducted within user accounts in use of the SaaS Services. Subscriber shall comply with all applicable local, state, federal and regional or other laws and regulations applicable in connection with use of the SaaS Services, including all those related to data privacy and the transmission of technical or personal data. Subscriber agrees to (a) provide true, accurate, current and complete registration data for each account it creates via the SaaS Services, and (b) maintain and promptly update the registration data to keep it true, accurate, current and complete.
- 2.7 Changes to Services.** Mark43 may make changes and Updates to its Services, provided that it does not materially derogate the overall quality of the Services. Mark43 does not guarantee that the Services are or will remain compatible with any particular third-party software or equipment not supplied by Mark43 under this Agreement, and may, upon written notice, terminate its support for, any software or equipment of Subscriber that Mark43 determines are incompatible with the operation of the Services.
- 2.8 Data Sharing.** Mark43 will allow Subscriber to grant other agencies specified levels of access to Subscriber Data pursuant to an executed data-sharing agreement between agencies, and with permissions subject to the parameters laid out in the relevant data-sharing agreement. Subscriber shall provide Mark43 with a copy of the executed data-sharing agreement prior to allowing any such data-sharing. As between Mark43 and Subscriber, Subscriber will be solely responsible for any liabilities that arise as a result of such data-sharing.

3. PROPRIETARY RIGHTS; SUBSCRIBER DATA.

- 3.1 Ownership of Subscriber Data.** As between Mark43 and Subscriber, Subscriber owns the Subscriber Data. During the Term and to the extent required for Mark43 to provide transition services thereafter, Mark43 will have, and Subscriber hereby grants and agrees to grant to Mark43, a royalty-free, worldwide, transferable, sublicensable, irrevocable license to use the Subscriber Data to configure and/or provide the SaaS Services, Software, Support Services and Professional Services to Subscriber, and/or to prevent or address service or technical problems, in accordance with this Agreement and the Documentation, or otherwise in accordance with Subscriber's requests or instructions. Mark43 may also use Subscriber Data in anonymized and/or aggregated form to develop analytics that may be used to provide products and services to Subscriber and/or to other Mark43 customers, provided that: (a) Mark43 makes available to Subscriber functionality and services based on anonymized data obtained from other Mark43 customers that are similar to the functionality and services provided to such other customers based on the anonymized data; and (b) Mark43 may not sell or offer for sale any Subscriber Data, whether in Subscriber identifiable, or anonymized and aggregated form. Mark43 shall comply with its obligations under all Applicable Laws in its provision of the Services and use of Subscriber Data.
- 3.2 Ownership and Reservation of Rights to Mark43 Intellectual Property.** As between Mark43 and Subscriber, Mark43, its Affiliates and/or its licensors own all right, title and interest in and to the Services, Software, Work Product and all related technology and Intellectual Property Rights. Subject to the limited rights expressly granted hereunder, and except with respect to Third-Party

Components, Mark43 reserves all rights, title and interest in and to the Services, Software, and Work Product, including all related technology and Intellectual Property Rights. No rights are granted to Subscriber hereunder other than as expressly set forth in this Agreement or as required by Applicable Law.

- 3.3 Subscriber Feedback.** Subscriber and its Authorized Users may elect to provide Mark43 with suggestions, enhancement requests, recommendations and other feedback concerning the SaaS Services, Software, Support Services or Professional Services (the “**Subscriber Feedback**”). Subscriber hereby assigns and agrees to assign all Subscriber Feedback to Mark43 without lien or encumbrance and agrees that Subscriber Feedback will be the sole property of Mark43 and that Mark43 may use Subscriber Feedback in its discretion without obligation to Subscriber. Mark43 has no obligation to make Subscriber Feedback an Improvement. For the avoidance of doubt, Subscriber Feedback does not constitute Confidential Information of Subscriber hereunder.
- 3.4 Usage Data.** Mark43 may collect certain information in connection with Subscriber’s access to or use of the Services, such as access records, date and time stamps, transaction and activity records and system performance data (“**Usage Data**”). Mark43 may use Usage Data to deliver and manage its products and services, perform maintenance and support, and develop, test, analyze, and improve the Services and other Mark43 products and services, and generate statistical data about usage of its products and services. As between Mark43 and Subscriber, Mark43 owns the Usage Data, excluding any Usage Data that constitutes personally identifiable information.
- 3.5 Data Security.** Terms applicable to the privacy and security of Subscriber Data are set forth in the Data Processing Addendum attached as Schedule F hereto (the “**Data Processing Addendum**”).

4. THIRD-PARTY COMPONENTS AND INTEGRATED APPLICATIONS.

- 4.1 Third-Party Components.** Third-Party Components may be made available to Subscriber through the SaaS Services. In connection with the functionality provided by and/or through Third-Party Components, Subscriber hereby accepts and agrees to be bound by the terms and conditions set forth in Schedule E, which may be updated from time to time upon notice to Subscriber (the “**Third-Party Component Terms**”). In the event of any inconsistency or conflict between the Third-Party Component Terms and the terms of this Agreement, the Third-Party Component Terms shall govern with respect to Subscriber’s access to and use of the applicable Third-Party Component.
- 4.2 Integrated Applications.** To the extent Subscriber installs, links to or enables any Integrated Application for use with the SaaS Services, Subscriber grants and agrees to grant (and will cause the applicable Integrated Application Provider to grant) to Mark43 permission to access, retrieve, view, store, copy, modify and process Integrated Application Data from Subscriber’s existing account(s) on each such Integrated Application to the extent necessary to facilitate the interoperation of such Integrated Application with the SaaS Services. To the extent Subscriber requires an Integrated Application Provider’s assistance to install, link to or enable any Integrated Application for use with the SaaS Services, Subscriber shall separately contract with each such Integrated Application Provider for any such assistance. In no event will Mark43 be responsible for any Integrated Application or Integrated Application Data, or for any failure of an Integrated Application to properly interoperate with the Mark43 Solution; provided, however, to the extent that Mark43 creates, pursuant to the Statement of Work, an interface for an Integrated Application hereunder, Mark43 shall be responsible for such interface only, subject to the terms and conditions of this Agreement and the applicable Statement of Work. Mark43 may at any time, in its sole reasonable discretion, including upon the request of an Integrated Application Provider or due to an actual or potential security threat, disable any connection between an Integrated Application and the Applications, and any access, retrieval and viewing of Integrated Application Data via the Applications. For the avoidance of doubt, Subscriber’s access to and use of Integrated Applications and Integrated Application Data shall be subject to the terms and conditions of Subscriber’s agreement(s) with the applicable Integrated Application Provider.

5. FEES AND PAYMENT TERMS.

- 5.1 Fees for the Services.** Subscriber will pay Mark43 fees as stated in Schedule A (the “**Fees**”) attached hereto in accordance with the payment schedule set forth in Schedule A. All Fees due hereunder will be due and payable by Subscriber within thirty (30) days of the invoice date. All payments of Fees are non-refundable. All amounts stated in this Agreement or on any invoice are in U.S. dollars, and all payments will be made in U.S. dollars.

5.2 Overdue Payments. Any payment not received from Subscriber by the due date shall accrue late charges at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by Applicable Law, whichever is lower, from the date such payment was due until the date paid.

5.3 Taxes. Subscriber will pay all taxes, including sales, use, excise, and other governmental fees, duties, and charges (and any penalties, interest, and other additions thereto) that are imposed on Subscriber or Mark43 with respect to the transactions and payments under this Agreement (excluding taxes based on Mark43's income or employment) ("**Indirect Taxes**"). All Fees are exclusive of Indirect Taxes. If any such taxes are required to be withheld on any payment, Subscriber will pay such additional amounts as are necessary so that the net amount received by Mark43 is equal to the amount then due and payable under this Agreement.

6. RESERVED.

7. CONFIDENTIALITY.

7.1 Definition of Confidential Information. For the purposes of this Agreement, "**Confidential Information**" means: (a) with respect to Mark43, the SaaS Services, and any and all source code relating thereto, as well as Documentation and non-public information or material regarding Mark43's legal or business affairs, financing, customers, properties or data, and (b) with respect to Subscriber, any non-public information or material regarding Subscriber's legal or business affairs, financing, customers, properties or data, including all Subscriber Data. Notwithstanding any of the foregoing, Confidential Information does not include information which: (i) is or becomes public knowledge without any action by, or involvement of, the party to which the Confidential Information is disclosed (the "**Receiving Party**"); (ii) is documented as being known to the Receiving Party prior to its disclosure by the other party (the "**Disclosing Party**"); (iii) is independently developed by the Receiving Party without reference or access to the Confidential Information of the Disclosing Party and is so documented; or (iv) is obtained by the Receiving Party without restrictions on use or disclosure from a third person who did not receive it, directly or indirectly, from the disclosing party.

7.2 Use and Disclosure of Confidential Information. The Receiving Party will, with respect to any Confidential Information disclosed by the Disclosing Party before or after the Effective Date: (i) use such Confidential Information only in connection with the Receiving Party's performance of this Agreement; (ii) subject to Section 7.4 below, restrict disclosure of such Confidential Information within the Receiving Party's organization to only those of the Receiving Party's employees and independent contractors who have a need to know such Confidential Information in connection with the Receiving Party's performance of this Agreement and (iii) except as provided herein, not disclose such Confidential Information to any third party unless authorized in writing by the Disclosing Party to do so.

7.3 Protection of Confidential Information. The Receiving Party will protect the confidentiality of any Confidential Information disclosed by the Disclosing Party using at least the degree of care that it uses to protect its own confidential information (but no less than a reasonable degree of care).

7.4 Employee and Independent Contractor Compliance. The Receiving Party will, prior to providing any employee or independent contractor access to any Confidential Information of the Disclosing Party, inform such employee or independent contractor of the confidential nature of such Confidential Information and require such employee or independent contractor to comply with the Receiving Party's obligations hereunder with respect to such Confidential Information.

7.5 Compelled Disclosure. A disclosure by one party of Confidential Information of the other party to the extent required by Applicable Law will not be considered a breach of this Agreement, provided the party so compelled promptly provides the other party with prior notice of such compelled disclosure (to the extent legally permitted) and provides reasonable assistance, at the other party's cost, if the other party wishes to contest the disclosure.

7.6 Public Records.

- (a) For purposes of this Section 7 (Confidentiality), the term "**Public Records Request**" shall mean any request for the disclosure of records pursuant to a state public records law or "sunshine" law, federal Freedom of Information Act or other comparable law.
- (b) To the extent Subscriber is subject to a Public Records Request that seeks the disclosure of any information or materials provided by Mark43 to Subscriber prior to or during the Term, Subscriber shall, prior to any disclosure, promptly notify Mark43 of such Public Records Request (to the extent legally permitted to do so) and provide reasonable assistance, at Mark43's cost, if Mark43

wishes to contest the disclosure. Subscriber shall also identify for Mark43 the information or materials it intends to disclose, and provide Mark43 at least ten (10) days to review prior to disclosure, or if such time is not available or permitted under Applicable Law, at least as much time as would be reasonable to allow Mark43 to meaningfully review and seek appropriate relief. For the avoidance of doubt, and without limiting the foregoing, Subscriber hereby acknowledges that Mark43 shall have no implicit or explicit obligation to challenge, oppose or defend against any request described herein.

- (c) Mark43 may charge Subscriber for all reasonable time spent by Mark43 personnel assisting Subscriber in responding to a Public Records Request seeking the disclosure of any Subscriber Data or other information collected or maintained by Mark43 in connection with the SaaS Services.

7.7 CJIS Standards; Employee Background Checks.

- (a) Subscriber understands and agrees that Mark43 utilizes third-party vendors (each, a "**Hosting Provider**") to host the SaaS Services. As of the Effective Date of this Agreement, Mark43 utilizes Amazon Web Services (AWS) as its Hosting Provider for the SaaS Services. Mark43 agrees that all personnel and subcontractors shall be subject to Mark43's background and security screening process.
- (b) Subscriber may request reasonable records from Mark43 from time to time to assess Mark43's adherence to requirements of the applicable CJIS Security Policy promulgated by the FBI. For the avoidance of doubt, Subscriber may need the consent of Hosting Provider to obtain any records or information from Hosting Provider.
- (c) Subscriber, or if Subscriber is located in the State of California, Mark43's CLETS host agency, will have the opportunity to run background checks on Mark43 employees that will have direct access to Subscriber Data in the production environment (such employees, the "**Covered Employees**"), provided that Mark43 may assume that a Covered Employee has been cleared by Subscriber if Mark43 does not receive an adverse response from Subscriber within thirty (30) days of a submission of a background check request. Covered Employees not meeting Milpitas Police Department standards, and for which Subscriber provides notice of such non-approval to Mark43 during the time periods set forth in this Section, shall not have access to Subscriber Data or other Confidential Information of Subscriber.

8. REPRESENTATIONS AND WARRANTIES.

- 8.1 **Power and Authority.** Each party represents and warrants that it has the full right, power and authority to enter into this Agreement and to discharge its obligations hereunder and that the person signing this Agreement on behalf of the party has the authority to bind that party. Subject to annual budget approval and appropriation by the legislative body of Subscriber, Subscriber represents and warrants that it has obtained, and shall have, all necessary approvals, consents, and authorizations necessary for procurement under this Agreement.
- 8.2 **SaaS Services and Software Warranty.** Mark43 warrants to Subscriber, for Subscriber's benefit only, that during the Term the SaaS Services and Software (excluding the Third-Party Components and Integrated Applications) will perform substantially in accordance with the then-current and applicable Documentation.
- 8.3 **Disclaimer.** USE OF THE APPLICATIONS IS NOT, AND IS NOT INTENDED TO BE, A SUBSTITUTE FOR THE PROFESSIONAL JUDGMENT OF AUTHORIZED PARTIES, INCLUDING DISPATCHERS, LAW ENFORCEMENT OFFICERS, INVESTIGATORS OR FIRST RESPONDERS. THE APPLICATIONS ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY AND THE DATA PROVIDED BY MARK43 THEREIN (INCLUDING ANY THIRD-PARTY DATA) SHOULD NOT REPLACE OTHER EMERGENCY INFORMATION AND SHOULD NOT BE EXCLUSIVELY RELIED-UPON IN AN EMERGENCY SCENARIO. SUBSCRIBER SHALL BE RESPONSIBLE FOR ALL ITS OWN ACTIONS OR FAILURE TO ACT IN CONNECTION WITH LAW ENFORCEMENT OPERATIONS, INCLUDING WITH RESPECT TO COMPLIANCE WITH APPLICABLE LAWS, AND MARK43 ASSUMES NO RESPONSIBILITY OR RISK FOR SUBSCRIBER'S USE OR MISUSE OF, OR FAILURE TO USE, THE INFORMATION PROVIDED THROUGH THE APPLICATIONS. CUSTOMER ACKNOWLEDGES THAT THE APPLICATIONS DO NOT PROVIDE LEGAL ADVICE.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, MARK43 MAKES NO OTHER WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES

OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE APPLICATION. MARK43 DOES NOT WARRANT THAT THE SERVICE WILL BE ERROR FREE OR UNINTERRUPTED OR THAT SUBSCRIBER DATA WILL BE SECURE OR NOT LOST OR DAMAGED. THE LIMITED WARRANTIES PROVIDED HEREIN ARE THE SOLE AND EXCLUSIVE WARRANTIES PROVIDED TO SUBSCRIBER IN CONNECTION WITH THE PROVISION OF THE SERVICES. MARK43 SHALL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES OR OTHER PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR OTHER SYSTEMS OUTSIDE ITS REASONABLE CONTROL, INCLUDING ANY HARM OR DAMAGES CAUSED BY ITS HOSTING PROVIDERS. MARK43 MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER WITH RESPECT TO ANY THIRD-PARTY DATA, THIRD-PARTY COMPONENT, INTEGRATED APPLICATION, OR ON BEHALF OF ANY INTEGRATED APPLICATION PROVIDER.

9. LIMITATION OF LIABILITY.

- 9.1 Liability Exclusion.** IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES OR FOR ANY OTHER SIMILAR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE FURNISHING, PERFORMANCE, OR USE, OR FAILURE OF THE SERVICES, THE THIRD-PARTY COMPONENTS OR THE THIRD-PARTY DATA PROVIDED UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, PERSONAL INJURY, DEATH, DAMAGE TO PROPERTY, ENVIRONMENTAL DAMAGE, LOSS OF PROFITS, REVENUES, ANTICIPATED SAVINGS, CUSTOMERS, OPPORTUNITIES, DAMAGE TO PRIVACY, REPUTATION OR GOODWILL OR UNAVAILABILITY OF THE SERVICES, REGARDLESS OF WHETHER THE PARTY LIABLE OR ALLEGEDLY LIABLE WAS ADVISED, HAD OTHER REASON TO KNOW, OR IN FACT KNEW OF THE POSSIBILITY THEREOF.
- 9.2 Limitation of Damages.** EACH PARTY'S MAXIMUM LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE SERVICES PROVIDED HEREUNDER, REGARDLESS OF THE CAUSE OF ACTION (WHETHER IN CONTRACT, TORT, BREACH OF WARRANTY OR OTHERWISE), WILL NOT EXCEED THE AGGREGATE AMOUNT OF THE FEES PAID AND PAYABLE TO MARK43 BY SUBSCRIBER DURING THE TWENTY-FOUR (24) MONTH PERIOD PRECEDING THE DATE ON WHICH THE CLAIM ARISES. NEITHER PARTY SHALL HAVE ANY LIABILITY ARISING OUT OF OR RELATING TO THE THIRD-PARTY COMPONENTS OR THE THIRD-PARTY DATA. THE FOREGOING LIMITATION SHALL NOT BE DEEMED TO PLACE ANY LIMITATION ON SUBSCRIBER'S OBLIGATION TO MAKE PAYMENTS UNDER THIS AGREEMENT.
- 9.3 Exceptions.** NOTWITHSTANDING THE FOREGOING, THE EXCLUSIONS AND LIMITATIONS OF LIABILITY SET FORTH IN SECTION 9.1 AND SECTION 9.2 SHALL NOT APPLY TO DAMAGES ARISING FROM EITHER PARTY'S INDEMNITY OBLIGATIONS UNDER SECTION 10 BELOW OR EITHER PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

10. INDEMNIFICATION.

- 10.1 Indemnification by Mark43.** Mark43 shall indemnify Subscriber, and its employees, officers, and directors against any third-party claim alleging that Subscriber's use of the Services in the form provided by Mark43 and when used in accordance with the Documentation and in compliance with this Agreement infringes that third party's U.S. copyright, U.S. patent issued as of the Effective Date, or U.S. trademark, and shall pay the amount of any adverse final judgment or settlement to which Mark43 consents. Mark43 shall have no obligation or liability under this Section 10.1 (Indemnification by Mark43) to the extent the third-party claim arises from: (a) Subscriber's or its Affiliates' failure to incorporate a software or other update or upgrade made available by Mark43 that would have avoided the alleged infringement; (b) modification of the Services, any Application, Software or Hardware by anyone other than Mark43; (c) specifications, instructions, features, functions or designs or other elements provided by or requested by Subscriber or its Affiliates; (d) use of the Services, any Application or Software in combination with any other product, service, process or material not provided by Mark43 (including, without limitation, Integrated Applications, Integrated Application Data and Subscriber Data); or (e) use of the Services, any Application or Software in a manner not contemplated by this Agreement. If the Services are (or Mark43 believes are likely to become) the subject of a claim for which Mark43 would be obligated to defend and indemnify pursuant to this Section, then Mark43 may, at its sole option, obtain for Subscriber the right to continue use of the Services or replace or modify the Services, as applicable, provided there is no material loss of functionality. If neither of the foregoing options is reasonably available to Mark43, in its judgment, then use of the Services may be terminated at the option of Mark43 and Mark43's sole

liability will be to refund any prepaid fees for the Services applicable to periods following the effective date of termination. The remedies provided in this Section 10.1 (Indemnification by Mark43), are Subscriber's sole and exclusive remedies for any third-party claims of infringement or misappropriation of Intellectual Property Rights by the Services.

10.2 Indemnification by Subscriber. To the extent consistent with Applicable Law, Subscriber shall indemnify Mark43, its Affiliates, and their respective employees, officers, and directors against any third-party claim arising out of or related to (a) Subscriber's breach of Section 2.5 (Restrictions on Use), Section 2.6 (Security Obligations) or Section 3.2 (Ownership and Reservation of Rights to Mark43 Intellectual Property); (b) Subscriber Data, including any third-party claim alleging that Subscriber Data infringes or misappropriates the rights of a third party or violates any Applicable Law, and shall pay the amount of any adverse final judgment or settlement to which Subscriber consents; (c) Mark43's disabling a connection to an Integrated Application at Subscriber's request, and (d) Integrated Applications, except to the extent of Mark43's failure to abide by specifications, instructions or other elements requested by the Integrated Application provider or Subscriber that would have avoided the claim, and except to the extent that Mark43 installs any malware, tracking software or disabling devices in the relevant Integrated Application.

10.3 Procedures. Each party shall give the other party prompt notice of any claim to which an indemnification obligation under this Section 10 (Indemnification) may apply and shall reasonably cooperate with the indemnifying party, at its expense, in the defense or settlement of any claim. An indemnifying party's payment obligations under this Section 10 (Indemnification) will be diminished to the extent that it is materially prejudiced by the indemnified party's non-compliance with the foregoing procedures.

11. MISCELLANEOUS.

11.1 Dispute Resolution. Prior to the initiation of any legal proceeding other than one for equitable relief as described in subsection (d) below, the parties shall first attempt to resolve their dispute informally, as follows:

- (a) Within five (5) business days following the written request of a party, designated individual(s) from Mark43 and Subscriber shall meet to resolve such dispute.
- (b) The representatives referred to in paragraph (a) shall meet as often as the parties reasonably deem necessary in order to gather and furnish to the other all information with respect to the matter at issue that the parties believe to be appropriate and germane in connection with its resolution. The representatives shall discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of formal legal proceedings. The specified format for the discussions will be left to the discretion of the designated representatives, but may include the preparation of agreed upon statements of fact or written statements of position.
- (c) If the representatives referred to in paragraph (a) above are unable to resolve the dispute within thirty (30) business days after the dispute is escalated to them, then either party may escalate the dispute to the Chief Operating Officer of Mark43 and the Chief or Sheriff or comparable Subscriber official, for their review and resolution.
- (d) The provisions of this Section 9.4 shall not be construed to prevent a party from instituting, and a party is authorized to institute, judicial or other proceedings either to (i) seek injunctive relief or (ii) avoid the expiration of any applicable legal or contractual limitations period.

11.2 Amendment. No modification, change or amendment to this Agreement shall be effective unless in writing signed by Subscriber and Mark43. No term included in any invoice, estimate, confirmation, acceptance, purchase order or any other similar document in connection with this Agreement will be effective unless expressly stated otherwise in a separate writing signed by Subscriber and Mark43.

11.3 Subcontractors. Except as otherwise set forth in Schedule E, Mark43 may draw on the resources of (and subcontract to) its Affiliates and third-party contractors and subcontractors, within or outside of the United States (each, a "**Mark43 Vendor**") for internal, administrative and compliance purposes or in connection with the hosting or provision of the Service and other products and services to be provided by Mark43 pursuant to this Agreement. Subscriber agrees that Mark43 may provide information, data and materials that Mark43 receives in connection with this Agreement (including Subscriber Data) to the Mark43 Vendors for such purposes. Mark43 shall be permitted to subcontract its obligations under this Agreement to the Mark43 Vendors identified on Schedule E as "Subcontractors" or such other subcontractors as approved in advance by Subscriber (each, a "**Subcontractor**"). Mark43 shall be responsible in accordance with the terms of this Agreement for

performance failures by such Subcontractors that cause Mark43 to breach its obligations under this Agreement.

- 11.4 Cumulative Remedies.** All remedies for breach of this Agreement are cumulative, and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 11.5 Export Compliance.** In connection with this Agreement, Mark43 will comply with all applicable import, re-import, export, and re-export control laws and regulations, including the Export Administration Regulations, the International Traffic in Arms Regulations, and country-specific economic sanctions programs implemented by the Office of Foreign Assets Control.
- 11.6 Compliance with Laws.** Each party shall comply with all Applicable Laws relating or pertaining to the use and provision of the Services. Subscriber shall ensure that its use of all Subscriber Data complies with all Applicable Laws relating to the privacy of third parties or the protection of their personal data promulgated by any governmental, municipal, or legal authority having jurisdiction over Subscriber or the Subscriber Data covered by this Agreement. Each party shall comply with local anti-bribery laws as well as the U.S. Foreign Corrupt Practices Act, as well as any other Applicable Laws and regulations. In connection with its performance under this Agreement, neither party shall directly or indirectly: (A) offer, pay, promise to pay, or authorize the payment of any money, gift or other thing of value to any person who is an official, agent, employee, or representative of any government or instrumentality thereof or to any candidate for political or political party office, or to any other person while knowing or having reason to believe that all or any portion of such money, gift or thing of value will be offered, given, or promised, directly or indirectly, to any such official, agent, employee, or representative of any government or political party, political party official or candidate; (B) offer, promise or give any person working for, or engaged by, the other party a financial or other advantage to (i) induce that person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant function or activity; or (C) request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement. Each party represents and warrants that it shall be responsible for compliance with this provision by all third parties engaged by it to perform services related to this Agreement and shall require that such third parties agree to comply with all legal requirements required of such party under this Agreement.
- 11.7 Supporting Documents.**

The following documents are, by this reference, expressly incorporated into this Exhibit A and are collectively referred to herein as the "Supporting Documents:"

- Schedule A: Services Schedule
- Schedule B: Support Services
- Schedule C: Transition Assistance
- Schedule D: Technical Requirements
- Schedule E: Third-Party Component Terms / Subcontractors
- Schedule F: Data Processing Addendum

This Exhibit A and the Supporting Documents shall be construed to be mutually complementary and supplementary whenever possible. In the event of a conflict that cannot be resolved, the provisions of this Exhibit A itself shall control over any conflicting provisions in any of the Supporting Documents.

SCHEDULE A**Services Schedule**

1. **Services.** The Services covered by this Agreement consists of the following:

a. **Professional Services:** Professional Services are detailed in the Statement of Work.

b. **SaaS Services:**

i. The Applications to be provided are as follows:

A. ANALYTICS (ANA) SKUs:

ANA 1: ANALYTICS BI SUITE VIEWER

Mark43's Analytics BI Suite Viewer includes the following capabilities:

- Interactive dashboards that update visualizations based on filters and legends.
- Drill into data points on visualizations for additional details and analysis.
- Mark43 RMS clients will be able to link from the interactive dashboards directly to Mark43 RMS reports and cases.
- Segment (Pivot) and Filter by any available data explorer field to narrow down queries.
- Visualize lat/long coordinates with pin and heat mapping functionality.
- Visualize data with tables, column graphs, bar graphs, scatter plots, line graph, area graph, pie chart, single value, funnel, timeline and donut graphics.
- Save dashboards for future access.
- Share dashboards with other Analytics Viewer and Explorer users at the department.
- Export data into a variety of formats (Text, Excel, CSV, JSON, HTML, Markdown and PNG).
- Data from RMS/CAD modules is available in near-real-time
- Analytics Viewer licenses provide licensees the ability to view and export business intelligence (BI) dashboards that are either (a) provided in Mark43's default BI suite or (b) created and shared by an Analytics Explorer of Subscriber. The number of user licenses for Analytics Viewers will be specified below.

ANA 1 SPECIFICATIONS/FEATURES:

- View/export business intelligence dashboards provided by Mark43
- View/export business intelligence dashboards created and shared by a Subscriber Analytics Explorer user.

ANA 2: ANALYTICS BI SUITE EXPLORER

Mark43's Analytics BI Suite (Explorer) includes the following capabilities:

- Interactive dashboards that update visualizations based on filters and legends.
- Drill into data points on visualizations for additional details and analysis.
- Mark43 RMS clients will be able to link from the interactive dashboards directly to Mark43 RMS reports and cases.
- Segment (Pivot) and Filter by any available data explorer field to narrow down queries.
- Visualize lat/long coordinates with pin and heat mapping functionality.
- Visualize data with tables, column graphs, bar graphs, scatter plots, line graph, area graph, pie chart, single value, funnel, timeline and donut graphics.
- Save dashboards for future access.
- Share dashboards with other Analytics Viewer and Explorer users at the department.
- Export data into a variety of formats (Text, Excel, CSV, JSON, HTML, Markdown and PNG).
- Data from RMS/CAD modules is available in near-real-time
- Analytics Explorer licenses provide licensees the ability to perform all the actions of a Analytics View user plus the ability to create, modify and delete business intelligence dashboards. Analytics Explorer users can share their business intelligence dashboards with all of the Analytics Viewer and Analytics Explorer users of Subscriber. Analytics Explorer users can explore the data from any Data Explorer based Dashboard. The number of user licenses for Analytics Explorer Users will be specified below.

ANA 2 SPECIFICATIONS/FEATURES:

- Analytics Explorer users can perform all the actions of an Analytics View user plus the ability to create, modify and delete business intelligence dashboards.
- Analytics Explorer users can share their business intelligence dashboards with all of the Analytics Viewer and Analytics Explorer users of Subscriber.
- Analytics Explorer users can explore the data from any Data Explorer based Dashboard.

Subscriber understands and agrees that third-party service providers may impose additional license, warranty and other terms on Subscriber. Subscriber agrees to enter into additional agreements as reasonably required by such third parties and Mark43, including, without limitation, a different warranty/SLA addressing uptime and maintenance.

B. COMPUTER AIDED DISPATCH (CAD) SKUs

N/A

C. DATA LAKE (DLK) SKUs

Mark43 Data Lake is a Microsoft SQL Server (MSSQL) Database that allows the Subscriber to access department data directly via SQL. This database is a near real-time replica of the live Mark43 database. Functionality of this product requires CAD 1: CAD Dispatch or RMS 1: RMS Core.

DLK 1: DATA LAKE - BASE

Provision and support for Data Lake to be used for data backups and Mark43-developed integrations.

DLK 1 PRODUCT SPECIFICATIONS/FEATURES:

- Shared Read-Only Data Lake access
- 2 SQL user/svc accounts
- 2 active connections

Subscriber understands and agrees that third-party service providers may impose additional license, warranty and other terms on Subscriber. Subscriber agrees to enter into additional agreements as reasonably required by such third parties and Mark43, including, without limitation, a different warranty/SLA addressing uptime and maintenance.

D. RECORDS MANAGEMENT SYSTEM (RMS) SKUs**RMS 1: RMS CORE**

Mark43 Core Platform supports advanced functionality around report writing; data sharing; locations, persons, and entity management; and field-based reporting. RMS Core includes Mark43 Records Compliance functionality, which enables records personnel to efficiently generate compliance-related information required by governing LE authorities. The Records Compliance module seamlessly generates the CIBRS validations for officers, enabling workflows that ensure low error rates for submission, keep track of submissions, and generate the submission file from the data within the RMS).

RMS 1 PRODUCT SPECIFICATIONS/FEATURES:

- Arrest Reporting
- Case Management
- Case Supplemental Reporting
- Configurable Fields, Codes, and Validation Rules
- Field-Based Reporting
- Field Interviews / Racial profiling reporting
- File Attachments and Multimedia
- Gang Tracking
- Incident Reporting
- Location Verification / Resolution

- Master Entities / Name Index (Locations, Persons, Property, Organizations, and Vehicles)
- Missing Persons Reporting
- Multi-Agency Data Sharing
- Notifications and Agency-wide BOLO/Alerts
- PDF and CSV Exports
- Quick Search / Advanced Search
- Records Privacy (Sealing, Purging, and Expunging)
- Shapefile Management
- System Auditing
- Use of Force Reporting
- Tow / Impound Vehicle Reporting
- User Management
- Compliance code mapping for automated data capture
- View and create queue of reports needing records review
- Data validation during report submission to ensure compliant reporting
- Configurable fields and validation rules
- Ability for administrators to override automated SRS or NIBRS coding
- Automatically generate monthly SRS and NIBRS submissions
- Task & Request Tracking
- Records without a REN
- Behavior Crisis Report
- Flexible Report Configurations for custom report types (e.g. Permits, Registrations, False Alarm Reports, etc.)
- NIBRS workspace features:
 - View history of previous NIBRS submissions and re-download previous submissions
 - Submission summary statistics to understand number of reports, number of reports with errors, and current error rates
 - Interactive dashboard allowing users to directly access reports that contain submission errors and require updates
 - Customized error message for improved usability and step-by-step instructions for resolving errors

RMS 2: RMS CASE MANAGEMENT MODULE

The Mark43 Case Management module enables detectives to seamlessly use the RMS to manage their cases. Incidents that require further investigation or follow-up may be referred to an investigator before they are closed or submitted to the prosecutor for a charging decision. Depending on the department's size and policies, the assignment may be made to a patrol officer, generally the officer who responded to the original incident, or the department's investigative unit. Functionality of this module requires RMS 1: RMS Core.

RMS 2 PRODUCT SPECIFICATIONS/FEATURES:

- View and create case assignment and routing queues
- Assign lead investigator, supervisors, and assigned unit
- Configurable case due dates and reminders
- Create and assign tasks and set due dates
- Create case notes for internal activity tracking
- View and download case associated files and multimedia
- Export case information to PDF
- Search and sort cases by a number of criteria, including date, assignee, investigative unit, status, and more
- Configurable case type templates
- Configurable role-based Case Management permissions and abilities
- Robust audit logs and activity tracking
- View case history from initial assignment through final disposition
- Separate statuses for compliance reporting (UCR/NIBRS) and internal case status tracking
- Seamless integration between Case Management and RMS reporting and master entity profiles modules

- Availability of Case Management data in Analytics BI Suite for robust reporting capabilities
- Case review and approval workflows
- Automated triggered notifications and alerts
- Link related cases to one another

RMS 3: RMS PROPERTY AND EVIDENCE MANAGEMENT MODULE

Mark43 Property and Evidence Management Module and accompanying mobile application that supports the intake, management, auditing, and dispositioning of in-custody property and evidence. Includes: barcode and label generation; tracking chain-of-custody; configuration of storage locations; configuration of chain-of-custody workflows; configuration of retention policies; ability to integrate with signature pads. Functionality of this module requires RMS 1: RMS Core.

RMS 3 PRODUCT SPECIFICATIONS/FEATURES:

- Seamless integration and data transfer between Property and Evidence Management Module with RMS reporting and master entity profiles
- Robust property and vehicle data collection including NIBRS and UCR mapped fields
- Cross-reference existing property and vehicles during data collection
- Item thermal label printing and barcode scanning for property and storage locations
- Chain-of-custody tracking and workflows
- Bulk evidence movement and processing
- Mobile evidence application for barcoding scanning, chain-of-custody updates, inventory/auditing, and more (Android and iOS supported)
- Signature pad hardware integration, as well as electronic signature capture through mobile evidence application
- Audit and inventory tools and reporting across storage locations and responsible personnel
- Configurable retention policies based on linked offense codes and reason for police custody of property
- Automated disposition requests upon retention policy expiration and release timers
- Automated triggered notifications and alerts
- Configurable notification routing for disposition requests and approvals
- Split items while maintaining integrity of chain-of-custody
- Property staff remarks
- Search and sort evidence across a variety of criteria
- Configurable storage location schema with up to ten layers of sub-locations
- Configurable role-based evidence permissions and abilities
- Support for unlimited property file and multimedia attachments
- Configurable evidence label export format
- CSV and PDF template exports available including receipts and pull-sheets

RMS 4: RMS WARRANTS MODULE

RMS module that enables warrant administrators to actively log and track warrants within the Mark43 RMS. For an additional fee, the customer can select to include an integration with a message switch provider (see SKU PAR 4: Message Switch Integration). Functionality of this module requires RMS 1: RMS Core.

RMS 4 PRODUCT SPECIFICATIONS/FEATURES:

- Track warrants within your jurisdiction
- Track internal records workflows
- Track and update warrant service activities
- Automated warrant status updates
- File and multimedia attachments
- Search and sort warrants across a variety of criteria
- Active warrant alerts on person profiles
- Configurable role-based warrant permissions and abilities
- Exporting abstracts, notices (letters), and warrant activities

- Entry and cancellation of warrants in external databases (State-run databases or NCIC) with purchase of DEX 2: RMS Data Exchange and PAR 3: Message Switch Integration)
- Seamless integration between Arrest/Booking modules, and the Warrants module
- Integrated and cross-referenced master entity profiles (Persons, Property, Organizations, and Vehicles)
- Automated warrant creation via integration, and capability to hand-enter warrant data
- Availability of Warrant data in Analytics BI Suite for robust reporting capabilities

RMS 5: RMS HANDHELD MOBILE COLLECTION

RMS module that enables warrant administrators to actively log and track warrants within the Mark43 RMS. Functionality of this module requires RMS 1: RMS Core.

RMS 5 PRODUCT SPECIFICATIONS/FEATURES:

- Touch ID and Face ID login
- Capture and view photos
- Create notes using speech-to-text
- Scan driver's licenses (select State support)
- Set current location on map using phone GPS
- Search and view integrated master entity profiles (Persons, Property, Organizations, and Vehicles)
- Search and view RMS reports
- Archive capability
- Seamless sync of data between mobile and web RMS applications
- Create and pre-fill RMS report using mobile collection data

RMS 7: RMS FILLABLE PDFs

The Mark43 Fillable PDFs feature enables an agency to create a custom, fillable PDF template that populates information mapped from supported fields in a standard Mark43 RMS report type. Requires department license to Adobe Pro.

RMS 7 PRODUCT SPECIFICATIONS/FEATURES:

- Export custom, fillable PDF template based on non-Mark43 templates
- Populate the fillable PDF template with the information entered in the linked Mark43 report type
- Configure which supported fields populate the fillable PDF using Adobe Pro
- Support export templates that are not natively supported in the Mark43 RMS

RMS 8: QUICKCRASH REPORTING

Mark43's QuickCrash Reporting module allows for seamless and mobile data collection, documentation and reporting on vehicle collisions.

RMS 8 PRODUCT SPECIFICATIONS/FEATURES:

- MMUCC (Model Minimum Uniform Crash Criteria) Compliant Data Capture
- License Scanning
- Drag and Drop Diagram Builder
- Crash Data Sharing and Syncing between Devices
- License Plate Lookup
- Satellite Map with GPS Coordinates
- Narrative/Templates
- Narrative Dictation
- Media/Photos Section
- In-App Messaging
- PDF Rendering (email, send, print)
- In-App Feedback

2. **Fees:** For the Initial Term, the following Fees will apply:

Recurring Fees:

<i>Mark43 SaaS Services Recurring Fees</i>	Qty (if applicable)	List Price	Price to Subscriber
ANA 1: Analytics BI Suite Viewer	Not to exceed 10 licenses	\$1,200.00	\$1,200.00
ANA 2: Analytics BI Suite Explorer	Not to exceed 2 licenses	\$960.00	\$960.00
DLK 1: Data Lake Base	1	\$10,000.00	\$10,000.00
RMS 1: RMS Core	Not to exceed 93 sworn	\$111,600.00	\$89,280.00
RMS 2: RMS Case Management	Not to exceed 93 sworn	\$44,640.00	\$35,712.00
RMS 3: RMS Property and Evidence Management	Not to exceed 93 sworn	\$44,640.00	\$0.00
RMS 4: RMS Warrants	Not to exceed 93 sworn	\$44,640.00	\$15,624.00
RMS 5: Mobile Field Collection	Not to exceed 93 sworn	\$44,640.00	\$0.00
RMS 7: RMS Fillable PDFs	Included	\$7,000.00	\$4,900.00
RMS 8: QuickCrash Reporting	Not to exceed 93 sworn	\$11,160.00	\$0.00
Subtotal - Mark43 SaaS Services		\$320,480.00	\$157,676.00
<i>Mark43 Professional Services Recurring Fees</i>	Qty (if applicable)	List Price	Price to Subscriber
Support & Maintenance - Interfaces	1	\$2,000.00	\$0
Subtotal - Mark43 Professional Services		\$2,000.00	\$0
<i>Partner Products and Services Recurring Fees</i>	Qty (if applicable)	List Price	Price to Subscriber
PAR 2: Third-Party Terminal (via CLIPS)	Not to exceed 10 device licenses	\$4,800.00	\$4,800.00
Subtotal - Partner Products and Services		\$4,800.00	\$4,800.00
Total Recurring Fees		\$327,280.00	\$162,476.00*

*For the avoidance of doubt, this is the recurring fee that will serve as the baseline for the recurring fees to be charged during any Renewal Term. Additional increases may be applied at any time during the Initial Term if required quantities increase.

One-Time Fees:

<i>Mark43 Implementation Tenant – One-Time Fees</i>	Qty (if applicable)	List Price	Price to Subscriber
Implementation Tenant (provisioning environments for configuration, testing, & training during Implementation Period)	1	\$309,320.00	\$157,676.00
Subtotal – Implementation Tenant		\$309,320.00	\$157,676.00

<i>Mark43 Professional Services – One-Time Fees</i>			
	Qty (if applicable)	List Price	Price to Subscriber
IMP 2: Implementation	n/a	\$90,000.00	\$63,000.00
Interface Development: CLETS/NCIC (see Partner Products and Services fees)	n/a	See Partner Fees	See Partner Fees
Interface Development: Coplink	n/a	\$0	\$0
Interface Development: TriTech CAD	n/a	\$15,000.00	\$10,500.00
Interface Development: SWITRS/Crossroads	n/a	\$0	\$0
Interface Development: Coplogic	n/a	\$0	\$0
Subtotal - Professional Services		\$105,000.00	\$73,500.00
<i>Partner Products and Services – One-Time Fees</i>			
	Qty (if applicable)	List Price	Price to Subscriber
Implementation Services for PAR 2: Third-Party Terminal (via CLIPS)	3 days training, 2 days install/cutover	\$6,400.00	\$6,400.00
Subtotal - Partner Products and Services		\$6,400.00	\$6,400.00
Total One-Time Fees		\$420,720.00	\$237,576.00

Contractor will notify Subscriber of any changes to the fees for any Renewal Term at least forty-five (45) days prior to the start of the Renewal Term. Any increase to the fees for any Renewal Term may not exceed the lower of three percent (3%) or the local CPI (Series ID: CUURS49BSA), year over year.

3. **Payment Schedule.**

- a. Initial Term: Subscriber will pay the Fees detailed in Section 2 above according to the following schedule during the Initial Term.

Year	Details of Payments and Due Dates	Amount Due
1	Year 1 Payment, due according to the following schedule:	\$237,576.00
	- Upon Approval of Project Plan	\$23,757.60
	Upon Completion of Hardware & Software Installation	\$35,636.40
	- Upon Completion of Functional Testing	\$35,636.40
	- Upon Completion of Training	\$35,636.40
	- Upon Completion of Go-Live	\$47,515.20
	- Upon Final System Acceptance	\$35,636.40
	- Upon 3 months Successful NIBRS/CIBRS Submission (Submission error rate <3%)	\$23,757.60

2	Year 2 Payment, due on the first anniversary of the Effective Date.	\$162,476.00
3	Year 3 Payment, due on the second anniversary of the Effective Date.	\$162,476.00
4	Year 4 Payment, due on the third anniversary of the Effective Date.	\$162,476.00
5	Year 5 Payment, due on the fourth anniversary of the Effective Date.	\$162,476.00
6	Year 6 Payment, due on the fifth anniversary of the Effective Date.	\$162,476.00
	6 YEAR TOTAL	\$1,049,956.00

- b. Renewal Term: Fees for any Renewal Term will be paid in full in advance on the first day of the Renewal Term.

SCHEDULE B

Support Services

1. Support Services.

a. Error Reporting

When reporting a failure of the Services to perform substantially in conformance with the Agreement (an “**Error**”), Subscriber shall use the phone number, email address, or Mark43 Support Portal URL identified in the Agreement (or otherwise provided to Subscriber by Mark43 from time to time, including by email) during the hours of support set forth herein.

Subscriber personnel submitting support requests must be reasonably trained in the use and functionality of the Services and familiar with the Agreement and, before submitting a support request to Mark43 hereunder, must use reasonable efforts to ensure a perceived Error is not due to a problem with Subscriber’s (or its other third-party providers’) equipment, systems, software or connectivity or due to improper, non-conforming or unauthorized use of the Services by or on behalf of Subscriber.

Subscriber will include with each support request, further detailed in Section D below: (i) Subscriber’s initial assessment of the Response Priority (including identification of the Error and the approximate percentage of Authorized Users impacted); (ii) sufficient information to enable Mark43 to identify and replicate the Error; and (iii) contact information for Subscriber personnel familiar with the Error who will be available to Mark43 to assist with resolution of the Error on an ongoing basis until the Error is resolved.

b. Response Priority Determination

Mark43 will validate Subscriber’s Response Priority designation, or notify Subscriber of its Response Priority designation if it is different than Subscriber’s. If requested, Mark43 will provide Subscriber with the basis of its determination. In the event of a conflict regarding the appropriate Response Priority designation, each party shall promptly escalate such conflict for resolution by the parties’ management, during which time the parties shall continue to handle the support issue in accordance with the Mark43 Response Priority designation. In the rare case that a conflict requires a management discussion, both parties shall be available within one hour of the escalation.

c. First Response, Resolution, and Updates

Upon notification by Subscriber of an Error in accordance with this Exhibit and subject to Mark43’s identification and replication of the Error, Mark43 will respond to each case in accordance with the First Response Times and Communication Commitments described in the charts below. First Response Time is the period from the time the Error was logged with the Mark43 Support Team until Mark43 responds to Subscriber (and escalates within Mark43, if appropriate). A first response is defined as a non-automatic means where an agent will reach out to gather additional details and may not include a solution or workaround. Because of the widely varying nature of issues, it is not possible to provide specific resolution commitments. Actual resolution time will depend on the nature of the case and the resolution itself. Resolution methods are defined below. A resolution may consist of a fix, workaround, delivery of information, or other commercially reasonable solutions to the issue.

d. Subscriber’s Obligations

Mark43’s provision of the support services described in this Exhibit is subject to Subscriber cooperating fully and on a timely basis with reasonable requests of Mark43 for accurate information and access to Subscriber personnel with sufficient availability and knowledge to enable Mark43 to provide the support services, including accurate information and assistance reasonably required to detect, replicate, and correct Errors. In the event Mark43’s response, resolution, or update times are negatively impacted by delayed responses by Subscriber personnel or Subscriber’s failure to otherwise comply with its obligations under this Exhibit, timeframes will be extended.

First Response Commitment

Red	Orange	Yellow
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1 hour 24/7	2 hours 8am - 8pm EST, 7 days	8 hours 8am - 8pm EST M-F
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Communication Commitment

	Red	Orange	Yellow
Status page updates	A status update will be posted as soon as Mark43 is notified and updated every 30 minutes thereafter until resolved.	n/a	n/a
Email/phone updates	After initial Mark43 response, within 1 hour of any additional client questions about the same issue until resolved.	After initial Mark43 response, within 1 business day of any additional client questions until issue is resolved. Client will receive notification via email once the issue fix has been scheduled and again when the issue has been fixed.	After initial Mark43 response, within 2 business days of any additional client questions until issue is resolved. Client will receive notification via email once the issue has been fixed.

Priority Definitions

- *Red* - An Error due to Mark43's systems that results in the inoperability or substantial impairment of a core function for the majority of Subscriber's Authorized Users, provided there is no feasible workaround. Examples include: Authorized Users cannot access the Application; CAD units cannot be dispatched; reports cannot be created.
- *Orange* - An Error due to Mark43's systems that results in the inoperability or substantial impairment of a critical workflow for the majority of Subscriber's Authorized Users, provided there is no feasible workaround. Examples include: significant lagging/slowness; inability to process persons in custody; inability to export reports or cases for same or next day court deadlines; inability to submit reports.
- *Yellow* - An Error due to Mark43's systems for which a reasonable workaround is available.
- *None* - There are a number of low-impact issues, how-to questions, and feature requests that do not fall into one of the categories above and are not subject to the outlined First Response or Communication Commitments.

Issue Escalation & Resolution Methods: Customer-reported issues are escalated within Mark43 by a well-defined internal process. Mark43 works to resolve issues based on the issue severity/impact, by employing one or more of the following methods:

- Providing client with a reasonable workaround
- Adjusting system/hosting configurations or setup
- Direct database modifications
- Releasing a fix out-of-cycle (patching)
- Releasing a fix as part of the regular release cycle
- Other commercially reasonable solution

Subscriber will be notified of status changes either through Mark43's status page and/or via email updates in a support ticket.

2. **Service Level Agreement.** Mark43 shall provide the Applications in accordance with the following service levels ("SLA"). For purposes of this section, "**Regular Usage Period**" for any Application commences upon the occurrence of Go Live for that Application.

- a. **Monthly Uptime Commitment.**

Following Cutover to the applicable In-Scope Mark43 Application, Mark43 will use commercially reasonable efforts to make the In-Scope Mark43 Application available with the Monthly Uptime Percentage corresponding to that Application (the "**Uptime Commitment**"), as follows:

RMS Application Availability: During any calendar month of a Regular Usage Period, the RMS shall be available to users no less than 99.9% of the time on a 24x7 basis, excluding scheduled maintenance of the RMS ("RMS Scheduled Downtime"); provided, however, that Mark43 is not responsible for any downtime of the RMS caused by Third Party Data services (e.g. Department of Motor Vehicles license plate database), or Third Party Components, and such Third Party downtime will not count against the service levels promised herein; provided, further, that Mark43 shall be responsible for any downtime of RMS caused by Integrated Third Party Software (as defined below) solely to the extent specified in Section 7I below ("Service Levels for Integrated Third Party Software"). Mark43 shall provide Subscriber with prompt notification as soon as it becomes aware of any actual or potential unscheduled downtime (defined below) of the RMS, as well as continual periodic updates during the unscheduled downtime regarding Mark43's progress in remedying the unavailability and the estimated time at which the RMS shall be available.

For each In-Scope Mark43 Application, the "Monthly Uptime Percentage" is calculated as set forth below by subtracting from 100 percent the percentage of minutes during the month in which the In-Scope Mark43 Application experienced Downtime.

Monthly Uptime Percentage = $(100) - ((\text{minutes of Downtime} * 100) / (\text{total minutes in month}))$

b. Service Credit Calculation.

RMS Service Credits. In the event that Mark43 fails to make the RMS available at least 99.9% of the time in any given month during the Regular Usage Period due to RMS Unavailability (as defined below), Mark43 will credit the Subscriber's account for the unavailable RMS as follows:

RMS Availability (Monthly)	Credit Percentage
Above 99.9%	0%
99.8 – 99.0%	10%
98.9 – 98.0%	20%
Below 97.9%	30%

"RMS Unavailability" is defined as the percentage of minutes per month in which the RMS is completely and generally unavailable for Subscriber's use (but not the use of any one Authorized User), provided that RMS Unavailability does not include any unavailability attributable to: (a) RMS Scheduled Downtime for maintenance (whether by Mark43, by a vendor, or by Subscriber); (b) acts or omissions of Subscriber or any Subscriber user of the RMS; (c) server downtime related to connectivity issues resulting from Third Party-managed VPN access to hosted server or Subscriber internal network problems; (d) defects or bugs in the Applications or Software caused by Subscriber, any Authorized User, or any Affiliate, employee, agent or independent contractor of Subscriber; or (e) any other cause(s) beyond Mark43's reasonable control, including but not limited to those caused by Third Party Data services (e.g. Department of Motor Vehicles license plate database), Third Party Components, overall internet congestion or a force majeure. Subscriber will be responsible for immediately notifying Mark43 of all Third Party-managed VPN access and internal or external (e.g. internet service provider) network problems that arise.

"Credit Percentage" means the applicable percentage of the portion of the Fees attributable to Services in the calendar month in which the RMS Unavailability occurs. For example, if Subscriber has paid Mark43 \$1,000 for one year of a Regular Usage Period, and the RMS Availability falls to 99.5% during any calendar month in that year, then Mark43 will owe Subscriber a ten percent (10%) credit on that month's portion of the Fee, or: $\$1,000/12 = \83.33 per month, and 10% of $\$83.33 = \8.33 . In this example, Mark43 would owe Subscriber \$8.33 in credit for the month in which RMS Availability fell to 99.5%.

In order to receive this credit, Subscriber must notify Mark43 in writing within fifteen (15) days following the end of the month the RMS Unavailability occurred. All claims are subject to review and verification by Mark43 prior to any credits being granted. Mark43 will acknowledge credit requests within fifteen (15) business days of receipt and will inform Subscriber whether such claim request is approved or denied. The issuance of RMS Service Credit by Mark43 hereunder is Subscriber's sole and exclusive remedy for any failure by Mark43 to satisfy the service levels set forth in this Section 2(b).

c. **Requesting Service Credits.**

In order to receive a Service Credit, Subscriber must notify Mark43 in writing at 250 Hudson Street, 3rd Floor, New York, NY 10013, Attn: Accounting, with a copy to accounting@mark43.com, or such other address provided by Mark43 from time to time, within fifteen (15) days following the end of the month in which the Downtime occurred. Claims must include the words "SLA Credit Request" in the subject line; the dates and times of each Downtime incident that Subscriber is claiming occurred; and any documentation to corroborate Subscriber's claim of Downtime, ensuring removal or redaction of any confidential or sensitive information in these logs. All claims are subject to review and verification by Mark43 prior to any Service Credits being granted. Mark43 will acknowledge requests for Service Credits within fifteen (15) business days of receipt and will inform Subscriber whether such claim request is approved or denied.

If Mark43 confirms that the Uptime Commitment has not been met in the applicable calendar month, Subscriber will be issued a Service Credit within one billing cycle following the month in which Subscriber's request is confirmed by Mark43. Subscriber's failure to provide the request and other information as required above will disqualify Subscriber from receiving a Service Credit. Service Credits will not entitle Subscriber to any refund or other payment from Mark43 and are non-transferable. The parties acknowledge and agree that Service Credits are intended as genuine pre-estimates of loss that may be suffered as a result of any failure to achieve Uptime Commitments and will not be deemed to be penalties. To the extent legally permitted, the issuance of a Service Credit by Mark43 hereunder is Subscriber's sole and exclusive remedy for any failure by Mark43 to satisfy the Uptime Commitment.

d. **Additional Definitions.**

"Downtime" with respect to any single In-Scope Application means time in which the Application is not accessible or available to Subscriber for reasons other than those resulting directly or indirectly from an SLA Exclusion. For the avoidance of doubt, slow performance does not constitute lack of accessibility or availability and shall not count as Downtime, unless there is a total loss of ability for the substantial majority of Authorized Users to perform any one of the In-Scope Application Features so as to constitute a total loss of service of that Application, in each case in Mark43's reasonable discretion. The concurrent loss of service of two or more In-Scope Application Features within the same Application will count as a single Downtime event. At the end of each month, Mark43 adds "Downtime" periods together to calculate the overall monthly "Downtime."

"In-Scope Mark43 Application" means the web-accessible Applications identified in subsection (a) above, provided that Subscriber has purchased a subscription for the Applications and signed a valid Agreement with Mark43. Under no circumstance shall any reference to an Application that Subscriber has not purchased a subscription and signed an Agreement for be construed to entitle Subscriber to use such Application. For the avoidance of doubt, In-Scope Mark43 Applications do not include mobile versions or Applications that are in beta testing.

"In-Scope Application Features" means:

- For RMS Application: (i) the ability to login to the Mark43 RMS; (ii) the ability to view and edit reports and names, property, and vehicles; (iii) the ability to view and edit cases; and (iv) the ability to search for entities within the RMS.

"Monthly Uptime Percentage" has the meaning set forth in Section 1 of this SLA.

"Scheduled Maintenance" means scheduled work related to the Mark43 Application or the hosting environment, which may cause inaccessibility or unavailability of the Mark43 Application. Except as set forth below, Mark43 shall provide at least seven (7) days' advance notice of Scheduled Maintenance whenever practicable, and in no circumstances less than three (3) days' advance notice. In the event that Mark43 determines it is appropriate to perform emergency work related to the Mark43 Application or emergency work is performed related to the hosting environment, such work will be deemed Scheduled Maintenance, provided Mark43 uses reasonable efforts under the circumstances to provide Subscriber with notice at least twenty-four (24) hours prior to such emergency work. Notice of Scheduled Maintenance may be provided by email and, in the case of emergency work, may also be provided by telephone.

e. **SLA Exclusions.** The Uptime Commitment does not apply to any inaccessibility or unavailability of an Application (the **"SLA Exclusions"**):

- That is not an In-Scope Mark43 Application;
- That occurs prior to Cutover;
- That results from Scheduled Maintenance;

- That results from a suspension or remedial action, as described in the Agreement;
- Caused by factors outside of Mark43's reasonable control, including any force majeure event, Internet access, or problems beyond the demarcation point of the Mark43 cloud environment;
- That results from actions or inactions of Subscriber or any third party;
- That is attributable to Subscriber's own computer equipment or devices, or failure of any software, hardware or service not supplied by Mark43 pursuant to the Agreement, including, without limitation, issues related to network connectivity, internet connectivity or network performance issues at any Subscriber locations, server downtime related to connectivity issues resulting from third-party-managed VPN access to a hosted server or Subscriber's internal network problems, or Software (including interfaces) that is not supplied or maintained by Mark43;
- That results from any Integrated Application, Third-Party Data, or any Subscriber-provided application or program; or
- That results from the failure by Subscriber, its Affiliates, or any Authorized User to incorporate a Software or Service update or upgrade made available by Mark43.

SCHEDULE C**Transition Assistance****1. Preparation.**

- a. Subscriber will provide the desired cutoff date of the SaaS Services (the “**Cutoff Date**”) to Mark43, at which time all existing user accounts will be terminated.
- b. For one (1) year following the Cutoff Date, Mark43 will provide one (1) transition account for Subscriber to access the Applications and retrieve all Subscriber Data as further detailed below

2. Content.

- a. Upon Subscriber’s request, Mark43 will deliver and make available Subscriber Data to Subscriber within four (4) weeks of the Cutoff Date. Subscriber Data will be delivered as follows:
 - Searchable PDFs: Mark43 will create searchable PDFs of each record (each, a “**Record**”) and provide them to the Subscriber for download. Subscriber may request, and Mark43 will consider, other formats in which to create the Records, but the final format of all Records will be determined in Mark43’s sole discretion. Records can be uploaded to Subscriber’s new system by the Subscriber or its new vendor.
 - Database Export: Subscriber Data will be provided to Subscriber as an export of Mark43’s Microsoft SQL Server Data Lake database. To use the data, Subscriber will need to have access to its own Microsoft SQL Server database.
 - Document/File Export: Documents/file attachments stored within the Mark43 system will be provided to the Subscriber in a zipped folder. Within the folder the Subscriber will find all files with a unique ID appended to the filename. A csv file will be provided to relate the unique file ID with the attached entity type and Mark43 ID.
- b. If files are too large for practical internet transmission, an encrypted hard drive will be provided.

3. Support.

- a. Mark43 will maintain Subscriber Data in the Mark43 Applications for up to one (1) year following the Cutoff Date.
- b. Mark43 will resolve any issues it deems to be the result of errors in the Mark43 platform or export process for a period of six (6) months after the Cutoff Date.
- c. No less than two (2) years after the Cutoff Date, Mark43 will delete Subscriber Data from all Mark43 online systems (e.g. primary database, replica databases, search databases, application caches, etc.) other than database backups, audit logs and server system logs.
- d. Within six (6) months from the date of deletion of Subscriber Data from all Mark43 online systems, all Subscriber Data will be erased from database backups.
- e. Notwithstanding the foregoing, Mark43 reserves the right to retain Subscriber Data on audit logs and server system logs and in support tickets, support requests and direct communications with Mark43.

4. Additional Services.

- a. Ongoing Web Access: Subscriber may elect to purchase a read-only tenant of the Mark43 system. This service enables Subscriber to utilize a single user log-in to view and access data entered into the Mark43 system up to the date of termination or expiration of this Agreement. Under this service, Subscriber will not have permission to change, modify or update any Subscriber Data.
- b. Additional Professional Services: If the Subscriber requires additional Professional Services, these will be billed according to the current market rate for such Services.

- 5. Fees.** In the event that any Fees have not been paid as required under this Agreement, Mark43 may decline to provide the support outlined in this Schedule C until such Fees are paid in full.

SCHEDULE D**Technical Requirements**

This Schedule lists the minimum technical requirements required for Mark43's RMS, CAD, Evidence Management and Data Exchange applications. This also describes the requirements for Mark43 interface servers. Integrated Application Providers and subcontractors may have additional requirements that are not listed here.

1. MARK43 RMS**1.1 RMS Workstation Requirements**

Item	Minimum	Recommended
Operating System	Windows 7+, Mac OS X 10.X	Windows 10, Mac OS 10.X
Processor	1x dual-core processor	1x quad-core processor or greater
Architecture	x64 / x86	x64
Memory	4 GB	6 GB+
Network Card	1x 2 Mbps+ NIC	1x 10 Mbps+ NIC
Display(s)	1x 1024x768	1x 1920x1080
Hard Drive	1 GB available space	5 GB available space
Graphics Card	N/A	N/A
Bandwidth	2 Mbps	5 Mbps+

1.2 RMS Workstation Site Internet Requirements

Mark43 RMS operates as a single-page application where most of the heavy download load is needed only on initial page load for each user. For RMS, Mark43 recommends an overall internet bandwidth connection of 1+ Mbps per concurrent user using that connection. Actual performance and usage may vary depending on user usage of other internet-connected applications and your ISP.

1.3 RMS Mobile Data Terminal Requirements

Item	Minimum	Recommended
Operating System	Windows 7+, Mac OS X 10.X	Windows 10, Mac OS 10.X
Processor	1x dual-core processor	1x dual-core processor or greater
Architecture	x64 / x86	x64
Memory	2 GB	4 GB+
Network Card	2 Mbps (4G LTE)	5 Mbps+ (4G LTE)
Display(s)	1x 1024x768	1x 1024x768+
Hard Drive	1 GB available space	5 GB available space
Graphics Card	N/A	N/A
Bandwidth	2 Mbps (4G LTE)	5 Mbps+ (4G LTE)

1.4 RMS Browser Requirements

Mark43 RMS is web-based and requires a modern web browser to access the system. Mark43 RMS supports the following browser versions that receive technical support and security updates from the browser vendor.

- Google Chrome (latest)
- Microsoft Edge (latest)
- Mozilla Firefox (latest)

1.5 RMS Smartphone Mobile Application Requirements

The Mark43 RMS Smartphone Mobile Application is available on iOS.

Item (iOS)	Supported	Recommended
Operating System	Apple iOS 10, 11, 12	Apple iOS 12
Device	iPhone 6, 6 Plus, 6S, 6S Plus iPhone SE iPhone 7, 7 Plus iPhone 8, 8 Plus iPhone X, XS, XS Max, XR iPad Air 2, 3rd gen iPad Mini 3, 4, 5th gen iPad Pro 1st gen, 2nd gen, 3rd gen iPad 5th gen, 6th gen	iPhone XS iPad gen 6

1.6 Evidence Smartphone Mobile Application Requirements

The Mark43 Evidence Smartphone Mobile Application is available on iOS and Android.

Item (iOS)	Supported	Recommended
Operating System	Apple iOS 10, 11, 12	Apple iOS 12
Device	iPhone 6, 6 Plus, 6S, 6S Plus iPhone SE iPhone 7, 7 Plus iPhone 8, 8 Plus iPhone X, XS, XS Max, XR iPad Air 2, 3rd gen iPad Mini 3, 4, 5th gen iPad Pro 1st gen, 2nd gen, 3rd gen iPad 5th gen, 6th gen	iPhone XS iPad gen 6

Item (Android)	Supported	Recommended
Operating System	Android 5+	Android 9
Device	Samsung Galaxy S7+	Samsung Galaxy S10

1.7 Evidence Barcode Printer Requirements

The Mark43 RMS Property and Evidence module requires a barcode printer to optimize the evidence management process. Mark43 integrates seamlessly with Zebra barcode printing hardware and requires the following printer:

- ZD420 model number ZD42043-C01E00EZ
- 2000T label
- 5095 Premium Resin ribbon (05095CT11007)
 - o Ribbon roll-only (05095GS11007)

Deviating from this hardware configuration will lead to smeared, stretched or otherwise incorrectly printed barcode labels. For departments with multiple printers, Mark43 recommends purchasing the same model for all locations.

1.8 Evidence Printer Server Requirements

In order for Mark43 RMS to communicate with the barcode printers, an intermediate server to route printing requests is required. This machine can be the same machine as the Interface Servers specified below or standalone in which case it will need the following specifications:

Item	Minimum	Recommended
------	---------	-------------

Processor	2x 2.0+ GHz processors	2x 2.0+ GHz processors
Memory	2 GB	4 GB+
Hard Drive	32 GB HDD storage	64 GB HDD storage

1.9 RMS Fillable PDF Software Requirements

In order for the Subscriber to utilize Mark43 RMS 7 (RMS Fillable PDFs), the Subscriber must have at least one (1) Adobe Professional license.

2. **MARK43 CAD**

2.1 CAD Call Taker / Dispatcher Workstations

Mark43 recommends solely using the Mark43 CAD installed desktop application for CAD call takers and dispatchers. The installed application allows for multi-window functionality and a more seamless user experience for power-users of the CAD application.

Item	Minimum	Recommended
Operating System	Windows 8+	Windows 10
Processor	1x dual-core processor	2x quad-core processor or greater
Architecture	x64	x64
Memory	8 GB	16 GB+
Network Card	1x 5 Mbps+ NIC	1x 10 Mbps+ NIC
Display(s)	1x 1024x768 monitor	2x+ 1920x1080 monitors
Hard Drive	10 GB available space	20 GB available space
Graphics Card	Dedicated video card with 128MB+ memory	2x 512MB NVIDIA Quadro NVS 310, 4 MON
Bandwidth	2 Mbps per concurrent dispatcher	5 Mbps+ per concurrent dispatcher

2.2 CAD Call Taker / Dispatcher Workstation Site Internet Requirements

For CAD, Mark43 recommends an overall internet bandwidth connection of 2+ Mbps per concurrent user using that connection and a backup ISP connection with automatic failover. Actual performance and usage may vary depending on user usage of other internet-connected applications and your ISP.

2.3 CAD First Responder Mobile Data Terminal Requirements

Item	Minimum	Recommended
Operating System	Windows 8+	Windows 10
Processor	1x dual-core processor	1x dual-core processor or greater
Architecture	x64	x64
Memory	2 GB	4 GB+
Network Card	2 Mbps (4G LTE)	5 Mbps+ (4G LTE)
Display(s)	1x 1024x768	1x 1024x768+
Hard Drive	10 GB available space	20 GB available space
Graphics Card	128MB of video memory	256MB+ video memory
Bandwidth	2 Mbps+ (4G LTE)	5 Mbps+ (4G LTE)

Mark43 CAD also requires installing a Windows Service on First Responder MDTs to query message switches, track GPS, monitor performance, and more. This Windows Service requires:

- Powershell installed with Windows 8+

- .NET Core v2.1+
- .NET Framework v4.5+
- A service account with “Log in as service” and administrative permissions
- Completion of all recommended Windows Updates from Microsoft

2.4 CAD Browser Requirements

Mark43 CAD is also web-based and requires a modern web browser to access the system. Mark43 CAD is only supported on the latest version of Google Chrome.

2.5 GPS Tracking

Mark43 CAD First Responder MDTs support tracking GPS from the following hardware:

- Getac machines with internal GPS (BAUD rate of 96k)
- BU-353S4 receivers that plug in
- Cradlepoint routers

GPS Tracking also requires:

- GPS Receiver using NMEA standard (e.g. \$GPxxx messages)
- Dedicated COM port on machines that use external USB GPS devices
- External Antenna strongly recommended
- DIS (a windows service that can capture GPS data in the following formats: a) Sent over a COM port in the NMEA 1 format or b) via UDP in the NMEA 1 format

3. **MARK43 ANALYTICS**

3.1 Data Lake Requirements

Mark43 Data Lake is a Microsoft SQL Server Database and requires a database client that receives technical support and security updates from the vendor. Mark43 recommends using Microsoft SQL Server Management Studio.

3.2 Business Intelligence Suite Requirements

Mark43 Business Intelligence Suite runs embedded within Mark43 RMS and therefore has the same browser requirements as Mark43 RMS.

4. **MARK43 DATA EXCHANGE**

The Mark43 Data exchange functionality is enabled through either the RMS or CAD applications. Additional interface servers may be required to support Mark43 Data Exchange data flows, depending on the department's size and complexity.

5. **MARK43 INTERFACE SERVERS**

5.1 Server Requirements

Interface servers are on-premise servers that Mark43 uses to run interfaces developed by Mark43. These servers allow Mark43 interfaces to access on-premise Subscriber systems and/or run custom interfaces developed by Mark43. Mark43 supports these servers from the VM up and ensures that interfaces running on these servers are maintained and monitored. The table below outlines Mark43's minimum required and recommended server specifications for an interface server setup.

Item	Minimum	Recommended
Number of servers	1	2+
Operating System	Ubuntu 20.04 LTS, CentOS 8, or Red Hat Enterprise Linux 8	Ubuntu 20.04 LTS
Processor	1x quad-core processor	2x quad-core processor
Architecture	x64	x64
Memory	8 GB	16 GB+
Network Card	1x 100 Mbps NIC	2x 1 Gbps+ NICs
Display(s)	N/A	N/A
Disk	128 GB available space	128 GB available space
Graphics Card	N/A	N/A
Bandwidth	10 Mbps	100+ Mbps

5.2 Support

Subscriber provisions these servers and maintains them from hardware/VM up to and including the operating system. Mark43 will maintain the application software installed on this server, which consists of:

- Docker, which runs all the application software in an easily manageable way
- Kubernetes, a container orchestration technology, which allows Mark43 to deploy, update, and monitor the Docker containers running the application software

Subscriber may choose to install other software (e.g. monitoring software) on this server as long as it does not interfere with the operation of the Mark43 provided applications.

5.3 Releases

The Docker containers running on the interface servers are updated as part of the normal Mark43 release cycle. This is to apply updates to interface application code and ensure compatibility with any API changes made to the internal Mark43 API.

5.4 Maintenance

If Subscriber needs to apply patches to the interface server this can be done safely by rotating servers in and out. Subscriber does not need to notify Mark43 when this happens, unless the interface servers are expected to be down for more than 15 minutes, or if Subscriber has only one interface server.

5.5 Networking/Firewall Setup

Inbound:

SSH / Port 22	Originating from within the Subscriber's VPN For Mark43 SSH access
HTTPS / Port 443	Originating from within the Subscriber's VPN For Kubernetes API server communication and evidence labeling printing software (if applicable for Subscriber)
TCP Port 6443	Originating from within the Subscriber's VPN For Kubernetes API server communication
TCP Port 10250	Originating from within the Subscriber's VPN For Kubernetes node metrics

* All IPs and ports inbound from the public internet should be closed.

Outbound:

HTTPS / Port 443	To all network interfaces – 0.0.0.0/0
TCP Port 6443	Originating from within the Subscriber's VPN For Kubernetes API server communication

VPN:

- Mark43 will SSH to this server over the Subscriber VPN to install Docker and Kubernetes, and perform any troubleshooting actions or maintenance tasks that can't be completed via the normal release process

User Accounts:

- Mark43 will need a service account with sudo access on the interface servers

Assigning Static IP Addresses:

- Subscriber will need to take the following steps:
 1. Log in to the server with the username and password.
 2. Enter the following command `sudo nano /etc/network/interfaces`
 3. Delete the line `iface eno1 inet dhcp`
 4. Add the following lines. Replace the text in <> with your network appropriate information. If no on-site DNS servers are available, we recommend using 8.8.8.8 and 8.8.4.4 for your DNS server:


```
iface eno1 inet static
address <IP address>
netmask <subnet mask>
gateway <default gateway>
dns-search <DNS search domain>
dns-nameservers <DNS server> <optional secondary DNS server>
```
 5. Type `control+x` to exit
 6. Press `y` to save
 7. Press `enter` to confirm the name `/etc/network/interfaces`.
 8. Type `sudo reboot` to restart the server.

