



JOINT MEETING OF THE MILPITAS CITY COUNCIL AND HOUSING AUTHORITY



AGENDA

TUESDAY, JUNE 4, 2024

CITY COUNCIL CHAMBER, 455 E. CALAVERAS BLVD, MILPITAS, CA

6:00 PM (CLOSED SESSION)

7:00 PM (PUBLIC BUSINESS)

For assistance in the following languages, you may call:

Đối với Việt Nam, gọi 408-586-2400

Para sa Tagalog, tumawag sa 408-586-3051

Para español, llame 408-586-3072

** To access written translation during the meeting, scan the QR Code.*

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

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

Meeting shall be livestreamed - Go to:

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

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

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

PUBLIC COMMENT INSTRUCTIONS

Oral public comments may only be provided live during the City Council meeting in person, unless the City Council approves remote public comment. 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. Members of the public may submit written comments by email to CityClerk@milpitas.gov.

The meeting will be streamed via Zoom for viewing purposes only unless the City Council approves remote public comment. To watch via Zoom, please register at:

https://ci-milpitas-ca-gov.zoom.us/webinar/register/WN_JD6sOa6DS2qmR05AWxbRxQ

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

MILPITAS CITY COUNCIL CODE OF CONDUCT

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

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

ADJOURN TO CLOSED SESSION

(a) 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.

PLEDGE OF ALLEGIANCE

INVOCATION (Councilmember Lien)

PRESENTATIONS (7:05 PM)

PUBLIC FORUM (7:10 PM)

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

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

READING OF THE CITY COUNCIL CODE OF CONDUCT

APPROVAL OF AGENDA

CONSENT CALENDAR (7:15 PM)

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

C1. Receive City Council Calendar of Meetings for June 2024 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Receive City Council Calendar of Meetings for June 2024.

C2. Approve City Council Meeting Minutes of May 14 and 21, 2024 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Approve City Council Meeting minutes of May 14 and 21, 2024.

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

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

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

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

C5. Adopt a Resolution Calling for the General Municipal Election on November 5, 2024 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Adopt a resolution calling a General Municipal Election for the City of Milpitas on Tuesday, November 5, 2024, requesting consolidation of the election in accordance with California Elections Code Section 10418, and requesting services from the Santa Clara County Registrar of Voters.

C6. Authorize and Approve the Out-Of-State Travel to Las Vegas, NV, for Councilmember Anthony Phan, from June 19 – 21, 2024 and Authorize and Approve Travel to San Francisco, CA, for City Manager Ned Thomas, from June 6 – 7, 2024 (Staff Contact: Matt Cano, Assistant City Manager, 408-586-3012)

Recommendation: (1) Authorize and approve the out-of-state travel to Las Vegas, NV for Councilmember Anthony Phan to attend the APALF's Inaugural AAPI LEAD Summit, from June 19 – 21, 2024, for a not-to-exceed amount of \$1,400.00; and (2) Authorize and approve travel to San Francisco, CA for City Manager Ned Thomas to attend the CLEI's California Land Use Law Conference, from June 6 – 7, 2024, for a not-to-exceed amount of \$1,300.00.

C7. FY 2023-24 Financial Status Report for the Quarter Ended March 31, 2024 (Staff Contact: Luz Cofresí-Howe, Finance Director, 408-586-3111)

Recommendation: Review the FY 2023-24 Quarterly Financial Status Report for the quarter ended March 31, 2024.

C8. Approve an Agreement with Xerox Corporation for Full-Service Lease of Copier/Multifunction Digital Devices (Staff Contact: Luz Cofresí-Howe, Finance Director, 408-586-3111)

Recommendation: Authorize the City Manager to execute a cooperative agreement with Xerox Corporation for a full-service lease of copier/multifunction digital devices through a cooperative procurement contract by Region 4 Educational Services Center for not-to-exceed \$368,000 for 60 months [five (5) years] with change order authority up to 10%, subject to the annual appropriation of funds.

C9. 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 at the Negotiated Amount (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 consistent with Milpitas Municipal Code 1-2-3.03, and authorize the City Manager to execute any documents necessary to effectuate the purchase at the negotiated amount.

C10. Award IFB 24-091 and Authorize the City Manager to Execute the Purchase Order with Core and Main, LP for Valve Parts in the Amount of \$129,320.60 for Sunnyhills Turnout Rehabilitation Project, Project No. 7149 (Staff: Christian Di Renzo, Public Works Director, 408-586-2602; and Michael Silveira, City Engineer, 408-586-3303)

Recommendation: Award IFB 24-091 and authorize the City Manager to execute the purchase order with Core and Main, LP for the purchase of valve parts in the amount of \$129,320.60 for Sunnyhills Turnout Rehabilitation Project, Project No. 7149.

- C11. Adopt a Resolution to Approve Project Plans & Specifications, Award the Construction Contract to Preston Pipelines Infrastructure, LLC, Authorize Design Services Agreement Amendment No. 1 with MNS Engineers, Inc. for Fire Station 1 Pressure Reducing Stations Relocation, Project No. 7133 (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; and Michael Silveira, City Engineer, 408-586-3303)**

Recommendation: Adopt a resolution to approve project plans & specifications; award the construction contract to the lowest responsive, responsible bidder, Preston Pipelines Infrastructure, LLC, in a total amount of \$999,240; authorize the City Manager to execute the construction contract with Preston Pipelines Infrastructure, LLC.; authorize the Public Works Director to negotiate and execute contract change order(s) in an aggregate amount not to exceed \$150,000; and approve and authorize the City Manager to execute Amendment No. 1 to the Design Services Agreement with MNS Engineers in the amount of \$156,524 for Fire Station 1 Pressure Reducing Station Reconstruction, Project No. 7133.

- C12. Approve and Authorize the City Manager to Execute the Improvement Agreement between the City and Chevron U.S.A. Inc., for the completion of the Offsite Public Improvements located at 1490 South Park Victoria Drive (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; and Michael Silveira, City Engineer, 408-586-3303)**

Recommendation: Approve and Authorize the City Manager to Execute the Improvement Agreement between the City and Chevron U.S.A. Inc., for the completion of the Offsite Public Improvements located at 1490 South Park Victoria Drive.

PUBLIC HEARINGS (7:20 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.

- 13. Conduct a Public Hearing and Adopt Resolutions to Approve the Fiscal Year 2024-25 Proposed Operating Budget for the City of Milpitas and the Milpitas Housing Authority, Approve the Fiscal Year 2024-25 Gann Appropriations Limit, Authorize Various Financial Actions, Fiscal Policies and Budget Guidelines, and Amend the Classification Plan for Alignment with the FY 2024-25 Proposed Operating Budget, the Minimum Wage Increase, and Salary Schedules Consistent with Previous Council Action (Staff Contact: Luz Cofresi-Howe, Finance Director, 408-586-3111)**

Recommendation: (1) Conduct a public hearing; and (2) Adopt the following Resolutions: (a) Joint Resolution of the City Council and Milpitas Housing Authority to approve the Fiscal Year 2024-25 Proposed Operating Budget for the City of Milpitas and the Milpitas Housing Authority, approve the Fiscal Year 2024-25 Gann Appropriations Limit, Fiscal Policies and Budget Guidelines and authorizing various financial actions by the City Manager, including Approving and Authorizing the Execution of Various Contracts and Payments over \$100,000; (b) Amending Resolution No. 1626, the Classification Plan, to authorize additional positions and amend budgeted allocated positions; (c) Amending Resolution No. 1626, the Classification Plan, to adjust the hourly rate ranges for classifications due to a minimum wage increase pursuant to Ordinance No. 292; (d) Amending Resolution No. 1626, the Classification Plan of Unrepresented Management Employees and Authorizing Fringe Benefits; (e) Amending Resolution No. 1626, the Classification Plan, to adjust the Salary Schedules for various classifications to align with the current memorandums of understandings (MOUs).

- 14. Adopt a Resolution Certifying Election Results and Adding the Properties Located at 675 Trade Zone Blvd and 1951 Tarob Court into Community Facilities District No. 2008-1 (Annexation No. 26) (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; and Michael Silveira, City Engineer, 408-586-3355)**

Recommendation: Following receipt of election results from the City Clerk, adopt a resolution certifying election results and adding 675 Trade Zone Boulevard and 1951 Tarob Court to Community Facilities District No. 2008-1 (Annexation No. 26).

15. **Conduct a Public Hearing and Adopt a Resolution Confirming the Assessment and Ordering the Levy for the Landscaping and Lighting Maintenance Assessment District No. 95-1 - McCarthy Ranch for Fiscal Year 2024-25 (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; Michael Silveira, City Engineer, 408-586-3303)**

Recommendation: (1) Open the public hearing, receive any comments, and move to close the hearing following any testimony; and (2) Adopt a Resolution confirming the assessment and ordering the levy for Landscaping and Lighting Maintenance Assessment District No. 95-1 - McCarthy Ranch for Fiscal Year 2024-25.

16. **Conduct a Public Hearing and Adopt a Resolution Confirming the Assessment and Ordering the Levy for the Landscaping and Lighting Maintenance Assessment District No. 98 -1 - Sinclair Horizon for Fiscal Year 2024-25 (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; Michael Silveira, City Engineer, 408-586-3303)**

Recommendation: (1) Open the public hearing, receive any comments, and move to close the hearing following any testimony; and (2) Adopt a Resolution confirming the assessment and ordering the levy for Landscaping and Lighting Maintenance Assessment District No. 98 -1 - Sinclair Horizon for Fiscal Year 2024-25.

17. **Conduct a Public Hearing and Adopt a Resolution Approving General Plan Amendment GP24-0002 and an Ordinance Approving Zoning Text and Zoning Map Amendment ZA24-0002 to Create the New Business Park Research and Development Zone and Metro Area Zones (Staff Contact: Jay Lee, Planning Director, 408-586-3077; and Holly Pearson, Senior Special Projects Associate, 408-609-0072)**

Recommendation: Conduct a public hearing and determine that the EIR Addendum adequately analyzes the potential environmental impacts associated with the proposed General Plan and Zoning Amendments and is in compliance pursuant to CEQA Guidelines §15162 and §15164; adopt a resolution approving General Plan Amendment No. GP24-0002; and consider Ordinance No. 38.855 approving Zoning Text and Zoning Map Amendment No. ZA24-0002 to create the new Business Park Research and Development Zone and Metro Area Zones.

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS (8:30 PM)

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

ADJOURNMENT (8:35 PM)

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

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

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

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

APPLY TO SERVE ON A CITY COMMISSION

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

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

May 2024						
S	M	T	W	T	F	S
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19	20	21	22	23	24	25
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Milpitas City Council Calendar

June 2024

July 2024						
S	M	T	W	T	F	S
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28	29	30	31			

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1
2	3 7:00 PM-Parks, Recreation & Cultural Resources Commission (HL) 7:00 PM-Special Arts Commission (EC) [Senior Center, Room 140/141]	4 6:00 PM-Closed Session 7:00 PM-City Council	5 1:00 PM-Santa Clara VTA Monthly Briefing - Northeast Group (CM) 5:30 PM-Veterans Commission (CM) 7:00 PM-Community Advisory Commission (EC)	6 12:00 PM-SCC Library JPA Board of Directors (CM) 5:30 PM-Milpitas Chamber of Commerce Board (GB) 5:30 PM-Santa Clara VTA Board of Directors (CM)	7 5:00 PM-Milpitas Pride Flag-Raising Ceremony (Cesar Chavez Plaza)	8
9	10 4:30 PM-Economic Development and Trade Commission (CM)	11 5:30 PM-Special City Council Meeting- Community Heroes Recognition	12 4:00 PM-Transportation Subcommittee (CM/EC) 7:00 PM-Silicon Valley Clean Energy Board of Directors (EC) (Cupertino)	13 4:00 PM-Treatment Plant Advisory Committee (CM) (San Jose) 4:00 PM-Santa Clara VTA Policy Advisory Committee (EC) 5:30 PM-CASCC Legislative Action Committee (CM) 6:00 PM-Youth Advisory Commission (HL) 7:00 PM-Cities Assoc of SCC (CM)	14	15
16	17 7:00 PM-Science, Technology, and Innovation Commission (GB)	18 6:00 PM-Closed Session 7:00 PM-City Council	19 6:00 PM-Energy and Environmental Sustainability Commission (EC)	20 3:00 PM-CASCC Appt: Recycling and Waste Reduction Commission (CM) (Cupertino) 5:30 PM-Measure F Oversight Committee	21	22
23	24	25 1:30 PM-Senior Advisory Commission (CM)	26 11:30 AM- Employee Service Awards 7:00 PM-Planning Commission	27 5:30 PM- State of the City	28 9:00 AM-VTA Board Workshop Meeting (CM)	29
30						



SPECIAL MEETING OF THE MILPITAS CITY COUNCIL

MINUTES
TUESDAY, MAY 14, 2024

The City Council of the City of Milpitas convened on the City Council meeting day in a Special Meeting of the Milpitas City Council on May 14, 2024, in the Barbara Lee Senior Center, 40 N Milpitas Blvd, Room 140/141, Milpitas, CA, and via teleconference/Zoom webinar.

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

Mayor Montano called the Regular City Council meeting to order at 5:33 PM. Roll Call was taken by City Clerk Guzzetta.

PRESENT: Mayor Montano, Vice Mayor Chua, Councilmember Barbadillo (5:37 PM), Councilmember Lien, Councilmember Phan

ABSENT: None.

PLEDGE OF ALLEGIANCE

Mayor Montano led the pledge of allegiance.

PRESENTATIONS

There were no presentations.

PUBLIC FORUM

There were the following public speakers:

1. Tom Valore

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

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

READING OF THE CITY COUNCIL CODE OF CONDUCT

Mayor Montano read the City Council Code of Conduct.

APPROVAL OF AGENDA

After discussion, motion: to approve the agenda.

Motion/Second: Vice Mayor Chua/Councilmember Barbadillo

Motion carried by the following:

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

NOES: None

ABSENT: None

AGENDA ITEMS

1. Receive Presentation on the FY 2024-25 Proposed City of Milpitas Operating Budget and Provide Direction (Staff Contact: Luz Cofresi-Howe, Finance Director, 408-586-3111)

City Manager Thomas introduced the item and acknowledged Finance staff for their efforts in the creation of the budget. Finance Director Cofresi-Howe provided an overview of how a budget is formulated.

Mayor Montano questioned about interest collected on reserves.

Assistant City Manager Cano continued the report.

Recreation and Community Services Director Lorentzen presented on the Special Events calendar.

Mayor Montano questioned the popularity and cost of the events. Recreation and Community Services Director Lorentzen highlighted that the listed events were indeed the most popular and that even events with charges still offer some portions free to the public.

Assistant City Manager Cano presented on the Community Investment Fund program. He noted that staff is asking for feedback on the proposed programs and that a report to rank and prioritize them would return to the City Council in August.

Councilmember Barbadillo inquired about the portion of the proposed budget funded by the Community Investment Fund and Measure F. City Manager Thomas and Assistant City Manager Cano clarified that the Community Investment Funds are not included in the operating budget, while Measure F constitutes approximately seven million dollars. Councilmember Barbadillo requested a comparison of budget allocations with other cities, particularly focusing on whether their top three allocations align with Milpitas in non-departmental, police, and public works. He also raised concerns about revenue sources, particularly regarding one-time and ongoing development fees, and questioned their integration into the ten-year budget forecast. He expressed skepticism about the sustainability of development at the current pace.

Vice Mayor Chua followed up, suggesting the City conduct a financial stress test to mimic the conditions that existed during the pandemic. Finance Director Cofresi-Howe responded that the forecast is considered a basic form of stress test. The Vice Mayor asked to conduct an extreme stress test. City Manager Thomas proposed contingency planning if the extension of Measure F does not pass.

Mayor Montano questioned incoming property taxes from the development of apartments and condos. Assistant City Manager Cano noted that generally housing costs the city more money than property taxes bring in due to the services needed for support, unless it is high density housing. Economic Development Director Andrade responded that the top ten property taxpayers in Milpitas are mainly industrial. Mayor Montano asked after the Special Projects Associate position in the City Manager's Office organizational chart. Assistant City Manager Cano detailed the responsibilities of the position to make up for reduced capacity and work on council priority projects.

Community Investment Fund

Vice Mayor Chua asked for a financial stress test and to allocate \$5,000.00 for the Milpitas Concert Band so members don't have to pay membership fees.

Mayor Montano asked to add to the list for consideration of adding \$50,000 - \$100,000.00 for Strategic Property Acquisition Revenue Fund, to allocate funding for the design and development of an

amphitheater or community space on the north side of City Hall, and to continue the street cleaning pilot program.

Councilmember Lien suggested including the following for consideration of allocation from the Community Investment Fund: CIP Grant Matching and acquiring a backup ambulance.

Councilmember Barbadillo inquired after county ambulance services. Fire Chief Schoonover responded that Santa Clara County's EMS provider, AMR, faces staffing issues leading to frequent delays in Milpitas. To address the risk of its single fire department ambulance failing, Milpitas seeks a reserve ambulance. While the current ambulance handles 2,000 calls and transports 150 patients annually, recent contract changes allow city ambulances to transport patients due to county shortages. The proposed reserve ambulance would offer crucial backup, ensuring reliable EMS for Milpitas.

City Manager's Office

Assistant City Manager Cano provided an overview of the changes proposed to the City Manager's Office budget and organizational chart.

Vice Mayor Chua asked after the recommended changes to the Economic Development Director and Housing Manager positions. Assistant City Manager Cano noted that the Economic Development position was being brought in line with the compensation of other department directors and that the Housing Manager position would be right-sized and report directly to the City Manager's Office.

Councilmember Barbadillo questioned the fiscal impact of the position change.

Councilmember Phan thanked staff for their work. He followed up asking about what other changes were possible thanks to defending positions. He voiced concerns for staff morale and voiced support for the proposed budget.

Human Resources

Vice Mayor Chua asked after current vacancies. Human Resources Director Parmley noted that there are around 30 positions vacant. The Vice Mayor recommended outsourcing temporary recruitment efforts to address the high number of vacancies within the city

Recreation

Recreation and Community Services Director Lorentzen spoke on requests for service enhancements in the budget.

Vice Mayor Chua suggested hiring a consultant to conduct a facility study and provide recommendations for maximizing the usage of city facilities, such as the senior center, sports center, and community center. She noted that the recommendation should be added for consideration of allocation from the Community Investment Fund.

Finance

Vice Mayor Chua voiced support for adding a full time buyer. She recommended to evaluate and document procurement processes to ensure proper authorizations, audit trails, and compliance.

Police

Vice Mayor Chua asked if the department need additional Automated License Plate Readers. Chief of Police Hernandez noted that there is currently a request for an additional twenty cameras through a grant. He expressed his intention to continue funding the program through the grant process.

City Manager Thomas offered closing remarks.

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

Vice Mayor Chua thanked staff for their hard work and congratulated City Clerk Guzzetta for election to the City Clerk's Association of California Board of Directors.

City Manager Thomas announced that Public Information Officer Angelo was attending the California Conference for Public Information Officials to receive awards for videos made promoting City services.

ADJOURNMENT

Mayor Montano adjourned the meeting at 8:16 PM.

Draft meeting minutes submitted by City Clerk, Suzanne Guzzetta



REGULAR MEETING OF THE MILPITAS CITY COUNCIL

MINUTES

TUESDAY, MAY 21, 2024

CITY COUNCIL CHAMBER, 455 E. CALAVERAS BLVD, MILPITAS, CA

The City Council of the City of Milpitas convened on the City Council meeting day in a Regular Meeting of the Milpitas City Council on May 21, 2024, in the City Council Chamber, 455 E. Calaveras Blvd, Milpitas, CA, and via teleconference/Zoom webinar.

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

Mayor Montano called the Regular City Council meeting to order at 6:04 PM. Roll Call was taken by City Clerk Guzzetta.

PRESENT: Mayor Montano, Vice Mayor Chua, Councilmember Barbadillo, Councilmember Lien,
Councilmember Phan

ABSENT: None.

ADJOURN TO CLOSED SESSION

City Attorney Mutalipassi introduced the item to be discussed.

There were no public comments.

The City Council adjourned to Closed Session at 6:06 pm.

(a) PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to California Government Code Section 54957
Position: City Manager

The City Council reconvened at 7:00 PM.

CLOSED SESSION ANNOUNCEMENT:

City Attorney Mutalipassi noted there was nothing to report.

PLEDGE OF ALLEGIANCE

Mayor Montano led the pledge of allegiance

INVOCATION

Vice Mayor Chua invited Pastor Rey Lingad to present the invocation.

PRESENTATIONS

Mayor Montano, joined by the City Council, presented proclamations and certificates in recognition of Asian American, Native Hawaiian, and Pacific Islander Heritage Month and Public Works Week. A video highlighting the diversity of employees and projects in the Public Works Department was shown in recognition of Public Works Week.

PUBLIC FORUM

There were the following public speakers:

1. Voltaire Montemayor

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

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

READING OF THE CITY COUNCIL CODE OF CONDUCT

Vice Mayor Chua read the Code of Conduct.

APPROVAL OF AGENDA

After discussion, motion: to approve the agenda.

Motion/Second: Vice Mayor Chua/Councilmember Lien

Motion carried by the following:

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

NOES: None

ABSENT:

CONSENT CALENDAR

Councilmember Phan asked to pull Item C5.

There were no public speakers.

After discussion, motion: to approve the Consent Calendar, pulling Item C5.

Motion/Second: Vice Mayor Chua/Councilmember Lien

Motion carried by the following:

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

NOES: None

1. **Receive City Council Calendar of Meetings for May and June 2024 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Received City Council Calendar of Meetings for May and June 2024.

2. **Approve City Council City Council Meeting Minutes of May 7, 2024 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Approved City Council Meeting minutes of May 7, 2024.

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

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

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

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

6. Confirm Chamber of Commerce Appointment to the Economic Development and Trade Commission (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3004)

Received the Chamber of Commerce recommendation for the appointment of Larry Ciardella to the Economic Development and Trade Commission and confirmed the appointment.

7. Receive Summary of 2024 Earmark Requests (Staff Contact: Matt Cano, Assistant City Manager, 408-586-3012)

Accepted the report outlining the City of Milpitas' 2024 State and Federal Earmark Requests.

8. Adopt a Resolution Accepting Public Improvements and Approve a Reduction of Faithful Performance Bond for Public Improvements for the RCD Housing Project Located at 355 Sango Court (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; Michael Silveira, City Engineer, 408-586-3303; and Roberto Alonzo, Public Works Division Manager – Engineering, 408-586-3316)

Adopted **Resolution No. 9326** granting acceptance of the completed public improvements for the RCD Housing Project as shown on Public Improvement Plans No. 2-1386; and approved a reduction in the faithful performance bond to \$396,275.75, which is 25% of the security's original value for the public improvements construction cost and shall be in effect for the duration of the warranty period; and granted authorization to the City Engineer to release the remaining portion of the performance bond after the one-year warranty period without further City Council action provided all required warranty work is completed to the satisfaction of the City Engineer.

9. Receive and Approve the Calendar Year 2023 Controlled Equipment Annual Report (Staff Contact: Jared Hernandez, Chief of Police, 408-586-2406)

Received and approved the Calendar Year 2023 Controlled Equipment Annual Report.

10. Adopt a Resolution Accepting ARPA Park Rehabilitation Phase 1, Project No. 3500, Authorizing the Public Works Director to File a Notice of Completion, and Authorize the City to issue a Notice of Final Acceptance after the One-Year Warranty (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)

Adopted **Resolution No. 9327** granting acceptance of ARPA Park Rehabilitation Phase 1, Project No. 3500, authorizing the Public Works Director to file a Notice of Completion, and authorizing the Public Works Director to issue a Notice of Final Acceptance after the one-year warranty.

11. Receive Final Update on Storm Drain System Emergency Repairs and Improvements at Evans Road and Piedmont Creek, Terminate the Emergency Declaration, and Adopt a Resolution Granting Acceptance of the Emergency Declaration - Storm Drain System Repairs and Improvements (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)

(1) Received an update on the emergency repairs and improvements at Evans Road and Piedmont Creek; (2) Approved the termination of the emergency declaration; and (3) Adopted **Resolution No. 9328** granting acceptance of Storm Drain System Repairs and Improvements at Evans Road and

Piedmont Creek, Project No. 24-044 and 24-045, and authorizing the Public Works Director to file a Notice of Completion and issue a Notice of Final Acceptance after the one-year warranty.

- 12. Approve Agreements and Related Amendments with the County of Santa Clara for the Collection of AB939 Implementation Fees and Administration of the Countywide Household Hazardous Waste (HHW) Collection Program (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; and Elaine Marshall, Deputy Public Works Director, 408-586-2603)**

Approved and authorized the City Manager to execute two agreements and related amendments with the County of Santa Clara for (1) Collection of AB939 Implementation Fees and (2) Administration of the Countywide Household Hazardous Waste (HHW) Collection Program for the term July 1, 2024 – June 30, 2027.

- 13. Approve a Professional Service Agreement with Backflow Prevention Specialists, Inc. for the Backflow Hazard Assessment Survey (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; and Michael Silveira, City Engineer, 408-586-3303)**

Approved and authorized the City Manager to execute a Professional Service Agreement with Backflow Prevention Specialists, Inc. in the amount of \$121,394.00 for the Backflow Hazard Assessment Survey.

- 14. Consider Fee Waiver Requests from the Samuel Ayer High School Alumni Association, Rotary Club of Milpitas, and LEAD Filipino, and a Donation to the Sunnyhills Neighborhood Association (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)**

(1) Approved a fee waiver of \$1,500.00 for the Samuel Ayer High School 24th Annual Reunion at Murphy Park on September 21, 2024; (2) Approved a fee waiver of \$522.50 for the Rotary Club of Milpitas Fundraiser “A Rose for You” on May 19, 2024; (3) Approved a fee waiver of \$93.00 for the LEAD Filipino Yoga event at Delano Manongs Park Filed on June 9, 2024; and (4) Approved a donation of \$500.00 for the Sunnyhills Neighborhood Association Milpitas Juneteenth 2024 event at Sunnyhills Albert Augustine, Jr. Memorial Park on June 15, 2024.

- 15. Approve the Community Heroes Program City Council Policy (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)**

Approved the Community Heroes City Council Policy.

ITEMS PULLED FROM CONSENT CALENDAR

- 5. Authorize the Reallocation of Money Appropriated in the FY23/24 Budget from the Legacy Special Council Provider to the Current Special Council Provider and Approve and Authorize the City Attorney and City Manager to Execute an Amendment to the Contract with Meyers Nave for Contracted Outside Counsel (Staff Contact: Michael Mutalipassi, City Attorney, 408-586-3040)**

Councilmember Phan asked for additional information on the request. City Attorney Mutalipassi noted that this item recommends reallocating funds from one legal firm to another for special projects within the city's budget. The funds in question were initially designated for legal services provided by a legacy firm, BBK. However, all projects with BBK have been completed, prompting the need to transfer the remaining budgeted funds to another legal firm, Meyers-Nave, which has been providing legal services to the city on an as-needed basis.

Councilmember Phan asked for clarification on the services provided by the law firm. City Attorney Mutalipassi explained that the special projects covered by this budget allocation include various legal matters such as HR-related issues, Public Records Act projects, matters with the Public Employee Relations Board (PERB), and arbitrations involving disputes with unions. He emphasized that the funds

being reallocated are already part of the city attorney's budget, not new appropriations, and that the reallocation and amendment to the contract are necessary to cover ongoing legal work.

Councilmember Phan suggested the request should go through the budget process and stated he could not support the item.

Vice Mayor Chua clarified that the funds are not proposed but from an existing budget.

Councilmember Barbadillo asked for clarification on the budgeting process for special counsel services, highlighting confusion about funds allocated in previous fiscal years. City Attorney Mutalipassi noted that the budget for the new special counsel was already accounted for in the city attorney's budget. The Councilmember questioned the need for the reallocation if funds were already budgeted, prompting clarification that the amendment is to switch contracts, not allocate new funds. Further discussion ensued regarding the necessity of the reallocation and its impact on the budget. City Attorney Mutalipassi emphasized that without approval, the special counsel work cannot proceed, indicating the urgency of the decision.

There were the following public speakers:

1. Voltaire Montemayor

After discussion, motion: to (1) Authorize the reallocation of money appropriated in the FY-23/24 budget from the legacy special council provider to the current special council provider and approve; (2) Approve an amendment to the contract with Meyers Nave for contracted outside counsel in the amount of \$90,000; and (3) Authorize the City Attorney and City Manager to execute the amended agreement..

Motion/Second: Vice Mayor Chua/Mayor Montano

Failed by the following:

AYES: Mayor Montano, Vice Mayor Chua

NOES: Councilmember Barbadillo, Councilmember Lien, Councilmember Phan

The motion failed.

PUBLIC HEARINGS

- 16. Approve the Conceptual Designs for South Milpitas Boulevard Road Extension, Project No. 2016, and Montague Pedestrian Overcrossing at Penitencia Creek, Project No. 2018; and Adopt a Resolution Adopting the Initial Study Mitigated Negative Declaration for South Milpitas Boulevard Road Extension, Project No. 2016 (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; and Michael Silveira, City Engineer, 408-586-3303)**

City Manager Thomas introduced the item. Acting Public Works Division Manager - Engineering Eam presented the report.

Mayor Montano opened the public hearing.

There were the following speakers:

1. Voltaire Montemayor

Mayor Montano closed the public hearing.

Councilmember Barbadillo asked questions about the project funding and the consequences if the anticipated grant isn't received. Acting Public Works Division Manager - Engineering Eam, City

Engineer Silveira, Assistant City Manager Cano and City Manager Thomas responded to his questions. The Councilmember agreed with the project, emphasizing its importance to the regional plan and the need to pursue federal infrastructure grants to reduce local costs.

Mayor Montano commented on the time required to complete similar projects.

After discussion, motion: to approve the conceptual designs for the South Milpitas Boulevard Road Extension, Project No. 2016, and the Montague Pedestrian Overcrossing at Penitencia Creek, Project No. 2018; adopt **Resolution No. 9329** to adopt the Initial Study/Mitigated Negative Declaration for the South Milpitas Boulevard Road Extension, Project No. 2016; authorize the Public Works Director to file a Notice of Determination for South Milpitas Boulevard Road Extension, Project No. 2016, in accordance with CEQA Guidelines Section 15075; find that the Montague Pedestrian Overcrossing at Penitencia Project meets all the requirements for a Statutory Exemption under Public Resources Code section 21080.25 and is therefore, is statutorily exempt from environmental review under CEQA; and authorize the Public Works Director to file a Notice of Exemption for Montague Pedestrian Overcrossing, Project No. 2018 in accordance with CEQA guidelines section 15062..

Motion/Second: Councilmember Lien/Councilmember Barbadillo

Motion carried by the following:

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

NOES: None

17. Adopt a Resolution Approving the Fiscal Year 2024-25 User and Regulatory Fee Schedule (Staff Contact: Luz Cofresí-Howe, Finance Director, 408-586-3111)

City Manager Thomas introduced the item. Assistant Finance Director Tsang offered introductory remarks, and ClearSource Consultant Terry Madsen presented the report.

Mayor Montano opened the public hearing.

There were the following public speakers:

1. Voltaire Montemayor

Mayor Montano closed the public hearing.

Vice Mayor Chua questioned the percentage increase for fees and asked how the City compares to other cities in terms of fees. Assistant Finance Director Tsang noted that the City anticipates approximately \$700,000.00 per year in new revenue from the fee increases. ClearSource Consultant Terry Madsen noted that when the city completed a cost of service study, it was confirmed that the City fees were in alignment with the region. He noted that this update is an interim year update and only an inflationary adjustment.

Councilmember Barbadillo raised concerns about the fiscal impact of adjusting service fees, particularly how it affects different departments and the community. He questioned if these adjustments, which include minor increases for building permits, recreation, police, and fire services, would impact residents unduly, particularly with recent budget discussions. He followed up, questioning the timing of this information, suggesting it should have been part of the budget discussion, especially when addressing employee compensation. Assistant City Manager Matt Cano, joined by Recreation and Community Services Director Lorentzen, explained that cost recovery models are standard to ensure public funds aren't subsidizing private benefits, and the city aims to minimize public impact through scholarships and other programs. Any fee increases are necessary to avoid cutting other city services.

Vice Mayor Chua questioned why increases are being proposed to the fee schedule. ClearSource Consultant Terry Madsen clarified that most fees remain unchanged and that new categories are being added to capture non-resident fees. He noted that the majority of the fees proposed for increase are development related.

Councilmember Lien made a motion: to adopt a resolution approving the Fiscal Year 2024-25 User and Regulatory Fee Schedule. Vice Mayor Chua seconded the motion. Vice Mayor Chua asked Councilmember Barbadillo if there were specific concerns he wanted addressed.

Councilmember Barbadillo suggested the item needed more discussion before the City Council could take action.

ClearSource Consultant Terry Madsen proposed adjusting the fees by 3.6% to bring them in line with the local CPI.

Councilmember Barbadillo questioned the impact if the User and Regulatory Fee Schedule wasn't approved at this meeting. Assistant Finance Director Tsang noted that some fees require an extended period before they can be enacted so they couldn't be captured at the start of the new budget period.

Vice Mayor Chua asked when the item could next be heard. City Clerk Guzzetta clarified the noticing period. It was concluded the next possible meeting would be the regular City Council meeting of June 18, 2024.

Upon a call for the question, the motion failed.

Motion/Second: Councilmember Lien/Vice Mayor Chua
Failed by the following:

AYES: Councilmember Lien

NOES: Mayor Montano, Vice Mayor Chua, Councilmember Barbadillo, Councilmember Phan

The City Council directed staff to return with this item on June 18, 2024.

COMMUNITY SERVICES AND SUSTAINABLE INFRASTRUCTURE

18. Presentation from Bay Area Air Quality Management District Staff on the Results of the South Bay Odor Attribution Study (Staff Contact: Christian Di Renzo, 408-586-2602, Public Works Director; and Elaine Marshall, Deputy Public Works Director, 408-586-2603)

Deputy Public Works Director Marshall introduced the item. Bay Area Air Quality Management District Deputy Executive Officer of Public Affairs Viet Tran and California Air Resources Board Air Resources Engineer Joe Zhou presented the report. Newby Landfill General Manager Enrique Perez responded to questions.

There were the following public speakers:

1. Raymond Wong
2. Keng Ng
3. Chia Ling Kong
4. Vikram Sulakhe
5. Member of the Public
6. Voltaire Montemayor

Council discussion ensued.

Councilmember Phan left the meeting at 10:00 PM.

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

Vice Mayor Chua made the following announcements and requests:

1. She spoke about recent news regarding Chaparral Ranch, which provides horseback riding for the City of Milpitas, and requested to send a letter signed by the Mayor and City Council to the County Administrator and Supervisor Lee, asking the county to investigate the treatment of horses by Chaparral Corporation at Ed Levine Park and the adjacent Chaparral Ranch. Mayor Montano noted that a letter was currently in the works from the City Manager and City Attorney to the County. There was consensus to add the item to the prioritization list (Absent: Phan)
2. Add an item for staff to bring back an amendment to the municipal code regarding the boarding and treatment of horses within the city's jurisdiction. There was consensus to add the item to the prioritization list (Absent: Phan)
3. Vice Mayor Chua Invited the community to the Technology for Seniors Program.

Mayor Montano spoke on flags displayed on private property.

City Manager Thomas announced a Community Open House at the Barbara Lee Senior Center to discuss a zoning change on Thursday, May 30, 2024.

Councilmember Lien thanked staff and the community for their support of the Milpitas Rotary Club fundraiser for scholarships for students in the community and Vietnam.

ADJOURNMENT

Mayor Montano adjourned the meeting at 10:19 PM.