SCHEDULE E**Third-Party Component Terms /
Subcontractors**

Google: Users are bound by the Google Maps/Google Earth Additional Terms of Service (including the Google Privacy Policy), available by following these links:

Google Maps Terms: https://maps.google.com/help/terms_maps.html

Google Privacy Policy: <https://policies.google.com/privacy?hl=en&gl=us>

Acceptable Use: https://enterprise.google.com/maps/terms/universal_aup.html

Amazon:

Universal Service Terms: <https://aws.amazon.com/service-terms/>

Acceptable Use: <https://aws.amazon.com/aup/>

Auth0 (if elected):

Acceptable Use: <https://cdn.auth0.com/website/legal/files/aup-19.pdf>

RapidSOS (if elected): Subscriber must sign up and accept the terms contained within the following link:

<https://info.rapidsos.com/rapidsos-integrations-signup>

CommSys (if elected): CommSys End User License Terms and Conditions are attached hereto.

Subcontractors (if any): N/A



CommSys End User License Terms and Conditions

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(f) You shall destroy all CommSys Products and Confidential Information if: (i) you cease to use the CommSys Products; (ii) the License Agreement terminates; or (iii) your rights to use the CommSys Products is terminated.

(g) You shall not, directly or indirectly, nor cause or allow any other person to: (i) modify or translate into any other format or language any portion of the CommSys Products or Confidential Information; (ii) use any Confidential Information to create any item which is substantially similar to, competitive with, or performs the functions of any of the CommSys Products; (iii) reverse engineer, disassemble, decompile, or otherwise attempt to derive the source code for or other Confidential Information with respect to, any of the CommSys Products or Confidential Information; or (iv) modify, copy, reproduce, manufacture, adapt, create derivative works of, translate, localize, or port any of the CommSys Products or the Confidential Information, or allow any employee, representative, consultant, agent, or other third party to engage in such conduct.

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WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE. IN NO EVENT SHALL COMMSYS OR MARK43 BE LIABLE FOR INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL, OR OTHER DAMAGES OF ANY KIND WHATSOEVER, INCLUDING, WITHOUT LIMITATION, LOSSES OR DAMAGES ARISING OUT OF CLAIMS FOR LOSS OF BUSINESS, GOODWILL, DATA OR PROFITS, OR ARISING OUT OF CLAIMS FOR TORT, UNDER STATUTE, BREACH OF WARRANTY OR CONTRACT, STRICT LIABILITY, OR OTHERWISE.

SCHEDULE F**Data Processing Addendum**

1. **Definitions.** For purposes of this this Data Processing Addendum (“**DPA**”), “**Subprocessor**” means a Mark43 Affiliate or other third party engaged by Mark43 for the purpose of hosting, storing or otherwise processing Subscriber Data as authorized by the Agreement or otherwise in writing by Subscriber. Terms not otherwise defined in this DPA have the meaning set out in this Agreement.
2. **Subscriber Data.** The obligations in this Exhibit apply to Subscriber Data in the custody or control of Mark43 and its Subprocessors. They do not apply to Subscriber Data in the custody or control of any other party, including Subscriber Data under Subscriber’s custody or control outside of the Services or Subscriber Data maintained by an Integrated Application Provider or transmitted or accessed on or through an Integrated Application.
3. **Disclosure.** Mark43 will not disclose Subscriber Data to any third party except: (i) to Authorized Users; (ii) as permitted under the Agreement; (iii) to its Subprocessors, provided that each Subprocessor agrees to protect Subscriber Data in a manner substantially in accordance with this DPA; or as provided by this DPA with respect to any Disclosure Request. Notwithstanding the foregoing or anything in this DPA to the contrary, Subscriber acknowledges and agrees that (a) Mark43 utilizes major providers of cloud-based services for processing certain Subscriber Data through the Services (each, a “**Cloud Provider**”) (including, as of the Effective Date of the Agreement, Amazon Web Services for hosting and Google for mapping and geolocation services), (b) each Cloud Provider has its own data protection practices that are applicable to its delivery of services to its customers, and (c) Cloud Providers will not agree to separate data protection practices on a customer-by-customer basis; therefore, Cloud Providers will not be required to comply with the obligations in this DPA to the extent that they are inconsistent with each Cloud Provider’s own data protection practices, but Mark43 will use reasonable efforts to assess that each Cloud Provider complies with its own data protection practices, which may include periodic examination of SOC 2 reports or comparable reports made available by Cloud Provider.
4. **Information Security Program.** Mark43 will implement and maintain a written information security program that contains reasonable administrative, technical and physical safeguards intended to protect Subscriber Data from unauthorized access, disclosure, use, modification, loss or destruction.
5. **Access.** Mark43 will maintain appropriate access controls to Subscriber Data, including limiting access to Subscriber Data only to personnel who require such access in order for Mark43 to provide Services to Subscriber or to otherwise exercise Mark43’s rights or perform Mark43’s obligations under the Agreement. Mark43 will require its personnel to protect Subscriber Data in accordance with the requirements of this DPA and will provide its personnel with appropriate information security training.
6. **Information Security.**
 - a. Mark43 maintains its information security program and applicable safeguards at all Mark43 sites at which an information system that stores or otherwise processes Subscriber Data is located.
 - b. Mark43 maintains network security using commercially available equipment and industry standard techniques, including firewalls, router access control lists, intrusion detection and/or prevention systems, penetration testing, vulnerability scanning, and patch management tools.
 - c. Mark43 will encrypt, using industry-standard encryption tools, all Subscriber Data that Mark43: (i) transmits or sends wirelessly or across public networks; (ii) stores on laptops or removable storage media; and (iii) stores on portable devices. Mark43 will safeguard the confidentiality and availability of all encryption keys associated with encrypted Subscriber Data.
 - d. Mark43 installs and maintains endpoint security measures such as anti-virus and malware protection software intended to protect Subscriber Data from malicious code.
 - e. Mark43 undertakes appropriate logging and monitoring to enable recording of information security-related actions and identification of anomalous events.
 - f. Mark43 develops software used to deliver the Services in accordance with secure software development principles.
7. **Security Incident Management.** Unless otherwise prohibited by law, Mark43 will notify Subscriber promptly (and in any event within 72 hours) in the event Mark43 reasonably believes that there has been any unauthorized access, acquisition, disclosure, use, modification, loss or destruction of Subscriber Data (“**Security Incident**”). Mark43 will promptly investigate the Security Incident, will take necessary steps to eliminate or contain the exposure of Subscriber Data, and will keep Subscriber informed of the status of the

Security Incident. Mark43 will provide reasonable assistance and cooperation requested by Subscriber or Subscriber's designated representatives to correct, remediate, or investigate the Security Incident or to mitigate potential damage resulting from it, including any notification that Subscriber may determine appropriate to send to affected individuals, regulators or third parties.

8. **Business Continuity.** Mark43 implements appropriate disaster recovery and business continuity plans and reviews and updates such plans regularly. Back-up copies of critical business information and software are created regularly and tested to verify their integrity.
9. **Audits.** Upon Subscriber's request, Mark43 will make available to Subscriber up to once per year a copy of a third-party assessment, such as a SOC 2 report or comparable report ("**Third-Party Report**"), if Mark43 has obtained such a Third-Party Report for the Services; or if Mark43 has not obtained a Third-Party Report for the Services, Subscriber may provide to Mark43 a security assessment questionnaire related to the Services, which Mark43 will accurately and promptly complete. Such a questionnaire must be reasonable in scope and may include questions seeking verification of compliance with the terms and conditions of this DPA. All Third-Party Reports or information accessed by or otherwise disclosed to Subscriber in connection with any such review will be considered Confidential Information of Mark43.
10. **Return/Disposal.** Upon termination or expiration of the Agreement, Mark43 will cease handling Subscriber Data and will take reasonable steps to return or destroy Subscriber Data according to the timeframes set out in Schedule C of the Agreement. If Mark43 has any legal obligation to retain Subscriber Data beyond the periods otherwise specified by Schedule C, Mark43 will notify Subscriber in writing of that obligation, to the extent permitted by applicable law, and will return or destroy the Subscriber Data in accordance with this DPA as soon as possible after that legally required retention period has ended. If Mark43 disposes of any paper, electronic or other record containing Subscriber Data, Mark43 will take all reasonable steps to do so by: (a) shredding; (b) permanently erasing and deleting; (c) degaussing; or (d) otherwise modifying Subscriber Data in such records to make it unreadable, unreconstructable and indecipherable.
11. **Location of Subscriber Data.** Subscriber Data stored or transmitted through the SaaS Services in Subscriber's user accounts shall be hosted by a Cloud Provider in the United States. Mark43 currently uses AWS Govcloud region as Cloud Provider to host Subscriber Data. Information about AWS' commitment to support customers' CJIS compliance requirements is available here: <https://aws.amazon.com/compliance/cjis/>.

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

Commercial General Liability (CGL):

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

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

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

Automobile Liability:

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

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

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

Professional Liability (Errors and Omissions):

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

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

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

Workers' Compensation Insurance:

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

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

Builder's Risk (Course of Construction):

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

Contractor's or Consultant's Pollution Legal Liability:

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

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

Cyber Liability Insurance

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

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

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

Surety Bonds:

Contractor shall provide the following Surety Bonds:

_____ Bid Bond
 _____ Performance Bond
 _____ Payment Bond

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

Other Insurance Provisions:

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

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

Contractor's general liability and automobile liability policies shall be primary and shall not seek contribution from the City's coverage and be endorsed to add the City and its officers, officials, employees, and agents as additional insureds under such policies using Insurance Services Office form CG 20 10 (or equivalent) on the general liability policy.

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

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

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

X 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 except with thirty (30) days' prior written notice by certified mail, return receipt requested to the City.

X Waiver of Subrogation:

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

_____ Completed Operations

For Construction Agreements, Contractor shall maintain insurance as required by this Agreement to the fullest amount allowed by law and shall maintain insurance for a minimum of five (5) years following the completion of

this project. In the event Contractor fails to obtain or maintain completed operations coverage as required by this Agreement, the City at its sole discretion may purchase the coverage required and the cost will be paid by Contractor.

Deductibles and Self-Insured Retentions (“SIR”):

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

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

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

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

Acceptability of Insurers:

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

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

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

Subcontractors:

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

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

Verification of Coverage:

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

Special Risks or Circumstances

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

Failure to Comply:

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

Applicability of Coverage:

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

Exhibit C

STATEMENT OF WORK

(See attached)



MARK43, INC. IMPLEMENTATION STATEMENT OF WORK CITY OF MILPITAS

Table of Contents

1. STATEMENT OF WORK OVERVIEW 2

2. PROJECT MANAGEMENT 2

3. THIRD PARTY INTERFACE SERVICES 17

4. MESSAGE SWITCH INTERFACE 27

5. ESRI INTERFACE..... 27

6. CUSTOM PDF EXPORTS 29

7. QUICKCRASH MODULE 29

1. STATEMENT OF WORK OVERVIEW

This Statement of Work (SOW) outlines tasks required for the Mark43 Project Team to provide the Mark43 platform functionality to the City of Milpitas (Subscriber) in accordance with the Software License and Services Agreement (SLSA) entered into by Mark43 and Subscriber in conjunction with this SOW. The Mark43 Project Team shall perform in accordance with this SOW, which shall be effective as of the Effective Date. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the SLSA.

This document's intention is to outline the implementation services, customer success services, and third-party interface scope that were purchased along with the Mark43 system and that accompany the Mark43 software implementation. This document outlines project implementation scope, Mark43 responsibilities, Subscriber responsibilities, implementation governance, cutover responsibilities, and a project outline. Any changes to this document will be handled through the Change Control Process outlined in the Change Control section of this document. If a service is not listed in this document, it is not considered part of the project.

2. PROJECT MANAGEMENT

2.1 PROJECT MANAGEMENT OVERVIEW

Mark43 will provide a member of the implementation team who will act as the Project Lead and serve as Subscriber's main point of contact during implementation. The Project Lead will help guide Subscriber through the phases of implementation – from the initial kick-off call, to cutover to live operations – and assist with any questions Subscriber might have throughout the process. The Project Lead aims to bring together recommended best practices, blending implementation and project coordination processes to provide meaningful support throughout the project lifecycle. Implementation services will be governed by the expectation table contained in Section 2.6 of this document.

While the Project Lead is responsible for driving the implementation process, assistance from Subscriber is necessary to facilitate the project. Subscriber's project team will need to set aside time weekly for workflow and configuration validation sessions, data reconciliation, testing, and training. The Project Lead will outline the scope of these responsibilities at the kick-off meeting for the project.

If Subscriber anticipates having limited availability, then Subscriber may want to purchase additional services from Mark43 to reduce the amount of time required from Subscriber. In addition, once live on the System, Subscriber may decide to implement additional functionality or modules. In such cases, Subscriber should handle such requests through the Change Control Process outlined in the Change Control section of this document.

After the implementation has been completed, the Mark43 Customer Success Team will begin the transition to ongoing customer sustainment. After Go Live, Customer Success will take over as the primary point of contact for any outstanding projects, escalations, and maintenance of the system. Customer Success will be available to answer any project-related questions that may come up as you begin using the Mark43 service. In addition, Mark43 staffs a 24/7 Help Desk to assist with ground-level questions as they arise, and an online workflow portal that outlines out of the box Mark43 functionality. Support services are covered by your Annual Subscription, Maintenance & Support Fees.

2.2 PROJECT MANAGEMENT SCOPE AND RESPONSIBILITIES

As stated above, the Project Lead will guide Subscriber through the implementation. Coordinated effort and cooperation from Subscriber is necessary to facilitate the implementation. The following table breaks down general responsibilities for both Mark43 and Subscriber, outlining activities that are included in the scope of the Implementation.

- **R – Responsible:** Does the work to complete the activity
- **A – Accountable:** Ensures work is deemed complete
- **C – Consulted:** Provides input on activity
- **I – Informed:** Receives updates on the progress of activity

		Mark43	Subscriber
Project Management			
Deliverable	Description		
Project Kickoff	Conduct meeting that formally starts the project and sets expectations	R	R / A
Project Management			
Foundation Questionnaire	Completes form that provides key information about the agency, current state infrastructure, and workflows	A	R
Project Plan	Project schedule that indicates the timeline, activities, dependencies, and progress of the project	R	A

		Mark43	Subscriber
Project Communication Plan	Document that outlines the project communications process and cadence	R	A / I
Change Order Request Form	Completes form that requests new project work that is not included in the Statement of Work if desired	I / A	R
Status Report	Provides document that provides regular updates on project activities	R	A / I
Project Schedule Maintenance (Updates/Changes)	Communicates progress updates on project activities	R	A / I
Risk Matrix	Documents outlines project risks and their mitigations	R	A / C / I
Decision Log	Records and maintains significant decisions for the project including interfaces, workflows, and configurations	R	A / C
Workflow Guide Development and Maintenance	Creates document that specifies agency-specific workflows on using Mark43	A / C	R
Configuration Management	Configures the base RMS tenant during implementation	R	A
Fillable PDF Configuration	Configures and maps any fillable PDFs forms to be used in the RMS	A	R
Configuration Maintenance	Configures the base RMS tenant during implementation	A	R
Cutover Plan	Creates document that outlines the plan for cutover and Go Live	R	A / I
Sustainment Plan			
Sustainment Plan	Creates that outlines plan for managing the Mark43 system post cutover	R	A / C / I
New Feature Training	Train subscriber on newly released product features	R	A / I

		Mark43	Subscriber
Manage post cutover interface builds	Develops any post cutover interfaces	R	A / I
Help Desk and Issue Resolution	Manages and triages any reported issues post cutover	R	A / I
Change Management			
Change Management Plan	Creates change management plan for agency	R	R / C / I
Communication Plan	Creates and distributes agency communications on how to use Mark43, training, and Go Live	A / C	R
Training			
Baseline Training Materials	Develops and provide training course materials	R	A / I
Remote Training Walkthroughs	Develops and provide remote training course materials	R	A / I
Train-the-Trainer Logistics / Follow up	Identify Train the Trainers for agency specific training	R / A	R
Agency-Specific Training Logistics	Coordinates logistics and holds training for agency-specific workflows	A / C / I	R
Interface Development			
Interface Scoping and Prioritization	Prioritizes and provides scope for in-scope interfaces	C / I	R / A
Interface Server	Interface server set up and maintenance	C / I	R / A
Third Party System Access	Provide Mark43 access to third party vendor contacts and systems required to develop, test and turn on the interface	A	R
Reference Value Mapping	Map external reference values to Mark43 configured reference values	A	R

		Mark43	Subscriber
Field Mapping	Map external system fields to Mark43 partnership fields	R	A / C
Interface Control Documents (ICDs)	Creates document that describes interface scope and expected behavior	R	A / C / I
Interface UAT	Perform UAT on interfaces in test environments	A	R
Quality Control and Bug Fixes	Address reported bugs based on triage and priority	R	A / C / I
Interface Sustainment	Manage interfaces post-launch	R	A / C
Single Sign On			
Authentication Infrastructure	Install, configure, and maintain their authentication system. Install ADFS if ADFS or SAML SSO is not available	A / I	R
Connection Information	Provide ADFS or SAML SSO connection information to Mark43	A / I	R
Auth0 Configuration	Configure Auth0	R	A / I
Analytics			
Data walkthrough (Schema)	Walkthrough Mark43 data lake schema so that users can query	R	A / I
Product			
Roadmap Updates	Provides updates on Mark43 Product roadmap as they are available	R	A / I

The following activities and responsibilities are excluded from the scope of the implementation:

- Implementation of products or delivery of services not included within this SOW or the SLSA
- End user or train-the-trainer training for any employee or affiliate of Subscriber beyond what is included in Section 2.4.3.
- Evaluation of Subscriber's current state practices, policies, or procedures for the purpose of process improvement or performance improvement
- Troubleshooting of any issues not related to Mark43 software, Mark43 development, or Mark43 interfaces, unless otherwise outlined

- Migration of data to Mark43 from other systems or third parties other than those specified in this SOW or the SLSA
- Interfacing, or integrating, from or to Mark43 from other systems or third parties other than those specified in this SOW or the SLSA
- Installation of any non-Mark43 software, servers, workstations or any other hardware
- Export of Mark43 data to other systems or third parties other than those specified in the SLSA

For any tasks, deliverables, or services not included in scope that Subscriber wishes Mark43 to perform, Subscriber must follow the Change Control Process outlined in the Change Control section of this document.

2.3 PROJECT MANAGEMENT GOVERNANCE

Mark43 and Subscriber will work together to outline a full Governance Structure document detailing the persons for each Mark43 and Subscriber Team role. The document should include an escalation path for issues on both sides, an executive sponsor, and detail, as much as possible, the members of each working group.

The following is the breakdown of project roles and responsibilities:

MARK43 PROJECT TEAM	
Role	Responsibilities
Project Lead	• Primary point of contact for the project • Manages the project schedule/timeline and provides regular status updates to all stakeholders • Coordinates and schedules Mark43 resources • Handles escalated issues
Customer Success Team	• Primary point of contact post Go Live • Maintains ongoing release management and deployments • Ensures outstanding projects, interfaces, and migrations on are on schedule • Handles escalated issues and prioritizations • Conducts regular surveys and feedback sessions • Engage customers to improve in-app feature/product adoption

Technical Services Team	• Primary technical point of contact for the project • Scopes and defines technical requirements and implementation plans for interfaces and migrations • Coordinates and schedules Mark43 technical resources for interfaces, migrations, or any other technical services work • Handles escalated technical issues • Develops interfaces and/or data migrations • Escalates technical, workflow, or business issues • Communicates and works with third party developers and vendors (if any) for non-live interfaces • Triages and handles bugs reported for non-live migrations and interfaces
Deployment Analysts	• Assist with general product questions and configuration activities
Product Specialists	• Assist with specific product questions and configuration activity • Triages and handles bugs reported for post Go-Live migrations and live interfaces

SUBSCRIBER TEAM	
Role	Responsibilities
Executive Sponsor	• Command Staff representative for Subscriber • Has authority to represent Subscriber and provide or obtain sign-off on major decisions during the project • Assists with change management and potential policy changes within Subscriber • Helps govern relevant project stakeholders / working group leaders
Project Lead	• Primary point of contact for Subscriber • Participates in regular check-ins and status updates with the team • Reviews and approves major milestones • Manages and escalates issues • Has authority to represent Subscriber and get sign-off on major decisions during the project
Business Point of Contact	• Has knowledge of existing workflows, processes, configurations, and systems, or has the resources to find business users needed to provide knowledge • Has authority to represent Subscriber and get sign-off on business decisions around workflows, configurations, interfaces, and data conversions • Helps define scope and requirements for configurations, interfaces, and data conversions
Technical Point of Contact	• Has knowledge of existing systems, interfaces, and

SUBSCRIBER TEAM	
	vendors/parties involved • Has authority to represent Subscriber and get sign-off on major technical decisions • Provides network, data, system, or other access deemed necessary for completion of interface and data conversions development work • Provides documentation and other resources on data, schemas, systems as needed
Validation Point of Contact	• Has enough business and technical knowledge to be able to validate and sign-off on acceptance of workflows, configurations, interfaces, and data conversions • Has authority to represent Subscriber and get sign-off on acceptance of interfaces and data conversions
Working Group Leads	• Primary points of contact for each user group. There should, at least, be one person for sworn, IT, Records, and each major module being implemented
Training Point of Contact	• Primary point of contact for user training • Helps facilitate training initiatives

2.4 PROJECT MANAGEMENT STAGES AND ACTIVITIES

To ensure product implementation success, the Mark43 project will be divided into four distinct phases:



2.4.1 PHASE 1 - Plan

Phase 1 focuses on kicking off the implementation and planning the provision of the Mark43 software. Mark43 will work closely with Subscriber to outline the implementation steps, review project planning documentation, and analyze business processes to outline configuration needs. This includes meeting with identified working groups within the department, conducting research, and introducing individuals to how workflows will function in Mark43. Subscriber will need to ensure full assembly of Subscriber project team and working groups as well as completion of any questionnaires within two weeks of receipt.

The table below outlines Phase 1 activities:

Tasks	Task Details / Deliverables
Project Kick-Off	- Conduct a Project Kick-Off to commence the Mark43 software implementation through discussions of: - Mark43 as a Company - Mark43's Implementation Methodology - Project Organization, Roles, & Responsibilities for both Mark43 and Subscriber and the Project Communication Plan - High level overview of product and project deliverables
SRS / NIBRS Contact	Subscriber will work with Mark43 to introduce and establish communication with Subscriber [C]IBRS contact
Other Specialty Content Contact	For any other specialty areas, Subscriber will need to work with Mark43 to introduce and establish communication with Subscriber point of contact (e.g. GIS experts)
Planning Documentation	- Subscriber will fill out Mark43's Foundation Questionnaire to help Mark43 understand Subscriber's current processes and state as well as the scope of the project - Subscriber will fill out Mark43's Interface Questionnaire(s) to help Mark43 better understand the technical scope and goal of the project - Subscriber provides Mark43 the Project Governance Structure Document to outline project contacts and communication protocols - Mark43 provides customer requested documentation to satisfy state clearance process or requirements - Mark43 to conduct the Introduction to Interface Scoping and Planning for Subscriber - Mark43 to provide meeting minutes for monthly meetings
Project Plan	- Introduction of base project plan for Mark43 and Subscriber collaboration - Mark43 will provide the Project Plan via Baton (note: Baton is a project planning and management tools leveraged by the Mark43 project team)

2.4.2 PHASE 2 - Implement

Phase 2 involves introducing the key working group leads and Subject Matter Experts (SMEs) to system configuration scope and options for the implementation. The depth and breadth of configuration required will be determined during project planning and scoping in Phase 1 based on the questionnaires Mark43 sent to Subscriber.

Mark43 will deliver a User Acceptance Testing (UAT) Plan for review by Subscriber. Interface (Third Party Interface) planning will also begin; for more information on these activities, please refer to the Third Party Interface Scope sections of this document.

The table below outlines Phase 2 activities:

Tasks	Task Details / Deliverables
Configuration Overview	- Conduct a system familiarization training overview with identified Subject Matter Experts in a tenant that has been lightly configured for the participating Subscriber - Subscriber gains access to the lightly-configured tenant for initial workflow testing - Mark43 provides Subscriber with Foundation Workflow Guide
Configuration Sessions	Mark43 will hold a configuration training session for Subscriber staff that will be assisting and reviewing configuration settings
UAT Introduction	- Mark43 outlines standard UAT methodologies, timing, and logistics - Subscriber is responsible for resource scheduling and logistics - Mark43 provides base workflow testing outline
UAT Documentation	Mark43 will provide documentation detailing the minimum scripts to be reviewed and tested
Interfaces Planning, Testing, and Completion	Please reference the Third Party Interfaces Section of this document for details on interface planning, documentation, testing, and completion. Timing and milestones will be included in the project plan where appropriate
Training Needs Assessment	- Identify current department training infrastructure, resources, and methodologies - Mark43 will provide Subscriber with documentation outlining current Mark43 Course Offerings

2.4.3 PHASE 3 - Train

Phase 3 includes Mark43 delivery of training documentation/material, and assistance coordinating training logistics. This phase also includes Mark43 train-the-trainer (TtT) courses as outlined in Section 2.4.3.1. Subscriber is responsible for incorporating feedback from workflow configuration and UAT sessions into training documents. Additional onsite trainings, beyond what is included in this SOW, are \$2,880/day for onsite and \$800/day for remote for the duration of the implementation.

Tasks and deliverables within this phase may overlap with tasks, deliverables, or activities included in Phase 2.

The table below outlines Phase 3 activities:

Tasks	Task Details / Deliverables
Foundation Training Documentation	- Mark43 will provide standardized workflow guides for Subscriber - Mark43 will provide access to our knowledge portal via Mark43 Help Center
Training Logistics	Where applicable, Mark43 will assist and offer previous best practices on coordination of training logistics
Train-the-Trainer	Mark43 will provide the number of train-the-trainer sessions identified in Section 2.4.3.1 of this SOW
Additional Training	For any additional training outside of what is defined within this SOW or the SLSA, Subscriber should follow the Change Control Process outlined in the Change Control section to request additional training services

The following train-the-trainer sessions are included with the purchase of Mark43 subscription items:

2.4.3.1 Training Courses

REFERENCE TRAINING TABLE

Module	Number of Training Sessions Offered	Number of Maximum Attendees Per Session	Total Hours
RMS Fundamentals	1 onsite TtT session	30	5 - 6

Module	Number of Training Sessions Offered	Number of Maximum Attendees Per Session	Total Hours
RMS Mobile	1 onsite TtT session	30	1
System Administration (RMS)	1 onsite session	10	3
RMS Case Management	1 remote session	30	5 - 6
RMS Evidence	1 onsite session	15	5 - 6
RMS Warrants	1 remote session	15	2
Records Group / Compliance	1 onsite session	25	5 - 6
BI Suite (full)	1 remote session	10	4
Data lake	1 remote session	10	3

2.4.4 PHASE 4 - Deploy

Phase 4 focuses on the final activities necessary for cutover to Mark43 production. Mark43 will provide a cutover checklist detailing tasks necessary for the customer to cutover to the production tenant.

Mark43 and Subscriber will hold a go/no-go meeting no less than 45 calendar days prior to the planned Go Live date as outlined in the collaborative project plan to assess readiness.

The table below outlines Phase 4 activities:

Tasks	Task Details / Deliverables
Cutover Checklist	- Mark43 will provide a Cutover Checklist for Subscriber. This checklist details: tasks necessary to cutover to Mark43, Go Live readiness steps, and any final changes needed before Go Live - Mark43 will also provide guidance on navigating this plan and collaborate with Subscriber to ensure Subscriber can complete all tasks

Tasks	Task Details / Deliverables
Go-Live Readiness	Mark43 and Subscriber will hold a joint go/no-go meeting to assess Subscriber's readiness for Go-Live and begin use of Mark43 products.
Go-Live	Mark43 will provide cutover support as per the Implementation Service Level listed below in section 2.6 Implementation Services Overview.
Customer Success Transition	The Mark43 Project Lead will work to introduce the Mark43 Customer Success team to Subscriber and help outline: maintenance plan, issue escalation protocol, and ongoing status updates

2.5 PROJECT MANAGEMENT MILESTONES

In addition, the Mark43 project is structured using the following project milestones. Each milestone's completion is determined by completion of the associated acceptance criteria.

Project Milestones

#	PROJECT MILESTONE	MILESTONE ACCEPTANCE CRITERIA	PAYMENT MILESTONE
1	Effective Date	SLSA is executed	
2	Project Kickoff	- Project Kickoff meeting held by Mark43 and Subscriber - Project working group established by Subscriber - Meeting cadence established by Mark43 and Subscriber	Approval of Project Plan
3	Workflow Validation Complete	Signed approval on configurations and workflows for Go-Live by subscriber	- Completion of Hardware and Software Installation - Completion of Functional Testing
4	Training Complete	- Train-the-trainer sessions scheduled and conducted by Mark43 - Subscriber trainers identified by Subscriber - Training sessions scheduled by	Completion of Training

#	PROJECT MILESTONE	MILESTONE ACCEPTANCE CRITERIA	PAYMENT MILESTONE
		Subscriber	
5	Cutover / Go-Live	- RMS Production tenant is live - Cutover support is complete by Mark43	- Completion of Go-Live - Final System Acceptance
6	3 Months Post Go Live	3 Months Successful NIBRS/CIBRS submissions	3 Months Successful NIBRS/CIBRS submissions

2.6 IMPLEMENTATION SERVICES OVERVIEW

Services that indicate onsite travel or visits are dependent on travel permitting or as otherwise agreed to per travel or gathering restrictions.

The table below outlines the expectations for the purchased Implementation Services Level.

Service	Description
Kickoff Meeting	Remote (Virtual)
Status Calls and Updates Cadence	Bi-Weekly
Project Response Times	Expected Mark43 response time within 5 business days for project-related activities
Implementation Product Support	All Milpitas working group product and workflow questions should be directed to the Mark43 project lead. Mark43 also provides support via support@mark43.com (no phone support). Response time expectation 2-4 business days, 9am - 9pm Eastern, M-F, excluding Federal Holidays.
Configuration Support	1 remote session, led by Mark43 product support specialist(s) based on product module; 1 additional remote preparatory and discovery session per module. All sessions should be coordinated with appropriate customer decision maker and/or SME for that area (e.g., Evidence).

Service	Description
Implementation Onsite Schedule¹	Every other month (not to exceed 6 visits)
Technical Services Onsite Schedule	Remote
Launch Support	Remote (3 days during business hours [8:00am Local Time – 5:00pm Local Time])
Quality Assurance on any Interface Development	Remote
Quality Assurance on Any Data Migration	Remote
Target Project Duration	8 - 12 months (Contingent upon customer providing all required documentation and taking all required action)
Sustainment	30 Day Transition Onsite Annual Onsite Visit

2.7 CHANGE CONTROL

For any requests to change this SOW, Mark43 and Subscriber will follow the Change Control Process. Examples of changes include supplementing Subscriber staff with Mark43 resources, purchasing additional implementation services, adding third party interfaces to scope, or purchasing existing modules not currently included in the SOW or SLA. The Change Control Process will be the main vehicle for containing scope and confirming that Mark43 and Subscriber can make timely trade-offs between the three key project variables of cost, time, and scope.

As gaps are defined and mitigated in the Plan, Implement, Training and Deploy phases of the project, the Change Control Process will be used for formalizing updates to terms of this SOW, whether or not there is a financial impact. The process is initiated by the submission of a Change Order Request Form, which will be provided by Mark43 at the start of the project.

The Change Order Request Form will need to describe the change, rationale for the change, impact the change will have on the project, and any other pertinent details.

¹ Subscriber may request additional trips, but will be required to submit a change order form prior to any trips occurring

Subscriber Executive Sponsor will review the proposed change and determine whether to submit the request to Mark43.

Upon Subscriber submission, the Mark43 Project Team will review the Change Order Request Form with internal Mark43 resources. The following will be presented upon completion of the internal Mark43 review: any proposed updates; costs to Subscriber; timeline estimates for the change; and a change order that reflects changes to the original project scope.

Mark43 reserves the right to reject a change request if it is not in the best interest of the implementation project. Some change requests may be deferred to after cutover to live operations if they are not critical to the success of the program. Upon signed approval by Subscriber, Mark43 will commence work as outlined in the Change Order.

3. THIRD PARTY INTERFACE SERVICES

Mark43 supports a number of different interface methods to suit the varying needs of customers, vendors, and partners. Mark43 is built using service-oriented architecture; therefore, every system activity has a RESTful API call to accomplish a user action to transfer data to or from the system. In addition, for partners that prefer other methods of interface either through a direct database connection or file transfer, Mark43 supports those needs through a comprehensive set of generic and custom solutions.

3.1 INTERFACE TIERS

Mark43 organizes interface development and maintenance under one of the following categories:

Interface Tier/SKU	Mark43 Task Details	Subscriber and Vendor Task Details
[INT 1] Interface - Custom Level 1	• Interfaces that do not require development work by Mark43 and may require: ○ An on-premise interface server installation ○ Maintenance of a regular job by Mark43 ○ Install Mark43 custom software on the interface server ○ Complete data transformation, configuration, and development ○ Maintain job to post or pull data from Mark43	• Subscriber responsibilities ○ Provision Mark43 interface server • Vendor responsibilities ○ Provide documentation and assist with data transformation and configuration as needed/available
[INT 2] Interface - Custom Level 2	• Interfaces not on the “Mark43 Industry Standard Interface Types” list or have additional scope not included in the standard requirements that require: ○ Custom development, data transformation, or configuration by Mark43 ○ An on-premise interface server installation ○ Maintenance of a regular job by Mark43 • Mark43 responsibilities ○ Install Mark43	• Subscriber responsibilities ○ Provision Mark43 interface server • Vendor responsibilities ○ Provide documentation and assist with data transformation and configuration as needed/available

Interface Tier/SKU	Mark43 Task Details	Subscriber and Vendor Task Details
	custom software on the interface server ○ Complete data transformation, configuration, and development	
[INT 3] Interface - Custom Level 3	● Custom interfaces built by Mark43 that require: ○ Potentially multi-directional data transfer between Mark43 and the external system ○ An on-premise interface server installation ○ Maintenance of a regular job ○ Custom data transformation or configuration ● Mark43 responsibilities ○ Install Mark43 custom software on the interface	● Subscriber responsibilities ○ Provision Mark43 interface server ● Vendor responsibilities ○ Provide documentation and assist with data transformation and configuration as needed/available

Interface Tier/SKU	Mark43 Task Details	Subscriber and Vendor Task Details
	- server - Complete data transformation, configuration, and development	
[INT 4] Interface - Self-Build	- Provide developer documentation - Offer consultation (up to 1 training session and support through the help desk) - Maintain uptime for the API and data lake	- Interfaces built by Subscriber IT team or third-party vendor using Mark43's API, a read-only connection to the Mark43 data lake standard views - Vendor/Subscriber responsibilities - Transform data to/from Mark43's API or data lake format - Maintain the scheduled job that interacts with the API/data lake
[INT 5] Interface - Partner Level 1	- Interfaces between Mark43 and a verified partner vendor - interface options and developer documentation available in the Mark43 developer portal - Refer to the "Mark43 Partner Vendors" list Level 1 - Mark43 requires minimal development and configuration work to setup this interface for customer - Customer must accept interface within document functionality	
[INT 6] Interface - Partner Level 2	Interfaces between Mark43 and a verified	

Interface Tier/SKU	Mark43 Task Details	Subscriber and Vendor Task Details
	partner vendor - Interface options and developer documentation available in the Mark43 developer portal - This interface requires some configuration and development per customer - Customer must accept interface within parameters documented	
Maintenance and Support	Subject to the terms and conditions of the MSA, Mark43 will provide Maintenance Services for all deployed interfaces. Maintenance Services shall consist of the following: - Mark43 will maintain the application software installed on the interface server(s) - Mark43 will update the docker containers on the interface server(s) as part of the bi-weekly Mark43 release cycle - Mark43 will resolve any defects in the operation of the interface in a timely manner	

3.2 INTERFACE SCOPE

Mark43 will provide interface services to Subscriber aligned with the appropriate interface tier in section 4.1.

Interface Name	Tier	Direction
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Coplink	INT 5	Outbound to Coplink
TriTech CAD	INT 1	Inbound to Mark43 RMS
Coplogic	INT 5	Inbound to Mark43 RMS
Crossroads Citations	INT 5	Inbound to Mark43 RMS

3.3 INTERFACE IMPLEMENTATION SCOPE

Mark43 and Subscriber will perform the tasks required to design, develop, optimize, test and integrate the Mark43 platform with third party systems as outlined in this SOW.

Phases / Tasks	Mark43 Task Details	Subscriber Task Details
Access	• Provide list of Mark43 employees requiring interfaces server access - these employees will be background-checked and CJIS-certified • Provide Mark43 data lake access to Subscriber and/or third party vendor if applicable • Provide Mark43 Public Endpoint access to Subscriber and/or third party vendor if applicable	• Set up interface servers that meet the interface server requirements detailed in the SLSA • Provide the listed Mark43 employees VPN and server access credentials required for accessing the interface server • Ensure the listed Mark43 employees are able to establish an SSH connection to the interface server over the VPN • Provide Subscriber and/or third party vendor access to Mark43 based on the requirements in the attached Interface Access Requirements appendix (4.4)
Assessment & Scoping	• Work with Subscriber to create an Interface Scope Bundle for each interface. The Interface Scope Bundle contains:	• Work with Mark43 and/or third party vendor to complete the Interface Scope Bundle and sign off on the document

Phases / Tasks	Mark43 Task Details	Subscriber Task Details
	○ Interface Control Document (ICD) ○ Implementation plan ○ Interface User Acceptance Criteria ● Assist Subscriber with interface field mapping ● Provide Mark43 Developer Help Desk access and provide Mark43 product knowledge	● Receive sign off of the Interface Scope Bundle by the third party vendor if applicable ● Complete field-by-field mapping of data fields from the legacy system to Mark43's external models ● Map the following legacy reference values to Mark43 reference values if applicable: ○ Attributes ○ Offense Codes ○ Name Report Links ○ Report Permissions ○ Name Associations/Relationships ○ Property Chain Event Types ○ Property Storage Locations
Development (INT1, INT2, INT3, INT5)	● Work with Subscriber and/or third party vendor to develop the interface based on the signed Interface Scope Bundle ○ Develop interface to meet requirements specified in the signed Interface Control Document ● Develop interface based on the roles and responsibilities specified in the signed Interface Scope Bundle	● Provide test data and/or sandbox environment to develop against ● Provide external system product knowledge and technical assistance

Phases / Tasks	Mark43 Task Details	Subscriber Task Details
Development (INT4)	Resolve any identified bugs and/or feature gaps with the Mark43 Public Endpoints and/or data lake if applicable	- Work internally and/or with third party vendor to develop the interface based on the signed Interface Scope Bundle - Develop interface to meet requirements specified in the signed Interface Control Document - Develop interface based on the roles and responsibilities specified in the signed Interface Scope Bundle
Testing	- Provide a Mark43 test tenant to perform interface testing against - Schedule the interface to run on the Mark43 test tenant if applicable	Schedule the interface to run against the Mark43 test tenant if applicable
Validation	- Correct valid bugs and make mapping change requests until the attached Interface User Acceptance criteria are met - Mark43 will not perform data cleansing activities (e.g., custom formatting of text, incomplete location resolution, complex logic to populate missing data elements, etc.) to correct data quality issues in the external system	- Perform entity count validation on the imported data - Perform field-level validation on the imported data - Perform functionality validation by performing test workflows on the imported data - Log bugs and mapping change requests found during imported data validation - If applicable, perform data cleansing activities and/or workflow updates in the external system(s) to prevent bad data from being imported into Mark43

Phases / Tasks	Mark43 Task Details	Subscriber Task Details
Live Scheduling	• Schedule the interface to run on the Mark43 live tenant if applicable	• Schedule the interface to run on the Mark43 live tenant if applicable
Maintenance	• Maintain the containers installed on the interface server used to run interfaces • Monitor host status and interface throughput and notify Subscriber of unexpected deviations • Maintain the interface code and schedule if applicable • Maintain the Mark43 Public Endpoints and/or data lake views used by the interface if applicable • Notify Subscriber of any changes to relevant Mark43 Public Endpoint and data lake views if applicable	• Maintain the interface servers • Maintain additional interface access (e.g., file transfer directory, database access) if applicable • Maintain Subscriber and/or third party vendor processes (e.g., file transfer, data warehouse updates, schedule to hit Mark43 endpoints, etc.) if applicable • Notify Mark43 of any changes to the endpoint and or database tables/views used by the interface if applicable • Submit Change Requests for changes to live interfaces that deviate from the signed Interface Scope Bundle ICD

3.4 INTERFACE ACCESS REQUIREMENTS

Mark43 supports the following interface methods to suit the needs of customers, vendors and partners.

3.4.1 WEB SERVICE (RECOMMENDED)

The recommended interface method is through the Mark43 public API library. Mark43 provides a standard set of public endpoints to get and post data to the Mark43 system. New endpoints can be developed and added to the library if the specified interface functionality is not currently supported by existing endpoints.

Specifications:

- Secure RESTful API with live documentation and testing

- JSON data transfer via HTTPS
- Individual API authentication tokens provisioned for developers using the API

3.4.2 MARK43 DATA LAKE

To support the needs of interfaces that require a direct database connection, the Mark43 data lake offers the ability to extract data through a read-only MS SQL database connection. Mark43's cloud-hosted data lake offers the ability to connect reporting tools, pull custom queries for analysis, or run regular jobs for data extracts without requiring agencies to host an on-premise data warehouse.

Mark43 provides a set of standard views that have been normalized and optimized for reporting. Mark43 can develop custom views for partner interface vendors and for special department needs upon request.

Specifications:

- Secure, encrypted read-only connection to the Mark43 cloud-hosted data lake
- Microsoft SQL Server database
- Individual database accounts provisioned for developers, analysts, or other users requiring an account on the Mark43 data lake

3.4.3 FILE TRANSFER

Agencies and vendors may opt to build an interface via file transfer. Mark43 provides a set of configurable file transfer options for ingestion into Mark43 and export from Mark43.

Specifications:

- File transfer must occur in a directory accessible by the interface server
- Mark43 requires SFTP/SSH permission to the interface server and file transfer directory
- Mark43 requires permission to create directories and create, move, rename, and delete files in the file transfer directory
- Transferred files must be in a supported file type: XML (recommended), JSON, CSV, and standard open file formats (e.g., NIST)

3.4.4 DIRECT DATABASE

Agencies and vendors may opt to provide direct access to a replica database for Mark43 to query against. Mark43 cannot build interfaces to query against live production databases.

Specifications:

- The database must support connection via JDBC and/or Hibernate, an open source Java library for connecting to databases
- Mark43 requires read access to the database

- Agencies and vendors must provide properly indexed views (recommended) or tables to enable performant queries from Mark43

4. MESSAGE SWITCH INTERFACE

4.1 MESSAGE SWITCH INTERFACE SCOPE

The following interfaces will be achieved through access to a CLIPS terminal licenses.

Database Name	Method
CLETS/NCIC	via CLIPS

CLIPS Terminal (10 Device Licenses)

- CLIPS is a stand-alone product that supports all 300+ transactions available in CLETS.
 - CLIPS is licensed per device because it is installed on a physical device.
- To reduce duplicate entry, Mark43 will build a “pre-fill integration” with CLIPS. Data entered in the RMS can be pushed and pre-filled into CLIPS

Subscriber is responsible for:

- Providing Mark43 with the contact information for the agency’s federal and/or state message switch provider
- Ensuring a Subscriber connection to NCIC and in-scope state and county databases
- Completing and submitting any applications required for connection to federal and state databases and receiving application approvals within the specified project timeframe

Mark43 is responsible for:

- Configuring the Mark43 application to connect to the federal and/or state message switch
- Interfacing the Mark43 application with the CommSys middleware to connect to the federal and/or state message switch

5. ESRI INTERFACE

The Mark43 application utilizes ESRI geocoding services to resolve locations and addresses. The ESRI integration is required in order to resolve locations in the Mark43 application. The ESRI integration will require Mark43 and the Subscriber to implement an ESRI classifier and may also require an ESRI geolocator depending on the Subscriber’s provided spatial data.

- **ESRI Classifier:** Enables the Mark43 application to classify locations to their subdivisions with the ESRI classifier created from the Subscriber's polygon shapefiles.
- **ESRI Geolocator:** Enables the Mark43 application to support Subscriber's additional spatial data such as street centerlines using ESRI to improve location resolution accuracy.

Component	Description	Required Agency Setup
ESRI Infrastructure	Enables Subscriber to resolve locations using ESRI. Subscriber will require an ESRI classifier. Subscriber will require a geolocator in addition to a classifier if the Subscriber has spatial data in addition to a polygon shapefile (e.g. street centerlines)	• Classifier and Geolocator
ESRI Data Sharing	Enables Subscriber to share location data between Subscriber's ESRI instance and the Mark43 application.	• Group Sharing: Subscriber will establish a trusted connection with Mark43 by joining a Mark43-created custom Group on ArcGIS Online. Subscriber will then share spatial layers to the Group, thereby making them accessible by Mark43.

Subscriber will be responsible for:

- Providing polygon shapefiles to Mark43
- Sharing additional spatial with Mark43 if necessary
- Maintaining and updating their own spatial data and polygon shapefiles
- Joining any required groups or file shares to enable ESRI data sharing
- Providing test locations for ESRI testing
- Working with Mark43 to test ESRI location resolution

Mark43 will be responsible for:

- Building ESRI classifier and/or geolocators using Subscriber-provided spatial data
- Working with Subscriber to test ESRI location resolution

Mark43 will not be responsible for:

- Maintaining and updating Subscriber's spatial data and polygon shapefiles

6. CUSTOM PDF EXPORTS

The Mark43 Fillable PDFs feature enables an agency to create a custom, fillable PDF template that populates information mapped from supported fields in a standard Mark43 RMS report type. Subscriber will be responsible for configuring fillable PDF exports for use in the Mark43 application and providing the required software requirements outlined in the SLSA.

Mark43 will be responsible for:

- Providing the agency with up-to-date documentation on how to use the Fillable PDF feature
- Troubleshooting, assisting with configuration training, and interacting with Subscriber-designed system administrators

All other activities related to scoping, configuring, testing, and validating each fillable PDF will be the sole responsibility of Subscriber.

7. QUICKCRASH MODULE

This section outlines the deliverables and responsibilities required to implement Mark43's traffic module, QuickCrash.

QuickCrash, will be an addition to the Mark43 RMS application. QuickCrash allows Subscriber to document collisions through the use of QuickCrash's mobile app, tablet and desktop versions. QuickCrash will provide digital submissions to the state of California's collision reporting repository, commonly referred to as SWITRS (Statewide Integrated Traffic Records System).

QUICKCRASH FEATURES

- MMUCC Compliant Data Capture
- License Scanning
- Collision Sketch Builder
- Collision Data Sharing and Syncing between Devices
- License Plate Lookup
- Satellite Map with GPS Coordinates
- Narrative/Templates
- Narrative Dictation
- Media/Photos Section
- Report Review Process
- PDF Rendering (email, send, print)
- In App Feedback

- Integrated with Mark43 RMS

This will involve review, analysis, and acceptance of Mark43 QuickCrash performance and the coordination of project personnel, equipment, vehicles and facilities. Subscriber will have access to communicate with the Mark43 project manager to coordinate the execution of the project.

Mark43 Responsibilities

- Configure and enable QuickCrash application within the Mark43 RMS application
- Conduct one 2-hour Train the Trainer session in the use of the QuickCrash module

**AMENDMENT NO. 1 TO
SOFTWARE LICENSE AND SERVICES AGREEMENT**

This Amendment No. 1 to the Software License and Services Agreement (this "Amendment"), is dated as of _____, 2022, and is by and between Mark43, Inc., with offices at 250 Hudson Street, New York, NY 10013 ("Mark43") and the City of Milpitas, California ("Subscriber," and together with Mark43, the "Parties," and each, a "Party").

- A. WHEREAS, the Parties have entered into that certain Software License and Services Agreement, dated as of June 30, 2021 (the "Existing Agreement"); and
- B. WHEREAS, the Parties hereto desire to amend the Existing Agreement to update Schedule A of Exhibit A thereto, on the terms and subject to the conditions set forth herein.

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

- 1. Definitions. Capitalized terms used and not defined in this Amendment have the respective meanings assigned to them in the Existing Agreement.
- 2. Amendments to the Existing Agreement. As of the Amendment Effective Date (defined below), the Existing Agreement is hereby amended or modified as follows:
 - a. Exhibit A, Schedule A is hereby deleted in its entirety and replaced with the Schedule A attached hereto. Scope documents for the added interface development and added data migration will be mutually agreed upon by the parties.
 - b. Section 3.2 (Interface Scope) of the Statement of Work set forth at Exhibit C is amended to include the following line item:

Interface Name	Tier	Direction
Dataworks Plus Morpho County Mugshots	INT 1	Inbound to Mark43 RMS

- 3. Date of Effectiveness; Limited Effect. This Amendment is effective as of the date first written above (the "Amendment Effective Date"). Except as expressly provided in this Amendment, all of the terms and provisions of the Existing Agreement are and will remain in full force and effect and are hereby ratified and confirmed by the Parties. Without limiting the generality of the foregoing, the amendments contained herein will not be construed as an amendment to or waiver of any other provision of the Existing Agreement or as a waiver of or consent to any further or future action on the part of either Party that would require the waiver or consent of the other Party. On and after the Amendment Effective Date, each reference in the Existing Agreement to "this Agreement," "the Agreement," "hereunder," "hereof," "herein," or words of like import, and each reference to the Existing Agreement in any other agreements, documents, or instruments executed and delivered pursuant to, or in connection with, the Existing Agreement, will mean and be a reference to the Existing Agreement as amended by this Amendment.
- 4. Representations and Warranties. Each Party hereby represents and warrants to the other Party that:
 - a. It has the full right, power, and authority to enter into this Amendment and to perform its obligations hereunder and under the Existing Agreement as amended by this Amendment.
 - b. The execution of this Amendment by the individual whose signature is set forth at the end of this Amendment on behalf of such Party, and the delivery of this Amendment by such Party, have been duly authorized by all necessary action on the part of such Party.
 - c. This Amendment has been executed and delivered by such Party and (assuming due authorization, execution, and delivery by the other Party hereto) constitutes the legal, valid, and binding obligation

of such Party, enforceable against such Party in accordance with its terms.

5. Miscellaneous.

- a. This Amendment and all related documents including all exhibits attached hereto, and all matters arising out of or relating to this Amendment, whether sounding in contract, tort, or statute are governed by, and construed in accordance with, the laws of the State of California, without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of California.
- b. This Amendment shall inure to the benefit of and be binding upon each of the Parties and each of their respective successors and assigns.
- c. The headings in this Amendment are for reference only and do not affect the interpretation of this Amendment.
- d. This Amendment may be executed in counterparts, each of which is deemed an original, but all of which constitute one and the same agreement. Delivery of an executed counterpart of this Amendment electronically or by facsimile shall be effective as delivery of an original executed counterpart of this Amendment.
- e. This Amendment constitutes the sole and entire agreement between the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.
- f. Each Party shall pay its own costs and expenses in connection with this Amendment (including the fees and expenses of its advisors, accountants, and legal counsel).

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

Mark43, Inc.

By_____

Name:

Title:

City of Milpitas

By_____

Name:

Title:

SCHEDULE A

Services Schedule

1. **Services.** The Services covered by this Agreement consists of the following:

- a. **Professional Services:** Professional Services are detailed in the Statement of Work.
- b. **SaaS Services:**
 - i. The Applications to be provided are as follows:
 - A. ANALYTICS (ANA) SKUs:

ANA 1: ANALYTICS BI SUITE VIEWER

Mark43's Analytics BI Suite Viewer includes the following capabilities:

- Interactive dashboards that update visualizations based on filters and legends.
- Drill into data points on visualizations for additional details and analysis.
- Mark43 RMS clients will be able to link from the interactive dashboards directly to Mark43 RMS reports and cases.
- Segment (Pivot) and Filter by any available data explorer field to narrow down queries.
- Visualize lat/long coordinates with pin and heat mapping functionality.
- Visualize data with tables, column graphs, bar graphs, scatter plots, line graph, area graph, pie chart, single value, funnel, timeline and donut graphics.
- Save dashboards for future access.
- Share dashboards with other Analytics Viewer and Explorer users at the department.
- Export data into a variety of formats (Text, Excel, CSV, JSON, HTML, Markdown and PNG).
- Data from RMS/CAD modules is available in near-real-time
- Analytics Viewer licenses provide licensees the ability to view and export business intelligence (BI) dashboards that are either (a) provided in Mark43's default BI suite or (b) created and shared by an Analytics Explorer of Subscriber. The number of user licenses for Analytics Viewers will be specified below.

ANA 1 SPECIFICATIONS/FEATURES:

- View/export business intelligence dashboards provided by Mark43
- View/export business intelligence dashboards created and shared by a Subscriber Analytics Explorer user.

ANA 2: ANALYTICS BI SUITE EXPLORER

Mark43's Analytics BI Suite (Explorer) includes the following capabilities:

- Interactive dashboards that update visualizations based on filters and legends.
- Drill into data points on visualizations for additional details and analysis.
- Mark43 RMS clients will be able to link from the interactive dashboards directly to Mark43 RMS reports and cases.
- Segment (Pivot) and Filter by any available data explorer field to narrow down queries.
- Visualize lat/long coordinates with pin and heat mapping functionality.
- Visualize data with tables, column graphs, bar graphs, scatter plots, line graph, area graph, pie chart, single value, funnel, timeline and donut graphics.
- Save dashboards for future access.
- Share dashboards with other Analytics Viewer and Explorer users at the department.
- Export data into a variety of formats (Text, Excel, CSV, JSON, HTML, Markdown and PNG).
- Data from RMS/CAD modules is available in near-real-time
- Analytics Explorer licenses provide licensees the ability to perform all the actions of a Analytics View user plus the ability to create, modify and delete business intelligence dashboards. Analytics Explorer users can share their business intelligence dashboards with all of the Analytics Viewer and Analytics Explorer users of Subscriber. Analytics Explorer users can explore the data from any Data Explorer based Dashboard. The number of user licenses for Analytics Explorer Users will be specified below.

ANA 2 SPECIFICATIONS/FEATURES:

- Analytics Explorer users can perform all the actions of an Analytics View user plus the ability to create, modify and delete business intelligence dashboards.
- Analytics Explorer users can share their business intelligence dashboards with all of the Analytics Viewer and Analytics Explorer users of Subscriber.
- Analytics Explorer users can explore the data from any Data Explorer based Dashboard.

Subscriber understands and agrees that third-party service providers may impose additional license, warranty and other terms on Subscriber. Subscriber agrees to enter into additional agreements as reasonably required by such third parties and Mark43, including, without limitation, a different warranty/SLA addressing uptime and maintenance.

B. COMPUTER AIDED DISPATCH (CAD) SKUs

N/A

C. DATA LAKE (DLK) SKUs

Mark43 Data Lake is a Microsoft SQL Server (MSSQL) Database that allows the Subscriber to access department data directly via SQL. This database is a near real-time replica of the live Mark43 database. Functionality of this product requires CAD 1: CAD Dispatch or RMS 1: RMS Core.

DLK 1: DATA LAKE - BASE

Provision and support for Data Lake to be used for data backups and Mark43-developed integrations.

DLK 1 PRODUCT SPECIFICATIONS/FEATURES:

- Shared Read-Only Data Lake access
- 2 SQL user/svc accounts
- 2 active connections

Subscriber understands and agrees that third-party service providers may impose additional license, warranty and other terms on Subscriber. Subscriber agrees to enter into additional agreements as reasonably required by such third parties and Mark43, including, without limitation, a different warranty/SLA addressing uptime and maintenance.

D. RECORDS MANAGEMENT SYSTEM (RMS) SKUs**RMS 1: RMS CORE**

Mark43 Core Platform supports advanced functionality around report writing; data sharing; locations, persons, and entity management; and field-based reporting. RMS Core includes Mark43 Records Compliance functionality, which enables records personnel to efficiently generate compliance-related information required by governing LE authorities. The Records Compliance module seamlessly generates the CIBRS validations for officers, enabling workflows that ensure low error rates for submission, keep track of submissions, and generate the submission file from the data within the RMS).

RMS 1 PRODUCT SPECIFICATIONS/FEATURES:

- Arrest Reporting
- Case Management
- Case Supplemental Reporting
- Configurable Fields, Codes, and Validation Rules
- Field-Based Reporting
- Field Interviews / Racial profiling reporting
- File Attachments and Multimedia
- Gang Tracking
- Incident Reporting
- Location Verification / Resolution

- Master Entities / Name Index (Locations, Persons, Property, Organizations, and Vehicles)
- Missing Persons Reporting
- Multi-Agency Data Sharing
- Notifications and Agency-wide BOLO/Alerts
- PDF and CSV Exports
- Quick Search / Advanced Search
- Records Privacy (Sealing, Purging, and Expunging)
- Shapefile Management
- System Auditing
- Use of Force Reporting
- Tow / Impound Vehicle Reporting
- User Management
- Compliance code mapping for automated data capture
- View and create queue of reports needing records review
- Data validation during report submission to ensure compliant reporting
- Configurable fields and validation rules
- Ability for administrators to override automated SRS or NIBRS coding
- Automatically generate monthly SRS and NIBRS submissions
- Task & Request Tracking
- Records without a REN
- Behavior Crisis Report
- Flexible Report Configurations for custom report types (e.g. Permits, Registrations, False Alarm Reports, etc.)
- NIBRS workspace features:
 - View history of previous NIBRS submissions and re-download previous submissions
 - Submission summary statistics to understand number of reports, number of reports with errors, and current error rates
 - Interactive dashboard allowing users to directly access reports that contain submission errors and require updates
 - Customized error message for improved usability and step-by-step instructions for resolving errors

RMS 2: RMS CASE MANAGEMENT MODULE

The Mark43 Case Management module enables detectives to seamlessly use the RMS to manage their cases. Incidents that require further investigation or follow-up may be referred to an investigator before they are closed or submitted to the prosecutor for a charging decision. Depending on the department's size and policies, the assignment may be made to a patrol officer, generally the officer who responded to the original incident, or the department's investigative unit. Functionality of this module requires RMS 1: RMS Core.

RMS 2 PRODUCT SPECIFICATIONS/FEATURES:

- View and create case assignment and routing queues
- Assign lead investigator, supervisors, and assigned unit
- Configurable case due dates and reminders
- Create and assign tasks and set due dates
- Create case notes for internal activity tracking
- View and download case associated files and multimedia
- Export case information to PDF
- Search and sort cases by a number of criteria, including date, assignee, investigative unit, status, and more
- Configurable case type templates
- Configurable role-based Case Management permissions and abilities
- Robust audit logs and activity tracking
- View case history from initial assignment through final disposition
- Separate statuses for compliance reporting (UCR/NIBRS) and internal case status tracking
- Seamless integration between Case Management and RMS reporting and master entity profiles modules

- Availability of Case Management data in Analytics BI Suite for robust reporting capabilities
- Case review and approval workflows
- Automated triggered notifications and alerts
- Link related cases to one another

RMS 3: RMS PROPERTY AND EVIDENCE MANAGEMENT MODULE

Mark43 Property and Evidence Management Module and accompanying mobile application that supports the intake, management, auditing, and dispositioning of in-custody property and evidence. Includes: barcode and label generation; tracking chain-of-custody; configuration of storage locations; configuration of chain-of-custody workflows; configuration of retention policies; ability to integrate with signature pads. Functionality of this module requires RMS 1: RMS Core.

RMS 3 PRODUCT SPECIFICATIONS/FEATURES:

- Seamless integration and data transfer between Property and Evidence Management Module with RMS reporting and master entity profiles
- Robust property and vehicle data collection including NIBRS and UCR mapped fields
- Cross-reference existing property and vehicles during data collection
- Item thermal label printing and barcode scanning for property and storage locations
- Chain-of-custody tracking and workflows
- Bulk evidence movement and processing
- Mobile evidence application for barcoding scanning, chain-of-custody updates, inventory/auditing, and more (Android and iOS supported)
- Signature pad hardware integration, as well as electronic signature capture through mobile evidence application
- Audit and inventory tools and reporting across storage locations and responsible personnel
- Configurable retention policies based on linked offense codes and reason for police custody of property
- Automated disposition requests upon retention policy expiration and release timers
- Automated triggered notifications and alerts
- Configurable notification routing for disposition requests and approvals
- Split items while maintaining integrity of chain-of-custody
- Property staff remarks
- Search and sort evidence across a variety of criteria
- Configurable storage location schema with up to ten layers of sub-locations
- Configurable role-based evidence permissions and abilities
- Support for unlimited property file and multimedia attachments
- Configurable evidence label export format
- CSV and PDF template exports available including receipts and pull-sheets

RMS 4: RMS WARRANTS MODULE

RMS module that enables warrant administrators to actively log and track warrants within the Mark43 RMS. For an additional fee, the customer can select to include an integration with a message switch provider (see SKU PAR 4: Message Switch Integration). Functionality of this module requires RMS 1: RMS Core.

RMS 4 PRODUCT SPECIFICATIONS/FEATURES:

- Track warrants within your jurisdiction
- Track internal records workflows
- Track and update warrant service activities
- Automated warrant status updates
- File and multimedia attachments
- Search and sort warrants across a variety of criteria
- Active warrant alerts on person profiles
- Configurable role-based warrant permissions and abilities
- Exporting abstracts, notices (letters), and warrant activities

- Entry and cancellation of warrants in external databases (State-run databases or NCIC) with purchase of DEX 2: RMS Data Exchange and PAR 3: Message Switch Integration)
- Seamless integration between Arrest/Booking modules, and the Warrants module
- Integrated and cross-referenced master entity profiles (Persons, Property, Organizations, and Vehicles)
- Automated warrant creation via integration, and capability to hand-enter warrant data
- Availability of Warrant data in Analytics BI Suite for robust reporting capabilities

RMS 5: RMS HANDHELD MOBILE COLLECTION

RMS module that enables warrant administrators to actively log and track warrants within the Mark43 RMS. Functionality of this module requires RMS 1: RMS Core.

RMS 5 PRODUCT SPECIFICATIONS/FEATURES:

- Touch ID and Face ID login
- Capture and view photos
- Create notes using speech-to-text
- Scan driver's licenses (select State support)
- Set current location on map using phone GPS
- Search and view integrated master entity profiles (Persons, Property, Organizations, and Vehicles)
- Search and view RMS reports
- Archive capability
- Seamless sync of data between mobile and web RMS applications
- Create and pre-fill RMS report using mobile collection data

RMS 7: RMS FILLABLE PDFs

The Mark43 Fillable PDFs feature enables an agency to create a custom, fillable PDF template that populates information mapped from supported fields in a standard Mark43 RMS report type. Requires department license to Adobe Pro.

RMS 7 PRODUCT SPECIFICATIONS/FEATURES:

- Export custom, fillable PDF template based on non-Mark43 templates
- Populate the fillable PDF template with the information entered in the linked Mark43 report type
- Configure which supported fields populate the fillable PDF using Adobe Pro
- Support export templates that are not natively supported in the Mark43 RMS

RMS 8: QUICKCRASH REPORTING

Mark43's QuickCrash Reporting module allows for seamless and mobile data collection, documentation and reporting on vehicle collisions.

RMS 8 PRODUCT SPECIFICATIONS/FEATURES:

- MMUCC (Model Minimum Uniform Crash Criteria) Compliant Data Capture
- License Scanning
- Drag and Drop Diagram Builder
- Crash Data Sharing and Syncing between Devices
- License Plate Lookup
- Satellite Map with GPS Coordinates
- Narrative/Templates
- Narrative Dictation
- Media/Photos Section
- In-App Messaging
- PDF Rendering (email, send, print)
- In-App Feedback

2. **Fees:** For the Initial Term, the following Fees will apply:

Recurring Fees:

<i>Mark43 SaaS Services Recurring Fees</i>	Qty (if applicable)	List Price	Price to Subscriber
ANA 1: Analytics BI Suite Viewer	Not to exceed 10 licenses	\$1,200.00	\$1,200.00
ANA 2: Analytics BI Suite Explorer	Not to exceed 2 licenses	\$960.00	\$960.00
DLK 1: Data Lake Base	1	\$10,000.00	\$10,000.00
RMS 1: RMS Core	Not to exceed 93 sworn	\$111,600.00	\$89,280.00
RMS 2: RMS Case Management	Not to exceed 93 sworn	\$44,640.00	\$35,712.00
RMS 3: RMS Property and Evidence Management	Not to exceed 93 sworn	\$44,640.00	\$0.00
RMS 4: RMS Warrants	Not to exceed 93 sworn	\$44,640.00	\$15,624.00
RMS 5: Mobile Field Collection	Not to exceed 93 sworn	\$44,640.00	\$0.00
RMS 7: RMS Fillable PDFs	Included	\$7,000.00	\$4,900.00
RMS 8: QuickCrash Reporting	Not to exceed 93 sworn	\$11,160.00	\$0.00
Subtotal - Mark43 SaaS Services		\$320,480.00	\$157,676.00
<i>Mark43 Professional Services Recurring Fees</i>	Qty (if applicable)	List Price	Price to Subscriber
Support & Maintenance - Interfaces	1	\$2,000.00	\$0
Subtotal - Mark43 Professional Services		\$2,000.00	\$0
<i>Partner Products and Services Recurring Fees</i>	Qty (if applicable)	List Price	Price to Subscriber
None		n/a	n/a
Subtotal - Partner Products and Services		\$0	\$0
Total Recurring Fees		\$322,480.00	\$157,676.00*

*For the avoidance of doubt, this is the recurring fee that will serve as the baseline for the recurring fees to be charged during any Renewal Term. Additional increases may be applied at any time during the Initial Term if required quantities increase.

One-Time Fees:

<i>Mark43 Implementation Tenant – One-Time Fees</i>	Qty (if applicable)	List Price	Price to Subscriber
Implementation Tenant (provisioning environments for configuration, testing, & training during Implementation Period)	1	\$309,320.00	\$157,676.00

Subtotal – Implementation Tenant		\$309,320.00	\$157,676.00
<i>Mark43 Professional Services – One-Time Fees</i>	Qty (if applicable)	List Price	Price to Subscriber
IMP 2: Implementation	n/a	\$90,000.00	\$63,000.00
Interface Development: Coplink	n/a	\$0	\$0
Interface Development: TriTech CAD	n/a	\$15,000.00	\$10,500.00
Interface Development: SWITRS/Crossroads	n/a	\$0	\$0
Interface Development: Coplogic	n/a	\$0	\$0
Interface Development: Morpho Mugshot	n/a	\$15,000.00	\$10,500.00
DCM 4: Evidence Standalone – Standard	1 source	\$25,000.00	\$25,000.00
Subtotal - Professional Services		\$145,000.00	\$109,000.00
<i>Partner Products and Services – One-Time Fees</i>	Qty (if applicable)	List Price	Price to Subscriber
None		n/a	n/a
Subtotal - Partner Products and Services		\$0	\$0
Total One-Time Fees		\$454,320.00	\$266,676.00

Contractor will notify Subscriber of any changes to the fees for any Renewal Term at least forty-five (45) days prior to the start of the Renewal Term. Any increase to the fees for any Renewal Term may not exceed the lower of three percent (3%) or the local CPI (Series ID: CUURS49BSA), year over year.

3. Payment Schedule.

- a. Initial Term: Subscriber will pay the Fees detailed in Section 2 above according to the following schedule during the Initial Term.

Year	Details of Payments and Due Dates	Amount Due
1	Year 1 Payment, due according to the following schedule:	\$266,676.00
	- Upon Approval of Project Plan	\$23,757.60
	Upon Completion of Hardware & Software Installation	\$40,694.76
	- Upon Completion of Functional Testing	\$40,694.76
	- Upon Completion of Training	\$40,694.76
	- Upon Completion of Go-Live	\$53,335.20
	- Upon Final System Acceptance	\$40,694.76
	- Upon 3 months Successful NIBRS/CIBRS Submission (Submission error rate <3%)	\$26,804.17

2	Year 2 Payment, due on the first anniversary of the Effective Date.	\$157,676.00
3	Year 3 Payment, due on the second anniversary of the Effective Date.	\$157,676.00
4	Year 4 Payment, due on the third anniversary of the Effective Date.	\$157,676.00
5	Year 5 Payment, due on the fourth anniversary of the Effective Date.	\$157,676.00
6	Year 6 Payment, due on the fifth anniversary of the Effective Date.	\$157,676.00
	6 YEAR TOTAL	\$1,044,556.00

- b. Renewal Term: Fees for any Renewal Term will be paid in full in advance on the first day of the Renewal Term.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Receive the 2021 General Plan Annual Progress Report and Authorize Submittal of the Report to the Governor's Office of Planning and Research (OPR) (Staff Contact: Jay Lee, Principal Planner, 408-586-3077)
Category:	Consent Calendar-Community Development
Meeting Date:	4/19/2022
	<u>Recommendation:</u> Receive the 2021 General Plan Annual Progress Report and authorize the submittal of the report to the Governor's Office of Planning and Research (OPR).

Background:

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

Due to the significant strain on City staff and services resulting from the current COVID-19 pandemic, the City was unable to meet the usual April 1 deadline for the 2021 APR for the other elements of the General Plan, but HCD will accept an APR after the deadline. Therefore, staff requests that the City Council receive the 2021 General Plan Annual Progress Report (Attachment 1) and authorize the submittal of the report to OPR.

Analysis:

The following information provides a brief recap of the 2040 General Plan and a summary of the General Plan implementation highlights for calendar year 2021.

General Plan Update

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

The 2021 General Plan Annual Progress Report (APR) highlights the City's progress toward implementation of the 2040 General Plan, which was in effect for most of 2021.

General Plan Implementation Highlights

The 2021 General Plan APR (Attachment 1) provides the implementation highlights of the General Plan by element. The City's key efforts to implement the goals and policies of the General Plan include but are not limited to comprehensive master plan updates and capital improvement projects.

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

- ADU Visualization Tool by Symbium – Launched May 2021
- Citywide VMT Policy – Adopted May 2021
- Smoke-Free Policies – Adopted June 2021
- Parks and Recreation Master Plan Update – Adopted December 2021
- Development Handbook and Accessory Dwelling Unit (ADU) Toolkit – Completed December 2021
- Milpitas Metro Specific Plan (formerly the Transit Area Specific Plan) – In progress
- Gateway/Main St. Specific Plan (formerly the Midtown Specific Plan) – In progress
- Objective Design Standards for Residential and Mixed-Use Developments – In progress
- Housing Opportunity Zones – In progress
- Climate Action Plan (CAP) Update – In progress
- Trail, Pedestrian, and Bikeways Master Plan Update – In progress
- Sewer Master Plan Update – In progress
- Water Master Plan Update – In progress
- Retail Tobacco Licensing Program – In progress

The City also designed or constructed capital improvements to transportation infrastructure, public utility systems, and public facilities. Refer to the 2021 General Plan APR (Attachment 1) for a detailed description of each implementation activity.

Policy Alternative:

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

Pros: None.

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

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

Fiscal Impact:

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

Environmental Review:

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

Recommendation:

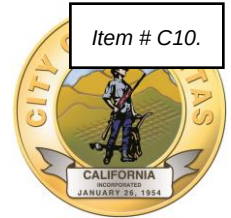
Receive the 2021 General Plan Annual Progress Report and authorize submittal of the report to the Governor's Office of Planning and Research (OPR).

Attachment:

1. 2021 General Plan Annual Progress Report

MEMORANDUM

Planning Department



DATE: April 20, 2022

TO: Governor's Office of Planning and Research

THROUGH: Steven G. McHarris, City Manager

FROM: Jay Lee, Principal Planner

SUBJECT: 2021 General Plan Annual Progress Report

Background

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

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

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

This report highlights the City's progress toward implementation of the 2040 General Plan. On April 19, 2022, staff shared this report to City Council, which authorized the submittal of the report to HCD.

Implementation Highlights by General Plan Element

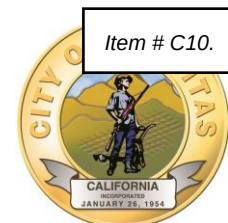
Below is the City's annual progress toward implementation of the previous General Plan by element.

Land Use Element

- **Transit Area Specific Plan (TASP) Update:** The City is currently updating the TASP, which was adopted by the City Council in June 2008 and amended in December 2011. The TASP will be renamed the "Milpitas Metro Specific Plan" (MMSP) to reflect new boundaries and focused attention on strategic redevelopment sites, circulation, and access. The MMSP area is concentrated around the new Milpitas Transit Center, which includes Bay Area Rapid Transit (BART) and Santa Clara Valley Transportation Agency (VTA) Light Rail and bus stations. The MMSP area has enjoyed significant residential development in the recovery from the Great Recession of 2008. Of the 7,109 potential dwelling units approved in the original 2008 Plan, over 6,900 units have been entitled, constructed, occupied, or are currently within the entitlement process. However, only a small amount of the proposed commercial space is entitled or under construction to date, and there are nearly 170 acres within the area that have not been redeveloped. Furthermore, there are sites beyond the current boundary that could be annexed

MEMORANDUM

Planning Department



into the MMSP area. The MMSP update will leverage these development opportunities to reinforce the 2008 TASP's vision for a high-density urban neighborhood with a mix of land uses around the Transit Center. The update will also enhance pedestrian and bicycle access throughout the MMSP area to complement these high-density mixed-use neighborhoods. **Policy LU 2-1 and Action LU-2a**

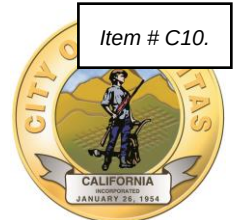
- **Midtown Specific Plan Update:** The City is currently updating the Midtown Specific Plan, which was adopted by the City Council in March 2002 and amended in November 2010. The Midtown Specific Plan will be renamed the "Milpitas Gateway/Main St. Specific Plan" (MGSP) to reflect new boundaries and a new strategic focus on key redevelopment areas. The MGSP area, which contains the original commercial and industrial core of the City, has undergone significant changes related to its growing role as a housing and employment center. Development activity over the past several years has included approval or construction of 1,200 multi-family residential units, reinvestment and upgrades to the Great Mall, and extension of VTA's Tasman East Light Rail Transit (LRT) line. However, several vacant and underutilized sites remain within the MGSP area and there is significant potential for development and redevelopment. The MGSP will provide policies and guidelines and identify improvements to streetscapes, infrastructure, and public open spaces to facilitate this area's transition into an attractive and economically vital district with a compatible mixture of residential, retail, office, and service-oriented commercial uses served by a viable multi-model transportation network. **Policy LU 2-1 and Action LU-2a**
- **Development Handbook, ADU Toolkit, and ADU Visualization Tool:** The City completed several projects to streamline housing production and diversify its housing stock. The Development Handbook provides a comprehensive explanation of the development review process from beginning to end to educate the public and improve internal operations. The user-friendly Accessory Dwelling Unit (ADU) Toolkit seeks to facilitate ADU production by informing, inspiring, and guiding homeowners through a full-service permit review. The web based ADU Visualization Tool complements the ADU Toolkit by allowing homeowners to visualize and design their own ADUs in compliance with local and State regulations. **Policy LU 1-4**
- **Zoning Ordinance:** The City's Zoning Ordinance is one of the primary implementation tools for the Land Use Element goals and policies. A Zoning Map, consistent with the General Plan Land Use Map, is also part of the Zoning Ordinance. Together, the Zoning Ordinance and Zoning Map are used to identify the specific types of use, intensity, and development standards applicable to given parcels or areas of land. The City ensures that amendments to the Zoning Ordinance and Zoning Map are consistent with the Land Use Element, and the City plans to initiate a comprehensive update to the Zoning Ordinance in early 2023 to ensure consistency with the new General Plan. The City limits the number of amendments to the General Plan to four per year and ensures that amendments fulfill the City's broader objectives and benefits the community at large in keeping with Guiding Principle 2-a-G-11. **Policies LU 5-1, 5-2, 5-3, 5-4, 5-5, 5-6, and 5-7 and Actions LU-1d, LU-5a, LU-5b, and LU-5c**

Circulation Element

- **Bicycle/Pedestrian & Trails Plan:** The City is currently updating the Trails and Bikeway Master Plans, which were adopted by City Council in June 1997 and June 2009 respectively. The Trails Master Plan describes and maps approximately 35 miles of trails, 6 miles of which have been built. The Bikeway Master Plan recommends bicycling projects with cost estimates and priorities for implementation, identifies funding sources, and provides design guidelines with best practices for implementing bikeways. The Bicycle/Pedestrian & Trails Plan, which will be completed this summer, will identify gaps in the trail, pedestrian, and bicycle networks and provide recommendations to expand existing

MEMORANDUM

Planning Department

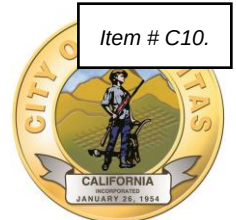


networks, increase safety and accessibility for all users, support economic development, and enhance the quality of life for area residents. The update will also evaluate bicycle/scooter share programs, identify priorities, and recommend improvements. **Policies CIR 2-1, 4-1, 4-2, 4-3, 4-4, 4-5, 4-6, 4-7, 4-8, 4-9, and 4-10 and Actions CIR-4a, CIR-4b, CIR-4c, CIR-4g, CIR-4h, and CIR-4i**

- **Development Review and Traffic Impact Fees:** As part of its development review process, the City requires private development projects to implement traffic mitigation measures to address potential impacts and deficiencies created by the project and identified in the transportation impact analysis. Required mitigation measures include improvements to transportation infrastructure and transportation demand management (TDM) programs. Additionally, the City collects both citywide and area-specific traffic impact fees to fund and construct transportation improvements. Furthermore, the VTA serves as the Congestion Management Agency for Santa Clara County and maintains the County's Congestion Management Program (CMP), which includes several intersections within Milpitas. Although traffic congestion is no longer considered a potentially significant impact under the California Environmental Quality Act (CEQA) in accordance with Senate Bill (S.B.) 743, the City will continue to utilize level-of-service (LOS) analysis to address local traffic congestion while transitioning to vehicle miles traveled (VMT) as the new metric for assessing transportation impacts under CEQA. **Policies CIR 1-9, 1-10, and 1-11 and Actions CIR-1l, CIR-1m, CIR-1n, CIR-1o, CIR-4k, CIR-4l, and CIR-7b**
- **Citywide VMT Policy:** The City adopted a citywide VMT policy to implement Senate Bill 743 and establish the methodology for analyzing transportation impacts under CEQA. The policy facilitates the buildout of the General Plan and supports new development in suitable areas near transit and mixed-use neighborhoods. The policy will help the City move away from auto-dependency and prioritize multimodal improvements to create a balanced and accessible transportation network that meets the needs of all users. **Policies CIR 1-2 and 1-8 and Action CIR-1c**
- **Capital Improvement Program (CIP):** Consistent with the Circulation Element goals and policies, the City also made significant investment in transportation infrastructure and safety improvements through its CIP, which is updated every year. The significant transportation-related projects are discussed below.
 - Enhanced Crosswalk Striping & Beacons: This project provides high visibility crosswalk striping and pedestrian actuated flashing beacons to facilitate safer pedestrian crossings at high vehicle and pedestrian volume intersections along school and bike routes and in residential areas. 16 beacons were installed at various locations throughout the City. The City also installed radar speed feedback signs as a traffic calming measure.
 - Street Resurfacing Program: This annual program provides for roadway pavement repair, rehabilitation, and/or reconstruction. The program includes replacement and upgrade of curb, gutter, driveway, and sidewalk. The program also includes implementation of Class II bike lanes and Class III bike route facilities as described in the City's Bikeway Master Plan.
 - ADA Curb Ramp Transition Program: This annual program involves citywide replacement or upgrade of existing curb ramps to current standard Americans with Disabilities Act (ADA) compliant ramps. The program also includes construction of segments of new sidewalk to close gaps and allow the City to be eligible for future Federal transportation aid funds.
 - S. Milpitas Blvd. Vehicle Bridge at Penitencia Creek: Design of the project and the associated CEQA analysis is underway. The project will provide a vehicular bridge over Penitencia Creek at the end of the new S. Milpitas Blvd. Extension. The vehicular bridge is part of the TASP

MEMORANDUM

Planning Department



circulation infrastructure improvement to provide safe and convenient pedestrian connectivity within the TASP area.

- Montague Pedestrian Overcrossings: These projects will provide a pedestrian overcrossing over Montague Expressway at Piper Drive and the east levee of Penitencia Creek. The overcrossing at Piper Drive is complete and the overcrossing at Penitencia Creek is in the design phase. These projects are part of the TASP circulation infrastructure improvements to provide safe and convenient pedestrian connectivity within the TASP area.

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

Community Design

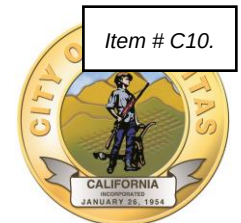
- **Objective Design Standards:** The City initiated work on the Objective Design Standards, which will provide clear and implementable design criteria for all new residential and mixed-use developments throughout the City. The Objective Design Standards will streamline housing approvals, comply with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

Economic Development

- **Economic Development Strategy:** In May 2020, the City adopted a new Economic Development Strategy (EDS) that will guide the City's efforts over the next five years to grow the local economy and foster local economic health, diversity, and vibrancy. City Staff initiated work on the Innovation District Action Plan, which will provide specific actions to implement policies in the EDS related to the creation of an Innovation District. City staff also included tasks in the Gateway/Main St. Specific Plan scope of work to implement several EDS policies including a retail audit of the zoning code, retail strategies memo, property-based business improvement district, strategic property acquisition revenue fund, and

MEMORANDUM

Planning Department



economic/scenario feasibility testing. **Policies ED 1-1, 3-2, 3-3, and 4-2 and Actions ED-1c, ED-1d, ED-1j, ED-2a, ED-2c, ED-3c, ED-3f, ED-3h, and ED3i**

Conservation & Sustainability Element

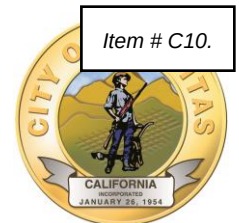
- **Climate Action Plan (CAP):** In compliance with Assembly Bill (A.B.) 32 and S.B. 375, the City adopted its CAP in May 2013. The CAP is designed to streamline environmental review of future development projects in the City, consistent with CEQA Guidelines Section 15183.5(b). The CAP identifies an overall strategy, baseline emissions and forecasts, reduction measures, and implementation strategies to achieve the State-recommended greenhouse gas (GHG) emissions reduction target of 15 percent below 2005 emission levels by 2020. The City is currently updating its CAP with new programs to meet the State's new mid- and long-term statewide emissions targets (40 percent reduction below 1990 levels by 2030 and 80 percent reduction below 1990 levels by 2050). **Policies CON 1-3, 1-6, 1-7, 1-8, 1-10, 1-11, 1-13, and 7-13 and Actions CON-1a, CON-1g, and CON-1h**
- **Cultural & Historic Preservation:** The City continues to carry out its Cultural Resources Preservation Program as outlined in Chapter 4, Title XI of the Milpitas Municipal Code to identify and protect existing cultural and historic resources. City staff reviews requests to alter or demolish an existing cultural or historic resource for compliance with local, state, and federal historic preservation standards and forwards applications to the Parks, Recreation and Cultural Resources Commission for a decision on whether the request meets the intent of the Cultural Resources Preservation Program. Additionally, projects subject to CEQA are analyzed for archaeological and paleontological impacts and mitigation measures are required as necessary. **Policies CON 4-1, 4-2, 4-3, 4-4, and 5-1 and Actions CON-4a and CON-4b**
- **Energy Use:** As part of its development review process, the City requires new buildings to comply with the State's Energy Efficiency Standards for Residential and Nonresidential Buildings and offers expedited building permit processing for residential projects achieving Build It Green's GreenPoint Rated standard and for commercial and industrial projects achieving the Leadership in Energy and Environmental Design (LEED) Silver rating. Furthermore, in 2017, the City joined Silicon Valley Clean Energy (SVCE), which is a community-owned agency serving Santa Clara County communities by acquiring and offering clean, carbon-free electricity. **Policy CON 1-1, 1-2, and 1-3 and Actions CON-1e and CON-1f**

Utilities & Community Services

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

MEMORANDUM

Planning Department



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

- Wastewater: The City is updating its Sewer Master Plan, which includes a summary of the City's wastewater collection system, flow projections, an analysis of the system's capacity, and a summary of the capacity improvements that are needed. The update, which will be completed this summer, will incorporate the sewer needs associated with the TASP and Midtown Specific Plan updates. The City's Sewer System Management Plan (SSMP) provides a plan to properly operate and maintain the sanitary sewer collection system. The SSMP aims to prevent sewer outflow, provide adequate capacity to convey peak flows. The City experiences very few sewer system overflows and the required system improvements have been incorporated into the CIP.
- Police Protection: The City contains one police station with a Communications Center that coordinates information from 9-1-1 callers to responders in the field. The City is currently meeting its goal for response times to emergency calls of 3 minute or less. The adequacy of police services is also evaluated for any projects subject to CEQA.
- Schools: Mabel Mattos Elementary School opened its doors to K-4 students with the start of the new school year in August 2018. With the completion of Phase II, the school will start serving grades K-5. The school will eventually serve grades K-6 and accommodate approximately 700 students.

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

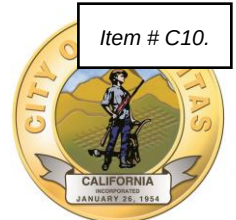
- **Stormwater & Drainage:** The City participates in the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP). The SCVURPPP and member agencies implement programs aimed at reducing pollutants in stormwater runoff and protecting water quality of the San Francisco Bay and Santa Clara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

Safety Element

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

MEMORANDUM

Planning Department



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

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

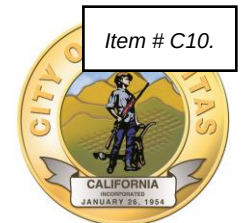
- **Fire Safety:** The Fire Department operates four fire stations within its service area. The average response time in 2021 was 4 minutes, 48 seconds, which is slightly over the City's response goal of 4 minutes. The City maintains its fire stations through regularly scheduled minor improvements. However, construction of the new Fire Station No. 2 is underway with an estimated completion timeline of Fall 2022. The Fire Department also performs routine fire inspections of existing buildings, structures, and properties in the City with the exception of single and multi-family dwellings in which the owner of the property resides. **Policy SA 4-9 and Actions SA-3d, SA-3e, SA-4b, and SA-4c**
- **Emergency Preparedness:** The Milpitas Fire Department Office of Emergency Services (OES) coordinates the City's preparedness efforts to mitigate against, plan for, respond to, and recover from natural disasters. The OES maintains the City's Emergency Operations Plan (EOP), which provides a blueprint for emergency management within the City and requires the development of departmental Standard Operating Procedures (SOPs). The City also partnered with Santa Clara County and other local jurisdictions to prepare the Santa Clara Operational Area Hazard Mitigation Plan, which is an updated multi-jurisdictional hazard mitigation plan that assesses local hazard risks and recommends a tailored and coordinated mitigation strategy to improve the resiliency of the County. The OES actively implements the recommendations of these emergency plans by keeping the Emergency Operation Center in a state of readiness and training citizens in basic disaster response through the Community Emergency Response Team (CERT). **Policies SA 3-4 and 3-5 and Actions SA-3a and SA-3b**

Noise Element

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

MEMORANDUM

Planning Department



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

Parks, Recreation, & Open Space Element

- **Parks & Recreation Master Plan Update:** The City updated the Parks and Recreation Master Plan, which was originally adopted in 2008, to include City recreational facilities and parks in the TASP and Midtown areas. The update includes an existing conditions assessment of all parks and recreation facilities, public engagement and outreach, a strategic plan to provide high-quality accessible parks and recreation facilities, and a programming and growth assessment. **Policies PROS 1-1, 1-2, and 1-3 and Action PROS-1c**
- **Park Dedication or In-Lieu Fee:** As part of its development review process, the City requires private development projects to either dedicate land or pay a park in-lieu fee (based on project square footage) to fund improvements to parks and recreation facilities to meet the additional demand for such facilities resulting from new developments and achieve the goals and policies of the Recreation Master Plan. **Policies PROS 1-4 and 1-5 and Action PROS-1b**
- **Parks & Recreation Facilities Improvements:** Consistent with the Open Space & Environmental Conservation Element goals and policies, the City also made significant investment in parks and recreation facilities through its CIP. The significant projects are discussed below.
 - Citywide Park Rehabilitation: The City assessed and rehabilitated citywide park playgrounds needing minor improvements. Minor improvements were completed for Calle Oriente, Cardoza, Dixon Landing, and Hillcrest Parks in 2021.
 - Minor Sports Courts Rehabilitation: The program provides for the rehabilitation of one to two sports courts annually.
 - Sports Fields Turf Rehabilitation Program: The program is ongoing and provides for turf rehabilitation at City sports fields. Work includes re-sodding, re-seeding, irrigation repairs, and other minor rehabilitations. In 2021, the baseball fields at Dixon Landing Park were replaced.
 - Park Renovations: The City completed the design of one neighborhood park (Sandalwood Park) and will begin construction in 2023. Improvements include a new picnic and playground area, ADA access and path improvements, a new restroom, and upgraded irrigation and landscaping.
 - New Parks: The City began design of one new park (Trade Zone/Montague Park – North) and construction of another new park (McCandless Park) is underway. Phase 1 (Park Core) of McCandless park is expected to be completed in Fall 2022 and Phase 2 (Sports Field) is expected to be completed in Winter 2023. These new parks will add approximately 9.5 acres of new parkland.

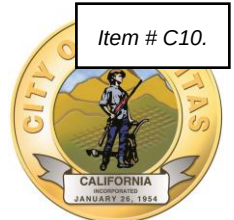
Policies PROS 1-8 and 1-9 and Action PROS-1a

Community Health & Wellness

- **Smoke-Free Ordinance:** The City adopted a Smoke-Free Ordinance to expand the smoke-free areas within Milpitas and protect Milpitas' most vulnerable populations. The Ordinance prohibits smoking in outdoor dining areas, parks and trails, multi-unit housing and associated common areas, near entryways to buildings where smoking is prohibited, service areas, and at public events. **Policies CHW 7-2**

MEMORANDUM

Planning Department



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

Housing Element

- **Annual Progress Report (APR):** On March 30, 2022, staff presented the 2021 APR for the Housing Element and 2021 Housing Successor Agency Annual Report to City Council, which authorized the submittal of both reports to HCD.
- **Housing Element Update:** The City initiated the Housing Element Update for the sixth housing element cycle (2023-2031) to accommodate the City's Regional Housing Needs Allocation (RHNA) adopted by the Association of Bay Area Governments (ABAG).
- **Housing Opportunity Zones (HOZ) Overlay District:** The City started work on implementing a HOZ Overlay District to provide zoning and financial incentives for affordable housing development in key opportunity areas throughout Milpitas. The goal of the HOZ Overlay District is to facilitate affordable and supportive housing for all and help address the ongoing housing crisis through innovative and effective incentive-based zoning.

Conclusion

This report documents the City's recent progress in implementing the General Plan. The information contained herein will be forwarded in the form of a letter to OPR to serve as the City of Milpitas's General Plan Progress Report for 2021.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Receive an Update on the Emergency Replacement of Two (2) Boilers and Install of a Temporary Heating System for the Public Works, Information Technology, and Police Department Building and Determine that the Condition Continues to Constitute an Emergency (Staff Contact: Tony Ndah, Public Works Director, 408-586-2602)
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	4/19/2022
	<u>Recommendation:</u> (1) Receive an update on the emergency replacement of two (2) boilers and the installation of a temporary heating system for the Public Works, Police and Information Technology Department buildings; and (2) Determine by a four-fifths vote that the condition continues to constitute an emergency.

Background:

Pursuant to Public Contract Code section 22050 and the attached [Council Resolution No. 9134](#), the Director of Public Works, in the case of emergency, may authorize a repair of a public facility and procure the work without giving notice for bids to let contracts. An emergency is defined as “a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.” Additionally, State law requires the Public Works Director, as the City official with delegated authority to take emergency action, to report any emergency authorization and the reason(s) for the authorization to the City Council not later than seven days after the action, or at its next regularly scheduled meeting if that meeting will occur not later than 14 days after the action. Further, the Public Works Director is required to report why the emergency would not permit a delay resulting from a competitive solicitation for bids and the City Council is required to review the emergency action at every regularly scheduled meeting thereafter until the emergency repair is completed. The City Council shall continue to review the emergency action at every regularly scheduled meeting thereafter until the action is terminated. At each review, the City Council shall determine, by a four-fifths vote, whether there is a need to continue the action.

Analysis:

Consistent with applicable State law and Council Resolution, on April 1, 2022, the Public Works Director authorized the City to contract with its existing HVAC maintenance contractor, Environmental Systems Inc. (ESI), for the replacement of two (2) boilers and the installation of a temporary heating system for the Public Works, Information Technology and Police Department buildings. Further, within the required time frame the Public Works Director informed the City Council via the [Information Memorandum](#) on April 8 regarding the emergency authorization, the reasons for the authorization, and the cost for repair and installation of a temporary heating system in the amount of \$208,068.

Staff is recommending that the City Council determine, by a four-fifths vote, that there is a need to continue the emergency action declared by the Public Works Director. Staff will return to City Council with an update at every regularly scheduled City Council meeting until the emergency action is terminated. The estimated completion date for the installation of the new boilers is mid-June 2022.

Fiscal Impact:

The estimated repair and temporary heating installation cost of \$208,968 will be paid from the Unanticipated Expenditure Reserve.

California Environmental Quality Act:

The emergency repair work is exempt from CEQA, per CEQA Guidelines Section 15301, Existing Facilities and 15302, Replacement or Reconstruction.

Recommendations:

1. Receive an update on the emergency replacement of two (2) boilers and the installation of a temporary heating system for the Public Works, Police and Information Technology Department buildings.
2. Determine by a four-fifths vote that the condition continues to constitute an emergency.

Attachment:

None



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Receive an Update on the Repair of Pump No. 3 at the Main Lift Sewer Pump Station and Authorize Staff to Pay Final Invoices to Koffler Electric Totaling \$90,095.32 (Staff Contact: Tony Ndah, Public Works Director, 408-586-2602)
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	4/19/2022
	<u>Recommendation:</u> Receive an update on the emergency repair of Pump No. 3 at the Main Lift Sewer Pump Station.

Background:

State law allows the City Council to delegate authority to City staff to award emergency contracts for the repair or replacement of public facilities without seeking competitive bids. On September 2, 2008, the City Council approved Resolution 7779, delegating to the Public Works Director the authority to take emergency action and to let emergency contracts without giving notice soliciting competitive bids. On March 15, 2022, City Council approved [Resolution No. 9134](#), amending Resolution No. 7779, providing further clarification on when the Public Works Director must first report to City Council on emergency actions and, upon termination of the emergency action, seek City Council approval to ratify the emergency contract.

Pursuant to Public Contract Code section 22050 and Council Resolution No. 9134, the Director of Public Works, in the case of emergency, may authorize a repair of a public facility and procure the work without giving notice for bids to let contracts. An emergency is defined as “a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.” Additionally, State law requires the Public Works Director, as the City official with delegated authority to take emergency action, to report to the City Council at its next meeting the reasons why the emergency action was necessary and why the emergency would not permit a delay resulting from a competitive solicitation for bids along with reviewing the emergency action at every regularly scheduled meeting thereafter until the action is terminated. The City Council must review the emergency action and determine, by a four-fifths vote, that there is a need to continue the emergency action.

Per the foregoing, the Public Works Director authorized staff to execute a contract with Koffler Electrical (“Koffler”) on February 28, 2022 to complete the emergency repair of Pump No. 3 at the Main Lift Pump Station located at 1425 North McCarthy Boulevard. Pump No. 3 has been in service for 15 years at the Main Lift Sewer Pump Station and has exceeded its useful life. The Public Works Department had programmed the rebuild or replacement of Pump No. 3 in the FY21-22 Capital Improvement Program (“CIP”) budget, however Pump No. 3 failed before the project could be competitively bid. In order to keep the Main Lift Sewer Pump Station operating at design capacity and with working reserves that will be necessary during upcoming force main and San Jose Headworks construction projects, all four pumps need to be operational. In addition, current economic conditions escalated the cost and delivery time to purchase a new pump beyond that programmed in the CIP budget to replace the pump. A new pump is approximately \$212,500.00 and would have required a lead time of twenty-four weeks. The cost to rebuild the pump is significantly lower than the cost to purchase a new pump. The emergency rebuild of Pump No. 3 cost \$90,095.32 and only required a lead time of eight weeks. Because of the lower cost and shorter lead time to have the pump rebuilt instead of purchasing a new pump, the Public Works Department proceeded with rebuilding the pump.

Analysis:

The Public Works Director determined the urgent need to rebuild the pump so that it could be put back into operation constituted an emergency because there was a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services and the emergency would not permit a delay by the competitive solicitation of bids.

In accordance with Public Contract Code section 22050 and pursuant to authority delegated by the City Council under Council Resolution No. 9134, amending Resolution No. 7779, the Public Works Director authorized Koffler Electrical to complete the rebuild of Pump No. 3 and executed a construction contract with Koffler on March 10, 2022. Koffler completed the pump rebuild on April 4, 2022 and reinstalled the pump at Main Lift Sewer Pump Station on April 5, 2022. Accordingly, the Public Works Director terminated the emergency action. The total cost for the repair is \$90,095.32.

Fiscal Impact:

The repair cost of \$90,095.32 has been encumbered and there are sufficient funds available within CIP 6124 for Sewer Pump Station Rehabilitation for the emergency work at Main Lift Sewer Pump Station. CIP6124 funding source comes from the Sewer Infrastructure Fund. As of April 11, 2022, the balance for CIP 6124 is \$105,107.

California Environmental Quality Act:

The emergency repair work is exempt from CEQA, per CEQA Guidelines Section 15301, Existing Facilities and 15302, Replacement or Reconstruction.

Recommendations:

Receive an update on the emergency repair of Pump No. 3 at the Main Lift Sewer Pump Station.

Attachment:

None



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Agreement with Best, Best & Krieger, LLP for Specialized/Supplemental Legal Services (Staff Contact: Ashwini Kantak, Assistant City Manager, 408-586-3053)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	4/19/2022
	<u>Recommendation:</u> Approve and authorize the City Manager to execute an agreement for specialized/supplemental legal services with Best Best & Krieger LLP.

Background:

At the September 22, 2015, Special City Council Meeting, the City Council approved the Legal Services Agreement with the law firm Best, Best & Krieger, LLP (BBK) for City Attorney services. Since 2015 BBK has been providing City Attorney and specialized legal services to the City.

At the June 22, 2021, City Council meeting Council provided direction to change the staffing model for legal services and to transition to an in-house City Attorney. Subsequently the City Council provided direction on the recruitment process and the recruitment for the City Attorney was conducted from late 2021 to early 2022. An in-house City Attorney contract is agendized for the April 19, 2022, City Council meeting for Council consideration.

Analysis:

The new in-house City Attorney will begin work on April 26, 2022. However, at this time, there is no other City Attorney staff to support the office. Additionally, it is anticipated that even with the potential addition of some in-house City Attorney staffing, the in-house resources will not be adequate to provide all of the legal services required to support complex operations and programs in a full-service city like Milpitas. Thus, contractual services for specialized and supplemental services are anticipated as a key component of this service delivery model.

In addition to the City Attorney from BBK, staff has been working with several attorneys from BBK on matters related to planning, labor, utilities, public safety, finance, risk management, housing, technology, capital projects, and many other programs and contracts. In order to minimize disruption to the ongoing work and ensure a smooth transition while the City switches the service delivery model for legal services, staff is recommending entering into a contract for specialized and supplemental services with BBK.

The draft agreement includes hourly rates for various types of legal services and the exact scope will depend on the legal support needed. The hourly rates have been increased by approximately \$5 for special and general services to address the Consumer Price Index (CPI) increase that would have otherwise gone into effect July 2022, through the current agreement. With this adjustment in hourly rates, there will be no additional CPI increase until July 2023. The rate for General Legal Services is \$255/hour. Rates for Code Enforcement and Public Records Act work have been reduced from \$325/hour to \$275/hour and from \$250/hour to \$210/hour, respectively.

The contract is effective until terminated by either party as allowed in the agreement. Once the new in-house City Attorney has had time to evaluate the City's legal needs and develop an in-house staffing plan, in coordination with the City Council, he may bring forward other recommendations for specialized and/or supplemental legal services in the future.

Policy Alternative:**Alternative 1: Do not approve and authorize the City Manager to enter into a contract with BBK**

Pros: None.

Cons: The City will not be able to have adequate legal support for its operations and programs.

Reason not recommended: Legal services are a vital component of the City's ability to offer services and a contract with BBK to provide those services is necessary.

Fiscal Impact:

The FY 2021-2022 Adopted Budget includes \$1.1 million for the City Attorney's office. The proposed FY 2022-2023 Budget will include funding for both in-house staffing and contractual services and may be adjusted as needed once the in-house City Attorney is able to finalize the staffing plan.

California Environmental Quality Act:

Not applicable to this item.

Recommendations:

Approve and authorize the City Manager to execute an agreement for specialized/supplemental legal services with Best Best & Krieger LLP.

Attachments:

1. Draft Letter of Agreement with Best, Best & Krieger

Bend OR
(541) 382-3011
Indian Wells
(760) 568-2611
Irvine
(949) 263-2600
Los Angeles
(213) 617-8100
Ontario
(909) 989-8584



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April 19, 2022

City of Milpitas
455 E. Calaveras Blvd.
Milpitas, CA 95035

Re: Agreement for Specialized and Supplemental Legal Services

ABOUT OUR REPRESENTATION

Best Best & Krieger LLP is pleased to represent the City of Milpitas (the “City”) with specialized and/or supplemental legal services. This letter constitutes our agreement setting the terms of our representation. If you want us to represent you and agree to the terms set forth in this letter, after you review the letter, please sign it and return the signed copy to us. If signed and returned to Best Best & Krieger LLP, we will take this to mean that any other agreements Best Best & Krieger LLP has with the City will automatically be terminated and this agreement shall control as of the date noted below in the signature line.

CONFIDENTIALITY AND ABSENCE OF CONFLICTS

An attorney-client relationship requires mutual trust between the client and the attorney. It is understood that communications exclusively between counsel and the client are confidential and protected by the attorney-client privilege.

To also assure mutuality of trust, we have maintained a conflict of interest index. The California Rules of Professional Conduct defines whether a past or present relationship with any party prevents us from representing the City. Similarly, the City of Milpitas is and will be included in our list of clients to ensure we comply with the Rules of Professional Conduct with respect to our representation of the City.

As you know, Best Best & Krieger LLP has had a long standing relationship with the City of Milpitas. On that basis, we can continue to represent the City and have previously obtained waiver letters for any other work we do which may be adverse to the City.



City of Milpitas
 April 19, 2022
 Page 2

YOUR OBLIGATIONS ABOUT FEES AND BILLINGS

For all **General Legal Services**, including any City Attorney overflow work. General Legal Services shall include all services provided that are not otherwise specifically identified below as either Public Records Act, Code Enforcement, Special Legal Services, or Third Party Reimbursable Legal Services.

All Attorneys	\$255/hour
Paralegals, Clerks, Analysts	\$170/hour

For all **Public Records Act** work handled by the Advanced Record Center (ARC) at BB&K:

All professionals	\$210/hour
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For all **Code Enforcement** work handled by the Comprehensive Code Enforcement team at BB&K:

All Attorneys	\$275/hour
Paralegals, Clerks, Analysts	\$170/hour

For all **Special Legal Services** which may include, litigation and formal administrative or other adjudicatory hearing matters, labor relations and employment matters, real estate matters, land acquisition and disposal matters (including pre-condemnation), successor agency and housing matters, taxes, fees and charges matters (e.g. Prop. 218 & Mitigation Fee Act), public construction disputes and complex public construction issues, non-routine contract negotiation matters (including non-BB&K model agreements and franchise agreements), non-routine land use and development matters (including general plan updates, Williamson Act issues, annexations and development agreements), environmental matters (e.g. CEQA, NEPA, endangered species), water law matters (e.g. water rights & quality), tax and ERISA related matters, toxic substances matters (e.g. CERCLA, RCRA), public utility matters (e.g. electric, natural gas, telecommunications, water, rail or transit that involve state or federal regulatory issues), renewable energy and energy efficiency project contracts and power purchase agreements, intergovernmental Relations and Advocacy efforts (e.g. legislative and regulatory representation) at the federal and state level, election law matters, including election law litigation, and other matters mutually agreed upon between BBK and the City Manager.

Partners and Of Counsels:	\$330/hour
Associates	\$275/hour
Paralegals, Clerks, Analysts	\$180/hour

For all **Third Party Reimbursable Services**:

BB&K
BEST BEST & KRIEGER
 ATTORNEYS AT LAW

City of Milpitas
 April 19, 2022
 Page 3

All professionals:

The then current private hourly rate

The billing policies are described in the memorandum attached to this letter, entitled “Best Best & Krieger LLP’s Billing Policies.” You should consider the Billing Policies memorandum part of this agreement as it binds both of us. For that reason, you should read it carefully.

The above rates will be adjusted annually using the cost of living index. At the start of the City’s fiscal year, beginning July 1, 2023 and every July thereafter during the term of this Agreement, rates shall be increased for the change in the cost of living for the most recently published twelve (12) month period, as shown by the U.S. Department of Labor in its All Urban Consumers Index set forth in the San Francisco-Oakland-Hayward, CA area (bi-monthly); provided, however, that such adjustment shall never be lower than zero percent (0%) nor more than seven percent (7%). In addition to the automatic rate increases, either BB&K or the Client may initiate consideration of a rate increase at any time

INSURANCE

We are also pleased to let you know that Best Best & Krieger LLP carries errors and omissions insurance with Lloyd’s of London. After a standard deductible, this insurance provides coverage beyond what is required by the State of California.

INDEMNITY

BB&K agrees to indemnify the City of Milpitas, its officers, employees and agents from any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities (herein “claims or liabilities”) arising from the negligent acts or omissions of BB&K, except to the extent such claims or liabilities arise from the negligence or willful misconduct of the City of Milpitas, its officers, agents or employees.

In the event BB&K, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against the City of Milpitas for such damages or other claims solely arising out of or in connection with the work, operation, or activities of the City of Milpitas hereunder, the City of Milpitas agrees to pay to BB&K, its officers, agents or employees legal costs and attorneys’ fees incurred by attorney, its officers, agents or employees in such action or proceeding.

CIVILITY IN LITIGATION

In litigation, courtesy is customarily honored with opposing counsel, such as extensions to file pleadings or responses to other deadlines. In our experience, the reciprocal extension of such courtesies saves our clients’ time and money. By signing this letter you will be confirming your approval of this practice in your case.



City of Milpitas
April 19, 2022
Page 4

HOW THIS AGREEMENT MAY BE TERMINATED

You, of course, have the right to end our services at any time. If you do so, you will be responsible for the payment of fees and costs accrued but not yet paid, plus reasonable fees and costs in transferring the case to you or your new counsel. By the same token, we reserve the right to terminate our services to you upon written notice, order of the court, or in accordance with our attached Billing Policies memorandum. This could happen if you fail to pay our fees and costs as agreed, fail to cooperate with us in this matter, or if we determine we cannot continue to represent you for ethical or practical concerns.

CLIENT FILE

If you do not request the return of your file, we will retain your file for five years. After five years, we may have your file destroyed. If you would like your file maintained for more than five years or returned, you must make separate arrangements with us.

THANK YOU

If you have any questions at any time about our services or billings, please do not hesitate to contact us.

If this letter meets with your approval, please sign and date it, and return the original to us.

Sincerely,

BEST BEST & KRIEGER LLP

AGREED AND ACCEPTED:

By: _____

Dated: _____

BEST BEST & KRIEGER LLP'S BILLING POLICIES

Our century of experience has shown that the attorney-client relationship works best when there is mutual understanding about fees, expenses, billing and payment terms. Therefore, this statement is intended to explain our billing policies and procedures. Clients are encouraged to discuss with us any questions they have about these policies and procedures. Clients may direct specific questions about a bill to the attorney with whom the client works or to our Accounts Receivable Department (accounts.receivable@bbklaw.com). Any specific billing arrangements different from those set forth below will be confirmed in a separate written agreement between the client and the firm.

Invoice and Payment Options

Best Best & Krieger strives to meet our clients' needs in terms of providing a wide variety of invoice types, delivery and payment options. Please indicate those needs including the preferred method of invoice delivery (Invoice via Email; or USPS). In addition, accounts.receivable@bbklaw.com can provide a W-9 upon request and discuss various accepted payment methods.

Fees for Professional Services

Unless a flat fee is set forth in our engagement letter with a client, our fees for the legal work we will undertake will be based in substantial part on time spent by personnel in our office on that client's behalf. In special circumstances which will be discussed with the client and agreed upon in writing, fees will be based upon the novelty or difficulty of the matter, or the time or other special limitations imposed by the client.

Hourly rates are set to reflect the skill and experience of the attorney or other legal personnel rendering services on the client's behalf. All legal services are billed in one-tenth of an hour (0.10/hour) or six-minute increments. Our attorneys are currently billed at rates from \$235 to \$850 per hour, and our administrative assistants, research assistants, municipal analysts, litigation analysts, paralegals, paraprofessionals and law clerks are billed at rates from \$175 to \$295 per hour for new work. These rates reflect the ranges in both our public and our private rates. These hourly rates are reviewed annually to accommodate rising firm costs and to reflect changes in attorney status as lawyers attain new levels of legal experience. Any increases resulting from such reviews will be instituted automatically and will apply to each affected client, after advance notice.

Non-Attorney Personnel: BBK may employ the services of non-attorney personnel under the supervision of a BBK attorney in order to perform services called for in the legal services agreement. The most common non-attorney personnel utilized are paralegals. Other types of non-

attorney personnel include, but are not limited to, case clerks, litigation analysts, and specialty consultants. The client agrees that BBK may use such non-attorney personnel to perform its services when it is reasonably necessary in the judgment of the responsible BBK attorney. Hourly fees for non-attorney personnel will be charged at the rate then in effect for such personnel. A copy of BBK's current rates and titles for non-attorney personnel will be provided upon request.

Fees For Electronically Stored Information ("ESI") Support and Storage

BBK provides Electronically Stored Information ("ESI") services for matters requiring ESI support – typically litigation or threatened litigation matters. BBK provides services for basic ESI processing and storage at the following rates per month based on the number of gigabytes of data ("GB") processed and stored:

1GB -250GB: \$10 per GB
251GB - 550GB: \$8 per GB
551GB - 750GB: \$6 per GB
751GB - 1TB: \$4 per GB

The amount BBK charges for basic processing and storage of ESI allows BBK to recover the costs of providing such services, plus a net profit for BBK. BBK believes that the rates it charges for processing and storage are lower than comparable services available from third party vendors in the market. If you wish to contract separately with a third party vendor for processing and storage costs, please notify BBK in writing. BBK shall not incur costs for ESI support on a particular matter without first confirming by email or written correspondence with the client that the client agrees such services are necessary for the matter at hand.

Fees For Other Services, Costs and Expenses

We attempt to serve all our clients with the most effective support systems available. Therefore, in addition to fees for professional legal services, we also charge separately for some other services and expenses to the extent of their use by individual clients. These charges include but are not limited to, mileage at the current IRS approved rate per mile, extraordinary telephone and document delivery charges, copying charges, computerized research, court filing fees and other court-related expenditures including court reporter and transcription fees. No separate charge is made for secretarial or word processing services; those costs are included within the above hourly rates.

We may need to advance costs and incur expenses on your behalf on an ongoing basis. These items are separate and apart from attorneys' fees and, as they are out-of-pocket charges, we need to have sufficient funds on hand

from you to pay them when due. We will advise the client from time to time when we expect items of significant cost to be incurred, and it is required that the client send us advances to cover those costs before they are due.

Advance Deposit Toward Fees And Costs

Because new client matters involve both a substantial undertaking by our firm and the establishment of client credit with our accounting office, we require an advance payment from clients. The amount of this advance deposit is determined on a case-by-case basis discussed first with the client, and is specified in our engagement letter.

Upon receipt, the advance deposit will be deposited into the firm's client trust account. Our monthly billings will reflect such applications of the advance deposit to costs and not to attorney's fees (unless otherwise noted in our accompanying engagement letter). At the end of engagement, we will apply any remaining balance first to costs and then to fees. We also reserve the right to require increases or renewals of these advanced deposits.

By signing the initial engagement letter, each client is agreeing that trust account balances may be withdrawn and applied to costs as they are incurred and to our billings, when we issue our invoice to the client. If we succeed in resolving your matter before the amounts deposited are used, any balance will be promptly refunded.

Monthly Invoices and Payment

Best Best & Krieger LLP provides our clients with monthly invoices for legal services performed and expenses incurred. Invoices are due and payable upon receipt.

Each monthly invoice reflects both professional and other fees for services rendered through the end of the prior month, as well as expenses incurred on the client's behalf that have been processed by the end of the prior month. Processing of some expenses is delayed until the next month and billed thereafter.

Our fees are not contingent upon any aspect of the matter and are due upon receipt. All billings are due and payable within ten days of presentation unless the full amount is covered by the balance of an advance held in our trust account. If a bill is not paid within 30 days, a late charge of one percent per month on the unpaid invoice may be added to the balance owed, commencing with the next statement and continuing until paid.

It is our policy to treat every question about a bill promptly and fairly. It is also our policy that if a client does not pay an invoice within 60 days of mailing, we assume the client is, for whatever reason, refusing to pay. We reserve the right to terminate our engagement and withdraw as attorney of record whenever our invoices are not paid. If an invoice is 60 days late, however, we may advise the client

by letter that the client must pay the invoice within 14 days or the firm will take appropriate steps to withdraw as attorney of record. If the delay is caused by a problem in the invoice, we must rely upon the client to raise that with us during the 14-day period. This same policy applies to fee arrangements which require the client to replenish fee deposits or make deposits for anticipated costs.

From time to time clients have questions about the format of the bill or description of work performed. If you have any such questions, please ask them when you receive the bill so we may address them on a current basis.

Changes in Fee Arrangements and Budgets

It may be necessary under certain circumstances for a client to increase the size of required advances for fees after the commencement of our engagement and depending upon the scope of the work. For example, prior to a protracted trial or hearing, the firm may require a further advance payment to the firm's trust account sufficient to cover expected fees. Any such changes in fee arrangements will be discussed with the client and mutually agreed in writing.

Because of the uncertainties involved, any estimates of anticipated fees that we provide at the request of a client for budgeting purposes, or otherwise, can only be an approximation of potential fees.

BEST BEST & KRIEGER LLP



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Supporting the Submission of Projects for 2023 Community Project Funding (Staff Contact: Walter C. Rossmann, Deputy City Manager, 408-586-3012)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	4/19/2022
	<u>Recommendation:</u> Adopt a Resolution Supporting the Submission of Projects for 2023 Community Project Funding.

Background:

On March 31, 2022 the City was notified regarding the call for Community Project Funding Request submissions for the Fiscal Year 2023. These one-time funding request submissions were due Friday April 15 to Congressman Khanna's Office. As the Council is aware, the City was successful in receiving \$3 million funding for the S. Milpitas Boulevard Extension Bridge as part of the Fiscal Year 2022 funding cycle.

On March 18, 2022, House Appropriations Committee Chair Rosa DeLauro (D-CT) issued guidance to Members of the House regarding the 2023 requests for Community Project Funding. For each request submitted, Members of the House must provide evidence of community support that were compelling factors in their decision to select the requested projects. Examples of Community engagement and support include:

- Letters of support from elected community leaders
- Press articles highlighting the need for the requested Community Project Funding
- Support from newspaper editorial boards
- Projects listed on State intended use plans, community development plans, or other publicly available planning documents
- Resolutions passed by city councils or boards.

Analysis:

After a review of key infrastructure needs, staff resubmitted the Calaveras Boulevard Widening project (requested amount: \$25 million) and the Montague Expressway Pedestrian Overcrossing (requested amount: \$5 million). As the third project, staff requested \$3 million for Carbon Neutral Home Incentives Program complementing SVCE's program consistent with recent Council discussion and the draft Climate Action Plan.

Calaveras Bridge Widening

This project provides for the replacement of the Calaveras Boulevard vehicle bridges between Milpitas Boulevard and Abel Street. These bridge structures were constructed in the early 1970s and are reaching the end of their service life, and the structures do not have adequate bicycle and pedestrian facilities. The replacement bridge structures will accommodate up to three vehicle travel lanes including a six-foot-wide bike lane and a ten-foot-wide sidewalk along both sides of the structures. State Route 237 (Calaveras Boulevard) is owned by the State of California and the City would be the local project sponsor. The project is estimated to cost \$84,000,000 and the City would be required to provide an 11.5% local funding match for the project, however, the project is not funded. The City Council adopted Resolution No. 7894 on June 16th, 2009 to establish a Development Traffic Impact Fee to provide funding for this project. At this time, the City has collected approximately \$5,000,000 in impact fee funding and the environmental documentation phase of the project will commence in the spring of 2022.

Montague Expressway Pedestrian Overcrossing @ Penitencia Creek

This project provides for the design and construction of a pedestrian overcrossing (POC) bridge over Montague Expressway at the east levee of Penitencia Creek. This POC bridge is part of the Metro Specific Plan circulation infrastructure plan to provide safe and convenient pedestrian connectivity between Metro residential developments, schools, parks, Great Mall, and the BART Station. The Project is currently in the design phase and the California Environmental Quality Act (CEQA) process is anticipated to start later this Spring. Funding for the design phase is from the Transit Area Specific Plan (TASP), however funding is not currently available for the construction phase, which is estimated to cost up to \$15,000,000.

Carbon Neutral Home Incentives Program

On April 5, the City Council discussed and provided feedback regarding the draft Climate Action Plan Update, which sets a goal of achieving carbon-neutrality by 2045. One of the strategies to achieve this goal is the electrification of existing homes. Silicon Valley Clean Energy (SVCE) has committed \$4 million to incentivize single-family residential homeowners to invest home improvements (e.g.: electrical panel upgrades, pre-wiring for future electric appliance upgrades, heat pump water heating, heat pump space heating and cooling, Electric Vehicle charging) which reduce the use of non-renewable resources and greenhouse gas emissions. SVCE and staff estimate that investments for such home improvements can range between \$12,000 to \$25,000. Therefore, while the SVCE incentive package, which provides several thousands of dollars, is notable, it may not provide a sufficient monetary incentive and may still put such improvements out of reach for many homeowners. If funded, the City's Carbon Neutral Home Incentives Program would complement the SVCE incentive package up to \$3,000 per homeowner to significantly drive down the costs of retrofit and create greater access to carbon neutral homes for about 1,000 Milpitas single-family homeowners.

Community Engagement

These funding requests submitted for Community Project Funding fulfill the community engagement requirement as follows. They are listed in community development plans and documents that are publicly available.

More specifically, the two transportation projects are included in the City's Capital Improvement Program, and the City Council and the Milpitas Housing Authority Commission adopted Resolution No. 9005 on April 6th, 2021 following the Public Hearing to adopt the 2022-2026 Capital Improvement Program. In addition, following a Public Hearing, the City's Planning Commission adopted Resolution No. 22-003 on March 23, 2022 finding the proposed 2023-2027 Capital Improvement Program, which includes these two transportation projects, in conformance with the City's General Plan as required by Government Code 65401.

As part of the process to update the City's Climate Action Plan, the City conducted community outreach through multiple channels to solicit community input on actions the City should take to reduce greenhouse gas emissions. This included virtual meetings with Sunnyhills Neighborhood Association, Milpitas High School students, the Development Roundtable, a virtual public workshop, online survey, and outreach at the Milpitas Framers' Market. Through these forums, community members recognized that natural gas use in existing buildings is the second largest source of community GHG emissions and that the City needs to transition away from fossil fuels and support building electrification as a key action in fighting climate change. Therefore, promoting the benefits and incentives for electrification on existing buildings is one of the near-term actions included in the CAP Update.

Resolution

To reinforce community support and engagement for these regionally important transportation infrastructure projects and Carbon Neutral Home Incentives Program, staff recommends the City Council adopt the attached Resolution.

Fiscal Impact:

Two of the three funding requests are included in the City's Capital Improvement Program, however these projects do not have the funding to move forward. Federal Community Project Funding will assist in the completion of these projects. The funding request for the Carbon Neutral Home Incentives Program will support one of the over 100 strategies to achieve carbon neutrality by 2045.

California Environmental Quality Act:

The City Council's action in adopting the resolution is not a project subject to CEQA pursuant to CEQA Guideline 15378(b)(4) as it is more akin to a governmental fiscal activity where the City is seeking funding for various projects, where there is no specific commitment to implement those projects absent the necessary funding flowing to the City. If the projects on the resolution are provided funding in an amount needed for the City to explore implementation of the project, then the City will undertake CEQA analysis at that time prior to any discretionary action to adopt or implement any project on the list.

Recommendation:

Adopt a Resolution Supporting the Submission of Projects for 2023 Community Project Funding.

Attachments:

1. Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS IN SUPPORT
OF THE TWO TRANSPORTATION INFRASTRUCTURE PROJECTS AND ONE
CLIMATE ACTION PLAN PROJECT SUBMITTED FOR FEDERAL COMMUNITY
PROJECT FUNDING**

WHEREAS, the United States Congress Appropriations Committee is accepting up to 15 Transportation Infrastructure Projects from each Committee Representative for review and consideration for federal Community Project Funding (CPF) for the Fiscal Year 2023; and

WHEREAS, the City of Milpitas is within the District Represented by Ro Khanna, who is a member of the Appropriations Committee; and

WHEREAS, the Milpitas City Council and the Milpitas Housing Authority Commission adopted Resolution No. 9055 last April 6th, 2021, following a Public Hearing to adopt the 2022-2026 Capital Improvement Program which includes the following two regionally significant transportation infrastructure Projects: Project No. 2018 Montague Expressway Pedestrian Overcrossing at Penitencia Creek; Project No. 4258 Calaveras Bridge Widening; and

WHEREAS, following a Public Hearing, the City's Planning Commission adopted Resolution No. 22-003 on March 23rd, 2022, finding the proposed 2023-2027 Capital Improvement Program, which also includes these two transportation Projects, in conformance with the City's General Plan as required by Government Code 65401; and

WHEREAS, the City of Milpitas is in the final stages of updating its Climate Action Plan which included substantive community engagement with the goal of achieving carbon neutrality by 2045; and

WHEREAS, the City Council provided feedback regarding the draft Climate Action on April 5 supporting electrification of households; and

WHEREAS, the local Community Choice Energy provider's (Silicon Valley Clean Energy) provides an incentive package for electrification;

WHEREAS, the Carbon Neutral Homes Incentive Program will complement Silicon Valley Clean Energy's program and support the electrification of for about 1,000 single-family households; and

WHEREAS, the City of Milpitas submitted Community Project Funding requests for each of these three Projects to Representative Khanna's Office on April 15, 2022 for consideration in submitting to the Appropriations Committee ahead of the April 29, 2022 deadline for Federal funding; and

WHEREAS, community engagement and support are crucial in determining which projects are worthy of Federal funding. Only projects with demonstrated community support will be considered for funding, and it is recommended the Milpitas City Council demonstrate its support for these regionally significant transportation infrastructure and Climate Action Plan projects submitted for CPF funding.

NOW, THEREFORE, the City Council of the City of Milpitas hereby find, determine, and resolve as follows:

1. The foregoing recitals are true and correct, are incorporated herein and by this reference made an operative part hereof.
2. The following two transportation infrastructure projects are included in the adopted 2022-2026 Capital Improvement Program, which is a publicly available development document, and these Projects are significant infrastructure projects that are an important step to relieving traffic congestion and in enhancing roadway safety for pedestrians and bicyclists which are worthy of Federal funding through the Community Project Funding process:
 - Project No. 2018 Montague Expressway Pedestrian Overcrossing at Penitencia Creek; and
 - Project No. 4258 Calaveras Bridge Widening.
3. The City's Carbon Neutral Home Incentives Program would complement our local Community Choice Energy provider's (Silicon Valley Clean Energy) incentive package by providing up to \$3,000 more per homeowner to significantly drive down the costs of retrofit and create greater access to carbon neutral homes for about 1,000 Milpitas single-family homeowners.

PASSED AND ADOPTED this 19th day of April 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Wendy Wood, City Clerk

Rich Tran, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Introduce an Ordinance Adopting a Controlled Equipment Use Policy per California Assembly Bill 481 (Staff Contact: John Torrez, Assistant Chief of Police, 408-586-2408)
Category:	Public Hearings-Public Safety
Meeting Date:	4/19/2022
	Recommendation: Introduce an ordinance adopting a Controlled Equipment Use Policy per California Assembly Bill 481.

Background:

On September 30, 2021, Governor Gavin Newsom signed into law California Assembly Bill No. 481 (AB 481). AB481 codified Government Code sections 7070 through 7075 which requires a law enforcement agency to obtain approval from the applicable governing body, via adoption of a “military equipment” use policy by ordinance, prior to funding, acquiring, or using military equipment. AB481 is intended to increase police transparency and requires law enforcement agencies to adopt a “military equipment” use policy prior to taking certain actions relating to the funding, acquisition, or use of “military equipment.” The term “military equipment” is broadly defined in AB 481 and includes various pieces of equipment that are currently being used by Milpitas Police Department staff, such as aerial drones, battering rams, and the Armored Rescue Vehicle.

Pursuant to AB481, the “military equipment” policy (herein referred to as Controlled Equipment Policy) must be adopted by ordinance at a regular meeting of the City Council. The policy must address the type, quantity, capabilities, purposes, and authorized uses of each type of controlled equipment; the cost associated with its acquisition and continued use; the legal limitations and procedural rules that govern its use; the training required; the mechanisms in place to ensure policy compliance; and the procedures by which members of the public may file complaints.

AB481 also requires any law enforcement agency that receives approval for the use of controlled equipment to submit an annual report to the governing body regarding the use of the equipment, any complaints received, any internal audits or other information about violations of the controlled equipment use policy, the cost of such use, and other similar information.

Analysis:

The continued acquisition and use of controlled equipment is necessary to ensure law enforcement can safeguard lives, ensure safety, and protect civil liberties. The use of certain controlled equipment is vital to the Milpitas Police Department’s mission and will continue to be strictly regulated through internal processes and oversight.

The term “military equipment”, as used in AB 481, in fact does not necessarily indicate equipment that has been used by the military. Pursuant to AB 481, items deemed to be “military equipment” include, but are not limited to, unmanned aerial or ground vehicles, armored vehicles, command and control vehicles, less lethal shotguns, less lethal 40mm projectile launchers, and flashbangs.

The proposed ordinance seeks to codify the Milpitas Police Department's Controlled Equipment Use Policy, Policy Manual (MPM) Section 708. MPM 708 outlines each item identified in California Government Code section 7070, that is currently owned by the City. California Government Code sections 7070 through 7075 are titled, "Funding, Acquisition, and Use of Military Equipment. Section 7070 (a) through (f) provide the definitions for terms used with Sections 7070 through 7075. Section 7070(c)(1) through (16) define the items included in the definition of the term "Military Equipment".

An attachment to MPM 708 includes an inventory of controlled equipment used by the Milpitas Police Department. The current inventory of controlled equipment was acquired and used in service prior to the implementation of AB481. The future acquisition of any controlled equipment will require a public meeting, inventory list update, and council approval except for in emergency situations.

The proposed policy (MPM 708) safeguards the public's welfare, safety, civil rights, and civil liberties while ensuring transparency, oversight, and accountability measures are in place. MPM 708 requires that the Chief of Police or their designee to ensure compliance with the policy while an annual report to Council and the public will reinforce transparency, oversight, and accountability. Additionally, pursuant to the policy, members of the public may submit complaints to the police department.

The Police Department subscribes to best practices and is committed to using the most up to date tools and equipment to safeguard the citizens of Milpitas. Many of the items deemed to be "military equipment" by AB 481 are in fact employed by the Milpitas Police Department, and law enforcement agencies across the country, to maximize public safety while minimizing risk to community members and officers. These items provide peace officers with the ability to safely resolve volatile situations which otherwise might rise to the level of a lethal force encounter. To that end, the controlled equipment mentioned in this report, and accompanying Controlled Equipment Use Policy, also provides the Department's peace officers with vital tools that facilitate compliance with our comprehensive and stringent use of force policy.

The Milpitas Police Department seeks City Council's adoption of the attached ordinance to allow the continued use of controlled equipment and govern future funding, acquisition, and use of controlled equipment in accordance with the law.

Policy Alternatives:

Alternative 1: Do not adopt the ordinance preventing the Milpitas Police Department from utilizing public safety tools that were in use prior to the passage of Assembly Bill 481 and the future acquisition and/or use of controlled equipment

Pros: There are no identified benefits to this alternative.

Cons: By not being able to utilize equipment already possessed by the Milpitas Police Department, it would curtail the Department's ability to utilize the tools necessary to effectively ensure public safety. It would hinder the effectiveness of the Milpitas Police Department in preventing and addressing crime in the City, which in turn, would put the health, safety, and welfare of citizens and officers at increased risk.

Reason not Recommended: Not adopting the ordinance would prohibit the use of essential public safety equipment and would jeopardize the welfare of citizens and peace officers within the City of Milpitas.

Fiscal Impact:

There is no fiscal impact to introduce the proposed Ordinance.

California Environmental Quality Act:

The action being requested is not a project as defined by CEQA (CEQA Guidelines exemption 15378(b)(2)).

Recommendation:

Introduce an ordinance adopting a Controlled Equipment Use Policy per California Assembly Bill.

Attachments:

1. Proposed Ordinance
2. Milpitas Police Department Policy Manual Section 708
3. Milpitas Police Department Controlled Equipment Inventory List

REGULAR

NUMBER: 311

TITLE: AN UNCODIFIED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS TO ESTABLISH GUIDELINES FOR THE ACQUISITION, FUNDING, USE AND REPORTING OF “CONTROLLED EQUIPMENT”, AS THE TERM IS DEFINED IN GOVERNMENT CODE SECTION 7070 AND TO FULFILL THE OBLIGATIONS SET FORTH IN ASSEMBLY BILL NO. 481

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of _____, 2022, upon motion by _____ and was adopted (second reading) by the City Council at its meeting of _____, upon motion by _____. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Wendy Wood, City Clerk

Rich Tran, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

RECITALS AND FINDINGS:

WHEREAS, on September 30, 2021 Governor Newsom signed a series of policing reform legislation items into law. These laws are aimed at increasing police transparency, and AB 481 in particular requires law enforcement agencies to adopt a military equipment use policy (“Policy”) prior to taking certain actions relating to the funding, acquisition, or use of military equipment as defined by the law, which Policy must be adopted by ordinance at a regular meeting of the governing body for that agency (i.e., the City Council); and

WHEREAS, AB 481 requires adoption of the Policy before a law enforcement agency can take action to request military equipment as defined by the statute; seek funds (such as grants or in-kind donations) for acquiring military equipment; actually acquire military equipment, either permanently or temporarily by owning, borrowing, or leasing; collaborate with other law enforcement agencies to deploy or use military equipment in the agency’s territorial jurisdiction; use new or existing military equipment in a manner not previously subject to AB 481’s scope; solicit or respond to a proposal for, or enter into an agreement with, any person or entity to seek funds for, apply for, acquire, use, or collaborate in using military equipment; or to acquire military equipment through any other means not specifically detailed in the statute; and

WHEREAS, the City Council finds that the acquisition of “military and militaristic equipment,” as defined in AB 481, and the deployment of such military equipment in the City of Milpitas, can impact the public’s safety and welfare, including introducing significant risks to civil rights, civil liberties, and physical and psychological wellbeing, and incurring significant financial costs; and

WHEREAS, the City Council finds that the public has a right to know about any funding, acquisition, or use of military or militaristic equipment by the City of Milpitas, as well as a right to participate in any City decision to fund, acquire, or use such equipment; and

WHEREAS, the City Council finds that decisions regarding whether and how military or militaristic equipment is funded, acquired, or used should give strong consideration to the public’s welfare, safety, civil rights, and civil liberties, and should be based on meaningful public input; and

WHEREAS, the City Council finds that legally enforceable safeguards, including transparency, oversight, and accountability measures, must be in place to protect the public’s welfare, safety, civil rights, and civil liberties before military or militaristic equipment is funded, acquired, or used; and

WHEREAS, the City Council finds that if military or militaristic equipment is acquired, reporting measures must be adopted that empower the City Council and public to verify that mandated civil rights safeguards have been strictly adhere to; and

WHEREAS, in accordance with AB 481, the proposed Policy has been made available on the Milpitas Police Department’s website at least 30 days prior to the public hearing by the City Council to adopt the Policy, and once adopted, the Policy will be made available to the public on the Police Department’s website for as long as the covered military equipment is available for use; and

WHEREAS, in accordance with AB 481, the Policy is being agendized as an open session item at a regular meeting of the City Council, and public comment on the item will be allowed in accordance with the Brown Act; and

WHEREAS, this Ordinance shall be reviewed by the City Council at least annually, and based on an annual military equipment report that must be submitted to the City Council pursuant to AB 481, the City Council shall determine whether each type of military equipment identified in the report has complied with the standards for continued approval. If the City Council cannot make such a determination, it shall either disapprove a renewal of the authorization for that type of equipment, or require modifications to the Policy in a manner to resolve the lack of compliance.

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. PURPOSE OF ORDINANCE

- (A) This Ordinance establishes guidelines for the acquisition, funding, use and reporting of “controlled equipment”, as the term is defined in Government Code section 7070. This Ordinance is provided to fulfill the obligations set forth in Assembly Bill No. 481. These obligations include but are not limited to seeking approval on specific items deemed to be controlled equipment and requirements related to compliance, annual reporting, cataloging, and complaints regarding these items.
- (B) This policy shall be made publicly available on the City’s website and shall be reviewed annually by the Governing Body.
- (C) This Ordinance shall be known as Controlled Equipment: Funding, Acquisition, and Use Ordinance.

SECTION 3. FINDINGS

Pursuant to Government Code § 7071(d)(1), as may be amended or renumbered from time to time, the City Council hereby makes the following findings in support of its adoption of the Policy:

- (A) The military equipment identified in the Policy is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
- (B) The proposed Policy will safeguard the public’s welfare, safety, civil rights, and civil liberties.

- (C) If the Police Department purchases military equipment pursuant to the Policy, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
- (D) Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

SECTION 4. MILITARY EQUIPMENT USE POLICY ADOPTED.

In light of the findings set forth in Section 3, and in accordance with AB 481, the Policy attached hereto as Exhibit “A” and incorporated in full by reference is hereby adopted by the City Council.

SECTION 5. EFFECTIVE DATE.

In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.

SECTION 6. SEVERABILITY.

Each of the provisions of this Ordinance is severable from all other provisions. If any article, section, subsection, paragraph, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 7. NOT A CEQA PROJECT.

The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

EXHIBIT 1

1. Unmanned Aircraft System (UAS): An unmanned aircraft along with the associated equipment necessary to control it remotely.

a. Description, quantity, capabilities, and purchase cost of current UAS:

i. DJI MAVIC MINI, cost: \$500 (grant funding), quantity: 2. Miniature UAS that weighs approximately 249 grams and is able to record video and audio with approximately 30 minutes of flight time.

ii. DJI MAVIC ENTERPRISE DUALS, cost: \$3,500 (grant funding), quantity: 4. UAS that has a color and infrared camera as well as audible speaker and light. Capable of video recording and weighs 899 grams, approx. 30 minutes of flight time.

iii. DJI Matrice 210 V2, cost: \$10,410 (grant funding), quantity: 1. UAS that is foul weather capable has a dual downward gimbal, has an IR camera, zoom camera and light. Has video recording capabilities approx. 11 pounds. 45 minutes of flight time.

iv. DJI Matrice 300 RTK, cost: \$11,349 (grant funding), quantity: 1. UAS that is foul weather capable and has dual gimbal, has an IR camera, zoom camera and light. Has video recording capabilities and is approx. 14 pounds. Has 55 minutes of flight time.

b. Purpose

Unmanned aerial systems (UAS) are necessary as they provide visibility to high risk locations. Without the use of a UAS, officers would have to deploy to high risk locations which would increase the risk to the officers and members of the public.

To be deployed when its view would assist officers or incident commanders with the following situations, which include but are not limited to:

- i. major collision investigations.
- ii. search for missing persons.
- iii. natural disaster management.
- iv. crime scene photography.
- v. SWAT, tactical or other public safety and life preservation missions.

c. Authorized Use

Only assigned operators who have completed the required training shall be permitted to operate the DJI Mavic Mini during approved missions.

d. Expected Life Span

All UAS equipment, 3-5 years.

e. Fiscal Impact

Annual maintenance and battery replacement cost is approximately \$10,000.

f. Training

All Department UAS operators are licensed by the Federal Aviation Administration for UAS operation. In addition, each operator must attend on going department training.

g. Legal and Procedural Rules

Use is established under Milpitas Policy Manual Section 456 and FAA Regulation 14 CFR Part 107. It is the policy of the Milpitas Police Department to utilize UAS only for official law enforcement purposes, and in a manner that respects the privacy of our community, pursuant to State and Federal law.

2. Robots: Unmanned machine operating on the ground utilized to enhance the safety to the community and officers.

a. Description, quantity, capabilities, and purchase cost

i. Robotex Avatar II, cost: \$19,406 (grant funding), quantity: 1. The AVATAR II enables law enforcement to remotely inspect dangerous situations and gather video and audio intelligence including direct-to-unit video and audio recording, a touchscreen display, increased durability, and secure Wi-Fi networking. With these capabilities' officers will be better equipped to remotely gather intelligence and keep themselves and their teams safe from harm.

ii. ICOR Mini Caliber, cost: \$48,500 (general funds), quantity: 1. Lightweight, modular and one-man portable, the robot is designed for rapid deployment, is simple to operate and quick to deploy for searching rooms, hallways, stairwells and confined spaces. It also includes an extendible rotating claw arm that simplifies opening door handles providing protection and safety to their operators.

b. Purpose

To be used to remotely gain visual/audio data, deliver HNT phone, open doors, disrupt packages, and clear buildings.

c. Authorized Use

Only assigned operators who have completed the required training shall be permitted to operate the robots identified at sections 2(a)(i) through (ii). Use is established by the SWAT Team Leader and or Incident Commander.

d. Expected Life Span

All robots, 8-10 years.

e. Fiscal Impact

Annual maintenance and battery replacement cost is approximately \$5,000.

f. Training

All robot operators must complete an inhouse training program prior to operating the robots identified at sections 2(a)(i) through (ii).

g. Legal and Procedural Rules

It is the policy of the Milpitas Police Department to utilize a robot only for official law enforcement purposes, and in a manner that respects the privacy of our community, pursuant to State and Federal law.

3. Armored Vehicles: Commercially produced wheeled armored personnel vehicle utilized for law enforcement purposes.

a. Description, quantity, capabilities, and purchase cost

i. 2018 Lenco BEARCAT MEDEVAC, G2, cost: \$388,800 (general capital improvement project), quantity: 1. The Lenco BearCat Medevac, also known as the MedCat, was designed to meet the combined requirements of SWAT & Tactical EMS Teams. The Medevac can be used as an armored Response & Rescue SWAT truck for dangerous callouts and is equipped to provide Tactical EMS with a safe & effective environment to deal with trauma cases. It seats 10-12 personnel with open floor plan that allows for rescue of down personnel. It can stop various projectiles, which provides greater safety to citizens and officers beyond the protection level of shield and personal body armor.

b. Purpose

To be used in response to critical incidents to enhance officer and community safety, improve scene containment and stabilization, and assist in resolving critical incidents.

c. Authorized Use

The Medevac is primarily used for Special Weapons and Tactics Team (SWAT) incidents safe transport of SWAT personnel to and from critical incidents, high risk rescue operations, training, and to provide emergency medical staff and/or Tactical Emergency Medicine (TEM) personnel a safe working environment, delivering equipment, and other rescue capabilities. It may also be used for community engagement efforts and other applications deemed appropriate based on the specific circumstances of a given incident. Armored vehicles shall be used only by officers trained in their deployment and in a manner consistent with Department policy and training.

d. Lifespan

Lenco Bearcat Medevac G2, 25 years.

e. Fiscal Impact

Annual maintenance cost of approximately \$10,000

f. Training

All driver/operators shall attend formalized instruction and be trained in vehicle operations and practical driving instruction.

g. Legal and Procedural Rules

Use is established under Milpitas Policy Manual Section 707. It is the policy of the Department to utilize armored vehicle only for official law enforcement purposes, and pursuant to State and Federal law.

4. Mobile Incident Command Vehicle (MIC): A mobile office that provides shelter, access to Police Department computer systems, and restroom facilities on extended events.

a. Description, quantity, capabilities, and purchase cost

i. 1998 Winnebago Adventurer (custom built) vehicle, cost: \$133,166 (unknown), quantity:

1. The MIC can also be utilized for SWAT/CNT and other critical incidents, preplanned large events, searching for missing persons, natural disasters, and community events.

ii. TBD (custom build) vehicle, estimated cost: \$1,250,00.00 (general capital improvement project),, quantity: 1. The MIC will be used by the Police and Fire Departments during critical incidents, preplanned large events, searching for missing persons, natural disasters, and community events.

b. Purpose

To be used based on the specific circumstances of a given critical incident, large event, natural disaster or community event that is taking place.

c. Authorized Use

The MIC shall be used by personnel trained in their deployment and in a manner consistent with Department policy and training. Furthermore, only personnel who have completed the Departmental Training and who are properly licensed will be allowed to drive the MIC.

d. Lifespan

The MIC estimated 25-year lifespan on chassis and vehicle structure. Upgrades needed in 6 years to maintain IT systems.

e. Fiscal Impact

Annual maintenance cost is approximately \$10,000.

f. Training

The driver/operator shall receive training in the safe handling of the vehicle on a closed training course. Once the operator has shown competence in vehicle handling, the driver/operator will drive the vehicle throughout the city with an experienced driver.

g. Legal and Procedural Rules

It is the policy of the Department to use the MIC only for official purposes, and in accordance with California State law regarding the operation of motor vehicles.

5. 40 MM Launchers and Rounds: 40MM Launchers are utilized by department personnel as a less lethal tool to launch impact rounds.

a. Description, quantity, capabilities, and purchase cost

i. DEFENSE TECHNOLOGY, 40MM SINGLE SHOT LAUNCHER, #1425, cost: \$810 (general funds), quantity: 6. The 40MM Single Launcher is a tactical single shot launcher

that features an adjustable Integrated Front Grip (IFG) with a rail mounted holographic sight. It will fire standard 40mm less lethal ammunition, up to 4.8 inches in cartridge length. It will launch a 40MM less lethal round up to 131 feet and is only authorized to be used by trained personnel.

iii. DEFENSE TECHNOLOGY, 40MM EXACT IMPACT SPONGE, #6325, cost: \$18 (general funds), quantity: 25. A less lethal 40mm lightweight plastic and foam projectile fired from a single or multi-round purpose built 40mm launcher with a rifled barrel at 325 FPS. The 30-gram foam projectile delivers 120 ft/lbs. of energy on impact. The 40mm Exact Impact Sponge Round provides accurate and effective performance when fired from the approved distance of not less than five (5) feet and as far as 131 feet from the target.

iv. DEFENSE TECHNOLOGY, 40MM DIRECT IMPACT MARKING ROUNDS, #6326, cost: \$30 (general funds), quantity: 7. A less lethal 40MM lightweight plastic and crushable foam projectile fired from a single or multi-round purpose-built 40mm launcher with a rifled barrel at 295 FPS. The 39-gram crushable foam projectile delivers 120 ft/lbs of energy upon impact in addition to dispersion of 5 grams of OC irritant. The 40mm Direct Impact Round provides accurate and effective performance when fired from the approved distance of not less than five (5) feet and as far as 120 feet from the target. When loaded with a green marking agent, the Direct impact Round can be used to indicate the aggressor in a riot situation to the teams on the ground.

iii. DEFENSE TECHNOLOGY, 40MM DIRECT IMPACT RELOADABLE 250 SHOT TRAINING KIT, #6530, cost: \$1300(general funds), quantity: 1. The Direct Impact Reloadable Training Kit allows realistic training to be conducted at a fraction of the cost of using operational rounds. These reusable projectiles can be reloaded by hand in the field in less than 10 seconds without the need for presses or other reloading equipment. These rounds are not for use on humans.

vi. DEFENSE TECHNOLOGY, SPEDE-HEAT 40MM LONG-RANGE, CS, #6182, cost: \$30 (general funds), quantity: 40. The SPEDE-HEAT CS Long-Range Munitions delivers one chemical canister of CS agent from a 40 mm launcher down range up to 150 yards. The Spede-Heat is a pyrotechnic round designed specifically for outdoor use in riot situations with a high-volume continuous burn that expels its payload in approximately 20-40 seconds from a single source. The Spede-Heat family may be used to conceal tactical movement.

v. DEFENSE TECHNOLOGY, FERRETT 40MM POWDER BARRICADE ROUND, CS, #1292/2292, cost: \$30 (general funds), quantity: 15. A less lethal 40MM round used to penetrate barriers, such as windows, hollow core doors, wallboard and thin plywood. Upon impacting the barrier, the nose cone ruptures and instantaneously delivers a small

chemical payload inside of a structure or vehicle. In a tactical deployment situation, the 40mm Ferret is primarily used to dislodge barricaded subjects from confined areas. Its purpose is to minimize the risks to all parties through pain compliance, temporary discomfort and/or incapacitation of potentially violent or dangerous subjects.

vi. DEFENSE TECHNOLOGY, FERRETT 40MM POWDER BARRICADE TRAINING ROUND, INERT, #1293, cost: \$23 (general funds), quantity: 14. An inert training less lethal 40MM round used to penetrate barriers, such as windows, hollow core doors, wallboard and thin plywood. Upon impacting the barrier, the nose cone ruptures and instantaneously delivers an inert payload inside of a structure or vehicle. The 40mm inert Ferret round is primarily used to train personnel in the proper use of its deployment.

vii. DEFENSE TECHNOLOGY, FERRETT 40MM LIQUID BARRICADE TRAINING ROUND, INERT, #1263, cost: \$23 (general funds), quantity: 15. An inert training less lethal 40MM round used to penetrate barriers, such as windows, hollow core doors, wallboard and thin plywood. Upon impacting the barrier, the nose cone ruptures and instantaneously delivers an inert payload inside of a structure or vehicle. The 40mm inert Ferret round is primarily used to train personnel in the proper use of its deployment.

viii. COMBINED SYSTEMS INC., 40MM SPONGE, SMOKLESS SPIN STABILIZED ROUND, #4557, cost: \$30 (general funds), quantity: 261. A spin-stabilized projectile delivering blunt trauma effect. Although it is extremely accurate and consistent, accuracy is dependent on the launcher. Effectiveness depends on many variables, such as distance, clothing, stature, and the point where the projectile impacts. Its purpose is to minimize the risks to all parties through pain compliance and/or incapacitation of potentially violent or dangerous subjects.

b. Purpose

To limit the escalation of conflict where employment of lethal force is prohibited or undesirable.

c. Authorized Use

Situations for use of the less lethal weapon systems may include, but are not limited to:

- i. Self-destructive, dangerous and/or combative individuals.
- ii. Riot and civil unrest incidents.
- iii. Circumstances where a tactical advantage can be obtained.
- iv. Potentially vicious animals.

v. Training exercises or approved demonstrations.

d. Training

Sworn members utilizing 40MM less lethal chemical agents or impact rounds are trained in their use by POST certified less lethal and chemical agents instructors.

e. Lifespan

Defense Technology #1425- 25 years.