Draft meeting minutes submitted by City Clerk, Suzanne Guzzetta

TENTATIVE CITY COUNCIL AGENDA ITEM LIST

as of 5/30/2024

June 18, 2024 – Regular Meeting

CLOSED SESSION

INVOCATION (Councilmember Lien)

PRESENTATION

- Parks and Recreation Month (Proclamation)

CONSENT CALENDAR

1. Receive City Council calendar for June, July and August 2024 (City Clerk)
2. Approve City Council meeting minutes of June 4 and 11, 2024 (City Clerk)
3. Preview list of items for August 13, 2024 (City Clerk)
4. Councilmember Request List (City Clerk)
5. Commission Appointments (City Clerk)
6. Delegation of Authority for Emergency Actions (City Manager)
7. Community Investment Fund Grant to MUSD for Paraprofessional Early Childhood Education Courses (Economic Development)
8. Neogov 5 Year Contract (Human Resources)
9. Ascent Contract Extension (Planning)
10. Comprehensive Zoning Update Phase 1 Ordinance 2nd Reading (Planning)
11. 1980 Tarob Court Revised Operations and Maintenance Agreement (Public Works / Engineering)
12. CIP 3465 - FS1 Modular Building Replacement Purchase Agreement (Public Works / Engineering)
13. Library Walk (Recreation)

PUBLIC HEARINGS

14. Approve FY 2024-25 User and Regulatory Fee Schedule (Finance)
15. Weed Abatement (Fire Prevention)
16. CDBG Public Hearing #2 (Housing)

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

OPEN ITEMS				
Request No.	Topic	Submitted by:	Date Requested	STATUS and/or DATE scheduled on City Council meeting agenda:
1	Add an item for staff to bring back an amendment to the municipal code regarding the boarding and treatment of horses within the city's jurisdiction	Chua	5/21/2024	This item will be considered as part of the next City Council prioritization discussion
2	Send a letter signed by the Mayor and City Council to the County Administrator and Supervisor Lee, asking the county to investigate the treatment of horses by Chaparral Corporation at Ed Levine Park and the adjacent Chaparral Ranch	Chua	5/21/2024	This letter is bring drafted and will be sent to the County in early June.
3	Investigate the feasibility of hosting night food truck events to revitalize Main Street	Montano	5/7/2024	This item will be considered as part of the next City Council prioritization discussion
4	Conduct a traffic study on Escuela Parkway to address circulation concerns	Montano	5/7/2024	This item will be considered as part of the next City Council prioritization discussion
5	Consider using banners to promote local businesses in Milpitas	Chua	5/7/2024	This item will be considered as part of the next City Council prioritization discussion
6	Explore enhancing the smoking ordinance to include prohibitions in parking lots	Chua	5/7/2024	This item will be considered as part of the next City Council prioritization discussion
7	Look into establishing a tobacco ordinance for the city of Milpitas	Chua	5/7/2024	This item will be considered as part of the next City Council prioritization discussion
8	Explore the possibility of augmenting the Planning Commission stipend	Barbadillo	4/16/2024	This item will be considered as part of the next City Council prioritization discussion
9	Revisit the solicitation ordinance for potential improvements and reintroduction	Barbadillo	4/16/2024	This item will be considered as part of the next City Council prioritization discussion
10	Explore changing or enhancing the focus of the community advisory commission to add housing	Chua	4/2/2024	This item will be considered as part of the next City Council prioritization discussion
11	Honor military residents by selecting several at one given month during the year for recognition with banners displayed on Main Street	Chua	3/19/2024	This item will be considered as part of the next City Council prioritization discussion
12	Explore options for revisions to ADU ordinance	Chua	3/5/2024	This item will be considered as part of the next City Council prioritization discussion
13	Explore an Arts Month Event where commissioners can exhibit their Art	Chua	3/5/2024	This item will be considered as part of the next City Council prioritization discussion

ACTIVE ITEMS				
Request No.	Topic	Submitted by:	Date Requested	STATUS and/or DATE scheduled on City Council meeting agenda:
14	Request that the Arts Commission explore alternatives for future of statue in front of City Hall	Phan	1/30/2024	An update was included in the February 20th Council prioritization reprt.
15	Update the Commissioner Handbook to include an option for outgoing commissioners to make presentations to other commissions	Chua	1/23/2024	An update was included in the February 20th Council prioritization reprt.
16	Workshop for retailers focusing on best practices and safety with plans for quarterly sessions	Chua	1/23/2024	An update was included in the February 20th Council prioritization reprt.

NOTE: Deferred and Completed Items are not listed

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

ACTIVE ITEMS				
Request No.	Topic	Submitted by:	Date Requested	STATUS and/or DATE scheduled on City Council meeting agenda:
17	Explore possibility of naming the County library on Main Street	Phan	1/23/2024	An update was included in the February 20th Council prioritization reprt.
18	Consideration of the 20% Low Income Below Market Rate Housing	Montano	12/5/2023	This item was approved to move forward as part of the February 20th Council prioritization
19	Bring back Bingo and the Tour at the Senior Center	Chua	11/7/2023	An update was included in the February 20th Council prioritization reprt.
20	Referral for utility infrastructure cost on Main Street from Carlo to Corning Streets	Montano	10/17/2023	An update was included in the February 20th Council prioritization reprt.
21	Consider a possible ordinance or policy regarding solicitations at home	Barbadillo	10/3/2023	An update was included in the February 20th Council prioritization reprt.
22	Main Street International Festival	Lien	10/3/2023	An update was included in the February 20th Council prioritization reprt.
23	Have the Police Chief direct staff to complete an analysis in partnership with the County to	Chua	9/5/2023	An update was included in the February 20th Council prioritization reprt.
24	Explore taking steps towards becoming a Charter City	Phan	9/5/2023	An update was included in the February 20th Council prioritization reprt.
25	Human Resources Director to conduct a job fair specific to the job openings at City Hall	Chua	5/2/2023	An update was included in the February 20th Council prioritization reprt.
26	Pickleball Pilot Project	Chua	2/28/2023	An update was included in the February 20th Council prioritization reprt.
27	Main Street Infrastructure Projects	Montano	2/28/2023	An update was included in the February 20th Council prioritization reprt.
28	Main Street Flooding at Library	Chua	2/28/2023	An update was included in the February 20th Council prioritization reprt.
29	Satellite Consulate Office	Montano	2/28/2023	An update was included in the February 20th Council prioritization reprt.
30	Have the City look into the possibility of a Citywide Senior Discount	Barbadillo	2/7/2023	An update was included in the February 20th Council prioritization reprt.
31	City Manager to look into defining either a standalone teen center or updating information to	Chua	9/20/2022	An update was included in the February 20th Council prioritization reprt.
32	Discuss converting vacant lot that was a basketball court into a community garden at Vasona and Adobe	Montano	8/16/2022	An update was included in the February 20th Council prioritization reprt.
33	City Manager look into implementing a workshop for small businesses on the bidding process for projects in the city	Chua	8/9/2022	An update was included in the February 20th Council prioritization reprt.
34	Quarterly or Monthly crime statistics on Homekey Project	Chua	6/7/2022	An update was included in the February 20th Council prioritization reprt.
35	Memorial Plaque in honor of youth skateboarder that passed away	Montano	6/7/2022	An update was included in the February 20th Council prioritization reprt.
36	Evaluate reopening the childcare center with a non-profit organization running the center	Montano	2/1/2022	An update was included in the February 20th Council prioritization reprt.
37	Staff to look into mural Art on Great Mall Parkway on the VTA owned Light rail pillars	Montano	11/16/2021	An update was included in the February 20th Council prioritization reprt.
38	Have a picture of Albert Vogel Sr. put up in the Senior Center	Montano	10/19/2021	An update was included in the February 20th Council prioritization reprt.
39	Include a bust of Maria Lemire on the Mural in front of the Senior Center	Montano	8/17/2021	An update was included in the February 20th Council prioritization reprt.
40	Consider Community Museum and Park on Main St.	Phan	8/20/2019	Discussions with the property owner of this site are ongoing.

NOTE: Deferred and Completed Items are not listed



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Calling for the General Municipal Election on November 5, 2024 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	6/18/2024
Recommendation:	Adopt a resolution calling a General Municipal Election for the City of Milpitas on Tuesday, November 5, 2024, requesting consolidation of the election in accordance with California Elections Code Section 10418, and requesting services from the Santa Clara County Registrar of Voters.

Background:

Milpitas Municipal Code Title I, Chapter 200 Section 1.00 outlines the provisions for the municipal election to be conducted on the same day as the statewide General Election. The City will hold a general municipal election on November 5, 2024, for the purpose of electing two (2) Councilmembers and one (1) Mayor. Those councilmember and mayoral seats are currently held by Vice Mayor Chua, Councilmember Phan, and Mayor Montano respectively. The at-large Mayoral seat is elected for a two (2) year term ending in 2026 and the two (2) City Council seats are for four (4)-year terms ending in 2028.

Pursuant to Section 10002 of the Elections Code of the State of California, the governing body of a City is empowered to request, via resolution, the County Board of Supervisors to permit the County elections official to render special services to the City related to the conduct of elections. Upon approval, this resolution will be submitted to the Santa Clara County Board of Supervisors for consolidation approval. The County requires this resolution be submitted by July 3, 2024.

Analysis:

A resolution has been drafted calling for the municipal election on Tuesday, November 5, 2024, for the purposes of electing the Mayor and two (2) members of the City Council. The resolution also requests consolidation of the Municipal Election with the statewide General Election and requests provision of election services from the Santa Clara County Registrar of Voters.

The nomination period for the November 5, 2024 election commences at 9:00 a.m. on Monday, July 15, 2024, and concludes at 5:00 p.m. on Friday, August 9, 2024. The City Clerk's Office will be available for appointments during this period from 8 a.m. to 5 p.m. In the event that an eligible incumbent fails to file nomination papers by the August 9th deadline, the nomination period will be extended exclusively for non-incumbent candidates until Wednesday, August 14, 2024.

Each Candidate has the option to include a Candidate's Statement in the sample ballot. In June 2006, the Milpitas City Council adopted Resolution No. 7597 defining guidelines for Candidates' Statements of Qualifications printed in the sample ballot for municipal elections. This resolution sets forth the total number of words permitted in a Candidate's Statement (200) and that the candidate is responsible for the cost of printing and mailing the statement as well as the translation into languages other than English. The estimated cost of the Candidate Statement is \$3,400. The federal Voting Rights Act Section 203 requirements apply to Santa Clara County and mandate that election materials be made available in four languages: Chinese, Spanish, Tagalog, and Vietnamese.

The City Council may also submit ballot measure(s) for the November 2024 election. In the event of such submission, the Council will take action through separate resolution(s) and/or ordinance(s), subsequently submitting them to the County Board of Supervisors and Elections Department within the prescribed deadlines for inclusion on the ballot.

Fiscal Impact:

The estimated cost of the 2024 municipal election is \$192,945 and is included in the FY 2024-25 Proposed Operating Budget. The amount is only an estimate provided by the Register of Voters Office as of February 27, 2024, and may change upon the adoption of the revised Santa Clara County Fee Schedule or subject to change upon final billing. The County of Santa Clara Registrar of Voters shall invoice the City for all related costs after the election is concluded. Election costs are determined by several factors including administrative cost, number of registered voters, and printing of sample ballots. Per Resolution 7597, Candidates are responsible for the cost for Candidate's Statement in the ballot pamphlet if they choose to submit one. Any subsequent ballot measure(s) placed on the November 5, 2024 ballot would be an additional election expense.

California Environmental Quality Act:

The calling of a municipal election is not considered a project, pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

Recommendation:

Adopt a resolution calling a General Municipal Election for the City of Milpitas on Tuesday, November 5, 2024, requesting consolidation of the election in accordance with California Elections Code Section 10418, and requesting services from the Santa Clara County Registrar of Voters.

Attachment:

(a) Resolution

RESOLUTION NO. ____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS
CALLING A GENERAL MUNICIPAL ELECTION FOR TUESDAY, NOVEMBER
5, 2024, AND REQUESTING SERVICES OF THE SANTA CLARA COUNTY
REGISTRAR OF VOTERS AND CONSOLIDATION OF THE ELECTION**

WHEREAS, the City Council has adopted Section 1.00 of Chapter 200, Title I of the Milpitas Municipal Code pursuant to Elections Code of the State of California Section 1301, determining that all General Municipal Elections shall be held on the Statewide General Election Day; and

WHEREAS, pursuant to Section 1001 of the Elections Code of the State of California, there is a scheduled Statewide General Election to be held on Tuesday, November 5, 2024; and

WHEREAS, a General Municipal Election is necessary to fill the offices of Mayor and two (2) members of the City Council, whose terms are expiring; and

WHEREAS, pursuant to Part 3, Consolidation of Elections, and commencing with Section 10400 of the Elections Code of the State of California, such municipal election may be either completely or partially consolidated and held on the same day as a statewide election, upon order of this City.

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

1. Pursuant to Section 10403 of the Elections Code of the State of California, the City Council of Milpitas calls a Municipal Election to be held on Tuesday, November 5, 2024; and requests the Board of Supervisors of the County of Santa Clara to completely consolidate the election with the General Statewide election. The consolidated election will be held, regulated, and conducted in accordance with the provisions of law.

2. The offices to be voted upon at such election are as follows:

(1) Mayor of the City of Milpitas, full term, (2) two years;

(2) Member of the City Council of the City of Milpitas, full term, (4) four years;

3. Pursuant to section 10002 of the Elections Code of the State of California, the City of Milpitas requests the services of the Board of Supervisors of the County of Santa Clara and the Registrar of Voters of the County of Santa Clara to render such services to the City as requested by the City Clerk, and shall reimburse the county for the costs incurred by the County of Santa Clara Registrar of Voters in conducting the General Statewide election for the City. The City requests the County of Santa Clara Board of Supervisors to permit the County of Santa Clara Registrar of Voters to prepare the City's election materials. The election services to be performed shall include the preparation, printing and mailing of official ballots and county voter information guides; the establishment of precincts, election ballots, return mail envelopes, ballot drop boxes, vote centers, election officers, and producing such publications as are required by law in connection therewith; the furnishing of ballots, envelopes, and other necessary supplies and materials for voting places; the canvassing of the returns of the election; the furnishing of the results of such canvassing to the City Clerk; and, the performance of other election services as may be requested by the City Clerk.

7. That the City Council of the City of Milpitas requests the Board of Supervisors of the County of Santa Clara to hold and conduct the municipal election in the manner prescribed in section 10418 of the Elections Code of the State of California, and to further provide that the Registrar of Voters canvass the returns of the municipal election. The County of Santa Clara is hereby authorized to certify the returns of the municipal election.

4. Pursuant to section 13307 of the Elections Code of the State of California, each candidate for elective office to be voted for in the City of Milpitas on November 5, 2024, may prepare a candidate's statement on an appropriate form provided by the City Clerk, as the City's Election Official, or their designee. The statement may include the name, age and occupation of the candidate and a brief description of no more than 200 words of the candidate's education and qualifications expressed by the candidate himself or herself. The statement shall not include the party affiliation of the candidate, nor membership or activity in partisan political organizations. Any candidate's statement submitted shall be limited to a recitation of the candidate's own personal background and qualifications and shall not in any way make reference to other candidates for that office or to another candidate's qualifications, character, or activities.

4. Each candidate shall be required to pay for the cost of printing, translating, and distributing said candidate's statement and each candidate who files such a statement shall be required to pay in advance the estimated cost of printing, handling, and mailing said candidate statement.

5. Pursuant to the Federal Voting Rights Act, candidates' statements will be translated into all languages required by the County of Santa Clara. The County is required to translate candidate's statements into the following languages: Spanish, Chinese, Vietnamese and Tagalog. The County will print and mail separate sample ballots and candidates' statements in Spanish, Chinese, Vietnamese and Tagalog to only those voters who are on the county voter file as having requested a sample ballot in a particular language. The County will make the sample ballots and candidates statements in the required languages available at all polling places, on the County's website, and in the Election Official's office.

6. That pursuant to section 10522 of the Elections Code of the State of California, a current map showing the City boundaries has been submitted to the Registrar of Voters.

9. Pursuant to section 15651 of the Elections Code of the State of California, the method of determining the winner or winners in the event of a tie vote (two or more persons receive an equal and the highest number of votes for an office) as certified by the County of Santa Clara Registrar of Voters, the City Council of the City of Milpitas, in accordance with Section 15651(a), any tie vote shall be resolved "by lot."

10. The City Clerk shall publish a "Notice of Election" pursuant to the Elections Code of the State of California section 12101. The City Clerk is authorized, instructed and directed to prepare any documents and take any additional actions that may be necessary in order to properly and lawfully conduct the election.

11. The Vote Centers in the City of Milpitas for the municipal election on November 5, 2024 shall be open at 7:00 a.m. on the day of said election and shall remain open continuously from said time until 8:00 p.m. of the same day, when said polls shall be closed, except as provided in Elections Code of the State of California section 14401.

12. In all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

13. The City Clerk is hereby directed to forward certified copies of this Resolution to the Clerk of the Board of Supervisors of Santa Clara County and the Registrar of Voters of Santa Clara County promptly upon its adoption.

PASSED AND ADOPTED this ___ day of June 2024, by the following vote:

AYES: (0)

NOES: (0)

ABSENT: (0)

ABSTAIN: (0)

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Authorize and Approve the Out-Of-State Travel to Las Vegas, NV, for Councilmember Anthony Phan to attend the Asian Pacific American Leadership Foundation's (APALF) Inaugural AAPI LEAD (Leadership Elected and Appointed) Summit from June 19 – 21, 2024. Authorize and Approve Travel to San Francisco, CA, for City Manager Ned Thomas to Attend the Continuing Legal Education International (CLEI) California Land Use Law Conference from June 6 – 7, 2024. (Staff Contact: Matt Cano, Assistant City Manager, 408-586-3012)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	6/4/2024
	<u>Recommendations:</u> 1) Authorize and Approve the Out-Of-State Travel to Las Vegas, NV for Councilmember Anthony Phan to attend the APALF's Inaugural AAPI LEAD Summit, from June 19 – 21, 2024, for a not-to-exceed amount of \$1,400.00. 2) Authorize and Approve Travel to San Francisco, CA for City Manager Ned Thomas to attend the CLEI's California Land Use Law Conference, from June 6 – 7, 2024, for a not-to-exceed amount of \$1,300.00.

BACKGROUND:

The Asian Pacific American Leadership Foundation (APALF) is hosting its Inaugural AAPI LEAD (Leadership Elected and Appointed) Summit from June 19 – 21, 2024, at the Bellagio Las Vegas, NV. AAPI LEAD is a project of APALF that aims to strengthen AAPI public officials through training, mentorship, best practice sharing, and unparalleled networking. APALF worked in close collaboration with the National Association of Latino Elected and Appointed Officials (NALEO) in designing this long-overdue national organization for all our communities across the nation. The summit's preliminary agenda is included in the agenda packet.

The Continuing Legal Education International (CLEI) has been a provider of continuing professional education programs throughout the United States and Canada since 1983. Its seminars focus on emerging legal issues of vital importance not just to attorneys but also to other professionals. Its highly acclaimed conferences are proctored by high-quality faculty, all of whom are recognized experts in their fields of specialty and expertise. The conference's agenda is included in the agenda packet.

ANALYSIS:

The City of Milpitas Travel and Expense Policy requires City Council approval for all travel requests from the elected officials and City Manager. Council approval of the out-of-state travel request will allow Councilmember Anthony Phan to participate and engage with other AAPI elected and appointed officials nationwide and bring back the information to share with the Council. Continued conference participation and attendance also ensure that the Milpitas community is fully represented at the regional, state, and national levels. Council approval of City Manager Ned Thomas' travel request will provide continued professional education that enhances his knowledge affording him with the most current information in making decisions related to land use and housing.

POLICY ALTERNATIVE(S):

Not applicable

FISCAL IMPACT:

The estimated expenses for the conference in Las Vegas, NV, Inaugural AAPI LEAD (Leadership Elected and Appointed) Summit, are \$1,400.00 (registration, hotel, air/land transportation, meal reimbursements). To date,

Councilmember Anthony Phan has a remaining balance of \$9,123.34 in his Individual Elected Official allocation of \$10,000 for Conferences/Meetings/Memberships to cover the travel expenses related to the Las Vegas conference.

The estimated expenses for the conference in San Francisco, CA, CLEI California Land Use Law Conference, are \$1,300.00 (registration, land transportation, and per diem). To date, the City Manager's Office has an allocation of 410,459.68 for Conferences/Trainings.

California Environmental Quality Act (CEQA):

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

RECOMMENDATIONS:

- 1) Authorize and Approve the Out-Of-State Travel to Las Vegas, NV for Councilmember Anthony Phan to attend the APALF's Inaugural AAPI LEAD Summit, from June 19 – 21, 2024, for a not-to-exceed amount of \$1,400.00.
- 2) Authorize and Approve Travel to San Francisco, CA for City Manager Ned Thomas to attend the CLEI's California Land Use Law Conference, from June 6 – 7, 2024, for a total not-to-exceed amount of \$1,300 budgeted under Conferences/Trainings allocation for the City Manager's Office.

Attachment(s):

Attachment (a): AAPI LEAD Summit Preliminary Agenda

Attachment (b): CLEI California Land Use Law Conference Agenda

Attachment (c): Council Travel Budget Tracking



Wednesday, June 19

Inaugural AAPI LEAD Summit - June 19-21: Las Vegas

First-ever AAPI LEAD Summit in Vegas, happening June 19-21, 2024

\$100 - \$250

Get tickets



By Asian Pacific American Leadership Foundation · 54 followers

1.1k attendees hosted ☒

Follow

Date and time

June 19 - 5pm - June 21 - 6pm PDT

Location

Bellagio Las Vegas
3600 South Las Vegas Boulevard Las Vegas, NV 89109
[Show map](#)

Refund Policy

Contact the organizer to request a refund.
Eventbrite's fee is nonrefundable.

Agenda

June 19 June 20 June 21

5:00 PM - 6:30 PM
Check-in

6:30 PM - 8:45 PM
Opening Reception + Dinner

About this event

2 days 1 hour

The Asian Pacific American Leadership Foundation ([APALF](#)) cordially invites you to the Inaugural AAPI LEAD (Leadership Elected and Appointed) Summit from June 19-21, 2024, at the Bellagio Las Vegas. This summit is the culmination of over two decades of work supporting and convening AAPI elected and



Wednesday, June 19



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Agenda

June 19 **June 20** June 21

9:00 AM - 10:00 AM
Opening+Breakfast

10:15 AM - 11:00 AM
Panel Discussion

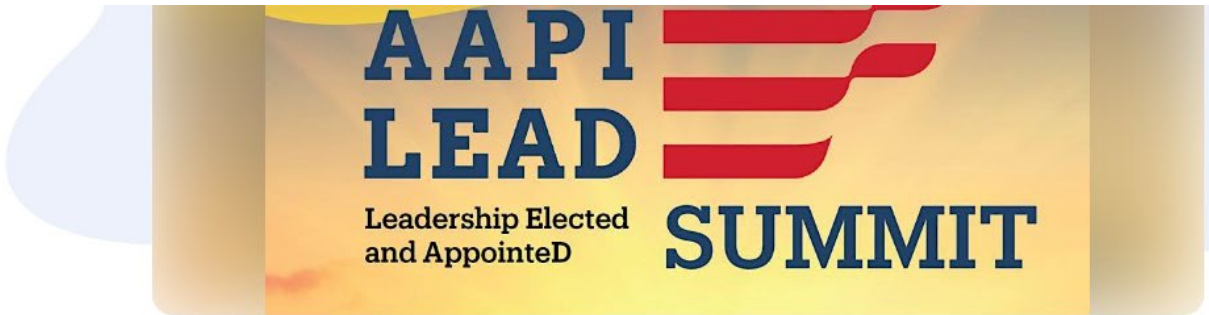
11:00 AM - 12:15 PM
Joint NALEO Session

12:30 PM - 2:00 PM
Lunch

2:15 PM - 4:40 PM
Panel Discussions

4:40 PM - 5:00 PM
Closing Thoughts - Preview of Tomorrow

6:30 PM - 8:30 PM
Reception and Dinner



Wednesday, June 19



Inaugural AAPI LEAD Summit - June 19-21: Las Vegas

\$100 - \$250

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[Show map](#)

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Agenda

June 19

June 20

June 21

8:30 AM - 10:30 AM

Breakfast + Keynote Speaker

10:45 AM - 12:00 PM

Plenary Discussion

12:00 PM - 2:00 PM

Lunch

2:15 PM - 3:15 PM

Plenary Discussion

3:15 PM - 4:15 PM

Closing

4:15 PM - 5:45 PM

Closing Reception



June 6-7, 2024 • InterContinental • San Francisco

Thursday, June 6

- 8:00 Registration and Networking Breakfast
- 8:30 **Welcome and Introduction**
Overview of Day One
- Alan Murphy, Esq., Program Co-Chair**
Perkins Coie, San Francisco
- Veronica Ramirez, Esq., Program Co-Chair**
City Attorney
Redwood City
- 8:45 **Housing Legislation**
Recent Changes, Where We Are Now, and What Is Coming
- Louis Mirante, Vice President of Public Policy**
Bay Area Council, San Francisco
- Alan Murphy, Esq., Program Co-Chair**
Perkins Coie, San Francisco
- 9:45 **Housing Case Law Update**
What's New Since We Last Met
- Arielle Harris, Esq.**
Cox, Castle & Nicholson, San Francisco
- 10:15 Networking Break
- 10:30 **Builder's Remedy**
How It Works and the Latest Legal Developments
- Nira Doherty, Esq.**
Burke, Williams & Sorensen, San Rafael
- Christopher Elmendorf, Esq., Martin Luther King Jr. Professor of Law**
University of California-Davis School of Law, Davis
- Barbara Kautz, Esq.**
Goldfarb & Lipman, Oakland
- Chelsea Maclean, Esq.**
Holland & Knight, San Francisco
- 12:00 Lunch Break (on your own)

- 1:15 **Featured Presentation**
The State's Housing Law Development Priorities: Enforcement and Other Initiatives
- Melinda Coy, Proactive Accountability Chief, Land Use and Local Government Relations**
California Department of Housing and Community Development, Sacramento
- 2:15 **The Math Behind the State of Development in California and Beyond**
- Muhammad Alameldin, Policy Associate**
Terner Center for Housing Innovation, University of California, Berkeley
- 2:45 Networking Break
- 3:00 **The Forecast for Development**
How Do We Move Forward in Today's Economic Climate?
- Aaron Akin, AICP, Principal**
Good City Company, Redwood City
- Muhammad Alameldin, Policy Associate**
Terner Center for Housing Innovation, University of California, Berkeley
- Matthew Gray, Esq.**
Perkins Coie, San Francisco
- Ashleigh Kanat, Director of Economic and Workforce Development**
City of Oakland
- Jeff Schwob, Community Development and Transportation Director**
Redwood City
- 4:30 **Equity and Inclusion**
Senate Bill 1000 and Environmental Justice
- Mindy Jian, Esq.**
Shute, Mihaly & Weinberger, San Francisco
- Joseph "Seph" Petta, Esq.**
Shute, Mihaly & Weinberger, San Francisco
- 5:30 Adjourn to Private Networking Reception Sponsored by:

June 6-7, 2024 • InterContinental • San Francisco

Friday, June 7

8:00 Sign-In and Networking Breakfast

8:30 **Welcome Back**

Overview of Day Two

Alan Murphy, Esq., Program Co-Chair

Perkins Coie, San Francisco

Veronica Ramirez, Esq., Program Co-Chair

City Attorney

Redwood City

8:45 **Renewable Energy Projects**

The Complexities and Challenges Associated with Permitting for Renewable Projects

Scott Kuhlke, MBA, Director

EDF Renewables, San Francisco

Shruti Ramaker, Director of Environmental and Permitting

Nightpeak Energy, Oakland

Barbara Schussman, Esq., Moderator

Perkins Coie, San Francisco

9:45 Networking Break

10:00 **CEQA Update**

Case Law, Policy, and Practice

Jennifer Hernandez

Holland & Knight, San Francisco

Anna Shimko, Esq.

Burke, Williams & Sorensen, San Francisco

11:00 **How Changes in Federal Wetlands Permitting Under *Sackett v. EPA* Will Have a Practical Effect on Projects in California**

Discussion of the Law on Waters of the US and the *Sackett* Decision and How It All Plays Out on the Ground

Kelly Hardwicke, Ph.D., Principal Plant Ecologist, Permitting Specialist

H.T. Harvey & Associates, Los Gatos

Sean Herman, Esq.

Hanson Bridgett, San Francisco

Allison Schutte, Esq.

Hanson Bridgett, San Rafael

12:00 Lunch Break (on your own)

1:15 **Fees and Other Exactions**

Potential Changes Under *Sheetz v. County of El Dorado* and Other Recent Developments

Megan Burke, Esq.

Jarvis Fay, Oakland

Matthew Visick, Esq.

Reuben, Junius & Rose, San Francisco

2:15 **Wildfire, Land Use, and CEQA**

Analyzing and Mitigating Wildfire Impacts in the Climate Change Era

Hina Gupta, Esq.

Downey Brand, San Francisco

Emily Capello, MPA, Senior Manager

Panorama Environmental, San Francisco

3:15 Evaluations and Adjourn

Travel and Training FY 23-24 Budget Tracking for Council

ATTACHMENT 3

Mayor Montano				
	Training/Travel Event	FY23-24 Amount Expended/Estimated	Total \$ 8,287.23	Remaining Balance \$ 1,712.77
1	Sacramento Annual Conf/Expo: Sept 20 - 22	\$ 1,371.08		
2	Washington DC Latino Forward National Advocacy Day: Oct 3 - 6	\$ 1,573.25		
3	Washington US Conference of Mayors: Jan 16 - 19	\$ 3,522.26		
4	Monterey Mayors and Council Members Academy: Jan 24 - 26	\$ 825.64		
5	SVBJ Economic and Mayors Forecast: Feb 1	\$ 120.00		
6	Joint Venture 2024 State of the Valley Forum: Mar 1	\$ 350.00		
7	2024 Project Cornerstone Asset Champions Breakfast: Mar 15	\$ 75.00		
8	Water Education for Latino Leaders: Mar 15 - 16	\$ 200.00		
9	SVBJ LatinX Business Leadership Awards	\$ 125.00		
10	SVBJ The Future of Santa Clara - Prepping for the Big Games	\$ 125.00		

Vice Mayor Chua				
	Training/Travel Event	FY23-24 Amount Expended/Estimated	Total \$ 1,367.40	Remaining Balance \$ 8,632.60
1	Sacramento Annual Conf/Expo: Sept 20 - 22	\$ 1,367.40		
2	Joint Venture 2024 State of the Valley Forum: Mar 1	\$ 350.00		

Councilmember Phan				
	Training/Travel Event	FY23-24 Amount Expended/Estimated	Total \$ 876.66	Remaining Balance \$ 9,123.34
1	LoCC Peninsula Division Breakfast with Division Officers	\$ 75.00		
2	CivicWell Policymakers Conference: Mar - 14 - 17 (cancellation fees)	\$ 801.66		

Councilmember Lien				
	Training/Travel Event	FY23-24 Amount Expended/Estimated	Total \$ 6,975.90	Remaining Balance \$ 3,024.10
1	Sacramento Annual Conf/Expo: Sept 20 - 22	\$ 1,380.59		
2	San Francisco CALNET Summit: Nov. 16 - 17	\$ 493.68		
3	San Francisco National API Summit: Nov. 18 - 19	\$ 479.60		
4	Monterey Mayors and Council Members Academy: Jan 24 - 26	\$ 927.64		
5	National League of Cities congressional City Conference: Mar 9 - 14	\$ 3,099.39		
6	SVBJ Economic and Mayors Forecast: Feb 1	\$ 120.00		
7	Joint Venture 2024 State of the Valley Forum: Mar 1	\$ 350.00		
8	SVBJ The Future of Santa Clara - Prepping for the Big Games	\$ 125.00		

Councilmember Barbadillo				
	Training/Travel Event	FY23-24 Amount Expended/Estimated	Total \$ -	Remaining Balance \$ 10,000.00
1				



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	FY 2023-24 Financial Status Report for the Quarter Ended March 31, 2024 (Staff Contact: Luz Cofresí-Howe, Finance Director, 408-586-3111)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	6/4/2024
Recommendation:	Review the FY 2023-24 Quarterly Financial Status Report for the quarter ended March 31, 2024.

BACKGROUND:

On June 6, 2023, the City Council approved the Fiscal Year (FY) 2023-24 Adopted Operating Budget in the amount of \$231.9 million and the General Fund Budget in the amount of \$129.5 million. After adoption of the budget, staff monitors revenues and expenditures for all funds with an emphasis on the General Fund and Enterprise (Water and Sewer) Funds.

ANALYSIS:

This staff report provides a quarterly update on budget versus actual revenues and expenditures of the General, Water and Sewer Funds, the City's major operating funds. The summary information below, as well as the attachments, comprise the FY 2023-24 Quarterly Financial Status Report for the quarter ended March 31, 2024. Major revenue sources and expenditures for these funds are discussed below. The attachments provide a detailed summary of budget vs. actual revenues and expenditures for the third quarter of FY 2023-24, as well as prior year actuals for comparison purposes.

General Fund

On June 6, 2023, the City Council approved the FY 2023-24 Adopted Operating General Fund Budget in the amount of \$129.5 million. As of March 31, 2024, the City received \$74.2 million in revenues, or 58.0% of the FY 2023-24 amended revenue budget, and incurred \$98.0 million in expenditures, or 74.1% of the FY 2023-24 amended expenditure budget. Revenues and expenditures are seasonal, with cash flow fluctuations due to timing of revenue receipts and respective City services rendered. As such, the actual percentage of revenues may not match that of expenditures (e.g., 58.0% revenues vs. 74.1% expenditures through March 31, 2024).

Revenues

For the nine months ended March 31, 2024, the General Fund has received \$74.2 million, or 58.0% of the FY 2023-24 amended revenue budget of \$127.8 million. Overall, General Fund revenues are 2.3% less than last year at the same time, mainly due to lower intergovernmental (grants, federal contributions), sales tax, licenses, permits and fine collections. The FY 2023-24 Adopted Budget assumed higher, recovering revenues, which is discussed further below by major categories.