Model 6325 Exact Impact Sponge- 5 years.

Model 6326 Direct Impact Marking Round OC- 5 years.

Model 6530 Direct Impact Reloadable Training Kit – Until Diminished

Model 6182 Spede-Heat 40 MM long-range, CS- 5 years.

Model 1292/2292 40mm Ferret Barricade Penetrator, CS – 5 years

Model 1293 40mm Powder Ferret Barricade Penetrator, Inert – 5 years

Model 1292/2292 40mm Liquid Ferret Barricade Penetrator, Inert – 5 years

CSI Model 4557 40mm Smokeless Sponge Round, 5 years

f. Fiscal Impact

Annual maintenance is approximately \$50 for each launcher.

g. Legal and Procedural Rules

It is the policy of the Department to utilize the 40mm only for official law enforcement purposes, and pursuant to State and Federal law, including those regarding the use of force.

6. Less Lethal Shotgun: Less Lethal Shotgun is used to deploy the less lethal 12-gauge Super-Sock Beanbag Round.

a. Description, quantity, capabilities, and purchase cost

i. REMINGTON 870 LESS LETHAL SHOTGUN, cost: \$946 (general funds), quantity: **35**. The Remington 870 Less Lethal Shotgun is used to deploy the less lethal 12-gauge Super-Sock Beanbag Round up to a distance of 75 feet. The range of the weapon system

helps to maintain space between officers and a suspect reducing the immediacy of the threat which is a principle of De-escalation.

ii. COMBINED SYSTEMS INC. SUPER-SOCK BEANBAG ROUND, #2581 cost: \$6 (general funds), quantity: 1200. A less lethal 2.4-inch 12-gauge shotgun round firing a ballistic fiber bag filled with 40 grams of lead shot at a velocity of 270-290 feet per second (FPS). CTS Super-Sock rounds are discharged from a dedicated 12-gauge shotgun that is distinguishable by an orange butt stock and fore grip. This round provides accurate and effective performance when fired from the approved distance of not fewer than five (5) feet. The maximum effective range of this munition is up to 75 feet from the target.

b. Purpose

To limit the escalation of conflict where employment of lethal force is prohibited or undesirable.

c. Authorized Use

Situations for use of the less lethal weapon systems may include, but are not limited to:

- i. Self-destructive, dangerous and/or combative individuals.
- ii. Riot and civil unrest incidents.
- iii. Circumstances where a tactical advantage can be obtained.
- iv. Potentially vicious animals.
- v. Training exercises or approved demonstrations.

d. Lifespan

Remington 870 Less Lethal Shotgun- 25 years.

Super Sock Round- No listed expiration date.

e. Fiscal Impact

Annual maintenance is approximately \$50 for each shotgun.

f. Training

All officers are trained in the 12 gauge less lethal shotgun as a less lethal option by in-service training.

g. Legal and Procedural Rules

It is the policy of the Department to utilize the less lethal shotgun only for official law enforcement purposes, and pursuant to State and Federal law, including those regarding the use of force.

7. Distraction Devices: A device used to distract dangerous persons.

a. Description, quantity, capabilities, and purchase cost

i. COMBINED TACTICAL SYSTEMS, 7290-2 NOISE FLASH DEVICE, cost: \$52 (general fund), quantity: 17. A non-bursting, non-fragmenting multi-bang device that produces a thunderous bang with an intense bright light. Ideal for distracting dangerous suspects during assaults, hostage rescue, room entry or other high-risk arrest situations.

ii. COMBINED TACTICAL SYSTEMS, 7290-9 NOISE FLASH DEVICE MULTI BURST, cost: \$60 (general fund), quantity: 6. A multi-bang, non-bursting, non-fragmenting multi-bang device that produces a thunderous bang with an intense bright light. Ideal for distracting dangerous suspects during assaults, hostage rescue, room entry or other high-risk arrest situations.

iii. DEFENSE TECHNOLOGY, 8902 NOISE FLASH DEVICE, LOW ROLE, cost: \$ 55 (general fund), quantity: 1. A non-bursting, limited movement and rolling, non-fragmenting device that produces a thunderous bang with an intense bright light. Ideal for distracting dangerous suspects during assaults, hostage rescue, room entry or other high-risk arrest situations.

b. Purpose

A distraction device is ideal for distracting dangerous suspects during assaults, hostage rescue, room entry or other high-risk arrest situations. To produce atmospheric overpressure and brilliant white light and, as a result, can cause short-term (6 - 8 seconds) physiological/psychological sensory deprivation to give officers a tactical advantage.

c. Authorized Use

Diversionsary Devices shall only be used:

- i. By officers who have been trained in their proper use.
- ii. In hostage and barricaded subject situations.
- iii. In high risk warrant (search/arrest) services where there may be extreme hazards to officers.
- iv. During other high-risk situations where their use would enhance officer safety.
- v. During training exercises.

d. Lifespan

Until used.

e. Fiscal Impact

No annual maintenance.

f. Training

Prior to use, officers must attend divisionary device training that is conducted by Post certified instructors.

g. Legal and Procedural Rules

It is the policy of the Department to utilize diversion devices only for official law enforcement purposes, and pursuant to State and Federal law regarding the use of force.

8. Rifles: Guns that are fired from shoulder level, having a long spirally grooved barrel intended to make bullets spin and thereby have greater accuracy over a long distance.

a. Description, quantity, capabilities, and purchase cost

i. COLT TACTICAL CARBINE, MODEL AR-15A3, cost: \$800 (general fund), quantity: 100. A rifle that fires an intermediate-power cartridge (.223) which is more powerful than a standard pistol but less powerful than a standard rifle. Rifle and has a 16" barrel. The magazine holds 30 rounds of ammunition and the rifle has a collapsible stock. The carbine provides officers the ability to engage hostile suspects at distances generally greater than the effective distance of their handguns. Additionally, AR-15 rifles offer advantages over handguns, such as increased accuracy potential and the ability to defeat soft body armor but are not appropriate for every situation.

ii. COLT TACTICAL CARBINE, MODEL M16, cost: \$800 (general fund), quantity: 4. A rifle that fires an intermediate-power cartridge (.223) which is more powerful than a standard pistol but less powerful than a standard rifle. Rifle and has a 11.5" barrel. The magazine holds 30 rounds of ammunition and the rifle has a collapsible stock. The carbine provides officers the ability to engage hostile suspects at distances generally greater than the effective distance of their handguns. Additionally, AR-15 rifles offer advantages over handguns, such as increased accuracy potential and the ability to defeat soft body armor but are not appropriate for every situation. Used by the Special Weapons and Tactics Team.

iii. SIONICS WEAPONS SYSTEMS, MODEL SHORT BARREL RIFLE (SBR) LE, cost: \$ 1500 (general fund), quantity: 7. A rifle that fires an intermediate-power cartridge (.223) which is more powerful than a standard pistol but less powerful than a standard rifle. Rifle and has a 11.5" barrel. The magazine holds 30 rounds of ammunition and the rifle has a collapsible stock. The carbine provides officers the ability to engage hostile suspects at

distances generally greater than the effective distance of their handguns. Made out of aluminum with an ambidextrous safety selector and charging handle. Used by the Special Weapons and Tactics Team.

iv. HECKLER & KOCH, MODEL MP5A3, cost: \$1000 (general fund), quantity: 7. A submachine gun chambered in 9mm it is universally applicable making it useable in all areas and under all conditions. The magazine holds 30 rounds of ammunition and allows officers the ability to engage hostile suspects at distances generally greater than the effective distance of their handguns. Used by the Special Weapons and Tactics Team.

v. REMINGTON, MODEL 700P BOLT ACTION RIFLE, cost: \$0 (personal weapons donated by prior SWAT officers), quantity: 3. A semi-automatic shoulder-fired rifle with precision optics that fires a .308 Winchester cartridge. The .308 rifle provides SWAT Snipers the ability to engage hostile suspects at great distances with accuracy. The .308 rifles are used exclusively by officers assigned to the SWAT Sniper Team. These rifles are typically deployed with the SWAT Sniper Team during high risk SWAT operations and special events or instances wherein Sniper Over Watch Teams are needed.

vi. REMINGTON, MODEL 700 SPS TACTICAL BOLT ACTION RIFLE, cost: \$0 (personally owned rifle, Owner Applied Number (OAN): SRL302-1), quantity: 1. A semi-automatic shoulder-fired rifle with precision optics that fires a .308 Winchester cartridge. The .308 rifle provides SWAT Snipers the ability to engage hostile suspects at great distances with accuracy. The .308 rifles are used exclusively by officers assigned to the SWAT Sniper Team. These rifles are typically deployed with the SWAT Sniper Team during high risk SWAT operations and special events or instances wherein Sniper Over Watch Teams are needed.

vii. REMINGTON, MODEL 700 SPS TACTICAL BOLT ACTION RIFLE, cost: \$0 (personally owned rifle, OAN: SRL319-1), quantity: 1. A semi-automatic shoulder-fired rifle with precision optics that fires a .308 Winchester cartridge. The .308 rifle provides SWAT Snipers the ability to engage hostile suspects at great distances with accuracy. The .308 rifles are used exclusively by officers assigned to the SWAT Sniper Team. These rifles are typically deployed with the SWAT Sniper Team during high risk SWAT operations and special events or instances wherein Sniper Over Watch Teams are needed.

viii. REMINGTON, MODEL 700 PSS BOLT ACTION RIFLE, cost: \$0 (personally owned rifle, OAN: SRL289-1), quantity: 1. A semi-automatic shoulder-fired rifle with precision optics that fires a .308 Winchester cartridge. The .308 rifle provides SWAT Snipers the ability to engage hostile suspects at great distances with accuracy. The .308 rifles are used exclusively by officers assigned to the SWAT Sniper Team. These rifles are typically

deployed with the SWAT Sniper Team during high risk SWAT operations and special events or instances wherein Sniper Over Watch Teams are needed.

ix. RUGER PRECISION RIFLE, MODEL 18028 BOLT ACTION RIFLE, cost: \$0, (personally owned rifle, OAN: SRL302-2), quantity: 1. A semi-automatic shoulder-fired rifle with precision optics that fires a .308 Winchester cartridge. The .308 rifle provides SWAT Snipers the ability to engage hostile suspects at great distances with accuracy. The .308 rifles are used exclusively by officers assigned to the SWAT Sniper Team. These rifles are typically deployed with the SWAT Sniper Team during high risk SWAT operations and special events or instances wherein Sniper Over Watch Teams are needed.

x. RUGER PRECISION RIFLE, MODEL 18028 BOLT ACTION RIFLE, cost: \$0, (personally owned rifle, OAN: SRL319-2), quantity: 1. A semi-automatic shoulder-fired rifle with precision optics that fires a .308 Winchester cartridge. The .308 rifle provides SWAT Snipers the ability to engage hostile suspects at great distances with accuracy. The .308 rifles are used exclusively by officers assigned to the SWAT Sniper Team. These rifles are typically deployed with the SWAT Sniper Team during high risk SWAT operations and special events or instances wherein Sniper Over Watch Teams are needed.

xi. Colt M16A1 RIFLE, cost: \$0 (1033 program), quantity: 15. Received from the military and converted to semi-automatic AR-15. (4) are currently in use in the Traffic Safety Unit. The traffic safety unit utilizes converted rifles to enhance the tactical capabilities when on their motorcycles to augment their service pistols when needed. (7) are in use by the Honor Guard for ceremonial display. Honor Guard members are sworn peace officers who have been specially chosen from all divisions of the department. Duties include providing funeral honors for officers who have been killed in the line of duty or other ceremonial duties as assigned. (4) are currently not in use.

xii. FEDERAL AMERICAN EAGLE 9MM LUGER, 147 GRAIN (GR) FULL METAL JACKET, cost: \$20 per box (general fund), quantity: 250 boxes. This Federal American Eagle 9mm Luger ammunition is loaded with a 147 grain Full Metal Jacket bullet. The Full Metal Jacket bullet is for range practice and reducing fouling in the barrel. The jacket extends from the nose to the base, preventing bullet expansion and barrel leading. This ammunition is new production, non-corrosive, ammo, featuring brass cases, boxer primed and is reloadable.

xiii. FEDERAL .223 55GR RIFLE ROUND, cost: \$20 per box (general fund), quantity: 1150 cases. Federal 223 Remington ammo features a lead core 55 Grain Full Metal Jacket bullet that is nonmagnetic, non-corrosive boxer primer and new virgin brass casing that can be reloaded up to seven times for those high volume 223 ammo shooters that

love to reload their 223 Remington ammunition. The Federal American Eagle 223BL ammo offers muzzle velocity of 3240 feet per second and muzzle energy of 1282 ft lbs.

xiv. HORNADY .223 55GR RIFLE ROUND, TAP URBAN, cost: \$20 per box (general fund), quantity: 110 cases. The preferred choice for use in SBRs, carbines, and rifles when the probability for barrier penetration is low. The TAP round offers high velocity in shorter barreled firearms with an increase in penetration and weight retention. These factors make this bullet a great choice when collateral risk is high.

xv. HORNADY .308 WINCHESTER 155GR RIFLE ROUND, A-MAX TAP, cost: \$26 per box (general fund), quantity: 15 cases. This law enforcement cartridge offers match accuracy with a high ballistic coefficient providing superior long-range performance. This load demonstrates expansion and fragmentation similar to the 110 gr. load, but with a noticeable increase in penetration and retained bullet weight. This bullet penetrates glass with minimal deflection and exhibits excellent expansion and fragmentation characteristics.

b. Purpose

To be used as precision weapons to address a threat with more precision and/or greater distances than a handgun, if present and feasible.

c. Authorized Use

Only members that are POST certified and departmentally trained are authorized to use a rifle they have been trained on.

d. Lifespan

Colt AR-15A3 – no expiration

Colt Model M16 – no expiration

Sionic SBR – no expiration

MP5 – no expiration

Remington 700 – no expiration

Remington 700 SPS Tactical – no expiration

Ruger Precision Rifle – no expiration

Colt M16A1rifle converted to semi-automatic AR-15- no expiration.

Federal American Eagle 9mm Luger 147 Grain FMJ- no expiration.

Federal .223 FMJ- no expiration.

Hornady .223- no expiration.

Hornady .308- no expiration.

e. Fiscal Impact

Annual maintenance is approximately \$50 for each rifle. Personally owned weapons are maintained at owners cost.

f. Training

Prior to using a rifle, officers must be certified by POST instructors in the operation of the rifle. Additionally, all members that operate any rifle are required to pass a range qualification at least once a year.

g. Legal and Procedural Rules

It is the policy of the Department to utilize rifles only for official law enforcement purposes, and pursuant to State and Federal law regarding the use of force.

8. Chemical Agent and Smoke Canisters: Canisters that contain chemical agents that are released when deployed.

a. Description, quantity, capabilities, and purchase cost

i. DEFENSE TECHNOLOGY, FLAMLESS TRI-CHAMBER SAF-SMOKE CANISTER, #1033, cost: \$40 (general fund), quantity: 4. The design of the Tri-Chamber Flameless Saf-Smoke allows for the contents to burn within an internal can and disperse the agent safely with reduced risk of fire. Primary designed for indoor tactical situations will deliver about 20-25 seconds of burn time. Was designed for barricaded situations in mind to primarily detect and or dislodge a barricades subject. The purpose of the Tri-Chamber Flameless Saf-Smoke is to minimize the risk to all parties through pain compliance and or incapacitation of potentially violent or dangerous subjects.

ii. DEFENSE TECHNOLOGY, MILITARY-STYLE SAF-SMOKE CANISTER, #1063, cost: \$22 (general fund), quantity: 12. The Saf-Smoke canister was designed for training but may also be used in operations. The Saf-Smoke offers the same burn times as other smoke canisters making it an appropriate choice for training or simulation deployment of chemical agent canisters.

iii. DEFENSE TECHNOLOGY, MAXIMUM HC SMOKE MILITARY STYLE CANISTER, #1083, cost: \$30, quantity: 8. The Riot Control smoke is designed specifically for outdoor use in riotous situations with a high volume continuous burn that expels its payload in approximately 20-40 seconds through four gas ports located on the top of the canister. The smoke can be used to conceal tactical movement. The volume of smoke and agent is vast and obtrusive.

iv. DEFENSE TECHNOLOGY, HAN-BALL GRENADE, CN, #1091, cost: \$40 (general fund), quantity: 5. The Han-Ball Grenade is a launchable grenade and is a maximum effect device that delivers three stimuli for psychological and physiological effects: light, sound and CS. This grenade is a launchable and combines loud report and flash with effects of chemical agents making it suitable for riot control situations.

v. DEFENSE TECHNOLOGY, HAN-BALL GRENADE, CS, #1092, cost \$40 (general fund), quantity: 50. The Han-Ball Grenade is a launchable grenade and is a maximum effect device that delivers three stimuli for psychological and physiological effects: light, sound and CS. This grenade is a launchable and combines loud report and flash with effects of chemical agents making it suitable for riot control situations.

iv. DEFENSE TECHNOLOGY, FLAMLESS EXPULSION GRENADE, INERT, #2043, cost: \$40 (general fund), quantity: 3. The Inert Flameless Expulsion Grenade is a training device that will allow team members to deploy the grenade without effecting roll players. This compact, non-pyrotechnic, inert powder device provides safe expulsion without risk of fire. Unlike pyrotechnical grenades, this device's contents are expelled upon actuation of a CO2 cartridge that will affect a confined area of approximately 1500 square feet.

b. Purpose

To limit the escalation of conflict where employment of lethal force is prohibited or undesirable situations for use of the less lethal weapon systems may include, but are not limited to:

- i. Self-destructive, dangerous and/or combative individuals.
- ii. Riot control and civil unrest incidents.
- iii. Circumstances where a tactical advantage can be obtained.
- iv. Potentially vicious animals.
- v. Training exercises or approved demonstrations.

c. Authorized Use

Only officers who have received POST certification in the use chemical agents are authorized to use chemical agents.

d. Training

Sworn members utilizing chemical agent canisters are certified by POST less lethal and chemical agents instructors.

e. Lifespan

5 years from manufacturing date.

f. Fiscal Impact

No annual maintenance

g. Legal and Procedural Rules

It is the policy of the Department to utilize chemical agents only for official law enforcement purposes, and pursuant to State and Federal law, including those regarding the use of force.

9. Explosive Breaching Tools: Tools that are used to conduct an explosive breach.

a. Description, quantity, capabilities, and purchase cost

i. PRIMACORD (UN0065), cost: \$2 per foot (general fund), quantity: 3000 feet. PRIMACORD is a detonating cord that is a thin, flexible plastic tube usually filled with pentaerythritol tetranitrate (PETN, pentrite). With the PETN exploding at a rate of approximately 6400m/s, any common length of detonation cord appears to explode instantaneously. It is a highspeed fuse which explodes, rather than burns, and is suitable for detonating high explosives. Explosive entry is a non-lethal force option, but it should only be used when you can justify that spending any length of time in front of a door with a mechanical breach would be too dangerous for the officer conducting the breach or that mechanical breaching would fail on a reinforced objective.

ii. NONEL LEAD LINE (#UN0349), cost: \$1 (general fund), quantity: 5000 feet. NONEL LEAD LINE provides maximum flexibility to the blaster in choosing a position of safety from which to initiate nonelectric blast rounds in either underground or surface applications. LEAD LINE propagates a low energy signal, similar to a dust explosion, at approximately 6500 ft/sec (2000 m/sec) along the tubes length with minimal disturbance to the outside of the tube.

iii. NONEL DETONATOR ASSEMBLY, NON-ELECTRIC (#UN0361), cost: \$15 (general fund), quantity: 120. A detonator assembly is a small sensitive primary explosive device generally used to detonate a larger, more powerful and less sensitive secondary explosive such as a plastic explosive. Detonator assemblies come in a variety of types, including non-electric caps, electric caps, and fuse caps.

b. Purpose

To safely gain entry into a structure.

c. Authorized Use

Explosive breaching may only occur after authorization by the Incident Commander or SWAT Commander in the field, and during training exercises.

d. Lifespan

Blasting Caps- 10 years
Detonating cord- 10 years
Lead Line- 10 years

e. Fiscal Impact

There is no fiscal impact.

f. Training

All officers who use explosive breaching tools shall attend 40 hours of explosive breaching instruction and must additionally receive quarterly training for explosive operations.

g. Legal and Procedural Rules

It is the policy of the Department to utilize breaching tools only for official law enforcement purposes, and pursuant to State and Federal law.

EXHIBIT B

Controlled Equipment (Military Equipment)

708.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting of use requirements of controlled equipment, also defined as “military equipment” pursuant to Assembly Bill 481 (Government Code § 7070; Government Code § 7071; Government Code § 7072).

708.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

Governing body – The elected or appointed body that oversees the Department.

Controlled Equipment – Includes items defined in California Government Code section 7070, subsections (c)(1) through (c)(16); and any other item deemed to be controlled equipment by the governing body.

708.2 POLICY

It is the policy of the Milpitas Police Department that members of this department comply with the provisions of Government Code § 7071 with respect to controlled equipment.

708.3 CONTROLLED EQUIPMENT COORDINATOR

The Chief of Police, or designee, shall act as the controlled equipment coordinator. The responsibilities of the controlled equipment coordinator include but are not limited to:

- (a) Acting as a liaison to the governing body to meet the requirements of this policy.
- (b) Identifying equipment currently owned or used by the Milpitas Police Department, and that equipment the Department intends to acquire or use, that qualifies as controlled equipment and ensuring compliance with legislative mandates.
- (c) Conducting an annual inventory of all controlled equipment.
- (d) Collaborating with any allied agency that may use controlled equipment within the City of Milpitas (Government Code § 7071).
- (e) Preparing for, scheduling, and coordinating an annual community engagement meeting to include:
 1. Publicly noticing the meeting no less than 30 days in advance.
 2. Preparing for public inquiries regarding the department’s funding, acquisition, and use of equipment.

EXHIBIT B

(f) Preparing the annual controlled equipment report for submission to the Chief of Police and ensuring that the report is made available to the public on the department website (Government Code § 7072).

(g) Establishing a procedure for the public to register a complaint or concern, submit a question about the use of controlled equipment, and identify how the Department will respond.

708.4 CONTROLLED EQUIPMENT INVENTORY

A list of equipment currently held by the department or in coordination with another local agency is attached to this policy as Exhibit 1 and incorporated into this policy by reference. The inventory list will be updated each year as part of the annual report required pursuant to AB 481.

708.5 APPROVAL

The Chief of Police or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting the controlled equipment policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed controlled equipment policy is submitted to the governing body and is available on the department website at least 30 days prior to any public hearing concerning the controlled equipment (Government Code § 7071). The controlled equipment policy must be approved by the governing body prior to engaging in any of the following (Government Code § 7071):

(a) Requesting controlled equipment from the Federal Government pursuant to 10 USC § 2576a (Ex: 1033 Program)

(b) Seeking funds for controlled equipment, including but not limited to applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

(c) Acquiring controlled equipment either permanently or temporarily, including by borrowing or leasing.

(d) Collaborating with another law enforcement agency in the deployment or other use of controlled equipment within the jurisdiction of this department.

(e) Using any new or existing controlled equipment for a purpose, in a manner, or by a person not previously approved by the governing body.

(f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of controlled equipment.

EXHIBIT B

(g) Acquiring controlled equipment through any means not provided above.

708.6 EXIGENCY- PROCUREMENT AND USE

Nothing in this policy shall prohibit the procurement or use of controlled equipment when exigent circumstances exist. In rare circumstances, exigent circumstances may occur where the immediate procurement and use of controlled equipment may be necessary to preserve life, prevent physical harm to officers or other persons, prevent the destruction of relevant evidence, prevent the escape of the suspect, or maintain public safety. In the event such an event occurs, the Chief of Police or the authorized designee may authorize the procurement and use of controlled equipment. Any exigent procurement and/or use of controlled equipment will be reported to the governing body, in writing, unless such information is confidential or privileged under local, state or federal law.

708.7 ANNUAL REPORT

Upon approval of a controlled equipment policy, the Chief of Police or their authorized designee shall submit a controlled equipment report to the governing body for each type of controlled equipment approved within one year of approval, and annually thereafter for as long as the controlled equipment is available for use (Government Code § 7072).

The Chief of Police or the authorized designee shall also make each annual controlled equipment report publicly available on the department website for as long as the controlled equipment is available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of controlled equipment in department inventory.

708.8 COMMUNITY ENGAGEMENT

Within 30 days of submitting and publicly releasing the annual report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the Department should discuss the report and respond to public questions regarding the funding, acquisition, or use of controlled equipment.

708.9 MAINTENANCE AND RESUPPLY OF CONTROLLED EQUIPMENT

In the event a previously approved supply of controlled equipment falls below the approved quantity, the Department may replenish the supply, as needed, without first obtaining additional approval from the Governing Body.

EXHIBIT B

EXHIBIT 1 Controlled Equipment Inventory



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Conduct a Public Hearing and Adopt a Resolution Approving Issuance of the California Municipal Finance Authority Multifamily Housing Revenue Bonds in an Aggregate Principal Amount Not to Exceed \$47,000,000.00 for the Benefit of Milpitas Pacific Associates to Provide for the Financing of an Affordable Housing Project at 308 Sango Court (Staff Contact: Sharon Goei, Building Safety and Housing Director, 408-586-3260)
Category:	Public Hearings-Community Development
Meeting Date:	4/19/2022
	<u>Recommendation:</u> (1) Open the public hearing under the requirements of the Tax and Equity Fiscal Responsibility Act (TEFRA) and the Internal Revenue Code of 1986, as amended (the "Code"); (2) Move to close the public hearing following any comments; and (3) Adopt a resolution approving the issuance of the Multifamily Housing Revenue Bonds in an aggregate principal amount not to exceed \$47,000,000.00 by the California Municipal Finance Authority (CMFA) for the benefit of Milpitas Pacific Associates to provide for the financing of the 308 Sango Court project. Such adoption is solely for the purposes of satisfying the requirements of TEFRA, the Code, and the California Government Code Section 6500 regarding Joint Exercise of Powers.

Background:

The 308 Sango Court project (the "Project") is an 85-unit 100% affordable multifamily rental housing project that was approved by the City Council on August 5, 2021. The Project submitted a building permit application package in February 2022 and is undergoing plan review.

Milpitas Pacific Associates, a California Limited Partnership (the "Borrower"), a partnership of which Pacific West Communities, Inc. (the "Developer") or a related person to the Developer is the general partner, has requested that the California Municipal Finance Authority (CMFA) issue tax-exempt Multifamily Housing Revenue Bonds in an aggregate principal amount not to exceed \$47,000,000 (the "Bonds"). The proceeds of the Bonds will be used to finance or refinance the acquisition, construction, improvement, and equipping of the Project.

Analysis:

Multifamily housing projects that set aside a portion of their units for affordable housing qualify for tax-exempt bond financing. The bond financing program was established by both Federal and State law, and gives private developers access to below-market interest rates for housing projects that include affordable units. Under the law, 40% of the units in the project must be set aside and made available to households who earn no more than 60% of the Area Median Income. The Project will meet the requirement and therefore, qualifies for tax-exempt financing through the issuance of bonds.

In order for all or a portion of the Bonds to qualify as tax-exempt bonds, the City of Milpitas must conduct a public hearing under the Tax and Equity Fiscal Responsibility Act (the "TEFRA Hearing") providing for the members of the community an opportunity to speak in favor of or against the use of tax-exempt bonds for the financing of the Project. TEFRA requires that a public hearing be held by the governing body of the jurisdiction in which a project to be financed with tax-exempt financing is located, and that the governing body approve the proposed financing. Prior to such TEFRA Hearing, reasonable notice must be provided to the members of the community. Following the close of the TEFRA Hearing, an "applicable elected representative" of the

governmental unit hosting the Project, which is the Milpitas City Council, must provide its approval of the issuance of the Bonds for the financing of the Project.

The Borrower has requested that the CMFA issue tax-exempt bonds to finance the Project. The CMFA was created on January 1, 2004 pursuant to a Joint Exercise of Powers Agreement to promote economic, cultural, and community development, through the financing of economic development and charitable activities throughout California. To date, over 300 municipalities, including the City of Milpitas, have become members of CMFA.

The CMFA was formed to assist local governments, nonprofit organizations, and businesses with the issuance of taxable and tax-exempt bonds aimed at improving the standard of living in California. The CMFA's representatives and Board of Directors have considerable experience in bond financings.

The Joint Exercise of Powers Agreement provides that the CMFA is a public entity, separate and apart from each member executing such agreement. The debts, liabilities, and obligations of the CMFA do not constitute debts, liabilities, or obligations of the members executing such agreement.

The Bonds to be issued by the CMFA for the Project will be the sole responsibility of the Borrower. The City will have no financial, legal, moral obligation, liability or responsibility for the Project or the repayment of the Bonds for the financing of the Project. All financing documents with respect to the issuance of the Bonds will contain clear disclaimers that the Bonds are not obligations of the City or the State of California, but are to be paid for solely from funds provided by the Borrower. The City will bear no costs in the issuance of the Bonds.

Participation by the City in the CMFA will not impact the City's appropriations limits and will not constitute any type of indebtedness by the City. Outside of holding the TEFRA Hearing and adopting the required resolution, no other participation or activity of the City or the City Council with respect to the issuance of the Bonds will be required.

Staff recommends that the City Council adopt a resolution approving the issuance of bonds by the CMFA for the financing of the 308 Sango Court project.

Policy Alternative:

Alternative 1: Do not approve the resolution approving the issuance of the bonds by the CMFA for the benefit of Milpitas Pacific Associates to provide for the financing of the Project.

Pros: None.

Cons: The 85-unit 100% affordable housing project at 308 Sango Court may not be created without the use of tax-exempt bond financing.

Reason not recommended: Not approving the resolution may jeopardize the creation of 85 additional affordable housing units in Milpitas.

Fiscal Impact:

With the exception of staff time, there are no fiscal impacts to the City. It is expected upon closing of the California Municipal Finance Authority Multifamily Housing Revenue Bonds that a portion of the issuance fee will be granted by the CMFA to the General Fund of the City. Such grant may be used for any lawful purposes of the City. The amount expected is approximately \$15,000.00.

California Environmental Quality Act:

Not applicable. In accordance with CEQA Guidelines section 15378(b)(4)&(5), action on this item is not a project subject to CEQA because it is a financing activity that will not result in a physical change to the environment.

Recommendation:

1. Open the public hearing under the requirements of the Tax and Equity Fiscal Responsibility Act (TEFRA) and the Internal Revenue Code of 1986, as amended (the "Code").
2. Move to close the public hearing following any comments.

3. Adopt a resolution approving the issuance of the Multifamily Housing Revenue Bonds in an aggregate principal amount not to exceed \$47,000,000.00 by the California Municipal Finance Authority (CMFA) for the benefit of Milpitas Pacific Associates to provide for the financing of the 308 Sango Court project. Such adoption is solely for the purposes of satisfying the requirements of TEFRA, the Code, and the California Government Code Section 6500 regarding Joint Exercise of Powers.

Attachment:

1. TEFRA Resolution

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS
APPROVING THE ISSUANCE OF THE CALIFORNIA MUNICIPAL
FINANCE AUTHORITY MULTIFAMILY HOUSING REVENUE BONDS
IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED
\$47,000,000 FOR THE PURPOSE OF FINANCING OR REFINANCING THE
ACQUISITION, CONSTRUCTION, IMPROVEMENT AND EQUIPPING
OF 308 SANGO COURT AND CERTAIN OTHER MATTERS RELATING
THERETO**

WHEREAS, Milpitas Pacific Associates, a California Limited Partnership (the "Borrower"), a partnership of which Pacific West Communities, Inc. (the "Developer") or a related person to the Developer is the general partner, has requested that the California Municipal Finance Authority (the "Authority") adopt a plan of financing providing for the issuance of exempt facility bonds for a qualified residential rental project pursuant to Section 142(a)(7) of the Internal Revenue Code of 1986 (the "Code") in one or more series issued from time to time, including bonds issued to refund such exempt facility bonds in one or more series from time to time, and at no time to exceed \$47,000,000 in aggregate principal amount (the "Bonds"), to finance or refinance the acquisition, construction, improvement and equipping of a multifamily rental housing project located at 308 Sango Court, Milpitas, California (the "Project"); and

WHEREAS, pursuant to Section 147(f) of the Code, the issuance of the Bonds by the Authority must be approved by the City of Milpitas (the "City") because the Project is located within the territorial limits of the City; and

WHEREAS, the City Council of the City (the "City Council") is the elected legislative body of the City and is one of the "applicable elected representatives" required to approve the issuance of the Bonds under Section 147(f) of the Code; and

WHEREAS, the Authority has requested that the City Council approve the issuance of the Bonds by the Authority in order to satisfy the public approval requirement of Section 147(f) of the Code and the requirements of Section 4 of the Joint Exercise of Powers Agreement relating to the California Municipal Finance Authority, dated as of January 1, 2004 (the "Agreement"), among certain local agencies, including the City; and

WHEREAS, pursuant to Section 147(f) of the Code, the City Council has, following notice duly given, held a public hearing regarding the issuance of the Bonds, and now desires to approve the issuance of the Bonds by the Authority;

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

Section 1. The foregoing resolutions are true and correct.

Section 2. The City Council hereby approves the issuance of the Bonds by the Authority. It is the purpose and intent of the City Council that this resolution constitute approval of the issuance of the Bonds by the Authority, for the purposes of (a) Section 147(f) of the Code by the

applicable elected representative of the governmental unit having jurisdiction over the area in which the Project is located, in accordance with said Section 147(f) and (b) Section 4 of the Agreement.

Section 3. The issuance of the Bonds shall be subject to the approval of the Authority of all financing documents relating thereto to which the Authority is a party. The City shall have no responsibility or liability whatsoever with respect to the Bonds.

Section 4. The adoption of this Resolution shall not obligate the City or any department thereof to (i) provide any financing to acquire or construct the Project or any refinancing of the Project; (ii) approve any application or request for or take any other action in connection with any planning approval, permit or other action necessary for the acquisition, construction, rehabilitation, installation or operation of the Project; (iii) make any contribution or advance any funds whatsoever to the Authority; or (iv) take any further action with respect to the Authority or its membership therein.

Section 5. The officers of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this resolution and the financing transaction approved hereby.

Section 6. This resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED this _____ day of _____ 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Wendy Wood, City Clerk

Rich Tran, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Approving the Fiscal Year 2022-23 Master Fee Schedule (Staff Contact: Lauren Lai, Finance Director, 408-586-3111)
Category:	Leadership and Support Services
Meeting Date:	4/19/2022
	<u>Recommendation:</u> Adopt a resolution approving the Fiscal Year 2022-23 Master Fee Schedule.

Background:

Consistent with Council adopted fiscal policy regarding user fees, staff is bringing forward the attached Master Fee Schedule for Fiscal Year 2022-23 for Council consideration and adoption. Per the fiscal policy, all fees were reviewed for potential adjustments to recover the full cost of services provided.

The City's master fee schedule identifies fees for services and activities provided at the request of, or on behalf of, a single party as opposed to the public at large. Examples of user and regulatory fees collected by the City of Milpitas and municipalities throughout California include, but are not limited to:

- **Planning Fees**, such as entitlement review and review for compliance with the zoning code
- **Building Fees**, such as permitting of new construction or modifications to existing structures
- **Engineering Fees**, such as map review, encroachment permitting, and public improvement review
- **Utility Fees**, such as requests for sewer lateral inspections, and restoration of discontinued service
- **Police Fees**, such as vehicle impound and false alarm response
- **Animal Regulation Fees**, such as licensing and impound fees
- **Fire Fees**, such as annual inspections and construction review to ensure compliance with the fire code
- **Recreation Fees**, such as program participation fees, and facility rental fees
- **Administrative Fees**, such as license application review fees

User and regulatory fees specifically exclude:

- Taxes
- Assessments
- Franchise Fees
- Development Impact Fees
- Fines or Penalties
- Utility Rates and Services Charges

User and regulatory fees are established by the City Council. The master fee schedule was most recently comprehensively updated on May 4, 2021.

The fee schedule is reviewed annually by City staff as part of the normal course of operations. Typically, a cost of service study is completed every three to five years with incremental updates occurring in the years in between comprehensive studies. This update represents an interim year update with minor, incremental, changes proposed that incorporate feedback received during prior fee studies and feedback received subsequent to adoption of the City's current schedule of fees.

Analysis:

During interim years (i.e., during years in between comprehensive fee studies) the City Council has authorized inflationary adjustments to fees. The inflationary adjustments are based on the estimated average annual increase in total employee compensation costs, with distinct averages calculated for employees commonly classified as miscellaneous employees and employees commonly classified as safety employees. If the estimated average employee compensation costs do not change or go down, no change shall be made to the fee schedule for that year unless an adjustment is made to targeted cost recovery levels or fee study findings indicate that an adjustment is appropriate. The City's annual budgeting process includes forecast adjustments to City operating costs. For FY 2022/23, wages for each employee category increased as follows (see attachment #4):

- Miscellaneous Employee Compensation increased by 4.34%
- Safety Employee Compensation increased by 4.06%

Based on these changes to compensation costs:

- Non-safety related fees are proposed to increase by 4.34%
- Safety related fees are proposed to increase by 4.06%

*There may be instances of rounding that result in adjustments different than amounts listed above

In addition to the inflationary adjustments, several minor changes are proposed to enhance fee schedule clarity, recalibrate fees to the City's current costs of service, and correct typographical errors in the current fee schedule. Discrete fee adjustments included:

Building Fees

- Clarifying fee descriptions and correcting typographical errors in prior fee schedule

Planning Fees (see attachment #3)

- Modifying special event application review fees to account for varying levels of special event magnitude
 - The current fee schedule distinguishes between reviews for minor and major events
 - The proposed fee schedule distinguishes between:
 - Minor Event Review
 - Regular Event Review
 - Major Event Review
 - Minor events are for permits issued over-the-counter for small private events. Regular events permits are typically issued for events less than four consecutive days, including block parties, or that require review by multiple departments. Major event permits are typically issued for events that exceed four consecutive days and/or anticipate crowds exceeding 1,000 people.
- Modifying several planning fees to account for building review activities included in the application review process. Modified fees include:
 - Special Event Application Review for Major Events
 - Pre-Application Review Fees
 - Site Development Reviews
 - Conditional Use Permit Reviews

Recreation Fees

- Modifying the community garden fee from a fixed fee of \$15 per plot to a fee aligned to plot size
 - As the City's new community garden becomes available there will be a difference in plot sizes and water usage. The modified fee structure will provide a more consistent application using charge per square foot of plot rented.
- In response to a request from City Council, the deposit for rental of the Senior Center Auditorium has been reduced to \$500.
- In order to maintain consistency within the fee schedule, all indoor auditorium deposits have been reduced to \$500.
- Recreation fees are proposed for an inflationary adjustment for the first time in several years. This

will allow the department to better respond to increases in seasonal labor costs and other recurring costs. While the City Council adopted the recreation cost recovery policy in Fiscal Year 2020-2021, due to the Pandemic and the need to collect more data, staff plans to phase in this policy and implement beginning with the FY 2023-2024 master fee schedule update.

Finance / Administrative Fees

- Modify the fee schedule to clarify that credit card transaction fees apply when a credit card is used for payment of fees for development/fire-related fees, permits, plan review, etc. This is an existing fee and allows the City to offset its vendor related costs associated with credit card transaction processing. The fee only applies when a credit card is used for payment of fees.

No new fees are proposed as a result of these inflationary adjustments and fee recalibrations.

Policy Alternatives:

Since fees are proposed to remain relatively unchanged, no alternatives are recommended.

Fiscal Impact:

The anticipated revenue impact of the proposed changes is \$506,000 per year.

California Environmental Quality Act:

The fees (charges) authorized by this Resolution are statutorily exempt from environmental review under Guideline 15273 of the California Environmental Quality Act (CEQA), which provides an exemption for the establishment or modification of charges by public agencies, which the public agency finds are for the purpose of meeting operating expenses.

Recommendation:

Adopt a resolution approving the Fiscal Year 2022-23 Master Fee Schedule.

Attachments:

1. Resolution Approving the Master Fee Schedule for Fiscal Year 2022-23
2. Illustration of Current and Proposed Fees and Fee Schedule Changes
3. Cost of Service Analysis Supporting Fee Recalibrations
4. Cost of Living Adjustment Calculation

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING
THE MASTER FEE SCHEDULE FOR FISCAL YEAR 2022-23**

WHEREAS, the City of Milpitas (the “City”) charges fees for licenses, permits, and various services provided by the City (collectively, the “Fees”); and

WHEREAS, the Fees are established to offset all, or portions of, the costs of providing the various services for which the Fees are collected; and

WHEREAS, certain of the Fees are subject to the adoption procedures set forth under Government Code section 66016, and others are subject to the procedures of Government Code section 66018; and

WHEREAS, in addition to Fees, the City’s Master Fee Schedule also identifies various fines and penalties (the “Penalties”) for violations of applicable State or local law, including violation of a provision of any ordinance or the City’s Municipal Code; and

WHEREAS, it is useful to consolidate into one place such fees for services, permits, licenses and fines for public information and transparency into a Master Fee Schedule, attached hereto as **Exhibit 1** and incorporated into this Resolution by this reference; and

WHEREAS, on February 5, 2019, pursuant to the procedural and substantive requirements of article XIII D, section 6 of the California Constitution (also known as “Proposition 218”), the City Council approved a schedule of automatic increases for the rates for its water and sewer service fees and charges; and

WHEREAS, all references to the approved schedule of automatic increases for the rates for water and sewer service fees and charges are included in the Master Fee Schedule for information purposes only and are not being considered, modified, or “increased” as such term is defined under Government Code section 53750; and

WHEREAS, on November 19, 2019, pursuant to the procedural and substantive requirements of Government Code Section 66000 *et seq.* (“Mitigation Fee Act”), the City Council approved a schedule of fees and automatic increases for the Transit Area Development Impact Fee; and

WHEREAS, all references to the approved schedule of automatic increases for the Transit Area Development Impact Fee are included in the Master Fee Schedule for information purposes only and are not being considered, modified, increased, as part of this Resolution; and

WHEREAS, staff recommends authorizing the Finance Director to make annual inflationary adjustments for various fees identified in the Master Fee Schedule; and

WHEREAS, inflationary adjustments will be based on the estimated average annual increase in total employee compensation costs, with distinct averages calculated for employees commonly classified as miscellaneous employees and employees commonly classified as safety employees; and

WHEREAS, if the estimated average employee compensation costs do not change or go down, no change shall be made to the fee schedule for that year unless an adjustment is made to targeted cost recovery levels or fee study findings indicate that an adjustment is appropriate; and

WHEREAS, the City Council now wishes to adopt the updated Master Fee Schedule set forth in Exhibit 1 hereto; and

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

1. The above Recitals are true and correct and by this reference incorporated herein.
2. 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. Based upon such consideration, the City Council finds and determines that:
 - (a) The Fees established by this Resolution:
 - (1) are imposed for a specific government service provided directly to the payor, or for reasonable regulatory costs of the City for issuing licenses and permits, performing investigations, inspections, and administrative enforcements of the City's Municipal Code or other rules or ordinances;
 - (2) are no more than necessary to cover the reasonable costs of the governmental activity for which the Fee is imposed; and
 - (3) the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity for which the Fee is imposed.
 - (b) The Penalties established by this resolution are imposed for a violation of applicable State or local law, including violation of an ordinance of the City or the Municipal Code, and persons upon whom the Penalty is imposed have adequate rights to appeal such penalty under the Municipal Code.
 - (c) The Fees and Penalties are not taxes within the meaning of California Constitution article XIII C, section 1(e).
3. The City Council hereby approves the Master Fee Schedule included herewith as **Exhibit 1**. The fees and penalties adopted pursuant to this Resolution shall supersede any prior fees, charges, penalties, or other exactions imposed by resolution or otherwise by the City Council, to the extent such prior fees, charges, penalties, or other exactions conflict with the Fees and Penalties set forth in Exhibit 1 hereto.
4. The Finance Director has authority to make annual inflationary adjustments for various fees identified in the Master Fee Schedule based on the estimated average annual increase in total employee compensation costs, with distinct averages calculated for employees commonly classified as miscellaneous employees and employees commonly classified as safety employees. If the estimated average employee compensation costs do not change or go down, no change shall be made to the fee schedule for that year unless an adjustment is made to targeted cost recovery levels or fee study findings indicate that an adjustment is appropriate.
5. The inflationary changes authorized by this Resolution do not apply to the rates for water and sewer service fees and charges. These rates and charges are established pursuant to the procedural and substantive requirements of article XIII D, section 6 of the California Constitution (also known as "Proposition 218"). Any reference to rates for water and sewer service fees and charges are included in the Master Fee Schedule for information purposes only and are not considered, modified, or "increased" as such term is defined under Government Code section 53750 as part of the City's fee schedule update.

6. The inflationary changes authorized by this Resolution do not apply to the Transit Area Development Impact Fee. This fee is established pursuant to the procedural and substantive requirements of Government Code Section 66000 *et seq.* ("Mitigation Fee Act"). Any reference to the Transit Area Development Impact Fee are included in the Master Fee Schedule for information purposes only and are not considered, modified, or "increased" as part of the City's fee schedule update.

7. The updated Master Fee Schedule will become effective July 1, 2022.

PASSED AND ADOPTED this _____ day of _____, 2022 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED

Wendy Wood, City Clerk

Rich Tran, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

Exhibit 1



Illustration of Current and Proposed Fees
Effective Fiscal Year 2022-23

City of Milpitas
MASTER FEE SCHEDULE

Services / Activities / Subject Matter	Page
BUILDING	3
ANIMAL REGULATION	19
PLANNING	20
ENGINEERING	23
TRANSIT AREA DEVELOPMENT IMPACT FEE	24
PUBLIC WORKS	25
FIRE	30
AMBULANCE	37
POLICE	40
RECREATION	42
FINANCE	55
CITY CLERK	56
INFORMATION SERVICES	57

City of Milpitas

BUILDING SAFETY AND HOUSING - CONSTRUCTION

New Construction, Tenant Improvements, Remodels

			FY 21/22 Fee		FY 21/22 Fee		FY 22/23 Fee		FY 22/23 Fee		
			Plan Review		Inspection		Plan Review		Inspection		
Occupancy Classification		Threshold SqFt	Base Fee	Add'l 100 SF or Fraction Thereof	Base Fee	Add'l 100 SF or Fraction Thereof	Base Fee	Add'l 100 SF or Fraction Thereof	Base Fee	Add'l 100 SF or Fraction Thereof	Y'rly In'fltr
1	Single-Family, Two-Family, Additional Dwelling Units / Remodels	100	\$ 261.44		\$ 428.03		\$ 272.78		\$ 446.61		Y
		200	\$ 374.58		\$ 642.05		\$ 390.83		\$ 669.91		Y
		300	\$ 544.29		\$ 856.07		\$ 567.91		\$ 893.22		Y
		400	\$ 996.84		\$ 1,177.09		\$ 1,040.10		\$ 1,228.18		Y
		500	\$ 1,223.12	\$ 154.11	\$ 1,712.13	\$ 171.21	\$ 1,276.20	\$ 160.80	\$ 1,786.44	\$ 178.64	Y
		1,000	\$ 1,993.68	\$ 181.02	\$ 2,568.20	\$ 171.21	\$ 2,080.21	\$ 188.88	\$ 2,679.65	\$ 178.64	Y
		1,500	\$ 2,898.80	\$ 181.02	\$ 3,424.26	\$ 256.82	\$ 3,024.61	\$ 188.88	\$ 3,572.87	\$ 267.97	Y
		2,000	\$ 3,803.91	\$ 154.11	\$ 4,708.36	\$ 342.43	\$ 3,969.00	\$ 160.80	\$ 4,912.70	\$ 357.29	Y
		2,500	\$ 4,574.47	\$ 135.77	\$ 6,420.49	\$ 342.43	\$ 4,773.01	\$ 141.66	\$ 6,699.14	\$ 357.29	Y
		3,000	\$ 5,253.31	\$ 77.06	\$ 8,132.62	\$ 149.81	\$ 5,481.30	\$ 80.40	\$ 8,485.57	\$ 156.31	Y
		4,000	\$ 6,023.87	\$ 90.51	\$ 9,630.73	\$ 214.02	\$ 6,285.31	\$ 94.44	\$ 10,048.70	\$ 223.30	Y
		5,000	\$ 6,928.99	\$ 45.26	\$ 11,770.89	\$ 107.01	\$ 7,229.71	\$ 47.22	\$ 12,281.75	\$ 111.65	Y
		Tract or Repetitive Fees:	25% of Original		Same as regular		25% of Original		Same as regular		N
	Commercial / Multi-Family / Non-Residential - New Construction, Tenant Improvement, and Shell										
2	A-Assembly - New Construction	1,500	\$ 4,216.43	\$ 61.48	\$ 10,767.69	\$ 138.75	\$ 4,399.43	\$ 64.16	\$ 11,235.01	\$ 80.25	Y
		7,500	\$ 7,905.81	\$ 87.84	\$ 15,382.42	\$ 128.08	\$ 8,248.92	\$ 91.65	\$ 16,050.01	\$ 128.40	Y
		15,000	\$ 14,493.99	\$ 79.06	\$ 24,611.87	\$ 85.38	\$ 15,123.03	\$ 82.49	\$ 25,680.02	\$ 136.96	Y
		30,000	\$ 26,352.71	\$ 14.64	\$ 44,301.36	\$ 39.14	\$ 27,496.41	\$ 15.28	\$ 46,224.04	\$ 57.78	Y
		75,000	\$ 32,940.88	\$ 19.32	\$ 69,220.88	\$ 40.56	\$ 34,370.52	\$ 20.16	\$ 72,225.07	\$ 23.54	Y
		150,000	\$ 47,434.87	\$ 31.63	\$ 86,141.54	\$ 57.64	\$ 49,493.54	\$ 33.00	\$ 89,880.08	\$ 60.14	Y
3	A-Assembly - Tenant Improvement	500	\$ 1,581.60	\$ 69.19	\$ 2,996.23	\$ 64.21	\$ 1,650.25	\$ 72.20	\$ 3,126.26	\$ 66.99	Y
		2,500	\$ 2,965.51	\$ 98.85	\$ 4,280.33	\$ 102.73	\$ 3,094.21	\$ 103.14	\$ 4,466.09	\$ 107.19	Y
		5,000	\$ 5,436.77	\$ 88.96	\$ 6,848.52	\$ 109.57	\$ 5,672.72	\$ 92.83	\$ 7,145.75	\$ 114.33	Y
		10,000	\$ 9,885.03	\$ 22.16	\$ 12,327.34	\$ 46.23	\$ 10,314.04	\$ 23.12	\$ 12,862.34	\$ 48.23	Y
		25,000	\$ 13,209.13	\$ 37.14	\$ 19,261.46	\$ 18.83	\$ 13,782.41	\$ 38.75	\$ 20,097.41	\$ 19.65	Y
		50,000	\$ 22,494.56	\$ 44.99	\$ 23,969.82	\$ 47.94	\$ 23,470.83	\$ 46.94	\$ 25,010.11	\$ 50.02	Y
5	B - Business - New Construction:	1,000	\$ 3,987.37	\$ 86.08	\$ 7,490.57	\$ 80.26	\$ 4,160.42	\$ 89.81	\$ 7,815.66	\$ 83.74	Y
		5,000	\$ 7,430.45	\$ 118.64	\$ 10,700.81	\$ 128.41	\$ 7,752.93	\$ 123.79	\$ 11,165.23	\$ 133.98	Y
		10,000	\$ 13,362.60	\$ 105.50	\$ 17,121.30	\$ 136.97	\$ 13,942.53	\$ 110.07	\$ 17,864.36	\$ 142.91	Y
		20,000	\$ 23,912.04	\$ 19.47	\$ 30,818.34	\$ 57.78	\$ 24,949.82	\$ 20.31	\$ 32,155.86	\$ 60.29	Y
		50,000	\$ 29,752.46	\$ 30.61	\$ 48,153.66	\$ 28.25	\$ 31,043.71	\$ 31.93	\$ 50,243.52	\$ 29.48	Y
		100,000	\$ 45,053.74	\$ 45.05	\$ 62,278.73	\$ 62.28	\$ 47,009.08	\$ 47.01	\$ 64,981.63	\$ 64.98	Y

City of Milpitas

BUILDING SAFETY AND HOUSING - CONSTRUCTION

New Construction, Tenant Improvements, Remodels

Item # 17.

			FY 21/22 Fee		FY 21/22 Fee		FY 22/23 Fee		FY 22/23 Fee		Y'rly In'fltr
			Plan Review		Inspection		Plan Review		Inspection		
Occupancy Classification		Threshold SqFt		Add'l 100 SF or Fraction Thereof		Add'l 100 SF or Fraction Thereof		Add'l 100 SF or Fraction Thereof		Add'l 100 SF or Fraction Thereof	
			Base Fee		Base Fee		Base Fee		Base Fee		
6	B - Business - Tenant Improvement:	500	\$ 1,528.24	\$ 66.86	\$ 3,277.12	\$ 70.22	\$ 1,594.56	\$ 69.76	\$ 3,419.35	\$ 73.27	Y
		2,500	\$ 2,865.44	\$ 95.51	\$ 4,681.61	\$ 112.36	\$ 2,989.80	\$ 99.66	\$ 4,884.79	\$ 117.23	Y
		5,000	\$ 5,253.31	\$ 85.97	\$ 7,490.57	\$ 119.85	\$ 5,481.30	\$ 89.69	\$ 7,815.66	\$ 125.05	Y
		10,000	\$ 9,551.47	\$ 15.92	\$ 13,483.02	\$ 50.56	\$ 9,966.01	\$ 16.61	\$ 14,068.19	\$ 52.76	Y
		25,000	\$ 11,939.34	\$ 21.02	\$ 21,067.22	\$ 20.60	\$ 12,457.51	\$ 21.93	\$ 21,981.54	\$ 21.49	Y
		50,000	\$ 17,192.65	\$ 34.38	\$ 26,216.99	\$ 52.44	\$ 17,938.81	\$ 35.87	\$ 27,354.81	\$ 54.71	Y
7	E - Education - New Construction:	500	\$ 1,793.31	\$ 78.42	\$ 4,119.81	\$ 88.29	\$ 1,871.14	\$ 81.86	\$ 4,298.61	\$ 92.11	Y
		2,500	\$ 3,362.46	\$ 112.08	\$ 5,885.45	\$ 141.25	\$ 3,508.39	\$ 116.95	\$ 6,140.88	\$ 147.38	Y
		5,000	\$ 6,164.51	\$ 100.87	\$ 9,416.72	\$ 150.66	\$ 6,432.05	\$ 105.25	\$ 9,825.40	\$ 157.21	Y
		10,000	\$ 11,208.20	\$ 18.68	\$ 16,950.09	\$ 63.56	\$ 11,694.63	\$ 19.49	\$ 17,685.72	\$ 66.32	Y
		25,000	\$ 14,010.25	\$ 24.66	\$ 26,484.51	\$ 25.90	\$ 14,618.29	\$ 25.73	\$ 27,633.94	\$ 27.02	Y
		50,000	\$ 20,174.76	\$ 40.35	\$ 32,958.50	\$ 65.92	\$ 21,050.34	\$ 42.10	\$ 34,388.90	\$ 68.78	Y
8	E - Education - Tenant Improvement:	100	\$ 843.29	\$ 184.46	\$ 1,498.11	\$ 160.51	\$ 879.89	\$ 192.47	\$ 1,563.13	\$ 167.48	Y
		500	\$ 1,581.16	\$ 263.53	\$ 2,140.16	\$ 256.82	\$ 1,649.78	\$ 274.96	\$ 2,233.05	\$ 267.97	Y
		1,000	\$ 2,898.80	\$ 237.17	\$ 3,424.26	\$ 273.94	\$ 3,024.61	\$ 247.47	\$ 3,572.87	\$ 285.83	Y
		2,000	\$ 5,270.54	\$ 43.92	\$ 6,163.67	\$ 115.56	\$ 5,499.28	\$ 45.83	\$ 6,431.17	\$ 120.58	Y
		5,000	\$ 6,588.18	\$ 57.98	\$ 9,630.73	\$ 47.08	\$ 6,874.10	\$ 60.49	\$ 10,048.70	\$ 49.13	Y
		10,000	\$ 9,486.97	\$ 94.87	\$ 11,984.91	\$ 119.85	\$ 9,898.71	\$ 98.99	\$ 12,505.06	\$ 125.05	Y
9	F - Factory - New Construction:	5,000	\$ 5,797.60	\$ 19.94	\$ 8,560.65	\$ 42.81	\$ 6,049.21	\$ 20.80	\$ 8,932.18	\$ 44.66	Y
		25,000	\$ 9,784.96	\$ 44.92	\$ 17,121.30	\$ 102.74	\$ 10,209.63	\$ 46.86	\$ 17,864.36	\$ 107.19	Y
		50,000	\$ 21,013.24	\$ 14.48	\$ 42,803.25	\$ 29.96	\$ 21,925.22	\$ 15.11	\$ 44,660.91	\$ 31.26	Y
		100,000	\$ 28,254.15	\$ 8.36	\$ 57,784.39	\$ 7.85	\$ 29,480.38	\$ 8.72	\$ 60,292.23	\$ 8.19	Y
		250,000	\$ 40,791.19	\$ 4.64	\$ 69,555.28	\$ 14.98	\$ 42,561.53	\$ 4.84	\$ 72,573.98	\$ 15.63	Y
		500,000	\$ 52,380.30	\$ 10.47	\$ 107,008.13	\$ 21.40	\$ 54,653.60	\$ 10.93	\$ 111,652.28	\$ 22.33	Y
10	F - Factory - Tenant Improvement:	2,000	\$ 2,233.31	\$ 18.92	\$ 2,334.72	\$ 19.46	\$ 2,330.24	\$ 19.74	\$ 2,436.05	\$ 20.30	Y
		10,000	\$ 3,746.65	\$ 45.40	\$ 3,891.20	\$ 46.70	\$ 3,909.25	\$ 47.37	\$ 4,060.08	\$ 48.72	Y
		20,000	\$ 8,286.66	\$ 15.04	\$ 8,560.65	\$ 15.57	\$ 8,646.30	\$ 15.69	\$ 8,932.18	\$ 16.24	Y
		40,000	\$ 11,294.98	\$ 8.41	\$ 11,673.61	\$ 8.91	\$ 11,785.19	\$ 8.78	\$ 12,180.25	\$ 9.30	Y
		100,000	\$ 16,345.73	\$ 4.83	\$ 17,024.02	\$ 4.87	\$ 17,055.13	\$ 5.03	\$ 17,762.86	\$ 5.08	Y
		200,000	\$ 21,166.63	\$ 10.59	\$ 21,888.03	\$ 10.94	\$ 22,085.26	\$ 11.05	\$ 22,837.97	\$ 11.42	Y

City of Milpitas

BUILDING SAFETY AND HOUSING - CONSTRUCTION

New Construction, Tenant Improvements, Remodels

Item # 17.