	FY24	FY24	FY24	FY24	FY23	Percentage
		Receipts	Outstanding		FY23 Receipts	FY24 vs
General Fund Revenues	Amended Budget	03/31/2024	Favorable/ (Unfavorable)	% Receipt	03/31/2023	FY23
Property Tax	46,023,853	25,821,942	\$ (20,201,911)	56.1%	25,216,439	2.4%
Sales and Use Tax	28,877,560	16,761,780	\$ (12,115,780)	58.0%	19,390,226	-13.6%
Sales and Use Tax - Measure F	7,291,000	4,107,324	\$ (3,183,676)	56.3%	4,265,695	-3.7%
Transient Occupancy Tax	11,811,235	7,293,660	\$ (4,517,575)	61.8%	7,630,617	-4.4%
Licenses, Permits & Fines	9,162,020	5,713,637	\$ (3,448,383)	62.4%	6,254,752	-8.7%
Operating Transfer In	8,131,426	3,849,100	\$ (4,282,326)	47.3%	3,217,190	19.6%
Charges for Services	7,917,490	4,587,986	\$ (3,329,504)	57.9%	4,852,930	-5.5%
Franchise Fees	5,811,867	2,594,210	\$ (3,217,657)	44.6%	2,368,629	9.5%
Other Taxes	1,088,587	825,276	\$ (263,311)	75.8%	764,427	8.0%
Intergovernmental	919,070	571,412	\$ (347,658)	62.2%	1,049,891	-45.6%
Use of Money and Property	414,000	827,680	\$ 413,680	199.9%	354,208	133.7%
Other Revenues	389,525	1,230,867	\$ 841,342	316.0%	551,936	123.0%
Total General Fund Revenue	\$ 127,837,633	\$ 74,184,874	\$ (53,652,759)	58.0%	\$ 75,916,940	-2.3%

- Property Taxes and Redevelopment Property Tax Trust Fund: Most property tax revenue is received in December and April. The revenue forecast estimates \$46.0 million in total property tax revenue for the City of Milpitas based on the County of Santa Clara (County) projections. Given the County's May 3, 2024 update, the County's property tax projections (net of administrative expense) are \$2.9 million higher than the amended budget of \$46.0 million. However, such variance primarily relates to the ERAF allocation which is involved in ongoing litigation. The County continues to advise its ERAF recipients to exclude 30% from its respective budget and appropriations actions as a reserve against a potential adverse finding in the ERAF case. The City has done so, with a 30% contingency in the budget for this revenue. City staff continues to monitor this matter.
- Sales & Use Tax: Sales tax is usually collected two months in arrears. As of March 31, 2024, the City has received seven months of sales tax receipts. Revenues are 13.6% lower than last year at the same time due to business closures, declines in electrical equipment sales, and a slowdown of auto-transportation related sales. Building materials purchases also have decreased from the prior year.
- Sales & Use Tax – Measure F: The district tax became operative April 1, 2021 and sunsets on March 31, 2029. As of March 31, 2024, the City has received seven months of sales tax receipts for Measure F. Revenues are 3.7% lower than last year at the same time.
- Franchise Fees: Franchise fees are typically received a month in arrears. Sanitation franchise fees attributed to March have not yet been received. Revenue is trending 9.5% higher when compared to last year, due to higher receipt of garbage debris box fees.
- Transient Occupancy Tax: Revenues are 4.4% lower than last year at the same time. Transient Occupancy Tax (TOT) taxes typically are received a month in arrears. TOT revenues may not recover to pre-pandemic revenue levels as personal and business travel and lodging patterns remain altered. Staff will continue to monitor this decrease in revenue.
- License, Permits & Fines: Revenues are 8.7% lower than last year at the same time due to fewer building permits issued. Developer and builder project-delivery timelines vary on a case-by-case basis and are seldom within City control. However, based on recent information received from developers and builders, the City expects an increase in building permit requests in FQ4 of FY 2023-24 and FQ1 of FY 2024-25.

- **Charges for Services:** Revenues are 5.5% lower than last year at the same time, primarily due to the decrease in After-the-Bell (ATB) program sites, leading to fewer students being served. ATB program sites were reduced this fiscal year due to the Milpitas Unified School District state-imposed requirement to host the Expanded Learning Opportunities Program (ELO-P) at all elementary school sites vs. ATB. Thus, fewer students are being served by ATB than originally projected for FY 2023-24.
- **Use of Money and Property:** Revenues are two times higher than last year at the same time, as the City's investment portfolio is earning significantly higher income than last year. This uptick in income is primarily due to the rise in market interest rates because of tighter Federal policy designed to combat inflation.

Expenditures

For the nine months ended March 31, 2024, the General Fund utilized \$98.0 million, or 74.1%, of the FY 2023-24 amended operating budget of \$132.3 million. The amended operating budget represents \$129.5 million of the adopted appropriation and \$2.0 million of carryover encumbrances. As of March 31, 2024, General Fund expenditures are consistent with the prior year as a percentage expended of the budget. Staff will continue to monitor expenditures relative to Council authorized appropriations.

Departments	Amended Budget	Total YTD Expenditure	% of Amended Budget	FY23 Expenditure Including Encumbrance	% of Amended FY23 Budget
City Council	541,694	334,572	61.8%	274,082	50.7%
City Manager	2,313,594	1,608,292	69.5%	1,681,278	73.0%
City Clerk	578,415	388,231	67.1%	337,434	70.5%
Economic Development	1,012,750	622,696	61.5%	576,596	59.6%
Building Safety & Housing	6,458,073	5,025,395	77.8%	4,532,527	73.5%
City Attorney	1,224,505	849,922	69.4%	734,736	74.7%
Engineering	3,576,679	2,569,662	71.8%	2,511,150	67.3%
Finance	4,915,591	3,608,917	73.4%	3,547,574	78.8%
Fire	30,061,018	21,698,983	72.2%	21,218,299	73.1%
Human Resources	2,032,773	1,450,078	71.3%	1,437,654	71.8%
Information Technology	4,381,285	3,132,785	71.5%	2,261,197	61.3%
Non-Departmental	11,297,921	8,006,056	70.9%	7,789,674	75.3%
Planning	2,158,470	1,598,680	74.1%	1,730,521	78.3%
Police	41,098,710	29,987,974	73.0%	27,682,878	73.9%
Public Works	11,007,505	8,826,583	80.2%	7,756,787	76.3%
Recreation & Community Services	6,395,493	5,044,516	78.9%	4,481,509	66.3%
Transfers In/Out/Revenue	3,243,817	3,243,817	100.0%	2,241,866	93.7%
Grand Total	132,298,293	97,997,159	74.1%	90,795,760	73.4%

Grants and Donations

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

- Milpitas Arts and Culture In-Kind Grant - \$1,064

Unanticipated Expenditure Reserve

In accordance with the City Council approved Budget Guidelines, as part of the quarterly financial status reports, staff is reporting on the Unanticipated Expenditure Reserve for this quarter. There were no new appropriations and/or contracts authorized for the quarter ended March 31, 2024.

Water Maintenance & Operation (M&O) Fund Financial Status

Revenues: For the nine months ended March 31, 2024, \$24.4 million of charges for services, or 72.3%, of the \$33.7 million amended budget has been received. Total revenue received amounts to \$25.1 million, or 73.6%, of the \$34.2 million amended budget.

Expenditures: For the nine months ended March 31, 2024, \$31.3 million, or 92.3%, of the \$33.9 million amended budget has been spent and/or encumbered. The Santa Clara Valley Water District and San Francisco Water Department wholesale water purchase contract encumbrances were posted for the full year in FQ1 FY 2023-24.

Sewer Maintenance & Operation (M&O) Fund Financial Status

Revenues: For the nine months ended March 31, 2024, \$18.2 million of charges for services, or 77.2%, of the \$23.5 million amended budget has been received. Total revenue received amounts to \$18.5 million, or 77.8%, of the \$23.8 million amended budget.

Expenditures: For the nine months ended March 31, 2024, \$15.7 million, or 91.2%, of the \$17.2 million amended budget has been spent and/or encumbered. The City of San José wastewater treatment contract encumbrance was posted for the full year in FQ1 FY 2023-24.

POLICY ALTERNATIVE(S):

Alternative 1: Do not review the report.

Pros: There are no pros to not reviewing the report.

Cons: Not reviewing the report may be interpreted as the data is incorrect.

Reason not recommended: Staff is reporting actual unaudited financial data to inform the Council and the public on the City's financial status.

FISCAL IMPACT:

This is an informational report intended to provide a financial update of the City's General, Water and Sewer funds for the quarter ended March 31, 2024. No budget amendment is recommended.

California Environmental Quality Act (CEQA):

This item is not a Project under CEQA exempt under CEQA Guideline 15378(b)(4) as it is a government fiscal activity that does not involve a commitment to any specific project which may result in a potentially significant physical impact on the environment.

RECOMMENDATION:

1. Review the FY 2023-24 Quarterly Financial Status Report for the Quarter Ended March 31, 2024

Attachment(s):

- a) FY 2023-24 Revenue Report for Fiscal Year-To-Date March 31, 2024
- b) FY 2023-24 General Fund Expenditures by Department for Fiscal Year-To-Date March 31, 2024
- c) FY 2023-24 Water and Sewer Funds Financial Status for Fiscal Year-To-Date March 31, 2024

CITY OF MILPITAS

General Fund Revenues

For Fiscal Year-To-Date March 31, 2024

	FY24	FY24	FY24	FY24	FY24	FY24	FY24	FY23	Percentage
General Fund Revenues	Adopted Budget	Budget Amendments	Grant Carryover	Amended Budget	Receipts 03/31/2024	Outstanding Favorable/ (Unfavorable)	% Receipt	FY23 Receipts 03/31/2023	FY24 vs FY23
Property Tax	46,023,851			46,023,853	25,821,942	\$ (20,201,911)	56.1%	25,216,439	2.4%
Sales and Use Tax	28,877,560			28,877,560	16,761,780	\$ (12,115,780)	58.0%	19,390,226	-13.6%
Sales and Use Tax - Measure F	6,991,000	300,000		7,291,000	4,107,324	\$ (3,183,676)	56.3%	4,265,695	-3.7%
Transient Occupancy Tax	11,811,235			11,811,235	7,293,660	\$ (4,517,575)	61.8%	7,630,617	-4.4%
Licenses, Permits & Fines	8,662,020	500,000		9,162,020	5,713,637	\$ (3,448,383)	62.4%	6,254,752	-8.7%
Operating Transfer In	8,148,456			8,131,426	3,849,100	\$ (4,282,326)	47.3%	3,217,190	19.6%
Charges for Services	8,111,025	-193,535		7,917,490	4,587,986	\$ (3,329,504)	57.9%	4,852,930	-5.5%
Franchise Fees	5,811,868			5,811,867	2,594,210	\$ (3,217,657)	44.6%	2,368,629	9.5%
Other Taxes	1,088,586			1,088,587	825,276	\$ (263,311)	75.8%	764,427	8.0%
Intergovernmental	820,572	98,498	116,510	919,070	571,412	\$ (347,658)	62.2%	1,049,891	-45.6%
Use of Money and Property	414,000			414,000	827,680	\$ 413,680	199.9%	354,208	133.7%
Other Revenues	389,525			389,525	1,230,867	\$ 841,342	316.0%	551,936	123.0%
Total General Fund Revenue	\$ 127,149,698	\$ 704,963	\$ 116,510	\$ 127,837,633	\$ 74,184,874	\$ (53,652,759)	58.0%	\$ 75,916,940	-2.3%

City of Milpitas
General Fund Expenditure By Department Financial Status
For Fiscal Year-To-Date March 31, 2024

Departments	Adopted Budget	Amendments	Grants C/O	Encumb. C/O	Amended Budget	Expenditure	Encumbrance	Total YTD Expenditure	% of Amended Budget	FY23 Expenditure Including Encumbrance	% of Amended FY23 Budget
City Council	624,450	-132,454	0	49,698	541,694	286,063	48,509	334,572	61.8%	274,082	50.7%
City Manager	2,380,301	-139,240	0	72,533	2,313,594	1,416,571	191,721	1,608,292	69.5%	1,681,278	73.0%
City Clerk	649,839	-71,424	0	0	578,415	388,231	0	388,231	67.1%	337,434	70.5%
Economic Development	1,049,225	-36,475	0	0	1,012,750	555,084	67,612	622,696	61.5%	576,596	59.6%
Building Safety & Housing	6,385,627	0	0	72,446	6,458,073	4,569,008	456,387	5,025,395	77.8%	4,532,527	73.5%
City Attorney	1,189,895	0	0	34,610	1,224,505	776,585	73,337	849,922	69.4%	734,736	74.7%
Engineering	3,989,913	-433,314	0	20,080	3,576,679	2,463,169	106,493	2,569,662	71.8%	2,511,150	67.3%
Finance	4,926,443	-202,101	0	191,249	4,915,591	3,299,534	309,383	3,608,917	73.4%	3,547,574	78.8%
Fire	29,293,563	556,599	0	210,856	30,061,018	21,411,024	287,959	21,698,983	72.2%	21,218,299	73.1%
Human Resources	2,017,207	0	0	15,566	2,032,773	1,384,606	65,472	1,450,078	71.3%	1,437,654	71.8%
Information Technology	4,911,128	-669,673	0	139,830	4,381,285	2,544,356	588,429	3,132,785	71.5%	2,261,197	61.3%
Non-Departmental	7,771,743	2,939,808	0	586,370	11,297,921	7,470,757	535,299	8,006,056	70.9%	7,789,674	75.3%
Planning	2,024,149	0	16,050	118,271	2,158,470	1,517,219	81,461	1,598,680	74.1%	1,730,521	78.3%
Police	41,213,199	-318,793	18,416	185,888	41,098,710	29,440,953	547,021	29,987,974	73.0%	27,682,878	73.9%
Public Works	11,086,237	-337,895	0	259,163	11,007,505	7,479,502	1,347,081	8,826,583	80.2%	7,756,787	76.3%
Recreation & Community Services	6,775,931	-455,006	0	74,568	6,395,493	4,603,255	441,261	5,044,516	78.9%	4,481,509	66.3%
Transfers In/Out/Revenue	3,243,817	0	0	0	3,243,817	3,243,817	0	3,243,817	100.0%	2,241,866	93.7%
Grand Total	129,532,667	700,032	34,466	2,031,128	132,298,293	92,849,734	5,147,425	97,997,159	74.1%	90,795,760	73.4%

City of Milpitas
Water and Sewer Financial Status
For Fiscal Year-To-Date March 31, 2024 (unaudited)

Water Fund

Revenue Categories	Adopted Budget	Amendments	Grants C/O	Amended Budget	Receipt	Outstanding	% Receipt	Receipt 3/31/2023	% Receipt 3/31/2023
Charges for Services	33,748,979	0	0	33,748,979	24,417,347	9,331,632	72.3%	23,903,733	72.1%
Intergovernmental	0	0	0	0	0	0	0.0%	0	0.0%
Licenses, Permits & Fines	0	0	0	0	0	0	0.0%	(74,324)	0.0%
Other Revenues	0	0	0	0	289,876	(289,876)	0.0%	21,981	0.0%
Use of Money and Property	428,455	0	0	428,455	437,654	(9,199)	102.1%	252,017	68.2%
Grand Total	34,177,434	0	0	34,177,434	25,144,877	9,032,557	73.6%	24,103,407	71.9%

Expenditures by Department	Adopted Budget	Amendments	Grants C/O	Encumb. C/O	Amended Budget	Expenditure	Encumbrance	Total YTD Exp.	% of Amended Budget	Total YTD Exp. 3/31/2023	% of Amended Budget 3/31/2023
City Attorney	9,000	0	0	0	9,000	0	0	0	0.0%	9,000	100.0%
City Manager	9,167	0	0	0	9,167	0	0	0	0.0%	0	0.0%
Finance	1,097,356	0	0	11,647	1,109,003	779,954	34,268	814,222	73.4%	766,772	67.7%
Non-Departmental	24,839,144	0	0	4,753	24,843,897	16,350,294	8,270,772	24,621,066	99.1%	22,793,237	97.0%
Public Works	4,993,205	0	0	64,204	5,057,409	3,548,175	151,001	3,699,176	73.1%	3,457,892	76.8%
Transfers In/Out/Revenue	2,869,298	0	0	0	2,869,298	2,151,974	0	2,151,974	75.0%	2,015,545	75.0%
Grand Total	33,817,170	0	0	80,604	33,897,774	22,830,397	8,456,041	31,286,438	92.3%	29,042,446	91.3%

Sewer Fund

Revenue Categories	Adopted Budget	Amendments	Grants C/O	Amended Budget	Receipt	Outstanding	% Receipt	Receipt 3/31/2023	% Receipt 3/31/2023
Charges for Services	23,539,248	0	0	23,539,248	18,174,468	5,364,780	77.2%	18,923,049	77.3%
Intergovernmental	0	0	0	0	0	0	0.0%	0	0.0%
Licenses, Permits & Fines	0	0	0	0	559	(559)	0.0%	(42,048)	0.0%
Other Revenues	0	0	0	0	111,293	(111,293)	0.0%	39,282	100.0%
Use of Money and Property	286,967	0	0	286,967	261,380	25,587	91.1%	153,363	74.5%
Grand Total	23,826,215	0	0	23,826,215	18,547,700	5,278,515	77.8%	19,073,646	77.1%

Expenditures by Department	Adopted Budget	Amendments	Grants C/O	Encumb. C/O	Amended Budget	Expenditure	Encumbrance	Total YTD Exp.	% of Amended Budget	Total YTD Exp. 3/31/2023	% of Amended Budget 3/31/2023
City Manager	9,167	0	0	0	9,167	0	0	0	0.0%	0	0.0%
Engineering	0	0	0	0	0	0	0	0	0.0%	0	0.0%
Finance	670,509	0	0	11,647	682,156	473,106	32,766	505,872	74.2%	542,744	74.2%
Non-Departmental	11,223,018	0	0	23,458	11,246,476	7,947,811	3,805,562	11,753,373	104.5%	9,513,951	90.8%
Public Works	3,643,288	0	0	109,807	3,753,095	2,165,757	130,111	2,295,868	61.2%	3,398,665	67.5%
Transfers In/Out/Revenue	1,503,623	0	0	0	1,503,623	1,127,717	0	1,127,717	75.0%	1,083,147	75.0%
Grand Total	17,049,605	0	0	144,912	17,194,517	11,714,391	3,968,439	15,682,830	91.2%	14,538,507	82.2%



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve an Agreement with Xerox Corporation For Full-Service Lease Of Copier/Multifunction Digital Devices (Staff Contact: Luz Cofresí-Howe, Finance Director; 408-586-3111)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	6/4/2024
Recommendation:	Authorize the City Manager to execute a cooperative agreement with Xerox Corporation for a full-service lease of copier/multifunction digital devices through a cooperative procurement contract by Region 4 Educational Services Center for an amount not-to-exceed \$368,000 for 60 months [five (5) years] with change order authority up to 10%, subject to the annual appropriation of funds

BACKGROUND:

The City requires copier/multifunction digital devices for Citywide day-to-day operations. The City executed the current Contract No. R150302 with Xerox Corporation on July 1, 2019, for a 60-month full-service lease of 22 copier/multifunction digital devices in various configurations. The current agreement expires on June 30, 2024.

The City of Milpitas Municipal Code Section I-2-3.05(d) ("Public Agency Purchases") authorizes the Purchasing Agent to make purchases based on an agreement or cooperative purchasing program entered into by a public agency, as defined by Government Code Section 6500, regardless of whether the City is a named party to the agreement or an actual participant in such a program, provided the underlying purchase was made using competitive negotiation or bidding procedures at least as restrictive as the City's.

OMNIA Partners is a shared services and supply chain optimization company, which began operations on January 1, 2019, dedicated to public procurement. Each contract in the OMNIA Partners cooperative contract portfolio has been competitively solicited by a lead public agency. OMNIA Partners does not conduct solicitations but rather partner with various public agencies in soliciting cooperative contracts. All contracts solicited, issued, and awarded by lead public agencies are in full force and effect in accordance with the respective contract terms and conditions.

On June 1, 2020, Region 4 Education Service Center ("Region 4 ESC") issued on behalf of itself, other government agencies, non-profits, and all members of OMNIA, a Request for Proposal ("RFP") #19-11. As a result of that solicitation, Region 4 ESC awarded to Xerox Corporation Contract No. R191104 entitled "Copiers and Printers" which includes copier/multifunction digital devices and full-service maintenance. The contract term is from June 1, 2020, for three years to May 31, 2023, with two, one-year extensions through May 31, 2025.

ANALYSIS:

The City executed Contract No. R150302 with Xerox Corporation on July 1, 2019, for the 60-month full-service lease of 22 copier/multi-function devices of various configurations. These 22 copier/printer machines are now at end of life and experiencing regular breakdowns and poor copy quality.

Region 4 ECS meets the definition of a public agency as defined by Government Code section 6500. OMNIA Partners makes Contract No. R191104 available through its cooperative purchasing organization to all its public

agency members. Pursuant to Contract No. R191104, the City of Milpitas 60-month (5-year) contract amount is estimated to be \$368,000 varying on use, and will extend beyond the termination of Contract No. R191104; However, per Contract No. R191104 Item #6.2 (Survivor Clause):

“All applicable software license agreements, warranties or service agreements that were entered into between Vendor and Customer under the terms and conditions of the Contract shall survive the expiration or termination of the Contract. All Purchase Orders issued and accepted by Order Filler shall survive expiration or termination of the Contract”.

The Purchasing Agent has reviewed all documentation related to RFP #19-11 and Contract No. R191104 awarded to Xerox Corporation by Region 4 ESC and determined the contract is current through May 31, 2025. The solicitation method for this purchase used competitive bidding procedures at least as restrictive as those of the City of Milpitas. The copier/multi-function devices pricing for the City of Milpitas contract is the same as offered in Contract No. R191104.

POLICY ALTERNATIVE(S):

Alternative: Do not replace the old equipment.

Pros: This is a full-service copier/multifunctional devices agreement with Citywide maintenance and supplies.

Cons: The current equipment reached the end of its useful life, and many units are experiencing regular breakdowns and poor copy quality. It costs the city more to keep the current copier/printer machines functioning.

Reason to not recommend: None.

FISCAL IMPACT:

The annual cost of \$73,600 will be allocated across City functions through respective fiscal year budget appropriations.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

This item is not a project under the California Environmental Quality Act (CEQA) Guideline 15378(b).

RECOMMENDATION:

Authorize the City Manager to execute a cooperative agreement with Xerox Corporation for a full-service lease of copier/multifunction digital devices through a cooperative procurement contract by Region 4 Educational Services Center for an amount not-to-exceed \$368,000 for 60 months [five (5) years] with change order authority up to 10%, subject to the annual appropriation of funds

ATTACHMENT(S):

Attachment (a) Xerox Contract Draft

Attachment (b) Xerox Proposal

Attachment (c) OMNIA Contract

**CITY OF MILPITAS
COOPERATIVELY PURCHASED AGREEMENT FOR COPIERS AND PRINTERS
CONTRACT NO. 24-146**

This Cooperatively Purchased Agreement for copiers and printers ("Agreement") is entered into as of the _____ by and between the City of Milpitas, a municipal corporation organized under the laws of the State of California with its principal place of business at 455 E. Calaveras Boulevard, Milpitas, California 95035 ("City") and **Xerox Corporation** with its principal place of business at **2441 Mission College Blvd. Santa Clara, CA 95054** ("Contractor"). City and Contractor are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement

RECITALS

WHEREAS, on **June 1, 2020**, the **OMNIA** awarded a contract to Contractor entitled **Region 4 Education Services Center (ESC) Contract# R191104** ("Original Contract") for **Copiers and Printers** pursuant to a competitive solicitation process performed in accordance with the competitive procurement rules applicable to **OMNIA** ; and

WHEREAS, pursuant to the City's purchasing ordinance, the City is authorized to utilize cooperative purchasing to utilize contracts based on an agreement or entered into by any public agency or cooperative purchasing program utilizing public agency procurements as the basis for contracts offered, regardless of whether the City is a named party to the agreement or an actual participant in such a program; and

WHEREAS, the Original Contract is listed in the purchasing schedule offered by **OMNIA**, a Government cooperative purchasing program; and

WHEREAS, the City desires to rely on the Original Contract entered into between **OMNIA** and Contractor and procure Copiers and Printers on the same terms and conditions set forth therein pursuant to this Agreement.

NOW, THEREFORE, in consideration of their mutual promises, obligations and covenants hereinafter contained, the parties hereto agree as follows:

1. **Recitals**. The foregoing recitals are true and correct and are a part of this Agreement.

2. **Term**. The term of this Agreement shall be from July 1, 2024 to June 30, 2029, unless earlier terminated as provided herein. The City reserves the right to review the Contractor's performance at the end of each year and cancel all or part of the Agreement.

3. **Incorporation By Reference**. The Scope of Services is attached hereto as Exhibit "A" and incorporated herein by this reference. The Original Contract, including all documents incorporated by reference therein, is attached hereto as Exhibit "B" and incorporated herein by this reference – all references in the Original Contract to "**OMNIA**" shall be understood to mean the City of Milpitas. The Contractor's Proposal is attached hereto as Exhibit "C" and is incorporated herein by reference. The incorporation of the Original Contract and the Contractor's Proposal as part of this Agreement is subject to the order of precedence set forth below.

4. **Precedence of Agreement Documents**. If there is a conflict between Agreement documents, the document highest in precedence shall control. The precedence shall be:

One: This Agreement

Two: The Original Contract
Three: The Contractor's Proposal

Amendments, supplemental agreements, and approved revisions to the Agreement or any part thereof become a part of item One above.

5. **Obligations of the City.**

A. The City shall be obligated to pay Contractor based upon the unit and/or lump sum prices set forth in the Original Contract and/or the Contractor's Proposal for services authorized by the City.

B. Payments to the Contractor shall be made within 30 days after receipt of an original invoice from the Contractor and acceptance of the services by City.

C. In no event shall the total amount paid for this Agreement exceed **Three Hundred and Sixty-Eight Thousand and Zero Cents (\$368,000.00)** unless otherwise agreed to by the parties in writing.

6. **Obligations of the Contractor.**

A. Contractor shall perform the Scope of Services as required by this Agreement.

B. Contractor shall obey all Federal, State, local, and special district laws, ordinances, and regulations. Contractor is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. If the Scope of Services is being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. Contractor shall defend, indemnify and hold City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. Any stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor that affect Contractor's performance of the Scope of Services, including any delay, shall be Contractor's sole responsibility and Contractor shall indemnify City from liability arising out of the same. It shall be mandatory upon the Contractor and all subcontractors to comply with all applicable California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815), contractor registration (Labor Code Sections 1725.5 and 1771.1) and debarment of contractors and subcontractors (Labor Code Sections 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 and to be registered with the California Department of Industrial Relations shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1771.4, 1725.5 and 1771.1. Notwithstanding the foregoing, Contractor asserts and has been advised by the counsel of its choosing that the scope of this contract are not considered "public works" and "maintenance" projects as stated under California Labor Code Sections 1720 et seq and 1770 et seq.

C. The Contractor shall keep a tally of the cost for the services ordered by City. The Contractor shall not accept work orders from the City if the cost for the work will exceed the amount indicated above unless otherwise agreed to by the parties in writing.

7. **Audit.** City shall have the option of inspecting and/or auditing all financial records and other written materials used by Contractor in preparing its statements to City required to substantiate the services and accurate billings per the scope of work under the Agreement as a condition precedent to any payment to Contractor. These records exclude any non-financial information deemed by Xerox to be confidential or proprietary.

8. **Hold Harmless and Indemnification.** To the fullest extent permitted by law, Contractor shall defend, indemnify and hold the City, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions of Contractor, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Contractor's services or this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses. Notwithstanding the foregoing, to the extent Contractor's Services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor.

9. **Amendments.** Any amendment, modification, or variation from the terms of this Agreement shall be in writing and shall be effective only upon mutual written approval by the City and Contractor.

10. **Anti-Discrimination.** In the performance of the terms of this Agreement, Contractor shall not engage in, nor permit subcontractors to engage in, discrimination in employment of persons because of the age, race, color, religious creed, sex, sexual orientation, national origin, ancestry, physical disability, mental disability, medical condition, or marital status of such persons.

11. **Termination.** City may, by written notice to Contractor, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Contractor of such termination, and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. Termination under this provision shall not apply to orders received and equipment installed prior to the effective date of termination. Contractor may not terminate this Agreement except for cause. If this Agreement is terminated as provided herein, City may require Contractor to provide all finished or unfinished documents and data and other information of any kind prepared by Contractor in connection with the performance of services under this Agreement. Contractor shall be required to provide such documents and other information within fifteen (15) days of the request. The Contractor understands and accepts that at all times; the Agreement is subject to appropriation of funds by the Milpitas City Council. The Agreement may terminate without penalty, liability or expense of any kind to the City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, the Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. The City has no obligation to make appropriations for the Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and City Council. Contractor'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. In order to terminate the Agreement due to funding non-appropriation, Contractor requires that the City sends Contractor written notice, within 90-days after the beginning of the fiscal year for which its legislative body does not appropriate funds; send Contractor written notice stating that its legislative body, though no action on the City's part, fails to appropriate funds for the next fiscal year. In addition, the City agrees at the City's expense to

return the Equipment in good condition to a location designated by Contractor and that, when returned, the Equipment will be free of all liens and encumbrances, normal wear and tear excepted. The City will then be released from its obligations to make any further payments to Contractor. Contractor's individual lease offer is based on a firm 60-month equipment installation commitment that cannot be terminated without penalty except for fiscal-year funds non-appropriation or an uncured Xerox default.

12. **Complete Contract.** This Agreement shall constitute the complete Agreement between the parties hereto. No verbal agreement, understanding, or representation not reduced to writing and specifically incorporated herein shall be of any force or effect, nor shall any such verbal agreement, understanding, or representation be binding upon the parties hereto.

13. **Time of Performance.** Time is of the essence in this Agreement.

14. **Successors and Assigns.** The terms hereof shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto; provided, however, that no party hereto shall assign any of the benefits and burdens hereunder, whether voluntarily or by operation of law, without the prior written consent of the other party, and any such assignment without said consent shall be void.

15. **Authority to Execute Contract.** Both City and Contractor do covenant that each individual executing this Agreement on behalf of each party is a person duly authorized and empowered to execute contracts for such party.

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

17. **Jurisdiction and Venue.** Jurisdiction is in the State of California and venue lies in Santa Clara County.

18. **Wage Theft Prevention.** Contractor, and any subcontractor it employs to complete work under this Agreement, shall comply with all applicable federal, state and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act, the California Labor Code and the Milpitas Minimum Wage Ordinance. BY SIGNING THIS AGREEMENT, CONTRACTOR 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 CONTRACTOR OR ITS SUBCONTRACTORS HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. CONTRACTOR 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, CONTRACTOR 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 CONTRACTOR OR ITS SUBCONTRACTOR(S) ARE IN COMPLIANCE WITH SAID PLAN AS OF THE DATE OF EXECUTING THIS AGREEMENT. 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 Contractor or a subcontractor it employs to perform work under this Agreement has violated any applicable wage and hour law, or Contractor learns of such a judgment, decision, or order that was not previously disclosed in its bid/proposal, Contractor shall inform the City no more than fifteen (15) calendar

days after the judgment, decision or order becomes final or from the date of learning of the final judgment, decision or order. Contractor or its subcontractor(s) shall, within thirty (30) calendar days after notifying the City, either (i) fully satisfy any such judgment, decision, or order and provide the City with documentary evidence of satisfying said judgment, decision or order; or (ii) provide the City documentary evidence of a payment or other alternative plan approved by the court/government agency to satisfy the judgment, decision or order. If the Contractor or its subcontractor is subject to a payment or other alternative plan, the Contractor 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. For purposes of this Section, a "final judgment, decision, or order" refers to one for which all appeals have been exhausted or the time period to appeal has expired. Relevant investigatory government agencies include: the United States Department of Labor, the California Division of Labor Standards Enforcement, the City, or any other governmental entity or division tasked with the investigation and enforcement of wage and hour laws. 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. Notice provided to the City shall be addressed to: Attention: Finance Director, 455 E. Calaveras Blvd. Milpitas, CA 95035. The Notice provisions of this Section are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section.

19. **Notices.** All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Contractor:

Xerox Corporation
2441 Mission College Blvd.
Santa Clara, California
95054
Attn: Dee Kim

With copy to:
Xerox Corporation,
201 Merritt 7, Norwalk,
CT 06851- 1056
Attn. General Counsel

City:

City of Milpitas
455 E. Calaveras Boulevard
Milpitas, California 95035
Attn: Saradia Lehtinen

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

[SIGNATURES ON NEXT PAGE]

**SIGNATURE PAGE FOR AGREEMENT FOR COPIERS AND PRINTERS
BETWEEN THE CITY OF MILPITAS
AND XEROX CORPORATION**

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the date first written above.

CITY OF MILPITAS

Approved By:

Ned Thomas, City Manager

Date

Approved As To Form:

Michael Mutalipassi, City Attorney

Approved:

Luz Cofresi-Howe,
Finance Director/Risk Manager

Xerox Corporation

Signature

Name

Title

Date

EXHIBIT "A"

SCOPE OF SERVICES

Same as Contract Number: R191104 with Region 4 ESC- TX.

EXHIBIT "B"
ORIGINAL CONTRACT

Attached Behind This Page

EXHIBIT "C"
CONTRACTOR'S PROPOSAL

Attached Behind This Page

EXHIBIT "D"

INSURANCE REQUIREMENTS

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

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

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

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

Commercial General Liability (CGL):

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

☒ 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), or 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):

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

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

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

Workers' Compensation Insurance:

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

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

Builder's Risk (Course of Construction):

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

Contractor's or Consultant's Pollution Legal Liability:

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

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

Cyber Liability Insurance

X 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 elected and appointed officials, officers, attorneys, agents employees and volunteers as additional insureds under such policies using Insurance Services Office form CG 20 10 (or equivalent) on the general liability policy. For construction projects, an endorsement providing completed operations coverage for the additional insured on the general liability policy, ISO form CG 20 37 (or equivalent), is also required.

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

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

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

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 canceled or 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.

THE FOLLOWING PROVISIONS APPLY TO ALL AGREEMENTS

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

Any deductibles or self-insured retentions must be declared to the 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.

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 applicable to this contract. Failure to exercise this right shall not constitute a waiver of right to exercise later.

The City hereby agrees to Contractor's deductibles and self-insured retentions:

1. General Liability - \$2,000,000 Deductible
2. Auto Liability - \$5,000,000 Deductible
3. Workers' Compensation - \$1,000,000 Deductible
4. Cyber / Professional Liability - \$10,000,000 Retention

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 three (3) 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: [Reserved]**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.

Lease Agreement



Customer: CITY OF MILPITAS

BillTo: CITY OF MILPITAS
455 E CALAVERAS BLVD
MILPITAS, CA 95035-5411

Install: CITY OF MILPITAS
455 E CALAVERAS BLVD
MILPITAS, CA 95035-5411

State or Local Government Negotiated Contract : 072816000

Total Monthly - \$3,856.66
Total Annual - \$46,279.92
Total Contract - \$231,399.60

Average Monthly Usage - \$1,747.15
Average Annual Usage - \$20,965.85
Contract Usage - \$104,829.25

Subtotal Contract - \$336,228.85
Total Tax - \$31,521.46
Total Contract w/Tax - \$367,750.31

Solution

Item	Product Description	Agreement Information		Trade Information	Requested Install Date
1. C8170H2 (XEROX C8170H2)	- Office Finisher - 2/3 Hole Punch - Analyst Services	Lease Term:	60 months	- Xerox C8070 S/N 6TB451247 Trade-In as of Payment 59	6/14/2024
2. C8170H2 (XEROX C8170H2)	- Office Finisher - 2/3 Hole Punch - Analyst Services	Lease Term:	60 months	- Xerox C8070 S/N 6TB450965 Trade-In as of Payment 59	6/14/2024
3. C8155H2 (XEROX C8155H2)	- 1 Line Fax - Office Finisher - Analyst Services	Lease Term:	60 months	- Xerox B8055 S/N Y4X869113 Trade-In as of Payment 59	6/14/2024
4. C8145H2 (XEROX C8145H2)	- 1 Line Fax - Office Finisher - Analyst Services	Lease Term:	60 months	- Xerox B8045 S/N Y4X865266 Trade-In as of Payment 59	6/14/2024
5. C8155H2 (XEROX C8155H2)	- 1 Line Fax - Office Finisher - Analyst Services	Lease Term:	60 months	- Xerox C8055 S/N 8TB623979 Trade-In as of Payment 59	6/14/2024
6. C8170H2 (XEROX C8170H2)	- Office Finisher - Analyst Services	Lease Term:	60 months	- Xerox C8070 S/N 6TB451018 Trade-In as of Payment 59	6/14/2024

Authorized Signature

Customer acknowledges receipt of the terms of this agreement
which consists of 13 pages including this face page.