			FY 21/22 Fee		FY 21/22 Fee		FY 22/23 Fee		FY 22/23 Fee		Y'rly In'ftr
			Plan Review		Inspection		Plan Review		Inspection		
Occupancy Classification	Threshold SqFt		Base Fee	Add'l 100 SF or Fraction Thereof	Base Fee	Add'l 100 SF or Fraction Thereof	Base Fee	Add'l 100 SF or Fraction Thereof	Base Fee	Add'l 100 SF or Fraction Thereof	
11	H - Hazardous Materials - New Construction:	1,000	\$ 4,558.02	\$ 99.70	\$ 8,426.89	\$ 90.29	\$ 4,755.84	\$ 104.03	\$ 8,792.62	\$ 94.21	Y
		5,000	\$ 8,546.29	\$ 142.43	\$ 12,038.41	\$ 144.46	\$ 8,917.20	\$ 148.62	\$ 12,560.88	\$ 150.73	Y
		10,000	\$ 15,668.20	\$ 128.19	\$ 19,261.46	\$ 154.10	\$ 16,348.20	\$ 133.76	\$ 20,097.41	\$ 160.78	Y
		20,000	\$ 28,487.64	\$ 23.74	\$ 34,670.63	\$ 65.01	\$ 29,724.00	\$ 24.77	\$ 36,175.34	\$ 67.83	Y
		50,000	\$ 35,609.55	\$ 31.34	\$ 54,172.86	\$ 26.49	\$ 37,155.00	\$ 32.70	\$ 56,523.97	\$ 27.63	Y
		100,000	\$ 51,277.75	\$ 51.28	\$ 67,415.12	\$ 67.41	\$ 53,503.21	\$ 53.51	\$ 70,340.93	\$ 70.34	Y
12	H - Hazardous Materials - Tenant Improvement:	1,000	\$ 2,279.01	\$ 49.86	\$ 4,494.34	\$ 48.15	\$ 2,377.92	\$ 52.02	\$ 4,689.40	\$ 50.24	Y
		5,000	\$ 4,273.15	\$ 71.22	\$ 6,420.49	\$ 77.04	\$ 4,458.60	\$ 74.31	\$ 6,699.14	\$ 80.39	Y
		10,000	\$ 7,834.10	\$ 64.10	\$ 10,272.78	\$ 82.18	\$ 8,174.10	\$ 66.88	\$ 10,718.62	\$ 85.75	Y
		20,000	\$ 14,243.82	\$ 11.87	\$ 18,491.00	\$ 34.67	\$ 14,862.00	\$ 12.39	\$ 19,293.51	\$ 36.18	Y
		50,000	\$ 17,804.78	\$ 15.67	\$ 28,892.19	\$ 14.12	\$ 18,577.50	\$ 16.35	\$ 30,146.11	\$ 14.74	Y
		100,000	\$ 25,638.88	\$ 25.64	\$ 35,954.73	\$ 35.95	\$ 26,751.60	\$ 26.75	\$ 37,515.17	\$ 37.51	Y
13	I - Licensed Clinics - New Construction:	2,000	\$ 2,739.80	\$ 29.96	\$ 5,617.93	\$ 30.10	\$ 2,858.70	\$ 31.27	\$ 5,861.74	\$ 31.40	Y
		10,000	\$ 5,137.12	\$ 42.81	\$ 8,025.61	\$ 48.15	\$ 5,360.07	\$ 44.67	\$ 8,373.92	\$ 50.24	Y
		20,000	\$ 9,418.05	\$ 38.53	\$ 12,840.98	\$ 51.37	\$ 9,826.79	\$ 40.20	\$ 13,398.27	\$ 53.59	Y
		40,000	\$ 17,123.73	\$ 7.13	\$ 23,113.76	\$ 21.67	\$ 17,866.90	\$ 7.44	\$ 24,116.89	\$ 22.61	Y
		100,000	\$ 21,404.66	\$ 9.42	\$ 36,115.24	\$ 8.83	\$ 22,333.62	\$ 9.83	\$ 37,682.64	\$ 9.21	Y
		200,000	\$ 30,822.71	\$ 15.41	\$ 44,943.41	\$ 22.47	\$ 32,160.41	\$ 16.08	\$ 46,893.96	\$ 23.45	Y
14	I - Licensed Clinics - Tenant Improvement:	1,000	\$ 1,106.59	\$ 24.21	\$ 2,340.80	\$ 25.08	\$ 1,154.62	\$ 25.26	\$ 2,442.39	\$ 26.17	Y
		5,000	\$ 2,074.86	\$ 34.58	\$ 3,344.00	\$ 40.12	\$ 2,164.91	\$ 36.08	\$ 3,489.13	\$ 41.87	Y
		10,000	\$ 3,803.91	\$ 31.13	\$ 5,350.41	\$ 42.81	\$ 3,969.00	\$ 32.47	\$ 5,582.61	\$ 44.66	Y
		20,000	\$ 6,916.20	\$ 5.76	\$ 9,630.73	\$ 18.05	\$ 7,216.37	\$ 6.01	\$ 10,048.70	\$ 18.84	Y
		50,000	\$ 8,645.25	\$ 7.61	\$ 15,048.02	\$ 7.35	\$ 9,020.46	\$ 7.94	\$ 15,701.10	\$ 7.68	Y
		100,000	\$ 12,449.16	\$ 12.45	\$ 18,726.42	\$ 18.73	\$ 12,989.46	\$ 12.99	\$ 19,539.15	\$ 19.54	Y
15	M - Mercantile - New Construction:	500	\$ 2,266.55	\$ 99.16	\$ 4,681.61	\$ 100.32	\$ 2,364.92	\$ 103.47	\$ 4,884.79	\$ 104.67	Y
		2,500	\$ 4,249.79	\$ 141.66	\$ 6,688.01	\$ 160.51	\$ 4,434.23	\$ 147.81	\$ 6,978.27	\$ 167.48	Y
		5,000	\$ 7,791.28	\$ 127.49	\$ 10,700.81	\$ 171.22	\$ 8,129.42	\$ 133.03	\$ 11,165.23	\$ 178.64	Y
		10,000	\$ 14,165.96	\$ 23.61	\$ 19,261.46	\$ 72.23	\$ 14,780.77	\$ 24.63	\$ 20,097.41	\$ 75.37	Y
		25,000	\$ 17,707.45	\$ 31.17	\$ 30,096.04	\$ 29.43	\$ 18,475.96	\$ 32.52	\$ 31,402.20	\$ 30.70	Y
		50,000	\$ 25,498.73	\$ 51.00	\$ 37,452.84	\$ 74.90	\$ 26,605.38	\$ 53.22	\$ 39,078.30	\$ 78.15	Y

City of Milpitas

BUILDING SAFETY AND HOUSING - CONSTRUCTION

New Construction, Tenant Improvements, Remodels

			FY 21/22 Fee		FY 21/22 Fee		FY 22/23 Fee		FY 22/23 Fee		Y'rly In'ftr
			Plan Review		Inspection		Plan Review		Inspection		
Occupancy Classification	Threshold SqFt		Base Fee	Add'l 100 SF or Fraction Thereof	Base Fee	Add'l 100 SF or Fraction Thereof	Base Fee	Add'l 100 SF or Fraction Thereof	Base Fee	Add'l 100 SF or Fraction Thereof	
16	M - Mercantile - Tenant Improvement:	250	\$ 1,040.77	\$ 91.06	\$ 1,872.64	\$ 80.26	\$ 1,085.94	\$ 95.02	\$ 1,953.91	\$ 83.74	Y
		1,250	\$ 1,951.44	\$ 130.09	\$ 2,675.20	\$ 128.41	\$ 2,036.13	\$ 135.74	\$ 2,791.31	\$ 133.98	Y
		2,500	\$ 3,577.63	\$ 117.08	\$ 4,280.33	\$ 136.97	\$ 3,732.90	\$ 122.17	\$ 4,466.09	\$ 142.91	Y
		5,000	\$ 6,504.79	\$ 21.68	\$ 7,704.59	\$ 57.78	\$ 6,787.09	\$ 22.62	\$ 8,038.96	\$ 60.29	Y
		12,500	\$ 8,130.98	\$ 28.62	\$ 12,038.41	\$ 23.55	\$ 8,483.87	\$ 29.86	\$ 12,560.88	\$ 24.56	Y
		25,000	\$ 11,708.62	\$ 46.83	\$ 14,981.14	\$ 59.92	\$ 12,216.77	\$ 48.86	\$ 15,631.32	\$ 62.53	Y
17	R-1 - Residential Hotels - New Construction:	2,000	\$ 10,140.81	\$ 110.92	\$ 25,748.83	\$ 137.94	\$ 10,580.92	\$ 115.73	\$ 26,866.33	\$ 143.93	Y
		10,000	\$ 19,014.02	\$ 158.45	\$ 36,784.04	\$ 220.71	\$ 19,839.23	\$ 165.33	\$ 38,380.47	\$ 230.28	Y
		20,000	\$ 34,859.05	\$ 142.60	\$ 58,854.47	\$ 235.41	\$ 36,371.93	\$ 148.79	\$ 61,408.75	\$ 245.64	Y
		40,000	\$ 63,380.08	\$ 26.41	\$ 105,938.04	\$ 99.32	\$ 66,130.78	\$ 27.55	\$ 110,535.75	\$ 103.63	Y
		100,000	\$ 79,225.10	\$ 34.86	\$ 165,528.19	\$ 40.47	\$ 82,663.47	\$ 36.37	\$ 172,712.12	\$ 42.22	Y
		200,000	\$ 114,084.15	\$ 57.04	\$ 205,990.64	\$ 102.99	\$ 119,035.40	\$ 59.52	\$ 214,930.63	\$ 107.46	Y
18	R-1 - Residential Hotels - Tenant Improvement:	500	\$ 2,410.66	\$ 105.47	\$ 5,992.46	\$ 128.41	\$ 2,515.29	\$ 110.04	\$ 6,252.53	\$ 133.98	Y
		2,500	\$ 4,520.00	\$ 150.66	\$ 8,560.65	\$ 205.45	\$ 4,716.16	\$ 157.21	\$ 8,932.18	\$ 214.37	Y
		5,000	\$ 8,286.66	\$ 135.60	\$ 13,697.04	\$ 219.15	\$ 8,646.30	\$ 141.48	\$ 14,291.49	\$ 228.66	Y
		10,000	\$ 15,066.65	\$ 25.12	\$ 24,654.67	\$ 92.46	\$ 15,720.54	\$ 26.20	\$ 25,724.68	\$ 96.47	Y
		25,000	\$ 18,833.31	\$ 33.14	\$ 38,522.93	\$ 37.67	\$ 19,650.68	\$ 34.59	\$ 40,194.82	\$ 39.30	Y
		50,000	\$ 27,119.97	\$ 54.24	\$ 47,939.64	\$ 95.88	\$ 28,296.98	\$ 56.59	\$ 50,020.22	\$ 100.04	Y
19	R-2 - Residential Multi-Family - New Construction:	2,000	\$ 21,211.62	\$ 11.10	\$ 32,771.24	\$ 175.56	\$ 22,132.21	\$ 11.58	\$ 34,193.51	\$ 183.18	Y
		10,000	\$ 22,099.64	\$ 184.16	\$ 46,816.05	\$ 280.89	\$ 23,058.76	\$ 192.16	\$ 48,847.87	\$ 293.09	Y
		20,000	\$ 40,516.01	\$ 165.74	\$ 74,905.69	\$ 299.62	\$ 42,274.40	\$ 172.94	\$ 78,156.59	\$ 312.63	Y
		40,000	\$ 73,665.47	\$ 30.69	\$ 134,830.24	\$ 126.40	\$ 76,862.55	\$ 32.03	\$ 140,681.87	\$ 131.89	Y
		100,000	\$ 92,081.83	\$ 40.52	\$ 210,672.25	\$ 51.50	\$ 96,078.18	\$ 42.27	\$ 219,815.42	\$ 53.73	Y
		200,000	\$ 132,597.84	\$ 66.30	\$ 262,169.91	\$ 131.08	\$ 138,352.58	\$ 69.18	\$ 273,548.08	\$ 136.77	Y
20	R-2 - Residential Multi-Family - Tenant Improvement:	500	\$ 3,068.93	\$ 134.26	\$ 6,554.25	\$ 140.45	\$ 3,202.12	\$ 140.09	\$ 6,838.70	\$ 146.54	Y
		2,500	\$ 5,754.24	\$ 191.81	\$ 9,363.21	\$ 224.71	\$ 6,003.98	\$ 200.13	\$ 9,769.57	\$ 234.47	Y
		5,000	\$ 10,549.44	\$ 172.63	\$ 14,981.14	\$ 239.70	\$ 11,007.29	\$ 180.12	\$ 15,631.32	\$ 250.10	Y
		10,000	\$ 19,180.80	\$ 31.97	\$ 26,966.05	\$ 101.12	\$ 20,013.25	\$ 33.36	\$ 28,136.37	\$ 105.51	Y
		25,000	\$ 23,976.00	\$ 42.19	\$ 42,134.45	\$ 41.19	\$ 25,016.56	\$ 44.03	\$ 43,963.08	\$ 42.99	Y
		50,000	\$ 34,525.45	\$ 69.06	\$ 52,433.98	\$ 104.86	\$ 36,023.85	\$ 72.05	\$ 54,709.62	\$ 109.41	Y

City of Milpitas

BUILDING SAFETY AND HOUSING - CONSTRUCTION

New Construction, Tenant Improvements, Remodels

			FY 21/22 Fee		FY 21/22 Fee		FY 22/23 Fee		FY 22/23 Fee		Y'rly In'fltr
			Plan Review		Inspection		Plan Review		Inspection		
Occupancy Classification	Threshold SqFt		Base Fee	Add'l 100 SF or Fraction Thereof	Base Fee	Add'l 100 SF or Fraction Thereof	Base Fee	Add'l 100 SF or Fraction Thereof	Base Fee	Add'l 100 SF or Fraction Thereof	
21	R-4 - Care / Assisted Living - New Construction:	2,000	\$ 6,191.23	\$ 67.71	\$ 14,044.82	\$ 75.24	\$ 6,459.93	\$ 70.66	\$ 14,654.36	\$ 78.51	Y
		10,000	\$ 11,608.55	\$ 96.74	\$ 20,064.02	\$ 120.38	\$ 12,112.36	\$ 100.94	\$ 20,934.80	\$ 125.61	Y
		20,000	\$ 21,282.34	\$ 87.07	\$ 32,102.44	\$ 128.41	\$ 22,205.99	\$ 90.84	\$ 33,495.68	\$ 133.98	Y
		40,000	\$ 38,695.17	\$ 16.12	\$ 57,784.39	\$ 54.17	\$ 40,374.54	\$ 16.82	\$ 60,292.23	\$ 56.52	Y
		100,000	\$ 48,368.96	\$ 21.28	\$ 90,288.11	\$ 22.07	\$ 50,468.17	\$ 22.21	\$ 94,206.61	\$ 23.03	Y
		200,000	\$ 69,651.30	\$ 34.83	\$ 112,358.53	\$ 56.18	\$ 72,674.16	\$ 36.34	\$ 117,234.89	\$ 58.62	Y
22	R-4 - Care / Assisted Living - Tenant Improvement:	1,000	\$ 3,015.56	\$ 65.97	\$ 7,490.57	\$ 80.26	\$ 3,146.43	\$ 68.83	\$ 7,815.66	\$ 83.74	Y
		5,000	\$ 5,654.17	\$ 94.23	\$ 10,700.81	\$ 128.65	\$ 5,899.56	\$ 98.33	\$ 11,165.23	\$ 133.98	Y
		10,000	\$ 10,365.99	\$ 84.81	\$ 17,121.30	\$ 136.97	\$ 10,815.87	\$ 88.49	\$ 17,864.36	\$ 142.91	Y
		20,000	\$ 18,847.25	\$ 15.70	\$ 30,818.34	\$ 57.78	\$ 19,665.22	\$ 16.39	\$ 32,155.86	\$ 60.29	Y
		50,000	\$ 23,559.06	\$ 20.73	\$ 48,153.66	\$ 23.55	\$ 24,581.52	\$ 21.63	\$ 50,243.52	\$ 24.56	Y
		100,000	\$ 33,925.04	\$ 33.92	\$ 59,924.55	\$ 59.92	\$ 35,397.39	\$ 35.40	\$ 62,525.28	\$ 62.53	Y
23	S-1 - Storage Moderate Hazard - New Construction:	1,000	\$ 3,688.05	\$ 80.67	\$ 7,022.41	\$ 76.28	\$ 3,848.11	\$ 84.18	\$ 7,327.18	\$ 78.51	Y
		5,000	\$ 6,915.10	\$ 115.25	\$ 10,032.01	\$ 120.38	\$ 7,215.21	\$ 120.25	\$ 10,467.40	\$ 125.61	Y
		10,000	\$ 12,677.68	\$ 103.73	\$ 16,051.22	\$ 128.41	\$ 13,227.89	\$ 108.23	\$ 16,747.84	\$ 133.98	Y
		20,000	\$ 23,050.32	\$ 19.21	\$ 28,892.19	\$ 54.17	\$ 24,050.70	\$ 20.04	\$ 30,146.11	\$ 56.52	Y
		50,000	\$ 28,812.90	\$ 25.36	\$ 45,144.05	\$ 22.07	\$ 30,063.38	\$ 26.46	\$ 47,103.30	\$ 23.03	Y
		100,000	\$ 41,490.58	\$ 41.49	\$ 56,179.27	\$ 56.18	\$ 43,291.27	\$ 43.29	\$ 58,617.45	\$ 58.62	Y
24	S-2 - Storage Low Hazard - New Construction:	1,000	\$ 2,028.16	\$ 44.37	\$ 4,119.81	\$ 44.14	\$ 2,116.18	\$ 46.29	\$ 4,298.61	\$ 46.06	Y
		5,000	\$ 3,802.80	\$ 63.38	\$ 5,885.45	\$ 70.63	\$ 3,967.85	\$ 66.13	\$ 6,140.88	\$ 73.69	Y
		10,000	\$ 6,971.81	\$ 57.04	\$ 9,416.72	\$ 75.34	\$ 7,274.39	\$ 59.52	\$ 9,825.40	\$ 78.60	Y
		20,000	\$ 12,676.02	\$ 10.57	\$ 16,950.09	\$ 31.78	\$ 13,226.16	\$ 11.02	\$ 17,685.72	\$ 33.16	Y
		50,000	\$ 15,845.02	\$ 13.95	\$ 26,484.51	\$ 12.95	\$ 16,532.69	\$ 14.55	\$ 27,633.94	\$ 13.51	Y
		100,000	\$ 22,816.83	\$ 22.82	\$ 32,958.50	\$ 32.96	\$ 23,807.08	\$ 23.81	\$ 34,388.90	\$ 34.39	Y
25	S - Storage - Tenant Improvement:	500	\$ 1,501.55	\$ 65.70	\$ 2,574.88	\$ 55.17	\$ 1,566.72	\$ 68.54	\$ 2,686.63	\$ 57.57	Y
		2,500	\$ 2,815.41	\$ 93.85	\$ 3,678.40	\$ 88.29	\$ 2,937.60	\$ 97.92	\$ 3,838.05	\$ 92.11	Y
		5,000	\$ 5,161.58	\$ 84.46	\$ 5,885.45	\$ 94.17	\$ 5,385.59	\$ 88.13	\$ 6,140.88	\$ 98.25	Y
		10,000	\$ 9,384.69	\$ 15.64	\$ 10,593.80	\$ 39.73	\$ 9,791.99	\$ 16.32	\$ 11,053.58	\$ 41.45	Y
		25,000	\$ 11,730.87	\$ 20.64	\$ 16,552.82	\$ 16.18	\$ 12,239.99	\$ 21.54	\$ 17,271.21	\$ 16.89	Y
		50,000	\$ 16,892.45	\$ 33.79	\$ 20,599.06	\$ 41.19	\$ 17,625.58	\$ 35.26	\$ 21,493.06	\$ 42.98	Y

City of Milpitas

BUILDING SAFETY AND HOUSING - CONSTRUCTION

New Construction, Tenant Improvements, Remodels

			FY 21/22 Fee		FY 21/22 Fee		FY 22/23 Fee		FY 22/23 Fee		Y'rly In'ftr
			Plan Review		Inspection		Plan Review		Inspection		
Occupancy Classification	Threshold SqFt		Base Fee	Add'l 100 SF or Fraction Thereof	Base Fee	Add'l 100 SF or Fraction Thereof	Base Fee	Add'l 100 SF or Fraction Thereof	Base Fee	Add'l 100 SF or Fraction Thereof	
26 U - Utility - Misc - New Construction:	150		\$ 869.97	\$ 126.87	\$ 1,591.75	\$ 113.69	\$ 907.73	\$ 132.38	\$ 1,660.83	\$ 118.63	Y
	750		\$ 1,631.20	\$ 181.24	\$ 2,273.92	\$ 181.92	\$ 1,701.99	\$ 189.11	\$ 2,372.61	\$ 189.81	Y
	1,500		\$ 2,990.53	\$ 163.12	\$ 3,638.28	\$ 194.04	\$ 3,120.31	\$ 170.20	\$ 3,796.18	\$ 202.46	Y
	3,000		\$ 5,437.32	\$ 30.21	\$ 6,548.90	\$ 81.86	\$ 5,673.30	\$ 31.52	\$ 6,833.12	\$ 85.41	Y
	7,500		\$ 6,796.65	\$ 39.87	\$ 10,232.65	\$ 33.35	\$ 7,091.62	\$ 41.60	\$ 10,676.75	\$ 34.80	Y
	15,000		\$ 9,787.18	\$ 65.25	\$ 12,733.97	\$ 84.90	\$ 10,211.94	\$ 68.08	\$ 13,286.62	\$ 88.58	Y
27 U - Utility - Misc - Tenant Improvement:	100		\$ 579.98	\$ 126.87	\$ 1,123.59	\$ 120.38	\$ 605.15	\$ 132.38	\$ 1,172.35	\$ 125.61	Y
	500		\$ 1,087.46	\$ 181.24	\$ 1,605.12	\$ 192.62	\$ 1,134.66	\$ 189.11	\$ 1,674.78	\$ 200.97	Y
	1,000		\$ 1,993.68	\$ 163.12	\$ 2,568.20	\$ 205.45	\$ 2,080.21	\$ 170.20	\$ 2,679.65	\$ 214.37	Y
	2,000		\$ 3,624.88	\$ 30.21	\$ 4,622.75	\$ 86.67	\$ 3,782.20	\$ 31.52	\$ 4,823.38	\$ 90.44	Y
	5,000		\$ 4,531.10	\$ 39.87	\$ 7,223.05	\$ 35.31	\$ 4,727.75	\$ 41.60	\$ 7,536.53	\$ 36.85	Y
	10,000		\$ 6,524.78	\$ 65.25	\$ 8,988.68	\$ 89.89	\$ 6,807.96	\$ 68.08	\$ 9,378.79	\$ 93.79	Y
28 Shell Building:	5,000		\$ 5,479.59	\$ 23.97	\$ 10,299.53	\$ 22.07	\$ 5,717.41	\$ 25.01	\$ 10,746.53	\$ 23.03	Y
	25,000		\$ 10,274.24	\$ 34.25	\$ 14,713.62	\$ 35.31	\$ 10,720.14	\$ 35.73	\$ 15,352.19	\$ 36.85	Y
	50,000		\$ 18,836.10	\$ 30.83	\$ 23,541.79	\$ 37.67	\$ 19,653.59	\$ 32.16	\$ 24,563.50	\$ 39.30	Y
	100,000		\$ 34,247.45	\$ 5.71	\$ 42,375.22	\$ 15.89	\$ 35,733.79	\$ 5.96	\$ 44,214.30	\$ 16.58	Y
	250,000		\$ 42,809.32	\$ 7.53	\$ 66,211.28	\$ 6.47	\$ 44,667.24	\$ 7.86	\$ 69,084.85	\$ 6.75	Y
	500,000		\$ 61,645.42	\$ 12.32	\$ 82,396.26	\$ 16.48	\$ 64,320.83	\$ 12.86	\$ 85,972.25	\$ 17.20	Y

* Amounts exclude City of Milpitas standard permitting fees and State of California fees.

** A - Assembly New Construction per 100 SF amounts adjusted in order to reflect proper scaling from tier to tier. No change proposed to base fee.

*** S-1 - Storage Moderate Hazard - New Construction: per 100 SF amounts adjusted in order to reflect proper scaling from tier to tier. No change proposed to base fee.

City of Milpitas

BUILDING SAFETY AND HOUSING - MISCELLANEOUS

Activity Description	FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly In'ftr	Note
MISCELLANEOUS FEES - RESIDENTIAL					
Combination Permits					
1 Attached Garage - 1 to 3 cars	\$1,290	\$1,346		Y	
2 Detached Garage or Shed Accessory Structure	\$1,108	\$1,156		Y	[a]
3 Bathroom Remodel (1 or more if inspected at same time)	\$945	\$986		Y	
4 Kitchen Remodel	\$945	\$986		Y	[b]
5 Kitchen and Bathroom Remodel	\$1,373	\$1,432		Y	
6 Standard Patio Encl / Sun Room, manufactured	\$1,215	\$1,268		Y	[c]
6 Engineered Patio Encl / Sun Room, custom Patio Enclosure / Sunroom	\$1,272	\$1,327		Y	
7 Garage conversion	\$1,215	\$1,268		Y	
8 Green House	\$1,001	\$1,045		Y	
9 Patio Cover	\$1,001	\$1,045		Y	
10 Window, Skylight or Exterior Door	\$838	\$874		Y	
Miscellaneous Construction					
11 Wood Fences over 7' high, concrete / masonry over 4' high	\$746	\$778		Y	
12 Sound Wall	\$1,293	\$1,349		Y	
13 Structural Roof Conversions	\$1.99	\$2.07	per sq ft	Y	
14 AC Condenser Replacement	\$268	\$279		Y	
15 Furnace Replacement	\$321	\$335		Y	
16 Water Heater Replacement	\$321	\$335		Y	
17 Solar Permit					
a) 15kW or less	\$450	\$450		N	
b) Above 15kW – base	\$450	\$450	base	N	
c) Above 15kW – per kW	\$15	\$15	per kW	N	
18 Solar Thermal					
a) 10kWth or less	\$450	\$450		N	
b) 10kWth or more - base	\$450	\$450	base	N	
c) 10kWth or more – per kWth	\$15	\$15	per kWth	N	
19 Fireplace reconstruction	\$633	\$660		Y	
20 Siding/stucco replacement	\$535	\$558		Y	
21 Seismic Strengthening	\$633	\$660		Y	
22 Miscellaneous Construction Not Listed	See hourly rates for Plan Review and Inspection	See hourly rates for Plan Review and Inspection		N	[d]

City of Milpitas

BUILDING SAFETY AND HOUSING - MISCELLANEOUS

Activity Description		FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly In'ftr	Note
Mobilehome Permit Fees						
23	Mobilehome Installation Fee	\$196	\$196	each	N	
24	Permit Issuance Fee	\$196	\$196	each	N	
25	Awning (each)	\$196	\$196	each	N	
26	Porch > than 12 sq. ft.	\$196	\$196	each	N	
27	Deck > 12 sq. ft.	\$196	\$196	each	N	
28	Cabana (each)	\$196	\$196	each	N	
29	Ramada (each)	\$196	\$196	each	N	
30	Private Garage (each)	\$196	\$196	each	N	
31	Fence > 6 ft. height (each)	\$196	\$196	each	N	
32	Windbreak > 6 ft. height (each)	\$196	\$196	each	N	
33	MEP (each)	\$196	\$196	each	N	
34	Re-inspection Fees					
	a) First Hour	\$178	\$178		N	
	b) 1 additional hour	\$82	\$82		N	
	c) 1/2 hour additional	\$41	\$41		N	
MISCELLANEOUS FEES - COMMERCIAL						
Miscellaneous Construction						
35	Permit Issuance Fee	\$183	\$191		Y	[e]
36	Equipment Installation					
	a) Each Type - Plan Check Review	\$453	\$472		Y	[f]
	b) Each Type (max 3 pieces) Each 2 pieces or fraction thereof - Inspection	\$428	\$447		Y	[f]
37	Racks, each type					
	a) First Rack - Each Rack Type	\$774	\$807		Y	[f]
	b) Each 5 additional racks or fraction thereof	\$214	\$223		Y	[f]
38	Roof Screen	\$988	\$1,030		Y	
39	Fences	\$988	\$1,030		Y	
40	Monument Sign					
	a) Each Piece - Not Electrical	\$654	\$683		Y	
	b) Each Piece - Including Electrical	\$818	\$853		Y	
41	Wall Mounted Sign					
	a) Each Type (max 2 pieces) Each 2 pieces or fraction thereof - Not Electrical	\$440	\$459		Y	[f]
	b) Each Type (max 2 pieces) Each 2 pieces or fraction thereof - Including Electrical	\$604	\$630		Y	[f]

City of Milpitas

BUILDING SAFETY AND HOUSING - MISCELLANEOUS

Activity Description	FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly In'fltr	Note
42 Solar Permit					
a) 50kW or less	\$1,000	\$1,000		N	
b) 50kW – 250kW – Base	\$1,000	\$1,000	base	N	
c) 50kW – 250kW – per kW above 50kW	\$7	\$7	per kW	N	
b) Above 250kW – base	\$2,400	\$2,400	base	N	
c) Above 250kW – per kW	\$5	\$5	per kW	N	
43 Solar Thermal					
a) 30kWth or less	\$1,000	\$1,000		N	
b) 30kWth – 260kWth – Base	\$1,000	\$1,000	base	N	
c) 30kWth – 260kWth – per kWth above 30kWth	\$7	\$7	per kWth	N	
d) 260+ kWth – Base	\$2,610	\$2,610	base	N	
e) 260+ kWth – per kWth above 260kWth	\$5	\$5	per kWth	N	
44 Miscellaneous Construction Not Listed	See hourly rates for Plan Review and Inspection	See hourly rates for Plan Review and Inspection		N	
Other Plan Check, Inspection and Permit Fees					
45 Certificate of Occupancy (inspection, record review, printing)	\$665	\$694		Y	
46 Temporary Building Permit Issuance *****	\$410	\$428		Y	
47 Accessibility Exception Request	\$544	\$568		Y	
48 Christmas Tree Lot	\$306	\$319		Y	
49 Faithful Performance Bond Execution	\$318	\$332		Y	
50 Inspection Investigation Fee (Construction w/o Permits, Per MMC)	100% of insp. Fee	100% of insp. Fee		N	
RESIDENTIAL, COMMERCIAL, AND MEP FEES					
Grading					
51 Permit Issuance Fee	\$183	\$191		Y	[e]
52 Plan Check:					
a) 0 - 10,000 Cubic Yards	\$453	\$472		Y	
b) Add for each additional 10,000 CY or fraction thereof	\$113	\$118		Y	
c) Over 100,000 Cubic Yards	\$1,471	\$1,535		Y	
d) Over 100,000 Cubic Yards – add for each additional 10,000 CY or fraction thereof	\$57	\$59		Y	

City of Milpitas

BUILDING SAFETY AND HOUSING - MISCELLANEOUS

Activity Description		FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly In'ftr	Note
53	Inspection:					
	a) 0 - 10,000 Cubic Yards	\$749	\$782		Y	
	b) Add for each additional 10,000 CY or fraction thereof	\$107	\$112		Y	
	c) Over 100,000 Cubic Yards	\$1,712	\$1,786		Y	
	d) Over 100,000 Cubic Yards – add for each additional 10,000 CY or fraction thereof	\$54	\$56		Y	
	Site Improvement					
54	Permit Issuance	\$183	\$191		Y	[e]
55	Plan Check					
	a) 0-50,000 SF	\$2,263	\$2,361		Y	
	b) 50,001-100,000 SF	\$3,168	\$3,305		Y	
	c) 100,001-500,000 SF	\$9,051	\$9,444		Y	
	d) 500,001+ SF	\$1.36	\$1.42	per 100 SF	Y	
56	Inspection					
	a) 0-50,000 SF	\$3,424	\$3,573		Y	
	b) 50,001-100,000 SF	\$5,136	\$5,359		Y	
	c) 100,001-500,000 SF	\$10,701	\$11,165		Y	
	d) 500,001+ SF	\$1.78	\$1.86	per 100 SF	Y	
	Pools or Spas					
57	Swimming Pool or Spa					[f]
	a) Private	\$972	\$1,015		Y	
	b) Public	\$1,532	\$1,598		Y	
58	Spa—separate	\$972	\$1,015		Y	{e}
58	Swimming Pool and Spa Together					[f]
	a) Private	\$1,627	\$1,697		Y	[f]
	b) Public	\$2,564	\$2,675		Y	[f]
59	Existing Pools / Spas – Repair or Renovation Mechanical, Electrical, Plumbing—	\$532	\$555	per-trade	Y	[f]
	Re-Roofing					
60	Single-Family and Two-Family	\$627	\$654		Y	
61	Multi-Family, Residential, each building	\$1,007	\$1,051		Y	
62	Commercial/Industrial, each building **	\$1,275	\$1,330		Y	

City of Milpitas

BUILDING SAFETY AND HOUSING - MISCELLANEOUS

Activity Description	FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly In'fltr	Note
Miscellaneous Fee					
63 Change of Address	\$624	\$651	per request	Y	
64 Extension of Plan Check	\$92	\$96		Y	
65 Extension of Permit	\$92	\$96		Y	
66 Records Research	\$92	\$96		Y	
67 Records Research with Documentation, per Address	\$138	\$144	per address	Y	
68 Report of Monthly or Yrly Bldg Permit Activity (no charge to public agencies)	\$92	\$96		Y	
69 Reprinting of Building Permit Cards	\$61	\$64		Y	
70 Alternative Materials or Methods of Construction	\$679	\$708		Y	
Other Plan Check and Inspection Permit Fees					
71 Inspection Investigation Fee (Construction w/o Permits, Per MMC)	100% of insp. Fee	100% of insp. Fee		N	
72 Reinspection Fee - per reinspection	\$321	\$335	per reinspection	Y	
73 Demolition Permit	\$526	\$549		Y	
74 Revision / Deferred Submittal Plan Check - per hour	\$226	\$236	per hour	Y	
75 Digitizing					
a) Document Size up to 11"x17"					
i) 1st 10 pages	\$1	\$1	each	N	
ii) Each additional page	0.50	0.50	each	N	
b) Document Size Larger than 11"x17"	\$4	\$4	per page	N	
Hourly Rates					
76 Hourly Rates - Normal Business Hours					
a) Plan Check	\$226	\$236		Y	
b) Inspection	\$214	\$223		Y	
77 Afterhours (Overtime) Hourly Rates					
a) Plan Check	\$271	\$283		Y	
b) Inspection	\$255	\$266		Y	
Standard Permitting Fees					
78 Community Planning Fee - % of Building Permit	5.00%	5.00%		N	
79 Technology Fee - % of Building Permit	3.80%	3.80%		N	

City of Milpitas

BUILDING SAFETY AND HOUSING - MISCELLANEOUS

Activity Description		FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly In'fltr	Note
STATE FEES						
Strong Motion Instrumentation and Seismic Hazard Mapping Fees: ***						
80	Category 1 - Residential - Min Fee = \$0.50	Val. x 0.00013	Val. x 0.00013		N	
81	Category 2 - All Other Buildings - Min Fee = \$0.50	Val. x 0.00028	Val. x 0.00028		N	
Building Standards Administration Special Revolving Fund: ***						
82	Permit Valuation					
	a) \$1-\$25,000	\$1	\$1		N	
	b) \$25,001 - \$50,000	\$2	\$2		N	
	c) \$50,001 - \$75,000	\$3	\$3		N	
	d) \$75,001 - \$100,000	\$4	\$4		N	
	e) Every \$25,000 or fraction thereof above \$100,000	\$1	\$1		N	
ELECTRICAL						
83	Electrical Permit Issuance ****	\$183	\$191		Y	
84	Plan Check Fee - (min. 1 hr) - per hour	\$226	\$236	per hour	Y	
85	Receptacle Outlets, multiple on one circuit					
	a) First 20	\$107	\$112		Y	
	b) Each additional 20	\$89	\$93		Y	
86	Receptacles or Junction box , fed from dedicated circuit - each	\$54	\$56	each	Y	[f]
87	Switches, Dimmers, Occupancy sensors, Sensor Power Packs, etc.					
	a) First 20	\$107	\$112		Y	
	b) Each additional 20	\$89	\$93		Y	
88	Lighting Fixtures, Sockets					
	a) First 20	\$107	\$112		Y	
	b) Each additional 20	\$89	\$93		Y	
89	Track lighting with fixtures - per linear feet	\$1.07	\$1.12		Y	
90	Pole/Platform-Mounted/Theatrical Fixtures - each	\$54	\$56	each	Y	
91	Circuit Breaker Panel/Subpanel, Lighting Control Panel – each	\$89	\$93	each	Y	
92	Residential Equipment, or Appliance, fed hardwired from dedicated circuit – e	\$54	\$56	each	Y	
93	Commercial Equipment, or Appliance, fed hardwired from dedicated circuit – e	\$89	\$93	each	Y	
94	Power pole for cubicles	\$54	\$56	each	Y	

City of Milpitas

BUILDING SAFETY AND HOUSING - MISCELLANEOUS

Activity Description		FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly In'fltr	Note
95	Generator					
	a) Portable	\$107	\$112	each	Y	
	b) 10 kW or less	\$107	\$112	each	Y	
	c) More than 10 kW	\$161	\$167	each	Y	
96	Electrical vehicle charging station					
	a) Residential	\$54	\$56		Y	
	b) Commercial	\$89	\$93		Y	
97	HEPA filter					
	a) First 20	\$107	\$112		Y	
	b) Each additional 20	\$89	\$93		Y	
98	Time Clock	\$54	\$56	each	Y	
99	Junction box, fed from dedicated circuit	\$54	\$56		Y	[c]
99	Sign, lighting systems from one branch circuit					
	a) First one	\$214	\$223		Y	
	b) Each additional	\$107	\$112		Y	
100	Services					
	a) Not over 200 amps (new or change) – each	\$107	\$112	each	Y	
	b) 201 amps - 1000 amps (new or change)	\$214	\$223	each	Y	
	c) Over 1000 amperes (new or change)	\$268	\$279	each	Y	
101	Power Apparatus (UPS) or Transformer	\$89	\$93	each	Y	
102	Miscellaneous Apparatus, Conduits & Conductors	\$89	\$93	each	Y	
103	Construction Temporary Power Pole with service panel, each pole	\$107	\$112		Y	
104	Elevator	\$214	\$223	each	Y	
105	Special Circuitry, per circuit	\$89	\$93	per circuit	Y	
MECHANICAL						
106	Mechanical Permit Issuance ****	\$183	\$191		Y	
107	Plan Check Fee (min.1 hr)	\$226	\$236	per hour	Y	
108	Install Furnace or Heater, Residential (not including duct work)	\$143	\$149		Y	
109	Install, Relocate, Replace Flue Vent (not including with appliance)	\$107	\$112		Y	
110	Install Hood with Mechanical Exhaust					
	a) Residential	\$89	\$93		Y	
	b) Commercial	\$214	\$223		Y	

City of Milpitas

BUILDING SAFETY AND HOUSING - MISCELLANEOUS

Activity Description	FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly In'fltr	Note
111 Duct Work per unit or VAV or Single Zone System	\$89	\$93		Y	
112 Install Industrial-type Incinerator	\$161	\$167		Y	
113 Install/ Replace					[f]
a) Boiler (each)	\$107	\$112	each	Y	[f]
b) Condenser, VAV or Fan Coil 0-5 ton <2000 CFM (each)	\$107	\$112	each	Y	[f]
c) Condenser, VAV or Fan Coil Over 5 ton >2000 CFM (each)	\$214	\$223	each	Y	
114 Roof-top HVAC package unit including duct work	\$214	\$223		Y	
115 Dryer vent					
a) Dryer vent, residential	\$89	\$93	each	Y	
b) Dryer vent, commercial	\$214	\$223	each	Y	
116 Pump	\$161	\$167	each	Y	
117 Install/Replace Fire or Fire/Smoke Dampers - 5 (or portion of)	\$107	\$112		Y	
118 Non-portable Evaporative Cooler	\$161	\$167		Y	
119 Single Bathroom Ventilation Fan and Duct	\$89	\$93		Y	
120 Ventilation System, not HVAC	\$107	\$112		Y	
121 Other Regulated Appliance	\$161	\$167		Y	
122 Process Piping					
a) Hazardous process piping system					
i) First 4 outlets	\$161	\$167		Y	
ii) Over 4 outlets - per outlet	\$89	\$93	per outlet	Y	
b) Non-Hazardous process piping system					
i) First 4 outlets	\$161	\$167		Y	
ii) Over 4 outlets - per outlet	\$89	\$93	per outlet	Y	
PLUMBING					
123 Plumbing Permit Issuance ****	\$183	\$191		Y	
124 Plan Check Fee (min. 1 hr) - per hour	\$226	\$236	per hour	Y	
125 Plumbing Fixtures					
a) First 5 traps (or portion of)	\$161	\$167		Y	
b) Each Additional trap	\$89	\$93		Y	
126 Building Drain or Sewer (New or Replacement)	\$161	\$167		Y	
127 Rain Water Drainage System	\$107	\$112		Y	
128 Water Heater and Vent	\$161	\$167		Y	

City of Milpitas

BUILDING SAFETY AND HOUSING - MISCELLANEOUS

Activity Description	FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly In'fltr	Note
129 Gas Piping System - (each appliance)	\$107	\$112		Y	
130 Automatic Gas Shut-off Device (Seismic or Excess Flow) if not part of new gas piping system	\$107	\$112		Y	
131 Industrial Waste Pre-Treatment System	\$214	\$223		Y	
132 Grease Trap	\$161	\$167		Y	
133 Grease Interceptor	\$214	\$223		Y	
134 Water System Installation					
a) New	\$321	\$335		Y	
b) Re-pipe	\$214	\$223		Y	
135 Pump	\$161	\$167	each	Y	
136 Repair/Alteration of Drain/Vent	\$161	\$167		Y	
137 Landscape Sprinkler System	\$161	\$167		Y	
138 Landscape Reclaim Water	\$268	\$279	per valve	Y	
139 Backflow Protection					
a) first 5	\$161	\$167		Y	
b) each additional 5 (or portion of)	\$89	\$93		Y	
140 Reclaim Water System, No Irrigation	\$321	\$335		Y	
141 Private Sewage Disposal System	\$107	\$112		Y	

** Additional fees may be charged for roof penetrations and/or equipment installation.

*** Fees set by the State of California and are subject to change.

**** Permit issuance fee. When more than one specialty permit (electrical, mechanical, plumbing) is concurrently issued to one applicant, only one permit issuance fee will be charged.

***** Full permit fees of the main building permit shall be paid prior to issuance of the temporary building permit.

[a] Not a new fee. Renaming shed to accessory structure to better encompass range of structures included in fee.

[b] Not a new fee. Clarifying distinct fees for stand-alone kitchen remodel v. combined kitchen and bathroom remodel. Amount was incorrectly reflected in prior fee schedule.

[c] Removing. Fee category not required. Amount collected via other fee in this schedule.

[d] Not a new fee. Identifying in fee schedule for fee schedule clarity.

[e] Not a new fee. Amount shown in prior schedule reflected a typographical error. Fee now aligns to other permit issuance fees listed in this schedule.

[f] Not a new fee. Clarifying fee description.

City of Milpitas

BUILDING SAFETY AND HOUSING - NEIGHBORHOOD BEAUTIFICATION

Activity Description		FY 21/22 Fee	FY 22/23 Fee	Y'rly In'fltr	Note
1	1st Violation to Neighborhood Beautification Ordinance	\$100	\$100	N	
2	2nd Violation to Neighborhood Beautification Ordinance	\$200	\$200	N	
3	3rd or More Violations to Neighborhood Beautification Ordinance	\$500	\$500	N	
4	Delinquency Penalty on Neighborhood Beautification Ordinance	\$25	\$25	N	
5	Graffiti Abatement	Actual Cost	Actual Cost	N	
6	Public Nuisance Abatement	As defined in Municipal Code Sections	As defined in Municipal Code Sections	N	

City of Milpitas

ANIMAL REGULATION

Activity Description		FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly In'ftr	Note
1	Animal Bites Penalty	\$200	\$200		N	
2	Animal Impoundment Hearing	\$50	\$50		N	
3	Animal Nuisance (e.g. barking)	\$100	\$100		N	
4	Animals in Excess of Maximum Allowed Penalty	\$50	\$50		N	
5	Failure to Apply for Annual Animal Facility Permit	\$20	\$20		N	
6	Inadequate Control or Confinement of Potentially Dangerous Animal Penalty	\$100	\$100		N	
7	Late Payments for Animal Fees	10%	10%	7 days	N	
8	Unlicensed dog or cat penalty	\$50	\$50		N	
9	Violation of Leash Law	\$25	\$25		N	
10	Dog License					
	a) Altered	\$25	\$25		N	
	b) Late Fee	\$20	\$20		N	
	c) Unaltered	\$65	\$65		N	
11	Cat License					
	a) Altered	\$15	\$15		N	
	b) Late Fee	\$20	\$20		N	
	c) Unaltered	\$35	\$35		N	
12	Dog Seller Fee					
	a) 1st Permit within Calendar Year	\$78	\$81		Y	
	b) 2nd Permit within Calendar Year	\$156	\$163		Y	
13	Cat Seller Fee					
	a) 1st Permit within Calendar Year	\$52	\$54		Y	
	b) 2nd Permit within Calendar Year	\$104	\$109		Y	
14	Animal Disposal Fee	Actual Cost	Actual Cost		N	
15	Quarantining Animal Fee	Actual Cost	Actual Cost		N	
16	Redemption of Impounded Animal Fee	Actual Cost	Actual Cost		N	
17	Annual Animal Adoption Permit Fee	\$52	\$54		Y	
18	Annual Animal Facility Permit Application Fee	\$52	\$54		Y	
19	Dangerous Animal Annual Permit Fee	\$156	\$163		Y	
20	Permit for Exception to Number or Type of Animals Allowed, Application Fee	\$21	\$22		Y	
21	Other Requested/Required Services - See City of San Jose (The City of Milpitas contracts with the City of San Jose for various Animal Regulation services)	See City of San Jose fee schedule	See City of San Jose fee schedule		N	

City of Milpitas

PLANNING

Item # 17.

Activity Description		FY 21/22 Fee	FY 22/23 Fee	Y'rly In'ftr	Note
Special Events:					
1	Application Fee				
	a) Minor Events	\$945	\$253	Y	[a]
	b) Regular Events	\$945	\$986	Y	[a]
	c) Major Events	\$5,787	\$6,157	Y	[a]
2	Conceptual Review - Planning Staff Only - per meeting	\$362	\$378	Y	
Pre-Application Review:					
3	Single Family	\$2,712	\$2,948	Y	
4	All Others	\$8,775	\$9,392	Y	
Tentative Maps:					
5	Parcel Map	\$13,375	\$13,955	Y	
6	Tract Map	\$19,396	\$20,238	Y	
Minor Site Development:					
7	Over the Counter Review	\$242	\$253	Y	
8	Staff Review Fee				
	a) Staff Review - Zoning Administrator	\$3,062	\$3,313	Y	
	b) Staff Review Hill Side - Zoning Administrator	\$4,301	\$4,606	Y	
9	Requiring PC / CC Approval	\$9,158	\$9,674	Y	
Site Development:					
10	New Development	\$16,174	\$18,529	Y	
11	Zoning Administrator	\$13,280	\$14,328	Y	
12	SB35 Housing Project	\$8,775	\$10,809	Y	
Minor Conditional Use Permit:					
13	Staff Review - Zoning Administrator	\$1,230	\$1,401	Y	
14	Requiring PC / CC Approval	\$2,920	\$3,164	Y	
15	Telecommunications	\$945	\$986	Y	
Conditional Use Permit:					
16	Single Family Districts	\$539	\$681	Y	
17	Temporary Use Permit	\$842	\$878	Y	
18	All Other CUPs	\$14,632	\$15,739	Y	
Signs:					
19	Temporary (Including Banners)	\$114	\$119	Y	
20	Permanent (Including Wall Signs)	\$330	\$344	Y	
21	Freestanding signs over 6ft in height	\$558	\$582	Y	

City of Milpitas

PLANNING

Item # 17.

Activity Description	FY 21/22 Fee	FY 22/23 Fee	Y'rly In'ftr	Note
Variance:				
22 Single Family	\$993	\$1,036	Y	
23 Signs	\$974	\$1,017	Y	
24 Multi-Family / Non-Residential	\$3,057	\$3,189	Y	
Special Use Permit:				
25 Staff Review	\$945	\$986	Y	
26 Requiring PC / CC Approval	\$2,421	\$2,526	Y	
Short-Term Rental Permit				
27 Short-Term Rental Permit - Initial	\$488	\$509	Y	
28 Short-Term Rental Permit - Renewal	\$488	\$509	Y	
Deposit-Based Fees:				
29 Amendments, General Plan, Zoning, or Specific Plan (Map or Text)	\$20,000	\$20,000	N	
30 Development Agreements	\$20,000	\$20,000	N	
31 Environmental Review/CEQA clearance	\$35,000	\$35,000	N	
32 Planned Unit Development	\$20,000	\$20,000	N	
33 Billboards	\$2,500	\$2,500	N	
34 Initial Deposit to Offset Costs of Legal Review, Peer Review, Other Agency Review, etc.	\$5,000	\$5,000	N	[b]
Miscellaneous Fees:				
35 Amendments/Modifications to an Existing Permit	50% of permit	50% of permit	N	
36 Appeal To Planning Commission/City Council	\$1,933	\$2,017	Y	
37 Time Extensions	\$797	\$832	Y	
38 Noticing Fee	\$571	\$595	Y	
39 Copies - per page	\$0.10	\$0.10	N	
40 Planning Research - per hour	\$242	\$252	Y	
41 Zoning Conformance Letter	\$228	\$238	Y	
42 Home Occupation Permit / Business License Review	\$57	\$59	Y	
43 Tree Removal	\$231	\$241	Y	
44 Building Plan Check Support	\$242	\$253	Y	
45 Building Inspection Support	\$242	\$253	Y	
46 Certificate of Occupancy Review	\$121	\$126	Y	
47 Permit Compliance Review	\$483	\$504	Y	
48 Letter of Determination / Interpretation	\$965	\$1,007	Y	
49 Pass Through for Legal Fees	Pass - Through	Pass - Through	N	
50 Vendor Payment Processing Fees	Pass - Through	Pass - Through	N	[c]

City of Milpitas
PLANNING

Activity Description	FY 21/22 Fee	FY 22/23 Fee	Y'rly In'ftr	Note
51 Technology Fee - % of Permit	3.80%	3.80%	N	

[a] Minor events are for permits issued over-the-counter for small private events. Regular events permits are typically issued for events less than four consecutive days, including block parties, or that require review by multiple departments. Major event permits are typically issued for events that exceed four consecutive days and/or anticipate crowds exceeding 1,000 people.

[b] This deposit will be collected in addition to any other deposits or fixed fees. Any unused deposit amounts will be returned to applicant.

[c] For payments made using vendor portal services, applicant shall be responsible for processing fees charged by vendor, as applicable.

* Applicants for full cost (deposit-based) submittals shall pay for all City staff and contract service provider time and materials required to process the application. Hourly rates for City staff time vary by position, as outlined in the City's full cost allocation plan.

City of Milpitas

ENGINEERING

Activity Description		FY 21/22 Fee	FY 22/23 Fee	Y'rly In'ftr	Note
1	Minor Encroachment Permit	\$1,113	\$1,161	Y	
2	Lot Line / Merger Adjustment	\$3,284	\$3,427	Y	[a]
3	Street / Alley Easement Vacation	\$2,385	\$2,489	Y	
Bldg Permit Reviews:					
4	Single Family New Building / Addition	\$611	\$637	Y	
5	Commercial / Industrial New Building	\$2,036	\$2,124	Y	
6	Commercial / Industrial Tenant Improvement	\$204	\$212	Y	
7	Commercial / Industrial Site Improvement (including Grading)	\$1,832	\$1,912	Y	
8	All Other Permit Application Reviews (per hour)	\$204	\$212	Y	
Engineering Plan Review: (Construction Cost Estimate)					
9	Up to \$50,000	\$5,200	\$5,426	Y	
10	\$50,001-\$200,000	\$10,400	\$10,851	Y	
11	\$200,001-\$500,000	\$15,600	\$16,277	Y	
12	Over \$500,001	\$20,800	\$21,703	Y	
Engineering Inspection: (Construction Cost Estimate)					
13	Up to \$50,000	\$5,200	\$5,426	Y	
14	Greater than \$50,000 - % of Construction Cost Estimate	10%	10%	N	
15	Technology Fee - % of Permit	3.80%	3.80%	N	

[a] Fee includes Planning and Engineering review.

City of Milpitas

TRANSIT AREA DEVELOPMENT IMPACT FEE

Activity Description		FY 21/22 Fee	FY 22/23 Fee	Unit	Y'rly In'fltr	Note
Transit Area Development Impact Fee						
1	Residential	\$44,009	\$47,550	per unit	Y	[a];[b]
2	Commercial	\$28.79	\$31.11	per square foot	Y	[a];[b]
3	Office	\$49.48	\$53.46	per square foot	Y	[a];[b]
4	Hotel	\$0	\$0	per room	Y	[a];[b]
5	Other Uses	To Be Determined	To Be Determined		Y	[a];[b]

[a] Source: Resolution No. 8923.

[b] The Transit Area Development Impact Fee shall be automatically increased each fiscal year by the Finance Director or his or her designee in conjunction with the City's annual budget process. The percentage increase shall be based on the Engineering News Record (ENR) Construction Cost Index for the San Francisco Bay Area, as measured from the immediately preceding December and December of the prior year.

* Incorporating into Master Fee Schedule for references purposes only. Fees are not being considered for update by City Council as part of this action.

City of Milpitas

PUBLIC WORKS

Item # 17.

Activity Description		FY 21/22 Fee / Rate	FY 22/23 Fee / Rate	Y'rly In'ftr	Note
Water					
1	Water Meter Size				
	a) 5/8"	\$32.17	\$34.10	N	
	b) 3/4"	\$48.25	\$51.14	N	
	c) 1"	\$80.41	\$85.24	N	
	d) 1-1/2"	\$160.83	\$170.48	N	
	e) 2"	\$257.32	\$272.76	N	
	f) 3"	\$482.48	\$511.43	N	
	g) 4"	\$804.13	\$852.38	N	
	h) 6" and above	\$1,608.26	\$1,704.76	N	
2	Fire Service Line Size				
	a) 2"	\$51.46	\$54.55	N	
	b) 3"	\$96.50	\$102.29	N	
	c) 4"	\$160.83	\$170.48	N	
	d) 6" and above	\$321.65	\$340.95	N	
3	Volumetric Charge				
	a) Residential	\$6.32	\$6.70	N	
	b) Commercial/ Industrial/ Institutional/ Construction Meter	\$6.32	\$6.70	N	
	c) Irrigation (potable)	\$6.32	\$6.70	N	
	d) City Accounts (potable)	\$6.32	\$6.70	N	
	e) Ed Levin Park	\$4.10	\$4.47	N	
	f) Recycled				
	i) Recycled - Irrigation	\$4.25	\$4.51	N	
	ii) Recycled - Industrial/ Dual Plumbed/ Construction Water	\$4.25	\$4.51	N	
	iii) Recycled - City Accounts (recycled)	\$4.25	\$4.51	N	
	g) Capital Surcharge	\$1.08	\$1.08	N	
Water Meter					
4	Water Meter Testing				
	a) Residential Deposit	\$110	\$110	N	[a]
	b) Commercial Deposit	\$300	\$300	N	[a]

City of Milpitas

PUBLIC WORKS

Item # 17.

Activity Description		FY 21/22 Fee / Rate	FY 22/23 Fee / Rate	Y'rly In'ftr	Note
Sewer					
5	Flat Rate				
	a) Single-Family	\$118.34	\$124.14	N	
	b) Multiple-Family	\$90.88	\$95.34	N	
	c) Mobile Home Parks	\$74.66	\$78.28	N	
	d) Non-Residential Flat Rate	\$26.55	\$27.35	N	
6	Quantity and Strength Charges				
	a)Motels, hotels & senior citizen housing developments	\$5.37	\$5.75	N	
	b) General offices, banks, government offices, general merchandise, retail, and shopping centers; building, hardware, and gardening material facilities; amusement centers, and theaters	\$6.14	\$6.84	N	
	c) City of Milpitas	\$5.31	\$5.80	N	
	d) Service stations, repair shops, and car washes	\$5.32	\$5.70	N	
	e) Eating and drinking establishments	\$8.73	\$9.06	N	
	f) Convalescent hospitals, day care centers and health service facilities	\$5.23	\$5.60	N	
	g) Personal services - laundry, barber/beauty shops, cleaners	\$4.92	\$5.31	N	
	h) Electrical and electronics design, fabrication, assembly and storage facilities	\$6.04	\$6.72	N	
	i) Metal fabrication, machinery, and tool fabrication facilities	\$7.70	\$8.43	N	
	j) RockTenn (Jefferson Smurfit Corporation)	\$10.11	\$10.46	N	
	k) T. Marzetti Co.	\$11.48	\$12.09	N	
	l) Prudential Overall Supply	\$7.66	\$8.42	N	
	m) Siemens Water (previously US Filter)	\$6.36	\$7.06	N	
	n) Elmwood Rehabilitation center	\$6.35	\$6.69	N	
	o) Linear Technology Corporation	\$6.18	\$6.88	N	
	p) DS Water	\$5.34	\$6.04	N	
	q) Headway Technology Corporation	\$6.57	\$7.32	N	
	r) Lucky Pure Water	\$4.91	\$5.29	N	
	s) Milpitas Materials	\$4.91	\$5.29	N	
	t) Union Pacific Railroad	\$6.63	\$7.35	N	
	u) Cisco	\$6.04	\$6.72	N	
	v) Lifescan	\$6.04	\$6.72	N	
	x) Schools, colleges and churches	\$8.73	\$9.99	N	
7	City of San Jose - North McCarthy Properties				
	a) Bimonthly for discharge up to 75,000 gallons per day (maximum flow)	\$555.00	\$555.00	N	
	b) Excess flow charge (for each 1,000 gallons per day in excess of the maximum flow or part thereof)	\$100.00	\$100.00	N	

City of Milpitas

PUBLIC WORKS

Item # 17.

Activity Description		FY 21/22 Fee / Rate	FY 22/23 Fee / Rate	Y'rly In'fltr	Note
Utilities					
8	Service Request and Basic Inspection	\$128	\$134	Y	
9	Discontinuance of Service	\$128	\$134	Y	
10	Meter Removal / Installation				
	a) Less than 2"	\$103	\$107	Y	
	b) Greater than or Equal to 2"	\$304	\$317	Y	
11	Hydrant Flow Test				
	a) Two or Fewer Hydrants	\$635	\$663	Y	
	b) Three Hydrants	\$659	\$688	Y	
	c) Four Hydrants	\$686	\$716	Y	
12	Sewer Lateral Inspection				
	a) Visual Inspection	\$103	\$107	Y	
	b) Video Inspection - Residential	\$448	\$467	Y	
	c) Video Inspection - Commercial	\$670	\$699	Y	
13	Late Payment Penalty Fee (% of amount due)	5%	5%	N	
14	Final Notice Penalty	5%	5%	N	
15	Discontinuance of Service Warning Notice	\$10	\$10	N	
16	Restoration Fee - During Normal Operating Hours				
	a) Low Income	\$50	\$50	N	[b]
	b) All Others	\$128	\$128	N	
17	Restoration Fee - During Non-Operational Hours				
	a) Low Income	\$150	\$150	N	[b]
	b) All Others	\$337	\$337	N	

Notes

- [a] If meter is not accurate, deposit is refunded. If meter has been tampered with, the resident or business is charged for the repair.
- [b] For residential customers who demonstrate to the City a household income below 200 percent of the federal poverty line, the City will limit any service restoration charges during normal operating hours to fifty dollars (\$50), and during nonoperational hours to one hundred fifty dollars (\$150) for 2020. The limits will only apply if the City's service restoration charges actually exceed these amounts. These limits are subject to an annual adjustment for changes in the Bureau of Labor Statistics' Consumer Price Index for All Urban Consumers (CPI-U) beginning January 1, 2021.

City of Milpitas

PUBLIC WORKS

Item # 17.

Activity Description	FY 21/22 Fee	FY 22/23 Fee	Y'rly In'ftr	Note
Public Sewers				
1 Delinquent Fees	varies	varies	N	[a]
2 Civil Penalties	varies	varies	N	[b]
3 Unmetered Wastes	varies	varies	N	[c]
4 Authority to Disconnect	varies	varies	N	[d]
5 Payment for Sewage Services	varies	varies	N	[e]
6 Inspection Fees	varies	varies	N	[f]
7 House Lateral Fee	varies	varies	N	[g]
8 Disbursements of Short Side Charges	varies	varies	N	[h]
FOG and Stormwater Industrial/Commercial Violation				[i]
9 First Citation	\$500	\$500	N	[i]
10 Second Citation	\$625	\$625	N	[i]
11 Third Citation	\$750	\$750	N	[i]
Water Service Charges				
12 Construction Water	\$2,000	\$2,000	N	
13 Deposits for service	\$150	\$150	N	

Notes

- [a] See City of Milpitas Municipal Code Section VIII-2-5.33. Permit applications are due ninety (90) days prior to commencing discharge to the sanitary system or expiration of existing discharge permit. Any person who fails to file an application for a discharge permit prior to discharge shall be assessed a penalty for delinquent filing as follows: (1) Up to and including thirty (30) days delinquency, the penalty shall be fifty percent (50%) of the permit fee. More than thirty (30) days but less than one year delinquency, the penalty shall be one hundred percent (100%) of the permit fee. (3) More than one(1) year delinquency, the penalty shall be one thousand percent (1,000%) of the permit fee. (b) Such penalties shall be in addition to any other penalties or fines that may be levied, and in addition to any other remedies that the City may have with respect to the discharge.
- [b] See City of Milpitas Municipal Code Section VIII-2-5.50. Any person who intentionally, accidentally, or negligently violates any provisions of this Chapter, any provision of any permit issued pursuant to this Chapter, or who intentionally, accidentally, or negligently discharges waste or wastewater which causes pollution, or violates any effluent limitation, national standard of performance, or national pretreatment or toxicity standard, shall be civilly liable to the City in a sum up to ten thousand dollars (\$10,000) for the first day in which such violation occurs, up to twenty-five thousand dollars (\$25,000) for the second day in which such violation occurs, and fifty thousand dollars (\$50,000) for each additional day.
- [c] See City of Milpitas Municipal Code Section VIII-2-6.02. Where rates are herein specified to be in accordance with the use of water, all such premises shall be separately metered. Where such metering is not provided, or for newly constructed units, the City shall make a reasonable estimate of the volume of water consumed to be used as a basis for sewer service charges.

City of Milpitas

PUBLIC WORKS

Item # 17.

Activity Description	FY 21/22 Fee	FY 22/23 Fee	Y'rly In'ftr	Note
[d] See City of Milpitas Municipal Code Section VIII-2-6.03. In the event of a failure to pay the charges as provided for sewage service, the City is authorized to disconnect sewer or water service, or both.				
[e] See City of Milpitas Municipal Code Section VIII-2-6.04. All accounts are due and payable within fifteen (15) days of the date of the bill. Accounts shall become delinquent and a late fee equal to five percent (5%) of the amount due shall be imposed if a payment has not been received by 5:00 p.m. on the due date.				
[f] See City of Milpitas Municipal Code Section VIII-2-7.01. Each connector shall pay a fee to City for issuing of each permit, for the inspection of each house lateral, house sewer or side sewer, the sum of five dollars (\$5). Where connector has on file with the City cash deposit for inspection of work, no inspection fee shall be required. In such case, all cost and expenses incurred by City in inspection of the connection shall be made from said deposit.				
[g] See City of Milpitas Municipal Code Section VIII-2-7.02. Before the issuance of a permit for the installation of a house lateral, connector shall pay City a fee which shall include the following: (A) An engineering charge to defray the cost of processing the permit application, which shall be an amount equal to forty cents (\$0.40) times one-half the width of the street expressed in feet in which the house lateral is being constructed. (B) A short side charge shall be collected in all cases where the main or trunk to which connection is being made is located between the center line of the street and the property to be served. Said short side charge shall be an amount equal to four dollars and fifty cents (\$4.50) times the distance in feet between the center line of the street and the main or trunk sewer to which the connection is being made. The purpose of this charge is to equalize connection cost for property on both sides of the street.				
[h] See City of Milpitas Municipal Code Section VIII-2-7.03. The City Council may disburse to connectors whose house laterals connect to a main or trunk sewer at a point beyond the center line of the street an amount equal to \$4.50 times the distance in feet between the center of the street and the main or trunk sewer to which said connection was made.				
[i] See City of Milpitas Municipal Code Section XI-16-14. Any person who intentionally or negligently violates any provision of this Chapter or any provision of any permit or certificate issued pursuant to this Chapter shall be civilly liable to the city in a sum not to exceed \$25,000.00 per day for each day in which such violation occurs.				

City of Milpitas

FIRE

Item # 17.

Activity Description	FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly In'fltr	Note
FIRE INVESTIGATION/ENFORCEMENT/RESPONSE					
1 Emergency Response – Haz Mat Calls, Minimum 1-hr	HR(s) * hourly rate	HR(s) * hourly rate		N	
2 Response to DUI	HR(s) * hourly rate	HR(s) * hourly rate		N	
3 Non-Milpitas Response	HR(s) * hourly rate	HR(s) * hourly rate		N	
4 Response/Investigation Fee	HR(s) * hourly rate	HR(s) * hourly rate		N	
5 Referral Inspection (Life/Safety) 2 hrs minimum charge	HR(s) * hourly rate	HR(s) * hourly rate		N	
6 Referral Inspection (Haz Mat) 2 hrs minimum charge	HR(s) * hourly rate	HR(s) * hourly rate		N	
7 Fire Code Chapter 50 (Haz Mat) - Release Cleanup 2hrs minimum charge	HR(s) * hourly rate	HR(s) * hourly rate		N	
8 Enforcement Cost Recovery	HR(s) * hourly rate	HR(s) * hourly rate		N	
FALSE ALARM					
9 False Alarm					
a) First two in 12 month time-frame	no charge	no charge		N	
b) 3rd occurrence	\$300	\$300		N	
c) 4th occurrence	\$600	\$600		N	
d) 5th or more	\$900	\$900		N	
MISCELLANEOUS					
10 Data input (HMBP/HMIS), Minimum of 2 hours	HR(s) * hourly rate	HR(s) * hourly rate		N	
11 Late fee – over 60 days	Collection Cost	Collection Cost		N	
12 Failure to obtain a permit	Double permit fee	Double permit fee		N	
13 Weed Abatement. Fee = (hrs * \$/HR), minimum 1-hr	HR(s) * hourly rate	HR(s) * hourly rate		N	
14 Fire Watch, Fee = (hrs * hourly rate). Std. or OT rate	HR(s) * hourly rate	HR(s) * hourly rate		N	[a]
15 Pre-inspection (residential care facilities)	Per Code	Per Code		N	
16 Confined Space permits	HR(s) * hourly rate	HR(s) * hourly rate		N	
17 Electronic Archive, per permit	\$25	\$25		N	
18 Use of Trailer	\$60	\$60	per hour	N	
19 Administrative Fee	\$70	\$70	per hour	N	
20 Instructor	Actual Cost	Actual Cost		N	
21 Fire Reports	\$13	\$13		N	
22 Other Services Not Listed	HR(s) * hourly rate	HR(s) * hourly rate		N	

City of Milpitas

FIRE

Item # 17.

Activity Description	FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly In'fltr	Note
FIRE PREVENTION					
ANNUAL OPERATIONAL PERMITS					
23 A-1 Occupancy (theaters and other small viewing halls)	\$1,160	\$1,207		Y	
24 A-2 Occupancy (Food & Drink Establishment)	\$877	\$912		Y	
25 A-3 Occupancy (Worship, recreation, or amusement)	\$877	\$912		Y	
26 A-4 & A-5 Occupancy (indoors or outdoors sport event structures)	\$2,009	\$2,091		Y	
27 High Piled Storage	\$1,160	\$1,207		Y	
28 Malls					
a) Small (0 to 50,000 s.f.)	\$863	\$898		Y	
b) Medium (50,001 to 100,000 s.f.)	\$1,443	\$1,502		Y	
c) Large (over 100,000 s.f.)	\$2,009	\$2,091		Y	
29 Combustible Dust Producing Facility	\$580	\$603		Y	
30 Motels	\$877	\$912		Y	
31 Hotels & Multi-Story Structures					
a) <5 stories	\$1,726	\$1,796		Y	
b) 5+ stories - per floor	\$290	\$302		Y	
32 Commercial Daycare					
a) Small (<100 children or elderly)	\$566	\$589		Y	
b) Large (100+ children or elderly)	\$1,132	\$1,178		Y	
33 Residential Daycare					
a) Small Family Daycare (8 or fewer children)	\$0	\$0		N	
b) Large Family Daycare (9-14 children)	\$0	\$0		N	
c) Elderly Care (6 or fewer people)	\$0	\$0		N	
34 Small Apartments (3-4 units)	\$284	\$296		Y	
35 Medium Apartments (5-15 units)	\$1,132	\$1,178		Y	
36 Large Apartments (more than 15 units)	\$1,699	\$1,768		Y	
37 Small Chemical User (Example: doctor/dentist, dry cleaner, photo shop, graphic design, print shop, automobile engine repair, propane, CO2 beverage dispensing system, battery systems, emergency generators, pools, etc.)	\$594	\$618		Y	
38 Medium Chemical User (Example: automobile body shop, research and design, analytical labs, pool supplies, big-box retail stores)	\$1,470	\$1,530		Y	
39 Large Chemical User (Semiconductor or similar facilities)	\$2,320	\$2,414		Y	
40 Plating Shops	\$1,754	\$1,825		Y	

City of Milpitas

FIRE

Item # 17.

Activity Description	FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly In'fltr	Note
41 Toxic Gas					
a) Small Toxic Gas - Annual Monitoring Certification	\$1,132	\$1,178		Y	
b) Large Toxic Gas - Annual Monitoring Certification	\$2,265	\$2,357		Y	
42 Mobile Fueling					
a) Vendor	\$1,470	\$1,530		Y	
b) Site	\$1,470	\$1,530		Y	
43 Underground Tanks	\$892	\$928		Y	
44 Urban Runoff Inspections					
a) Industrial	\$594	\$618		Y	
b) Restaurants (once every 2 years)	\$594	\$618		Y	
45 Other Miscellaneous Annual Inspections Fee - per hour	HR(s) * hourly rate	HR(s) * hourly rate		N	
CONSTRUCTION REVIEW / PERMIT / INSPECTION					
Building Life / Safety:					
Demolition Fees:					
46 Interior or Partial Building or Misc. Demolition	\$567	\$590		Y	
47 Complete Building with or without Site Demolition	\$851	\$886		Y	
48 Grading Fees: These are only assessed if permits are submitted separately to Building Department from new construction or remodel permits.					
a) Less than 1 acre	\$567	\$590		Y	
b) 1-5 acres	\$851	\$886		Y	
c) Greater than 5 acres	\$1,135	\$1,181		Y	
49 Site Improvement Fees: These are only assessed if permits are submitted separately to Building Department from new construction or remodel permits.					
a) Less than 1 acre	\$851	\$886		Y	
b) 1-5 acres	\$1,702	\$1,771		Y	
c) Greater than 5 acres	\$284	\$296	per acre	Y	
50 New Building – Shell:					
a) Less than 5,000 sq. ft.	\$851	\$886		Y	
b) 5,000-25,000 sq. ft.	\$1,702	\$1,771		Y	
c) 25,000-50,000 sq. ft.	\$2,553	\$2,657		Y	
d) 50,000+ sq. ft. – per sq. ft.	\$0.06	\$0.062	per sq ft	Y	

City of Milpitas

FIRE

Activity Description		FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly In'fltr	Note
51	New Building – New Construction:					
	a) Less than 5,000 sq. ft.	\$851	\$886		Y	
	b) 5,000-25,000 sq. ft.	\$2,269	\$2,361		Y	
	c) 25,000-50,000 sq. ft.	\$4,255	\$4,428		Y	
	d) 50,000+ sq. ft. – per sq. ft.	\$0.09	\$0.094	per sq ft	Y	
52	Additions, Alterations, and Tenant Improvements:					
	a) Less than 5,000 sq. ft.	\$541	\$562		Y	
	b) 5,000-25,000 sq. ft.	\$2,136	\$2,223		Y	
	c) 25,000-50,000 sq. ft.	\$3,990	\$4,152		Y	
	d) 50,000+ sq. ft. – per sq. ft.	\$0.09	\$0.094	per sq ft	Y	
53	Missed Plan Check by Appointment	\$284	\$296		Y	
54	Revision to Project Fee - per hour (min 1 hr)	HR(s) * hourly rate	HR(s) * hourly rate		N	
55	Tents, Canopies, or Membrane Structures:					
	a) 4 or less	\$850	\$885		Y	
	b) 5+	\$1,134	\$1,180		Y	
56	Temporary Assembly (Indoors or outdoors), with or w/out tent					
	a) Occupancy 50-299	\$850	\$885		Y	
	b) Occupancy 300-999	\$1,417	\$1,475		Y	
	c) Occupancy 1000+	\$2,268	\$2,360		Y	
	Fire Extinguishing Systems: These are typically deferred submittals and reviewed and inspected after building plan submittals.					
57	Fire Service Underground:					
	a) New or Replace - each	\$1,417	\$1,475		Y	
	b) Repairs	\$567	\$590		Y	
58	Fire Sprinkler Systems:					
	a) Less than 2,000 sq. ft	\$824	\$857		Y	
	b) 2,000+ sq. ft. – per sq. ft., fee = Base Fee + [(project sq. ft. - 2,000 sq. ft.) * per sq. ft. fee]	\$0.21	\$0.22		Y	
59	Hood & Duct Systems – Each	\$1,134	\$1,180		Y	
60	FM 2000 (under floor systems, etc.) each	\$1,134	\$1,180		Y	
61	Other (deluge, foam, preaction, etc.) each	\$1,134	\$1,180		Y	
	Fire Alarm Systems:					

City of Milpitas

FIRE

Item # 17.

Activity Description	FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly In'fltr	Note
62 Additions, Alterations, or Repairs: If more than 10 devices then the New Fire Alarm fee applies.					
a) 1-5 Devices	\$567	\$590		Y	
b) 6-10 Devices	\$1,134	\$1,180		Y	
63 New Fire Alarm:					
a) Less than 5,000 sq. ft.	\$1,134	\$1,180		Y	
b) 5,000+ sq. ft. – per sq. ft., fee = Base Fee + [(project sq. ft. - 5,000 sq. ft.) * per sq. ft. fee]	\$0.19	\$0.20		Y	
64 Hazardous Materials - Building Construction:					
a) Small TI without process piping or tools . (Example: registration form, inert compressed gas system installations, CO2 for beverage, small auto repair or	\$575	\$598		Y	
b) Medium TI (Construction not otherwise classified as Small or Large TI. Example: emergency generator, lift stations, aboveground tanks, treatment systems, battery systems, CO2 beverage dispensing system, propane system, large tank installations)	\$1,440	\$1,498		Y	
c) Large TI (H Occupancy, Plating)	\$2,589	\$2,694		Y	
b) Facility TI with process piping or tanks < 4,000 sq. ft. (Example: H or F Occupancy, Plating Facility, chemical bunker). Does not include tools (tool fee is		\$1,184		Y	
c) Facility TI with process piping or tanks > 4,000 sq. ft. (Example: H or F Occupancy, Plating Facility, chemical bunker). Does not include tools (tool fee is		\$0.300	per sq ft	Y	
65 Toxic Gas Tools (furnaces, implanter, reactors)	\$2,305	\$2,398		Y	
65 Tools with Hazardous Materials (Example: emergency generator, lift stations, aboveground tanks, treatment systems, battery module per 50KWh, propane system, large tank installations).					
a) Up to Two Tools		\$1,184	up to 2 tools	Y	
b) Each Additional Tool		\$444	per tool	Y	
66 Closure - process / tools	\$865	\$900	each	Y	
67 Closure - Facility					
a) Small TI	\$433	\$450		Y	
b) Medium TI	\$865	\$900		Y	
c) Large TI	\$1,440	\$1,498		Y	
a) Small TI without process piping or tools. (Example: registration form, inert compressed gas system installations, CO2 for beverage, small auto repair or		\$598			
b) Facility TI with process piping or tanks < 4,000 sq. ft. (Example: H or F Occupancy, Plating Facility, chemical bunker). Tools included.		\$1,184		Y	
c) Facility TI with process piping or tanks > 4,000 sq. ft. (Example: H or F Occupancy, Plating Facility, chemical bunker). Tools included.		\$0.300	per sq ft	Y	

City of Milpitas

FIRE

Item # 17.

Activity Description		FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly In'fltr	Note
68	Underground Tank Installation:					
	a) 4 Tank System or less	\$5,177	\$5,388		Y	
	b) Each additional tank	\$581	\$605		Y	
69	Underground Tank Removal:					
	a) 2 Tank System or Less	\$2,311	\$2,405		Y	
	b) Each additional tank	\$291	\$302		Y	
70	CERS & APSA - Fee no longer applicable					
	a) CERS - Fee no longer applicable	\$0	\$0		N	
	b) APSA - Fee no longer applicable	\$0	\$0		N	
	MISCELLANEOUS FEES:					
71	After Hours or Fast-Track Plan Check, Inspection - 3 hrs min at OT Rate	\$999	\$1,040		Y	[a]
72	Alternate Materials & Methods Review	\$1,030	\$1,071		Y	
73	New Occupancy (new business)					
	a) No Hazardous Materials	\$284	\$296		Y	
	b) With Hazardous Materials	\$566	\$589		Y	
74	Smoke Detectors Verifications (new owner)	\$284	\$296		Y	
75	Title 19 5-year automatic fire sprinkler certification					
	a) Commercial, Industrial, Mixed Use, Hotel/Motel, Apartments, Condominiums,					
	i. Building less than or equal to 50,000 sq. ft.	\$568	\$591		Y	
	ii. Building over 50,000 sq. ft.					
	a) First 50,000 sq. ft.	\$568	\$591		Y	
	b) Each additional 50,000 sq. ft. or fraction thereof	\$284	\$296		Y	
	b) Townhome Buildings					
	i. Building less than or equal to 25,000 sq. ft.	\$284	\$296		Y	
	ii. Building over 25,000 sq. ft.					
	a) First 25,000 sq. ft.	\$284	\$296		Y	
	b) Each additional 25,000 sq. ft. or fraction thereof	\$284	\$296		Y	
76	Failure to cancel a scheduled inspection 24 hrs. prior	\$284	\$296		Y	
77	Temporary Certificate of Occupancy	\$142	\$147		Y	
78	Standard Hourly Rate - per hour	\$284	\$296		Y	
79	Overtime Hourly Fee - per hour	\$333	\$347		Y	
80	Other activities not listed - per hour	\$284	\$296		Y	

City of Milpitas

FIRE

Activity Description	FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly In'fltr	Note
81 Additional Plan Review Time - Std. or OT per hr.		HR(s) * hourly rate		N	
82 Additional Inspection Time - Std. or OT per hr.		HR(s) * hourly rate		N	
83 Fire Department Technology Fee - % of permit	3.80%	3.80%		N	
84 Emergency Response Mapping - new projects - per hour	\$257	\$268		Y	
[a] Minimum 3 hours.					

City of Milpitas

AMBULANCE

Item # 17.

Activity Description		FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly In'fltr	Note
SERVICE FEES						
1	ALS-1 (Advanced Life Support)	\$1,710.12	\$1,960.82		N	
2	ALS-2 (Advanced Life Support)	\$1,710.12	\$1,960.82		N	
3	BLS		\$1,568.66		N	
4	Mileage	\$55.42	\$63.55		N	
5	Hourly Ambulance Standby	\$216.41	\$248.14		N	
6	Hourly Paramedic – Individual	\$108.21	\$124.07		N	
7	Hourly EMT – Individual	\$72.14	\$82.71		N	
EQUIPMENT/SUPPLIES						
8	Airway/Nasal	\$33.25	\$38.13		N	
9	Airway/Oral	\$18.14	\$20.80		N	
10	Bag Valve Mask	\$110.34	\$126.51		N	
11	Bandage, Elastic	\$8.91	\$10.22		N	
12	Bandages Triangular	\$15.11	\$17.33		N	
13	Bed Pan	\$15.11	\$17.33		N	
14	Blanket, Disposable	\$36.28	\$41.59		N	
15	Blood Glucose Test	\$30.23	\$34.66		N	
16	Burn Sheet	\$55.92	\$64.12		N	
17	Cervical Collar	\$108.83	\$124.78		N	
18	Cold/Hot Pack	\$22.67	\$26.00		N	
19	Cpap Procedure	\$468.56	\$537.25		N	
20	Defib Pads	\$66.50	\$76.25		N	
21	Dressing - Major	\$15.11	\$17.33		N	
22	Dressing - Minor	\$15.11	\$17.33		N	
23	Ekg Electrodes	\$28.72	\$32.93		N	
24	Ekg Monitor 12 Lead	\$143.59	\$164.64		N	
25	Emesis Basin/Bag	\$11.78	\$13.51		N	
26	Endotracheal Tube Introducer/Gum Elastic Bougie	\$100.97	\$115.77		N	
27	Headbed Immobilizer	\$25.69	\$29.46		N	
28	Hepa Mask	\$37.79	\$43.33		N	
29	Hood, Spit Sock	\$24.89	\$28.53		N	
30	Intravenous Saline Lock	\$79.58	\$91.25		N	
31	Intravenous Infusion Set	\$134.52	\$154.24		N	

City of Milpitas

AMBULANCE

Item # 17.