Signer: Saradia Lehtinen

Phone: (408)586-3161

Signature: _____

Date: _____

Thank You for your business!
This Agreement is proudly presented by Xerox and

Dee Kim
(408)781-1553

For information on your Xerox Account, go to
www.xerox.com/AccountManagement

Solution (Cont'd)

Item	Product Description	Agreement Information	Trade Information	Requested Install Date
7.	B8145H2 (XEROX B8145H2) - Office Finisher - Analyst Services	Lease Term: 60 months Purchase Option: FMV	- Xerox B8045 S/N Y4X865205 Trade-In as of Payment 59	6/14/2024
8.	C8155H2 (XEROX C8155H2) - Office Finisher - Analyst Services	Lease Term: 60 months Purchase Option: FMV	- Xerox C8055 S/N 8TB629583 Trade-In as of Payment 59	6/14/2024

Monthly Pricing

Item	Lease Minimum Payment	Print Charges			Maintenance Plan Features
		Meter	Volume Band	Per Print Rate	
1. C8170H2	\$151.07	1: Black and White Impressions	All Prints	\$0.0056	- Consumable Supplies Included for all prints - Pricing Fixed for Term
		2: Color Impressions	All Prints	\$0.0506	
2. C8170H2	\$151.07	1: Black and White Impressions	All Prints	\$0.0056	- Consumable Supplies Included for all prints - Pricing Fixed for Term
		2: Color Impressions	All Prints	\$0.0506	
3. C8155H2	\$137.53	1: Black and White Impressions	All Prints	\$0.0066	- Consumable Supplies Included for all prints - Pricing Fixed for Term
		2: Color Impressions	All Prints	\$0.0506	
4. C8145H2	\$137.42	1: Black and White Impressions	All Prints	\$0.0066	- Consumable Supplies Included for all prints - Pricing Fixed for Term
		2: Color Impressions	All Prints	\$0.0506	

Monthly Pricing (Cont'd)

Item	Lease	Print Charges			Maintenance Plan Features
	Minimum Payment	Meter	Volume Band	Per Print Rate	
5. C8155H2	\$137.38	1: Black and White Impressions	All Prints	\$0.0066	- Consumable Supplies Included for all prints - Pricing Fixed for Term
		2: Color Impressions	All Prints	\$0.0506	
6. C8170H2	\$147.57	1: Black and White Impressions	All Prints	\$0.0056	- Consumable Supplies Included for all prints - Pricing Fixed for Term
		2: Color Impressions	All Prints	\$0.0506	
7. B8145H2	\$127.06	1: Black and White Impressions	All Prints	\$0.0062	- Consumable Supplies Included for all prints - Pricing Fixed for Term
8. C8155H2	\$128.99	1: Black and White Impressions	All Prints	\$0.0066	- Consumable Supplies Included for all prints - Pricing Fixed for Term
		2: Color Impressions	All Prints	\$0.0506	
Total	\$1,118.09	Minimum Payments (Excluding Applicable Taxes)			

Lease Agreement



BillTo: CITY OF MILPITAS
455 E CALAVERAS BLVD
MILPITAS, CA 95035-5411

Install: CITY OF MILPITAS
BLVD
1325 E CALAVERAS
MILPITAS, CA 95035-5707

State or Local Government Negotiated Contract : 072816000

Solution

Item	Product Description	Agreement Information	Trade Information	Requested Install Date
1. C8155H2 (XEROX C8155H2)	- Office Finisher - 2/3 Hole Punch - Analyst Services	Lease Term: 60 months Purchase Option: FMV	- Xerox B8055 S/N Y4X868999 Trade-In as of Payment 59	6/14/2024

Monthly Pricing

Item	Lease	Print Charges			Maintenance Plan Features
	Minimum Payment	Meter	Volume Band	Per Print Rate	
1. C8155H2	\$132.72	1: Black and White Impressions	All Prints	\$0.0066	- Consumable Supplies Included for all prints - Pricing Fixed for Term
		2: Color Impressions	All Prints	\$0.0506	
Total	\$132.72	Minimum Payments (Excluding Applicable Taxes)			

Lease Agreement



BillTo: CITY OF MILPITAS
455 E CALAVERAS BLVD
MILPITAS, CA 95035-5411

Install: CITY OF MILPITAS
1275 N MILPITAS BLVD
MILPITAS, CA 95035-3153

State or Local Government Negotiated Contract : 072816000

Solution

Item	Product Description	Agreement Information		Trade Information	Requested Install Date
1.	B7135H2 (XEROX B7135 TTRAY OS) - No Post Script - 2/3 Hole Punch - Office Finisher Lx - Analyst Services	Lease Term:	60 months	- Xerox B7035 S/N 5DA847294 Trade-In as of Payment 59	6/14/2024
2.	B9100 (PRIMELINK B9100) - Msi Bypass - Msi Chute Kit - Pr Standard Finisher - XM Fax	Lease Term:	60 months	- Xerox D95CP S/N BG2482302 Trade-In as of Payment 59	6/14/2024
3.	B7135H2 (XEROX B7135 TTRAY OS) - Embedded 1-line Fax - No Post Script - 2/3 Hole Punch - Office Finisher Lx - Analyst Services	Lease Term:	60 months	- Xerox B7035 S/N 5DA848289 Trade-In as of Payment 59	6/14/2024
4.	C8145H2 (XEROX C8145H2) - Office Finisher - Customer Ed - Analyst Services	Lease Term:	60 months	- Xerox B7035 S/N 5DA844845 Trade-In as of Payment 59	6/14/2024
5.	B7135H2 (XEROX B7135 TTRAY OS) - Embedded 1-line Fax - No Post Script - Office Finisher Lx - Analyst Services	Lease Term:	60 months	- Xerox B7035 S/N 5DA847302 Trade-In as of Payment 59	6/14/2024
6.	C8145H2 (XEROX C8145H2) - Office Finisher - Booklet Maker - 2/3 Hole Punch - Analyst Services	Lease Term:	60 months	- Xerox C8045 S/N 8TB618606 Trade-In as of Payment 59	6/14/2024
7.	B7135H2 (XEROX B7135 TTRAY OS) - No Post Script - Office Finisher Lx - Analyst Services	Lease Term:	60 months	- Xerox B7025 S/N 5DA848348 Trade-In as of Payment 59	6/14/2024

Solution (Cont'd)

Item	Product Description	Agreement Information	Trade Information	Requested Install Date
8.	B7135S2 (XEROX B7135 STAND OS) - Integratd Off Finshr - No Post Script - Analyst Services	Lease Term: 60 months Purchase Option: FMV	None	6/14/2024

Monthly Pricing

Item	Lease Minimum Payment	Print Charges			Maintenance Plan Features
		Meter	Volume Band	Per Print Rate	
1. B7135H2	\$102.71	1: Black and White Impressions	All Prints	\$0.0066	- Consumable Supplies Included for all prints - Pricing Fixed for Term
2. B9100	\$952.61	1: Black and White Impressions	All Prints	\$0.0049	- Consumable Supplies Included for all prints - Pricing Fixed for Term
3. B7135H2	\$112.14	1: Black and White Impressions	All Prints	\$0.0066	- Consumable Supplies Included for all prints - Pricing Fixed for Term
4. C8145H2	\$139.69	1: Black and White Impressions 2: Color Impressions	All Prints All Prints	\$0.0066 \$0.0506	- Consumable Supplies Included for all prints - Pricing Fixed for Term
5. B7135H2	\$108.58	1: Black and White Impressions	All Prints	\$0.0066	- Consumable Supplies Included for all prints - Pricing Fixed for Term
6. C8145H2	\$144.01	1: Black and White Impressions 2: Color Impressions	All Prints All Prints	\$0.0066 \$0.0506	- Consumable Supplies Included for all prints - Pricing Fixed for Term
7. B7135H2	\$98.85	1: Black and White Impressions	All Prints	\$0.0066	- Consumable Supplies Included for all prints - Pricing Fixed for Term

Monthly Pricing (Cont'd)

Item	Lease Minimum Payment	Print Charges			Maintenance Plan Features
		Meter	Volume Band	Per Print Rate	
8. B7135S2	\$93.22	1: Black and White Impressions	All Prints	\$0.0066	- Consumable Supplies Included for all prints - Pricing Fixed for Term
Total	\$1,751.81	Minimum Payments (Excluding Applicable Taxes)			

Lease Agreement



BillTo: CITY OF MILPITAS
455 E CALAVERAS BLVD
MILPITAS, CA 95035-5411

Install: CITY OF MILPITAS
40 N MILPITAS BLVD
MILPITAS, CA 95035-4403

State or Local Government Negotiated Contract : 072816000

Solution

Item	Product Description	Agreement Information		Trade Information	Requested Install Date
1. B8145H2 (XEROX B8145H2)	- Office Finisher - 2/3 Hole Punch - Analyst Services	Lease Term:	60 months	- Xerox B8045 S/N Y4X865165	6/14/2024
		Purchase Option:	FMV	Trade-In as of Payment 59	

Monthly Pricing

Item	Lease	Print Charges			Maintenance Plan Features
	Minimum Payment	Meter	Volume Band	Per Print Rate	
1. B8145H2	\$129.62	1: Black and White Impressions	All Prints	\$0.0062	- Consumable Supplies Included for all prints - Pricing Fixed for Term
Total	\$129.62	Minimum Payments (Excluding Applicable Taxes)			

Lease Agreement



BillTo: CITY OF MILPITAS
455 E CALAVERAS BLVD
MILPITAS, CA 95035-5411

Install: CITY OF MILPITAS
1265 N MILPITAS BLVD
MILPITAS, CA 95035-3153

State or Local Government Negotiated Contract : 072816000

Solution

Item	Product Description	Agreement Information		Trade Information	Requested Install Date
1. C8145H2 (XEROX C8145H2)	- Office Finisher - 2/3 Hole Punch - Analyst Services	Lease Term:	60 months	- Xerox C8035 S/N 3TX409518 Trade-In as of Payment 59	6/14/2024
2. B8145H2 (XEROX B8145H2)	- Office Finisher - Analyst Services	Lease Term:	60 months	- Xerox B8045 S/N Y4X864991 Trade-In as of Payment 59	6/14/2024
3. B7135H2 (XEROX B7135 TTRAY OS)	- No Post Script - Office Finisher Lx - Analyst Services	Lease Term:	60 months	- Xerox B7035 S/N 5DA847346 Trade-In as of Payment 59	6/14/2024

Monthly Pricing

Item	Lease Minimum Payment	Meter	Print Charges		Maintenance Plan Features
			Volume Band	Per Print Rate	
1. C8145H2	\$132.24	1: Black and White Impressions 2: Color Impressions	All Prints All Prints	\$0.0066 \$0.0506	- Consumable Supplies Included for all prints - Pricing Fixed for Term
2. B8145H2	\$127.11	1: Black and White Impressions	All Prints	\$0.0062	- Consumable Supplies Included for all prints - Pricing Fixed for Term
3. B7135H2	\$99.14	1: Black and White Impressions	All Prints	\$0.0066	- Consumable Supplies Included for all prints - Pricing Fixed for Term
Total	\$358.49	Minimum Payments (Excluding Applicable Taxes)			

Lease Agreement



BillTo: CITY OF MILPITAS
455 E CALAVERAS BLVD
MILPITAS, CA 95035-5411

Install: CITY OF MILPITAS
457 E CALAVERAS BLVD
MILPITAS, CA 95035-5411

State or Local Government Negotiated Contract : 072816000

Solution

Item	Product Description	Agreement Information		Trade Information	Requested Install Date
1.	C8155H2 (XEROX C8155H2) - Office Finisher	Lease Term:	60 months	- Xerox C8055 S/N 8TB624088	6/14/2024
		Purchase Option:	FMV	Trade-In as of Payment 59	

Monthly Pricing

Item	Lease	Print Charges			Maintenance Plan Features
	Minimum Payment	Meter	Volume Band	Per Print Rate	
1. C8155H2	\$124.07	1: Black and White Impressions	All Prints	\$0.0066	- Consumable Supplies Included for all prints - Pricing Fixed for Term
		2: Color Impressions	All Prints	\$0.0506	
Total	\$124.07	Minimum Payments (Excluding Applicable Taxes)			

Lease Agreement



BillTo: CITY OF MILPITAS
455 E CALAVERAS BLVD
MILPITAS, CA 95035-5411

Install: CITY OF MILPITAS
777 S MAIN ST
MILPITAS, CA 95035-5322

State or Local Government Negotiated Contract : 072816000

Solution

Item	Product Description	Agreement Information	Trade Information	Requested Install Date
1. C8145H2 (XEROX C8145H2)	- 1 Line Fax - Office Finisher - Analyst Services	Lease Term: 60 months Purchase Option: FMV	- Xerox C8035 S/N 3TX411021 Trade-In as of Payment 59	6/14/2024

Monthly Pricing

Item	Lease Minimum Payment	Print Charges			Maintenance Plan Features
		Meter	Volume Band	Per Print Rate	
1. C8145H2	\$137.03	1: Black and White Impressions 2: Color Impressions	All Prints All Prints	\$0.0066 \$0.0506	- Consumable Supplies Included for all prints - Pricing Fixed for Term
Total	\$137.03	Minimum Payments (Excluding Applicable Taxes)			

Terms and Conditions

INTRODUCTION:

1. NEGOTIATED CONTRACT. The Products are subject solely to the terms in the Negotiated Contract identified on the face of this Agreement, and, for any option you have selected that is not addressed in the Negotiated Contract, the then-current standard Xerox terms for such option.

GOVERNMENT TERMS:

2. REPRESENTATIONS & WARRANTIES. This provision is applicable to governmental entities only. You represent and warrant, as of the date of this Agreement, that: (1) you are a State or a fully constituted political subdivision or agency of the State in which you are located and are authorized to enter into, and carry out, your obligations under this Agreement and any other documents required to be delivered in connection with this Agreement (collectively, the "Documents"); (2) the Documents have been duly authorized, executed and delivered by you in accordance with all applicable laws, rules, ordinances and regulations (including all applicable laws governing open meetings, public bidding and appropriations required in connection with this Agreement and the acquisition of the Products) and are valid, legal, binding agreements, enforceable in accordance with their terms; (3) the person(s) signing the Documents have the authority to do so, are acting with the full authorization of your governing body and hold the offices indicated below their signatures, each of which are genuine; (4) the Products are essential to the immediate performance of a governmental or proprietary function by you within the scope of your authority and will be used during the Term only by you and only to perform such function; and (5) your payment obligations under this Agreement constitute a current expense and not a debt under applicable state law and no provision of this Agreement constitutes a pledge of your tax or general revenues, and any provision that is so construed by a court of competent jurisdiction is void from the inception of this Agreement.

3. FUNDING. This provision is applicable to governmental entities only. You represent and warrant that all payments due and to become due during your current fiscal year are within the fiscal budget of such year and are included within an unrestricted and unencumbered appropriation currently available for the purchase/maintenance of the Products, and it is your intent to use the Products for the entire term and to make all payments required under this Agreement. If (1) through no action initiated by you, your legislative body does not appropriate funds for the continuation of this Agreement for any fiscal year after the first fiscal year and has no funds to do so from other sources, and (2) you have made a reasonable but unsuccessful effort to find a creditworthy assignee acceptable to Xerox in its sole discretion within your general organization who can continue this Agreement, this Agreement may be terminated. To effect this termination, you must, at least 30 days prior to the beginning of the fiscal year for which your legislative body does not appropriate funds, notify Xerox in writing that your legislative body failed to appropriate funds and that you have made the required effort to find an assignee. Your notice must be accompanied by payment of all sums then owed through the current year under this Agreement. You will return the Equipment, at your expense, to a location designated by Xerox and, when returned, the Equipment will be in good condition and free of all liens and encumbrances. You will then be released from any further payment obligations beyond those payments due for the current fiscal year (with Xerox retaining all sums paid to date).

SOLUTION/SERVICES:

4. OVERSIZE PRINTS. Each print made on the following Equipment: B7135H2, B7135S2, B8145H2, C8145H2, C8155H2 and C8170H2, that is larger than 145 square inches (e.g., 11 x 17 = 187 square inches), but less than or equal to 491 mm in length, will register as two (2) prints on the applicable (B&W/color) meter, and, for that Equipment with extra-long print capability, for any impressions greater than 491 mm will register up to four (4) prints on the applicable (B&W/color) meter.

PRICING PLAN/OFFERING SELECTED:

5. FIXED PRICING. If "Pricing Fixed for Term" is identified in Maintenance Plan Features, the maintenance component of the Minimum Payment and Print Charges will not increase during the initial Term of this Agreement.

6. NON-XEROX PRODUCTS. XM Fax were selected by you and are not sold by Xerox in the normal course of its business ("Non-Xerox Products"). If you signed a purchase contract for Non-Xerox Products, you assign to Xerox your rights but none of your obligations under such purchase contract. Xerox is leasing Non-Xerox Products to you "AS IS, WHERE IS" and XEROX MAKES NO EXPRESS OR IMPLIED WARRANTIES OF ANY KIND REGARDING NON-XEROX PRODUCTS, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE AND NON-INFRINGEMENT. To the extent permitted to do so, Xerox assigns to you any warranty rights it has to Non-Xerox Products (which rights shall revert to Xerox if you default under this Agreement). Non-Xerox Products are not covered by Maintenance Services, and you will maintain throughout the initial Term a service agreement for Non-Xerox Products with a service provider acceptable to Xerox. You will pay all personal property taxes related to Non-Xerox Products. You assign to Xerox any rights you have to Non-Xerox Products and title will pass or revert to you (subject to any software licenses relating to Non-Xerox Products) upon expiration of the initial Term.

GENERAL TERMS & CONDITIONS:

7. REMOTE SERVICES. Certain models of Equipment are supported and serviced using product information that is automatically collected by Xerox or transmitted to or from Xerox by the Equipment connected to your network ("Remote Product Info") via electronic transmission to a secure off-site location ("Remote Transmission"). Remote Transmission also enables Xerox to transmit Releases of Software to you and to remotely diagnose and modify Equipment to repair and correct malfunctions. Examples of Remote Product Info include product registration, meter read, supply level, Equipment configuration and settings, software version, and problem/fault code information. Remote Product Info may be used by Xerox for billing, report generation, supplies replenishment, support services, recommending additional products and services, and product improvement/development purposes. Remote Product Info will be transmitted to and from you in a secure manner mutually agreeable to the parties. Remote Transmission will not allow Xerox to read, view or download the content of any of your documents or other information residing on or passing through the Equipment or your information management systems. You grant the right to Xerox, without charge, to conduct Remote Transmission for the purposes described above. Upon Xerox's request, you will (a) provide contact information for Equipment such as name and address of your contact and IP and physical addresses/locations of Equipment and (b) ensure that any Maintenance Release or Update released by Xerox to provide security patches, releases and/or certificates for the Remote Transmission and/or Software is promptly enabled by Customer upon notification by Xerox or by the Equipment or when otherwise made available on xerox.com. You will enable Remote Transmission via a method mutually agreeable to both parties, and you will provide reasonable assistance to allow Xerox to provide Remote Transmission. Unless Xerox deems Equipment incapable of Remote Transmission, you will ensure that Remote Transmission is maintained at all times Maintenance Services are being performed. If you are unable to maintain Remote Transmission, or if Xerox disables Remote Transmission from any Equipment at your request, or if you disable Remote Transmission from any Equipment, Xerox reserves the right to charge you a per device fee for such affected Equipment due to the increased service visits that will be required in order to (x) obtain such information, (y) provide such transmissions, and (z) provide such Maintenance Services and Consumable Supplies that otherwise would have been provided remotely and/or proactively.

Financial Information

8. REFINANCE. The "Amount Refinanced" is included in the amount financed under this Agreement. If the Amount Refinanced is under an agreement with a third party, you acknowledge you have the right to terminate the agreement and you will provide Xerox with a statement from the third party identifying the equipment at issue, the amount to be paid off and the payee's name and mailing address. If the Amount Refinanced is under an agreement with Xerox, the refinancing will render your prior agreement null and void. If you breach any of your obligations under this Agreement, the full Amount Refinanced will be immediately due and payable.

Item	Finance Activity	Amount Refinanced	Int. Rate	Total Int. Payable
1. C8170H2	- Refinance of Xerox Agreement	\$114.00	10%	\$31.20

Terms and Conditions

Item	Finance Activity	Amount Refinanced	Int. Rate	Total Int. Payable
2. C8170H2	- Refinance of Xerox Agreement	\$114.00	10%	\$31.20
3. C8155H2	- Refinance of Xerox Agreement	\$110.00	10%	\$29.80
4. C8145H2	- Refinance of Xerox Agreement	\$110.00	10%	\$29.80
5. C8155H2	- Refinance of Xerox Agreement	\$103.00	10%	\$27.80
6. C8170H2	- Refinance of Xerox Agreement	\$114.00	10%	\$31.20
7. B8145H2	- Refinance of Xerox Agreement	\$110.00	10%	\$29.80
8. C8155H2	- Refinance of Xerox Agreement	\$103.00	10%	\$27.80
Install Location: BLVD, 1325 E CALAVERAS, MILPITAS, CA 95035-5707				
1. C8155H2	- Refinance of Xerox Agreement	\$113.00	10%	\$31.00
Install Location: 1275 N MILPITAS BLVD, MILPITAS, CA 95035-3153				
1. B7135H2	- Refinance of Xerox Agreement	\$80.00	10%	\$21.40
2. B9100	- Refinance of Xerox Agreement	\$337.00	10%	\$92.60
3. B7135H2	- Refinance of Xerox Agreement	\$80.00	10%	\$21.40
4. C8145H2	- Refinance of Xerox Agreement	\$77.00	10%	\$20.80
5. B7135H2	- Refinance of Xerox Agreement	\$77.00	10%	\$20.80
6. C8145H2	- Refinance of Xerox Agreement	\$123.00	10%	\$33.60
7. B7135H2	- Refinance of Xerox Agreement	\$64.00	10%	\$17.00
Install Location: 40 N MILPITAS BLVD, MILPITAS, CA 95035-4403				
1. B8145H2	- Refinance of Xerox Agreement	\$112.00	10%	\$30.20
Install Location: 1265 N MILPITAS BLVD, MILPITAS, CA 95035-3153				
1. C8145H2	- Refinance of Xerox Agreement	\$96.00	10%	\$25.80
2. B8145H2	- Refinance of Xerox Agreement	\$112.00	10%	\$30.20
3. B7135H2	- Refinance of Xerox Agreement	\$77.00	10%	\$20.80
Install Location: 457 E CALAVERAS BLVD, MILPITAS, CA 95035-5411				
1. C8155H2	- Refinance of Xerox Agreement	\$103.00	10%	\$27.80
Install Location: 777 S MAIN ST, MILPITAS, CA 95035-5322				
1. C8145H2	- Refinance of Xerox Agreement	\$92.00	10%	\$25.00

Region 4 Education Service Center (ESC)

Contract # R191104

for

Copiers and Printers

with

Xerox Corporation

Effective: June 1, 2020

The following documents comprise the executed contract between the Region 4 Education Service Center and Xerox Corporation effective June 1, 2020:

- I. Appendix A; Vendor Contract
- II. Offer & Executed Contract Signature Form
- III. Supplier's Response to the RFP, incorporated by reference

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Tab 4 – Qualification and Experience

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Appendix C: DOC #1 Acknowledgment and Acceptance of Region 4 ESC's Open Records Policy

Appendix C: DOC #2 Antitrust Certification Statements (Tex. Government Code § 2155.005)

Appendix C: DOC #3 Implementation of House Bill 1295 Certificate of Interested Parties (Form 1295)

Appendix C: DOC #4 Texas Government Code 2270 Verification Form

Appendix C: DOC #5 Special Conditions

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Appendix D: Requirements for National Cooperative Contract to be Administered by Omnia Partners, Public Sector

Appendix D: Exhibit A - Response for National Cooperative Contract 3.0 Supplier Response

Exhibits B through E Intentionally Redacted

Appendix D: Exhibit F - Federal Funds Certifications

Appendix D: Exhibit G - New Jersey Business Compliance

Appendix D: Exhibit G - DOC #1 Ownership Disclosure Form

Appendix D: Exhibit G - DOC #2 Non-Collusion Affidavit

Appendix D: Exhibit G - DOC #3 Affirmative Action Affidavit
Appendix D: Exhibit G - DOC #4 Political Contribution Disclosure Form
Appendix D: Exhibit G - DOC #5 Stockholder Disclosure Certification
Appendix D: Exhibit G - DOC #6 Certification of Non-Involvement in Prohibited Activities in Iran
Appendix D: Exhibit G - DOC #7 New Jersey Business Registration Certificate
Appendix D: Exhibit H - Advertising Compliance Requirement

Attachments

Attachment A. Addenda Acknowledgments
Attachment C. Xerox U.S. Sales Offices

APPENDIX A

CONTRACT

*This Contract ("Contract") is made as of **February 25** 2020 by and between **Xerox Corporation** ("Contractor") and Region 4 Education Service Center ("Region 4 ESC") for the purchase of Educational Software Solutions and Services ("the products and services").*

RECITALS

WHEREAS, Region 4 ESC issued Request for Proposals ("RFP") Number 19-11 for Copiers and Printers, to which Contractor provided a response ("Proposal"); and

WHEREAS, Region 4 ESC selected Contractor's Proposal and wishes to engage Contractor in providing the services/materials described in the RFP and Proposal;

WHEREAS, both parties agree and understand the following pages will constitute the Contract between the Contractor and Region 4 ESC, having its principal place of business at 7145 West Tidwell Road, Houston, TX 77092.

WHEREAS, Contractor included, in writing, any required exceptions or deviations from these terms, conditions, and specifications; and it is further understood that, if agreed to by Region 4 ESC, said exceptions or deviations are incorporated into the Contract.

WHEREAS, this Contract consists of the provisions set forth below, including provisions of all attachments referenced herein. In the event of a conflict between the provisions set forth below and those contained in any attachment, the provisions set forth below shall control.

WHEREAS, the Contract will provide that any state and local governmental entities, public and private primary, secondary and higher education entities, non-profit entities, and agencies for the public benefit ("Public Agencies") may purchase products and services at prices indicated in the Contract upon the Public Agency's registration with OMNIA Partners.

- 1) **Term of agreement.** The Contract is for a period of three (3) years. Region 4 ESC shall have the right to renew the Contract for two (2) additional one-year periods or portions thereof. Region 4 ESC shall review the Contract prior to the renewal date and notify the Contractor of Region 4 ESC's intent renew the Contract. Contractor may elect not to renew by providing three hundred sixty-five days' notice to Region 4 ESC 
- 2) **Scope:** Contractor shall perform all duties, responsibilities and obligations, set forth in this agreement, and described in the RFP, incorporated herein by reference as though fully set forth herein.
- 3) **Form of Contract.** The form of Contract shall be the RFP, the Offeror's proposal and Best and Final Offer(s).
- 4) **Order of Precedence.** In the event of a conflict in the provisions of the Contract as accepted by Region 4 ESC, the following order of precedence shall prevail:
 - i. This Contract

- ii. Offeror's Best and Final Offer
 - iii. Offeror's proposal
 - iv. RFP and any addenda
- 5) Commencement of Work. The Contractor is cautioned not to commence any billable work or provide any material or service under this Contract until Contractor receives a purchase order for such work or is otherwise directed to do so in writing by Region 4 ESC.
- 6) Entire Agreement (Parol evidence). The Contract, as specified above, represents the final written expression of agreement. All agreements are contained herein and no other agreements or representations that materially alter it are acceptable.
- 7) Assignment of Contract. No assignment of Contract may be made without the prior written approval of Region 4 ESC. Contractor is required to notify Region 4 ESC when any material change in operations is made (i.e. bankruptcy, change of ownership, merger, etc.) 
- 8) Novation. If Contractor sells or transfers all assets or the entire portion of the assets used to perform this Contract, a successor in interest must guarantee to perform all obligations under this Contract. Region 4 ESC reserves the right to accept or reject any new party. A change of name agreement will not change the contractual obligations of Contractor 
- 9) Contract Alterations. No alterations to the terms of this Contract shall be valid or binding unless authorized and signed by Region 4 ESC.
- 10) Adding Authorized Distributors/Dealers. Contractor is prohibited from authorizing additional distributors or dealers, other than those identified at the time of submitting their proposal, to sell under the Contract without notification and prior written approval from Region 4 ESC. Contractor must notify Region 4 ESC each time it wishes to add an authorized distributor or dealer. Purchase orders and payment can only be made to the Contractor unless otherwise approved by Region 4 ESC. Pricing provided to members by added distributors or dealers must also be less than or equal to the Contractor's pricing.
- 11) TERMINATION OF CONTRACT
- a) Cancellation for Non-Performance or Contractor Deficiency. Region 4 ESC may terminate the Contract if purchase volume is determined to be low volume in any 12-month period. Region 4 ESC reserves the right to cancel the whole or any part of this Contract due to failure by Contractor to carry out any obligation, term or condition of the contract. Region 4 ESC may issue a written deficiency notice to Contractor for acting or failing to act in any of the following 
- i. Providing material that does not meet the specifications of the Contract;
 - ii. Providing work or material was not awarded under the Contract;
 - iii. Failing to adequately perform the services set forth in the scope of work and specifications;
 - iv. Failing to complete required work or furnish required materials within a reasonable amount of time;
 - v. Failing to make progress in performance of the Contract or giving Region 4 ESC reason to believe Contractor will not or cannot perform the requirements of the Contract; or
 - vi. Performing work or providing services under the Contract prior to receiving an authorized purchase order.

Upon receipt of a written deficiency notice, Contractor shall have ten (10) days to provide a satisfactory response to Region 4 ESC. Failure to adequately address all issues of concern may result in Contract cancellation. Upon cancellation under this paragraph, all goods, materials, work, documents, data and reports prepared by Contractor under the Contract shall immediately become the property of Region 4 ESC.

- b) Termination for Cause. If, for any reason, Contractor fails to fulfill its obligation in a timely manner, or Contractor violates any of the covenants, agreements, or stipulations of this Contract Region 4 ESC reserves the right to terminate the Contract immediately and pursue all other applicable remedies afforded by law. Such termination shall be effective by delivery of notice, to the Contractor, specifying the effective date of termination. In such event, all documents, data, studies, surveys, drawings, maps, models and reports prepared by Contractor will become the property of the Region 4 ESC. If such event does occur, Contractor will be entitled to receive just and equitable compensation for the satisfactory work completed on such documents.
- c) Delivery/Service Failures. Failure to deliver goods or services within the time specified, or within a reasonable time period as interpreted by the purchasing agent or failure to make replacements or corrections of rejected articles/services when so requested shall constitute grounds for the Contract to be terminated. In the event Region 4 ESC must purchase in an open market, Contractor agrees to reimburse Region 4 ESC, within a reasonable time period, for all expenses incurred.
- d) Force Majeure. If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

The term Force Majeure as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of public enemy, orders of any kind of government of the United States or the State of Texas or any civil or military authority; insurrections; riots; epidemics; landslides; lighting; earthquake; fires; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions, breakage or accidents to machinery, pipelines or canals, or other causes not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty.

- e) Standard Cancellation. Region 4 ESC may cancel this Contract in whole or in part by providing written notice. The cancellation will take effect 30 business days after the other party receives the notice of cancellation. After the 30th business day all work will cease following completion of final purchase order.
- 12) Licenses. Contractor shall maintain in current status all federal, state and local licenses, bonds and permits required for the operation of the business conducted by Contractor. Contractor shall remain fully informed of and in compliance with all ordinances and regulations pertaining to the lawful provision of services under the Contract. Region 4 ESC reserves the right to stop work and/or cancel the Contract if Contractor's license(s) expire, lapse, are suspended or terminated.

13) Survival Clause. All applicable software license agreements, warranties or service agreements that are entered into between Contractor and Region 4 ESC under the terms and conditions of the Contract shall survive the expiration or termination of the Contract. All Purchase Orders issued and accepted by Contractor shall survive expiration or termination of the Contract.

14) Delivery. Conforming product shall be shipped within 7 days of receipt of Purchase Order. If delivery is not or cannot be made within this time period, the Contractor must receive authorization for the delayed delivery. The order may be canceled if the estimated shipping time is not acceptable. All deliveries shall be freight prepaid, F.O.B. Destination and shall be included in all pricing offered unless otherwise clearly stated in writing.

15) Inspection & Acceptance. If defective or incorrect material is delivered, Region 4 ESC may make the determination to return the material to the Contractor at no cost to Region 4 ESC. The Contractor agrees to pay all shipping costs for the return shipment. Contractor shall be responsible for arranging the return of the defective or incorrect material 

16) Payments. Payment shall be made after satisfactory performance, in accordance with all provisions thereof, and upon receipt of a properly completed invoice.

17) Price Adjustments. Should it become necessary or proper during the term of this Contract to make any change in design or any alterations that will increase price, Region 4 ESC must be notified immediately. Price increases must be approved by Region 4 ESC and no payment for additional materials or services, beyond the amount stipulated in the Contract shall be paid without prior approval. All price increases must be supported by manufacturer documentation, or a formal cost justification letter. Contractor must honor previous prices for thirty (30) days after approval and written notification from Region 4 ESC. It is the Contractor's responsibility to keep all pricing up to date and on file with Region 4 ESC. All price changes must be provided to Region 4 ESC, using the same format as was provided and accepted in the Contractor's proposal.

Price reductions may be offered at any time during Contract. Special, time-limited reductions are permissible under the following conditions: 1) reduction is available to all users equally; 2) reduction is for a specific period, normally not less than thirty (30) days; and 3) original price is not exceeded after the time-limit. Contractor shall offer Region 4 ESC any published price reduction during the Contract term.

18) Audit Rights. Contractor shall, at its sole expense, maintain appropriate due diligence of all purchases made by Region 4 ESC and any entity that utilizes this Contract. Region 4 ESC reserves the right to audit the accounting for a period of three (3) years from the time such purchases are made. This audit right shall survive termination of this Agreement for a period of one (1) year from the effective date of termination. Region 4 ESC shall have the authority to conduct random audits of Contractor's pricing at Region 4 ESC's sole cost and expense. Notwithstanding the foregoing, in the event that Region 4 ESC is made aware of any pricing being offered that is materially inconsistent with the pricing under this agreement, Region 4 ESC shall have the ability to conduct an extensive audit of Contractor's pricing at Contractor's sole cost and expense. Region 4 ESC may conduct the audit internally or may engage a third-party auditing firm. In the event of an audit, the requested materials shall be provided in the format and at the location designated by Region 4 ESC 

18) Discontinued Products. If a product or model is discontinued by the manufacturer, Contractor may substitute a new product or model if the replacement product meets or exceeds the

specifications and performance of the discontinued model and if the discount is the same or greater than the discontinued model.

- 19) New Products/Services. New products and/or services that meet the scope of work may be added to the Contract. Pricing shall be equivalent to the percentage discount for other products. Contractor may replace or add product lines if the line is replacing or supplementing products, is equal or superior to the original products, is discounted similarly or greater than the original discount, and if the products meet the requirements of the Contract. No products and/or services may be added to avoid competitive procurement requirements. Region 4 ESC may require additions to be submitted with documentation from Members demonstrating an interest in, or a potential requirement for, the new product or service. Region 4 ESC may reject any additions without cause.
- 20) Options. Optional equipment for products under Contract may be added to the Contract at the time they become available under the following conditions: 1) the option is priced at a discount similar to other options; 2) the option is an enhancement to the unit that improves performance or reliability.
- 21) Warranty Conditions. All supplies, equipment and services shall include manufacturer's minimum standard warranty and one (1) year labor warranty unless otherwise agreed to in writing .
- 22) Site Cleanup. Contractor shall clean up and remove all debris and rubbish resulting from their work as required or directed. Upon completion of the work, the premises shall be left in good repair and an orderly, neat, clean, safe and unobstructed condition.
- 23) Site Preparation. Contractor shall not begin a project for which the site has not been prepared, unless Contractor does the preparation work at no cost, or until Region 4 ESC includes the cost of site preparation in a purchase order. Site preparation includes, but is not limited to: moving furniture, installing wiring for networks or power, and similar pre-installation requirements.
- 24) Registered Sex Offender Restrictions. For work to be performed at schools, Contractor agrees no employee or employee of a subcontractor who has been adjudicated to be a registered sex offender will perform work at any time when students are or are reasonably expected to be present. Contractor agrees a violation of this condition shall be considered a material breach and may result in the cancellation of the purchase order at Region 4 ESC's discretion. Contractor must identify any additional costs associated with compliance of this term. If no costs are specified, compliance with this term will be provided at no additional charge.
- 25) Safety measures. Contractor shall take all reasonable precautions for the safety of employees on the worksite and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Contractor shall post warning signs against all hazards created by its operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.
- 26) Smoking. Persons working under the Contract shall adhere to local smoking policies. Smoking will only be permitted in posted areas or off premises.