Activity Description		FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly In'fltr	Note
32	Intravenous Start Kit	\$60.41	\$69.27		N	
33	Intubation Supplies	\$68.02	\$77.99		N	
34	IO Supplies	\$450.42	\$516.45		N	
35	King Vision Video Larynoscope Channel Blade	\$25.00	\$28.67		N	
36	Lma Supreme - Supraglottic Airway	\$30.00	\$34.40		N	
37	Meconium Aspirator	\$13.44	\$15.41		N	
38	Nebulizer	\$71.04	\$81.46		N	
39	Non-Rebreather Mask	\$16.63	\$19.06		N	
40	O2 Cannula With End-Tidal	\$51.35	\$58.87		N	
41	O2 Mask/Cannula	\$34.76	\$39.86		N	
42	OB Pack	\$120.92	\$138.64		N	
43	Patient Mover	\$48.51	\$55.62		N	
44	Plueral Decompression	\$102.85	\$117.92		N	
45	Pulse Oximetry	\$63.48	\$72.79		N	
46	Razor, Disposable	\$1.26	\$1.44		N	
47	Splint Arm	\$22.67	\$26.00		N	
48	Splint Leg	\$22.67	\$26.00		N	
49	Splinting (Extremity)	\$108.83	\$124.78		N	
50	Strap, 5 Foot Immobilization	\$16.73	\$19.18		N	
51	Suction Tube	\$46.86	\$53.72		N	
52	Suctioning	\$95.22	\$109.18		N	
53	Temperature Measurement	\$25.52	\$29.26		N	
54	Tourniquet, Combat	\$90.88	\$104.20		N	
55	Universal Precautions	\$42.32	\$48.53		N	
56	Urinal	\$15.11	\$17.33		N	

City of Milpitas

AMBULANCE

Activity Description	FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly In'fltr	Note
MEDICATIONS					
57 Acetaminophen (Ofirmev)	\$183.00	\$209.83		N	
58 Activated Charcoal	\$30.71	\$35.22		N	
59 Adenosine	\$87.67	\$100.52		N	
60 Albuterol	\$36.28	\$41.59		N	
61 Amiodarone	\$58.31	\$66.85		N	
62 Aspirin	\$9.07	\$10.40		N	
63 Atrophine	\$25.69	\$29.46		N	
64 Atrophine High Dose	\$121.21	\$138.98		N	
65 Benadryl	\$25.69	\$29.46		N	
66 Calcium Chloride	\$25.69	\$29.46		N	
67 Dextrose 10% 25G In 250ML Bag	\$36.63	\$42.01		N	
68 Dopamine Drip	\$81.62	\$93.58		N	
69 Duodote Autoinjector	\$75.95	\$87.09		N	
70 Epi 1:1,000 1Mg/1Cc	\$42.32	\$48.53		N	
71 Epi 1:10,000	\$42.32	\$48.53		N	
72 Glucagon	\$430.77	\$493.92		N	
73 Glucose Paste	\$13.16	\$15.09		N	
74 Lidocaine 2%	\$33.25	\$38.13		N	
75 Midazole	\$2.40	\$2.76		N	
76 Morphine	\$25.69	\$29.46		N	
77 Narcan	\$48.37	\$55.46		N	
78 Nitroglycerin Tablet	\$1.29	\$1.48		N	
79 Nitropaste	\$11.77	\$13.50		N	
80 Normal Saline Flush Pls 10Cc	\$22.60	\$25.91		N	
81 Normal Saline 1000Cc	\$146.61	\$168.11		N	
82 Ondansetron Injectable	\$52.60	\$60.31		N	
83 Ondansetron Oral Dissolving Tablet	\$43.44	\$49.81		N	
84 Sodium Bicarb	\$45.34	\$51.99		N	
85 Sterile Water	\$36.28	\$41.59		N	
86 Tranexamic Acid 1,000mg		\$9.89		N	

* These fees are intended to mirror fees authorized by the Santa Clara County Emergency Services Agency. If Santa Clara County EMS updates fees subsequent to the adoption of this schedule, this schedule shall be presumed to reflect updated amounts. In the case of discrepancies, fee amounts authorized by Santa Clara County EMS shall supersede the amounts listed above. The City will periodically examine costs to ensure that fees collected do not exceed the City's program costs of service.

City of Milpitas

POLICE

Item # 17.

Activity Description		FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly In'ftr	Note
Citations						
1	Citation Sign off for Non Milpitas Residents	\$20	\$20		N	
2	Parking Citations	\$65 - \$280	\$65 - \$280		N	[a]
3	Copy of Traffic & Parking citations	\$5	\$5		N	
Alarm Fees and Fines						
4	Alarm Permit					
	a) Alarm Permit - Initial	\$40	\$42	per year	Y	[b]
	b) Alarm Permit - Renewal	\$20	\$21	per year	Y	[b]
	c) Alarm Permit - Late Filing Fee	50% of permit fee	50% of permit fee		N	
5	False Alarm Response (per calendar year)					
	a) First	No Charge	No Charge		Y	
	b) Second	No Charge	No Charge		Y	
	c) Third	\$75	\$78		Y	
	d) Fourth	\$125	\$130		Y	
	e) Fifth	\$250	\$260		Y	
	f) Sixth or More	\$250	\$260	per response	Y	
6	False Alarm Response - Additional Fee for Unregistered Alarm	\$25	\$26	per response	Y	
Miscellaneous						
7	Fingerprints					
	a) Ink Card Up to (2) Cards	\$25	\$25		N	
	b) Ink Card Over (2) Cards	\$5	\$5	Each Additional Card	N	
	c) Live Scan plus DOJ and FBI fees	\$25	\$25		N	
8	Subpoenas					
	a) Officer	\$275	\$275		N	
	b) Records	\$15	\$15		N	
9	Booking Fee	\$139	\$139		N	[c]
10	Administrative Tow Fees					
	a) Impound	\$346	\$346		N	
	b) Stored	\$50	\$50		N	
11	Repossession Fee	\$15	\$15		N	

City of Milpitas

POLICE

Item # 17.

Activity Description		FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly In'ftr	Note
12	Incident (Log Event) Reports	\$5	\$5		N	
13	Photos on CD / Digital Media	\$15	\$15		N	
14	Police Reports					
	a) Up to (10) Pages	\$13	\$13		N	
	b) Police Reports Over (10) Pages	\$1	\$1	per page	N	
15	US Investigative Request for Law Enforcement Data	\$15	\$15		N	
16	Videos / Digital Reproduction	\$50	\$50		N	
17	Massage Permits	\$1,000	\$1,000		N	

[a] Amounts vary depending on citation type.

[b] Alarm permits are issued per calendar year. Permits will expire annually on December 31st.

[c] Pursuant to AB 1869, effective September 18, 2020, this fee shall remain in effect only until July 1, 2021, and as of that date is repealed, unless a later enacted statute that is enacted before July 1, 2021, deletes or extends that date.

City of Milpitas

RECREATION

Item # 17.

Legend for Recreation Fees: Priority II= Milpitas Public Schools, Chamber, and Gov. Agencies; Priority III= Resident Non-Profits; Priority IV= Milpitas Residents; Priority V= Non-Resident

Activity Description	FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly IY'fltr	Note
ADULT RECREATION					
Adult Enrichment Fees					
1 Sports League (full season)					
a) per team	\$500	\$520	per season	Y	
b) Additional fee per non-resident player	\$10	\$10	per season	Y	
2 Garden Plots (Residents Only)	\$60	\$60	per year	N	
AQUATICS					
2 Recreational Swim	\$2 - \$5	\$2 - \$5	per person	Y	
3 Swimming Lessons Group					
a) Residents	\$75 - \$85	\$80 - \$90	per session	Y	
b) Non-Resident	\$95 - \$105	\$100 - \$110	per session	Y	
4 Semi-Private/Private Swimming Lessons					
a) Residents	\$38	\$40	per half hour lesson	Y	
b) Non-Resident	\$58	\$60	per half hour lesson	Y	
5 Parent-Tot Drop-in swim pass					
a) Residents	\$15	\$16	per 5 visits	Y	
b) Non-Resident	\$35	\$36	per 5 visits	Y	
6 Monthly Swim Club Fee Development Group					
a) Residents	\$68 - \$88	\$71 - \$92	per month	Y	
b) Non-Resident	\$108 - \$128	\$111 - \$132	per month	Y	
7 Monthly Swim Club Juniors/Intermediate					
a) Residents	\$78 - \$98	\$81 - \$102	per month	Y	
b) Non-Resident	\$118 - \$138	\$121 - \$142	per month	Y	
8 Monthly Swim Club-Senior					
a) Residents	\$88 - \$108	\$92 - \$113	per month	Y	
b) Non-Resident	\$128 - \$148	\$132 - \$153	per month	Y	
9 CLASSES	Instructor: hrs. * hourly rate	Instructor: hrs. * hourly rate		N	

City of Milpitas

RECREATION

Item # 17.

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Activity Description		FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly IY'fltr	Note
MEMBERSHIP						
Senior Enrichment Fees (50+ years of age)						
10	Senior Center Membership					
	a) Residents	\$12	\$13	per year	Y	
	b) Non-Resident	\$30	\$31	per year	Y	
Sports Center Membership						
11	Fitness Passes- Per Visit Packages					
	a) 5 visits	\$25	\$26	per visit	Y	
	b) 10 visits	\$50	\$52	per visit	Y	
	c) 15 visits	\$75	\$156	per visit	Y	
	d) 20 visits	\$100	\$624	per visit	Y	
12	Fitness Passes Senior (50+)- Per Visit Packages					
	a) 5 visits	\$15	\$16	per visit	Y	
	b) 10 visits	\$30	\$32	per visit	Y	
	c) 15 visits	\$45	\$96	per visit	Y	
	d) 20 visits	\$60	\$384	per visit	Y	
13	Drop-In Fee	\$7 - \$12	\$8 - \$13	per visit	Y	
14	Sports Center Unlimited Packages					
	a) Monthly	\$60	\$65		Y	
	b) 3 Months	\$180	\$195		Y	
	c) 6 Months	\$280	\$295		Y	
	d) 12 Months	\$480	\$495		Y	
15	Sports Center Unlimited Packages - Senior (50+)					
	a) Monthly	\$38	\$40		Y	
	b) 3 Months	\$85	\$90		Y	
	c) 6 Months	\$135	\$140		Y	
	d) 12 Months	\$235	\$245		Y	
16	Annual Non-Resident Fee	\$50 - \$100	\$52 - \$104		Y	

City of Milpitas

RECREATION

Item # 17.

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Activity Description		FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly IY'ftr	Note
Department General Fees						
17	General Internal Class Program Fees	Staff time + Materials	Staff time + Materials		Y	
18	Membership Card replacement fee	\$5	\$5		Y	
19	Transaction Fee	\$1 - \$3	\$1 - \$3	per receipt	Y	
20	Trips	Actual cost to City + Trip Admission Fee	Actual cost to City + Trip Admission Fee		Y	
21	General Non-Resident Fees	\$20 - \$30	\$21 - \$31	per person/class/month/program or trip	Y	
Artificial Turf Field						
22	Deposit (Football/Soccer)					
	a) Priority II & III	n/a	n/a		N	
	b) Priority IV & V	\$1,000	\$1,000		N	
23	Deposit (Soccer/Volleyball)					
	a) Priority II & III	n/a	n/a		N	
	b) Priority IV & V	\$750	\$750		N	
24	Artificial Turf Football/Soccer w/o lights					
	a) Priority II & III	n/a	n/a		Y	
	b) Priority IV	\$150	\$155	per hour	Y	
	c) Priority V	\$300	\$310	per hour	Y	
25	Artificial Turf Football/Soccer w/ lights					
	a) Priority II & III	n/a	n/a		Y	
	b) Priority IV	\$160	\$165	per hour	Y	
	c) Priority V	\$320	\$330	per hour	Y	
26	Artificial Turf Volleyball/Soccer w/o lights					
	a) Priority II & III	n/a	n/a		Y	
	b) Priority IV	\$100	\$105	per hour	Y	
	c) Priority V	\$200	\$210	per hour	Y	
27	Artificial Turf Volleyball/Soccer w/ lights					
	a) Priority II & III	n/a	n/a		Y	
	b) Priority IV	\$110	\$115	per hour	Y	
	c) Priority V	\$220	\$230	per hour	Y	

City of Milpitas

RECREATION

Item # 17.

Legend for Recreation Fees: Priority II= Milpitas Public Schools, Chamber, and Gov. Agencies; Priority III= Resident Non-Profits; Priority IV= Milpitas Residents; Priority V= Non-Resident

Activity Description		FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly IY'fltr	Note
28	Tournament: Field w/o lights (Football)					
	a) Priority II & III	n/a	n/a		Y	
	b) Priority IV	\$210	\$220	per hour	Y	
	c) Priority V	\$315	\$330	per hour	Y	
29	Tournament: Field w/ lights (Football)					
	a) Priority II & III	n/a	n/a		Y	
	b) Priority IV	\$220	\$230	per hour	Y	
	c) Priority V	\$330	\$345	per hour	Y	
30	Tournament: Field w/o lights (Small)					
	a) Priority II & III	n/a	n/a		Y	
	b) Priority IV	\$160	\$165	per hour	Y	
	c) Priority V	\$240	\$248	per hour	Y	
31	Tournament: Field w/ lights (Small)					
	a) Priority II & III	n/a	n/a		Y	
	b) Priority IV	\$170	\$175	per hour	Y	
	c) Priority V	\$255	\$263	per hour	Y	
Community Center Rentals						
32	Application Fee (non-refundable)	\$20 - \$30	\$21 - \$31	per rental	Y	
33	Rental Deposits: Classroom/Conference Room	\$200	\$200	per rental	N	
34	Rental Deposits: Auditorium	\$500	\$500	per rental	N	
35	Rental Deposits: Auditorium Screen	\$250	\$250	per rental	N	
36	Auditorium (3 hr. minimum)					
	a) Priority II	no fee	no fee		Y	
	b) Priority III	\$100	\$105	per hour	Y	
	c) Priority IV	\$200	\$210	per hour	Y	
	d) Priority V	\$260	\$270	per hour	Y	
37	Conference Room (2 hr. minimum)					
	a) Priority II	no fee	no fee		Y	
	b) Priority III	\$35	\$37	per hour	Y	
	c) Priority IV	\$70	\$74	per hour	Y	
	d) Priority V	\$130	\$134	per hour	Y	

City of Milpitas

RECREATION

Item # 17.

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Activity Description		FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly IY'fltr	Note
38	Dance Studio. Craft Classroom (2 hr. minimum)					
	a) Priority II	no fee	no fee		Y	
	b) Priority III	\$20	\$21	per hour	Y	
	c) Priority IV	\$40	\$42	per hour	Y	
	d) Priority V	\$100	\$102	per hour	Y	
39	Facility Attendant Fees					
	a) Priority II,III, IV	\$30	\$31	per hour	Y	
	b) Priority V	\$60	\$62	per hour	Y	
40	Piano					
	a) Priority III, IV	\$20	\$21	per day	Y	
	b) Priority V	\$80	\$84	per day	Y	
41	Auditorium Sound System (includes staff time)	\$50	\$53	per hour	Y	
	Field Rentals					
42	Application Fee (non-refundable)	\$20 - \$30	\$21 - \$31		Y	[a]
43	Rental Deposits					
	a) Priority II & III	n/a	n/a		N	
	b) Priority IV & V	\$750	\$750		N	
44	Cricket Pitch					
	a) Priority II & III	n/a	n/a		Y	
	b) Priority IV	\$30	\$31	per hour	Y	
	c) Priority V	\$60	\$62	per hour	Y	
45	Soccer Field w/o lights (2hr. Minimum)					
	a) Priority II & III	n/a	n/a		Y	
	b) Priority IV	\$30	\$31	per hour	Y	
	c) Priority V	\$60	\$62	per hour	Y	
46	Soccer Field w/ lights (2hr. Minimum)					
	a) Priority II & III	n/a	n/a		Y	
	b) Priority IV	\$40	\$42	per hour	Y	
	c) Priority V	\$80	\$84	per hour	Y	

City of Milpitas

RECREATION

Item # 17.

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Activity Description		FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly IY'ftr	Note
47	Softball/ Baseball Field w/o lights (2hr minimum)					
	a) Priority II & III	n/a	n/a		Y	
	b) Priority IV	\$20	\$21	per hour	Y	
	c) Priority V	\$40	\$42	per hour	Y	
48	Softball/ Baseball Field w/ lights (2hr minimum)					
	a) Priority II & III	n/a	n/a		Y	
	b) Priority IV	\$30	\$31	per hour	Y	
	c) Priority V	\$60	\$62	per hour	Y	
49	Tournaments: Field w/o lights					
	a) Priority II & III	n/a	n/a		Y	
	b) Priority IV	\$60	\$63	per hour	Y	
	c) Priority V	\$120	\$126	per hour	Y	
50	Tournaments: Field w/ lights					
	a) Priority II & III	n/a	n/a		Y	
	b) Priority IV	\$80	\$83	per hour	Y	
	c) Priority V	\$160	\$166	per hour	Y	
Gym, Courts & Pool Rentals						
51	Application Fee (non-refundable)	\$20 - \$30	\$21 - \$31		Y	
52	Rental Deposit					
	a) Priority II & III	n/a	n/a		N	
	b) Priority IV & V	\$750	\$750		N	
53	Large Gymnasium (3 hr. minimum)					
	a) Priority II & III	n/a	n/a		Y	
	b) Priority IV	\$80	\$85		Y	
	c) Priority V	\$160	\$170		Y	
54	Tournaments: Large Gymnasium (3 hr. Minimum)					
	a) Priority II & III	n/a	n/a		Y	
	b) Priority IV	\$140	\$145		Y	
	c) Priority V	\$220	\$225		Y	

City of Milpitas

RECREATION

Item # 17.

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Activity Description		FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly IY'fltr	Note
55	Training Pool (2hr. minimum)					
	a) Priority II & III	n/a	n/a		Y	
	b) Priority IV	\$50	\$52	per hr + 2 guards	Y	
	c) Priority V	\$100	\$104	per hr + 2 guards	Y	
56	Yard Pool (2 hr. minimum)					
	a) Priority II & III	n/a	n/a		Y	
	b) Priority IV	\$60	\$65	per hr + 2 guards	Y	
	c) Priority V	\$120	\$130	per hr + 2 guards	Y	
57	Meter Pool (2 hr. minimum)					
	a) Priority II & III	n/a	n/a		Y	
	b) Priority IV	\$70	\$75	per hr + 2 guards	Y	
	c) Priority V	\$140	\$150	per hr + 2 guards	Y	
58	Facility Attendant/Scorekeeper (per attendant)					[a]
	a) Priority II & IV	\$30	\$31	per hour	Y	
	b) Priority V	\$60	\$62	per hour	Y	
59	Lifeguard Fees (per Lifeguard)					[a]
	a) Priority II & IV	\$15	\$16	per hour	Y	
	b) Priority V	\$30	\$32	per hour	Y	
Higuera Adobe						
60	Application Fee (non-refundable)	\$20 - \$30	\$21 - \$31		Y	[b]
61	Rental Deposit	\$750	\$500		N	[b]
62	Auditorium (3hr. Minimum)					
	a) Priority II	no fee	no fee		Y	
	b) Priority III	\$50	\$52	per hour	Y	
	c) Priority IV	\$100	\$104	per hour	Y	
	d) Priority V	\$160	\$164	per hour	Y	
63	Facility Attendant Fees (per attendant)					
	a) Priority II, III, & IV	\$30	\$31	per hour	Y	
	b) Priority V	\$60	\$62	per hour	Y	

City of Milpitas

RECREATION

Item # 17.

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Activity Description		FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly IY'fltr	Note
Mobile Stage Rental						
64	Deposit (All Priorities)	\$1,000	\$1,000		N	
65	Rental (All Priorities)	\$1,250 - \$2,500	\$1,300 - \$2,600	per day	Y	
66	Light Package	\$100 - \$1,000	\$105 - \$1,050	per rental	Y	[c]
67	Light Mixer	\$100 - \$400	\$105 - \$420	per rental	Y	[d]
68	Light Tech	\$30 - \$100	\$31 - \$103	per hour	Y	[e]
69	Stage Extentions/Stage Risers	\$100 - \$500	\$105 - \$525	per rental	Y	[c]
70	Staff Fee	\$30 - \$100	\$105 - \$2,625	per hour	Y	[f]
71	Sound Package	\$100 - \$2,500	\$105 - \$2,625	per rental	Y	[c]
72	Sound Tech	\$30 - \$100	\$31 - \$103	per hour	Y	[e]
73	Audio Mixer	\$100 - \$400	\$105 - \$420	per rental	Y	[d]
74	Mileage	\$0.30 - \$2.00	\$0.50 - \$3.50	per mile outside City	Y	[g]
75	ADA Ramp	\$250	\$260		Y	
76	Truss Roof Cover/ Banner Support	\$100 - \$400	\$105 - \$420	per rental	Y	[c]
Picnic Area Rentals						
77	Application Fee (non-refundable)	\$20 - \$30	\$21 - \$31		Y	
78	Rental Deposit: Large Picnic Area	\$250	\$250		N	
79	Small Parks with Restrooms (50 or less capacity)					
	a) Priority III & IV	\$80	\$85	per day per area	Y	[b]
	b) Priority V	\$140	\$150	per day per area	Y	[b]
80	Small Parks without Restrooms (50 or less capacity)					
	a) Priority III & IV	\$60	\$65	per day per area	Y	[b]
	b) Priority V	\$120	\$130	per day per area	Y	[b]
81	Medium Parks 50 to 100 or less capacity					
	a) Priority III & IV	\$140	\$145	per day per area	Y	[b]
	b) Priority V	\$200	\$205	per day per area	Y	[b]
82	Large Parks More than 100+ capacity					
	a) Priority III & IV	\$320	\$330	per day per area	Y	[b]
	b) Priority V	\$380	\$390	per day per area	Y	[b]

City of Milpitas

RECREATION

Item # 17.

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Activity Description		FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly IY'fltr	Note
Sal Cracolice Facility Rental						
83	Application Fee (non-refundable)	\$20 - \$30	\$21 - \$32		Y	
84	Rental Deposit Meeting Room	\$200	\$200	per rental	N	[h]
85	Rental Deposit Auditorium	\$750	\$500		N	[h]
86	Auditorium w/kitchenette (3hr. Minimum)					
	a) Priority II	no fee	no fee		Y	
	b) Priority III	\$80	\$85	per hour	Y	
	c) Priority IV	\$160	\$170	per hour	Y	
	d) Priority V	\$220	\$230	per hour	Y	
87	Facility Attendant Fees (per attendant)					
	a) Priority II, III, & IV	\$30	\$31	per hour	Y	
	b) Priority V	\$60	\$62	per hour	Y	
88	Amphitheatre					
	a) Priority II, III, & IV	\$120	\$125	per day	Y	
	b) Priority V	\$180	\$185	per day	Y	
89	Meeting Room (2 hr Minimum)					
	a) Priority II	no fee	no fee		Y	
	b) Priority III	\$45	\$47	per hour	Y	
	c) Priority IV	\$90	\$94	per hour	Y	
	d) Priority V	\$150	\$154	per hour	Y	
Senior Center Rentals						
90	Application Fee (non-refundable)	\$20 - \$30	\$21 - \$32	per hour	Y	
91	Rental Deposits: Auditorium	\$750	\$500	per hour	N	[h]
92	Rental Deposits: Classrooms					
	a) Priority II	no fee	no fee		N	
	b) Priority III	\$75	\$200	per hour	N	
	c) Priority IV	\$150	\$200	per hour	N	
	d) Priority V	\$240	\$200	per hour	N	

City of Milpitas

RECREATION

Item # 17.

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Activity Description		FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly ly'ftr	Note
93	Community Room Auditorium (3hr. Minimum)					
	a) Priority II	no fee	no fee		Y	
	b) Priority III	\$90	\$95	per hour	Y	
	c) Priority IV	\$180	\$190	per hour	Y	
	d) Priority V	\$240	\$250	per hour	Y	
94	Classroom 140 and 141 (Full) (2 hr. Minimum)					
	a) Priority II	no fee	no fee		Y	
	b) Priority III	\$45	\$47	per hour	Y	
	c) Priority IV	\$90	\$94	per hour	Y	
	d) Priority V	\$150	\$154	per hour	Y	
95	Classroom 140 and 141 (Half)					
	a) Priority II	no fee	no fee	per hour	Y	
	b) Priority III	\$25	\$26	per hour	Y	
	c) Priority IV	\$50	\$52		Y	
	d) Priority V	\$110	\$112		Y	
96	Facility Attendant Fees (per attendant)			per hour		
	a) Priority II, III, & IV	\$30	\$31	per hour	Y	
	b) Priority V	\$60	\$62	per hour	Y	
97	Dance Studio					
	a) Priority II	no fee	no fee		Y	
	b) Priority III	\$20	\$21		Y	
	c) Priority IV	\$40	\$42		Y	
	d) Priority V	\$100	\$102		Y	
Senior Enrichment Fees(50+ years of age)						
Community Garden						
98	Garden Plots (Residents Only)					
	a) Potable Water Community Gardens	\$15 per year	\$.75 - \$ 1.15	per sq. foot	Y	
	b) Recycled Water Community Gardens	\$15 per year	\$.15 - \$.55	per sq. foot	Y	

City of Milpitas

RECREATION

Item # 17.

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Activity Description		FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly IY'fltr	Note
Tennis Court Rentals						
99	Deposit	\$250	\$250		N	[h]
100	Tennis Courts w/o lights (per court)					
	a) Priority II & III	n/a	n/a	per hour	Y	
	b) Priority IV	\$8	\$8	per hour	Y	
	c) Priority V	\$10	\$10		Y	
101	Tennis Courts w/ lights (per court)					
	a) Priority II & III	n/a	n/a	per hour	Y	
	b) Priority IV	\$10	\$10	per hour	Y	
	c) Priority V	\$12	\$13		Y	
102	Tournament: Tennis Courts w/o lights					
	a) Priority II & III	n/a	n/a	per hour	Y	
	b) Priority IV	\$26	\$27	per hour	Y	
	c) Priority V	\$52	\$54		Y	
103	Tournament: Tennis Courts w/ lights					
	a) Priority II & III	n/a	n/a		Y	
	b) Priority IV	\$30	\$31		Y	
	c) Priority V	\$60	\$63		Y	
104	Rental Deposits: All other rooms	\$200	\$200		N	[h]
SALES						
Department General Fees						
105	Recreation Services Merchandise	actual cost + % mark-	actual cost + % mark-		Y	
SENIORS						
Department General Fees						
106	Milpitas Resident Senior Citizen Discount (50 years+)	25% off any non-	25% off any non-		Y	

City of Milpitas

RECREATION

Item # 17.

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Activity Description		FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly IY'ftr	Note
Senior Enrichment Fees(50+ years of age)						
107	Senior Center Programs-Classes	\$2 - \$5	\$2 - \$5	per hour instruction	Y	
108	Senior Center Citizen Trip Admin Fee	\$5 - \$10	\$5 - \$10	per activity	Y	[i]
109	Misc. Senior Center staff-run Programs/Events	\$0.00 - \$15	\$0 - \$16		Y	[j]
110	Senior Center Program/Class Non-Resident Fee	\$10	\$10	per class	Y	
111	Senior Center Fitness Room	\$1.50	\$2	per visit	Y	
SPECIAL EVENTS						
Special Event Fees						
112	Special Event Entrance Fee	\$0 - \$50	\$0 - \$52		Y	
113	Special Events Activity Fee	\$0 - \$15	\$0 - \$16		Y	
114	Special Event Vendor Fees	\$100-\$500	\$105 - \$520	per space OR	Y	
115	Special Event Non-Profit Vendor Fees	\$0 - \$250	\$0 - \$260	per space OR	Y	
YOUTH						
Youth Enrichment Fees						
116	Youth Sports User Fee					
	a) Outdoor	\$10	\$10	per player per season	Y	
	b) Indoor	\$20	\$21	per player per season	Y	
117	Junior Warriors Basketball League	\$129-\$160	\$135 - \$165	per player per season	Y	
118	After School Program					
	a) Residents	\$8 - \$12	\$8 - \$13	per day for residents	Y	
	b) Non-residents	\$8 - \$12	\$8 - \$13	day for non-residents	Y	
119	Late fee for After-School/Day Camp Programs					
	a) 1st offense & 2nd offense	\$10	\$10	per each 10 minutes	Y	
	b) 3rd offense or more	\$25	\$26	per each 10 minutes	Y	
120	Day Camp (Regular Day) – Staff Run	\$175 - \$195	\$185 - \$205	per week	Y	
121	Trip Week Day Camp	\$299 - \$350	\$310 - \$365	per week	Y	
122	Extended Care Day Camp	\$40	\$42	per week	Y	

City of Milpitas

RECREATION

Item # 17.

Legend for Recreation Fees: Priority II= Milpitas Public Schools, Chamber, and Gov. Agencies; Priority III= Resident Non-Profits; Priority IV= Milpitas Residents; Priority V= Non-Resident

Activity Description		FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly IY'fltr	Note
RENTALS						
Special Event Venue/Open Space						
123	Application Fee (non-refundable)	\$30	\$31	per application	Y	
124	Rental Deposits	\$1,000	\$1,000	per day	N	
125	Rental Fee					
	a) Priority II & III	\$990	\$1,033	per day	Y	
	b) Priority IV	\$1,980	\$2,066	per day	Y	
	c) Priority V	\$2,970	\$3,099	per day	Y	
126	Facility Attendant Fees (per attendant)	\$30	\$31	per hour	Y	

Notes:

- [a] No fee for Priority III.
- [b] No fee for Priority II.
- [c] Based on needs and packages.
- [d] Based on needs and days.
- [e] Based on cost of tech.
- [f] Based on needs, actual costs of staff used in rental, time for load in/out and transportation.
- [g] Based on current gas prices.
- [h] No fee for Milpitas residents.
- [i] Depending on trip costs.
- [j] Includes holiday dinner, tea parties, cooking classes, dances, misc. activities.

Additional Notes:

- * Recreation Fees recovery goals may be adjusted/balanced based on "market factors".

City of Milpitas

FINANCE

Item # 17.

Activity Description		FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly In'fltr	Note
1	Bond Payoff Calculation	\$172	\$179		Y	
2	Business License					
	a) New Application Processing Fee	\$50	\$50	per year	N	
	b) Processing Fee (renewal)	\$25	\$25	per year	N	
3	Phone Check Fee (User Fee - Finance)	\$15	\$15		N	
4	Property Damage Invoice Processing Fee	\$30	\$30	plus replacement cost	N	
5	Credit Card Transaction Processing Fee (for payments greater than \$10,000)	2.4%	2.4%	% of amount paid by credit card	N	[a]

[a] Fee will only apply when credit card is used for payment of fees ~~in excess of \$10,000~~ for development/fire-related fees, permits, plan review, etc.

City of Milpitas

CITY CLERK

Activity Description		FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly In'fltr	Note
Miscellaneous						
1	Campaign Late Filing Fees (per day. Set by State of California)	\$10	\$10	per day	N	
2	Bingo License Renewals (Municipal Code)	\$50	\$50		N	
3	Passport Application/Execution Fee (set by U.S. Government)	\$35	\$35		N	
4	Requests Requiring Special Programming or Formatting	Actual Cost	Actual Cost	per hour / T&M	N	

City of Milpitas

INFORMATION SERVICES

Activity Description		FY 21/22 Fee	FY 22/23 Fee	Charge Basis	Y'rly In'fltr	Note
1	Digital Media Reproduction	\$20	\$20	per flash drive/DVD, etc.	N	
2	Requests Requiring Special Programming or Formatting	Actual Cost	Actual Cost	per hour / T&M	N	

User and Regulatory Fees

Fee-Related Cost of Service Analysis Supporting FY 22/23 Proposed Fee Adjustments

Fee Description		Labor Hours		Hourly Rate *	=	Cost of Service	Current Fee	Current Cost Recovery	Targeted Cost Recovery	Proposed Fee	Proposed Fee Structure
1	Special Event Permit Fee										
	a) Commercial, Industrial, Mixed Use, Hotel/Motel, Apartments, Condominiums, etc.										
	a) Minor Events	1.0	x	\$253	=	\$253	\$986	390%	100%	\$253	fixed fee
	b) Regular Events	3.9	x	\$253	=	\$987	\$986	100%	100%	\$986	fixed fee
	c) Major Events	23.9	x	\$253	=	\$6,047	\$6,039	100%	100%	\$6,039	fixed fee

* Hourly rate based on results calculated in most recent comprehensive study, with annual inflationary adjustments.

Fee Description		Current Proposed Fee	Add: Bldg Time		Hourly Rate *	=	Bldg Cost of Svc	New Total	Targeted Cost Recovery	Proposed Fee	Proposed Fee Structure
2	Special Event Permit Fee										
	Major Events	\$6,039	0.5	x	\$236	=	\$118	\$6,157	100%	\$6,157	fixed fee
3	Pre-Application Review:										
	Single Family	\$2,830	0.5	x	\$236	=	\$118	\$2,948	100%	\$2,948	fixed fee
	All Others	\$9,156	1.0	x	\$236	=	\$236	\$9,392	100%	\$9,392	fixed fee
4	Minor Site Development Review										
	Staff Review - Zoning Administrator	\$3,195	0.5	x	\$236	=	\$118	\$3,313	100%	\$3,313	fixed fee
	Staff Review Hill Side - Zoning Administrator	\$4,488	0.5	x	\$236	=	\$118	\$4,606	100%	\$4,606	fixed fee
	Requiring PC / CC Approval	\$9,556	0.5	x	\$236	=	\$118	\$9,674	100%	\$9,674	fixed fee
5	Site Development										
	New Development	\$16,876	7.0	x	\$236	=	\$1,653	\$18,529	100%	\$18,529	fixed fee
	Zoning Administrator	\$13,856	2.0	x	\$236	=	\$472	\$14,328	100%	\$14,328	fixed fee
	SB35 Housing Project	\$9,156	7.0	x	\$236	=	\$1,653	\$10,809	100%	\$10,809	fixed fee
6	Minor Conditional Use Permit:										
	Staff Review - Zoning Administrator	\$1,283	0.5	x	\$236	=	\$118	\$1,401	100%	\$1,401	fixed fee
	Requiring PC / CC Approval	\$3,046	0.5	x	\$236	=	\$118	\$3,164	100%	\$3,164	fixed fee
7	Conditional Use Permit:										
	Single Family Districts	\$563	0.5	x	\$236	=	\$118	\$681	100%	\$681	fixed fee
	All Other CUPs	\$15,267	2.0	x	\$236	=	\$472	\$15,739	100%	\$15,739	fixed fee

* Hourly rate based on results calculated in most recent comprehensive study, with annual inflationary adjustments.

INFLATIONARY ADJUSTMENT CALCULATION		
Increase In Total Employee Compensation		
Year	Misc Employee Rate	Safety Employee Rate
2019	4.00%	4.00%
2020	0.00%	0.00%
2021	4.34%	4.06%
FY 21/22 Forecast	Miscellaneous	Safety
Personnel Expenses	\$42,071,724	\$56,424,016
FTE	225.25	209.00
Cost Per FTE	186,777.91	269,971.37
FY 22/23 Forecast		
Personnel Expenses	\$41,411,774	\$58,153,554
FTE	212.50	207.00
	194,878.94	280,935.04
Year-to-Year Change	4.34%	4.06%
Rounded Year-to-Year Change	4.34%	4.06%



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Homelessness Task Force Options (Staff Contact: Ashwini Kantak, Assistant City Manager, 408-586-3053 and Sharon Goei, Building Safety and Housing Director, 408-586-3260)
Category:	Community Development
Meeting Date:	4/19/2022
	<u>Recommendation:</u> Receive staff report related to the Homelessness Task Force recommendations and provide direction to staff on next steps.

Background

To address the issues of homelessness, an Ad Hoc Homelessness Task Force was approved in January 2021 and established in March 2021. The Task Force, comprising of seven members, held ten monthly meetings from March 2021 through January 2022 and developed recommendations, which were presented to the City Council on February 1, 2022. The February 1 agenda report (Attachment 1) provides background information and an overview of the Homelessness Task Force recommendations. An accompanying PowerPoint presentation (included with Attachment 1) was presented to the City Council that delineated the Task Force's program ideas in greater detail. The Task Force recommendations to assist the unhoused and at-risk populations in the City are grouped in five program categories:

1. Milpitas Homelessness Help Center
2. Temporary Housing
3. Homelessness Prevention
4. Work and Self-Sufficiency
5. Accountability

On March 1, 2022, the City Council further discussed the report and recommendations from the Homelessness Task Force. Although no specific direction was given by the full Council, individual Councilmembers expressed interest in various approaches to assist the unhoused population, including: a homelessness help center; a recreational vehicle (RV) safe parking program; and homelessness prevention programs particularly for McKinney-Vento individuals, defined by the California Department of Education as "homeless children and youths as individuals who lack a fixed, regular, and adequate nighttime residence." Support was expressed for preparing a feasibility study for a navigation center which would provide temporary housing and wrap-around supportive services for the unhoused population. Support was also expressed for a day worker/help center to assist individuals in finding work and gaining self-sufficiency. Additionally, several Councilmembers supported public health and sanitation measures to address basic needs and improve quality of life for the unhoused population, such as expanding mobile shower and laundry services and providing dumpsters or trash bins at locations where the unhoused are gathering in the City. Support was not expressed for creating a Local Oversight Committee to approve expenditures for homelessness programs as this was seen as a City Council function.

Analysis

Based on the Homelessness Task Force's recommendations and feedback from the City Council, staff conducted research on similar programs in other jurisdictions and developed some information for Council to

consider potential project and program options for assisting the unhoused and at-risk populations in the City. A summary and comparison of the below projects and programs are shown in Attachment 2. Further information on each option is included in the worksheets in Attachment 3 including reference to models from other cities. These worksheets are based on interviews with staff in other cities and service providers regarding program objectives, facility and set-up costs, ongoing operating costs, services provided, population served, lessons learned, and best practices.

1. **Expanded Shower and Laundry Services:** Expand current mobile shower and laundry service to twice a week to provide essential sanitation services for unhoused residents. This service started as a 6-month pilot program with \$21,372 grant dollars in March 2021. In September 2021, the City continued funding weekly services for an additional 12 months, utilizing a total grant of \$71,500. The mobile shower and laundry program has been serving an average of 23 individuals per session, with about 43% of the individuals affiliated with Milpitas. With recent changes in the City's unhoused population, the current number of individuals using this service is about 19 per session. In the most recent sessions, about 30% of the individuals are affiliated with Milpitas, with 70% of the individuals receiving services being affiliated with other cities. Another consideration is the location of the mobile services. Given the recent decrease in the number of unhoused individuals in the vicinity of the current site, an alternate location for this service may need to be explored.

Estimated Costs: Current contract for once a week service goes through September 2021 and has been funded through this time. An annual contract cost for twice a week service is approximately \$105,000 (double current cost) assuming the City continues contracting with WeHOPE to provide this service. Funding for this service could come from grants or General Fund.

Potential Next Steps: If Council wishes to move forward with the expansion of this service, staff will need to identify funding and potentially, an alternate location based on the current status of the unhoused population in Milpitas.

2. **Trash Collection Service:** Place dumpsters or trash bins at homeless encampments to minimize illegal dumping, remove debris and blight, and address public health hazards.

This type of service may be considered if there are one or two locations where the unhoused population is congregating. This service is not feasible if the unhoused individuals are dispersed throughout the City. Additionally, placing a dumpster at a designated location along with shower and laundry services could prompt the establishment of a homeless encampment. Dumpsters placed at an unsecure location also result in illegal dumping by the community at large.

Estimated Costs: The estimated cost for placing dumpsters or trash bins at two locations is \$8,000 per year if weekly service is provided by Milpitas Sanitation Inc. (MSI); and an estimated \$125,000 per year to remove and dispose biohazardous waste or hauling away illegally dumped items at the bin site. This brings the estimated costs for this service to \$133,000 per year; this could go up to \$400,000 per year if an additional route is required depending on type of truck, bins, and number of stops needed to service the route. Alternatively, if the City contracts with a separate vendor for weekly service, the estimated cost is \$317,000 per year. Funding for this service could come from grants or the General Fund.

Potential Next Steps: If Council wishes to move forward with this service, staff will need to identify funding and potentially, and potential locations based on the current status of the unhoused population in Milpitas.

3. **Day Worker/Help Center:** Establish a clearinghouse and resource center to connect day workers to short-term jobs from residents and businesses.

The facility would also function as a community and support center for clients with training classes and employment services. No overnight accommodations would be provided. Day worker centers in other cities predominately serve clients who already have housing and are pre-screened for employment.

Estimated Costs: Depending on the services and number of clients served, a day worker/help center could cost about \$250,000 annually if modeled after the successful Worker Resource Center managed by Samaritan House in San Mateo. Operating costs can vary significantly. For instance, a more expansive program operated by Day Worker Center of Mountain View has an annual budget of about \$800,000. An initial feasibility study is estimated to cost approximately \$50,000 to \$75,000. Funding for this service could come from grants, donations, or the General Fund.

Potential Next Steps: If the Council desires to consider a day worker/help center, a feasibility study is recommended to define a program scope, estimate facility and operating costs, identify possible sites, and explore potential service providers and funding sources.

4. **Navigation Center:** Conduct a feasibility study for a Navigation Center, which is a rapid rehousing facility (congregate living) for the unhoused population with case management and wrap-around services to transition participants from homelessness to transitional or permanent housing.

The scope of the feasibility study could include evaluating various options for sheltering the unhoused population, determining facility and site requirements, evaluating potential sites and conducting community outreach, identifying potential services providers, identifying programs and services to be offered, and identifying funding for capital improvement and operating costs.

Per state law (Senate Bill 48/Assembly Bill 101), the use is allowed by right in any zoning district where residential or mixed use is allowed. Navigation centers in Fremont and Hayward can serve 45-60 individuals at one time with maximum 6-month occupancy allowed. Sleeping arrangements are typically in a congregate setting. Both facilities are operated by Bay Area Community Services (BACS), which also manages other navigation centers. Additionally, a San Mateo County navigation center is under construction in Redwood City with 240 living units (capacity for 260 clients) that will be operated by LifeMoves. Predominate funding for capital improvements and operations is through a Homekey grant.

Estimated Costs: A feasibility study is estimated to cost approximately \$110,000, which would include up to \$100,000 for consultant services and \$10,000 for staff. Funding for the feasibility study could come from the Housing Authority Fund. Health and Safety Code allows up to \$250,000 per fiscal year of Housing Authority (former Redevelopment Agency) Funds be used to help individuals secure temporary or permanent housing. Based on the type of facility desired costs could range from \$1-\$1.2 million annually for operating expenses. The one-time costs to establish the facility could vary widely depending on the identified location and available infrastructure.

Potential Next Steps: If the Council wishes to proceed with a feasibility study staff would need to identify funding and secure a consultant to perform the study. The study would take about 6-9 months to complete; however, given the current status of staffing, the study would likely only commence in summer 2022 and continue into 2023. At the conclusion of the feasibility study, staff would return to the Council for direction on implementing a navigation center. If the Council decides to move forward with establishing a navigation center, additional funds for project implementation would need to be estimated and identified.

5. **RV Safe Parking Program:** Provide a site for temporary RV parking as an alternative to on-street parking.

Similar to a navigation center, a maximum 6-month stay is typically stipulated, and case management and wrap-around support services are provided to transition program participants to transitional or

permanent housing. RV safe parking programs have allowed for overnight parking only, although 24-hour parking can be considered. The viability of this option depends on the number individuals living in RVs in the City and their willingness to participate in the program. Stepped up enforcement of illegal on-street parking may be necessary in order to increase program participation. A half-acre site can accommodate about 15 RVs depending on the size of vehicles with allowance for on-site facilities, vehicle separation, and emergency access. According to the County's Homeless Engagement and Access Team, there were approximately 26 individuals living in vehicles at the time of their assessment. Their data does not distinguish between cars, vans, trucks, versus RVs. As an alternative, Council could also consider a safe parking program that accommodates both RVs and passenger vehicles.

Estimated Costs: Site preparation costs would depend on the selected site; operating costs for about 15 RVs could be \$300,000 or more per year depending on scope of services and assistance offered. A feasibility study is estimated to cost approximately \$50,000 to 75,000, which would include assessing potential sites and preparing a conceptual site plan and cost estimate for a preferred site.

Potential Next Steps: If the Council desires to consider a RV safe parking program, a feasibility study could be considered to define a program model, estimate facility and operating costs, identify and assess possible sites, and explore potential service providers and funding sources.

6. **Tiny Home Village:** Explore a Tiny Home Village, which is another rapid rehousing model for the unhoused population with case management and wrap-around services to transition participants to transitional or permanent housing.

The program objective is the same as a Navigation Center with the purpose of transitioning participants from homelessness to transitional or permanent housing. Length of occupancy is also set at maximum six months but could be extended for certain clients. The primary difference is the type of shelter offered. Tiny home villages offer smaller or individual modular living units to allow for more private and secure accommodations, which may be more attractive for women and families with children. However, cooking and sanitation facilities are typically shared as in a navigation center. The navigation center under construction in Redwood City is an enhanced tiny homes model with a private restroom in most of the units. While the individual modular units are affordable, overall capital improvement costs are generally higher than a navigation center with a modular structure or building for congregate living. Program operating costs could be similar as a navigation center.

Estimated Costs: Site preparation and capital improvement costs would vary, depending on the selected site. Program operating costs would be similar to a Navigation Center at approximately \$1-\$1.2 million. A feasibility study is estimated to cost approximately \$100,000 but if incorporated in the feasibility study for a navigation center, the estimated cost is \$150,000 for a combined study. Funding for the feasibility study could come from the Housing Authority Fund. Health and Safety Code allows up to \$250,000 per fiscal year of Housing Authority (former Redevelopment Agency) Funds be used to help individuals secure temporary or permanent housing.

Potential Next Steps: If the Council desires to consider a Tiny Home Village, this model can be included in the scope of the feasibility study for a navigation center or a separate feasibility study could be conducted. This would entail identifying funding and securing a consultant to perform the study.

The following table indicates the programs areas that each project/program option addresses. In addition to the four program ideas suggested by the Homelessness Task Force, a fifth category has been added, Public Health and Sanitation, in response to Council comments.

Homelessness Programs and Projects

Project/Program Options	Program Areas				
	Public Health & Sanitation	Homelessness Help Center	Temporary Housing	Homelessness Prevention	Work & Self-Sufficiency
Expanded Shower and Laundry Services	√				
Trash Collection Service	√				
Day Worker/Help Center		√			√
Navigation Center			√	√	
RV Safe Parking			√	√	
Tiny Home Village			√	√	

Considerations for Homelessness Program Options

Since implementing the above options to assist the unhoused population will be financially challenging for the City and will inevitably require trade-offs, the City Council might prioritize factors when selecting a program or project to implement. Factors to consider include the following:

1. Unhoused Population Service Needs:

The unhoused population is diverse both demographically and in terms of supportive services needed. A primary consideration is creating programs or projects that match the characteristics and level of need among the unhoused population in Milpitas. For context, some of the cities researched had considerably larger unhoused populations than Milpitas based on the last point-in-time homeless count conducted in January 2019, such as: Hayward – 487, Mountain View – 606, and Fremont – 608. In comparison, Milpitas had 125 unhoused individuals based on the 2019 homeless count. These statistics are not to suggest that Milpitas should minimize its homelessness concerns, but that programs and projects should be scaled to address the unmet needs.

Council might prioritize a segment of the unhoused population when selecting a project or program to explore and implement. For example, a navigation center primarily serves an adult male population, but this does not preclude configuring a facility with case management services for McKinney-Vento families. Shelter accommodations can include private living units with childcare services in addition to a mobile structure for congregate living which are more suitable for adults. However, the unhoused population in Milpitas are predominately single adults and households without children, comprising 94% of the unhoused population based on recent Santa Clara County data. Households with children only comprise 6% of the unhoused population, but these numbers do not account for McKinney-Vento households that have shelter or housing but are at-risk of homelessness.

In assessing the viability of a RV safe parking program, the number of unhoused who are living in RVs on city streets or other properties should be determined. According to the County's Homeless Engagement and Access Team, there were approximately 26 individuals living in vehicles at the time of their assessment. Their data does not distinguish between cars, vans, trucks, versus RVs. With recent changes in the City's unhoused population, the number of RV dwellers is likely a relatively low number, and it may not be cost effective to establish a central RV site. Securing agreements to park RVs on private property throughout the city, such as religious assembly sites, may be a better approach if there are receptive property owners.

Temporary housing and rapid rehousing models primarily benefit unhoused individuals and households that are willing to accept assistance and are capable of eventually living in transitional or permanent supportive housing. Conversely, public health and sanitation facilities offer basic services to all unhoused individuals, but they do not provide rapid rehousing or case management services to transition individuals out of homelessness.

Providing dumpsters or trash bins at homeless encampments is an expensive option if there are multiple encampments in the city. While the unhoused population has congregated at only a few locations in Milpitas, the encampments are relatively small with about 6-12 individuals each up until March. Since then, individuals have been dispersed throughout the City. The cost of providing and servicing a dumpster for a small population may not be cost-effective relative to other longer-term homelessness solutions. As stated earlier, dumpsters also become magnets for illegal dumping.

Day worker/help centers do not preclude serving the unhoused, but centers operating in other cities (e.g., Mountain View, San Mateo, and Oakland) offer services and training for a broader population in the community that are capable of employment. Most participants also have some form of housing. Therefore, a day worker/help center model may not benefit the unhoused population unless services are expanded to include homeless prevention and support services, or a partnership occurs with another service provider to accept homeless referrals.

2. Funding Availability:

Public and private sources that are available for each homelessness option continue to evolve. Each option typically involves combining a variety of public and private sources with some funds earmarked for one-time facilities costs, while other funding sources support ongoing operational costs and specific supportive services (e.g., rental assistance, case management, wrap-around services, meals, wellness and medical services, and transportation).

Formulating a financing plan and securing funding requires pursuing multiple sources. Counties and large cities typically fund their navigation centers through multiple sources, including federal Homeless Emergency Solutions Grants (ESG), state Homeless Emergency Aid Program (HEAP) grants, and county public health, mental health, and social service funds. Usually, only counties and large cities are eligible for these types of funding. Funding commonly includes additional contributions from cities, charitable organizations, non-profit foundations, and/or private donors (e.g., gift campaigns). Grant programs are typically very competitive with specific eligibility criteria and reporting requirements and may be temporary such as emergency sources to address the COVID-19 pandemic. The state has recently earmarked significant funds to address homelessness and program objectives and criteria for these funds are under development.

3. Availability and Selection of Service Providers:

An important consideration is identifying possible service providers for the project and program options. For navigation centers, surrounding cities (e.g., Fremont, Hayward, Oakland, Berkeley, and Monterey/Salinas) have contracted with Bay Area Communities Services (BACS) to operate these facilities and coordinate wrap-around services. While other service providers are qualified, BACS would be a logical agency to consider if the City were to establish a navigation center. They work with a network of other service providers to provide case management and wrap-around support services.

Other projects and programs may require wider solicitation to find a qualified and willing service provider. For instance, some programs have been spearheaded by faith-based or community-based organizations such as the Day Worker Center of Mountain View and the Samaritan House Worker Resource Center in San Mateo. Tiny home villages have been established by non-profit organizations with substantial public funding (e.g., examples in Los Angeles County). Alternatively, cities have often taken a lead role to establish a RV safe parking program, although service providers are contracted to operate the facilities and coordinate supportive services.

4. City Staffing for Program Oversight:

Milpitas Housing staff can oversee the contracts and monitor the service providers but would not have the staff capacity or in-house expertise to directly administer the programs. While the City would rely on service providers, expanding homeless and housing programs will require supplemental City staffing for

program administration. Additional staff support should be assumed for each homelessness option and would vary depending on the effort required for planning, design, and implementation, service provider oversight, grant administration, financial management and reporting, and performance assessment and accountability.

5. **Planning, Design, and Implementation:**

Consideration should be given to planning and design requirements, facility and implementation costs, and the relative benefits and objectives of each project and program option. For instance, increasing the frequency of shower and laundry service is a relatively easy option to implement since a service provider is already under contract. Providing dumpsters or trash bins can also be implemented relatively quickly to address immediate public health risks but does not achieve the objective of transitioning unhoused individuals and families from homelessness to stable housing and self-sufficiency.

Alternatively, options such as a navigation center, RV safe parking program, and tiny home village are rapid rehousing solutions with comprehensive case management services to transition individuals and families out of homelessness. However, these options require more lead time to implement, typically 9 to 15 months if a site is available. A significant commitment of resources is necessary with investment of one-time costs for facilities and site improvements. Because a site is typically required for these options, additional time and effort for site selection and community outreach should be included to plan and implement these projects.

Funding Opportunities

Based on Council comments at the March 1st meeting, staff have taken the opportunity to seek additional funds to assist the unhoused population and households at-risk of homelessness:

1. Housing staff started preparing in February and applied in March for a \$150,000 grant from the Emergency Food and Shelter Program to extend funding for the City's rent relief program.
2. Housing staff also investigated applying for additional funds for rental housing assistance through the State's share of federal HOME program funds. A Notice of Availability (NOFA) was issued late last year by the Department of Housing and Community Development (HCD) with applications due in March 2022. After consulting with HCD staff, it was advised that the City would be in a better position to apply for HOME funds through a second NOFA that is expected to be issued this summer. Staff plans to submit an application for the second NOFA.
3. A request was submitted to Assemblymember Alex Lee in March 2022, for homelessness prevention and unhoused services totaling \$1,500,000 to be included in the FY 2022-23 State budget. The funds are requested for three purposes: a) expanding mobile shower and laundry services to twice a week for three years (\$300,000); b) establishing a Milpitas Resource Center (day worker/help center) as a two-year pilot program (\$500,000); and 3) providing rent relief to vulnerable Milpitas residents (\$700,000).

Fiscal Impact:

There is no fiscal impact associated with receiving the report. Based on Council direction, each of the program options would require additional funding, which Council may wish to consider as a part of the fiscal year 2022-23 budget development.

California Environmental Quality Act:

The action being considered has no potential for causing a significant effect on the environment and is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3). If the City Council is inclined to explore any of the task force recommendations, after staffing resources are secured,

staff will conduct a CEQA analysis, or verify the applicability of a CEQA exemption, prior to any discretionary action to approve or move forward with any recommendation.

Per Senate Bill 48/Assembly Bill 101, a Low Barrier Navigation Center is defined as “housing or shelter in which a resident who is homeless or at risk of homelessness may live temporarily while waiting to move into permanent housing.” The use is allowed by right in any zoning district where residential or mixed use is allowed. A use permit or other discretionary approval cannot be required and, as a ministerial approval, the project is exempt from CEQA.

Recommendation:

Receive staff report related to the Homelessness Task Force recommendations and provide direction to staff on next steps.

Attachments:

1. February 1, 2022 Council Agenda Report with attached Homelessness Task Force Presentation
2. Summary and Comparison of Homelessness Program and Project Options
3. Worksheets for Homelessness Program and Project Options
 - 1) Expanded Shower and Laundry Services
 - 2) Trash Collection Service
 - 3) Day Worker/Help Center
 - 4) Navigation Center Feasibility Study
 - 5) RV Safe Parking
 - 6) Tiny Home Village



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Receive report from Homelessness Task Force
Category:	Community Development
Meeting Date:	2/1/2022
Staff Contact:	Sharon Goei, Building Safety and Housing Director, 408-586-3260 Robert Musallam, Housing and Neighborhood Services Administrator, 408-586-3275
Recommendation:	Receive report from Homelessness Task Force.

Background:

At the December 15, 2020 City Council meeting, at the request of the Mayor, Council directed staff to place an item on the January 5, 2021 Council meeting agenda related to creating a Homelessness Task Force. At the January 5, 2021 City Council meeting, Council approved the establishment of a new ad hoc Homelessness Task Force. The task force would be comprised of up to ten resident members. Its purpose is to expand resident participation in addressing homelessness issues within the City and provide solutions, feedback, and input that will contribute to improving the quality of life of the Milpitas community, neighborhoods, and residents.

Ten members were appointed to the task force by the Mayor with input from the Council. Appointed to the task force were the following members: William Lam, Sanae Alexander, Jeremy Bevington, Ferdie Centeno, Ricky Davis, Martha Lamdin, Norma Morales, Lisa Moreno, Barbara Jo Navarro, and Tingna Xu. The following three members subsequently resigned from the task force: Ricky Davis, Martha Lamdin, and Lisa Moreno.

Ten monthly meetings have been held by the task force from March 2021 through January 2022, with the exception of July 2021. Staff has been serving in a facilitator role to coordinate meetings, assist task force members during discussions, and provide updates related to unhoused services. The analysis section below summarizes the task force discussions during those meetings.

Analysis:

The first task force meeting was held on March 10, 2021. The task force voted to select William Lam as the Chair and Sanae Alexander as the Vice Chair. Overall, the first meeting provided an opportunity for members to introduce themselves to the community, discuss the role of the task force, and begin initial logistical discussions as to how to best maximize their use of time and resources.

Subsequent meetings in April and May 2021 allowed staff to provide the task force with information about compliance with the Brown Act and the City's Open Government Ordinance. The task force discussed member availability and decided to meet on a monthly basis. During April and May, staff provided information and resources on homelessness, including the City's programs on homeless response and prevention. Additionally, staff invited the Santa Clara County Office of Supportive Housing to give a presentation on the 2020-2025 Santa Clara County Community Plan to End Homelessness. County representatives also shared information regarding their Homeless Engagement and Access Team for homeless outreach and assessment. Through these initial meetings and information gathering sessions, the task force began to explore possible areas of focus. Examples of the ideas and areas the task force desired to explore are listed below:

- Housing (both permanent affordable housing and temporary housing/shelters)
- Food and clothing

- Education and job training
- Substance abuse rehabilitation services
- Homelessness prevention
- Helping people access benefits and resources
- Community safety
- Litter and pollution
- At-risk youth and McKinney-Vento students
- Multi-lingual social/emotional services for individuals experiencing homelessness

Task force members also discussed goals and objectives for the Homelessness Task Force:

- Help the unhoused move into housing for the homeless
- Provide resources, support, restore dignity and plan for prevention through our unhoused services
- Find cost effective solutions for the unhoused to create a safer community
- Provide input/feedback on the challenges faced by families and students and find a sustainable and innovative solution to help the unhoused and McKinney-Vento students in Milpitas

From June through September 2021, the task force synthesized their ideas into program areas that would then become the basis of the Homelessness Task Force's plan. The plan created program areas of outreach and community communication, temporary housing, prevention program, work program, and accountability and community safety.

The task force assigned members to program areas in June. In August and September, task force members explored their program ideas, conducted research, presented on program topics, and gave one another feedback. The task force was asked to identify resources that would be required for each program idea. Members noted that resources, including funding and personnel, would need to be determined depending on program direction. The task force also discussed the format of the task force report presentation to the City Council.

From October 2021 through January 2022, the task force held robust discussions on their program areas and report presentation slides to the City Council. Task force members reviewed and edited slides, providing further input on program areas in each meeting. The task force approved the slide presentation and selected task force members to deliver the presentation to the City Council. The task force outlined their presentation into the following main program areas:

- Milpitas Homelessness Help Center
- Temporary Housing Programs
- Homelessness Prevention Programs
- Work and Self-Sufficiency Programs
- Accountability

Please refer to Attachment 1 for the presentation of the Homelessness Task Force report that delineates the program areas in detail.

At the February 1, 2022 City Council meeting, the Homelessness Task Force will provide its report and presentation to the City Council.

Fiscal Impact:

There is no fiscal impact to receive a report from the Homelessness Task Force. However, depending on Council feedback on the report, there may be future fiscal impact in terms of funding or personnel cost to conduct research or implementation. It is important to note that the current low staffing capacity has necessitated focus on work plan items associated with federal or state requirements. Additional staffing resources will be required to conduct any further research or implementation related to the Homelessness Task Force.

California Environmental Quality Act:

The action being considered, the mere acceptance of a report, has no potential for causing a significant effect on the environment and is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3). If the City Council is inclined to explore any of the recommendations made in the report, staff will conduct a CEQA analysis, or verify the applicability of a CEQA exemption, prior to any discretionary action to approve or move forward with any recommendation.

Recommendation:

Receive report from Homelessness Task Force.

Attachment:

1. Presentation of Homelessness Task Force Report

City Council Meeting

Homelessness Task Force Report

February 1, 2022

City of Milpitas

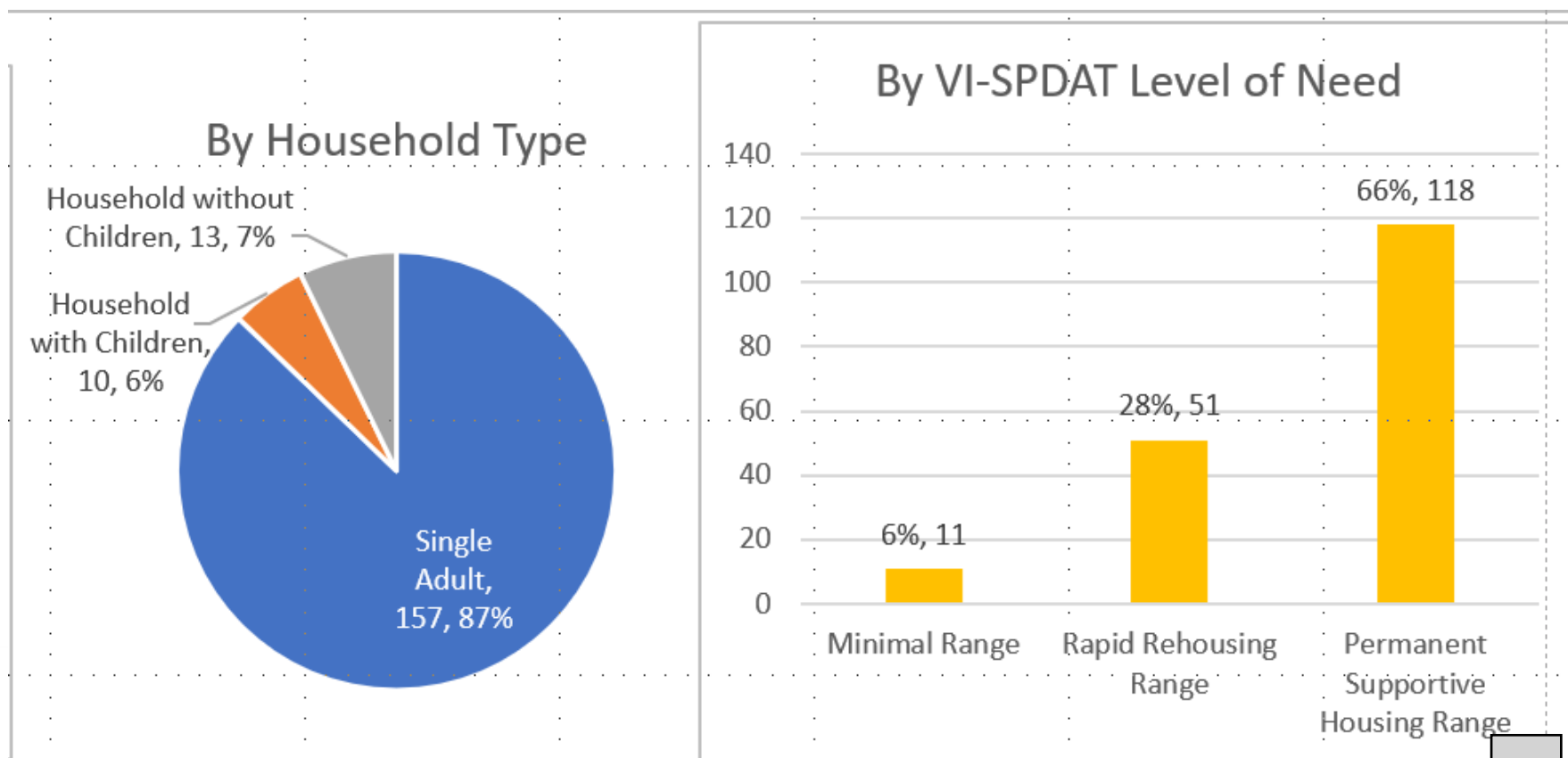
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Presentation Outline

- Homelessness in Milpitas
- Task Force Overview, Goals, Members
- Task Force Program Ideas
- Receive Report from Task Force

Milpitas Affiliated Households Waiting for Housing

- 6,298 households in the Community Queue (Countywide)
 - 180 households are “affiliated” with Milpitas
 - 169 households scored in the RRH or PSH range



Homelessness Task Force Overview

- On January 5, 2021, the City Council, upon the request of Mayor Tran, approved the establishment of a new Ad Hoc Homelessness Task Force with up to ten community members.
- The purpose of the Task Force is to expand resident participation and provide solutions, feedback, and input that will contribute to improving the quality of life of the Milpitas community, neighborhoods, and residents.
- Monthly meetings except July
- Staff facilitates meetings and provides updates on programs

Homelessness Task Force Overview

- **March:** Welcome, introductions, selection of Chair and Vice Chair, role of the task force, logistics
- **April:** Brown Act training, possible areas of focus, staff shared resources on homelessness
- **May:** Presentation by County Office of Supportive Housing, task force goals and objectives
- **June-Sept:** Explore programs focused on outreach and community communication, temporary housing, homelessness prevention, work and self-sufficiency program, accountability and community safety
- **Oct-Jan:** Review, edit, and approve slides to be presented to City Council, and select Task Force representatives to deliver the presentation

Homelessness Task Force Goals

- Help the unhoused move into housing for the homeless
- Provide resources, support, restore dignity and plan for prevention through our unhoused services
- Find cost effective solutions for the unhoused to create a safer community
- Provide input/feedback on the challenges faced by families and students and find a sustainable and innovative solution to help the unhoused and McKinney-Vento students in Milpitas



Homelessness Task Force Members

Chair William Lam

Martha Lamdin

Vice Chair Sanae Alexander

Norma Morales

Jeremy Bevington

Lisa Moreno

Ferdie Centeno

Barbara Jo Navarro

Ricky Davis

Tingna Xu

Members that resigned from Task Force:

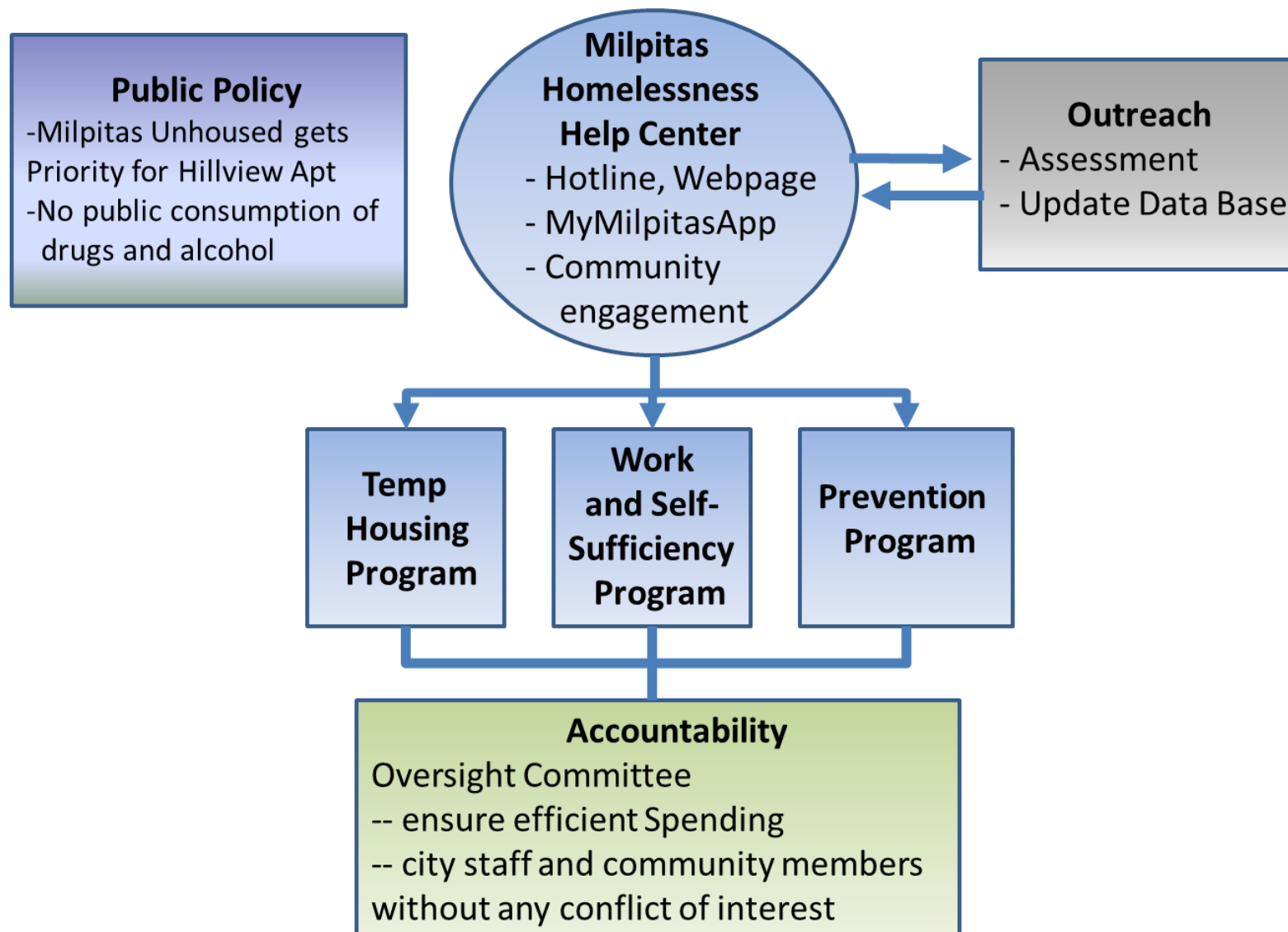
Martha Lamdin, Lisa Moreno, and Ricky Davis

Homelessness Task Force Report

- Plan Overview (Chair Lam)
- Program Ideas:
 - Milpitas Homelessness Help Center (Chair Lam)
 - Temporary Housing (Vice Chair Alexander)
 - Homelessness Prevention (Vice Chair Alexander)
 - Work and Self-sufficiency (Chair Lam)
 - Accountability (Chair Lam)



Milpitas Homelessness Task Force Plan Overview



Milpitas Homelessness Help Center

- Purpose: increase public information on homelessness resources, programs, and concerns
- Staff person at City Hall who can respond to questions and receive community feedback with language accommodation (e-mail, hotline, or walk-in)
- Webpage with local and county resources, oversight committee schedule
- Create a new category on the MyMilpitas App to facilitate outreach to the unhoused
- Community involvement and awareness of programs
- Example: Resource fairs and pop-up events



Temporary Housing Programs

- **City-sanctioned encampment or safe parking areas**
 - Purpose: Transition to permanent housing. Assistance with self-reliance, self-esteem, pride, dignity, etc.
 - Safer, more stable alternative to encampments; transitional
 - RVs and tents with showers, toilets, laundry, running water, garbage pick-up and food service
 - Assessment and case management
 - Example: City of Fremont, Mountain View, Union City



Temporary Housing Programs

- **Temporary shelter and resource center with giving priority to families, seniors, working individuals, and youth aging out of foster care system (17.5 to 22 years of age)**
 - Purpose: Transition to permanent housing. To build independence, quality of life, self-reliance, hope
 - Create a new congregate shelter with beds, food, daycare, employment resources, financial coaching and more
 - Possibly use an abandoned church building or vacant warehouse
 - Assessment and case management
 - Public-private sector collaboration
 - Example: St. Mary's Center in Oakland

Temporary Housing Programs

- **“Tiny home” transitional housing**
 - Purpose: Transition to permanent housing. Assistance with self-reliance, self-esteem, pride, dignity, etc.
 - Faster to construct and much lower cost than permanent housing (shipping containers can be prefabricated, are movable and scalable)
 - Non-congregate housing allows for more privacy and security
 - On-site services, assessment, case management, amenities
 - Explore subsidy for homeowners who host unhoused in Accessory Dwelling Units
 - Explore funding for homeowners or organizations to build tiny homes on their property
 - Example: City of Los Angeles, Oakland, Seattle’s “The BLOCK Project”

Prevention Programs

- **Connect with McKinney-Vento households; expand childcare**
 - Purpose: Identify and assist at-risk residents, youth, and MUSD McKinney-Vento households and increase child-care options
 - More robust outreach to McKinney-Vento households
 - More connections to services and organizations like LifeMoves
 - More outreach in various languages
 - Expand day care options so parents can go back to work and avoid falling into homelessness
 - Example: After the Bell and YMCA after school programs

Work and Self-Sufficiency Programs

- **Rewards for litter pick-up and job training**
 - Purpose: Create a work program to help with self-reliance, self-esteem, pride, dignity and to beautify the City.
 - Stage 1: Provide gift cards or food vouchers to unhoused residents who clean their own encampments, parks, freeway entrances, and other key areas
 - Stage 2: Motivated candidates are referred to SCC work program to train for professional skills
 - Reach out to neighborhoods, corporations, local organizations to volunteer and support the program
 - Refer workers to programs through NovaWorks, Goodwill, Downtown Streets Team and more
 - Example: City of Elk Grove

Accountability

- **Local Oversight Committee**

- Purpose: Ensure tax dollars are spent efficiently on unhoused programs
- Create a 7-9 member committee to oversee City spending on homelessness
- Committee approval for all expenditures
- Review 911 calls and crime reports related to unhoused residents