- 27) Stored materials. Upon prior written agreement between the Contractor and Region 4 ESC, payment may be made for materials not incorporated in the work but delivered and suitably stored at the site or some other location, for installation at a later date. An inventory of the stored materials must be provided to Region 4 ESC prior to payment. Such materials must be stored and protected in a secure location and be insured for their full value by the Contractor against loss and damage. Contractor agrees to provide proof of coverage and additionally insured upon request. Additionally, if stored offsite, the materials must also be clearly identified as property of Region 4 ESC and be separated from other materials. Region 4 ESC must be allowed reasonable opportunity to inspect and take inventory of stored materials, on or offsite, as necessary. Until final acceptance by Region 4 ESC, it shall be the Contractor's responsibility to protect all materials and equipment. Contractor warrants and guarantees that title for all work, materials and equipment shall pass to Region 4 ESC upon final acceptance.
- 28) Funding Out Clause. A Contract for the acquisition, including lease, of real or personal property is a commitment of Region 4 ESC's current revenue only. Region 4 ESC retains the right to terminate the Contract at the expiration of each budget period during the term of the Contract and is conditioned on a best effort attempt by Region 4 ESC to obtain appropriate funds for payment of the contract. 
- 29) Indemnity. Contractor shall protect, indemnify, and hold harmless both Region 4 ESC and its administrators, employees and agents against all claims, damages, losses and expenses arising out of or resulting from the actions of the Contractor, Contractor employees or subcontractors in the preparation of the solicitation and the later execution of the Contract. Any litigation involving either Region 4 ESC, its administrators and employees and agents will be in Harris County, Texas. 
- 30) Marketing. Contractor agrees to allow Region 4 ESC to use their name and logo within website, marketing materials and advertisement. Any use of Region 4 ESC name and logo or any form of publicity, inclusive of press releases, regarding this Contract by Contractor must have prior approval from Region 4 ESC.
- 31) Certificates of Insurance. Certificates of insurance shall be delivered to the Region 4 ESC prior to commencement of work. The Contractor shall give Region 4 ESC a minimum of ten (10) days' notice prior to any modifications or cancellation of policies. The Contractor shall require all subcontractors performing any work to maintain coverage as specified.
- 32) Legal Obligations. It is Contractor's responsibility to be aware of and comply with all local, state, and federal laws governing the sale of products/services and shall comply with all laws while fulfilling the Contract. Applicable laws and regulation must be followed even if not specifically identified herein.

OFFER AND CONTRACT SIGNATURE FORM

The undersigned hereby offers and, if awarded, agrees to furnish goods and/or services in strict compliance with the terms, specifications and conditions at the prices proposed within response unless noted in writing.

Company Name Xerox Corporation
Address 201 Merritt 7
City/State/Zip Norwalk, Connecticut 06851
Telephone No. 310-258-6266
Email Address Rachael.Jones@Xerox.com
Printed Name Rachael Jones Turner
Title SLED Cooperative Contracts Manager
Authorized signature *Rachael Jones Turner*

Accepted by Region 4 ESC:

Contract No. B191104

Initial Contract Term June 1, 2020 to May 31, 2023

Margaret S. Bass
Region 4 ESC Authorized Board Member

2/25/2020
Date

Margaret S. Bass
Print Name

Carmen T. Moreno
Region 4 ESC Authorized Board Member

2/25/2020
Date

Carmen T. Moreno
Print Name

Appendix B**TERMS & CONDITIONS ACCEPTANCE FORM**

Signature on the Offer and Contract Signature form certifies complete acceptance of the terms and conditions in this solicitation and draft Contract except as noted below with proposed substitute language (additional pages may be attached, if necessary). The provisions of the RFP cannot be modified without the express written approval of Region 4 ESC. If a proposal is returned with modifications to the draft Contract provisions that are not expressly approved in writing by Region 4 ESC, the Contract provisions contained in the RFP shall prevail.

Check one of the following responses:

Offeror takes no exceptions to the terms and conditions of the RFP and draft Contract.

(Note: If none are listed below, it is understood that no exceptions/deviations are taken.)

- x** Offeror takes the following exceptions to the RFP and draft Contract. All exceptions must be clearly explained, reference the corresponding term to which Offeror is taking exception and clearly state any proposed modified language, proposed additional terms to the RFP and draft Contract must be included:

(Note: Unacceptable exceptions may remove Offeror's proposal from consideration for award. Region 4 ESC shall be the sole judge on the acceptance of exceptions and modifications and the decision shall be final.)

If an offer is made with modifications to the contract provisions that are not expressly approved in writing, the contract provisions contained in the RFP shall prevail.)

Section/Page	Term, Condition, or Specification	Exception/Proposed Modification	Accepted (For Region 4 ESC's use)
Section 1/Page 1 Term of Agreement	Term	Individual lease orders placed against the contract will commence upon installation and continue for thirty-six (36), forty-eight (48), or sixty (60) months from the date of installation depending upon the term selected by the end-user."	Accepted
Section 7/Page 2 Assignment of Contract	Term	Please note that Xerox reserves the right to assign all leases to a parent, subsidiary, or affiliate of Xerox. Such assignment shall be transparent to the Region 4 ESC.	Accepted
Section 8/Page 2 Novation	Term	Please note that should Xerox sell or transfer any of its assets used to support this Contract, that the Buyer will be obligated to perform all obligations under this Agreement. This offering transferring of the assets is not subject to REGION 4 ESC's agreement or rejection, nor can any in-place equipment be terminated without completing its required installation commitment.	Accepted

Section 11/Page 2 and 3 Termination of Contract a. Cancellation of Non-Performance or Contract Deficiency	Term	Cancellation under this provision shall not apply to any orders received by Xerox prior to the expiration date of the Contract. Xerox requests written notice of its default and a minimum of thirty (30) days to cure its performance before the Region 4 ESC exercises its rights under this provision.	Accepted
Section 11.c/Page 3 Delivery/Service Failures Section 14/Page 4 Delivery	Term	Xerox equipment deliveries can normally be expected within two to three weeks following the receipt of the Region 4 ESC's equipment or purchase order, except during times of product constraint. Xerox will inform the Region 4 ESC if a constraint condition exists and will provide a revised delivery date. If the revised target delivery date is unacceptable, the Region 4 ESC can cancel the order without penalty to either party.	Accepted
Section 11.d/Page 3 Force Majeure	Term	This provision does not relieve either party of its obligation to make payments due under the Contract.	Accepted
Section 11.e/Page 3 Standard	Term	Cancellation under this provision shall not apply to any orders received by Xerox prior to the expiration date of the Contract.	
Section 15/Page 4 Inspection and Acceptance	Term	Xerox can support the Region 4 ESC 's inspection and acceptance requirement by initially installing the equipment under a Trial arrangement. Otherwise the equipment will be deemed accepted on the equipment's installation date, which is the date Xerox determines the equipment to be operating satisfactorily, as demonstrated by the successful completion of diagnostic routines, and is available for the Region 4 ESC 's use. The Installation Date for equipment and software designated as "Customer Installable" will be the equipment delivery date. Any equipment that does not perform to its published specification will be repaired or replaced by Xerox at its expense, provided the equipment is covered by a Xerox warranty or maintenance plan. Any equipment that needs to be replaced will be replaced with an identical model, or at Xerox's option a unit with similar capabilities and comparable usage.	Accepted
Section 18/Page 4 Audit Rights	Term	Xerox agrees, upon 10-business days written request to make available to Region 4 ESC the financial and other records that are required to substantiate the Services and accurate billings under the Agreement. These records exclude any information deemed by Xerox to be confidential or proprietary.	Accepted
Section 22/Page 5 Warranty Conditions (Outright Purchase)	Term	Xerox provides warranty by way of a monthly billed maintenance agreement. Maintenance agreements commence upon installation of the equipment. Xerox will repair or replace defective parts or equipment at Xerox's expense as long as the equipment is being maintained by Xerox under a maintenance agreement. If the maintenance agreement is cancelled or it is not renewed Xerox's obligation to repair or replace equipment ceases.	Accepted

Section 22/Page 5 Warranty Conditions (Lease)	Term	Xerox provides warranty by way of a monthly billed maintenance agreement, which is a mandatory part of the monthly lease payment. Maintenance agreements commence upon installation of the equipment Xerox will repair or replace defective parts or equipment at Xerox's expense for the duration of the lease agreement.	Accepted
Section 29/Page 6 Funding Out Clause	Term	This provision shall not apply to private not for profit users of the Contract. Additionally, these pre-conditions apply to any fund-outs: a. REGION 4 ESC Member provides written notice 30 days prior to the beginning of the fiscal year for which its legislative body does not appropriate funds; send Xerox written notice stating that its legislative body, though no action on REGION 4 ESC Member's part, failed to appropriate funds for the next fiscal year. b. In addition, the REGION 4 ESC Member agrees at REGION 4 ESC's expense to return the Equipment in good condition to a location designated by Xerox and that, when returned, the Equipment will be free of all liens and encumbrances, normal wear and tear excepted. The REGION 4 ESC Member will then be released from its obligations to make any further payments to Xerox (with Xerox retaining all sums paid to date).	Accepted

Section 30/Page 6 Indemnity	Term	Xerox, to the extent permissible by law, submits the following with respect to Indemnity: a. Xerox shall indemnify and hold the REGION 4 ESC, its officers, agents and employees harmless from and against all third party claims, damages, losses, or causes of actions for personal injury (including death) or damage to tangible property to the extent such injury or damage was found by a court or administrative agency of competent jurisdiction to have been proximately caused by Xerox's performance pursuant to this Contract. The foregoing indemnity is contingent upon REGION 4 ESC giving Xerox written notice, by registered mail, promptly after it becomes aware of any claim to be indemnified hereunder and permits Xerox to control the defense of any such claim or action and Xerox's own expense. Notice shall be sent to "Corporate Risk, Xerox Corporation, 201 Merritt 7, Norwalk, CT 06851-1056". REGION 4 ESC agrees that Xerox may employ attorneys of its own choice to appear and defend the claim or action and that REGION 4 ESC shall do nothing to compromise the defense of such claim or action or any settlement thereof and shall provide Xerox with all reasonable assistance which Xerox may require. b. Except for indemnified matters and to the extent permitted by applicable law, all other liability of Xerox to the REGION 4 ESC for damages of any kind or type, including but not limited to direct, indirect, consequential, incidental, or special damages, arising from Xerox's performance or failure to perform under this Contract, or by virtue of Xerox's tortious conduct (including negligence whether passive or active) shall be limited to the amounts paid by the REGION 4 ESC under this Agreement. Provided, however, that the foregoing limitation of liability shall not apply to claims by the REGION 4 ESC for damage to real or tangible property caused by Xerox's negligence.	Accepted
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Additional Terms to be included:

Appendix B-Exhibit 1- General Terms and Conditions Applicable to all Transactions

Appendix B-Exhibit 2- Software Terms

Appendix B-Exhibit 3- Lease Terms

Appendix B-Exhibit 4- Cash Purchase Terms

Appendix B-Exhibit 5- Maintenance Terms

Appendix B-Exhibit 6- Rental Terms

Appendix B-Exhibit 7- Production Ink Jet Baltoro, Trivor, Rialto) Terms

Appendix B- Exhibit 1

General Terms and Conditions to all Transactions

General Terms

- 1. Equipment Status.** Unless Customer is acquiring previously installed equipment, Equipment will be either: (a) "Newly Manufactured," which may contain some recycled components that are reconditioned; (b) "Factory Produced New Model" which is manufactured and newly serialized at a Xerox factory, adds functions and features to a product previously disassembled to a Xerox predetermined standard, and contains new components and recycled components that are reconditioned; or (c) "Remanufactured," which has been factory produced following disassembly to a Xerox predetermined standard and contains both new components and recycled components that are reconditioned. Xerox makes no representations as to the status of any Third-Party Hardware that Xerox may provide under any Order.
- 2. Trade-In Equipment.** If you are providing equipment to Xerox as part of this Agreement ("Trade-In Equipment"), You warrant that you have the right to transfer title to the Trade-In Equipment and that it has been installed and performing its intended function. Title and risk of loss to the Trade-In Equipment shall pass to Xerox when Xerox removes it from your premises. You warrant that the Trade-in equipment is in good working order, has not been modified from its original configuration (other than by Xerox), and has a UL label attached. You agree to maintain the Trade-In Equipment at its present site and in substantially its present condition until removed by Xerox. You agree to pay all accrued charges for the trade-In Equipment (up to and including payment of the final principal payment number) and to pay all maintenance, administrative, supply, and finance charges for this equipment through the date title passes to Xerox.
- 3. Equipment Delivery, Removal and Relocation.** Equipment prices include standard delivery and removal charges, Non-standard delivery and Equipment relocation for Xerox owned equipment must be arranged (or approved in advance) by Xerox and will be at your expense. Examples of non-typical charges would include the cost associated with any equipment delivery or removal where additional time or resources are required to disassemble equipment due to lack of adequate access, or the movement of Equipment up stairways or through windows requiring stair creepers, or cranes.
- 4. Equipment Installation Date.** The Equipment installation will be (a) the delivery date for TCPN installable Equipment; or (b) the installation date for Xerox installable Equipment, which is the date Xerox, determines the equipment to be operating satisfactorily as demonstrated by the successful completion of diagnostic routines and is available for your use.
- 5. Maintenance Services.** Except for Equipment identified as "No Svc.", Xerox (or a designated servicer) will keep the Equipment in good working order ("Maintenance Services"). The service technicians assigned to provide Basic Services have the expertise, skills, training, and professional education to perform the Basic Services in a professional manner.
 - A) Maintenance Services.** Maintenance Services will be provided during Xerox's standard working hours, Monday through Friday, 8:00 AM to 5:00 PM, excluding Xerox recognized holidays. Maintenance Services excludes repairs due to: (i) misuse, neglect or abuse; (ii) failure of the installation site or the PC or workstation used with the Equipment to comply with Xerox's published specifications; (iii) use of options, accessories or products not serviced by Xerox; (iv) non-Xerox alterations, relocation, service or supplies; or (v) failure to perform operator maintenance procedures identified in operator manuals.
 - B) Repairs & Parts.** Replacement parts may be new, reprocessed or recovered and all replaced parts become Xerox's property.

- C) Extended Service Hours.** If you elect "Extended Shift Coverage" Xerox will provide Maintenance Services for the indicated number of eight hour-shifts, with the first number indicating the number of eight-hour shifts and the second number indicating the days of the week (starting on Monday), e.g., 2 x 6 means 8:00 A.M. to 12:00 A.M., Monday through Saturday. Extended Shift Coverage will be billed separately.
- D) Installation Site.** You agree to give Xerox reasonable access to the Equipment and to provide Xerox adequate storage space for a reasonable quantity of replacement parts and supplies.
- E) Cartridge Products.** If Xerox is providing Maintenance Services for Equipment utilizing cartridges designated by Xerox as customer replaceable units, including copy/print cartridges and xerographic modules or fuser modules ("Cartridges"), you agree to use only unmodified Cartridges purchased directly from Xerox or its authorized resellers in the U.S. Cartridges packed with Equipment and replacement Cartridges may be new, remanufactured, or reprocessed. Remanufactured and reprocessed Cartridges meet Xerox's new Cartridge performance standards and contain new or reprocessed components. To enhance print quality, Cartridge(s) for many models of Equipment have been designed to cease functioning at a predetermined point. In addition, many Equipment models are designed to function only with Cartridges that are newly manufactured original Xerox Cartridges or with Cartridges intended for use in the U.S.
- F) Consumable Supplies included in Base/Print Charges.** If Consumable Supplies is identified in the Maintenance Plan Features. Maintenance Services will include black toner (excluding highlight color toner, clear toner and custom color toner), black developer, copy Cartridges, and, if applicable, fuser ("Consumable Supplies"). For full-color Equipment, Consumable Supplies shall also include, as applicable, color toner and developer. For Products identified as "Phaser", Consumable Supplies may also include, if applicable, black solid ink, color solid ink, imaging units, waste cartridges, transfer rolls, transfer belts, transfer units, belt cleaner, maintenance kits, print Cartridges, drum Cartridges, waste trays and cleaning kits. You agree that the Consumable Supplies are Xerox's property until used by you, that you will use them only with the Equipment, that you will return all Cartridges to Xerox for remanufacturing once they have been run to their cease-function point (at Xerox's expense when using Xerox-supplied shipping labels), and that at the end of the term of this Agreement you will either (1) return any unused Consumable Supplies to Xerox (at Xerox's expense when using Xerox-supplied shipping labels), or (2) destroy them in a manner permitted by applicable law. Should your use of Consumable Supplies exceed Xerox's published yields for these items by more than 10%, you agree that Xerox shall have the right to charge you for any such excess usage. When requested by Xerox, you agree to provide meter readings and inventory of Consumable Supplies in your possession.
- G) Equipment Replacement.** Xerox will, as your exclusive remedy for Xerox's failure to provide Maintenance Services, replace the Equipment with an identical model or, at Xerox's option, another model with comparable features and capabilities. There will be no additional charge for the replacement Equipment during the remainder of the initial Term.
- 7. Meter Readings.** You agree to provide meter readings in the manner and frequency identified by Xerox. If you do not provide Xerox with meter readings as required, Xerox may reasonably estimate them and bill you accordingly. If meter readings have been estimated, Xerox after receiving the actual meter readings for the equipment shall make an appropriate adjustment on the subsequent invoice.
- 8. Remote Services.** Certain models of Equipment are supported and serviced using data that is automatically collected by Xerox from the Equipment via electronic transmission from the Equipment to a secure off-site location. Examples of automatically transmitted data include product registration, meter read, supply level, Equipment configuration and settings, software version, and problem/fault code data. All such data shall be transmitted in a secure manner specified by Xerox. The automatic data transmission capability will not allow Xerox to read, view or download the content of any Customer documents residing on or passing through the Equipment or Customer's information management systems.

9. Warranty Disclaimer. Xerox disclaims, and you waive, the implied warranty of non-infringement.

10. Intellectual Property Indemnity. Xerox will defend, and pay any settlement agreed to by Xerox or any final judgment for, any claim that a Xerox-brand Product, including any Base Software or Diagnostic Software provided with or within the Xerox-brand Equipment, infringes a third party's U.S. intellectual property rights. You will promptly notify Xerox of any alleged infringement and permit Xerox to direct the defense. Xerox is not responsible for any non-Xerox litigation expenses or settlements unless it pre-approves them in writing. To avoid infringement, Xerox may modify or substitute an equivalent Xerox-brand Product, refund the price paid for the Xerox-brand Product (less the reasonable rental value for the period it was available to you), or obtain any necessary licenses. Xerox is not liable for any infringement based upon a Xerox-brand Product being modified to your specifications or being used or sold with products not provided by Xerox. For non-Xerox brand Products ordered under the Agreement, when you do not have a direct Intellectual Property Indemnity for the non-Xerox brand Product and Xerox does have an Intellectual Property Indemnity for such non-Xerox brand Products and is contractually permitted to do so, Xerox will pass its Intellectual Property Indemnity for such Product through to you.

11. Force Majeure. Xerox will not be liable to you during any period in which its performance is delayed or prevented, in whole or in part, by a circumstance beyond its reasonable control. Xerox will notify you if such a circumstance occurs.

12. Notices. Notices must be in writing and will be deemed given 5 days after mailing, or 2 days after sending by nationally recognized overnight courier. Notices will be sent to you at the "Bill to" address identified in this Agreement, and to Xerox at the inquiry address set forth on your most recent invoice, or to such other address as either party may designate by written notice.

Appendix B-Exhibit 2

SOFTWARE TERMS

1. SOFTWARE LICENSE

Xerox may provide Software to Customer pursuant to an Order hereunder. The following license applies to Software provided hereunder, unless such Software is accompanied by a click-wrap or shrink-wrap license agreement or otherwise provided subject to a separate license agreement.

- a. Xerox grants Customer a non-exclusive, non-transferable, non-assignable (by operation of law or otherwise) license to use in the U.S.: (i) Base Software only on or with the Equipment with which (or within which) it was delivered; and (ii) Application Software only on any single unit of Equipment, subject to Customer remaining current in the payment of any indicated applicable Software license fees (including any annual renewal fees). For Services Software, Xerox grants Customer a non-exclusive, non-transferable, non-assignable (by operation of law or otherwise) license in the U.S. to install the Services Software on a host computer(s) or server(s) or, if applicable, on Equipment or Third Party Hardware, and, further, if applicable, on the number of workstations, laptops and mobile devices specified in the Order, and to use the Services Software only for the purpose of receiving the applicable Services. Customer has no other rights to the Software. Customer will not and will not allow its employees, agents, contractors or vendors to: (i) distribute, copy, modify, create derivatives of, decompile, or reverse engineer Software except as permitted by applicable law; (ii) activate Software delivered with or within the Equipment in an un-activated state; or, (iii) access or disclose Diagnostic Software for any purpose. Title to Software and all copyrights and other intellectual property rights in Software will reside solely with Xerox and its licensors (who, if required by the terms of the third-party license agreement with Xerox, will be considered third party beneficiaries of this Agreement's software and limitation of liability provisions).
- b. The Base Software license will terminate: (i) if Customer no longer uses or possesses the Equipment with which the Base Software was provided; or (ii) upon the expiration or termination of any Order under which Customer has acquired the Equipment with which the Base Software was provided (unless Customer has exercised an option to purchase the Equipment, where

available, in which case the license to Base Software is perpetual and transferrable with purchase of the Equipment by Customer).

- c. Software may contain code to prevent its unlicensed use and/or transfer. If you do not permit Xerox periodic access to such Software, this code may impair the Equipment's and/or Software's functionality.
- d. Xerox does not warrant that the Software will be free from errors or that its operation will be uninterrupted.

2. SOFTWARE SUPPORT

Software support will be provided by Xerox or a designated service provider as follows. For Base Software, Software support will be provided during the initial term of the applicable Order and any renewal period, but not longer than five (5) years after Xerox stops taking orders for the subject model of Equipment. For Application Software, Software support will be provided as long as Customer is current in the payment of all applicable software license, annual renewal and "support only" fees. For Services Software, support will be provided in accordance with the terms of the applicable Statement of Work or Order.

- a. Xerox will maintain a web-based or toll-free hotline during Xerox's standard working hours to report Software problems and answer Software-related questions. Xerox, either directly or with its vendors, will make reasonable efforts to: (i) assure that Software performs in material conformity with its Documentation; (ii) provide available workarounds or patches to resolve Software performance problems; and (iii) resolve coding errors for (1) the current release and (2) the previous release for a period of six (6) months after the current release is made available to Customer. Xerox will not be required to provide Software support if Customer has modified the Software.
- b. Xerox may make available new releases of the Software that are designated as "**Maintenance Releases**" or "**Updates**." Maintenance Releases or Updates are provided at no charge and must be implemented within six (6) months after being made available to Customer. Each Maintenance Release or Update shall be considered Software governed by these terms. Feature Releases will be subject to additional license fees at Xerox's then-current pricing and shall be considered Software governed by these terms and conditions (unless otherwise noted in an Order). Implementation of a Maintenance Release, Update or Feature Release may require Customer to procure, at its expense, additional hardware and/or software from Xerox or another entity. Upon installation of a Maintenance Release, Update or Feature Release, Customer will return or destroy all prior Maintenance Releases, Updates or Feature Releases.
- c. Xerox may increase Software license fees and support fees for Application Software annually by an amount no greater than the CPI Adjustment Percentage.

3. DIAGNOSTIC SOFTWARE

Diagnostic Software and method of entry or access to it constitute valuable trade secrets of Xerox. Title to the Diagnostic Software shall at all times remain solely with Xerox and Xerox's licensors. Xerox does not grant Customer a license or right to use the Diagnostic Software. Customer will not use, reproduce, distribute, or disclose the Diagnostic Software for any purpose (or allow third parties to do so). Customer will allow Xerox reasonable access to the Equipment during Customer's normal business hours to remove or disable Diagnostic Software if Customer is no longer receiving Maintenance Services from Xerox.

4. THIRD PARTY SOFTWARE

Third Party Software is subject to license and support terms provided by the applicable Third-Party Software vendor.

5. FREEFLOW TERMS AND CONDITIONS

The following terms apply to Xerox FreeFlow Print Server™/DocuSP® software included in Base Software ("FreeFlow Base Software") and/or Application Software identified as Xerox FreeFlow software (including, but not limited to, FreeFlow Makeready® and FreeFlow Process Manager™) (collectively, "FreeFlow Application Software"), and are additive to and supplement those found elsewhere in the Agreement. FreeFlow Base Software and FreeFlow Application Software are collectively referred to as "FreeFlow Software."

1. FreeFlow Software may include and/or incorporate font programs ("Font Programs") and other software provided by Adobe Systems Incorporated ("Adobe Software"). You may embed copies of the Font Programs into your electronic documents for the purpose of printing and viewing the document. You are responsible for ensuring that you have the right and are authorized by any necessary third parties to embed any Font Programs in electronic documents created with the FreeFlow Application Software. If the Font Programs are identified as "licensed for editable embedding" at www.adobe.com/type/browser/legal/embeddingeula, you may also embed copies of those Font Programs for the additional purpose of editing your electronic documents. No other embedding rights are implied or permitted under this license.
2. You will not, without the prior written consent of Xerox and its licensors: (a) alter the digital configuration of the FreeFlow Software, or solicit others to cause the same, so as to change the visual appearance of any of the FreeFlow Software output; (b) use the FreeFlow Software in any way that is not authorized by the Agreement; (c) use the embedded code within the FreeFlow Software outside of the Equipment on which it was installed or in a stand-alone, time-share or service bureau model; (d) disclose the results of any performance or benchmark tests of the FreeFlow Software; (e) use the FreeFlow Software for any purpose other than to carry out the purposes of the Agreement; or (f) disclose or otherwise permit any other person or entity access to the object code of the FreeFlow Software.
3. FreeFlow Process Manager contains Oracle Database Express Edition database software and documentation licensed from Oracle America, Inc. ("Oracle"). Oracle grants you a nonexclusive, nontransferable limited license to use Database Express Edition for purposes of developing, prototyping and running your applications for your own internal data processing operations. Database Express Edition may be installed on a multiple CPU server but may only be executed on one processor in any server. Upon not less than 45 days prior written notice, Xerox and/or its licensors may, at their expense, directly or through an independent auditor, audit your use of FreeFlow Process Manager and all relevant records not more than once annually. Any such audit will be conducted at a mutually agreed location and will not unreasonably interfere with your business activities.
4. The Copyright Management feature of FreeFlow Makeready ("FFCM") contains the optional Copyright Clearance Center, Inc. ("CCC") copyright licensing services feature of FFCM ("CCC Service"). If this option is ordered, you will comply with any applicable terms and conditions contained on the CCC website, www.copyright.com, and any other rights holder terms governing use of materials, which are accessible in FFCM. If CCC terminates Xerox's right to offer access to the CCC Service through FFCM, Xerox may, upon written notice and without any liability to you, terminate your right to access the CCC Service through FFCM. THE CCC SERVICE IS PROVIDED "AS IS," WITHOUT ANY WARRANTIES, WHETHER EXPRESS OR IMPLIED. XEROX DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF NONINFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. You will defend and indemnify Xerox from any and all losses, claims, damages, fines, penalties, interest, costs and expenses, including reasonable attorney fees, arising from or relating to your use of the CCC Service.
5. If you install FreeFlow Application Software on a computer that you supply, the following terms apply: (a) Xerox will only be obligated to support FreeFlow Application Software if it is installed on hardware and software meeting Xerox's published specifications (collectively "Workstation"); (b) IF YOU USE FREEFLOW APPLICATION SOFTWARE WITH ANY HARDWARE OR SOFTWARE OTHER THAN A WORKSTATION, ALL REPRESENTATIONS AND WARRANTIES ACCOMPANYING SUCH FREEFLOW APPLICATION SOFTWARE WILL BE VOID AND ANY SUPPORT/MAINTENANCE YOU CONTRACT FOR IN CONNECTION WITH SUCH FREEFLOW APPLICATION SOFTWARE WILL BE VOIDABLE AND/OR SUBJECT TO ADDITIONAL CHARGES; and (c) you are solely responsible for: (i) the acquisition and support, including any and all associated costs, charges and other fees, of any Workstation you supply; (ii) compliance with all terms governing such Workstation acquisition and support, including terms applicable to any non-Xerox software associated with such Workstation; and (iii) ensuring that such Workstation meets Xerox's published specifications.
6. The following terms apply to FreeFlow Software licensed to U.S. government customers:
 - a. Java technology contained in FreeFlow Software is subject to: (i) FAR 52.227-14(g)(2) and FAR 52.227-19; and (ii) if licensed to the U.S. Department of Defense ("DOD"), DFARS 252.227-7015(b)

and DFARS 227.7202-3(a).

- b. Adobe Software is a "commercial item," as that term is defined at FAR 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in FAR 12.212, and is licensed to civilian agencies consistent with the policy set forth in FAR 12.212, or to the DOD consistent with the policies set forth in DFARS 227.7202-1.
 - c. Oracle Database Express Edition is "commercial computer software" and is subject to the restrictions as set forth in the Rights in Technical Data and Computer Software Clauses in DFARS 252.227-7015 and FAR 52.227-19 as applicable.
7. FreeFlow Software may include Microsoft Embedded Standard operating system software to which the following terms apply:
- a. You agree to and will comply with the Microsoft terms and conditions contained on the Xerox website, <http://www.support.xerox.com/support/open-source-disclosures/file-redirect/enus.html?&contentId=136023>
 - b. Any updates, upgrades or reinstallations of Microsoft Embedded Standard operating system software are subject to the terms and conditions of this license and may be used only with the Xerox-brand Equipment with which it was delivered. Any other use of the software is strictly prohibited and may subject you to legal action.
 - c. If the Equipment includes Remote Desktop Services that enable it to connect to and access applications running on a server, such as Remote Desktop Protocol, Remote Assistance and Independent Computer Architecture, such Desktop Functions will not run locally on the system, except for network/Internet browsing functions.
 - d. The FreeFlow Base Software contains the Windows Update feature that allows you to access Windows Updates directly through the Microsoft Corp. Windows Update server. If you elect to activate this feature, any Windows Updates installed by you using the Windows Update feature may not function on the Equipment or may cause malfunctions or cause harm to the Equipment. Before you download a Windows Update using this feature, you should contact Xerox so that Xerox can ensure that each Windows Update is suitable for use on the Equipment and provide any necessary technical support for the installation and use of such Windows Update.
 - e. No High Risk Use.
WARNING: The Windows Embedded 7 Standard operating system is not fault-tolerant. The Windows Embedded 7 Standard operating system is not designed or intended for any use in any computing device where failure or fault of any kind of the Windows Embedded 7 Standard operating system could reasonably be seen to lead to death or serious bodily injury of any person, or to severe physical or environmental damage ("High Risk Use"). Xerox is not licensed to use, distribute, or sublicense the use of the Windows Embedded 7 Standard operating system in High Risk Use. High Risk Use is STRICTLY PROHIBITED.

Appendix B-Exhibit 3

LEASE TERMS

- 1. Non-Cancelable Agreement.** THIS AGREEMENT CANNOT BE CANCELED OR TERMINATED EXCEPT AS EXPRESSLY PROVIDED HEREIN. YOUR OBLIGATION TO MAKE ALL PAYMENTS, AND TO PAY ANY OTHER AMOUNTS DUE OR TO BECOME DUE, IS ABSOLUTE AND UNCONDITIONAL AND NOT SUBJECT TO DELAY, REDUCTION, SET-OFF, DEFENSE, COUNTERCLAIM OR RECOUPMENT FOR ANY REASON WHATSOEVER, IRRESPECTIVE OF XEROX'S PERFORMANCE OF ITS OBLIGATIONS HEREUNDER. ANY CLAIM AGAINST XEROX MAY BE ASSERTED IN A SEPARATE ACTION AND SOLELY AGAINST XEROX.
- 2. Lease Commencement & Term.** The Term for each unit of Equipment will commence upon: delivery of customer-installable Equipment; or the installation of Xerox-installable Equipment and will expire on the last day of the final full calendar month of the contracted term of the Lease Agreement. Unless

either party provides notice of termination at least 30 days before the expiration of the initial Term, it will renew on a month-to-month basis on the same terms and conditions. During this renewal period, either party may terminate the Equipment upon at least 30 days' notice. Upon termination, you will make the Products available for removal by Xerox. At the time of removal, the Equipment will be in the same condition as when delivered (reasonable wear and tear excepted).

- 3. Invoicing.** The Minimum Lease Payment, which may include a guaranteed number of copies (copy allowance), plus any additional Print Charges covers the cost of (1) the use of the equipment; (2) the equipment's maintenance; and (3) consumable supplies, if applicable. The Minimum Lease Payment will commence following Equipment installation and will be billed monthly. Charges for excess prints will be reconciled and billed monthly or quarterly, as applicable, in arrears.
- 4. Refinance.** The "Amount Refinanced" is included in the amount financed under this Agreement. If the Amount Refinanced is under an agreement with a third party, you acknowledge you have the right to terminate the agreement and you will provide Xerox with a statement from the third party identifying the equipment at issue, the amount to be paid off and the payee's name and mailing address. If the Amount Refinanced is under an agreement with Xerox, the refinancing will render your prior agreement null and void. If you breach any of your obligations under this Agreement, the full Amount Refinanced will be immediately due and payable.
- 5. Price Increases.** Xerox may annually increase the maintenance component of the Minimum Payment and Print Charges, each such increase not to exceed 10%. For Application Software, Xerox may annually increase the software license or support fees, each such increase not to exceed 10%. These adjustments will occur at the commencement of each fiscal contract cycle.
- 6. Payment & Credit.** Your payment is due within 30 days after the invoice date, with all charges being billed in arrears. Restrictive covenants on payment instruments will not reduce your obligations. You authorize Xerox, or its agent, to obtain credit reports from commercial credit reporting agencies.
- 7. Taxes.** Unless you provide proof of your tax-exempt status, you will be responsible for all applicable taxes, fees or charges of any kind (including interest and penalties) assessed by any governmental entity on this Agreement or the amounts payable under this Agreement ("Taxes"), which will be included in Xerox's invoice unless you timely provide proof of your tax-exempt status.
- 8. Late Charges.** If any payment is not received by Xerox within 10 days of the due date (40 days after the invoice date), Xerox may charge a late interest charge as allowed under New York law equal to the higher of 5% of the amount due or \$25.00, not to exceed the maximum amount permitted by law, as a reasonable collection cost.
- 9. Default and Remedies.** If you default or breach an individual Lease Agreement, Xerox may, in addition to its other remedies (including cessation of Maintenance Services), remove the Equipment at your expense and require immediate payment, as liquidated damages for loss of bargain and not as a penalty, of: (a) all amounts then due, plus interest from the due date until paid as allowed under law; at the rate of 1.5% per month; (b) the Minimum Lease Payments (less the Maintenance Services and Consumable Supplies components, as reflected on Xerox's records) remaining in the Term, discounted at 4% per annum; and (c) the applicable FMV or Purchase Option; and (d) all applicable Taxes. If you make the Equipment available for removal by Xerox within 30 days after notice of default, in the same condition as when delivered (reasonable wear and tear excepted), you will receive a credit for the fair market value of the Equipment as determined by Xerox, less any costs incurred by Xerox. You agree to pay all reasonable costs, including attorneys' fees, incurred by Xerox to enforce this Agreement.
- 10. Assignment.** Except for assignment by Xerox to a parent, subsidiary or affiliate of Xerox, or to securitize this Agreement as part of a financing transaction ("Permitted Assignment"), neither party will assign any of its rights or obligations under this Agreement without the prior written consent of the other party. In the event of a Permitted Assignment: (a) Xerox may, without your prior written consent,

release to the proposed assignee information it has about you related to this Agreement; (b) the assignee will have all of the rights but none of the obligations of Xerox hereunder; (c) the assignee will continue to look to Xerox for performance of Xerox's obligations, including the provision of Maintenance Services; (d) you waive and release the assignee from any claim relating to or arising from the performance of Xerox's obligations hereunder; (e) you shall not assert any defense, counterclaim or setoff you may have against an assignee; and (f) you will remit payments in accordance with instructions of the assignee.

- 11. Risk of Loss.** You agree that: (i) the equipment will remain personal property; (ii) you will not attach the equipment as a fixture to any real estate; (iii) you will not pledge, sub-lease, or part with possession of the equipment or file, or permit to be filed, any lien against the equipment; and, (iv) you will not make any permanent alterations to the equipment. The risk of loss due to your fault or negligence, as well as theft, fire, or disappearance, shall pass to you upon delivery. Risk of loss passes to you upon delivery and remains with you until Xerox removes the Equipment.
- 12. FMV End of Term Purchase Option.** Provide you are not in default, you may purchase the Equipment, "AS IS, WHERE IS" and WITHOUT ANY WARRANTY AS TO CONDITION OR VALUE, at the end of the initial Term for the fair market value of the Equipment at the expiration of the initial Term, plus all applicable Taxes.
- 13. FPO End of Term Purchase Option.** Provide you are not in default, you may purchase the Equipment, "AS IS, WHERE IS" and WITHOUT ANY WARRANTY AS TO CONDITION OR VALUE, at the end of the initial Term for the "Purchase Option" indicated on the face of this Agreement (i.e., either a set dollar amount or the fair market value of the Equipment at the expiration of the initial Term), plus all applicable Taxes.
- 14. Waivers.** The parties agree that this Agreement is: (i) a "finance lease" under Article 2A of the Uniform Commercial Code and, except to the extent expressly provided herein, and to the extent permitted by New York law, you waive all rights and remedies conferred upon a lessee by Article 2A; and (ii) a lease for all federal, state or local income tax purposes and you shall not claim any credit or deduction for depreciation in respect of the Equipment, or take any other action inconsistent with your role as lessee of the Equipment.
- 15. Protection of Xerox's Rights.** You authorize Xerox or its agent to file, by any permissible means, financing statements necessary to protect Xerox's rights as Lessor of the Equipment. You will promptly notify Xerox of a change in ownership, or if you relocate your principal place of business or change the name of your business.
- 16. State and Local Government Terms and Conditions.**
 - A) Tax Treatment (applicable to Fixed Purchase Option Leases). Xerox has accepted this Agreement based on your representation that Xerox may claim any interest paid by you as exempt from federal income tax under Section 103(c) of the Internal Revenue Code ("Code"). You will comply with the information reporting requirements of Section 149(e) of the Code. Such compliance includes the execution of 8038-G or 8038-GC Information Returns. You appoint Xerox as your agent to maintain, and Xerox will maintain, or cause to be maintained, a complete and accurate record of all assignments of this Agreement in form sufficient to comply with the book entry requirements of Section 149(a) of the Code and the regulations thereunder from time to time. Should Xerox lose the benefit of this exemption as a result of your failure to comply with or be covered by Section 103(c) the Code or the regulations thereunder, then, subject to the availability of funds and upon demand by Xerox, you will pay Xerox an amount equal to its loss in this regard. You shall provide Xerox with a properly prepared and executed copy of US Treasury Form 8038 or 8038-GC.

Appendix B-Exhibit 4

Cash Purchase Terms

1. **Invoicing.** The invoice under a Cash Purchase Agreement consists of the Net Price amount for the Equipment purchased and all applicable Taxes.
2. **Taxes.** Unless you provide proof of your tax-exempt status, you will be responsible for all applicable taxes, fees or charges of any kind (including interest and penalties) assessed by any governmental entity on this Agreement or the amounts payable under this Agreement ("Taxes"), which will be included in Xerox's invoice unless you timely provide proof of your tax-exempt status.
3. **Payment.** Your payment is due within 30 days after the invoice date, with all charges being billed in arrears. Restrictive covenants on payment instruments will not reduce your obligations. You authorize Xerox, or its agent, to obtain credit reports from commercial credit reporting agencies.
4. **Default & Remedies.** If you default an individual Cash Purchase Agreement, Xerox, in addition to its other remedies, including the cessation of Basic Services, may require immediate payment of all amounts then due (including all applicable Taxes), plus interest on all amounts due until paid as allowed under law: at the rate of one and one-half percent (1.5%) per month, not to exceed the maximum amount permitted by law.
5. **Equipment Installation Date.** The Equipment installation will be (a) the delivery date for customer installable Equipment; or (b) the installation date for Xerox installable Equipment, which is the date Xerox determines the equipment to be operating satisfactorily as demonstrated by the successful completion of diagnostic routines and is available for your use.
6. **Title, Warranty, and Risk.** Title, warranty, and risk of loss to the Equipment passes to you upon delivery of customer-installable Equipment; or installation of Xerox-installable Equipment. Until you have paid for the Equipment in full: (i) it will remain personal property; (ii) you will not attach it as a fixture to any real estate; (iii) you will not pledge, sub-lease or part with possession of it, or file or permit to be filed any lien against it; and (iv) you will not make any permanent alterations to it. Warranty coverage for any product utilizing Cartridges is conditioned upon you using only unmodified cartridges purchased directly from Xerox or its authorized resellers.

Appendix B- Exhibit 5

MAINTENANCE TERMS

1. **Maintenance Commencement & Term.** The Term for Maintenance Services will begin following the equipment installation and expire on the final day of the twelfth (12) full calendar months after installation or at the end of the customer's then current fiscal year as applicable.
 - A) Xerox may annually increase the Minimum Payment and Print Charges, each such increase not to exceed 10%. For Application Software, Xerox may annually increase the software license or support fees, each such increase not to exceed 10%. These adjustments will occur at the commencement of each fiscal / annual contract cycle.
2. **Invoicing.** The Monthly Minimum Maintenance Charge will be billed monthly and Charges for excess prints will be reconciled at the account level and billed quarterly in arrears.
3. **Payment.** Your payment is due within 30 days after the invoice date, with all charges being billed in arrears. Restrictive covenants on payment instruments will not reduce your obligations. You authorize Xerox, or its agent, to obtain credit reports from commercial credit reporting agencies.
4. **Taxes.** Unless you provide proof of your tax-exempt status, you will be responsible for all applicable taxes, fees or charges of any kind (including interest and penalties) assessed by any governmental

entity on this Agreement or the amounts payable under this Agreement ("Taxes"), which will be included in Xerox's invoice unless you timely provide proof of your tax-exempt status.

- 5. Default & Remedies.** If you default or breach an individual Maintenance Agreement, Xerox, in addition to its other remedies, you will be in default under this Agreement if (1) Xerox does not receive any payment within 15 days after the date it is due, or (2) you breach any other obligation in this or any other agreement with Xerox. If you default, Xerox may, in addition to its other remedies (including the cessation of Maintenance Services), require immediate payment, as liquidated damages for loss of bargain and not as a penalty, of (a) all amounts then due, plus interest from the due date until paid as allowed under law; at the rate of 1.5% per month; and (b) the remaining Minimum Payments, not to exceed 6 such payments if this Agreement is for a one year Term, and twelve (12) such payments for a multi-year Term; and, (c) all applicable Taxes. You will pay all reasonable costs, including attorneys' fees, incurred by Xerox to enforce this Agreement. Termination Charges will not be assessed if you upgrade the Equipment to an alternative Xerox product or cancel an accessory.

Appendix B- Exhibit 6

RENTAL TERMS

Rental Terms

- 1. Title and Risk of Loss.** Title to the Products remains with Xerox. Risk of loss or damage to the Products passes to you upon delivery. You will insure the Products against loss or damage and the policy will name Xerox as Loss Payee.
- 2. Rental Order Taking Term.** The initial term for any Rental Order will be the number of full calendar months stated in the individual Rental Order. The Minimum Lease Payment for any partial month following the equipment installation date will be billed on a pro rata basis, based on a 31-day month.
- 3. Rental Order Commencement & Term.** The Term for each unit of Equipment will commence upon the delivery of customer-installable Equipment; or the installation of Xerox-installable Equipment and will expire on the last day of the final full calendar month of the contracted term indicated in the Rental Order. Unless either party provides notice of termination at least 30-days before the expiration of the initial Term, it will renew on a month-to-month basis at the same prices, and the same terms and conditions. During the renewal period, either party may terminate the Equipment upon at least 30-days' notice. Upon termination, you will make the Equipment available for removal by Xerox. At the time of removal, the Equipment will be in the same condition as when delivered, reasonable wear and tear accepted.
- 4. Equipment Return.** Unless you have renewed or purchased the Equipment, you will make the Equipment and Base Software available for removal at the expiration of the Individual Rental Order term in the same condition as when delivered, reasonable wear and tear accepted.

APPENDIX B - EXHIBIT 7

Production Inkjet Specific Terms and Conditions:

The following terms and conditions are applicable to all (or as noted, some of) Xerox's BaltoroHF, Rialto and Trivor Equipment acquired by Customer (collectively, the "Production Inkjet Equipment" or "Equipment"):

COMMENCEMENT & TERM. For the Production Inkjet Equipment, this provision supersedes and replaces any "Term" noted on the PO or in the Lease Terms. This PO is valid when accepted by Xerox. The Term for each unit of Equipment will commence upon the installation of Xerox-installable Equipment as confirmed by your authorized representative signing the part of the Customer Implementation Sign-Off document

wherein it is agreed that the delivery and installation of the Equipment, the training activities and the solution implementation in accordance with the CED and the SOW Acceptance Criteria have been completed ("Commencement Date") and will continue for the number of full calendar months shown in the PO for "Term" ("initial Term"). Any partial month in the Term will be billed on a pro rata basis, based on a 30-day month. Unless either party provides notice of termination at least thirty days before the expiration of the initial Term, it will renew automatically on a month-to-month basis on the same terms and conditions. During this renewal period, either party may terminate the Equipment upon at least 30 days' notice. Upon termination, you will make the Products available for removal by Xerox. At the time of removal, the Equipment will be in the same condition as when delivered (reasonable wear and tear excepted).

RESPONSIBILITY FOR MEETING CERTAIN CED REQUIREMENTS. You are solely responsible for fulfilling all of your obligations set forth in the CED for the Equipment, including, but not limited to, meeting all environmental, product space and power, and network connectivity requirements. In addition, the CED and User Guide ("Guide") set forth certain operator maintenance activities that you are responsible for performing at the intervals indicated therein. You may have Xerox perform, or assist in the performance of, any of these operator maintenance activities, subject to the availability of Xerox certified technicians, upon your agreement to pay Xerox's then-prevailing service call rates.

BALTORO AND RIALTO INK AND PRINT HEAD MAINTENANCE SERVICES. For the BaltoroHF and Rialto Equipment (referred to in this Section as "Equipment"), repairs that are needed due to misuse, neglect or abuse (which are excluded from Xerox's provision of Maintenance Services as described in Appendix B-Exhibit 1 General Terms and Conditions #5, specifically include, but are not limited to, your failure to ensure that inks and consumables are correctly loaded into the Equipment and to properly perform operator maintenance in a timely manner. The correct method of loading ink is described in the Guide. Customer is liable for any and all damage, including all repairs, arising out of incorrect loading of ink or from the failure to properly perform operator maintenance in a timely manner.

Routine refurbishment and replacement of print heads is covered under this Agreement at no additional charge to you. Xerox's refurbishment and replacement obligations can be voided if you:

- (a) fail to perform routine maintenance as specified by Xerox;
- (b) use inks, consumables (including paper) or spare parts, which do not meet Xerox specifications;
- (c) allow or cause the changing or handling of a print head by anyone other than a Xerox certified service representative;
- (d) allow the repair of the Equipment or a print head by anyone other than a Xerox certified service representative;
- (e) fail to maintain the environmental specifications required by Xerox including but not limited to specifications for humidity and/or temperature during operation of the Equipment;
- (f) fail to follow Xerox's operating procedures while operating the Equipment; or
- (g) allow the Equipment to be operated by employees that have not received Xerox training.

Xerox will not be required to repair or replace a print head if the cause of the subject failure is covered by any of the specific causes listed above or any other exclusion set forth in the Agreement or the applicable CED or Guide, and you will be required to pay for the repairs to the, or to purchase a replacement, print head. You agree to perform all maintenance tasks when directed to do so by the status messages on the Equipment's interface window and/or as outlined in the Equipment's CED or Guide.

In the event of the failure of a print head, you and Xerox will jointly review the maintenance history, and any other relevant data. If you have complied with the foregoing requirements, as demonstrated by the Equipment and/or in the Equipment's CED and Guide and any other relevant data, Xerox will replace the failed print head in accordance with this Agreement at no charge to you.

In the event you have failed to perform the maintenance tasks as directed to do so by the Equipment's interface window and/ or as outlined in the Equipment's CED and Guide, or any other relevant data demonstrates that you have failed to adhere to the requirements set out in the CED or Guide, you will return the damaged print head to Xerox in accordance with the process that is communicated to you and managed

by your Xerox certified service representative. The determination of your liability or non-liability must be made in each instance prior to your returning the damaged print head to Xerox.

In a case where your liability for repair or replacement has been agreed to, following return of a print head, Xerox will in good faith determine if the print head can be repaired or must be replaced. Xerox will communicate its determination to you promptly and provide at such time its good faith estimate of the cost of the remedial action to be undertaken. In a case where your liability for repair or replacement has been agreed to, you will pay the amount invoiced by Xerox for the materials, associated work and shipping costs to repair or replace the subject print head. The amount to be invoiced shall be in line with Xerox's good faith estimate and, in instances where a print head must be replaced, Xerox will charge you an amount not to exceed \$12,500. While there is an agreement in place between you and Xerox that requires Xerox to provide Maintenance Services for the Equipment, if Xerox uses any of the spare parts located and stored at your site to keep the Equipment in good working order, Xerox will replace the spare parts used at no additional cost to you. Additionally, Xerox will not charge you for spare parts supplied from a Xerox storage or distribution facility used to keep the Equipment in good working order.

TRIVOR INK AND JETTER BLOCK MAINTENANCE SERVICES. For the Trivor Equipment (referred to in this Section as "Equipment"), repairs that are needed due to misuse, neglect or abuse (which are excluded from Xerox's provision of Maintenance Services as described in Appendix B-Exhibit 1 General Terms and Conditions #5, specifically include, but are not limited to, your failure to ensure that inks and consumables are correctly loaded into the Equipment and to properly perform operator maintenance in a timely manner. The correct method of loading ink is described in the Guide. You are liable for any and all damage, including all repairs, arising out of incorrect loading of ink or from the failure to properly perform operator maintenance in a timely manner. Routine refurbishment and replacement of Jetter Blocks is covered under this Agreement at no additional charge to you. Xerox's refurbishment and replacement obligations can be voided if you: (i) fail to perform routine maintenance as specified by Xerox; (ii) use inks, consumables (including paper) or spare parts, which do not meet Xerox specifications; (iii) allow or cause the changing or handling of a Jetter Block by anyone other than a Xerox certified service representative; (iv) allow the repair of the Equipment or a Jetter Block by anyone other than a Xerox certified service representative; (v) fail to maintain the environmental specifications required by Xerox including but not limited to specifications for humidity and/or temperature during operation of the equipment; (vi) fail to follow Xerox's operating procedures while operating the Equipment; or, (vii) allow the Equipment to be operated by employees that have not received Xerox training. Xerox will not be required to repair or replace Jetter Blocks if the cause of the subject failure is covered by any of the specific causes listed above or any other exclusion set forth in the Agreement or the applicable CED and you will be required to pay for the repairs to the, or to purchase replacement, Jetter Blocks. You agree to maintain a maintenance log to demonstrate adherence to Xerox requirements. In the event of the failure of a Jetter Block, you and Xerox will jointly review the maintenance log, and any other relevant data. If you have complied with the foregoing requirements, as demonstrated by the maintenance log and any other relevant data, Xerox will replace the Jetter Block in accordance with this Agreement at no charge to you. In the event you have failed to keep the maintenance log, or the maintenance log or any other relevant data demonstrates that you have failed adhere to Xerox requirements, you will return the damaged Jetter Block to Xerox in accordance with the process that is communicated to you and managed by your Xerox certified service representative. The determination of your liability or non-liability must be made in each instance prior to your returning the damaged Jetter Block to Xerox. In a case where your liability for repair or replacement has been agreed to, following return of a Jetter Block, Xerox will in good faith determine if the Jetter Block can be repaired or must be replaced. Xerox will communicate its determination to you promptly and provide at such time its good faith estimate of the cost of the remedial action to be undertaken. In a case where your liability for repair or replacement has been agreed to, you will pay the amount invoiced by Xerox for the materials, associated work and shipping costs to repair or replace the subject Jetter Block. The amount to be invoiced shall be in line with Xerox's good faith estimate and, in instances where a Jetter Block must be replaced, Xerox will charge you an amount not to exceed the production cost of a Jetter Block without profit or mark-up, which shall not exceed \$25,000. While there is an agreement in place between you and Xerox that requires Xerox to provide Maintenance Services for the Equipment, if Xerox uses any of the spare parts located and stored at your site to keep the Equipment in good working order, Xerox will replace the spare parts used at no additional cost to you. Additionally, Xerox will not charge you for spare parts supplied from a Xerox storage or distribution facility used to keep the Equipment in good working order.

SUPPLIES AND SUPPLIES PRICING. The charges set out in the PO or Lease or Sale Agreement do not include charges for Xerox's provision of supplies (as such term is used in the Supplies Exhibit attached to this Addendum) to be used with the Equipment. Supplies to be used with Equipment will be ordered separately by you using the "Customer Number" identified in the Supplies Exhibit and are subject to the pricing, terms and conditions set forth in the Supplies Exhibit.

GUARANTEE DISCLAIMER XEROX'S "TOTAL SATISFACTION GUARANTEE", "SATISFACTION GUARANTEE" OR ANY OTHER SIMILARLY STYLED GUARANTEE FROM XEROX, WHETHER MADE IN ORAL OR WRITTEN FORM, ARE NOT APPLICABLE TO THE PRODUCTION INKJET EQUIPMENT.

PER FOOT PRICING. For the Trivor Equipment and Rialto Equipment, pricing is based on per linear foot pricing and the applicable "Per Print Rate" on the order is charged for each linear foot of print output.

TERMINATION BEFORE EQUIPMENT SHIPMENT. Notwithstanding anything to the contrary set forth in the Agreement, for the Trivor or Rialto Equipment (referred to in this Section as "Equipment"), Customer may elect to terminate an Order Agreement or Purchase Order before the commencement of shipment of the Equipment from its place of manufacture to Customer. If Customer makes such election, neither Customer nor Xerox will have liability of any type or kind to the other under this Agreement or the Order Agreement or Purchase Order. Customer may also elect to terminate the Order Agreement or Purchase Order after the commencement of shipment of the Equipment from its place of manufacture to Customer, in which case Customer will promptly pay to Xerox, as liquidated damages for loss of bargain and not as a penalty, \$100,000 for each model of Trivor Equipment and/or \$50,000 for each model of Rialto Equipment included in such Order Agreement or Purchase Order, and, upon receipt of such payment in full, neither Customer nor Xerox will have liability of any type or kind to the other under this Agreement or the Order Agreement or Purchase Order.

PAYMENT SCHEDULE. For any Production Inkjet Equipment included in any Cash Purchase Order Agreement or Purchase Order, Customer will make the payments to Xerox therefor pursuant to the following payment schedule: (i) first payment at the time of your execution of the Order Agreement or Purchase Order in the amount of twenty-five percent (25%) of the purchase price of each Production Inkjet Equipment, and (ii) second payment prior to shipment of the Production Inkjet Equipment from the place where it is manufactured in the amount of fifty percent (50%) of the purchase price of each Production Inkjet Equipment (collectively, the "Pre-Payments"). Xerox will not ship the Production Inkjet Equipment to you until Xerox receives the Pre-Payments required in the preceding sentence. The remaining twenty-five percent (25%) of the purchase price for each Production Inkjet Equipment will be invoiced to you after the Agreement commences as provided above. The foregoing payments are exclusive of applicable Taxes that are payable by you and such Taxes may be included in the invoice for one or more of the above-referenced payments or in one or more separate invoices.

MATHWORKS SOFTWARE LICENSE. For the Trivor and BaltoroHF Equipment (referred in this Section to "Equipment"), the Equipment incorporates software from MathWorks, Inc. ("MathWorks") and the following terms apply to said software:

- a. **LICENSE GRANT.** Subject to the restrictions below, MathWorks hereby grants to Customer a license to install and use the MATLAB Compiler Runtime Libraries ("MCR"), solely and expressly for the purpose of running software created with the MATLAB Compiler (the "Application Software"), and for no other purpose. This license is personal, nonexclusive, and nontransferable.
- b. **LICENSE RESTRICTIONS.** Customer shall not modify or adapt the MCR for any reason. Customer shall not disassemble, decompile, or reverse engineer the MCR. Customer shall not alter or remove any proprietary or other legal notices on or in copies of the MCR. Unless used to run Application Software, Customer shall not rent, lease, or loan the MCR, time share the MCR, provide service bureau use, or use the MCR for supporting any other party's use of the MCR. Customer shall not sublicense, sell, or otherwise transfer the MCR to any third party. Customer shall not republish any documentation that may be provided in connection with the MCR. All rights not granted, including without limitation rights to reproduce, sublicense, rent, sell, distribute, create derivative works, serve other software by means of, decompile, reverse engineer, and disassemble the MCR, are expressly reserved by MathWorks.

c. NO TECHNICAL SUPPORT. Technical support is not provided by MathWorks for users of the MCR under this license. MathWorks may, at its sole discretion, offer bug fixes or updates to the MCR.

d. TERM AND TERMINATION. This license shall automatically terminate upon your failure to comply with this license.

e. EXPORT CONTROL. The MCR may be subject to U.S. and non-U.S. export control laws and other applicable governmental export and import laws and regulations.

In exercising your rights under this license, Customer agree not to violate any such laws and regulations. Customer also represent and warrant that (i) Customer are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (ii) Customer are not listed on any U.S. Government list of prohibited or restricted parties.

f. U.S. GOVERNMENT LICENSEES: Customer agree that the MCR qualifies as commercial computer software or documentation as defined in the FAR and/or DFARS; that the terms and conditions of this MCR (MATLAB Compiler Runtime) LIBRARIES LICENSE shall govern your use, reproduction, performance, display, and disclosure of the MCR, superseding any inconsistent government provisions.

g. ASSIGNMENT. Customer may not assign or otherwise transfer this license and its rights and obligations hereunder, in whole or in part.

h. LIMITATION OF LIABILITY. To the extent permitted by law, any liability of MathWorks (whether in relation to breach of contract, negligence or otherwise) shall be limited to ten dollars (\$10.00 USD); and MathWorks shall have no liability for any indirect or consequential loss (whether foreseeable or otherwise and including loss of profits, loss of business, loss of opportunity, and loss of use, or unauthorized use or access, of any computer hardware or software). Some states do not allow the exclusion or limitation of incidental or consequential damages, so the above exclusion or limitation may not apply to Customer. MathWorks' liability for death or personal injury resulting from negligence or for any other matter in relation to which liability by law cannot be excluded or limited shall not be excluded or limited.

i. DISCLAIMER OF WARRANTIES. The MCR is delivered "as is" and MathWorks makes, and Customer receive, no additional express or implied warranties. MathWorks hereby expressly disclaims any and all other conditions, warranties, or other terms of any kind or nature concerning the MCR (including, without limitation, any with regard to noninfringement, merchantability, quality, accuracy, or fitness for a particular purpose or for your purpose). MathWorks also expressly disclaims any warranties that may be implied from usage of trade, course of dealing, or course of performance.

j. GOVERNING LAW; JURISDICTION. This license shall be governed by the laws of the Commonwealth of Massachusetts, United States of America, without regard to its conflicts of law provisions. Neither the U.N. Convention on Contracts for the International Sale of Goods nor the Uniform Computer Information Transactions Act, or any version thereof ("UCITA"), shall apply to this license. To the extent that UCITA is applicable, the parties agree to opt out of the applicability of UCITA.

k. ENTIRE AGREEMENT. This license contains the entire understanding of the parties with respect to the MCR provided hereunder and may not be modified or amended except by written instrument, executed by MathWorks and Customer. This license shall not supersede any product license Customer have with MathWorks for the MATLAB Compiler.

MICROSOFT/ADOBE SOFTWARE LICENSING. For the Rialto equipment (referred to in this Section as "Equipment"), software from Microsoft Corporation ("Microsoft") and/or Adobe Systems Incorporated ("Adobe") may be incorporated into the Base Software and, if either or both of them are, these additional terms apply:

FOR MICROSOFT:

Base Software may include or incorporate software provided by Microsoft Corporation ("Microsoft Software"). In addition to all other terms and conditions of this Agreement, the following applies to Authorized User's installation and use of Microsoft Software. You may not:

(a) use the Microsoft Software for commercial software hosting services; (b) publish any benchmark results for the Microsoft Software; or (c) work around any technical limitations in the Microsoft Software.

FOR ADOBE:

a. Base Software may include and/or incorporate software provided by Adobe Systems Incorporated ("Adobe Software"). You will not, without the prior written consent of Supplier and its licensors: (i) use the Adobe Software in any way that is not authorized by the Agreement; (ii) use the Adobe Software outside of the Equipment on which it was installed or in a stand-alone, time-share or service bureau model; or (iii) disclose or otherwise permit any other person or entity access to the object code of the Adobe Software. Adobe disclaims, to the extent permitted under applicable laws, any warranty obligations or other liabilities on the part of Adobe or its suppliers respecting the Adobe Software.

b. Adobe Software is a "commercial item", as that term is defined at FAR 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. Section 12.212 or 48 C.F.R. Section 227.7202-1, as applicable. Consistent with 48 C.F.R. Section 12.212 or 48 C.F.R. Sections 227.7202-1 through 227.7202-4, as applicable, the Adobe Software is licensed to U.S. government end users, including contractors for the U.S. government, (i) only as commercial items and (ii) with only those rights as are granted to all other end users.

EXHIBITS. The following exhibits will be attached to and made part of the Agreement for the Equipment at the time of order for the cash purchase or lease transaction:

- Customer Acceptance Criteria
- Customer Expectations Document
- Statement of Work
- Supplies

THIRD PARTY HARDWARE. Customer may wish to procure certain pre- and post-finishing hardware for the Rialto or Baltoro Equipment ("Third Party Hardware"), and, in order for the Trivor equipment to fully function and for the solution to successfully install, Third Party Hardware needs to be procured and properly maintained in conjunction with the equipment. If Customer chooses to (a) purchase such Third-Party Hardware products through Xerox from one of Xerox's third-party partners, and (b) have Xerox maintain such Third-Party Hardware, the following terms and conditions will apply to the Third-Party Hardware:

THIRD PARTY HARDWARE MAINTENANCE.

a. The provision of maintenance services to keep the Third-Party Hardware in good working order ("Third Party Hardware Maintenance") is contingent upon Customer facilitating timely and efficient resolution of Third-Party Hardware issues by: (i) utilizing customer-implemented remedies provided by Xerox and (ii) providing information to and implementing recommendations provided by Xerox telephone support personnel. If a Third-Party Hardware issue is not resolved after completion of (i) and (ii) above, Xerox will provide on-site support as provided herein. Unless otherwise provided herein, Third Party Hardware Maintenance will be provided during Xerox's standard working hours from 8:00 a.m. to 5:00 p.m. local time, Monday through Friday (excluding Xerox-recognized holidays) in areas open for repair service for the Third-Party Hardware in the U.S. You agree to give Xerox reasonable access to the Third-Party Hardware. Third Party Hardware Maintenance shall cover repairs and adjustments to keep the Third Party Hardware in good working order that are required as a result of normal wear and tear or defects in materials or workmanship (and shall exclude repairs or adjustments Xerox determines to relate to or be affected by the use of options, accessories, or other

connected products not serviced by Xerox, as well as any non-Xerox alterations, relocation, service, supplies, or consumables).

- b. Xerox shall perform scheduled Third-Party Hardware Maintenance at such times agreed to by both parties at each Third-Party Hardware location. Scheduled maintenance shall be performed as specified in the Third-Party Hardware Maintenance documentation.
- c. Xerox shall replace parts that are unserviceable as determined solely by Xerox on an exchange basis with new or parts equivalent to new in performance when used in the Third-Party Hardware. Additionally, parts may at times be replaced with an equivalent item (i.e. form, fit and function the same, but not necessarily the same brand as the replaced part). Exchanged parts removed from the Third-Party Hardware will become the property of Xerox.
- d. Customer shall perform Key Operator maintenance functions as described in the Third-Party Hardware operator's manuals.
- e. Xerox shall use only qualified Customer Service Engineers fully trained on maintenance requirements and operation of the Third-Party Hardware.
- f. Customer shall notify Xerox of a Third-Party Hardware failure and shall provide adequate working space, heat, light, ventilation and electrical current and outlets.
- g. Customer shall place unscheduled maintenance requests for Third Party Hardware by calling the Xerox's service telephone number provided by Xerox.
- h. Xerox shall not be obligated to provide the following services under these Third-Party Hardware Maintenance terms and conditions:
 - i.) Additional or optional retrofits.
 - ii.) Services as a result of Third-Party Hardware relocation.
 - iii.) Exterior painting of the Third-Party Hardware.
 - iv.) Repair for damages resulting from Customer's neglect or abuse.
 - v.) Performance of normal key operator functions as described in the Third-Party Hardware operator's manuals.
 - vi.) Third Party Hardware reconditioning
 - vii.) Repair of software (other than replacement of firmware).
- i. Customer agrees to make available key operators or a systems administrator for the Third-Party Hardware. Training, if any, will be provided in accordance with the applicable Price List in effect on the date Xerox accepts the order.

SERIAL NUMBER AND FACILITIES STANDARDS. Customer represents that the Third-Party Hardware has a manufacturer's serial number and will at all times be located in facilities which meet all applicable health, environmental and safety standards.

COMMENCEMENT & TERM, RENEWAL AND TERMINATION OF THIRD-PARTY HARDWARE MAINTENANCE.

- a. The Third-Party Hardware Maintenance terms and conditions shall become effective upon acceptance of the Order Document by Xerox and shall remain in effect for effect for the number of months set forth in the order (the "Initial Term").
- b. Upon expiration of the Initial Term, unless either party provides at least thirty (30) days' notice before the end of the Initial Term, the Third Party Hardware Maintenance shall automatically renew for successive periods of twelve (12) calendar months on each expiration date, unless written notice of termination is provided by either party to the other at least thirty (30) days before the end of Initial Term of its intention not to renew. Pricing for this renewal term shall be based on the prices listed on the Xerox Price List for Third Party Hardware Maintenance then in effect.

- c. Either party may terminate the Third-Party Hardware Maintenance at any time, with or without cause, by providing the other party with one hundred twenty days (120) prior written notice of termination.
- d. Should Customer terminate Xerox's provision of Third-Party Hardware Maintenance prior to the expiration of the Initial Term, Customer shall purchase from Xerox, at the applicable Xerox and/or Third-Party Hardware manufacturer's published prices, all parts and technical documentation for the Third-Party Hardware in Xerox's inventory on the effective date of termination if requested to do so by Xerox.
- e. If "Pricing Fixed for Term" is identified in the Order Document, the amount you pay Xerox for the Third-Party Hardware Maintenance shall not increase during the Initial Term. Otherwise, Xerox may annually change any of the prices for the Third-Party Hardware Maintenance upon thirty (30) days prior written notice to Customer. Any price increase will not exceed ten (10%) percent of the then current price.
- f. In addition to the address(es) to which notices are to be sent to Xerox as provided in the Agreement, notices required to be sent to Xerox related to Third Party Hardware Maintenance shall be mailed to:

XEROX CORPORATION
1301 Ridgeview Drive
Lewisville, TX 75057
Fax – 800-407-8430

OUTSIDE SCOPE OF THIRD-PARTY HARDWARE MAINTENANCE. Third Party Hardware service activities performed outside the scope of these terms and conditions, including, but not limited, to weekend service, key operator functions, product enhancements and engineering changes, will be billed on a time and materials basis at the Xerox rate in effect at the time of the same is performed by Xerox.

WARRANTY DISCLAIMERS. Aside from Xerox's obligations to provide Third Party Hardware Maintenance in accordance with the provisions set forth herein, Xerox makes no other representations or warranties relative to such service, express or implied. XEROX EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE RELATIVE TO SERVICES PROVIDED HEREUNDER.

Notwithstanding anything to the contrary in the Agreement, Xerox shall not be liable for the loss of any data as a result of performing maintenance activities hereunder, and Customer shall be responsible for all necessary or desired data backup.

PAYMENT SCHEDULE. For each Third Party Hardware included in any Cash Purchase order, you will make the payments to Xerox therefor pursuant to the following payment schedule: (i) first payment at the time of your execution of the Order Agreement or Purchase Order in the amount of twenty-five percent (25%) of the purchase price of each Third Party Hardware, and (ii) second payment prior to shipment of the Third Party Hardware from the place where it is manufactured in the amount of fifty percent (50%) of the purchase price of each Third Party Hardware (collectively, the "Third Party Hardware Pre-Payments"). Xerox will not ship the Third-Party Hardware to you until Xerox receives the Third-Party Hardware Pre-Payments required in the preceding sentence. The remaining twenty-five percent (25%) of the purchase price for each Third-Party Hardware will be invoiced to you after the Cash Purchase order commences as provided above. The foregoing payments are exclusive of applicable Taxes that are payable by you and such Taxes may be included in the invoice for one or more of the above-referenced payments or in one or more separate invoices.

Tab 2 – Products/Pricing

a) Products/Pricing

i. Offerors shall provide pricing based on a discount from a manufacturer's price list or catalog, or fixed price, or a combination of both with indefinite quantities. Prices listed will be used to establish the extent of a manufacturer's product lines, services, warranties, etc. that are available from Offeror and the pricing per item. Multiple percentage discounts are acceptable if, where different percentage discounts apply, they different percentages are specified. Additional pricing and/or discounts may be included. Products and services proposed are to be priced separately with all ineligible items identified. Offerors may elect to limit their proposals to any category or categories.

Xerox presents our Price Exhibit in **Attachment B**, which includes a complete portfolio of our offerings. Percent discount is presented as a percent off list price by market code. Additional discounts may be available based on the size and scope of the individual offerings.

ii. Include an electronic copy of the catalog from which discount, or fixed price, is calculated. Electronic price lists must contain the following: (if applicable)

- Manufacturer part #
- Offeror's Part # (if different from manufacturer part #)
- Description
- Manufacturers Suggested List Price and Net Price
- Net price to Region 4 ESC (including freight)

Media submitted for price list must include the Offerors' company name, name of the solicitation, and date on a Flash Drive (i.e. Pin or Jump Drives).

Xerox complies per the Price Exhibit in **Attachment B**.

iii. Is pricing available for all products and services?

The Xerox offer consists of highly discounted percent discounts from list pricing, as stated in the equipment Price Exhibit in **Attachment B**. Bulk-buy and promotional discounted pricing for all products and related services may be available at the transaction level, based on individual Customer requirements, the size/scope of the opportunity, competitive demands, etc. Xerox price offerings will include a range of monthly cost options including but not limited to 36- through 60-month services offerings including the ability to offer fixed commitment pricing as well as multi levels of flexibility options using the base equipment pricing as a platform for these offers. Xerox is offering our entire product line and is committed to refreshing technology offers at the same price or lower as new models are introduced over the course of the contract period and renewal options.