Recommendation

- Receive report from Homelessness Task Force



City of Milpitas

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Attachment 2

Summary and Comparison of Homelessness Options

Project/Program	Expanded Mobile Shower and Laundry Services	Trash Collection Service	Day Worker/ Help Center	Navigation Center	RV Safe Parking	Tiny Home Village
Program Area	Public Health and Sanitation	Public Health and Sanitation	Work and Self-Sufficiency/ Help Center	Temporary Housing/ Homelessness Prevention	Temporary Housing/ Homelessness Prevention	Temporary Housing/ Homelessness Prevention
Program Objective	Expand current mobile shower and laundry service to provide essential sanitation services for unhoused residents.	Dumpsters or trash bins placed at homeless encampments to minimize illegal dumping, remove debris and blight, and address public health hazards.	Clearinghouse and resource center to connect day workers to short-term jobs from residents and businesses; community and support center; no overnight facilities	Rapid rehousing for the unhoused population with case management and wrap-around services to transition participants to transitional or permanent housing.	Temporary parking for RVs as an alternative to on-street parking, case management and support services to transition participants to transitional or permanent housing.	Rapid rehousing for the unhoused population with case management and wrap-around services to transition participants to transitional or permanent housing.
Assumed Annual Population Served	20 per session/ 40 per week	up to 30 at two sites	Varies by service	50 with turnover (max. 6-month stay)	25 with turnover (max.6-month stay)	50 with turnover (max. 6-month stay)
Program Options	Increase to twice/week	Number of sites	Expand scope to provide homeless services	Congregate living Smaller living units Hotel rooms Day center only	24-hour parking Overnight parking only Passenger vehicles Scattered sites	Navigation center Family households
Potential Funding	City General Fund County Assistance	City General Fund	Charitable groups Foundations Private Donations City General Fund	City General Fund Housing Authority Fund (up to \$250k per FY) County assistance State/federal grants Charitable groups Foundations	City General Fund County Assistance Non-Profit Partners	City General Fund Housing Authority Fund (up to \$250k per FY) County assistance State/federal grants Charitable groups Foundations

Project/Program	Expanded Mobile Shower and Laundry Services	Trash Collection Service	Day Worker/ Help Center	Navigation Center	RV Safe Parking	Tiny Home Village
Potential Service Provider	WeHOPE	Milpitas Sanitation or private vendor	to be determined	Bay Area Community Services	to be determined	to be determined
Time for Implementation	1-2 months	1-2 months	9-15 months	6-9 months (feasibility study only)	3-6 months (scattered small sites) 9-15 months (central site)	9-15 months
Models from other Cities	Various	Various	Mt. View, San Mateo, Oakland, San Francisco, Santa Cruz	San Francisco, Berkeley, Oakland, Hayward, Fremont, Salinas, Contra Costa County, Los Angeles	Mountain View, Berkeley, Oakland, East Palo Alto	San Jose, Oakland, Livermore, San Francisco, Los Angeles
Preliminary Cost						
a) One-time Set-up	Minimal	Minimal	\$100,000-\$150,000	\$110,000 (feasibility study) Allow \$600,000 for facilities and site preparation	\$50,000-\$250,000	\$450,000 (facilities) Allow \$300,000 (site preparation)
b) Ongoing Operations	\$105,160/year for 2 sessions/week	For two sites: \$133,000/year (Milpitas Sanitation w/o new route) \$317,000/year (private vendor)	\$200,000/year	\$1.0-\$1.2 million/year	\$300,000/year	\$1.0 - \$1.2 million/year
c) Unit Cost	\$51/person/session	\$4,300 - \$10,600/person/year	Varies by service	\$20,000-\$24,000/client (not including one-time facility/site preparation costs)	\$12,000/RV (not including one-time site preparation and case management costs)	\$20,000-\$24,000/client (not including one-time facility/site preparation costs)

ATTACHMENT 3

Homelessness Program/Project Worksheets

1. Expanded Shower and Laundry Services
2. Trash Collection Service
3. Day Worker/Help Center
4. Navigation Center Feasibility Study
5. Recreational Vehicle (RV) Safe Parking
6. Tiny Home Village

PROGRAM/PROJECT TITLE	1. EXPANDED SHOWER AND LAUNDRY SERVICES
PROGRAM AREA	PUBLIC HEALTH AND SANITATION
Program Objective	Expand current mobile shower and laundry service to further improve quality of life for unhoused residents.
Program Description	Current mobile shower and laundry service is provided every Sunday. This proposal would increase the service to twice a week.
Primary Issues	Direct response to improve immediate quality of life for the unhoused, but does not provide remedy for ending homelessness or addressing the permanent needs of the unhoused population.
Service Options	Amend contract with WeHOPE to increase mobile shower and laundry service to more than once a week. Determine frequency and day of the week to expand service. Proposed option is to expand service to twice a week – every Wednesday and every Sunday. The service would be provided at the current location to begin with and other locations would be explored.
Estimated Lead/Start-up Time	After approval and authorization by the City Council, amend contract with WeHOPE. Coordinate with WeHOPE to implement expanded service and conduct outreach to the unhoused and at-risk individuals in the community and nonprofit partners. Estimated start-up time is one to two months.
Total Estimated Project/Program Budget	One-time Costs: Staff cost to amend contract, implement service, and conduct outreach is approximately \$2,500 (~20 hours). On-going Operating Costs: Service provider WeHOPE cost is \$965 per session. Current service: For service once a week, or 52 sessions per year, the service provider cost is \$50,180 per year. Expanded service: For service twice a week, or 104 sessions per year, the service provider cost is \$100,360 per year. Staff cost is approximately \$400 per month, or \$4,800 per year, for reviewing monthly data, monitoring contract, and communicating with WeHOPE regarding services. Total annual cost: Current service: For service once a week, total annual cost is \$54,980. Expanded service: For service twice a week, total annual cost is \$105,160.
Project/Program Term	Annual. Monitor for adjustment of services as needed.
Number of Potential Clients/Households	Once-a-week mobile shower and laundry has served 20 unduplicated individuals on average per session. Increasing the service to twice a week would approximately double the individuals served.
Cost Effectiveness - Unit Cost	\$51/individual/session
Other Performance Measures	Number of showers provided; number of loads of laundry provided
Potential Funding Sources	City General Fund or other grants/funding sources
Potential Service Providers	WeHOPE
Models from Other Cities	Various cities

PROGRAM/PROJECT TITLE	2. TRASH COLLECTION SERVICE
PROGRAM AREA	PUBLIC HEALTH AND SANITATION
Program Objective	Provide trash collection service to minimize illegal dumping, remove debris and blight, and address environmental, public health and safety hazards.
Program Description	Distribute trash bags at no cost to the unhoused population to dispose in a trash bin placed near the homeless encampment. Weekly collection service would be scheduled. Currently, two potential locations in the City need to be identified.
Considerations	Direct response to immediate public health and safety problems, but does not provide remedy for ending homelessness or addressing the human service needs of the unhoused population. Trash bins tend to attract illegal dumping from the general public and could create greater eyesore, increase disposal and clean-up costs, and pose a fire hazard. Could require more frequent service. Enforcement can be pursued to address illegal dumping, but very difficult to determine violators. Trash bins and other accommodations can create a sense of permanency for the homeless encampment and unhoused population. Extra cost would be necessary to separate and dispose of solid waste comingled with bio-waste, medical, and other hazardous waste. Cost would be borne by the City's General Fund; unlikely to find alternative funding sources.
Service Options	<u>Option A</u>: Contract with a private vendor to provide trash bags for the unhoused population. A trash bin would be placed at a designated location for weekly pick-up and disposal. <u>Option B</u>: Contract with City's solid waste/recycling franchisee (Milpitas Sanitation) to place a trash bin for scheduled weekly pick-up service. Cost would depend on whether bin can be serviced along an existing route or will need a new or modified route.
Estimated Lead/Start-up Time	<u>Option A</u>: Obtain a private vendor to provide trash collection services. This will require developing a proposal, soliciting bids, and then awarding the contract. Once authorized by the City Council, allow 30-60 days to secure a contract and implement the service. <u>Option B</u>: Once authorized by the Council, this option can be implemented immediately if trash bin can be serviced along an existing route. Additional time required if a route needs to be modified or a new

	route must be established, which will require negotiations with Milpitas Sanitation.
Total Estimated Project/Program Budget	One-time Costs: Staff cost to contract with a private vendor or existing franchisee to provide service would be approximately \$10,000 (estimate 80+ hours). One-time material costs minimal, other than cost of complementary trash bags. Assumes trash bins will be part of operating costs and do not need to be purchased. On-going Operating Costs: 2-3 hours per week for staff administration and inspections (\$250-\$400/week or \$13,000-\$20,800/year). <u>Option A:</u> Private vendor: Estimate \$6,100 for weekly trash collection service at two locations. Assumes minimum four hours to perform weekly collection at each site. Total estimated annual cost for weekly service: \$317,000 (not based on an actual bid so cost could be lower after receiving proposals.) <u>Option B:</u> Assuming no special route is necessary, weekly service for two bins (four cubic yards each) would cost \$660 per month or approximately \$8,000 annual cost. Does not include extra costs for disposal of illegal dumping and biohazardous waste; this cost is difficult to project but allow \$125,000 per year contingency for two locations. Significant additional cost (up to \$400,000) if an additional route is required. Total estimated annual cost for weekly service: \$133,000 (without special route).
Project/Program Term (per estimated budget)	Flexible, monitor for adjustment of service as needed.
Number of Potential Clients/Households	Two sites: assume up to 15 individuals per location (up to 30 total)
Cost Effectiveness - Unit Cost	<u>Option A:</u> \$11,960/person/year <u>Option B:</u> \$4,904/person/year (without special route)
Other Performance Measures	Cubic yards of waste removed.
Potential Funding Sources	City General Fund Other potential sources?
Potential Service Providers	Private vendor or Milpitas Sanitation
Models from Other Cities and Organizations	Various cities

PROGRAM/PROJECT TITLE	3. DAY WORKER/HELP CENTER
PROGRAM AREA	WORK AND SELF-SUFFICIENCY/HELP CENTER
Program Objective	Clearinghouse and resource center to connect dayworkers to short-term job requests from residents and businesses. Other possible services include: 1) classes and workshops on ESL, health/wellness, lifestyle, labor laws, and computer literacy; and 2) supportive services to address medical, legal rights, immigration, translation, employment applications, and housing assistance. Facility can also function as a community and support center with mailboxes and meals.
Program Description	The program could be modeled after the Day Worker Center of Mountain View (MV Center) and the Samaritan House Workers Resource Center in San Mateo (WRC). These facilities are similar to other dayworker/help centers in the Bay Area. The MV Center and WRC are primarily an employment center for day workers. They accept applications for day work, screens applicants for work skills and language competency, and maintains a database of job seekers. Job requests are received from residents and businesses for short-term work and staff matches or refers day workers to area residents and businesses. Minimum wage standards are set for the program. No referral fees or commissions are charged to the day workers or residents/businesses, but donations are accepted. Day worker/help centers also function as a support and learning center for day workers. Both facilities actively engage day workers to shape their program services. MV Center include representatives from the Day Labor Collective (dayworkers) on their Board. Day workers include unhoused and transient individuals, so services such as mailboxes, sanitation facilities, and storage are available as space permits. The MV Center includes a commercial kitchen to prepare and serve two meals a day (1,500-2,000 meals per month pre-COVID), while the WRC provides a basic kitchen and brings in meals. During COVID, the MV Center was closed and pivoted to virtual operations, but WRC was able to continue operations because they had a large outdoor space.
Considerations	The MV Center and WRC had modest beginnings before moving to their current locations. Following a similar progression, a day worker/help center in Milpitas might initially be located in a church or other donated space for free or at a nominal cost. A start-up facility might need about 1,000-1,500 square feet of space. The MV Center, which has operated for over 25 years, currently operates in an approximately 3,000 square-foot building located near downtown Mountain View that was purchased in 2008 with multiple funding sources. The WRC operates in a similar sized building. Both sites have good transit access, which should be an essential criterion for selecting a site in Milpitas. Establishing a day worker/help center in Milpitas requires a group or organization to step forward to spearhead the effort. The best candidate

	to lead the effort might be a faith-based organization. It is not feasible for the City to manage this program without additional staff and volunteers. Hiredaylaborer.org is a national association of day worker centers and could provide advice and referrals on starting a day worker center in Milpitas. Funding for a day worker/help center can come from multiple government and private sources. The MV Center and WRC rely primarily on grants from foundation, contributions from business and corporations, and private donations to fund their program. Both centers have identified the importance of gaining community trust and support for their services and countering fears and misperceptions about day workers. They have developed an excellent reputation for providing businesses, contractors, and residents with trustworthy and reliable day workers and seek feedback from customers to improve their services. Community outreach will be necessary if the day worker center will be located near residences and businesses. Likely concerns will be over potential loitering and perceived impacts on the surrounding area. Issues concerning workers congregating outside the MV Center's first office was an initial concern because the space was small with no gathering space. Ideally, the facility should be sufficient in size with indoor and/or outdoor space for dayworkers to assemble while seeking jobs and other on-site services. However, both facilities are daytime help center only and not overnight shelters.
Program Options	While the primary of purpose of the day worker/help center is to provide a convenient and accessible employment office to match and refer individuals to day worker jobs, other services can be offered in an expanded facility, such as: • Support services for unhoused population (referrals to other service providers) • Community room for workers to socialize and provide peer support • Drop-in offices for individual counseling and medical services (or outdoor space for mobile van) • Classroom for training and workshops • Mailboxes and storage lockers • Sanitation and laundry facilities (or space for a mobile van) • Kitchen to prepare meals on-site
Estimated Lead/Start-up Time	The primary factor affecting the start-up time is having a project sponsor or organizer that is willing to implement a day worker center. The time required to secure start-up funding and finding a location for the facility can vary widely. Preliminarily, allow 9-12 months to pursue funding, find a location, and establish an initial modest facility.

Total Estimated Project/Program Budget	One-time Costs: Costs can be offset if rental space with existing parking and office furniture and equipment are donated. Assuming a 1,500-2,000 square-foot space and up to \$100/sf for modest tenant improvements and other costs, a one-time facilities budget of \$150,000-\$200,000 might be considered. On-going Operating Costs: The MV Center has expanded over the years and the current annual operating budget is approximately \$800,000 with 7-17 full-time and part-time staff and volunteers. The WRC is a more modest program (budget unavailable). For an initial facility in Milpitas, a pilot program is suggested with a two-year budget of \$500,000 for employment and homeless services. This cost should include exploring funding from state, county, and private sources to leverage and reduce the City's financial commitment.
Project/Program Term	Consider a minimum two-year pilot period with option for extension to allow for sufficient time to establish the use and attract future funding.
Cost Effectiveness - Unit Cost	Difficult to calculate cost effectiveness since the program would also include training and support services for day workers and the unhoused population.
Other Performance Measures	Number, demographics, and characteristics of clients served Percent local clients (Milpitas) Number of jobs created or referred Total value of work or income generated Participants in classes and workshops Supportive services: number of participants, services provided, outcomes, and evaluation from participants
Potential Funding Sources	Foundation grants Faith-based and charitable organizations Private donations County, State and federal grants City General Fund
Potential Service Providers	No organization currently identified
Models from Other Cities	Mountain View, San Mateo, Oakland, San Francisco, Santa Cruz

PROGRAM/PROJECT TITLE	4. FEASIBILITY STUDY FOR NAVIGATION CENTER
PROGRAM AREA	TEMPORARY HOUSING/HOMELESSNESS PREVENTION
Program Objective	Conduct feasibility study for a navigation center to shelter the unhoused population and transition individuals from homelessness to a stable, financially secure, and sustainable living condition with wrap-around services and exit assistance.
Program Description	Phase I Feasibility Study would evaluate the following program items: 1. Reach out to the unhoused population, services providers, and advocates to provide input on priority needs and supportive services for a navigation center. 2. Evaluate suitable models from other communities, including different options for sheltering the unhoused populations, such as congregate living, smaller individualized units, motel rooms, or a combination. 3. Site and Facility Assessment: a. Determine facility requirements (e.g., in-take center, staff office, on-site and mobile supportive services, number of beds and living configuration, showers/laundry facility, storage lockers/bins, and outdoor space), and an approximate size for the site; b. Identify and evaluate suitable sites in the City for a navigation center with consideration of transit or shuttle needs; c. Conduct community outreach on selected site options to surrounding residents and businesses, service providers, and the unhoused population; and d. Select one or two preferred site options and prepare conceptual site plans, identify facility requirements, assess necessary site improvements and utility upgrades, and prepare a preliminary cost estimate. 4. Program Assessment: a. Identify possible service provider(s) to operate the navigation center and provide support services; b. Identify case management and other assistance to be available to clients while at the navigation center and after they exit the facility; and c. Establish a preliminary staffing level and estimated operating budget for the navigation center. 5. Identify possible public and private funding for one-time facility and on-going operating costs. 6. Provide direction from Council on implementing a navigation center, including selecting a preferred site and service model. If the Council decides to move forward with establishing a navigation center, Phase II would be the implementation phase: 1. Apply for and solicit funds, including leveraging any contribution from the City.

	2. Secure a lease or license agreement for the selected site, if required. 3. Obtain a primary service provider to operate the navigation center and administer case management services and define the scope of services. 4. Develop operating and in-take procedures, including preference guidelines, and rules and regulations for client participation in the navigation center program. 5. Authorize design and construction funds and prepare engineering drawings, specifications, and a final cost estimate. 6. Release for bids and award the site improvement contract. Allow a minimum of 6 to 9 months to complete the Phase I Feasibility Study. Implementation (Phase II) will depend on the selected site, financing, and facility and program criteria determined in Phase I.
Estimated Cost	Phase I: Allow up to \$110,000 for Phase I Feasibility Study (up to \$100,000 for consultant services, \$10,000 for staff costs) Phase II: Depends on outcome of Phase I
Considerations	<u>Facility</u>: The site is usually owned by a public agency or charitable organization. The site is typically one-half acre or larger and depends on the number of beds and services proposed for the facility. Convenient transit access or a shuttle service should be available. Modular buildings or prefabricated structures are typically installed. Facilities range from 30 to over 100 beds and include common restrooms, laundry facilities, communal space, landscaped areas, and offices for on-site management, health services, and case management services. Basic common cooking facilities are provided with meals typically delivered to the site. A navigation center includes 24-hour staffing and security. <u>Operations</u>: Maximum occupancy is typically six months. Clients are screened and must agree to accept case management services and abide by occupancy rules during their stay. During the six-month or shorter period, the goals are to stabilize the client's financial situation, secure suitable housing, and address other medical and living needs to transition individuals from homelessness to self-sufficiency. Clients typically receive support after they leave the navigation center such as rental assistance or continuing support services through a "flex fund" administered by the service provider or support agencies. Cost of navigation centers in Hayward and Fremont (45-60 beds): • Development costs - \$1.5 to \$2.8 million • Annual operating budget - \$2.1 to \$2.3 million. (About half of this amount was spent in 2021 due to reduced occupancy to comply with COVID-19 health and safety protocols.) Includes "flex fund" of \$500,000-\$630,000 for post-stay assistance. Milpitas can consider a smaller facility and operating budget based for unhoused population. For comparison, per last point-in-time homeless

	count in 2019, Milpitas had 125 unhoused individuals, while Hayward and Fremont had 487 and 608 unhoused individuals, respectively. <u>Shelter Crisis Declaration (AB 2553)</u>: Council can adopt resolution declaring shelter emergency which would suspend certain state and local laws, regulations, and ordinances, including those prescribing standards of housing, health, or safety, to the extent that strict compliance would prevent, hinder, or delay the mitigation of the effects of the shelter crisis. <u>By-Right Use</u>: Per Senate Bill 48/Assembly Bill 101, a Low Barrier Navigation Center is defined as “housing or shelter in which a resident who is homeless or at risk of homelessness may live temporarily while waiting to move into permanent housing.” The use must be allowed by right in any zoning district where residential or mixed use is allowed. A use permit or other discretionary approval cannot be required and, as a ministerial approval, the project is exempt from CEQA. Objective standards can be established but are limited to items such as: size of the facility, number of beds, on-site management, maximum length of stay, location of waiting and intake areas, proximity to similar facilities, and lighting. <u>Public Outreach</u>: The location of a navigation center can raise community concerns and opposition. A public education and outreach strategy should be formulated to assess potential sites and to respond to neighboring resident and business concerns such as public safety, traffic, noise, parking, and proximity to schools and parks.
Program Options	<u>Facility Options</u>: Configuration of living accommodations vary and can consist of: • Congregate Living Space: Multiple beds placed in a common sleeping area, such as a large modular building. (San Francisco, Berkeley, Hayward, Fremont) • Smaller group or individual living units (e.g., “tiny homes”): Can be basic living units or can be larger units with more amenities. (Oakland) • Combination: Mixed congregate and private units to accommodate diverse shelter needs among the unhoused population. (Monterey/Salinas) • Motel Rooms: Lease rooms with on-site navigation center. Less upfront costs and faster start-up time, but operating costs could be higher depending on room rates. (Hayward Annex) • No Overnight Accommodations: Day-use facility only consisting of intake office, case management services, medical clinic, employment office, showers, laundry facilities, and storage. (North Hollywood) <u>Client Profile</u>: Navigation centers vary in the screening criteria for client in-take with referrals from local police departments, county health and social service agencies, and community social service providers.

	• Most facilities cater to individuals that are capable of transitioning to independent living or self-sufficiency with support services. However, a navigation center can include respite or recuperative care services also (Oakland Fairmont Campus). • Facilities include both men and women, with typically a higher proportion of men; some facilities can accommodate families. • Length of stay is typically 3 to 6 months and vary by facility based on client needs. • Preference can be given to clients with a local address subject to fair housing laws and funding sources.
Potential Funding Sources	City General Fund, Housing Authority Fund up to \$250,000 per fiscal year State grant programs Federal funds Foundation grants Private donations
Potential Service Providers	Bay Area Community Services (BACS) operates navigation centers in Berkeley, Oakland, Hayward, Fremont, and other Bay Area cities. However, other operators and services providers include charitable organizations and other non-profits. County public health, mental health, and housing agencies are integrally involved in providing support services.
Models from Other Cities	San Francisco, Berkeley, Oakland, Hayward, Fremont. Salinas/Monterey, Contra Costa County

PROGRAM/PROJECT TITLE	5. RECREATIONAL VEHICLE (RV) SAFE PARKING
PROGRAM AREA	TEMPORARY HOUSING/HOMELESSNESS PREVENTION
Program Objective	Provide a safe and secure site for parking of recreational vehicles (RVs) by individuals and households living in RVs. Goal is to provide an alternative to parking RVs on public streets by providing an off-street option. Participants engage in case management services to address financial and living needs with objective of transitioning to permanent stable housing.
Program Description	A site is designated temporarily to allow RVs to park overnight only or for 24 hours for a limited term, typically three to six months, with extensions for unusual circumstances. The number of RVs accommodated depends on the size of the site. Sites could be an existing public or private parking lot that might hold 15-30 RVs, or smaller sites scattered throughout the city that accommodate a few vehicles each, such as church sites. On larger sites, circulation for emergency vehicle access is usually required which impacts the number of RVs that can be accommodated on the site. Portable toilets and trash bins can be provided on-site. On-site staffing and 24-hour security are common for larger sites. The site is typically fenced with controlled user and visitor access. Mobile meals and showers and laundry facilities can be delivered to the site. Case management services are provided at the site or at a nearby facility. Participants are screened and must agree to operating rules while participating in the program, such as a nightly curfew and a limitation on outdoor cooking. A user fee has been considered for sites that allow 24-hour parking.
Considerations	<u>On-Street Parking Restriction</u>: An RV Safe Parking Program is unlikely to succeed unless illegal on-street parking (over 72 hours) is enforced by the City with potential of hauling away parked vehicles with repeated violations. Otherwise, there may be little incentive for RV owners to move their vehicles to a RV Safe Parking site unless 24-hour parking is allowed. Some cities have enacted a prohibition on overnight parking by “oversized” vehicles in public rights-of-way to assist with enforcement (e.g., between the hours of 2:00 am – 6:00 am.) <u>Condition of RVs</u>: RVs are generally required to be in operating condition with no leaking tanks and safety hazards. The Safe Parking Program can include funds to assist RV owners to fix their vehicle to be operable, to register their vehicle and obtain insurance, and to remedy outstanding parking or vehicle citations. <u>Public Outreach</u>: The location of a RV Safe Parking site can raise community concerns and opposition. A public education and outreach strategy should be prepared to assess potential sites and to respond to neighboring resident and business concerns such as public safety, traffic, noise, parking, and proximity to schools and parks.

Program Options	<u>Central or Dispersed Sites:</u> Instead of a central location, cities have approached churches and other private property owners on their willingness to allow a limited number of RVs to park on their property if space is available. This would disperse RV parking throughout the city rather than concentrated at one or a few public sites. The City of Mountain View has allowed a non-profit group, MOVE Mountain View, to managed RV parking on private property. Scattered sites throughout the city lessen the impact on any one area; downside is that it may be less efficient to deliver services to program participants. Dispersing RVs to private sites would be the most cost-effective approach for Milpitas if the number of RVs is not significant, but it requires willing property owners. <u>Overnight or 24-hour Parking:</u> Facilities have allowed for either overnight parking only or 24-hour parking. For overnight parking only, vehicles can enter the site each day at a designated time (e.g., 5:00 pm) and must leave the site the next day by a certain time (e.g., 8:00 am). Overnight parking would only require minimal facilities such as portable toilets. Water, sewer, and electrical hook-ups are only provided for the mobile shower/laundry van. RV owners are provided vouchers to dispose their sanitary and solid waste at an off-site dump station. A 24-hour facility typically requires more site improvements such as water, sanitary sewer, and electrical hook-ups for each RV space, trash bins, and improved lighting. While 24-hour parking is considered a temporary transient use, neighbors and users may view the facility as similar to a residential RV or trailer park. Conversely, a facility for overnight parking only is primarily characterized as a reserved parking lot for a temporary limited use. <u>Passenger Vehicles:</u> Safe parking programs have also allowed for parking of passenger vehicles and in addition to RVs. Allowing for passenger vehicles would require consideration of additional basic services such as sanitation, water, waste disposal, and electricity.
Estimated Lead/Start-up Time	If churches or private property owners volunteer to accept a limited number of RVs on their property, a RV Safe Parking Program could conceivably be implemented in 3 to 6 months. Alternatively, if a public parking lot or other vacant site is sought, it could take 9 to 15 months to implement the program depending on the site selection and public outreach process and the amount of site improvements that would be required to prepare the property for RV parking.
Estimated Budget	Assume a ½-acre site that can accommodate up to 15 RVs for overnight parking only. One-time Costs: Allow \$50,000-\$75,000 for program development, legal services, engineering, and community and RV owner outreach. Allow \$100,000 to \$200,000 for site improvements (primarily parking lot paving

	and repairs, surface preparation, utility hook-ups for mobile van only, fencing, and lighting as needed.) Cost would be higher if individual utility hook-ups are provided to each RV space. On-going Operating Costs: Allow \$300,000 annual operating costs which would cover obtaining a service provider to cover costs for program administration and enforcement, management of in-take and screening process, 24-hour security, utility costs, mobile showers/laundry facilities, and coordination with supportive service providers. Budget also includes limited “flex funds” to assist with vehicle repairs and other eligibility prerequisites. Estimated budget does not include additional costs for meals or case management services and post-stay assistance (e.g., rent subsidies and continuing supportive services.) Operating costs would be higher (primarily more staffing) for a 24-hour facility.
Project/Program Term	Allow a minimum one-year pilot term with option for renewal.
Number of Potential Clients/Households	For a ½-acre site, approximately 15 RVs can be accommodated. The site capacity depends on factors such as site configuration, length of the RVs, spacing requirements, reserved space for a mobile service van, and required emergency access.
Cost Effectiveness - Unit Cost	Assuming up to 25 RVs annually (6-month parking term each), \$12,000 per RV (not including one-time costs)
Other Performance Measures	Number, demographics, and characteristics of clients served Percent local clients (Milpitas) Percent obtaining employment Percent obtaining alternative housing Neighborhood complaints Other services/assistance provided: number of participants, cost effectiveness, and evaluation from participants
Potential Funding Sources	City General Fund Foundation grants Faith-based and charitable organizations Private donations State and federal grants
Potential Service Providers	Faith-based organizations, WeHOPE
Models from Other Cities	Mountain View, Berkeley, Oakland, East Palo Alto

PROGRAM/PROJECT TITLE	6. TINY HOME VILLAGE
PROGRAM AREA	TEMPORARY HOUSING/HOMELESSNESS PREVENTION
Program Objective	Provide a low-cost rapid rehousing solution or transitional housing for the unhoused population with supportive services that can be implemented quickly to respond to the shelter and housing crisis.
Program Description	Project typically identifies a government-owned parcel for placing individual modular or prefabricated units for housing individuals and families. Units are small and include basic necessities such as a bed, storage space, heat, air conditioning, electricity, and wifi service. Pallet, a popular manufacturer of tiny homes, produces a 64-square-foot modular shelter for one individual, and a 100-square-foot modular shelter for two individuals. Both units comply with California Building and Fire Code regulations. Tiny homes are growing in popularity and acceptance and are often preferred to congregate living arrangements because the individual units are perceived to be more secure (lockable), comfortable, and private and can offer a residential-like setting. Common restroom, shower, and laundry facilities are provided onsite. A tiny home village also typically includes an onsite office and a community room with basic kitchen for preparing meals. Tenants are also offered case management, medical, meals, and other support services from service providers.
Considerations	<u>Management</u>: Tiny home villages for the unhoused population have been established by local governments, non-profit organizations, and faith-based organizations. A service provider is commonly obtained to manage the project. Supportive services are offered to tenants similar to a navigation center. A combination of local funding, state grants, and private sources have commonly been obtained to establish tiny home villages. <u>Client Base</u>: Because of the considerable lack of affordable housing and the large unhoused population in communities, project sponsors may choose to target a tiny home village to a particular population, such as local residents, women, households with children, at-risk young adults, veterans, disabled individuals, or seniors. Tenants are previously unhoused or at-risk of homelessness and are extremely low income (below 30 percent area median income.) <u>Length of Occupancy</u>: Tiny homes have been used as shelter for a navigation center where the length of stay would be based on the operating regulations of the center (typically six month maximum). Tiny homes have also been installed as transitional housing where the length of stay might be longer but with the same objective of moving tenants to permanent housing.

	Because tiny homes can be used as short-term shelter for navigation centers and longer-term transitional housing, there have been confusion from tenants on the maximum length of occupancy. Service providers have advised that it is important to clarify upfront to tenants the occupancy terms for residing in the project. <u>Site Selection:</u> The size of the project and number of living units are dictated by the available sites, funding, and community need. Tiny homes villages have ranged from a small facility with about 25 tiny homes to a large facility with over 200 tiny homes. A facility for Milpitas could be located on a 15,000-square-foot site to accommodate up to 25 tiny homes with an office and common sanitation, community, and basic kitchen facilities. A site with good transit access or walkable to community amenities such a grocery store is essential. <u>Public Outreach:</u> The location of a tiny home village can raise community concerns and opposition. A public education and outreach strategy should be implemented to respond to neighboring resident and business concerns and misconceptions about the facility and the characteristics of the population to be housed.
Estimated Lead/Start-up Time	The primary factor affecting the start-up time is having a project sponsor or provider that is willing to implement and manage a tiny home village. The time required for securing the start-up funding and finding a location for the facility can vary widely. Preliminarily, allow 9-15 months to pursue funding, find a location, and establish a modest facility.
Estimated Budget	One-time Costs: Based on the costs from Pallet, a 64-square-foot unit would cost about \$10,000 each, and a 100-square-foot unit would cost about \$12,500 each. A 400-square-foot office is about \$50,000, and a two-bathroom unit is about \$35,000. A building with common kitchen and community room would cost about \$100,000. Site preparation, fencing, lighting, and utility connections (water, electricity, sewer, site drainage) would depend on existing site conditions, but allow \$300,000 for a small site for up to 25 tiny homes. Budget should allow \$750,000 for total development costs; cost would be higher if new site paving/repaving and on-site stormwater treatment are required, utility service upgrades are necessary, or additional amenities are proposed. On-going Operating Costs: A tiny home village might have similar goals as a navigation center since the units are intended to provide an interim shelter solution only. Program goal are to stabilize the client's financial situation, secure permanent housing, and address other needs to transition individuals from homelessness to self-sufficiency. Clients might need support after they leave the navigation center such as rental assistance or continuing support services. Assuming a small facility for about 25 clients, allow an annual budget of \$1 to \$1.2 million for annual operating costs, which includes a "flex fund" for post-stay assistance.

Project/Program Term	Consider a minimum two-year period with extension option to allow sufficient time to establish the use and amortize the development costs to construct a tiny home village. Since tiny homes are modular, they can be moved and reused at another location if the site is only available for a limited time. Note additional costs would occur to identify, move to, and develop another site.
Number of Potential Clients/Households	Recommend minimum 25 tiny homes on a site for economic and operational efficiency.
Cost Effectiveness - Unit Cost	Assuming a facility with 25 tiny home and 50 tenants annually (average six-month occupancy), annual unit operating cost would be \$20,000-\$24,000 per client not including one-time development costs.
Other Performance Measures	Number, demographics, and characteristics of clients served Percent local clients (Milpitas) Percent transitioned to permanent housing Supportive services provided: type of services, number of participants, cost effectiveness, and evaluation from participants Neighborhood response
Potential Funding Sources	City General Fund, Housing Authority Fund up to \$250,000 per fiscal year Foundation grants Faith-based and charitable organizations Private donations State and federal grants
Potential Service Providers	No organization currently identified
Models from Other Cities	San Francisco, Oakland, Livermore, San Jose



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Receive Report on Recommended Changes to the Municipal Code to Remove and Prohibit Property in Public and Provide Direction to Staff (Staff Contact: Christopher J. Diaz, City Attorney, 408-586-3040)
Category:	Community Development
Meeting Date:	4/19/2022
	<u>Recommendation:</u> Receive report on recommended changes to the Municipal Code to remove and prohibit property in public and provide direction to staff.

Background:

At the March 15, 2022 City Council meeting, the City Council directed staff to return with recommendations regarding proposed amendments to the Milpitas Municipal Code to address homeless encampment cleanups in the City.

Analysis:

Camping on public property can create an unsanitary and unhealthy environment for the persons engaged in the camping, as well as persons coming into contact with the campers. Both campers and the general public can be affected by the unsafe and potentially disorderly environment. This is further exacerbated due to public health and safety concerns under COVID-19. In addition, some camping may interfere with the rights of others to use the areas for their intended purposes and important federal regulations such as providing a clear path of travel on sidewalks under the Americans with Disabilities Act. Furthermore, camping can contribute to blight and cause damage to public property.

Notwithstanding these issues, municipalities are obligated to follow federal and state law which define the parameters of what can and cannot be done when addressing the impacts of homelessness. As it relates to public camping and storage of personal property on public property, the limitations currently facing the City's ability to respond include:

- ***Martin v. City of Boise*** - the Ninth Circuit Court of Appeals held that local governments are prohibited from criminalizing homelessness, and that cities must allow individuals to sleep on public property when there is no shelter available to them. The court held that prosecution under such circumstances amounted to cruel and unusual punishment in violation of the Eighth Amendment to the United States Constitution.

Importantly, the court limited its decision in several ways. The court made it clear that its ruling would not apply to individuals who can pay for temporary shelter and choose not to, or to individuals who have realistic access to free shelter and choose not to use it. Similarly, the court noted that a jurisdiction may, in certain circumstances, criminalize the act of sleeping outside, for example, at particular times or in particular locations.

- ***Lavan v. City of Los Angeles*** - Before *Lavan*, the City of Los Angeles summarily confiscated and destroyed the possessions of homeless persons. The plaintiffs in *Lavan* claimed this practice violated the Fourth, Fifth, and Fourteenth Amendments of the United States Constitution. The court recognized the existence of a constitutionally-protected property right for homeless individuals to leave possessions unattended on public sidewalks and determined that the city's summary confiscation and destruction of the possessions of homeless persons violated their due process rights.

- ***Garcia v. City of Los Angeles*** - The Ninth Circuit Court of Appeals determined that municipalities may not summarily seize and destroy even “bulky” items of personal property left on city property. The court observed that the facts of *Lavan* were similar to the facts in this case, i.e., in both cases, city employees acting pursuant to a city ordinance seized and summarily destroyed homeless individuals’ property that was momentarily unattended. The court concluded that it saw no meaningful distinction between the destruction of property enjoined in *Lavan* and the destruction of property under the bulky items provision of the city’s municipal code.

Current Regulations Under the Milpitas Municipal Code

Chapter 10 of Title X (Structures or Objects on Sidewalks or Public Ways) of the Milpitas Municipal Code (MMC) prohibits storage of personal property in public. MMC section X-10-1.00 provides that “it shall be unlawful for any person to erect, maintain, place or leave any structure or other object (including, but not limited to, containers for the collection of newspapers for recycling) upon any public street, or sidewalk, or within the right-of-way thereof or within or upon any public easement or public property (including but not limited to public parks and landscaped areas) within the City of Milpitas.” Provisions for removal of personal property include: no-notice, summary removal of structures or objects stored in the public is authorized;¹ if the owner and contact information of the owner of the seized property is ascertainable, the City must notify the owner of the seizure and the procedure and deadline for recovery;² if the owner and contact information of the owner of the seized property is not ascertainable, the City must post a notice at the location and at City Hall notifying the owner of the seizure and the procedure and deadline for recovery;³ and within 31 days of notice of the seizure, if the property is not reclaimed, the City may dispose of it; or, the City may retain the property for an additional three months before disposing of it.⁴

As currently constructed, the aforementioned code provisions may be construed to prohibit the storage of personal property everywhere in the City. As such, to align with the *Boise* decision, the City should consider updating its Municipal Code by adopting time, place, and manner restrictions, in addition to its general storage prohibition, to identify allowable places, times, and manners for involuntary camping. Further, staff recommends that Chapter 10 of Title X be amended to codify practices concerning the removal and storage of personal property that are consistent with *Lavan* and *Garcia* (e.g., 72 hours’ advance notice of the cleanup, storage for 90 days). A code amendment relating to camping and storage of personal property on public property to provide greater clarity, while remaining consistent with the City’s homelessness initiatives and balancing public health and safety concerns, would be beneficial for the Milpitas community, neighborhoods, and residents.

Staff has reviewed other cities’ efforts to further define criteria surrounding lawful and unlawful camping, including restrictions on time, place, and manner, to better protect those that are experiencing homelessness as well as the community at large, which are detailed further below:

City of Los Angeles

In July 2021, the City of Los Angeles modified its existing anti-camping law⁵ to prohibit sitting, sleeping, lying, storing personal property or otherwise obstructing the public right-of-way in certain areas of the city, including within two feet of any fire hydrant or fire plug; within five feet of any operational or utilizable entrance or exit; within 10 feet of a loading dock or driveway; in a manner that interferes with any activity for which the city has issued a permit or restricts accessible passage as required by the Americans with Disabilities Act; or anywhere within a street, including bike paths.

The city’s ordinance, which took effect in September 2021, also protects the public right-of-way within 500 feet of a “sensitive” facility including schools, day care facilities, parks and libraries. Under the ordinance, the city

¹ MMC, §§ X-10-3.00, X-10-4.01.

² MMC, § X-10-4.02.

³ MMC, § X-10-4.03.

⁴ MMC, § X-10-4.08.

⁵ Los Angeles Municipal Code (LAMC), § 41.18.

must also pass a resolution to designate a specific area for enforcement, post signage, and give notice of the date that the ordinance will be enforced for the area. Areas include:

- Up to 500 feet of a designated overpass, underpass, freeway ramp, tunnel, bridge, pedestrian bridge, subway, wash or spreading ground, railroad track or where lodging unsheltered or in tents is unhealthy, unsafe and incompatible with safe passage
- Up to 1,000 feet of a facility opened after January 1, 2018, that provides shelter, safe sleeping, safe parking or navigation centers for persons experiencing homelessness

The ordinance also allows the city to prevent encampments for a period of no longer than one year in areas (e.g., street, sidewalk, or other public right-of-way) designated by resolution to be an ongoing threat to public health or safety, including due to: death or serious bodily injury of any person at the location due to a hazardous condition; repeated serious or violent crimes or threats of serious or violent crimes, including human trafficking; or the occurrence of fires that resulted in a fire department response to the location.

Additionally, as noted above, Los Angeles has enacted regulations concerning the storage of personal property in response to *Lavan*.⁶ These include 72-hour pre-removal notice, storage for 90 days, and no-notice removal and destruction of contraband or anything that constitutes an immediate threat to the health or safety.

City of Oakland

The City of Oakland currently has an Encampment Management Policy, first drafted in 2017 and recently updated after the COVID-19 local emergency declaration,⁷ that assesses encampments on a case-by-case basis, prioritizes encampments for intervention based on their health, safety, and location impacts, and targets limited resources to the highest priority encampments.

The policy designates two distinct areas – high and low sensitivity – with respect to presumed health and safety concerns related to vehicle and street encampments. Some aspects include:

- High-sensitivity areas: High-sensitivity areas are formally designated by the city council and can include parks, particularly those with playground structures or tot lots, protected waterways, and other public lands. High-sensitivity areas are locations where the health and safety impacts of homeless encampments are heightened due to the potential degradation of critical infrastructure, restriction of public amenities or services, or significant obstructions to residences, businesses, emergency routes and rights-of-way. In these locations, the city would prioritize maintaining the areas free of encampments. The policy establishes the following public property locations as high-sensitivity areas:
 - All vehicular traffic lanes, bike lanes, and sidewalks (at least on one side of the street) must comply with American Disabilities Act sidewalk and street requirements and must allow for passage of emergency vehicles.
 - Locations designated as High Fire Severity Zones by the Oakland Fire Department and/or CalFIRE.
 - Within 150 feet of an elementary, middle, pre-school or child care center, and 100 feet from a high school.
 - Within 50 feet of a protected waterway as established by any governing body.
 - Within 50 feet of a residence.
 - Within 50 feet of a retail business, and 50 feet from the main entrance and any emergency exits from all other businesses, including places of worship.
 - Within 50 feet of a city park or other public land that has a children's playground, play structure, tot lot, or recreation center in which children participate in city-sponsored programs/classes.
- Low-sensitivity areas: Under the city's policy, all other areas not included high-sensitivity areas are low-sensitivity areas. The following standards apply to all encampments in these locations:

⁶ LAMC, § 56.11.

⁷ Oakland City Council Resolution No. 88341, Exhibit A.

- Shall be limited to one side of the street.
 - Shall not impede vehicle, bike, or pedestrian traffic (on at least one side of the street).
 - Shall not impede ADA access points, consistent with goal of limiting encampments to one side of the street. Shall not impede emergency ingress/egress routes.
 - Compliance with applicable and generally enforced state codes and local ordinances.
 - Encampment footprint shall not exceed 12 x 12 sq. ft per person.
 - Area directly adjacent to a vehicle dwelling must remain clear at all times.
 - No gray or black water dumping.
 - No illegal electrical or water taps.
 - No storage of tires, gasoline, generators, or propane tanks, or unsafe storage of combustible materials or accumulation of combustible waste.
 - Structures, tents, and vehicle dwellings shall maintain not less than six (6) feet distance between one another.
- **Storage of individuals' property:** The policy also specifies that the city will respect and protect individuals' rights to their property while also following applicable local, state, and federal laws. According to the policy, the city will explore reasonable methods of safe, secure, property storage potentially available to the city, including, but not limited to, the city's public works storage facility; self-storage; and partnering with other public agencies or businesses to develop storage capacity.

Overall, staff is seeking City Council direction on changes to the Municipal Code to remove and prohibit property in public to address homeless encampment cleanups in the City. As exemplified by the cities of Los Angeles and Oakland, and consistent with current law, the recommended changes would include modifications to the Municipal Code that define criteria surrounding lawful and unlawful camping, including restrictions on time, manner, and place, as well as procedures for removal and storage of personal property. As with those jurisdictions, the purpose of the proposed updates to the City's Municipal Code would be to establish clear camping prohibitions in order to best serve the health, safety, and general welfare of all Milpitas residents, including individuals experiencing homelessness. Further, the intent of such an ordinance would be to avoid unsafe and potentially unsanitary and unhealthful conditions, and the degradation or destruction of open spaces and facilities within the City, while also balancing public health and safety with the rights and unique needs of individuals experiencing homelessness who are camping by necessity. Without proper safety measures in place, involuntary camping can interfere with the rights of others to use the areas for their intended purposes and is deleterious to the public, health, safety, and welfare.

Fiscal Impact:

Depending on Council direction on staff's recommendations, there may be future fiscal impact in terms of staff time to develop and implement an ordinance to remove and prohibit property in public .

California Environmental Quality Act:

The action being considered has no potential for causing a significant effect on the environment and is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3). If the City Council is inclined to move forward with any of staff's recommendations, after staffing resources are secured, staff will conduct a CEQA analysis, or verify the applicability of a CEQA exemption, prior to any discretionary action to approve or move forward with any recommendation.

Recommendation:

Receive report on recommended changes to the Municipal Code to remove and prohibit property in public and provide direction to staff.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Review the Proposed Streets, Parks and Facilities Naming Policy, the current City Naming Lists, Authorize the Process for naming McCandless Park and Provide Feedback to Staff (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)
Category:	Community Services and Sustainable Infrastructure
Meeting Date:	4/19/2022
	<u>Recommendation:</u> (1) Review the Proposed Streets, Parks and Facilities Naming Policy and Provide Feedback to Staff; (2) Review City Naming Lists and Provide Feedback to Staff; and (3) Authorize Staff to begin process for naming McCandless Park.

Background:

On April 21, 2006, the City Council adopted Standard Operating Procedures (SOP) for naming City streets, parks and facilities through Council Subcommittee recommendation and Council action. After naming several streets and facilities, the Council at that time discontinued the subcommittee. On January 7, 2016, the then City Council established a Streets, Parks and Facilities Naming Subcommittee that made recommendations to the existing Naming Policy, the Naming Lists, and naming several City streets, parks and facilities. This Subcommittee met through November 8, 2017.

On February 26, 2019, City Council sunset the Streets, Parks and Facilities Naming Subcommittee and directed staff to assign naming recommendations for streets to the Planning Commission and for parks and facilities to the Parks, Recreation and Cultural Resources Commission. Based on the City Council direction and the input from the previous Naming Subcommittee, staff is bringing forward an updated policy in the new City Council Policy format for naming streets, parks and facilities.

Analysis:

This staff report provides a summary of the attached draft City Streets, Parks and Facilities Naming Policy (Policy), discusses the current naming list and provides the information regarding the naming of McCandless Park.

Draft Policy Summary

Below, please find highlights of the Policy from the Purpose, Policy, and Procedure sections.

The Purpose of the Policy is to establish the guidelines, criteria and processes for naming City streets, parks and other facilities.

For naming of facilities, the draft Policy requires that

- The Planning Commission shall evaluate names of City streets and shall make recommendations to the City Council.
- The Parks, Recreation and Cultural Resources Commission shall evaluate names of City parks and facilities and shall make recommendations to the City Council.
- Naming recommendations are made from City established and City Council approved Naming Lists.
- The Policy does not prohibit the duplicative use of a name on a street, park or facility, but does not allow duplication within an asset type such as street, park or facility.

The draft Policy also allows for the consideration to rename a City asset per the policy statement as follows

A deliberative process by City staff will be conducted to ensure that renaming of a street, park and facility will not diminish the original justification for the name or the prior contributors. Parks and facilities named after individuals shall not be changed unless it is found that because of the individual's character the continued use of their name would not be in the best interest of the community. Parks that have been named by deed restriction shall not be considered for renaming.

Further, the policy recommends that when naming parks and facilities near schools that the naming effort is coordinated with the Milpitas Unified School District when possible.

The draft Policy identifies criteria and guiding factors for naming or renaming a street, park or facility as follows:

1. Neighborhood or geographical identification, such as street, school, or other descriptive names;
2. Natural or geological features of the area;
3. Historical or cultural significance: the name of a historical figure can be considered if the figure had a significant and extraordinary historical influence on the area, state, national or international level;
4. The name of any person or family that has made a significant impact in the community and/or in development of the street, park, facility;
5. An individual or organization that contributed significantly to the acquisition or development of the park or facility to be named. This can include either a deed or substantial monetary contribution, or contribution toward acquisition and/or development of the park or facility. (Naming rights are not guaranteed if the donation is a dedication as required by the subdivision.
6. The articulated preference of residents of the neighborhood surrounding the street, park, facility;
7. A name should represent community values and consider future generations and ethnic diversity; If the name of an individual or family is to be considered, the use of such name shall have the approval of the individual (or his/her surviving family) or family when reasonably possible.
8. Avoid confusing or similar sounding names. (Public Safety Dispatch test)
9. Avoid changing street names along any continuous alignment. (Continuity test)

The draft Policy procedures implement the policy statements such as maintaining Naming Lists, the recommendation process from the Planning and Parks and Recreation and Cultural Resources Commission, and the steps for renaming streets, parks or facilities.

Naming Lists

The City currently has three (3) naming lists (attached) covering three naming categories with approved naming areas (streets, parks and/or facilities). Those lists are:

Naming List Category	Approved Naming Area
California Native Plants, Flowers, Trees	Streets
U.S. Presidents	Streets, Parks
Influential People	Streets, Parks
Milpitas Historical Names	Streets, Parks, Facilities

Naming lists were last updated in 2017. Feedback from the City Council on the lists is requested, including new names to add to the existing lists or creating additional lists through new Naming criteria genres.

Naming of McCandless Park

The new City park on McCandless Drive is anticipated to have a partial opening of its playgrounds, picnic areas, and community garden in late summer or early fall of 2022. This 4-acre park, adjacent to the new Mabel Mattos Elementary School, will also have in later park development phases, dog park areas, and lit field for sports use. This park is not currently named. Signage for the park requires ordering by early spring 2022 so that it can be installed before the park opens.

To keep with the park project timeline, staff is seeking the approval of City Council to move forward with the process to name the park based on the Naming Policy feedback received at this meeting.

Next Steps

After receiving Council input, staff will return with a final Policy no later than the second Council meeting in May.

Fiscal Impact:

There is no fiscal impact associated with this item.

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:

1. Review the Proposed Streets, Parks and Facilities Naming Policy and Provide Feedback to Staff.
2. Review City Naming Lists and Provide Feedback to Staff.
3. Authorize Staff to begin process for naming McCandless Park.

Attachments:

1. Proposed Streets, Parks, and Facilities Naming Policy
2. City Naming Lists – President List
3. City Naming Lists – Milpitas Historical Names
4. City Naming Lists – California Native Plant, Flower, Tree



CITY OF MILPITAS

Item # 20.

Revision	Date
Original	04/21/2006

CITY COUNCIL POLICY

Policy No: Click or tap here to enter text.	CITY STREETS, PARKS AND FACILITIES NAMING POLICY	Effective Date: 2/15/2022
Revision No: 1	Policy Administrator: Recreation and Community Services	Next Review Due: As needed
Related Policies and Procedures: Incorporates and replaces SOP 1.3	Approved by: Click or tap here to enter text. Council meeting date, agenda item #, and vote	Date Approved: 2/15/2022

1. PURPOSE

- 1.1. This Policy establishes the guidelines, criteria, and processes for naming City streets, parks, and other facilities.
- 1.2. This Policy is consistent with Milpitas [Municipal Code, Title XI-1000](#) and [Government Code Section 34093](#).

2. POLICY

- 2.1. The City shall have the sole authority and the City Council shall have the final authority to approve names of City Streets, Parks, and other Facilities.
- 2.2. The Planning Commission shall evaluate names of City streets, and shall make recommendations to the City Council.
- 2.3. The Parks, Recreation, and Cultural Resources Commission shall evaluate names of City parks and facilities, and shall make recommendations to the City Council.
- 2.4. Although the City will have full control and final decision-making authority on any names selected, public input will be received, and other names may be raised and requested to be considered by the City Council.
- 2.5. From time to time, the City Council shall approve names to be added to a list(s) of names suitable for streets, parks, and facilities.
- 2.6. No duplication of names within an asset type (i.e., park, facility, plaza) will be approved.
- 2.7. A deliberative process by City staff will be conducted to ensure that renaming of a street, park, and facility will not diminish the original justification for the name of the prior contributors. Parks and facilities named after individuals shall not be changed unless it is found that because of the individual's character the continued use of their name would not be in the best interest of the community. Parks that have been named by deed restriction shall not be considered for renaming.
- 2.8. The following criteria and factors shall be considered with naming or renaming a street, park, or facility:
 - 2.8.1. Neighborhood or geographical identification, such as street, school, or other descriptive names;
 - 2.8.2. Natural or geological features of the area;



Revision	Date
Original	04/21/2006

CITY STREETS, PARKS, AND FACILITIES NAMING POLICY / POLICY #

- 2.8.3. Historical or cultural significance: the name of a historical figure can be considered, if the figure had a significant and extraordinary historical influence on the area, state, national, or international level;
- 2.8.4. The name of any person or family that has made a significant impact in the community and/or in development of the street, park, or facility;
- 2.8.5. An individual or organization that contributed significantly to the acquisition or development of the park or facility to be named. This can include either a deed or substantial monetary contribution, or contribution toward the acquisition, and/or development of the park or facility. (Naming rights are not guaranteed if the donation is a dedication as required by the subdivision.)
- 2.8.6. The articulated preference of residents of the neighborhood surrounding the street, park, facility;
- 2.8.7. A name should represent community values and consider future generations and ethnic diversity;
- 2.8.8. If the name of an individual or family is to be considered, the use of such name shall have the approval of the individual (or his/her surviving family) or family when reasonably possible;
- 2.8.9. Avoid confusing or similar sounding names (Public Safety Dispatch test);
- 2.8.10. Avoid changing street names along any continuous alignment (Continuity test).
- 2.9. Naming of parks and facilities near schools shall be coordinated with the Milpitas Unified School District as much as possible.
- 2.10. All naming and/or renaming of a park or facility will be set forth by a Council Resolution.
- 2.11. Should policy conflict with any City Ordinance, Code or other laws and regulations, the respective City Ordinance, Code or other laws and regulations shall prevail.

3. PROCEDURE

- 3.1. Maintaining a List of Names for Naming Streets, Parks, and Facilities.
 - 3.1.1. The Recreation and Community Services Department shall maintain a List of Names for Naming Streets, Parks, and Facilities.
 - 3.1.2. As needed, the Director of Recreation and Community Services shall bring additions to the List of Names for Naming Streets, Parks, and Facilities to Council for approval at any regular or special meeting.
- 3.2. Naming of Streets, Parks, and Facilities
 - 3.2.1. City street naming recommendations shall be brought to the Planning Commission for recommendation to the City Council and may be considered at any regular or special meeting.
 - 3.2.2. City park and facility naming recommendations shall be brought to the Parks, Recreation, and Cultural Resources Commission for recommendation to the City Council and may be considered at any regular or special meeting.
 - 3.2.3. Naming recommendations shall be from the City Council approved List of Names available from the Director of Recreation and Community Services.



Revision	Date
Original	04/21/2006

CITY STREETS, PARKS, AND FACILITIES NAMING POLICY / POLICY #

- 3.3. Proposed names for new City streets, parks, and facilities should be considered during the entitlement process prior to the final map approval.
- 3.4. Names being considered for streets shall be reviewed by the City and County emergency services dispatch and Post Office to discourage names that are too similar or confusing that may hinder emergency response; or are otherwise inappropriate for public safety purposes.
- 3.5. The following City Departments will contribute to the establishment and maintenance of databases for named streets, parks, and facilities:
 - 3.5.1. Information and Technology Department – Maintain database of all City assets (streets, parks, and facilities)
 - 3.5.2. Recreation and Community Services Department – Maintain Naming Lists, information about historical references, person's full names, ancestry, dates of birth and death, and other information of interest about the person or group, and the significance of their name to Milpitas' history and/or to that particular named asset.
 - 3.5.3. Planning Department – Coordinate Street Naming related to new development, prepare, and maintain GIS databases for mapping of new facilities.
- 3.6. Renaming of a street, park, or facility
 - 3.6.1. The renaming of a street, park, or facility may be initiated by City Council, City Commission, City staff, a group, or individuals.
 - 3.6.2. The initiation of renaming by non-City organizations or individuals shall be made by participating during Public Forum at the appropriate advisory City Commission or City Council meeting.
 - 3.6.3. The City Commission may place the request on the agenda for review of the proposed name(s), taking of public comment, and discussion of the renaming proposal consistent with this Policy.
 - 3.6.4. When a City Commission considers the renaming proposal of a street, park, or facility, staff shall notify the surrounding neighborhood in a ¼ mile radius.
 - 3.6.5. If the City Commission supports the renaming proposal, it will make a recommendation to the City Council for Council consideration.
- 3.7. The name of a park or facility that is sold, transferred to non-city ownership, or otherwise deemed to no longer be a City of Milpitas property, should be transferred to another location eligible for naming. Should there not be an appropriate location, the name shall be added to the appropriate Naming List for future use.



City of Milpitas
Facilities, Streets & Park Naming Subcommittee
Naming List – US Presidents
Approved for: Streets & Parks

Item # 20.

PRESIDENT	EXISTING STREET LOCATION
1. George Washington	Washington Dr./N. Milpitas Blvd.
2. John Adams	Adams Ave./N. Temple
3. Thomas Jefferson	
4. James Madison	
5. James Monroe	
6. John Quincy Adams	Adams Ave./N. Temple
7. Martin Van Buren	
8. William Henry Harrison	
9. John Tyler	
10. James K. Polk	
11. Zachary Taylor	Taylor Dr./Conway St.
12. Millard Fillmore	
13. Franklin Pierce	
14. James Buchanan	
15. Abraham Lincoln	
16. Andrew Johnson	
17. Ulysses S. Grant	
18. Rutherford B. Hayes	

PRESIDENT

EXISTING STREET LOCATION

19. James A. Garfield

20. Chester Arthur

21. Grover Cleveland

22. Benjamin Harrison

23. Grover Cleveland

24. William McKinley

25. Theodore Roosevelt

26. William Howard Taft

27. Woodrow Wilson

Wilson Way/N. Milpitas Blvd.

28. Warren G. Harding

29. Calvin Coolidge

30. Herbert Hoover

31. Franklin D. Roosevelt

32. Harry S Truman

33. Dwight D. Eisenhower

34. John F. Kennedy

Kennedy Dr./Fanyon St.

35. Lyndon B. Johnson

36. Gerald Ford

37. Jimmy Carter

38. Ronald Reagan

39. George Bush

PRESIDENT

EXISTING STREET LOCATION

40. Bill Clinton

41. George W. Bush

42. Barack Obama



City of Milpitas
Facilities, Streets & Park Naming Subcommittee
Naming List – Milpitas Historical Names
Approved for: Streets, Parks, Facilities

NAME	SUGGESTED BY	DEDICATION LOCATION
<u>19th CENTURY</u>		
1. Charles Beverson Milpitas Cattle Rancher/Dairy Farmer	Commission: PRCRC	
2. Alfred Doten Milpitas literary figure/author	Commission: PRCRC	
3. Alfred French Ran first hotel that brought tourism to Milpitas	Commission: PRCRC	
4. JW Johnson First Town Constable	Commission: PRCRC	
5. Augustus Rathbone First Storekeeper	Commission: PRCRC	Augustus Rathbone Park
<u>20th CENTURY</u>		
6. Chew Family Part of Milpitas' early agricultural history, the Chew's had 15 acres where they ran their Flower Farm business	Naming Subcommittee	
7. Albert Currlin One of the first Doctors in Milpitas	Commission: PRCRC	Dedication Plaque: Valley Health Center

NAME	SUGGESTED BY	DEDICATION LOCATION
8. Sal Cracolice Ran Milpitas' first Pharmacy, started first Youth Center	Naming Subcommittee	Sal Cracolice Building (through June 2016)
9. Ernestina Garcia Civil Rights Activist	Commission: PRCRC	
10. Joe House Mayor (1974 – 1976)	Commission: PRCRC	
11. Bob McGuire First Parks and Recreation Director	Commission: PRCRC	Dedication Plaque: Comm. Center Amphitheater Bob McGuire Park
12. Ray Madruga Early Ironworker, invented "Milpitas Plow"	Commission: PRCRC	
13. Mabel Mattos	NA	Street: Mattos Dr./Edsel Bench/Farm Equipment: Alviso Adobe
14. Ford	Naming Subcommittee	
15. Dick Delong	Commission: PRCRC	Street: Delong Dr./Tradezone Blvd.
16. Joe Smith	Commission: PRCRC	Street: Smith Ln./Pimentel Cir.
17. Rogers Family (Ben, Jim)	NA	Ben Rogers Park
18. Weller Family (Joseph, Abraham)	NA	Street: Weller Ln./N. Main St./Weller Elementary
19. Denny Weisgerber	NA	Denny Weisgerber Community Room: Senior Center
<u>21st CENTURY</u>		
20. Larry Voellger Started Milpitas' first Public art Program (Art in Your Park)/ Long Serving Arts Commissioner	Naming Subcommittee	Public Art Project Dedication: Higuera Adobe Park

21. Jimmy Chamoures

Naming Subcommittee

Instrumental in the rebuilding of the Milpitas Post Newspaper in the mid 90's/Started Milpitas Yellow Pages



City of Milpitas
Facilities, Streets & Park Naming Subcommittee
Naming List – California Native Plants, Flowers, Trees
Approved for: Streets

NAME	EXISTING STREET LOCATION
1. Maple	Maple Ave./N. Abbott Ave.
2. Paprika	
3. Pomegranate	
4. Terracotta	Terracotta Ct./Dogwood Ct.
5. Beacon	Beacon Dr./Canton Dr.
6. Chamise	
7. Fern Family	
a. Fernleaf Dr.	Fernleaf Dr./ Sandisk Dr.
8. Snapdragon	
9. Manzanita	Manzanita Court/Blue Spruce Way
10. Poppy Family	
a. Poppy Lane	Poppy Ln./E. Calaveras Blvd.
b. Poppy Court	Poppy Ct./Poppy Ln.
11. Sagebrush	Sage Brush St./Milkweed
12. Finnis	
13. Milkweed	
14. Butterfly Weed	
15. California Aster	
16. Pacific Aster	
17. Desert Holly	
18. Coyote Brush	
19. Chuparosa	
20. Barberry	
21. Goldenstar	
22. Lily Family	
23. Camas	
24. Harebell	
25. Berkeley Sedge	
26. Anemone	
27. Purple Owls Clover	
28. Lilac	
29. Redbud	
30. Willow	Willow Ave./N. Abbott Ave.
31. Rabbit Brush	
32. Thistle	Thistle Pl./Clover Cir.
33. Clarkia	
34. Chinese Houses	
35. Dogwood	Dogwood Ct./Terracotta Ct.

NAME	EXISTING STREET LOCATION
36. Sacred Thorn	
37. Dichondra	
38. Shooting Star	
39. Bleeding Heart	
40. Candleholder	
41. Lance Leaf	
42. Cactus	
43. Canyon Prince	
44. Desert Tea	
45. Stream Orchid	
46. Rabbit Brush	
47. Yerba Santa	
48. Buckwheat	
49. St. Catherine's Lace	
50. Golden Yarrow	
51. Lizard Tail	
52. Fremontea	
53. Bush Family	
54. Bedstraw	
55. Snapdragon	
56. Sunrose	Sunrose Ct./Joshu Tree Ct.
57. Toyon	
58. Coral Bells	
59. Alumroot	
60. Cardinal	
61. Bridget Bloom	
62. Woolly Rose	
63. Desert Lavender – “Lavender”	Lavender Loop/Currant Rd.
64. Iris	
65. Scarlet Gilia	
66. Walnut	Walnut Dr./N. Abbott Ave.
67. Chuparosa	
68. Goldfields	
69. <i>Mallow Family</i>	
70. Tidy Tips	
71. El Tigre	
72. Sage	Sage Ct/Tarob Ct.
73. Tiger Lily	Tiger Lily St./Sunflower Ln.
74. Western Flax	
75. Bitterroot	
76. Cardinal Flower	
77. Honeysuckle	
78. Water Primrose	
79. Lupine	

NAME	EXISTING STREET LOCATION
80. Chamisso Bush	
81. Catalina Ironwood	
82. Laurel	
83. Blazing Star	
84. Wishbone Bush	
85. Mustang Mint – “Mint”	Mint Way/Cherry Cir.
86. Myrtle	Myrtle Ln./Clover Cir.
87. Needlegrass	
88. Beavertail	
89. Pricklypear	
90. Cactus	
91. Clover	Clover Cir/Myrtle Ln.
92. Redwood Sorrel	
93. Palo Verde	
94. Peony	
95. Scarlet Bugler	
96. Desert Bluebell	
97. Fiesta Flower	
98. Pine	
a. Pinewood Way	Pinewood Way/Fallen Leaf Dr.
b. Pinewood Court	Pinewood Way/Pinewood Ct.
c. Pinehurst Court	Pinehurst Ct./Tularcitos Dr.
99. Sycamore	
100. Cottonwood	Sycamore Dr./Barber Ln.
101. Desert Peach	Cottonwood Dr./Barber Ln.
102. Desert Almond	
103. Cherry	Cherry Cir./Mint Way
104. Coffee Berry	Coffee Berry Ln./Wild Rose Ln.
105. Red Berry	Red Berry Ln./Sunflower Ln.
106. Lemonade Berry	
107. Sugar Bush	
108. Currant Family	
a. Currant	Currant Rd./Lavender Loop
109. Matilija Poppy	
110. Wild Rose	
111. Baja Rose	
112. Chia	
113. Sage Family	
a. Sagemeadow Court	Sagemeadow Ct./ Beresford Ct.
114. Mexican Elderberry	
115. Checker	
116. Catchfly	
117. Grass Family	

NAME		EXISTING STREET LOCATION
118.	Goldenrod	
119.	La Luna	
120.	Aster Family	
121.	Clover	Clover Cir & Clover Ct.
122.	Southern Cattail	
123.	Sunflower	Sunflower Ln./S. Main St.
124.	Wild Grape	
125.	Joshua Tree	Joshua Tree Cir./Lundy Rd.
126.	Nightshade	Nightshade Rd./Garden St.
127.	Oak	
	a. Oakhurst Way	Oakhurst Way/Sandhurst Way
	b. Oak Ridge Road	Oak Ridge Rd./Calaveras Blvd.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve Employment Agreement with, and Appoint Michael Mutalipassi to Serve as City Attorney (Staff Contact: Jeannine Seher, Human Resources Director, 408-586-3086)
Category:	Leadership and Support Services
Meeting Date:	4/19/2022
	<u>Recommendation:</u> Approve Employment Agreement with Michael Mutalipassi and appoint him to serve as City Attorney for the City of Milpitas.

Background:

On June 22, 2021, City Council reported out of closed session, its decision to transition to an in-house City Attorney model, and on August 5, 2021 formed a Subcommittee, comprised of Mayor Tran and Vice Mayor Montano to provide further direction on the recruitment process. On September 7, 2021, Council adopted the City Attorney class specification and salary schedule, and consistent with the Subcommittee's direction, authorized the recommended recruitment process.

As a result of the successful completion of the recruitment process, Michael Mutalipassi has been selected to serve as the City Attorney for Milpitas. An employment agreement has been negotiated between the City Council and Mr. Mutalipassi and is now ready for City Council approval.

Analysis:

The employment agreement between the City and Mr. Mutalipassi provides for the following:

Term: 3 years

Salary: \$215,000 annually

Benefits: The agreement provides that Mr. Mutalipassi will receive regular benefits and allowances provided to all other unrepresented executive employees. This includes a City provided cellular phone. In addition, the agreement specifies the City will authorize attendance at, and reimburse Mr. Mutalipassi for his attendance at the League of California Cities Spring Conference and expenses.

Retirement: The agreement provides for Mr. Mutalipassi be enrolled in CalPERS with the City and receive benefits similar to other employees.

Miscellaneous: The agreement provides for an "At-will" employment relationship with Mr. Mutalipassi but also provides for the payment of three months of severance in the event the City terminates Mr. Mutalipassi's employment without cause.

Policy Alternative:

Alternative: Do not approve the employment agreement or seek modifications to the agreement.

Pros: None, as City Council has directed the preparation of this agreement and it represents the good faith negotiations between the City Council and Mr. Mutalipassi. If further modifications are desired, the City Council can discuss and provide that direction in closed session.

Cons: Not moving forward with the recommended actions will result in not being able to hire the City Attorney and will be counter to prior direction given by the Council.

Reason for not Recommending: If the City Council does not approve the employment agreement, then the City Council will need to provide additional direction to staff. This is not recommended because Council has directed the contract preparation and negotiation and it represents the completion of the negotiations.

Fiscal Impact:

The annual salary compensation is currently budgeted in fiscal year 2022-23. The compensation that will be paid in fiscal year 2021-22 will be absorbed from vacancy savings.

California Environmental Quality Act:

Approval of the recommendation is not a project under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) (Common Sense Exemption) as it can be seen with certainty that a discussion about establishing a salary range will not have a significant effect on the environment. Further, the item is not a project pursuant to CEQA Guidelines Section 15378(b)(5) as it involves organizational or administrative activities of a local government entity that will not result in direct or indirect physical changes in the environment.

Recommendation:

Approve Employment Agreement with Michael Mutalipassi and appoint him to serve as City Attorney for the City of Milpitas.

Attachments:

1. Employment Agreement
2. Exhibits to Employment Agreement

EMPLOYMENT AGREEMENT

THIS AGREEMENT is between the City of Milpitas, a municipal corporation (the “City” or “Employer”) and City Attorney (“Employee”). It is effective on the latest date next to the signatures on the last page (“the Effective Date”).

This agreement is entered into on the basis of the following facts, among others:

- A. The City desires to employ the qualified professional services of Employee as City Attorney of the City, as provided by the Milpitas Municipal Code.
- B. The City Council and Employee desire to establish a reasonable, professional and trustworthy employment relationship, subject to the terms and conditions set forth in this Agreement pertaining to compensation and benefits, performance evaluations, and related matters.

BASED UPON THE FOREGOING, THE CITY AND EMPLOYEE AGREE AS FOLLOWS:

1. **Employee Appointed**. The City appoints Employee as City Attorney, and Employee continues to accept the appointment and employment as of Effective Date.
2. **Duties of Employee**. Employee shall perform the duties established for the City Attorney by State law, the Milpitas Municipal Code, the City Attorney job description, the directions of the City Council, or as otherwise provided by law, ordinance, or regulation. The provisions of the Municipal Code pertaining to the City Attorney and City Attorney job description, as may be amended from time to time, are attached hereto as Exhibit A and are hereby made a part of this Agreement.
 - (a) **Full Energy and Skill**. Employee shall faithfully, diligently, and to the best of Employee’s abilities, perform all duties that may be required under this Agreement. Employee agrees that Employee has a duty of loyalty and a general fiduciary duty to the City. Employee shall devote the whole of Employee’s working time, skill, experience, knowledge, ability, labor, energy, attention, and best effort exclusively to the City’s business and affairs. Prior to undertaking any secondary activities for which Employee receives compensation, Employee shall disclose those activities to the Council.
 - (b) **No Conflict**. Employee shall not engage in any employment, activity, consulting service, or other enterprise, for compensation or otherwise, which is actually or potentially in conflict with, inimical to, or which interferes with the performance of Employee’s duties. Further, Employee shall not, during the term of this Agreement, individually, as a partner, joint venture, officer, or shareholder, invest or participate in any business venture conducting business in the corporate limits of the City of Milpitas.

(c) Outside Activities. Consistent with subdivision 2(a) above, the Employee's primary employment is with the City. Any outside activities for which the Employee receives compensation from a third party shall be disclosed, in advance, to the City Council. Employee is expected to take personal leave (i.e., vacation time) for any outside activities of this nature.