As part of our proposal, we have provided a discounted price list for the most common components of our product offerings such as equipment, software, services and solutions in a not-to-exceed model. All products and services provided by Xerox will be bundled into one monthly price for the OMNIA Partners member.

Following are the price lists for all products, services and solutions that Xerox is offering under the terms and conditions of this master agreement. We will amend this list as additional products and services become available. Please see **Attachment B – Price Exhibit**.

iv. Describe any shipping charges.

Equipment prices include standard delivery charges for all proposed equipment. Non-standard delivery or removal will be at the Customer's expense. Examples of non-standard delivery charges include use of stair creepers, up-ending, or disassembling equipment to move through tight doorways or through narrow halls.

v. Provide pricing for warranties on all products and services.

Warranty pricing is available and can be customized based on the product offered and Customer requirements. The description and terms around warranties are addressed within Xerox Full Service/Cost Per copy maintenance agreements.

vi. Describe any return and restocking fees.

Xerox does not charge restocking or return fees.

vii. Describe any additional discounts or rebates available. Additional discounts or rebates may be offered for large quantity orders, single ship to location, growth, annual spend, guaranteed quantity, etc.

Xerox may provide additional discounts on bulk buy opportunities. Therefore, the pricing provided is the minimum discount and OMNIA Partners members will benefit from the opportunity of lower prices when they procure large individual transactions.

viii. Describe how customers verify they are receiving Contract pricing.

All orders and purchase orders under the Region 4 ESC contract will be processed through the Xerox centralized contracting system irrelevant of the distribution channel placing the order. All orders placed per the terms and conditions of this contract will be placed via the underlying pricing system, ensuring consistency and compliance to the awarded pricing and terms.

ix. Describe payment methods offered.

All invoice payments under this Agreement shall be made via check, Automated Clearing House debit, Electronic Funds Transfer, or direct debit from Customer's bank account. If the Customer wishes to use a credit/payment card for payment, the credit/payment card must be enrolled in Xerox's auto-pay system, and Xerox will automatically charge the credit/payment one day after the date of each invoice. Restrictive covenants on payment instruments will not reduce Customer's obligations.

x. Propose the frequency of updates to the Offeror's pricing structure. Describe any proposed indices to guide price adjustments. If offering a catalog contract with discounts by category, while changes in individual pricing may change, the category discounts should not change over the term of the Contract.

All payments are due within 31-days of the invoice date. Xerox will bill the end users, as per the contract terms, in arrears. Xerox will not invoice the Customer until Xerox has received a signed order or purchase order from the Customer, and the equipment has been delivered, installed, and is available for the Customer's use. All invoice payments under this Agreement shall be made via check, Automated Clearing House debit, Electronic Funds Transfer, or direct debit from Customer's bank account. If Customer wishes to use a credit/payment card for payment, the credit/payment card must be enrolled in Xerox's auto-pay system, and Xerox will automatically charge the credit/payment one day after the date of each invoice.

xi. Describe how future product introductions will be priced and align with Contract pricing proposed.

Xerox will add new and/or replacement products at percent discounts consistent with current products in the pricing portfolio.

xii. Provide any additional information relevant to this section.

Xerox does not have any additional information to present.

Tab 3 – Performance Capability

a. OMNIA Partners documents

b) Performance Capability

i. Include a detailed response to Appendix D, Exhibit A, OMNIA Partners Response for National Cooperative Contract. Responses should highlight experience, demonstrate a strong national presence, describe how Offeror will educate its national sales force about the Contract, describe how products and services will be distributed nationwide, include a plan for marketing the products and services nationwide, and describe how volume will be tracked and reported to OMNIA Partners.

3.0. Supplier Response (Appendix D, Exhibit A)

3.0 SUPPLIER RESPONSE

Supplier must supply the following information in order for the Principal Procurement Agency to determine Supplier's qualifications to extend the resulting Master Agreement to Participating Public Agencies through OMNIA Partners, Public Sector.

3.1 Company

A. Brief history and description of Supplier.

History

The roots of Xerox Corporation go back over 100 years to our humble beginnings as the Haloid Company, established in 1906. In that time, we pioneered and brought to market many of the technologies and solutions used by office workers every day. From the first xerographic image made in 1938 to breakthroughs in home and business computing during the 1970's and our influence and leadership in shaping the current Managed Print Services (MPS) offering; to delivering our "game changing"

ConnectKey® Technology, which enables modern workers to leverage Xerox® Multifunction Devices (MFDs) to simplify the way work gets done in the office and on the go.



Chester Carlson's Invention

The use of electricity to transfer an image

"We are made to think. We take what is and turn it into what will be. We never stop innovating, reimagining, building and doing. And we never stop questioning. We make packaging that talks to you, printers that listen and software that intuitively personalizes and humanizes. Because Made to Think means, we're not just thinking about the future, we're making it".

Xerox Today

With annual revenues of \$9.8 billion we are a leading global provider of digital print technology and related solutions; we operate in a core market estimated at approximately \$67 billion. Our primary

offerings span three main areas: Intelligent Workplace Services (formerly Managed Document Services (MDS)), Workplace Solutions and Production Solutions (formerly Graphic Communications). Our Intelligent Workplace Services offerings help customers, ranging from small businesses to global enterprises, optimize their printing and related document workflow and business processes. Xerox led the establishment of this expanding market and continues as the industry leader. Our Workplace Solutions and Production Solutions offerings support the work processes of our customers by providing them with solutions built upon our broad portfolio of industry-leading printing and workflow offerings. We also have digital solutions and software assets to compete in an approximately \$31 billion adjacent Software and Services market. Our main offerings for this market are focused on: industry-specific Digital Solutions, Personalization & Communication Software and Content Management Software. Headquartered in Norwalk, Connecticut, with 32,400 employees, Xerox serves customers in approximately 160 countries providing advanced document technology, services, software and genuine Xerox supplies for a range of customers including small and mid-size businesses ("SMB"), large enterprises, governments and graphic communications providers, and for our partners who serve them.

To learn more, visit us on Xerox.com, Xerox Innovation History and Xerox Today.

Xerox Research and Innovation

We believe that a critical role of our research is to identify new competency areas with attractive addressable markets for the future. Our expertise in technology and printing also uniquely positions us to discover those areas and leverage our innovation to move into adjacencies beyond our current core technology. Accordingly, we have prioritized investments in four key areas: Digital Packaging and Print, AI Workflow Assistants for Knowledge Workers, 3D Printing / Digital Manufacturing, and Sensors and Services for the Internet of Things.

We also see opportunity in our core coming from our ability to deliver physical devices that connect with the digital world as well as purely digital offerings that improve our customers' outcomes. As a result, we direct our research and development (R&D) investments to areas such as workflow automation, color printing and customized communication, as well as to improving the quality and reducing the environmental impact of digital printing. We invest in bringing new capabilities to the market such as our ConnectKey™ software to enable our devices to integrate into digital workflows, as well as in technologies to improve the security of our devices and offerings such as our recent market leading FedRAMP authorization for MPS services. We will continue to invest in innovations to improve the reliability, IQ and cost of our printing devices, as well as in new services and software that improve our customers' ability to manage their document-oriented workflows.



Xerox Values

Keeping connected to our core values helps us to execute our priorities and strategies and fulfil our mission of delivering excellence to our customers, our shareholders and each other. They are a part of our heritage and are a part of our future.

Since our inception, we have operated under the guidance of six core values:

- We succeed through satisfied customers.
- We deliver quality and excellence in all we do.
- We require premium return on assets.
- We use technology to develop market leadership.
- We value and empower employees.
- We behave responsibly as a corporate citizen.

B. Total number and location of sales persons employed by Supplier.

Xerox has a nationwide sales presence to support the needs of OMNIA Partner members. Xerox employs 2,733 sales resources located across the United States and covering virtually every metropolitan area. There are three primary sales organizations that cover public agencies nationally:

Xerox Direct Enterprise

- Under the leadership of regional Vice Presidents, Xerox has Sales Professionals across the United States focuses on Large State Government agencies.

Xerox Business Solutions (XBS)

- A wholly owned unit of Xerox Corporation, XBS is comprised of a nationwide network of companies (all wholly owned by Xerox) that provide Xerox Sales and Services throughout the US.

Authorized Xerox Sales Agencies

- Independent Sales Agents that exclusively represent Xerox.

A complete list of all U.S. Sales offices is provided in **Attachment C**.

C. Number and location of support centers (if applicable) and location of corporate office.

Support Centers

Customers enjoy unlimited access to the Xerox Welcome Center for technical issues, supplies or billing inquiries. The Welcome Center provides online support and phone access to our multi-lingual support team. You can contact the Xerox Welcome Center at 1-800-821-2797 (US only). For more assistance, please visit www.support.xerox.com.

Our Customer Business Center is another point of contact for customers to call for technical service/repair, make a payment, self-service options (receive copy of an invoice, account balance, address change form, contract date, status of supply order), billing, obtaining quotes, etc. Our Customer Care and Support team can be reached at 1-888-771-5225.

Corporate Office

Our registered corporate office address for company headquarters is: Xerox Corporation, 201 Merritt 7, Norwalk, Connecticut 06851.

D. Annual sales for the three previous fiscal years.

- 2016 Annual Gross Sales: \$10,771 billion
- 2017 Annual Gross Sales: \$10,265 billion
- 2018 Annual Gross Sales: \$9,830 billion

E. Submit FEIN and Dunn & Bradstreet report.

FEIN

Xerox FEIN: 16-0468020.

Dunn & Bradstreet Report

Please see **Attachment D** for Xerox's Dun and Bradstreet report. D&B Supplier Qualifier Report-Xerox.

F. Describe any green or environmental initiatives or policies.

Innovation for Sustainable Products and Services

From being the first to introduce power-down features to be the first OEM to introduce a global PrintReleaf program, we push the boundaries of what is possible. The industry has taken note. Xerox

recently earned spots on Forbes' JUST 100, Barron's 100 Most Sustainable Companies, and CDP's Climate Change Leaders List.

Since the 1990s, Xerox has focused on "Design for Sustainability" because we recognize that our products have environmental, social, and economic effects throughout their life cycle. Design for Sustainability consists of criteria for each phase of the corporation's product design and delivery process. Design teams are required to respond to each criterion before passing on to the next phase of the process. We developed the criteria based on global standards, market trends, and quantitative analysis.

Our requirements for minimizing toxic materials govern our product design and materials selection. We have reengineered or eliminated processes to dramatically reduce the use of toxic materials and heavy metals and have made substantial progress in eliminating the use of mercury. Mercury-containing lamps that scan images and backlight user displays are being phased-out as alternatives become available.

Design for Sustainability has become a way of business for Xerox and extends far beyond adhering to processes. Here are a few ways we are engineering solutions that are making a more sustainable world:

Driving a Paperless Environment with Intelligent Workplace Services

A Fortune 100 company tapped Xerox to manage its worldwide print infrastructure to support its "paperless" initiative. With our Intelligent Workplace Services, a new offering that transcends Managed Print Services, we are pairing digital alternatives, print authentication, and analytics along with gamification techniques to help them change their company's print behaviors to reduce their reliance on paper as well as helping them reduce their impact on the environment.

Reforesting World's Most Treasured Ecosystems

For clients leveraging Intelligent Workplace Services, we provide them with an opportunity to opt in to our PrintReleaf partnership, which is akin to a carbon-offset program. We leverage paper usage reporting that equates the number of trees needed to reforest that usage on an equivalent basis in geographic areas of need. Xerox helps customers select the managed forestry projects where their trees will be planted in addition to tracking and reporting on their direct reforestation impact.

Since launching this program in 2018, Xerox and our clients have reforested more than one hundred thousand trees across the world, from the Amazon to Madagascar, offsetting more than one billion pages. With one tree absorbing more than one ton of carbon dioxide in its lifetime, this program thus far will offset nearly two hundred million pounds of carbon dioxide.

Pioneering IoT Sensors to Advance the World's Infrastructure

Sensors designed for the Internet of Things (IoT) have potential to transform the world, enabling real-time visibility and optimization of physical systems. PARC, Xerox's research and development company, is pioneering ways IoT sensors can help us build a better working world. These sensors can allow companies to monitor assets and determine maintenance needs, reducing the need for costly physical site inspections. We are currently piloting this technology with such companies as Con Edison in Queens, New York, and with VicTrack, owner of the Victorian Government's rail transport land in Australia. With infrastructure deteriorating across significant regions of the world, PARC is looking at ways to scale this technology and use it on other critical assets.

100% of New 2018 Products Earned ENERGY STAR Status

In 2018, 100 percent of all our new eligible product introductions achieved ENERGY STAR. This continued success in cutting the power consumption of our laser-based printing products was achieved by adjustments in the fuser design, changes to the properties of the toner, and more efficient electronic controls and performance of the xerographic system.

The ENERGY STAR program introduces progressively more stringent requirements over time. Xerox and other industry members worked together in conjunction with the EPA to develop the latest set of criteria.

The most recent revision of the ENERGY STAR Imaging Equipment 3.0 criteria becomes effective October 11, 2019. While the standard is challenging to meet, our goal remains to have 100 percent of our newly eligible products achieve this label. In addition, many existing products were redesigned to be more

energy efficient, meeting 3.0 criteria. These energy requirements serve as the foundation for other eco-labels, such as EPEAT and Blue Angel, and show our ongoing commitment to reduce product energy consumption. Learn more about the ENERGY STAR program and view current Xerox eco-label registered products at www.energystar.gov.

Focused on Eliminating Waste with Packaging and Distribution

Packaging and distribution are integral parts of our product commercialization process. We strive to eliminate, reduce, reuse, and recycle packaging whenever feasible. Product teams actively seek out more environmentally responsible packaging alternatives. We also require packaging suppliers to comply with bans and restrictions for a variety of chemicals. We document our expectations in our Environment, Health and Safety Requirements for Packaging Standard—EHS-710 and our General Packaging Standard—88P311. Our commercial equipment is designed and tested extensively to be shipped with minimal required packaging. Eliminating or reducing packaging wherever feasible conserves natural resources and decreases fuel use for distribution. Doing so represents a sustainability win for business and the environment.

Managing Products through the Full Life Cycle

Xerox integrates life cycle thinking into our product and service development activities as well as our innovation activities. Lifecycle Assessments (LCAs) are a means of technically evaluating the environmental impact of a product's materials, manufacturing, distribution, use, and end-of-life. We conduct full LCAs in accordance with the appropriate ISO standards to determine where in the product life cycle the largest environmental impacts arise and to compare products with a significant difference in technology. Full peer-reviewed LCAs were performed on our AltaLink and VersaLink devices and many of our other laser technology devices (WorkCentre 5325/30/35, WorkCentre C60/C70, and Phaser 6510). These LCAs directly contribute to our achieving the Electronic Products Environmental Assessment Tool (EPEAT) Gold certification for these configurations. We encourage our clients to learn more about how their printing behavior affects the overall carbon footprint of their organization from a life cycle perspective.

EPEAT: A Fundamental Part of Our “Design for Sustainability” Approach

EPEAT is composed of criteria spanning corporate and product requirements (50+ requirements for imaging equipment). EPEAT certification is a rigorous process, entailing both a third-party desk review for initial certification and random product verification audits once certified.

EPEAT® product criteria combine comprehensive requirements for design, production, energy use, and recycling with ongoing independent verification of manufacturer claims. EPEAT criteria reflect several categories of environmental attributes that span the life cycle of electronic products: material selection, design for end-of-life, product longevity/life extension, energy conservation, end-of-life management, corporate performance, packaging, consumables, and indoor air quality. Xerox continues to support EPEAT initiatives, aids in the future success of the program, and supports the program's global expansion.

In 2018, we expanded our registration of products to Canada, the UK, France, Germany, Netherlands, Belgium, Luxembourg, Switzerland, Norway, Sweden, Finland, and Denmark, making Xerox the first imaging equipment manufacturer to register EPEAT products in Europe. Since 2014, Xerox has committed to launching all new eligible office products with EPEAT Silver or Gold certification. For example, all new VersaLink and AltaLink products are EPEAT Silver or Gold, as we continue to design our products with the environment in mind. Xerox is the only company to claim all eight EPEAT corporate optional criteria in the U.S. Learn more about the EPEAT program and view current Xerox eco-label registered products.

EHS&S Policies and Standards Govern Product Design

Our product design is governed by global regulations and Xerox Corporate Environment, Health, Safety & Sustainability (EHS&S) Policy, which states that Xerox will:

Comply with applicable environment, health, and safety laws; rules; regulations; and Xerox standards;
Take appropriate measures to protect the environment and health and safety of our employees, clients, suppliers, and neighbors from unacceptable risk;
Take appropriate measures to prevent workplace injuries and illnesses and provide employees with a safe and healthy work environment;
Assess environment, health, and safety effects before starting a new activity or project;
Comprehend environment, health, and safety effects in the design and acquisition of products and services;
Eliminate unacceptable risks from facilities, products, services, and processes;
Strive for continual improvement of its environmental management system and to conserve natural resources, eliminate the use of toxic and hazardous materials, prevent pollution, recover, reuse, and recycle;
Address climate change by reducing the carbon footprint of our operations, products, and services; and
Require suppliers to adhere to applicable environment, health, and safety laws; rules; regulations; and Xerox Standards.

The Xerox EHS&S Standards provide consistency and guidance for meeting the policies. Our product standards encompass the following: energy efficiency, chemical management, packaging, parts reuse and recycling, electrical and mechanical safety, ergonomics, electromagnetic emissions, noise, fire resistance, and materials safety. Xerox business teams and our EHS&S organization review our products at each stage of the development process for conformance with environmental, health, and safety standards, which is a requirement for the introduction of any product. All Xerox standards ensure our products have the appropriate labels and information needed to meet all safety and environmental label requirements to keep our clients appropriately informed. All products meet required industry labeling standards for each market.

Xerox has long incorporated environmental and safety considerations into product design. Internal processes ensure that product design teams are aware of regulatory and market-driven changes affected by product design. Our product development and delivery processes include environmental evaluations of materials and parts selected, products in use, and end-of-life. These processes ensure that product design teams can incorporate timely environmental metrics and product safety considerations into new products in development.

We solicit feedback from clients and other stakeholders and take a forward-looking view of global trends in technology, regulations, and eco-labels.

Putting Health, Safety, and Compliance First

Client health and safety as well as compliance with global regulations are key considerations in Xerox innovation. Our Environment Health, Safety, and Sustainability team is engaged with our researchers and product development teams from the earliest product conception throughout the development process. See Putting Clients First—Safety of Products and Services for more details.

Striving for a Circular Economy

Beginning with our first commercial product, the Xerox 914, we introduced electronics remanufacturing long before the term “circular economy” became popular. Our vision was to transform Xerox manufacturing, operations, offices, and facilities into waste-free workplaces. We had this same vision for our clients’ workplaces: a world where electronics and supplies at the end of their useful life would come full circle to become the raw materials of tomorrow. In this model, quality and performance are not to be compromised, precious natural resources are conserved, and waste becomes an obsolete term. Six decades later, we continue to demonstrate that a circular economy delivers environmental, economic, and societal benefits.

Our aim is to design products, packaging, and supplies that make efficient use of resources, minimize waste, reuse material where feasible, and recycle what cannot be reused. To meet this commitment, we developed several collection and waste reduction programs, as well as design and business models in line with the key elements of a circular economy.

Waste as a Resource

The Xerox Green World Alliance (GWA) provides a collection and reuse/recycling program for spent consumables. The Xerox Product Takeback and Recycling Program efficiently manages equipment at end-of-life, thereby diverting material from landfills and reducing the demand for raw materials. Collected toner from spent cartridges is used for color additives as well as returned to Xerox for reprocessing.

Design for the Future

This approach ensures that our products and packaging placed on the market today can ultimately be reused, fit end-of-life management processes, and meet client needs in the future. Our comprehensive Design for the Sustainability approach engages design teams in all phases to innovate for the circular economy. Our packaging design goes beyond regulatory requirements by prioritizing a “reduce, reuse, recycle” strategy.

Adaptive Business Model

Xerox has an adaptive, leased product business model through which we can guarantee 100 percent of the equipment is returned for optimized end-of-life processing. This model also ensures that our design process prioritizes equipment longevity and reuse and allows for ultimate recycling.

Takeback and Recycling

Our GWA initiative, as noted, is a collection and reuse/recycling program for clients for their used imaging supplies. GWA is central to our commitment to waste-free products. More than thirty-five countries currently participate in the Xerox GWA. Worldwide, our clients returned more than 6.1 million cartridges, toner containers, and other used supply items in 2018, equating to four thousand metric tons, down roughly six hundred metric tons from 2017. The decrease is based on a decline in volume of customer returns in the U.S. market. In 2018, Xerox received the Non-Product Award from the US EPA's Sustainable Materials Management Program for its Green World Alliance program's significant positive sustainability impact.

Returned products are sorted, and items suitable for remanufacturing are cleaned, inspected, and then remanufactured. Remanufactured consumables, containing an average of 90 percent reused/recycled parts, are built and tested to the same performance specifications as new products. Items that are not suitable for remanufacturing are recycled or recovered through energy from waste. Recycled waste toner and toner reclaimed from manufacturing that qualifies for reuse may account for 25 percent of the weight of new toner without compromising toner functionality. Reusing waste/reclaimed toner saves several million dollars in raw material costs each year. Of the toner that cannot be reclaimed, 75 percent is recycled by our consumables recycling partner, while the remaining volume is utilized at energy from waste facilities to generate steam and electricity.

Equipment and Parts Takeback and Recycling

We have developed a comprehensive end-of-life product takeback system, which processes assets through remanufacture, refurbish, parts reuse, recycling, or broker sales, each of which fully supports our waste-free initiatives. Our reverse logistics center is certified to R2, demonstrating our commitment to responsible management of end-of-life equipment and consumables.

We design our machines with high durability and reuse capability to facilitate many product life cycles. During the active phase of a product, all returned equipment and spare parts are evaluated for reuse opportunities throughout the supply chain. All parts and equipment that are not destined for reuse have specific guidelines to facilitate easy and consistent recycling. Xerox enables equipment reuse according to the following principles:

Reuse of complete end item: This approach requires the least reprocessing, transportation, and energy usage.

Remanufacturing or conversion into a newer-generation product or part: Product families are designed with a high level of commonality to enable maximum reuse. This allows us to remanufacture to “as new” performance specifications while reusing 70 to 90 percent of the machine components by weight without degradation of quality or performance.

Used equipment: Equipment returns are evaluated for potential reuse. Based on the condition and market demands, equipment may be put through an extended maintenance/verification process to return it to a high standard and then be redeployed. Approximately 50 percent of machines returned in the U.S. are given new life by being sold as used or sent for remanufacturing of some sort.

Reuse of major modules, subcomponents, and parts for spares or manufacturing: Many of our machines that have outlived their useful life are stripped of usable parts and components before the scrap/reclaim process. Used spare parts returned from the field are also included in this reuse stream. Xerox has continually been increasing the number of components that are reused in upstream and downstream processes after the original machine has been designated for recycling.

Material recycling: After the processes noted above have been followed, any remaining portion of a machine is stripped of any recyclable material (e.g., plastics, copper wire) and material requiring special disposal services, such as printed wire boards, batteries, and lamps. The remainder of the machine is then sent to an industrial reclaim facility.

Post-consumer recycled plastic content: All Xerox products contain from 0 percent to 5 percent post-consumer recycled plastic content.

Xerox participates in several European Union member state Waste Electrical and Electronic Equipment (WEEE) programs; equipment collected and recycled through these programs is not included in our recycling data. In geographies where Xerox exercises direct control over the end-of-life management of equipment, return rates are high. In 2018, 8,600 metric tons of equipment and parts-related waste were diverted from landfills to recycling at our U.S. Reverse Logistics Center. Globally, that volume rises to 9,400 metric tons.

E-Waste: While Xerox has long been committed to responsible end-of-life management of equipment, the proliferation of e-waste regulations has created a need for many separate programs in different countries and even states. We carefully manage suppliers that provide recycling and waste disposal services to ensure that our clients' returned equipment is protected from data breaches and improper disposal. Xerox does not allow its vendors to send electronic scrap to developing nations for processing. In addition, we strive to work only with electronic waste recyclers that have implemented voluntary programs certified by accredited organizations, including Sustainable Electronics Recycling International's (SERI) Responsible Recycling (R2) standard or the Basal Action Network's e-Stewards standard. This past year marks the third year in a row that Xerox has received the U.S. EPA Sustainable Materials Management GOLD Award for its responsible end-of-life processes.

Responsible Operations: Reducing our Company-wide Environmental Footprint

With goals to reduce environmental effects across our value chain, we invest in solutions that can conserve natural resources and lower the energy intensity of our operations. A few examples include:

Energy management and equipment upgrades, such as utilizing “free cooling” systems in place of mechanical cooling for chilled water systems and installing a new air compressor and compressed air system; and

Efficiency-promoting initiatives, including optimizing operation of pumping and air handler systems.

All of our major manufacturing sites, distribution operations, and some of our administrative offices employ an Environmental Management System (EMS) that conforms to ISO 14001:2015.

The system:

- Establishes a framework to ensure compliance with regulations and Xerox standards;

- Identifies environmental effects considering a life cycle perspective and sets objectives and performance targets;
- Identifies, manages, and addresses risks and opportunities related to environmental aspects, compliance obligations, other issues or other needs, and expectations of interested parties;
- Strives for continual improvement by conserving natural resources, eliminating the use of toxic and hazardous materials, preventing pollution, and recovering, reusing, and recycling materials;
- Ensures integration between day-to-day business activities and environmental planning and program management; and
- Encourages innovative engineering solutions, creative partnerships, and employee involvement.

Our major manufacturing operations have been certified to ISO 14001 since 1997. Our major worldwide technology equipment distribution centers achieved certification in 2010. Quarterly status meetings and use of an environmental performance scorecard provide visibility, best practice sharing, and innovation across our operations.

Energy Goal 2025

In 2003, we made a public commitment to reduce GHG emissions—our carbon footprint—by joining the U.S. Environmental Protection Agency (EPA) Climate Leaders program and launching our own internal Energy Challenge 2012.

This 10-year initiative set a goal to reduce GHG emissions across all company operations by 10 percent by 2012. We met this target six years ahead of schedule and set increasingly stringent targets as each previous target was met. By 2016, our cumulative GHG reduction totaled 302,000 tons of carbon dioxide equivalents (CO₂e).

In 2018, we established a new corporate-wide, science-based energy goal to reduce energy consumption and GHG emissions by 25 percent by 2025 (from a 2016 baseline).

As a U.S. Department of Energy Better Plants® Challenge partner, we pledged to improve energy performance by 25 percent over a 10-year period across all our U.S. manufacturing operations in 2018.

Energy and GHG totals are associated with fuel consumption by company-owned fleet and natural gas/electricity consumption in facilities. Vendor invoices from utility and fuel providers are the preferred source of data; when unavailable, estimates have been used.

In accordance with the Greenhouse Gas Protocol and to make annual data comparable, we adjust the energy data each year as a result of the opening and closing of facilities and use of more appropriate emission factors that are available. Revenue is from continuing operations.

Greenhouse Gas Inventory

In accordance with the international guidelines of the Greenhouse Gas Protocol developed by the World Resources Institute and the World Business Council for Sustainable Development, we track the six major GHGs: carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆). As noted, we express our carbon footprint in terms of carbon dioxide equivalents (CO₂e).

Energy sources account for more than 99 percent of our GHG emissions. Our GHG inventory includes direct emissions from the combustion of fossil fuels, primarily natural gas (Scope 1), and indirect emissions from purchased electricity and steam at our manufacturing sites, offices, and warehouses (Scope 2). The inventory also includes the combustion of gasoline and diesel fuels in our service and sales vehicle fleet (Scope 3).

As a result of the opening and closing of facilities, changes to fleet inventory, and availability of more appropriate emission factors, baseline adjustments are made each year, which are reflected in the Energy Consumption and GHG Emission charts. We continually strive to expand our GHG tracking of indirect, or Scope 3 emissions. We currently track Scope 3 emissions from end-of-life treatment of sold

products, employee business travel, product transport, employee commute, and waste generated in operations.

In 2018, Xerox GHG emissions totaled 151,877 metric tons of CO₂e, which is a 15 percent reduction from a 2016 baseline. About 60 percent were direct emissions from the combustion of natural gas, gasoline, and diesel fuel. The remaining 40 percent of the GHG emissions total were indirect emissions from purchased electricity and steam. Xerox-owned or leased facilities, such as manufacturing sites, offices, and warehouses, are associated with 58 percent of our direct GHG emissions. The remaining 42 percent are direct emissions from our service and sales vehicle fleet and other mobile sources.

Scope 3 Emissions

Scope 3 emissions result from activities associated with Xerox activities but take place at a third party and/or arise from sources not owned or controlled by Xerox. Therefore, the collection of indirect, or Scope 3, GHG emissions is challenging. The probability of data inaccuracy with these emission estimates is higher than for Scope 1 or 2 emissions due to the limited availability of data from the supply chain and a lack of transparency in the data collection process.

To overcome some of these challenges, we calculate Scope 3 emissions according to the Greenhouse Gas Protocol Corporate Value Chain (Scope 3) Accounting and Reporting Standard. This standard provides requirements and guidance to collect, prepare, and publicly report a GHG inventory that includes indirect emissions. The Scope 3 emissions information is also used to prioritize our GHG emission reduction efforts and to integrate consideration of carbon impact into our sourcing and internal decision-making.

Third-Party GHG Verification

Our 2018 Scope 1, Scope 2, and Scope 3 GHG emissions have been verified by a third-party verification/assurance company in accordance with ISO 14064-3:2006 against internally defined methodology described in our inventory management plan, and the principles of transparency, accuracy, consistency, completeness, and relevance.

Climate Change Risks and Opportunities

Xerox has examined the regulatory, physical, and commercial risks and opportunities associated with climate change across our value chain.

We assess and manage our carbon risk by maintaining both a comprehensive GHG emissions inventory and a mature regulatory tracking function that provides the necessary information to stay abreast of developing regulations. We do not consider our company to be subject to unique risks due to changing weather patterns, rising temperatures, or sea level rise, but we recognize that our business and clients could be affected by more frequent disruptions because of severe weather in locations where we operate. We may need to invoke our business continuity and resumption plans to aid clients and employees who are affected by business disruptions because of severe weather. We have experience working to ensure continuity of critical applications by prioritizing business needs and developing client-specific preparedness plans where appropriate. These plans include communication with employees and clients, management of employee health and safety issues, business continuity and resumption processes, as well as interaction with government organizations.

We recognize that the costs of energy and concerns around energy security are issues that affect both our operations and our clients. To meet our commitment for “Reducing Energy Use and Protecting the Climate,” our long-term strategy is to continue to invest in technologies that reduce the carbon footprint of our operations and develop technology solutions that help our clients reduce the energy and environmental effects of their businesses.

Materiality

We annually assess CSR topics that are of importance to our stakeholders and those where we can have the greatest economic, social, and environmental effect at local, regional, or global levels. We follow the protocol specified in the Standards of the Global Reporting Initiative (GRI). We examine changing

external factors, including regulations and standards, social challenges people face around the world, our evolving business model, and the environmental impact of our products, services, processes, and operations. Our assessment includes interviews and workshops with internal stakeholders and Xerox leaders, discussions with external stakeholders, and feedback from our employees. Our conclusions:

Managing operations responsibly across our value chain—from decreasing environmental impact and protecting client privacy to promoting diversity and ensuring ethical behavior—remains a priority.

Product, service, and operations-related opportunities, such as improving energy efficiency and expanding access to technology, represent the leading areas where we can create value for society and for our business. Enhancing health, safety, and labor conditions in our global value chain is among the most important ways we can drive sustainable development.

Client Health and Safety

The health and safety of our employees, workplaces, and customers is of paramount importance.

Compliance is the foundation of our effort. We evaluate all potential health and safety hazards, including the ways different hazards may interact. Furthermore, we take a conservative position on the potential health risks to our employees and clients, always meeting or exceeding government safety regulations.

Compliance

We have robust processes for tracking regulatory violations and nonconformity with voluntary codes and labels. In 2018, no such instances resulted in fines or sanctions. We also have a comprehensive process in place for tracking client concerns and other field events. All client issues, such as incidents involving component failures and other potential safety concerns, are investigated carefully to determine the root cause and monitored for trends. Corrective actions are implemented as necessary.

Our safety and supplier processes enable us to meet global regulations governing chemical use. Since 2007, Xerox's newly launched products have been designed to meet the European Restriction of Hazardous Substances (RoHS) requirements in all markets. However, where regulations allow, some products may contain parts with small amounts of RoHS substances to avoid premature disposal of existing parts that have usable life. Similar types of legislation continue to be implemented in many other market regions. Through our proactive regulatory tracking process, we expect to be fully compliant with all aspects of these regulations as the provisions become effective and applicable. In 2018, we reported no issues with noncompliance to RoHS. In addition, Xerox proactively collects data from our suppliers on the presence of REACH regulated substances to provide information to downstream users. The substance review process can also result in a request to the supplier to determine if a suitable alternative is available.

Safe Products and Services

Safety has always been a cornerstone of our work in product development. Our comprehensive Product Safety Plan details our health and safety requirements, and all Xerox imaging equipment is assessed for conformance to these standards.

Clients are encouraged to review product safety information and understand the environmental profile of our devices. User guides contain information regarding safe use and any applicable hazard warnings. Our Product Safety Data Sheets (PSDS) offer environmental, health, and safety information for each Xerox device. Safety Data Sheets (SDS) identify hazards associated with specific materials and describe how they can be safely handled, used, stored, and disposed of. Both our SDS and product labeling have been updated to meet the requirements of the Globally Harmonized System of Classification and Labeling of Chemicals (GHS) as implemented through regulations in our various markets. Clients can access PSDS and SDS in different languages at www.xerox.com/environment.

Materials

Xerox was the first and remains the only company in our industry to have concluded two comprehensive investigations that lasted more than three decades on the health risks of inhaling xerographic toner.

These studies included assessments of the health of current employees and the causes of death for

people who worked for the company between 1960 and 1982. The analysis demonstrated that the health and mortality patterns of Xerox employees were consistent with a healthy working population and, in fact, our employees had a lower rate of disease (i.e., were healthier) than the general population. In October 2010, the mortality study was published in the peer-reviewed Journal of Occupational and Environmental Medicine.

We have made a long-term commitment to eliminate the use of persistent bioaccumulative and toxic materials throughout our supply chain by applying strict internal standards and tightly managing chemicals. Our supplier requirements are periodically updated as regulations change, and new information becomes available. All new product designs refer to these requirements, and suppliers are expected to verify their compliance with them. Learn more at www.xerox.com/environment.

Toxicologists conduct a comprehensive assessment of new materials in our products to ensure conformance with applicable global registration, hazard communication, and waste handling and disposal requirements. In addition, our strict internal standards set firm controls on the types of materials approved for use in our consumable products. As a result of our stringent requirements, Xerox toners and office printing products are noncarcinogenic and nonmutagenic. These products do not: cause adverse developmental or reproductive effects; pose a toxicity hazard to humans or aquatic species; cause a permanent adverse effect to the skin, eyes, or respiratory system; or have the potential to generate federally regulated hazardous waste. Xerox sells imaging supplies through its distribution network that are manufactured by other companies for use in other Original Equipment Manufacturer (OEM) printers. We review these supplies to ensure compliance with appropriate regulatory requirements and our own stringent standards.

Ergonomics

We consider the ergonomic aspects of our products from both a user and service standpoint to ensure inclusion and operability. Our design teams consider all points of human interface, including a product's height, curves, and placement of touchscreens and paper trays. We also place a high value on the end-user experience through human factors, industrial design, and user interface design to promote ease of use, ease of learning, and transfer of learning. Product design teams work directly with clients in our labs to test and continually improve the usability of new products.