3. Hours of Work. The City Attorney is an exempt employee but is expected to engage in those hours of work that are necessary to fulfill the obligations of the City Attorney's position. The City Attorney does not have set hours of work. The City Attorney is expected to be reasonably available to the City Council at all times. It is recognized that the City Attorney must devote a great deal of time to the business of the City outside the City's customary office hours, and to that end, the City Attorney's schedule of work each day and week shall vary in accordance with the work required to be performed and in accordance with any specific direction provided by the City Council.
4. Term. The term of this Agreement shall be from the Effective date through April 25, 2025, unless terminated earlier by either party in accordance with the provisions set forth in Section 12, or unless extended as authorized by this Section. The City Council shall meet annually on or around each anniversary of the Effective Date to consider an annual extension to the Agreement.
5. City Council Commitments. The City Council shall abide by all provisions of the City Municipal Code regarding the administration of personnel issues, with a copy of the relevant provisions of the City's Municipal Code, as may be amended from time to time, attached hereto as Exhibit A.
6. Annual Evaluation. In the first year of the term of this Agreement, the City Council shall conduct an evaluation of Employee's performance within 60 days to establish working relationships, norms, opportunities to be successful, and goals for the coming year, then followed on a six-month basis for the first year of agreement. The second six-month evaluation shall be conducted within 60 days of the Employee's anniversary date as the City Attorney. The City Council shall conduct an evaluation of Employee's performance and provide guidance and direction in accordance with specific criteria developed by the City Council. At the time of Employee's annual performance evaluation, Employee may be eligible to receive an increase in Base Salary, as determined by the City Council in its sole discretion. Employee may be eligible for the first increase on Employee's first anniversary date, and then annually dependent on a performance evaluation to precede any consideration of a salary adjustment. Employee is not automatically entitled to any increase, which is subject to the sole discretion of the Council. In addition to an established evaluation, the Council has the discretion to provide Employee with an evaluation of performance at other times chosen by the Council.

7. **Compensation.**

- (a) **Base Salary.** Employee shall receive the annual Base Salary of Two-Hundred Fifteen Dollars (\$215,000), payable on a pro-rata basis in the same manner as all full-time City employees, and subject to all applicable payroll taxes and withholdings.
- (b) **COLA Adjustments/Compaction.** Whenever a cost of living adjustment or other non-merit based salary increase is provided to other miscellaneous unrepresented executive staff, the City Council shall consider whether it is reasonable and appropriate to grant the highest cost of living increase received by any miscellaneous unrepresented employee groups to the Employee's Base Salary to avoid compaction and maintain a buffer of 10% minimum between the Employee's Base Salary and the next highest salary for miscellaneous unrepresented executive staff in the City Attorney's Office. No salary adjustment is guaranteed but is subject to the discretion of the City Council.
- (c) **Reduction in Salary or Benefits.** If the City reduces the Employee's Base Salary, or any benefit described in Sections 8 to 11 of this Agreement, in a percentage that is greater than the average reduction of all miscellaneous unrepresented executive staff, such action shall constitute a termination of this Agreement without Cause under Section 12 of this Agreement.

8. **Regular Benefits and Allowances.** Employer agrees to provide and pay the City allowance for vision, dental, and comprehensive medical health insurance for Employee and his/her dependents, if any, equal to that which is provided to all other full-time miscellaneous unrepresented executive staff of Employer. The City contribution toward health insurance shall be equal to that which is provided to all other miscellaneous unrepresented executive staff of Employer as specified in the applicable Unrepresented Employee Benefit Handbook ("Benefit Handbook"), dated July 1, 2019, or any amendment thereto or replacement thereof. Similarly, Employee shall receive short-term and long-term disability insurance coverage while this Agreement is in force, subject to any contributions required of unrepresented miscellaneous unrepresented executive staff.

9. **Additional Deferred Compensation.** As part of Employee's annual base compensation, City agrees to provide a Section 457 deferred compensation program which will be administered by Mission Square Retirement (formerly the International City Management Association – Retirement Corporation (ICMA-RC)), and to pay into such program for Employee's benefit monthly, an amount equal to that for miscellaneous unrepresented staff commencing with the Effective Date of this Agreement

10. **Retirement Benefits.**

- (a) Employer agrees to enroll Employee into the California Public Employees Retirement System (“CalPERS”) consistent with other City employees.

11. **Additional Benefits and Allowances.** In addition to the benefits already specified in this Agreement, Employee shall receive the same benefits afforded to miscellaneous unrepresented executive staff, including and not limited to:

- (a) Vacation; Sick Leave
 - (i) Vacation. Employee shall accrue and be eligible to use vacation days in accordance with the City’s established vacation policy.
 - (ii) Sick Leave. Employee shall be entitled to use and accrue sick leave in accordance with established City policy.
- (b) Automobile. Employee shall receive a monthly vehicle allowance of five hundred fifty dollars (\$550.00) per month, for automobile trips which shall be equal to that which is provided to all other miscellaneous unrepresented executive staff of Employer as specified in the applicable Unrepresented Employee Benefit Handbook (“Benefit Handbook”). Dated July 1, 2019, or any amendment thereto or replacement thereof.
- (c) Cellular Phone. Employee shall receive a City cell phone for use City work purposes.
- (d) Professional Development. Employer expects the Employee to continue to develop the professional technical and leadership skills and knowledge necessary to serve as City Attorney. To that end, Employee is expected to continue membership with the California State Bar Association. Employee is expected to attend state or regular conferences, trainings, and other educational opportunities to continue to hone the skills consistent with the City Attorney job description and to maintain licensure as an attorney for the State of California. The City will allow Employee reasonable time away to participate in these professional development opportunities and Employer shall pay for these training opportunities subject to City Council’s budget approval and in accordance with established City policies.

- 1. City agrees to reimburse employee for registration costs for League of California Cities Spring Conference in Carlsbad, held May 4-6, 2022 and for reasonable travel and per diem expenses in accordance with City policies.

12. **Termination of Employment.**

- (a) No property Interest/Cause Defined. Employee understands and agrees that Employee has no constitutionally-protected property or other interest in Employee’s employment as City Attorney. Employee understands and agrees that Employee works at the will and pleasure of the City Council and that Employee may be terminated, or asked to resign, at

any time, with or without Cause, by a majority vote of its members. Notice of termination shall be provided to the City Attorney in writing. As used in this Agreement, Cause shall only mean any of the following:

- (i) Conviction of, or plea of guilty or nolo contendere to, any crime or offense (other than minor traffic violations or similar offenses) which is likely to have a material adverse impact on the City or on the Employee's reputation;
 - (ii) Proven failure of the Employee to observe or perform any of his duties and obligations, if that failure continues for a period of thirty (30) business days from the date of his receipt of notice from the City Council specifying the acts or omissions deemed to amount to that failure;
 - (iii) Conviction of any crime involving an "abuse of office or position," as that term is defined in Government Code Section 53243.4;
 - (iv) Repeated failure to carry out a directive or directives of the City Council made by the City Council as a body at a Brown Act compliant meeting; and
 - (v) Any grossly negligent action or inaction by Employee that materially and adversely: (a) impedes or disrupts the operations of City or its organizational units; (b) is detrimental to employees or public safety, or (c) violates the City's properly-established rules or procedures.
- (b) Termination Immediately Before or Following City Council Election. No action by the City Council to terminate Employee, other than for Cause, will be made within ninety (90) days before a City Council election or within six (6) months immediately following a City Council election. Nothing in this subsection alters the "at will" status of Employee's employment with the City.
- (c) Notice Required of Employee. Employee may voluntarily terminate employment at any time by giving not less than sixty (60) days' notice.
- (d) Severance Pay. If Employee is asked to resign or is terminated without Cause, then Employee shall be eligible to receive a cash payment equivalent to the sum of Employee's then-current monthly salary multiplied by three (3) and the cash value, as determined by the City, of Employee's monthly non-salary COBRA-eligible benefits multiplied by three (3). Any severance and benefits paid shall be subject to state law requirements codified by Government Code Section 53260. This cash payment will be made on a pro-rated, monthly basis over the number of months involved, subject to termination of the severance requirement set forth below. Employee shall also be paid for any accrued, but unused, vacation. In the event of termination or resignation from employment or the

non-renewal of this Agreement, sick leave upon termination shall be treated in accordance with the Benefit Handbook. Eligibility for such severance payment is expressly conditioned upon Employee's execution of (i) a waiver and release of any and all of Employee's claims against City, and (ii) a covenant not to sue. All normal payroll taxes and withholdings as required by law shall be made with respect to any amounts paid under this section. Employee expressly agrees to provide notice to the City within two (2) business days of accepting employment elsewhere, and the City's obligation to pay any severance benefit to Employee shall terminate upon Employee's acceptance of such alternative employment.

- (e) Ineligibility for Severance under Certain Conditions. If the termination of Employee is for Cause (as defined above) or if Employee voluntarily resigns, Employee is not eligible for and will not receive any severance. If Employee is terminated without Cause, then Section 7(d) above shall control
- (f) Communications Upon Termination. In the event that Employer terminates the Employee for any reason or no reason, the Employer and Employee agree to undertake reasonable efforts to issue a joint press release or statement, the content of which is mutually agreeable to the Employer and Employee. The joint press release or statement shall not contain any text or information that is reasonably considered to be disparaging to either party. For purposes of this subdivision only, "party" includes City Council members in the office at the time of termination and miscellaneous unrepresented executive employees. If the parties are able to agree on a joint statement, either party member verbally repeat the substance of the joint press release or statement in response to any inquiry.

13. **Statutory Requirements.** This agreement shall be deemed to incorporate by reference the provisions of Sections 53243 *et seq.* of the Government Code, as it may be amended or renumbered.

14. **Payment of Expenses of Employment.** The City shall pay the following usual and customary employment expenses.

- (a) The cost of any fidelity or other bonds required by law for the City Attorney.
- (b) Subject to Section 12 of this Agreement, the cost to defend and indemnify Employee as required by the California Government Claims Act (Government Code §810 *et seq.*) or otherwise. City will determine, in its sole discretion, whether to compromise and settle any such claims or suit against Employee and the amount of any settlement or judgment rendered thereon.

- (c) Subject to budget approval, the cost of attending conferences or other events (i.e. out-of-town meetings, professional memberships, and seminars, etc.) necessary for the proper discharge of Employee's duties. The City will not reimburse Employee of any expenses related to membership in service clubs, and will not encourage or require service club membership.

15. **Miscellaneous.**

- (a) **Notices.** Notices given under this Agreement shall be in writing and shall be:

- (i) Served personally; or
- (ii) Sent by facsimile (provided a hard copy is mailed within one (1) business day); or
- (iii) Delivered by first-class United States mail, certified, with postage prepaid and a return receipt requested; or
- (iv) Sent by Federal Express, or some equivalent private overnight delivery service.

Notices shall be deemed received at the earlier of actual receipt or three (3) days following deposit in the United States mail, postage prepaid. Notices shall be directed to the addresses shown below, provided that a party may change such party's address for notice by giving written notice to the other party in accordance with this subsection.

CITY:

City of Milpitas
Attn: Mayor
455 E. Calaveras Blvd.
Milpitas, CA 95035

Employee:

Michael Mutalipassi
Attn: City Attorney
455 E. Calaveras Blvd.
Milpitas, CA 95035

- (b) **Compliance with Government Code §§53243, 53243.1, & 53243.2.** If Employee is convicted of a crime involving an abuse of the Employee's office or position, all of the following shall apply:

- (i) If Employee is provided with administrative leave pay pending an investigation, Employee shall be required to fully reimburse the City for such amounts paid;

- (ii) If the City pays for the criminal legal defense of Employee (which would be in its sole discretion, as it is not generally required to pay for criminal defense), Employee shall be required to fully reimburse City such amounts paid; and
 - (iii) If this Agreement is terminated, any cash settlement related to the termination that Employee may receive from the City shall be fully reimbursed to the City or void if not yet paid to Employee.
 - (iv) For this subsection, “abuse of office or position” means either (1) an abuse of public authority, including waste, fraud, and violations of the law under color of authority, or (2) a crime against public justice, including but not limited to a crime described in Title 7 (commencing with Section 92) or Part 1 of the Penal Code.
- (c) Entire Agreement/Amendment. This Agreement constitutes the entire understanding and agreement between the parties as to those matters contained in it and supersedes any and all prior or contemporaneous agreements, representations, and understandings of the parties. This Agreement may be amended at any time by mutual agreement of the parties and attached hereto.
- (d) Attorney’s Fees. If any legal action or proceeding is brought to enforce or interpret this Agreement, the prevailing party shall be entitled to recover his or its attorney’s fees and costs. Nothing in this subsection shall be read to prevent the parties from agreeing to some alternative method of dispute resolution.
- (e) Severability. In the event any portion of this Agreement is declared void, such be severed from this Agreement and the remaining provisions shall remain in effect unless the result of that severability would be to substantially alter this Agreement or the obligations of the parties, in which case this Agreement shall be immediately terminated.
- (f) Waiver. Any failure of a party to insist upon strict compliance with any term, undertaking, or condition of this Agreement shall not be deemed to be a waiver of such term, undertaking, or condition. To be effective, a waiver must be in writing, signed, and dated by the parties.
- (g) Representation by Counsel. The parties acknowledge and agree that they were, or had the opportunity to be, represented individually by legal counsel with respect to the matters that are the subject of this Agreement and that they are fully advised with respect to their respective rights and obligations resulting from signing this Agreement.
- (h) Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Employee and City agree that the venue for any dispute shall be in Santa Clara County, California.

- (i) Section Headings. The headings on each of the sections and subsections of this Agreement are for the convenience of the parties only and do not limit or expand the contents of any such section or subsection.
- (j) No Assignment. Employee may not assign this Agreement in whole or in part.

City of Milpitas / Mayor

Dated

Employee / City Attorney

Dated

Chapters:

VI-1	City Manager	419
VI-3	Departments, Assignments and Appointments	423
VI-10	Public Safety Dispatcher Training and Selection	424.1
VI-101	Personnel System	425
VI-102	Provisions for Reducing City Work Force	430

Chapter 1 - CITY MANAGER

Sections:

Section 1 - Establishment

The office of City Manager and the City Manager form of government is hereby established in the City of Milpitas pursuant to the provisions of Section 34851a et seq., of the Government Code of the State of California.

(Ord. 63 (part), 8/20/57)

Section 2 - Duties and Responsibilities

VI-1-2.01 - Manager Responsible to the Council

The City Manager shall be the chief executive officer of the City Council of the City of Milpitas and shall act as the agent for and on behalf of the Council in the discharge of its administrative functions. He shall be responsible to the City Council for the administration of all affairs of the City except as otherwise provided herein.

(Ord. 63 (part), 8/20/57)

VI-1-2.02 - Manager Shall Attend All City Council Meetings and Make Reports

Item # 21.

The City Manager shall attend all regular and special meetings of the City Council. He shall report to the Council as requested by the City Council and as he deems necessary. He shall keep the Council advised of the financial condition and future needs of the city and shall make such recommendations as he may deem desirable.

(Ord. 63 (part), 8/20/57)

VI-1-2.03 - Appointment and Removal of Employees by Manager

The City Manager shall be the "appointing officer" of the City, and shall have the power to appoint and dismiss all subordinate appointive officers and employees, subject to the provisions of the City's Municipal Code. Provided, however, that the provisions of this Section shall not apply to the City Attorney.

(Ord. 52.5 (part), 11/18/97: Ord. 63 (part), 8/20/57)

VI-1-2.04 - Council Dealing with Administrative Staff through City Manager

Except for purposes of inquiry, the City Council and its members shall deal with the administrative staff solely through the City Manager.

(Ord. 63 (part), 8/20/57)

VI-1-2.05 - Preparation and Administration of the Budget

The City Manager shall prepare the budget annually and submit it to the City Council, and he shall be responsible for its administration after adoption. He shall supervise the expenditures of and act as the purchasing agent for all the departments, divisions and services of the city government. The City Manager shall prepare and submit to the City Council a complete report as of the end of each fiscal year on the finances and administrative activities of the City during the preceding year.

(Ord. 63 (part), 8/20/57)

VI-1-2.06 - Performance of Other Duties

The City Manager shall perform such other duties as are consistent with this chapter and as may be prescribed by ordinance, resolution, or order of the City Council.

(Ord. 63 (part), 8/20/57)

VI-1-2.07 - Designation of Administrative Officer when Manager is Absent or Disabled

The City Manager may designate in writing a qualified administrative officer of the City to perform his duties during his temporary absence or disability. In the event of the failure of the City Manager to make such designation, the Council may by resolution appoint an officer of the City to perform the duties of the City Manager until he shall return or his disability shall cease.

(Ord. 63 (part), 8/20/57)

VI-1-2.08 - Creation of Departments and Subdivisions

The work of the city government may be distributed among such departments, divisions, and services thereof as may be established by ordinance of the City Council upon recommendation of the City Manager. Pending the passage of an ordinance distributing such work, the Manager may establish temporary departments, divisions, and services.

(Ord. 63 (part), 8/20/57)

VI-1-2.09 - Furnishing Bond

The City Manager shall furnish a bond to the City of Milpitas conditioned upon the faithful performance of his duties in a penal sum and with such corporate surety as the Council may require. The premium for said bond shall be paid by the City of Milpitas.

(Ord. 63 (part), 8/20/57)

VI-1-2.10 - Appointment and Removal

The City Manager shall be appointed by a majority of the City Council and shall serve until he or she is removed by a majority of the members or until his or her resignation.

(Ord. 52.4, 2/2/93; Ord. 63 (part), 8/20/57)

VI-1-2.11 - Notice of Resignation

The City Manager may resign from his position upon at least thirty (30) days' notice in writing to the City Council.

(Ord. 63 (part), 8/20/57)

VI-1-2.12 - Compensation

The compensation, annual leave, sick leave and other recompense of the City Manager and perquisites of his office shall be as determined by order or resolution of the City Council.

VI-1-2.13 - Assigning Additional Duties

Wherever any order, resolution or ordinance of the City Council of the City of Milpitas has heretofore or hereafter assigned any power or duty or granted any right or privilege to the City Administrator of the City of Milpitas, the City Manager of the City of Milpitas shall be empowered and shall be assigned said power or duty and shall be granted said right or privilege.

(Ord. 63 (part), 8/20/57)

VI-1-2.14 - Signatures.

The City Manager and his or her designee, upon approval of the City Council, shall have the authority to sign and execute the following instruments:

- (a) All warrants drawn on the City Treasury.
- (b) All written contracts and conveyances made or entered into by the City.
- (c) All instruments requiring the City seal.

(Ord. 63.2, 6/15/99)

Section 3 - Transfer of Duties to City Manager

VI-1-3.01 - City Clerk

Pursuant to the provisions of Section 34004 of the Government Code of the State of California, the City Council of the City of Milpitas does hereby transfer from the City Clerk of the City of Milpitas to the City Manager of the City of Milpitas, any duty imposed upon said Clerk by any law of the State of California or any rule or regulation adopted under the authority of any such law except as hereinafter provided, and any duty imposed upon the City Clerk by any ordinance or resolution of the City of Milpitas, or any rule or regulation adopted under the authority of any ordinance or resolution of the City of Milpitas except as hereinafter provided:

(Ord. 52.2, 1/16/63)

3.01-1 Exception: The City Clerk may sign and execute any evidence of indebtedness, bond, indenture, or document specified by law or contract to be signed or executed by the City Clerk in connection with the issuance, sale or redemption of bonds, and evidences of indebtedness, and the qualification for or acceptance of grants, the proceedings for the authorization or incurring of which have been conducted by, or pursuant to the authority of the City Council.

3.01-2 Exception: The City Clerk shall have concurrent authority (with the City Manager) to administer oaths or affirmations and take and certify affidavits and depositions pertaining to city affairs and business pursuant to the authority granted by 40814 of the Government Code of the State of California.

(Ord. 52.2, 1/16/63)

VI-1-3.02 - Treasurer

Pursuant to the provisions of 34004 of the Government Code of the State of California, the City Council of the City of Milpitas does hereby transfer from the City Treasurer of the City of Milpitas to the City Manager of the City of Milpitas, any duty imposed upon said Treasurer by any law of the State of California or any rule or regulation adopted under the authority of any such law except as hereinafter provided, and any duty imposed upon the City Treasurer by any ordinance or resolution of the City of Milpitas, or any rule or regulation adopted under the authority of any ordinance or resolution of the City of Milpitas except as hereinafter provided:

(Ord. 52.2, 1/16/63)

3.02-1 Exception: The City Treasurer may continue to sign voucher checks of the City of Milpitas to the extent granted by resolution of the City Council enacted under authority of 37203 of the Government Code.

3.02-2 Exception: The City Treasurer may sign and execute any evidence of indebtedness, bond, indenture, or document specified by law or contract to be signed or executed by the City Treasurer in connection with the issuance, sale or redemption of bonds, and evidences of indebtedness, and the qualification for or acceptance of grants, the proceedings for the authorization or incurring of which have been conducted by, or pursuant to the authority of, the City Council.

(Ord. 52.2, 1/16/63)

VI-1-3.03 - Performance of Duties Transferred

It shall be the duty of the City Manager to perform such duties as have been transferred to him, pursuant to the provisions of this section.

(Ord. 52.2, 1/16/63)

VI-1-3.04 - City Manager Empowered to Appoint Clerk and Treasurer

Pursuant to the provisions of Section 36510 of the Government Code of the State of California, the City Manager of the City of Milpitas is hereby empowered to appoint the City Clerk and the City Treasurer.

Section 4 - Employment Contracts

VI-1-4.00

Nothing herein contained shall be construed to prevent the City Council from entering into a written contract of employment with the City Manager. Said contract may, in addition to such other provisions as shall not be in conflict with the provisions of this Chapter, provide for severance pay to the City Manager in the event his employment is terminated by City. No contract of employment, however, shall exceed a term of four years. No contract of employment shall contain any provision inconsistent with the provisions of this Chapter.

(Ord. 63.1, 9/5/78)

VI-1-4.01 - Declaratory of Existing Law

The Council finds and determines that the provisions of this Section VI-1-4.00 are declaratory of existing law and do not constitute a change in said law.

(Ord. 63.1, 9/5/78)

Chapter 3 - DEPARTMENTS, ASSIGNMENTS AND APPOINTMENTS

VI-3-1.00 - Establishment of Departments of City

Pursuant to the provision of Section VI-1-2.08 of the Milpitas Municipal Code, the work of the City government shall be distributed among the following departments of the City:

- A. City Manager;
- B. City Attorney;
- C. Finance;
- D. Human Resources;
- E. Information Technology;
- F. Planning;
- G. Public Works;
- H. Engineering;
- I. Police;

J. Fire;

K. Building Safety and Housing; and

L. Recreation and Community Services.

(Ord. No. 301, § 19, 8/20/19; Ord. No. 197.14, § 1, 6/6/17; Ord. No. 197.13, § 2, 6/2/15; Ord. No. 197.12, § 2, 6/5/12; Ord. No. 197.11, § 2, 6-16-09; Ord. 197.10 (1), 6/19/07; Ord. 197.9, 6/6/06; Ord. 197.7, 7/3/01; Ord. 197.6, 9/5/95; Ord. 197.5, 3/21/95; Ord. 197.4, 5/4/94; Ord. 197.3 (A), 8/5/86; Ord. 197.2, 3/16/79; Ord. 197.1 (part), 9/5/78)

VI-3-2.00 - Divisions and Distribution of Work

Subject to other provisions of law, the work of the City government shall be assigned to such departments and such divisions within such departments as the City Manager shall establish and determine.

(Ord. 197.1 (part), 9/5/78)

VI-3-3.00 - Appointment and Removal of Department Heads

The City Manager shall appoint, and at his or her pleasure may dismiss, all City Department Heads. The City Manager's power to appoint and dismiss as described in this Ordinance may not be amended or limited, except as expressly imposed by formal action of the City Council.

(Ord. 52.5 (part), 11/18/97; Ord. 197.1 (part), 9/5/78)

VI-3-4.00 - Severance Payments for Specified "At-Will" Positions

1. Application. The ordinance codified in this Section shall permit the payment of severance to City employees serving in any of the following positions on an "at-will" (i.e., exempt) basis:
Department Heads; Chief Building Official; and City Engineer (hereafter "qualifying positions").
2. Severance Schedule. In exchange for a general release in a form subject to approval by the City Attorney, the City Manager may grant severance pay pursuant to this Section on the following schedule. Severance pay shall be based on an employee's base salary at the time of separation and is subject to all applicable withholding as determined by the City or appropriate taxing authorities:

For employees with up to one year of City service in a qualifying position: Four weeks' salary.

For employees with greater than one year, but no more than five years, of City service in a qualifying position: Four weeks' salary, plus two weeks' salary for each additional year of City service in a qualifying position (maximum twelve weeks' salary).

For employees with greater than five years of City service in a qualifying position: Twelve salary, plus one week's salary for each additional year of City service in a qualifying position not to exceed a total of four additional weeks' salary.

3. Criteria and Administration.

- (a) The maximum amount of severance payable under this Section sixteen weeks' salary. The minimum City service required in a qualifying position in order to receive this amount is nine years.
- (b) A year of City service means at least 2080 hours during a twelve-month period in a paid status.
- (c) Severance payments under this Section shall not be paid until after the City Attorney approves the release and after any statutory waiting periods have expired (e.g., the seven-day waiting period under the ADEA).
- (d) Severance payments may be made under this Section only after an employee is dismissed without cause or is laid off. Employees who voluntarily resign, retire, or who are dismissed "for cause" are ineligible for severance payments made under this section. Dismissal "for cause" includes any dismissal made for reasons of fraud, dishonesty, insubordination, theft, misappropriation or misuse of City property, excessive absenteeism, actions prohibited by the City's anti-discrimination policies, or conduct that would constitute a crime. The City Manager shall have the discretion to determine whether dismissals are "for cause" under this section.

(Ord. 197.8, 6/4/02)

Chapter 10 - PUBLIC SAFETY DISPATCHER TRAINING AND SELECTION

Sections:

VI-10-1.00 - Purpose

The City of Milpitas declares that it desires to qualify to receive aid from the State of California under the provisions of Section 13522, Chapter 1, of Title 4, Part 4, of the California Penal Code.

(Ord. 235 (part), 4/3/90)

VI-10-2.00 - State Standards

Pursuant to Section 13510(c), Chapter 1, the City of Milpitas will adhere to standards for recruitment and training established by the California Commission on Peace Officer Standards and Training (POST).

VI-10-3.00 - Adherence to Standards

Pursuant to section 13512, Chapter 1, the Commission and its representatives may make such inquiries as deemed appropriate by the Commission to ascertain that the City of Milpitas public safety dispatcher personnel adhere to standards for selection and training established by the Commission on Peace Officer Standards and Training.

(Ord. 235 (part), 4/3/90)

Chapter 101 - PERSONNEL SYSTEM

Sections:

[Section 1. - Adoption of Personnel System]

VI-101-1.00 - Adoption of Personnel System

In order to establish an equitable and uniform procedure for dealing with personnel matters; to attract to municipal service the best and most competent persons available; to assure that appointments and promotions of employees will be based on merit and fitness as determined by competitive test; and to provide a reasonable degree of security for qualified employees, the following personnel system is hereby adopted.

(Ord. 111.8 (C)(part), 4/17/90; Ord. 111 (part), 8/6/63)

[Section 2. - Personnel Officer]

VI-101-2.00 - Personnel Officer

VI-101-2.01 - Duties and Responsibilities

The City Manager shall be ex-officio personnel officer. The City Manager may delegate any of the powers and duties as personnel officer under this Chapter to any other officer or employee of the City or may recommend that such powers and duties be performed under contract as provided in Section VI-101-15 of this Chapter. The Personnel Officer shall:

2.01-1 Administer all the provisions of this Chapter and of the personnel rules not specifically reserved to the Council.

2.01-2 Prepare and recommend to the Council revisions and amendments to the personnel rules. The City Attorney shall approve the legality of such revisions and amendments prior to their submission to the Council.

2.01-3 Prepare a position classification plan, including class specifications, and revisions of the plan. The plan, and any revisions thereof, shall become effective upon approval by the Council.

2.01-4 Prepare a plan of compensation, and revisions thereof, covering all classifications in the competitive service. The plan, and any revisions thereof, shall become effective upon approval by the Council.

(Ord. 111.8 (C)(part), (D), 4/17/90; Ord. 111 (part), 8/6/63)

[Section 3. - Competitive Service]

VI-101-3.00 - Competitive Service

The provisions of this Chapter shall apply to all offices, positions, and employments in the service of the City, except the following "exempt" positions.

(Ord. 111.8 (C)(part), 4/17/90; Ord. 111 (part), 8/6/63)

VI-101-3.01 - Positions Exempt from Competitive Service

3.01-1 All elected officials.

3.01-2 Members of appointive boards, commissions and committees.

3.01-3 Persons engaged under contract to supply expert, professional or technical services for a definite period of time.

3.01-4 Volunteer personnel, such as volunteer firemen, who receive no regular compensation from the City.

3.01-5 The City Attorney, the City Clerk, and City Treasurer.

3.01-6 The City Manager and Assistant City Manager.

3.01-7 Department Heads, Directors, Division Heads and other employees with significant responsibility for formulating and administering City policies and programs.

(Ord. 111.8 (C)(part), (E), 4/17/90; Ord 111.2, 6/22/70; Ord. 111 (part), 8/6/63)

[Section 4. - Adoption of Rules]

VI-101-4.00 - Adoption of Rules

Personnel rules, prepared by the City Manager subject to this Chapter and to revision by the Council, shall be adopted, and may be amended from time to time, by resolution of the Council. The rules shall establish specific procedures and regulations governing the following phases of the personnel system:

(Ord. 111.8 (C)(part), 4/17/90; Ord. 111 (part), 8/6/63)

VI-101-4.01 - Coverage of Such Rules

4.01-1 Preparation, installation, revision, and maintenance of a position classification plan covering all positions in the competitive service, including employment standards and qualifications for each class.

4.01-2 Preparation, revision, and administration of a plan of compensation directly correlated with the position classification plan, providing a rate or range of pay for each class.

4.01-3 Public announcement of all tests and the acceptance of applications for employment.

4.01-4 Preparation and conduct of tests and the establishment and use of resulting employment lists containing names of persons eligible for appointment.

4.01-5 Certification and appointment of persons for employment lists, and the making of temporary and emergency appointments.

4.01-6 Transfer, promotion, demotion, and reinstatement of employees in the competitive service.

4.01-7 Separation of employees from the City service through lay-off, suspension, and dismissal.

4.01-8 Standardization of hours of work, attendance and leave regulations, working conditions and the development of employee morale, welfare, and training.

4.01-9 Suitable provision for orderly and equitable presentations to the City Manager and to the City Council by employees relating to general conditions of employment.

4.01-10 Content, maintenance, and use of personnel records and forms.

4.01-11 Not codified.

4.01-12 Any other procedures and regulations necessary to carry out the provisions of this Chapter.

(Ord. 111.8 (C)(part), 4/17/90; Ord. 111 (part), 8/6/63)

[Section 5. - Appointments]

VI-101-5.00 - Appointments

VI-101-5.01 - Competitive

Examinations

Appointments to vacant positions in the competitive service shall be made in accordance with the personnel rules. Appointments and promotions shall be based on merit and fitness to be ascertained so far as practicable by competitive examinations. Examinations shall not be required for the reinstatement of employees to the same or comparable class, for which they are qualified and from which they were separated as a result of resignation in good standing or reduction in force.

Provided however, the City Council shall be entitled to establish preference in the competitive examination procedure for veterans of the United States armed forces as defined by and under rules and regulations adopted by the City Council by resolution.

(Ord. 111.8 (C)(part), 4/17/90; Ord. 111.7, 2/18/86; Ord. 111 (part), 8/6/63)

VI-101-5.02 - Power to Make Appointments

Appointments shall be made by the City Council, City Manager, Department Heads, Personnel Officer or the officer in whom the power to make appointments is vested by law.

(Ord. 111.8 (C)(part), (F), 4/17/90; Ord. 111 (part), 8/6/63)

VI-101-5.03 - Temporary appointment

In the absence of appropriate employment lists, a temporary appointment may be made in accordance with the Personnel Rules.

(Ord. 111.8 (C)(part), 4/17/90; Ord. 111 (part), 8/6/63)

VI-101-5.04 - Emergency appointments

Emergency appointments shall be made in accordance with state law and the personnel rules.

(Ord. 111.8 (C)(part), 4/17/90; Ord. 111 (part), 8/6/63)

Section 6 - Probationary Period

All regular appointments, including promotional appointments, shall be for a probationary period of not less than six months.

Section 7 - Status of Present Employees

VI-101-7.01 - Exemption From Qualifying

Any person holding a position included in the competitive service who, on the effective date of this Chapter, shall have served continuously in such position for a period equal to the probationary period prescribed in the rules for his class, shall assume regular status in the competitive service in the position held on such effective date without qualifying test, and shall thereafter be subject in all respects to the provisions of this Chapter and the personnel rules.

(Ord. 111.8 (C)(part), 4/17/90; Ord. 111 (part), 8/6/63)

VI-101-7.02 - Present Employee in Probationary Period

Any other persons holding positions in the competitive service shall be regarded as probationers who are serving out the balance of their probationary periods as prescribed in the rules before obtaining regular status. The probationary period shall be computed from the date of appointment or employment.

(Ord. 111.8 (C)(part), 4/17/90; Ord. 111 (part), 8/6/63)

Section 8 - Applicability of Rules to Certain Exempt Positions

The provisions of the personnel rules relating to attendance and leaves shall apply to the incumbents of full-time exempt positions.

(Ord. 111.8 (C)(part), 4/17/90; Ord. 111 (part), 8/6/63)

Section 9 - Appointments Subject to Ordinance

The City Council, City Manager, and any other officer in whom is vested the power to appoint, make transfers, promotions, demotions, reinstatements, lay-offs, and to suspend or dismiss employees, shall retain such power, subject to the provisions of this chapter and the personnel rules.

(Ord. 111.8 (C)(part), 4/17/90; Ord. 111 (part), 8/6/63)

Section 10 - Suspension

Any person holding a position or employment in the competitive service shall be subject to disciplinary suspension without pay by the appointing power, provided that such suspensions are in accordance with the provisions of this chapter and the personnel rules relating to appeals procedure.

(Ord. 111.8 (C)(part), 4/17/90; Ord. 111 (part), 8/6/63)

Section 11 - Right of Appeal

Except as otherwise provided in a Memorandum of Understanding approved by the City Council, any employee shall have the right to appeal any disciplinary action, suspension, demotion, reduction or alleged violation of the personnel ordinance or rules. The administration of appeals shall be governed by the personnel rules.

(Ord. 111.8 (C)(part), (G), 4/17/90; Ord. 111.7 (part), 1/6/87; Ord. 111 (part), 8/6/63)

Section 12 - Improper Political Activity

Any person holding an office or employment in the competitive service shall not:

- (a) Deleted by Ord. 111.3.
- (b) During hours of work, or when dressed in the uniform required in any department of the City government or when wearing any City insignia required or permitted in any department of the City government or while identifying himself 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 (except as expressly authorized by the City Manager of City.)
- (c) Use his office or employment or title or City uniform or City insignia in connection with any City, District, County, State, Federal or other political activity or in connection with any nomination, campaign or election (except as expressly authorized by the City Manager).

(Ord. 111.8 (C)(part), 4/17/90; Ord. 111.3, 6/18/74; Ord. 111.1, 5/28/68; Ord. 111 (part), 8/6/63)

Section 13 - Activities Not Affected

This chapter does not prevent any officer or employee from:

- (a) Becoming or continuing to be a member of a political club or organization.
- (b) Attendance at a political meeting.
- (c) Enjoying entire freedom from all interference in casting his vote.
- (d) Seeking or accepting election or appointment to public office while on leave of absence.
- (e) Seeking signatures to any initiative or referendum petition directly affecting his rates of pay

hours of work, retirement, civil service, or other working conditions provided such acti
not carried on during hours of work.

Item # 21.

- (f) Distributing badges, pamphlets, dodgers, or handbills or other participation in any campaign in connection with such petition if the activity is not carried on during hours of work, or when he is dressed in the uniform required in any department of the city government.

The violation of any provision of Sections 12 or 13 is ground for discharge of any officer of employee.

(Ord. 111.8 (C)(part), 4/17/90; Ord. 111 (part), 8/6/63)

Section 14 - Discrimination

All recruitment, hiring, placements, transfers and promotions shall be on the basis of qualifications of the individual for the positions being filled regardless of race, color, religion, ancestry, national origin, age (over forty years), sex, marital status, medical condition (cured or rehabilitated cancer), physical handicap, political affiliation or union activity. All other personnel actions, such as compensation, benefits, layoffs, returns from layoffs, disciplinary actions, training and social and recreational programs shall also be administered regardless of race, color, religion, ancestry, national origin, age (over forty years), sex, marital status, medical condition, physical handicap, political affiliation or union activity.

(Ord. 111.8 (C)(part), (H), 4/17/90; Ord. 111 (part), 8/6/63)

Section 15 - Right to Contract for Special Service

The City Manager shall consider and make recommendations to the City Council regarding the extent to which the City should contract for the performance of technical services in connection with the establishment or operation of the personnel system. The Council may contract with any qualified person or agency for the performance of all or any of the following responsibilities and duties imposed by this Chapter:

- (a) The preparation of personnel rules and subsequent revisions and amendments thereof.
- (b) The preparation of a position-classification plan, and subsequent revisions and amendments thereof.
- (c) The preparation of a plan of compensation, and subsequent revisions and amendments thereof.
- (d) The preparation, conduct and grading of competitive tests.
- (e) Special and technical services of advisory or informational character on matters relating to personnel administration.

(Ord. 111.8 (C)(part), 4/17/90; Ord. 111 (part), 8/6/63)

The Council shall appropriate such funds as are necessary to carry out the provisions of this Chapter.

(Ord. 111.8 (C)(part), 4/17/90; Ord. 111 (part), 8/6/63)

Section 17 - Penalty Provision

See I-1-4.09-1

(Ord. 111.8 (C)(part), 4/17/90; Ord. 111 (part), 8/6/63)

Section 18 - Regulations Regarding Nepotism

VI-101-18.01

As used herein, the term "relative" means the following relationships by blood, marriage or adoption: Spouse, father, mother, sister, brother, son, daughter, niece, nephew, aunt, uncle, stepfather, stepmother, stepsister, stepbrother, stepson, stepdaughter.

(Ord. 111.8 (C)(part), 4/17/90; Ord. 111 (part), 8/6/63)

VI-101-18.02

The provisions of this Section shall not apply to any officer, employee or appointee holding any office, employment or appointment prior to thirty days following the adoption of this Section.

(Ord. 111.8 (C)(part), 4/17/90; Ord. 111 (part), 8/6/63)

VI-101-18.03

No person shall be disqualified for appointment as an employee of the City or disqualified from assignment or transfer for the sole reason that said person is a relative of another City officer or employee except as follows:

- a) No person shall serve in a position where said person is subject to supervision, evaluation, discipline or having his/her compensation determined by a relative.
- b) No person who is a relative of a department head shall serve in the department of said department head.
- c) No person who is a relative of a division head shall serve in the same division as said division head.

d) No relative of the City Manager, Mayor, or of any City Council member shall serve in any city position provided nothing herein contained:

- (i) shall be a limitation upon the power of the electorate to elect a Mayor or Council member, notwithstanding the fact that at the time of said election, said Mayor or Council member shall have a relative employed by the City
- (ii) shall be a limitation upon the power of the Mayor or Council to appoint any Council member or other City officer, notwithstanding the fact that at the time of the appointment, the appointee has a relative employed by the City.

(Ord. 111.8 (C)(part), 4/17/90; Ord. 111.6, 2/18/86; Ord. 111 (part), 8/6/63)

Chapter 102 - PROVISIONS FOR REDUCING CITY WORK FORCE

Sections:

Section 1 - Abolition or Reduction of Authorized Positions

VI-102-1.00

Whenever in the judgment of the City Council it becomes necessary in the interest of economy or because the necessity for any authorized position in the City service no longer exists, the City Council may eliminate or reduce the number of any or all authorized positions within the City service without the right of appeal of the decision to eliminate or reduce the positions.

(Ord. 111.5 (part), 6/20/78)

Section 2 - Demotion Within the Competitive Service Classifications Above the Entry Level

VI-102-2.00

In reducing the number of personnel within classification(s) the least senior employee(s) within the affected class(es) shall be displaced either through demotion or lay-off. Seniority for the purpose of this section, is defined as the employee's total time served within the specified classification, or higher classification(s) within the job series. In the event two or more employees have served the same amount of time in a classification, seniority shall be determined by their respective position on the employment list for the specified classification. All temporary employees in the affected class or classes shall be laid off prior to the displacement of any probationary or permanent employee.

Any permanent employee who is displaced as provided for in Section 1, may elect to accept a demotion in lieu of lay-off to a lower level related classification, or an unrelated classification previously held on a permanent basis, provided, however, that two conditions are met:

- 1) that the employee accepting demotion meets the qualifications for the classification he/she has elected for the demotion OR has previously held the classification; and
- 2) that the employee accepting demotion must have a length of service either in the higher classification(s), the classification he/she is considering for demotion, or a combination of both which is greater than the least senior employee in the classification to which he/she intends to accept the demotion.

(Ord. 111.5 (part), 6/20/78)

Section 3 - Exempt Employees May Return to the Competitive Service

VI-102-3.00

Any exempt employee who was promoted from the Competitive Service may elect a demotion to the Competitive Service in lieu of layoff. Once elected, said employee shall be eligible for demotion to a lower level classification in accordance with the provisions of Section 2.

(Ord. 111.8 (I)(part), 4/17/90: Ord. 111.5 (part), 6/20/78)

Section 4 - Lay-Off

VI-102-4.00

Seniority, for the purpose of this section, shall be defined as the total cumulative time of City service and shall be observed in effecting lay-offs. The order of lay-off shall be in the reverse order of total cumulative time served in permanent positions in the City service upon the effective date of lay-off. Lay-off shall be made within classes of positions, and all temporary employees in the affected class or classes shall be laid off prior to the lay-off of any probationary or permanent employee.

Each employee laid off shall receive a final performance evaluation to be based on job performance since the employee's last performance appraisal. Thereafter, the Department head shall certify as to the affected employee's competency if overall service in the classification has been satisfactory. If not certified as having given satisfactory service, the employee laid off may interpret the action as a discharge and request a hearing as provided by the Personnel Ordinance. An employee who is laid off must be certified as competent, in order to be placed on the re-employment list.

Section 5 - Time Served on Military Leave

VI-102-5.00

For the purpose of determining displacement within classifications in accordance with this Chapter, time served on military leave shall be included as time served within the classification held at the time the military leave was taken, and in accordance with the Military and Veterans Code of the State of California.

(Ord. 111.5 (part), 6/20/78)

Section 6 - Notice of Lay-Off

VI-102-6.00

Pursuant to Section 1 of this Chapter, the City shall provide employees who may be affected by lay-off, a thirty (30) calendar day written preliminary notice of intent to lay-off. The preliminary notice shall also advise the employee whether, in accordance with this Chapter, they may elect demotion in lieu of lay-off. Employees who are notified that they may elect demotion in lieu of lay-off, must advise the City Manager's Office within fifteen (15) calendar days, of their decision to exercise the demotion option or forfeit their rights to the demotion in lieu of lay-off. Thereafter, the City shall provide a written confirmed notice of lay-off at least ten (10) working days prior to the effective date of lay-off. Reasonable effort shall be made to ensure notification. The recognized employee group representatives for the affected classes shall be notified concurrently on the preliminary and confirmed lay-off notices.

(Ord. 111.5 (part), 6/20/78)

Section 7 - Re-Employment Lists

VI-102-7.00

The names of probationary and permanent employees laid off or demoted in accordance with this Chapter shall be placed on a re-employment list in the reverse order of their displacement, whether it be by lay-off or demotion. The lists shall be prepared by classes which, in the opinion of the City Manager, require basically the same qualifications and duties and responsibilities for those of the class or classes of positions

from which lay-off or demotion occurred. Re-employment lists shall remain in effect for seven years following their promulgation, except that the names of employees who are laid off shall be removed after three years.

Employees who are laid off in accordance with this Chapter are required to keep the City Manager's Office informed of any change of address or telephone number. Employees shall be returned in the reverse order of their displacement.

An employee's name shall be removed from the re-employment list, if:

- 1) the individual has been certified for appointment three times and has refused the appointments; and/or
- 2) has resigned from City service during the period the list is in effect.

In the event an employee's name is removed from the re-employment list for refusing an appointment three times, he/she may petition the City Manager in writing for reinstatement to the list. If good cause can be demonstrated as to why the individual did not accept any of the appointments, the City Manager may reinstate the individual to the list.

(Ord. 111.5 (part), 6/20/78)

Section 8 - Conditions of Re-Employment

VI-102-8.00

Upon re-employment, any employee who was laid off in accordance with Section 4 of this Chapter shall have his/her status restored and/or modified pursuant to the existing Memorandum of Understanding in effect at the time of lay-off or subsequent Memorandum of Understanding. The intent of this section is to restore at least the following:

- 1) the same vacation accrual rate;
- 2) his/her sick leave balance in effect at the time of lay-off;
- 3) his/her seniority (time served in permanent positions within the City service), at the time of lay-off;
- 4) if re-employed in the same classification, or substantially the same classification, the employee shall be returned to the same step of the current salary range for that classification;
- 5) if re-employed in a lower classification, the employee's salary shall be established as though he/she had been demoted to the position; and
- 6) upon re-employment the applicant shall provide a written statement that he/she has not

incurred any disability during the period of lay-off which would prevent the applicant from performing the duties of that position.

Item # 21.

(Ord. 111.5 (part), 6/20/78)

Section 9 - Waiver

VI-102-9.00

Unless modified herein, all other existing provisions remain as established.

(Ord. 111.5 (part), 6/20/78)

Section 10 - Severability

See I-1-4.12

(Ord. 111.5 (part), 6/20/78)

Section 11 - Criteria for Demotion Within Exempt Classifications

VI-102-11.00

In reducing the number of exempt personnel, displacement within classification(s) shall be made by the City Manager after reviewing the Department Head's recommendation and may take into consideration the following four factors:

- 1) consideration of the seniority of the employee(s) affected;
- 2) the nature of the services performed by the employee(s) affected or which the employee(s) affected are capable of rendering;
- 3) the importance of the service rendered to the City and to the community; and
- 4) the availability of funds.

(Ord. 111.8 (I)(part), 4/17/90: Ord. 111.5 (part), 6/20/78)

Section 12 - Outsourcing of Sworn Safety Personnel

VI-102-12.00

Police and Fire services are currently provided by employees of the City within Departments of the City utilizing City owned facilities and equipment. Any proposal to outsource the public safety functions of these departments as currently organized may not be implemented without first being approved by the voters of the City of Milpitas. Outsourcing within the meaning of this Ordinance means laying off or terminating the employment of the employees currently providing these services and replacing those persons with personnel not employees of the City. This provision shall not affect the authority of the City to otherwise reduce its workforce, as provided in this Chapter, or to take disciplinary action regarding any employee for cause, or otherwise exercise management authority to organize these departments and personnel as allowed under this Code, the Personnel Rules and applicable MOU provisions.

(Ord. No. 283, § 2, 11/6/12)



April 11, 2022

Sent by email to: smcharris@ci.milpitas.ca.gov

Mr Steve McHarris, City Manager
City of Milpitas
455 E. Calaveras Bl.
Milpitas, CA 95035

Dear Mr. McHarris,

We are looking forward to attending the City Council meeting on April 19th where you will be asking the City Council if they would like to prioritize the review of the Eleanor to become a member of the recently adopted CSCDA Workforce Housing Program ("**WHP**"). We have outlined in this letter a few key points to help you frame our request to the City Council that evening.

Background

We have been in working with the property owner (SummerHill Apartment Communities) since June 2021 to present this property to the City of Milpitas. We realize that your staff had to take a deep dive into the CSCDA WHP to understand the program and the benefits, cost, and any liability to the City by becoming a member of the WHP, and whether to consider adopting the Turing as a part of the WHP. As we all know, this process was very long. We stood patiently on the sidelines while the City went through this process, ultimately decided to join the WHP and adopted the Turing to be part of WHP in March 2020.

Benefits to the City

As you know we submitted our project data and required documents for you to review for consideration of now adopting the Eleanor to the WHP (See the attached Dropbox link below) on March 16, 2022. As we discussed over the Zoom meeting we had on March 29th, we are excited to be able to present this opportunity to make the Eleanor a middle-income housing community to the city for many years to come.

Adopting this community to be a part of the WHP will have a meaningful impact to the residents of the Eleanor - In fact, we recently learned that 78% of current residents would qualify for the Program. This is a considerable number of existing Milpitas residents who will immediately see an average savings of their rent to be ~\$460 per month or \$5,520 per year!

Next Steps

The good news is that our application is not centered around the heavy analysis that went into the decision of if the City should join the CSCDA WHP JPA, but rather now it's only a decision to add this Property to the City's newly adopted membership of the CSCDA WHP JPA. Thus, the scope of work will be *significantly less* for the 3rd- Party Consultant(s) where the focus should be on the merits of the Eleanor to be included as a part of the City's approved properties under the newly adopted CSCDA WHP JPA. This process should move forward without a lot of staff time and your consultants should be able to review and report on the Eleanor's bond underwriting very quickly.

Schedule:

We have reviewed the timeframe that we would expect this process to take, and have outlined the following schedule to be very achievable:

Date/Week of:	Milestone
3/16/22	OHG submitted the Application for Eleanor to the City
4/19/22	City to initiate priority review of Eleanor
May 9th:	3 rd Party Report finalized (2+ weeks to contract & prepare)*
May 12/13th:	City Finalize Staff Report (use all the information in Dropbox link below)
5/17/22	City Council to Hear Item for consideration to adopt Eleanor as a part of the CSCDA WHP

Note: *We would suggest that the City immediately contract with their consultants to expedite the review of the information we provided to you on March 16th. OHG is willing to pay overtime to have the 3rd Party Consultants review the bond underwriting for the Eleanor within the timeframe noted. We would also recommend that if KMA is backed up, that the City consider RSG to complete this property-level report (<https://webrsg.com> - attention Mark Sawicki 714.316.2194 (Direct)). RSG has completed project reviews of the WHP for numerous cities across the state.

Summary of Request for City Council to consider at the City Council Meeting on April 19, 2022:

1. **Prioritize and immediately commence the review process pursuant to the schedule noted above.**
2. **Initiate a Reimbursement Agreement where OHG will reimburse the City and Consultant time to expedite this review.**
3. **Establish a clear understanding between the City Council, Staff and OHG that any review and approval for Eleanor will need to be under the same terms and conditions as the Turing and will include the same waivers and set of agreements reached between Waterford with the City Council [Note: OHG works with the same CSCDA bond council and there is no latitude to make any changes to what was approved by the City Council earlier this month].**
4. **Establish a clear understanding between the City Council, Staff and OHG that certain goals and performance measures that you recommended in your staff report of the Turing's application were waived by the City Council and those waivers would match up to what Eleanor would be able to accept as a part of its approval.**

As we stated in our prior emails, to accelerate the city review and to expedite the process, please find the Dropbox link below which contains the following documents:

- Eleanor Project Memo
- Eleanor Proforma
- Draft Public Benefit Agreement for Eleanor
- Redline Eleanor Public Benefit Agreement vs. Turing
- Draft Approval Resolution

<https://www.dropbox.com/sh/mcqjvog7kdtbek7/AAAJC4RUXT17PbdHho0Z53Zga?dl=0>

Letter to Mr. Steve McHarris
City of Milpitas
April 11, 2022

Thank you for your consideration of our request on April 19, 2022, and we look forward to answering any questions that you might have in the meantime.

Sincerely,



Brad Griggs
Managing Partner

Blake | Griggs Properties, LLC
Opportunity Housing Group, LLC

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Danville, CA 94526

M. 415-235-7732

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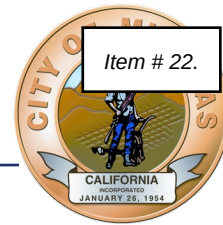
CC (by email):

Members of the City Council c/o Milpitas City Clerk - wwood@ci.milpitas.ca.gov

CSCDA – Jon Penkower, Managing Director jpenkower@cscda.org

OHG – Lauren Seaver lseaver@blakegriggs.com

Deputy Milpitas City Manager – Ashwini Kantak akantak@ci.milpitas.ca.gov



MEMORANDUM

City Manager's Office

DATE: April 15, 2022

TO: Mayor and Councilmembers

THROUGH: Steve McHarris, City Manager *Steve McHarris*

FROM: Ashwini Kantak, Assistant City Manager *Ashwini Kantak*
Sharon Goei, Building Safety and Housing Director

SUBJECT: **Eleanor Apartments Project Proposal**

BACKGROUND

At the March 15 City Council meeting, staff was directed to agendize a discussion about the potential conversion of Eleanor Apartments located at 312 Gates Drive to a moderate-income housing project through the California Statewide Communities Development Authority.

At the February 15 City Council meeting, Council adopted [Goals and Performance Measures](#) for this type of moderate-income housing program and presented recommendations for a Public Benefit Agreement (PBA) for a similar program for the Turing apartments located at 1355 McCandless Drive.

Although the Turing project team had made several changes to their original project proposal and draft PBA since the original proposal was submitted in May 2021, the adopted PBA still did not align with the Council's adopted goals and measures for this type of program. Council deliberation included an acknowledgment that since this was a new concept for Milpitas, the Turing proposal could be considered for approval, while the process along with the adopted Goals and Performance Measures, provided ample information for future applicants to understand the City's expectations for any other such project proposals.

The Eleanor Apartments project representative has stated that their proposed project will not be viable if they are required to comply with the recent Council adopted goals and performance measures. Their project team is seeking the same terms included in the Turing PBA.

We also remind the Council that, as noted in the [February 15 staff report, Item 16](#), the approved PBA for the Turing project does not meet the adopted Goals and Performance Measures in several areas related to Affordability, Financial Considerations, Capital Investments, and Transparency and Oversight. The approved PBA also does not adequately mitigate potential future risks identified by the City's financial consultants, City Attorney's Office, and staff.

Another consideration for the proposed project is the availability of staffing resources. Although the Turing project team paid for consultant costs, a significant amount of staff time was spent on the project, which was not reimbursed, and diverted staff attention away from other City Council work priorities. Given the vacancy rate in Housing and the many federal and state-mandated projects currently underway, Housing staff will not be able to initiate this project without securing additional staffing resources to manage the project. Additionally, the Turing project required a considerable amount of time from staff in Finance and the City Manager's Office, and from the City Attorney. With the Proposed FY 2022-2023 Budget currently underway, staff will only be able to initiate the proposed project analysis upon securing staff dedicated to working on this project. And at that time, the proposal analysis will require setting up a funding mechanism with the project applicant to pay for staffing and consultant costs. Additionally, procurement of consulting resources will require staff resources across multiple departments.

Attachments:

Attachment 1: Adopted Goals and Performance Measures
Attachment 2: Alignment of Proposal with Adopted Goals and Measures



City of Milpitas
Framework for Evaluating
City Participation in Middle-Income Workforce Housing Proposals

GOALS AND PERFORMANCE MEASURES

AFFORDABILITY CONSIDERATIONS

GOAL A: AFFORDABILITY LEVEL

Project will primarily serve Moderate Income Households during the entire bond period.

Performance Measures:

- A1. Housing units will be below market-rate and affordable to Moderate-Income Households earning 81-120% average median income (AMI), as defined by the California Department of Housing and Community Development (HCD) maximum household income and rent limits for Santa Clara County. Units for Low-Income Households (80% AMI or below) as defined by HCD are also encouraged.
- A2. Maximum rents shall be based on Moderate Income Households paying a maximum of the 30% of their gross household income for housing costs consisting of rent and utility expenses paid by tenants.

GOAL B: RENT INCREASES

Rent increases will be limited to maintain the affordability of the project for primarily Moderate Income Households during the entire bond period.

Performance Measures:

- B1. Annual rent increases will not exceed 4% or the annual allowable percentage rent increase established by federal Department of Housing and Urban Development (HUD), whichever is lower.
- B2. Owner or Property Administrator agrees to submit proposed rent increases for City review and approval that verifies affordability requirements/covenants will continue to be maintained. City will be allowed 30 days to review and approve the rent increase proposal.

- B3. Owner or Property Administrator agrees to submit an annual report to City that certifies and confirms that affordability covenants, including rent increases, comply with HCD standards for affordability to Moderate Income Households.

GOAL C: EXISTING TENANTS

Existing project tenants will not be displaced by the public benefit, regulatory, or other agreements.

Performance Measures:

- C1. Non-Qualified Tenants (exceeding 120% AMI per California Tax Credit Allocation Committee (CTCAC) standards) will be allowed to remain in unit paying market rents until they choose to move out.
- C2. Qualified Tenants (120% AMI or below per CTCAC standards) will be allowed to benefit from a minimum 10% reduction in current project market rents.

GOAL D: LOCAL PREFERENCE POLICY

A preference program will be established for qualifying residents and employees with a primary work location in the City of Milpitas.

Performance Measures:

- D1. Subject to City review and approval, Owner or Property Administrator agrees to establish and administer a tenant preference program with administrative guidelines, marketing plan, and screening procedures that define benefiting households and employees. Confirm compliance with state and federal fair housing regulations.
- D2. Priority will be provided to qualifying teachers and administrative, maintenance, and support staff that are employed by the Milpitas Unified School District or other public education institution with a Milpitas job location.

GOAL E: REGIONAL HOUSING NEEDS ALLOCATION (RHNA) CREDIT

Projects will qualify for full or partial RHNA credit, if feasible.

Performance Measures:

- E1. Project complies with AB 787 criteria for full or partial RHNA credit:
 - a. No existing units affordable to very low, low, or moderate-income households;
 - b. Affordable to moderate income households for 55 years;
 - c. At least 10% reduction in average monthly rents from previous 12 months;
 - d. Rents based on 100% AMI established by CTCAC;
 - e. Units in decent, safe, and sanitary condition;
 - f. Project not acquired by eminent domain;
 - g. Government monitoring program established to ensure affordability and occupancy by qualifying households; and
 - h. A public entity shall hold an assignable right to purchase development.

FINANCIAL CONSIDERATIONS

GOAL F: QUALIFICATIONS OF PROJECT TEAM

Project will be owned and managed by a highly experienced and reputable Property Administrator and Property Manager.

Performance Measures:

- F1. Property Administrator demonstrates a minimum of ten years of extensive expertise and financial capability in financing, developing, and managing at least 5,000 units of comparable market-rate and affordable (income and rent restricted) residential projects in California.
- F2. Property Manager demonstrates a minimum of ten years of extensive financial and operations experience managing a portfolio of at least 5,000 units of comparable market-rate and affordable (income and rent restricted) residential projects in California, including administering local preference programs.

GOAL G: CITY EVALUATION OF PROPOSALS

Proposals will be evaluated for compliance with Goals and Performance Measures with professional and technical assistance as necessary.

Performance Measure:

- G1. Project proponent deposits funds as determined by the City to retain independent financial, economic, and/or property management consultants to analyze the proposal and provide findings and recommendations on affordability terms, cashflow analysis, pro forma, property condition assessment, capital improvement needs, bond/financing structure, administrative fees, and draft agreements.

GOAL H CITY REVENUES

City participation will not result in a loss of City property taxes, special taxes, or property tax in lieu of vehicle license fees (PTILVLF).

Performance Measures:

- H1. Project will fully backfill the City's any lost property tax and PTILVLF revenues through an upfront and/or annual payment of a Host Fee to the City with an annual increase of 2%. Host Fee shall be based on the post-sale assessed valuation of the property.
- H2. Host and other applicable City fees will be paid before operating expenses, administrator fees, debt service (bond principal and interest), and any bond reserve fund deposits, and will be paid from other sources if operating revenue is insufficient to meet this obligation.
- H3. For mixed used projects, property taxes pertaining to the non-residential portion of the property will continue to be paid.

- H4. Where applicable, an annual Infrastructure Fee will be paid equivalent to City special taxes pertaining to inclusion in a community facilities district or assessment district with annual increase as specified.

GOAL I. PROJECT FINANCIAL VIABILITY

Project demonstrates positive cashflow and ability to fully cover its debt service and operating expenses during the bond or agreement period to reduce financial risks and assure long-term viability.

Performance Measures:

- I1. Through consultation with an independent real estate or economic consultant, income and expense assumptions conservatively reflect historical trends for residential projects in Milpitas or Santa Clara County.
 - I2. Project Condition Report demonstrates a minimum 1.0 Debt Coverage Ratio (DCR) during the entire bond period with rental income based on conservative assumptions and the affordability goals and performance measures in Goals A and B.
 - I3. Cash flow analysis and pro forma demonstrate ability to cover amortized principal and interest payments during the bond term based on conservative assumptions.
-

GOAL J: CITY FINANCIAL RISK/BOND STRUCTURE

The financing plan and bond structure for the project is sound and consistent with industry standards for multi-family revenue bonds and reduces City risks and liability.

Performance Measures:

- J1. A minimum of 25% of the aggregate principal will be paid within 10 years of bond issuance; bond term will not exceed 35 years.
- J2. Bonds will be optionally redeemable within 10 years of issuance with call premium consistent with investment grade municipal bonds.
- J3. Bond principal redemption will be mandatory and paid under the same lien position as bond interest payments.
- J4. Administrator fees will be paid after payment of bond interest and principal, any bond reserve fund deposits, and payable with annual excess cashflow only.
- J5. Bond issuance fees and expenses will be in line with other similar middle income housing programs in California.
- J6. Bond issuer will notify the City of any material changes to the project during the bond term, including updates to cashflow analyses or pro formas as needed.
- J7. Public Benefit Agreement or Regulatory Agreement includes indemnification clause that limits the City's liability and exposure as the Project Host and program participant.

- J8. City will be entitled to 100% of the property's reversion value at the end of the bond term, without any obligation to share any proceeds to other taxing entities.

GOAL K: REFINANCING/ADDITIONAL DEBT

City will have the authority to approve any refinancing, restructuring, or issuance of additional debt.

Performance Measure:

- K1. Public Benefit Agreement, Regulatory Agreement, and/or Indenture include provisions that stipulate the City's approval authority for any debt refinancing, restructuring, or issuance of additional debt or encumbrances during the bond term.

LEVEL OF CAPITAL INVESTMENT

GOAL L: CAPITAL IMPROVEMENTS

Capital improvement needs for the project are fully identified and funded for the entire bond or agreement period.

Performance Measures:

- L1. Capital improvement and replacement needs with estimated costs are determined that cover the entire bond period.
- L2. Project Condition Report (pro forma or cash flow analysis) demonstrates that capital improvement and replacement costs will be covered by project reserves and operating income during the entire bond period.
- L3. An updated capital improvement assessment will be prepared at least every five years, or sooner if requested by the City, that assesses the capital needs and expenses for the project during the remaining bond term and the sufficiency of reserve funds and operating income.
- L4. Owner or Property Administrator agrees to fund an independent consultant approved by the City to prepare the capital improvement assessment and agrees to adjust reserve funds to cover revised capital costs for the project, if necessary.

TRANSPARENCY AND OVERSIGHT

GOAL M: CITY ENFORCEMENT AUTHORITY

City will have enforcement authority over management of the project to ensure compliance with goals and performance measures during the bond or agreement period.

Performance Measures:

- M1. Public Benefit Agreement or Regulatory Agreement cites the City's authority and remedies to enforce compliance with the housing affordability requirements.

- M2. Public Benefit Agreement or Regulatory Agreement defines the City's enforcement abilities, remedies, consequences, and resolution process if, upon review of annual certification and reports, project operations or responsible parties are found to be out of compliance with agreements.

GOAL N: MONITORING AND REPORTING

City will be provided with regular reports regarding the financial and operational performance of the project during the bond or agreement period for project monitoring.

Performance Measures:

- N1. Certification: Owner or Property Administrator agrees to submit to the City an annual Certificate of Continuing Program Compliance for the project.
- N2. Property Financial, Management, and Maintenance Reports: Owner or Property Administrator agrees to submit an annual report to the City that describes the project operations and finances, including but not limited to:
 - a. Rent roll and rent increases;
 - b. Vacancy rate;
 - c. Operating income and expenses;
 - d. Cashflow projection, operating funds, and reserves;
 - e. Bond interest and redemption payments and all bond specific payments;
 - f. Completed and planned capital improvements and replacements; and
 - g. Documentation on the general condition of the Project.
- N3. Independent Review: City reserves the right to require the property owner to fund an independent property and/or financial management consultant to review the reports required under N2 and provide an assessment of the project based on industry standards and best practices for management of residential property.
- N4. Monitoring Fee: Owner or Project Administrator agrees to submit to City an annual monitoring fee to cover City staff costs for project oversight and monitoring, with provision for an annual fee increase.

GOAL O: PROJECT ADMINISTRATION AND MANAGEMENT

Project proponent demonstrates to the City that the project will comply with best real estate practices for management of residential property.

Performance Measures:

- O1. Owner or Property Administrator agrees to submit the following plans for City review and approval prior to execution of PBA: Tenant Selection Plan, with screening and qualification procedures; Local Preference Policy (per Goal D); Maintenance Plan; Property Management Plan, including staffing; and Marketing Plan.
- O2. City will have the authority to review and approve the selection of any replacement Property Administrator or Property Manager that may be proposed during the bond period, including new or revised agreements pertaining to the replacement company.

ATTACHMENT 2
Eleanor Apartments CSCDA Proposal
Project Proponent: Opportunity Housing Group
COMPLIANCE WITH COUNCIL-ADOPTED GOALS AND PERFORMANCE MEASURES

15-Apr-22

COMPLIANCE SUMMARY:

GOALS (15): YES - 2, NO - 2 , Partial or Pending - 11

PERFORMANCE MEASURES (41): YES - 10, NO - 25 , Partial or Pending - 6

COMPLIANCE ITEMIZED LIST:

Color Coding: YES (Green), NO (Red), Partial or Pending (White)

Goal	Performance Measure	Comply?	Comments
AFFORDABILITY CONSIDERATIONS			
A. AFFORDABILITY LEVEL	A1. Housing units below market-rate and affordable to Moderate-Income Households per HCD standards for Santa Clara County. Units for Low Income Households encouraged.	No	Based on CSCDA maximum rents and assuming same rent levels as Turing Project, 40% of units would not be affordable to Moderate-Income Households and no units would be affordable to Low-Income Households per HCD standards.
	A2. Rents based on Moderate Income Households paying maximum 30% of gross household income for housing costs (rent and utilities).	No	Rents based on 30% of gross household income, but utility expenses are not included in calculating maximum rents per HUD standards.
B. RENT INCREASES	B1. Annual rent increases will not exceed 4% or the annual allowable percentage rent increase established by HUD, whichever is lower.	Yes	Regulatory Agreement includes this provision.
	B2. Owner agrees to submit proposed rent increases for City review and approval.	Yes	City approval required for any amendments to affordability covenant in Regulatory Agreement per PBA.
	B3. Owner agrees to submit an annual report to City certifying compliance with affordability covenants.	Yes	Annual compliance certification is required per PBA.
C. EXISTING TENANTS	C1. Non-Qualified Tenants (exceeding 120% AMI) allowed to remain in unit paying market rents.	Yes	Non-Qualified Tenants (exceeding 120% AMI) allowed to stay in their units per Regulatory Agreement.
	C2. Qualified Tenants (120% AMI or below) will benefit from a minimum 10% rent reduction.	No	No guaranteed rent reduction for qualified existing tenants.

Goal	Performance Measure	Comply?	Comments
D. LOCAL PREFERENCE POLICY	D1. Owner will administer a tenant preference program.	No	Not currently verified or included on PBA
	D2. Preference to teachers and staff employed in public education institutions in Milpitas.	No	Not currently verified or included in PBA
E. RHNA CREDIT	E1. Project qualifies for full or partial RHNA credit, if feasible.	No	Project does not qualify for partial RHNA credit.
FINANCIAL CONSIDERATIONS			
F. QUALIFICATIONS OF PROJECT TEAM	F1: Project Administrator demonstrates extensive development, management and financial experience.	Pending	Project Administrator not identified yet.
	F2. Property Manager demonstrates extensive residential management experience, including affordable housing and preference programs.	Pending	Property Manager not identified yet.
G. CITY EVALUATION OF PROPOSALS	G1. Project proponent deposits funds for consultants to analyze proposal.	Pending	Submittal of deposit pending.
H. CITY REVENUES	H1. Project backfills City property tax and PTILVLF through annual Host Fee based on post-sale assessed valuation.	No	Project will backfill Milpitas's share of property taxes and PTILVLF, but based on pre-sale assessed valuation.
	H2. Host Fee is guaranteed and in a senior lien position.	Yes	Host Fee will be paid before administrator fees and principal and interest per PBA.
	H3. Property taxes for non-residential portion of the property will continue to be paid.	Pending	Confirm that retail portion will not be included in CSCDA property transfer.
	H4. Annual Infrastructure Fee will be paid equivalent to City CFD 2008-1 special tax.	Yes	Special tax will be paid, and will continue to be paid if property found to be exempt from tax per PBA.
I. PROJECT FINANCIAL VIABILITY	I1. Income/expense assumptions conservatively reflect historical trends for residential projects in Milpitas or Santa Clara County.	No	Project has not yet submitted cash flow analysis with income/expense assumptions to verify performance measure.
	I2. Project demonstrates a minimum 1.0 Debt Coverage Ratio (DCR) with rental income based on Affordability Goals A and B.	No	Project has not yet demonstrated minimum 1:1 DCR and ability to cover debt and expenses with operating income.

Goal	Performance Measure	Comply?	Comments
	I3. Ability to make amortized principal and interest bond payments.	No	Project has not yet demonstrated ability to make amortized principal and interest bond payments.
J. CITY FINANCIAL RISK/BOND STRUCTURE	J1. Minimum 25% of principal paid within 10 years and bond term cannot exceed 35 years,	No	CSCDA bonds are "turbo" bonds with no guarantee of principal payment; limited payment of principal in first 15 years based on projected cashflow.
	J2. Bonds optionally redeemable within 10 years of issuance with call premium consistent with investment grade bonds.	No	Provision not included in PBA.
	J3. Bond principal redemption mandatory and in same lien position as bond interest payments.	No	Provision not included in PBA.
	J4. Administrator fee paid after bond principal and interest, bond reserve deposits, and only from excess cashflow.	No	Provision not included in PBA.
	J5. Bond issuance fess and expenses in line with similar middle income housing programs in California.	No	If similar to Turing project, fees to project sponsors significantly exceed underwriting standards for similar municipal bonds.
	J6. Bond issuer will notify City of any material changes to project financials during bond term.	No	Provision not included in PBA.
	J7. PBA includes indemnification clause to limit City's liability and exposure.	No	Limitation on liability section included in PBA, but indemnification provision not included.
	J8. City will be entitled to 100% of the property's reversion value at the end of the bond term.	Yes	City not obligated to share proceeds with other taxing entities per PBA.
K. DEBT REFINANCING	K1. PBA includes City approval authority for debt refinancing or restructuring.	Yes	City approval of any refinancing with stipulated exceptions (e.g. to fund improvements) per PBA.
LEVEL OF CAPITAL INVESTMENT			
L. CAPITAL IMPROVEMENTS	L1. Capital improvement needs and costs are determined for entire bond period.	No	Project has not verified this yet.
	L2. Capital improvement needs and costs covered by project reserves and operating income during entire bond period.	No	Uncertain that reserve funds for capital improvements will be adequately funded during full bond term.

Goal	Performance Measure	Comply?	Comments
	L3. Capital improvement assessment prepared at least every five years.	Yes	Provision included in PBA.
	L4. Independent consultant to prepare Capital Needs Assessment and reserve funds to be adjusted, if necessary.	No	Provision not included in PBA.
TRANSPARENCY AND OVERSIGHT			
M. CITY ENFORCEMENT AUTHORITY	M1. City authority with remedies to enforce compliance with the affordability requirements.	No	PBA does not include City enforcement authority and remedies for non-compliance with affordability covenants.
	M2. City enforcement abilities, remedies, and consequences if project out of compliance.	No	PBA does not include City enforcement authority and remedies for non-compliance with PBA and Regulatory Agreement.
N. MONITORING AND REPORTING	N1. Owner submits annual Certificate of Continuing Program Compliance.	Yes	Provision included in PBA.
	N2. Owner submits annual Property Financial, Management, and Maintenance Reports.	Partial	Partially addressed in PBA
	N3. City reserves the right to require independent consultant to review annual monitoring reports.	No	Provision not included in PBA.
	N4. Owner agrees to submit annual monitoring fee to cover City oversight and monitoring costs.	No	PBA does not require payment of annual City Monitoring Fee.
O. PROJECT ADMINISTRATION AND MANAGEMENT	O1. Owner agrees to submit management and maintenance plans.	No	Provision not included in PBA.
	O2. City authority to approve any replacement Project Administrator or Property Manager.	Partial	City allowed to comment on change of Property Manager per PBA, but no approval authority for change of Property Manager or Project Administrator.