Machine Emissions

Consistent with the world's most stringent ecolabels, we design products to control emissions of chemicals. As a result, current products have achieved chemical emission levels that are well below global regulatory requirements—often at or near the detection limit of our measurement equipment—and are considered to have a negligible impact on clients' work environments. We publish emissions data for our products in our PSDS.

Accessibility and Mobility

In the print industry, Xerox was the first in many ways to design products that are accessible and easy to operate by all users, including people with disabilities. Our dedicated team of design professionals upholds that commitment for the products and services we provide.

To make our systems accessible for people with disabilities, Xerox has developed several accessories, such as angled consoles, Braille console labels, magnifying lenses for visually impaired users, and "start print" foot switches. We design software for embedded web servers and print drivers to be compatible with screen readers to enable people with visual impairments to operate them. On an ongoing basis, we strive to improve our performance around accessibility and adapt products so that ease of use is not compromised.

Xerox stepped forward in 1998 when Congress amended Section 508 of the U.S. Rehabilitation Act of 1973. We developed solutions to adapt our technology for use by government workers who are disabled. We also established a rigorous process to evaluate our products' compliance to meet Section 508 accessibility requirements. In the near future, Section 508 rules will change, and new input is expected to

come from the European Union and the Far East. Learn more about our efforts pertaining to Section 508 accessibility requirements at Xerox.com.

Our focus on increased mobility has expanded with the anywhere, always-on enterprise. We're enabling enterprises to manage a complex infrastructure, as employees are bringing their own devices to work and demanding the same seamless, secure ability to find, use, and print business documents. Xerox technology, such as mobile print solutions, is enhancing easy access to information.

Xerox Replacement Cartridges (XRC) — Reducing Solid Waste

For XRC products, Xerox packaging engineers replaced hot wire expanded polystyrene end caps with inflatable air bags. Upon receipt of the package, the air bags are easily deflated, producing far less solid waste by mass and cubic volume compared to polystyrene; this change is an environmentally preferable alternative.

Shifts toward More Energy-Efficient Technologies

One example is Xerox's commitment to emulsion aggregation (EA) technology, or chemical toner, which is estimated to generate 28% fewer GHG emissions in the manufacturing process than conventional toner.

Increased Reliability of Xerox Equipment and Parts

Digital technology has improved the reliability of components inside our products. This reduces service calls, which results in fewer miles driven by Xerox technicians and less gasoline consumed.

Efficient Use of Paper

Including reliable two-sided (duplex) printing, Xerox equipment and software are also designed with features that allow customers to make efficient use of paper. Software products such as DocuShare®, SMARTsend® and FreeFlow® Digital Workflow Collection help Xerox customers reduce paper consumption by facilitating electronic data management, scan to e-mail, print-on-demand and distribute-then-print workflows.

Solid Ink

Xerox introduced print technology utilizing solid inks that contain no plastic and/or encasements what-so-ever. The ink cartridges are made out of a crayon-like substance that is inserted much like a standard cartridge and the ink is literally melted onto the paper. This innovative technology results in minimal waste and generates virtually no waste.

Toner & Parts Recycling

Returned products are sorted, and items suitable for remanufacturing are cleaned, inspected and then remanufactured. Items that are not suitable for remanufacturing are recycled or recovered through energy from waste.

Xerox follows an effective cartridge recycling process that contributes nothing to our landfills.

Managing Supplies Responsibly

Xerox has partnered with Close the Loop, Inc. to ensure the raw materials in the toner cartridges you return are recovered and reused. The closed-loop process ensures no waste ever reaches the landfill and reduces the demand for raw materials by reusing toner cartridge byproducts.

Close the Loop® (CtL) is a world leading recycler of toner cartridges and imaging supplies. Xerox has partnered with CtL to collect and manage toner recycling using a patented materials separation process that recovers used materials for reuse in new products.

Remanufacture

On average, approximately 60% by volume of the used cartridges returned to Xerox are remanufactured. Remanufactured cartridges, containing an average of 90% reused/recycled parts, are built and tested to the same performance specifications as new products. Remanufacturing a cartridge saves up to 80% of the energy that would be required to produce a new cartridge and keeps on average 2 lbs. of used

materials from winding up in landfills. Since millions of pounds of cartridge waste are disposed of each year, remanufacturing is an important environmental solution.

Recycle

The other 40% of supplies returned to Xerox are recycled to recover all the component materials. The average returned used cartridge is composed of 40% plastic, 40% metal and smaller amounts of rubber, paper, foam, and toner. Xerox has partnered with Close the Loop to recycle all returned cartridges that do not meet our stringent standards for remanufacture. CtL uses a patented process to break down a cartridge into its component parts. After separation and cleaning, the components are returned to the market as usable raw materials, with zero waste to landfill.

Rehabilitate

CtL also reuses plastic in the manufacture of a durable construction product called eLumber®. eLumber is a timber replacement product that is particularly useful in outdoor applications such as raised flower beds, planter boxes and fencing. Each year thousands of dollars' worth of eLumber are donated to Habitat for Humanity for use in housing for low-income families and their disaster response program.

Product Take-Back and Recycling

Begun in the early 1990s, Xerox has pioneered the practice of converting end-of-life electronic equipment into products and parts that contain reused parts while meeting new product specifications for quality and performance. We have developed a comprehensive process for taking back end-of-life products, and have established a remanufacture, parts reuse and recycling program that fully supports our waste-free initiatives.

G. Describe any diversity programs or partners supplier does business with and how Participating Agencies may use diverse partners through the Master Agreement. Indicate how, if at all, pricing changes when using the diversity program

As a global leader in business process and document management, Xerox recognizes that having a diverse supplier pool is a major competitive advantage and a powerful business tool. Xerox's Supplier Diversity Program's mission is to proactively identify, build relationships with, and purchase goods and services from certified small businesses as well as enterprises owned by minorities, women, veterans, gays and lesbians, and disabled persons that can help Xerox achieve its corporate objectives as suppliers to Xerox. Also, though Xerox's dedicated Divers Alliance Program, we are committed to understanding and supporting our customer's supplier diversity goals and objectives. Specifically, Xerox in connection with the Master Agreement will support Region 4 ESC by offering solutions which include certified HUBs or other certified diverse subcontractors as part of our offer where applicable and practical. While Xerox is not a certified diverse company, we believe selecting Xerox would give Region 4 ESC the best of both worlds by working with the leading global document management company which is committed to having practical and useful diverse certified subcontractors directly supporting our contract with you.

H. Describe any historically underutilized business certifications supplier holds and the certifying agency. This may include business enterprise such as minority and women owned, small or disadvantaged, disable veterans, etc.

Xerox is not a certified diverse company; however, we do work with certified diverse companies to provide direct and indirect spend as part of our offer to our customers.

I. Describe how supplier differentiates itself from its competitors.

Today's Xerox is a leader in print technology and intelligent work solutions using the advantages of our people, our approach, and industry leading technology to solidify our stronghold in a number of competitive markets.

Our Approach

- We have deep industry knowledge and take the time to understand our clients' business and how they work, to build and create solutions – to help them achieve their goals.
- We work with clients to innovate, incubate and explore new solutions to critical business challenges.
- Using user centric design, we study how people work in order to make it better.
- We know every workflow is different, so we strive to create solutions that match each need.

Our Market Position

- MPS Market share leader and thought leader according to leading Industry Analyst Firms.
- Xerox is the most decorated and experienced vendor in the Managed Print Services Landscape. All three major industry analysts, (Quocirca, IDC, InfoTrends) have placed Xerox as the top provider in the MPS landscape in their most recent market reports.
- We maintain our No. 1 position in worldwide equipment sales revenue and No. 1 marketshare in production color.
- Managing billions of printed pages per year with unparalleled global delivery.
- Tight integration with technologies used by today's workforce enabling access to cloud-hosted services, exceptional customized experiences, and maximum productivity.

Our People

- We never give up – whether it is providing support to customers, developing a better way to help customers work better, or pushing the limits of technology and software innovation.
- We believe collaboration and teamwork are the only way to achieve success.
- We attract, hire and retain the top talent with the best skills.
- Named one of the World's Most Ethical companies by Ethisphere Magazine, for 12 consecutive years.
- Named one of the World's Most Reputable Companies by Forbes and Reputation Institute.
- Listed as one of the World's Most Admired Companies by Fortune Magazine.

Our Technology and Innovation

- World renowned innovation and expertise – including printing, advanced color science, digital and video imaging, workflow automation, connectivity, and analytics.
- We are innovators and inventors and our people have over 10,307 active patents. Xerox is one of the top 20 patent producing companies in the world.
- Over \$1 billion is invested in R&D and engineering each year.
- Xerox has been the force behind many major technology breakthroughs – such as the ConnectKey interface and the adaptive color technology – which have transformed how work gets done.

Security Protocols Providing the Upmost Protection for our Customers

- Multifunction devices are sophisticated, multiple sub-system network platforms, and Xerox offers the broadest range of security functionality on the market, including encryption, authentication, authorization per user and auditing.
- ISO 15408 Common Criteria for Information Technology Security Evaluation is the only internationally recognized standard for security certification. Xerox was the first manufacturer to seek and obtain certifications for “complete” MFP devices. Because each element of the multifunction platform is a potential point of entry, meaningful security certification must

comprehend all elements, including the operating systems, network interface, disk drive(s), Web server, PDL interpreter(s), MFP user interface, local hardware ports and fax system.

- Users of Xerox® ConnectKey® Technology-enabled 'i-Series' Smart MFPs also now have the option to encrypt PDF files with a password when using the Scan to Email service allowing only authorized users to see documents.
- From the introduction of the first digital products, Xerox has recognized the risk of retained data being inappropriately recovered from non-volatile storage and built features and countermeasures into our devices to help customers safeguard their data.
- Many Xerox® devices include features to protect the printer or MFP from unauthorized remote access, protect the confidentiality of data transmitted to the device via the network, control which devices can access the MFPs and control the ports, protocols and services that can be accessed on the device.

J. Describe any present or past litigation, bankruptcy or reorganization involving supplier.

Bankruptcy

Xerox has not filed for bankruptcy or other of form of debt resolution.

Litigation

In the ordinary course of its business, Xerox, its subsidiaries and affiliates are routinely the subject of litigation that asserts a variety of claims, sometimes including employment-related claims. Please see Xerox's Annual (Form 10-K), Quarterly (Form 10-Q) and Current (Form 8-K) Reports filed with the U.S. Securities and Exchange Commission (SEC) for information on material litigation. These reports are available to the public on the SEC website and on Xerox's website <http://www.xerox.com/investor>.

Reorganization

Xerox recently announced that its Board of Directors has approved a reorganization of the Company's corporate structure into a holding company structure, pursuant to which Xerox Corporation will become a direct, wholly-owned subsidiary of a new holding company that will be named Xerox Holdings Incorporated. The reorganization is subject to shareholder and regulatory approval. The purpose of the reorganization is to provide the Company with strategic, operational and financial flexibility. Business operations, directors and executive officers of the Company will not change as a result of the reorganization. The reorganization will not impact our ability to serve OMNIA Partner members.

K. Felony Conviction Notice: Indicate if the supplier a. is a publicly held corporation and this reporting requirement is not applicable;

Xerox is a publicly held corporation.

b. is not owned or operated by anyone who has been convicted of a felony; or

Xerox is not owned or operated by anyone who has been convicted of a felony.

c. is owned or operated by and individual(s) who has been convicted of a felony and provide the names and convictions.

Xerox is not owned or operated by anyone who has been convicted of a felony.

L. Describe any debarment or suspension actions taken against supplier

Xerox has never been disbarred, suspended or otherwise disqualified from doing business with the federal government.

3.2 Distribution, Logistics

A. Describe the full line of products and services offered by supplier.

We provide the industry's broadest portfolio of document technology and software. Through our innovation and market leadership, we have developed a strong industry reputation and recognizable brand with trusted competencies in bridging the physical and digital printing and communications, both in the office and production markets. Our core capabilities and offerings consist of technologies, solutions and services that simplify workflows, grow revenue and transform the customer experience, as described below.

Xerox Technology & Software – Workplace and Production Solutions

Entry Desktop Monochrome and Color Printers	Entry Desktop Monochrome and Color Printers range from small devices to workgroup printers and MFPs that serve the needs of office workgroups. These products help build a platform to effectively manage document workflow.
Mid-Range	Our Mid-Range products offer advanced features with the ability to handle higher print volumes as well as varying paper sizes. Entry and Mid-Range products share common technology, manufacturing and product platforms enabling ease of use and complete office integration.
Cut-Sheet Presses	As the worldwide leader in the cut-sheet color and monochrome production industry our cut-sheet presses provide high speed, high-volume printing. They are utilized for environments that are ideal for publishing, transaction printing, print on demand, and one-to-one marketing, offering the best in high speed, productivity and resolution and color.
InkJet Presses / Continuous Feed Printers	Our inkjet presses offer a broad range of roll fed, continuous feed printing technologies, including waterless inkjet and aqueous inkjet for vivid color, and toner-based flash fusing for black and white. Our portfolio spans a variety of print speeds, image quality, feeding, finishing and media options. High-volume, production inkjet presses are the fastest-growing sector of digital printing. They can help you capitalize on color books, personalized catalogs, trans-promo and direct mail. Our inkjet presses and continuous feed printers — including the industry's first entry production inkjet portfolio — are modular to grow with your business.
FreeFlow portfolio	Our FreeFlow portfolio of software offerings brings intelligent automation and integration to the processing of print jobs, from file preparation to final production, for a touchless workflow. It helps customers of all sizes address a wide range of business opportunities including automation, personalization and even electronic publishing.
DocuShare	DocuShare enterprise content management provides a better way to manage paper and digital content from creation to retention to transformation. Capture, store and share documents either on-premise or by cloud while automating time-consuming, document-heavy processes like accounts payable, HR onboarding, contract management and mortgage processing.

Software Platform	What makes Xerox Printer/Multifunction Printer (MFP) unique is that they are built on the <u>Xerox ConnectKey® Technology platform</u>. This platform enables a Process for Workflow Improvement. It operates with an intuitive tablet-like touchscreen user interface. The platform is an open embedded platform that allows the device to be programmed to address specific workflows. This new capability is driven by embedded or server-based software inside the firewall or in the cloud. As such, the smart Printer/MFP incorporates an ecosystem of hardware, software, and services to address ESC's document and information processing requirements.
Customized Applications	Our apps extend the capabilities of your MFDs and help you make the most of your hardware investment. But unlike traditional software, our apps do not require a dedicated server, PC or IT resource. Instead these apps are lightweight, serverless solutions you can download to your ConnectKey enabled MFP. Xerox has over 100 workplace apps. Here are a few examples: - The <u>Xerox® Easy Translator Service App</u>, translates to 35+ languages. Xerox® Easy Translator Service is a cloud translation service. The service offers several levels of translation ranging from scan in a document to a Xerox multifunction printer and receive a translation printed out to the highest level, which is a human word for word translation. - The <u>Xerox® Audio Documents App</u>, an app available for use with your <u>ConnectKey® Technology</u>-enabled devices that will convert a hard copy document to an audio file - The <u>Xerox Proof-Reader Service App</u>, gives users instant access to a powerful tool that checks for spelling, grammar, style, and plagiarism right from the MFP. A report with suggested corrections can be printed and/or emailed to the user, all right from the device. Users also have access to a web portal at https://xeroxproofreader.com to upload electronic documents for instant feedback.

B. Describe how supplier proposes to distribute the products/service nationwide. Include any states where products and services will not be offered under the Master Agreement, including U.S. Territories and Outlying Areas.

Xerox sells our products and services directly to public agencies nationally through our national sales force, our authorized independent agents and our wholly-owned subsidiary, Xerox Business Solutions (XBS), formerly Global Imaging Systems (GIS), an office technology dealer comprised of regional core companies in the U.S. Our products and services can be offered in all 50 States, the District of Columbia as well as Guam, Puerto Rico and the Northern Mariana Islands.

C. Describe how Participating Agencies ensure they will receive the Master Agreement pricing; include all distribution channels such as direct ordering; retail or in-store locations, through distributors, etc. Describe how Participating Agencies verify and audit pricing to ensure its compliance with the Master Agreement.

All orders and purchase orders under the Region 4 ESC contract will be processed through the Xerox centralized contracting system irrelevant of the sales channel placing the order. All orders placed, per the terms and conditions of this contract, will be placed via the underlying pricing system, ensuring consistency and compliance to the awarded pricing and terms.

D. Identify all other companies that will be involved in processing, handling or shipping the products/service to the end user.

As an integral part of the Xerox Supply Chain Network, Ryder Solutions is our largest third-party logistics partner involved in delivering equipment, parts and supplies. The Ryder relationship with Xerox has evolved over the past few decades in response to a changing transportation environment and Xerox's process requirements. Today, Ryder operates 5 distinct supply chain functions in the process: Several Carrier Logistics Centers, District Parts Center, Truckload (over the road) Transportation, Drayage of ocean containers and management of our LTL network.

The Carrier Logistics Center (CLC) network, made up of 51 locations and 17 different third-party carriers (10 continental US and 7 offshore) involves the delivery, installation and removal of more than 100,000 imaging machines per year, where CLC drivers are trained in product installation, testing and removal. Flawless, seamless execution are essential to deliver outstanding service to Xerox customers.

CLC "Final mile" companies potentially involved in this business in addition to Ryder would include Fidelitone, All Points, Apex, Monarch/NET, Nationwide Electronics, Redman Van & Storage, Safeway/Unigroup, Sullivan Moving, WDS as "onshore" or continental locations, as well as Reliable Transfer and Carlile Transportation in Alaska, GuamPak and/or Guam Transfer in Guam, and Aloha Isle Moving, Valley Isle Express, Takahashi Brothers Trucking, and Hawaii Transfer in Hawaii. We also have CLCs in the USVI and Saipan, should those locations be included at a later date.

The benefits of Ryder and Carrier include:

- Improved productivity
- On-time performance and Achieved metrics
- Consistent outstanding customer service

E. Provide the number, size and location of Supplier's distribution facilities, warehouses and retail network as applicable.

Our manufacturing and distribution facilities are located around the world. Our largest manufacturing site is in Webster, N.Y., where we produce the Xerox iGen, Nuvera, Brenva and Direct to Object Inkjet Printer systems, as well as key components and consumables for our products, such as toner. We also have manufacturing operations in Dundalk, Ireland, for components, consumables and printer systems sustainable manufacturing; in Wilsonville, OR, for solid ink consumables and components; and in Aubagne, France, for our Production aqueous ink-jet production systems (Rialto and Trivor). Other Xerox manufacturing plants are located in Venray, Netherlands; Ontario, Canada; and Oklahoma City, OK, where we manufacture materials and components. Additionally, we work with various manufacturing and distribution partners, including a 15+ year relationship with FLEX LTD (Flex) (formerly Flextronics), a global contract manufacturer. We have arrangements with Fuji Xerox Co., Ltd. (Fuji Xerox) under which we purchase and sell products, some of which are the result of mutual research and development agreements. We also acquire products from various third parties in order to increase the breadth of our product portfolio and meet channel requirements.

3.3 Marketing and Sales

A . Provide a detailed ninety-day plan beginning from award date of the Master Agreement describing the strategy to immediately implement the Master Agreement as supplier's primary go to market strategy for Public Agencies to supplier's teams nationwide, to include, but not limited to:

- Executive leadership endorsement and sponsorship of the award as the public sector go-to-market strategy within first 10 days**
- Training and education of Supplier's national sales force with participation from the Supplier's executive leadership, along with the OMNIA Partners, Public Sector team within first 90 days**

As a continued partner of OMNIA Partners, Xerox's objective is to successfully implement the contract to ensure continued contract awareness, adoption and contract revenue growth. To achieve these goals,

Xerox has developed a comprehensive 90-day action plan detailing how we will implement the contract upon award.

Within 30 days of award:

- Implement contract in the Xerox contract management system to enable order taking
- Create and distribute Press Release Announcement of Award
- Distribute Executive Sponsored Contract Award Announcement Communique to the Xerox Executive Leadership Teams and their respective sales and sales support resources, to include contract details, pricing and contract resource support
- Meet with OMNIA Partners Marketing team to develop specific co-marketing strategies to support the contract
- Created OMNIA Partners portal on Xerox.com

Within 60 days of award:

- Conduct contract training with all sales to highlight the benefits of our OMNIA Partners partner relationship, the scope of the contract, pricing, marketing strategies and available resources to support day to day sales activities
- Create co-marketing collaterals

Within 90 days of award:

- Assess success of contract launch and make adjustment as needed

B. Provide a detailed ninety-day plan beginning from award date of the Master Agreement describing the strategy to market the Master Agreement to current Participating Public Agencies, existing Public Agency customers of Supplier, as well as to prospective Public Agencies nationwide immediately upon award, to include, but not limited to:

i. [Creation and distribution of a co-branded press release to trade publications](#)

Xerox will work collaboratively with OMNIA Partners to create a press release to trade publications announcing the contract and highlighting the benefits of our continued partnership. We will amplify the great news through posts on Xerox's corporate social channels.

ii. [Announcement, Master Agreements details and contact information published on the Supplier's website within first 90 days](#)

Xerox Elite eCommerce Solutions can enable an OMNIA Partners' microsite for the online viewing of Xerox equipment, contract details, Xerox account team contact information and direct links to the OMNIA Partner's website. Xerox Elite eCommerce solutions can typically be launched within 30 days of contract award.

iii. [Design, publication and distribution of co-branded marketing materials within first 90 days](#)

Xerox will work in partnership with OMNIA Partners Marketing team to design and distribute co-branded marketing collateral for distribution to Xerox Sales, OMNIA Partner Region Managers and on-line retrieval.

iv. [Commitment to attendance and participation with OMNIA Partners, Public Sector at national \(i.e. NIGP Annual Forum, NPI Conference, etc.\), regional \(i.e. Regional NIGP Chapter Meetings, Regional Cooperative Summits, etc.\) and supplier-specific trade shows, conferences and meetings throughout the term of the Master Agreement](#)

Xerox attends and participates in many national, state and regional conferences throughout the year, such as NIGP, NAEP, CAPPO and more. Exhibit participation is dependent on current national, regional and local marketing funds.

v. Commitment to attend, exhibit and participate at the NIGP Annual Forum in an area reserved by OMNIA Partners, Public Sector for partner suppliers. Booth space will be purchased and staffed by Supplier. In addition, Supplier commits to provide reasonable assistance to the overall promotion and marketing efforts for the NIGP Annual Forum, as directed by OMNIA Partners, Public Sector.

Xerox understands the importance of attending and partnering with OMNIA Partners at the Public Sector NIGP Annual Forum. Xerox historically attends the NIGP Annual Form. Exhibit participation is dependent on current available marketing funds.

vi. Design and publication of national and regional advertising in trade publications throughout the term of the Master Agreement

vii. Ongoing marketing and promotion of the Master Agreement throughout its term (case studies, collateral pieces, presentations, promotions, etc.)

- OMNIA Partners, Public Sector standard logo;
- Copy of original Request for Proposal;
- Copy of Master Agreement and amendments between Principal Procurement Agency and Supplier;
- Summary of Products and pricing;
- Marketing Materials
- Electronic link to OMNIA Partners, Public Sector's website including the online registration page;
- A dedicated toll-free number and email address for OMNIA Partners, Public Sector

Xerox will work collaboratively with OMNIA Partners to develop a marketing plan to promote the use of the Master Agreement which may include case studies, co-branded collaterals, campaigns, etc.

C. Describe how Supplier will transition any existing Public Agency customers' accounts to the Master Agreement available nationally through OMNIA Partners, Public Sector. Include a list of current cooperative contracts (regional and national) Supplier holds and describe how the Master Agreement will be positioned among the other cooperative agreements.

Xerox has hundreds of state and local government contracts within the US which, per state law, allow for cooperative purchasing. Listed below are the actual national cooperative group purchasing contracts that Xerox is currently awarded on. Within an active procurement cycle, we provide the contract based on the needs, requirements and requests of the procurement agency. Within every procurement order, Xerox provides an implementation plan to allow for transparent transition from one contract to another.

Cooperative contracts include:

- OMNIA Partners
- GSA Schedule 70
- NASPO ValuePoint
- E&I
- PEPPM
- Sourcewell

D. Acknowledge Supplier agrees to provide its logo(s) to OMNIA Partners, Public Sector and agrees to provide permission for reproduction of such logo in marketing communications and promotions. Acknowledge that use of OMNIA Partners, Public Sector logo will require permission for reproduction, as well.

Because of the tremendous value associated with our brand, Xerox provides our company logo after the review of the use of our logo by the Xerox brand team, prior to the release of any marketing communications. Xerox Corporation shall have ten business days to approve such use prior to publication. Any use of OMNIA Partners Public Sector name and logo or any form of publicity, inclusive of press releases will have prior approval from OMNIA Partner.

E. Confirm Supplier will be proactive in direct sales of Supplier's goods and services to Public Agencies nationwide and the timely follow up to leads established by OMNIA Partners, Public Sector. All sales materials are to use the OMNIA Partners, Public Sector logo. At a minimum, the Supplier's sales initiatives should communicate:

- i Master Agreement was competitively solicited and publicly awarded by a Principal Procurement Agency
- ii Best government pricing
- iii No cost to participate
- iv Non-exclusive

Xerox acknowledges and agrees.

F. Confirm Supplier will train its national sales force on the Master Agreement. At a minimum, sales training should include:

- i. Key features of Master Agreement
- ii. Working knowledge of the solicitation process
- iii. Awareness of the range of Public Agencies that can utilize the Master Agreement through OMNIA Partners, Public Sector
- iv. Knowledge of benefits of the use of cooperative contracts

Xerox acknowledges and agrees.

G. Provide the name, title, email and phone number for the person(s), who will be responsible for:

i. Executive Support

Mark Browning | Vice President

Public Sector / Healthcare Center of Excellence

Sales Enablement Americas Operations

mark.browning@xerox.com

Phone: 717-777-6624

ii. Marketing

Staci McKee | Global Audience Marketing

Government | Healthcare | Education

Staci.mckee@xerox.com

Phone: 303-881-3718

iii. Sales

Rachael Jones Turner | SLED Cooperative Contracts Manager

Public Sector / Healthcare Center of Excellence

Sales Enablement Americas Operations

Rachael.Jones@Xerox.com

Phone: 310-258-6266

iv. Sales Support

Jennifer Melgar | S&L Cooperative Contract Support Administrator

NAO – SE Xerox Sales Support Center

Jennifer.Melgar@Xerox.com

Phone: 503-685-2239

v. Financial Reporting

Kathlene M. Andris | Rebate Analyst

US Customer Business Operations

Kathlene.Andris@Xerox.com

Phone: 847-928-2543

vi. Accounts Payable

Kevin Rowland | Accounts Payable Manager | Systems Support Manager

CFO Global Operations

Kevin.Rowland@xerox.com

Phone: 585-427-3974

vii. Contracts

Rachael Jones Turner | SLED Cooperative Contracts Manager

Public Sector / Healthcare Center of Excellence

Sales Enablement Americas Operations

Rachael.Jones@Xerox.com

Phone: 310-258-6266

H. Describe in detail how Supplier's national sales force is structured, including contact information for the highest-level executive in charge of the sales team.

Xerox is organized from a sales perspective on the basis of “go-to-market” sales channels. These sales channels are structured to serve a range of customers for our products and services.

Mike Feldman, President of the Americas Operations for Xerox Corporation, leads the company's go-to-market teams in the U.S., Canada, Mexico, Central and South America. Our sales go-to-market teams are focused on bringing our full portfolio of product offerings to current and new customers and partners, while maximizing and expanding coverage through direct and indirect channels.

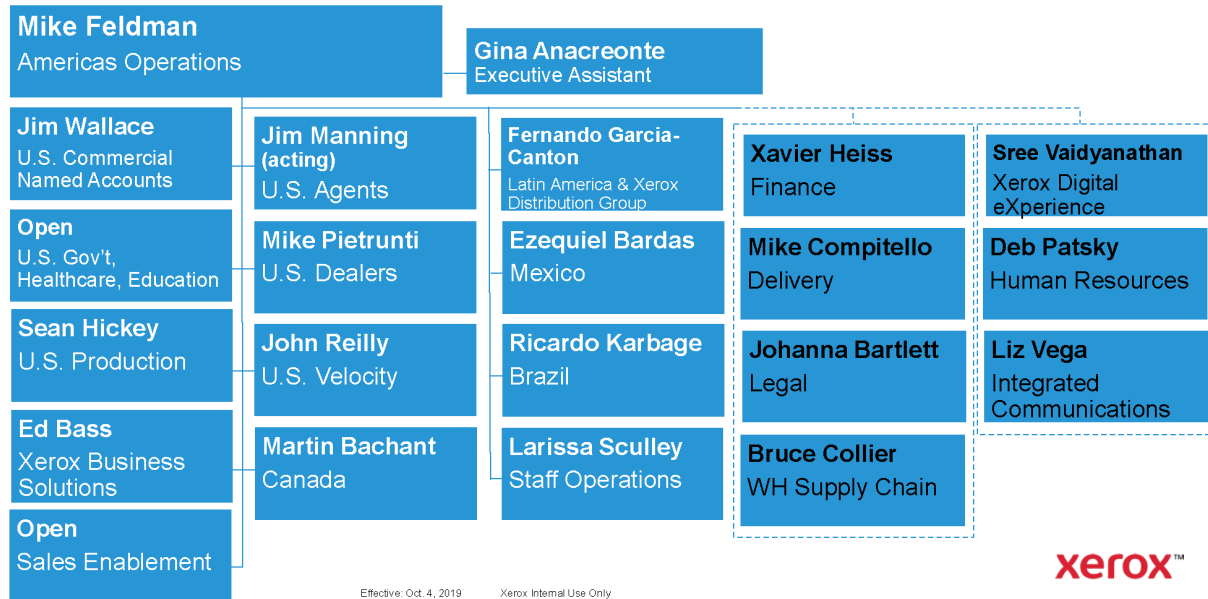
Jim Wallace leads both the U.S. Commercial Named Accounts and the Government, Healthcare & Education (GHE) sales teams.

Jim Manning leads the U.S. Agents, Xerox authorized independent agents.

Ed Bass leads our wholly owned subsidiary, Xerox Business Services (XBS) - formerly known as Global Imaging Systems), an office technology dealer comprised of regional companies in the U.S.

Xerox's Americas Operations Organization chart is presented below.

Americas Operations Organization



I. Explain in detail how the sales teams will work with the OMNIA Partners, Public Sector team to implement, grow and service the national program.

We have found positive results in taking a collaborative approach with OMNIA Partners to market our contract to public agencies to drive both awareness and adoption. We depend on our partner's willingness and support to help carry our message and promote our technology and we have learned that taking a joint approach for these initiatives often yields higher rates of success in the long-term. We encourage sales integration to strategize on account specific opportunities, bridge relationships between the member and Xerox and support customer eligibility questions. During the training and launch of the contract, Xerox will reinforce the role of the OMNIA Partner's Region Managers and will encourage integration during Xerox sales team meetings and one-on-one interaction for account specific opportunities.

I. Explain in detail how Supplier will manage the overall national program throughout the term of the Master Agreement, including ongoing coordination of marketing and sales efforts, timely new Participating Public Agency account set-up, timely contract administration, etc.

Xerox will continue managing the national program throughout the term of the contract by leveraging our superior national infrastructure solely responsible for all aspects of government contracting. The Xerox Public Sector Center of Excellence (COE) ensures contract education nationally, consistency of pricing and controls, compliance to the terms and conditions of the contract, sales reporting and marketing and sales efforts. Within the COE, we have dedicated resources who are responsible for managing each core competency. Throughout the term of the master agreement, this team will lead the efforts to coordinate all aspects of the management of the contract.

J. State the amount of Supplier's Public Agency sales for the previous fiscal year. Provide a list of Supplier's top 10 Public Agency customers, the total purchases for each for the previous fiscal year along with a key contact for each.

Xerox does not make this information publicly available. A significant portion of our revenues is derived from contracts with U.S. state and local governments and their agencies.

K. Describe Supplier's information systems capabilities and limitations regarding order management through receipt of payment, including description of multiple platforms that may be used for any of these functions.

Orders are entered into a centralized ordering system which is accessible to only authorized Sales Representatives and the Order Processing Representatives. Editing of the order is completed and the request for equipment or service is passed to distribution in the equipment procurement system to establish a delivery date and time. Additionally, any special requirements are noted, and the appropriate departments are automatically notified if their involvement is necessary at the time of installation. Once successfully installed and accepted a notification is sent to the billing system to start the invoicing of the equipment or service. Invoices are generated and delivered to the customer and are due upon receipt. Generally, any equipment ordered or invoiced can be tracked and any needed reporting can be pulled from a centralized database.

Intentionally Redacted

M. Even though it is anticipated many Public Agencies will be able to utilize the Master Agreement without further formal solicitation, there may be circumstances where Public Agencies will issue their own solicitations. The following options are available when responding to a solicitation for Products covered under the Master Agreement.

- i. Respond with Master Agreement pricing (Contract Sales reported to OMNIA Partners, Public Sector).
- ii. If competitive conditions require pricing lower than the standard Master Agreement not-to-exceed pricing, Supplier may respond with lower pricing through the Master Agreement. If Supplier is awarded the contract, the sales are reported as Contract Sales to OMNIA Partners, Public Sector under the Master Agreement.
- iii. Respond with pricing higher than Master Agreement only in the unlikely event that the Public Agency refuses to utilize Master Agreement (Contract Sales are not reported to OMNIA Partners, Public Sector).
- iv. If alternative or multiple proposals are permitted, respond with pricing higher than Master Agreement, and include Master Agreement as the alternate or additional proposal.

Detail Supplier's strategies under these options when responding to a solicitation.

Applicable to all four of these situations, whether a formal solicitation or not, as Xerox is requested to participate in a procurement cycle with an OMNIA Partner member, we will provide unique pricing equal to or below the not to exceed pricing based on bulk buy provisions per the terms and conditions of the Region 4 ESC master agreement. If the individual procuring agency requires us to amend those terms and conditions to meet their specific state laws or requirements, we will provide an addendum in conjunction with the master terms and all revenue will be reported under OMNIA Partners.

This concludes Xerox's response to Appendix D, 3.0 Supplier Response.

iv. Describe how Offeror responds to emergency orders.

The Xerox Sales Representative is responsible for contacting a Customer and obtaining an order. After the Xerox agreement is finalized and signed, the Xerox Sales Representative submits the order electronically to the Xerox Order Entry team. The Xerox Order Entry team reviews and edits the order for validation of pricing (including contract term), invoice addresses, delivery addresses, and overall configuration of a device prior to releasing the order. The order is then routed electronically to the Xerox Warehouse and Logistics. Warehouse will fulfill the order by ensuring that the equipment ordered is shipped to Logistics. Logistics will contact the Customer to schedule the equipment delivery.

In the event a product is required sooner than the Xerox Warehouse can ship to Logistics, there are several options to expedite the order:

1. If expedited delivery of product is known in advance of order signature the product can be shipped to Logistics in what is known as Pre-staging and be available for delivery promptly after signature.
2. Product can be sourced locally from existing non-expedited orders and assigned to the order requiring expedited delivery.
3. Demonstration units from local showrooms or sales offices can be provided as an interim solution for expedited product requests.
4. Short-term rental of similar or substitute product can be arranged if the required product cannot be expedited through pre-staging, local sourcing, or if demonstration units are not available.

v. What is Offeror's average Fill Rate?

Xerox's fill rate is 95%.

vi. What is Offeror's average on time delivery rate? Describe Offeror's history of meeting the shipping and delivery timelines.

Xerox equipment deliveries can normally be expected within two to three weeks following the receipt of an OMNIA Partner Member's equipment order. In the rare occurrence of a product constraint, Xerox will inform the member that a constraint condition exists and will provide a revised delivery date. If the revised target delivery date is unacceptable, the OMNIA Partner Member can cancel the order prior to delivery without penalty to either party.

vii. Describe Offeror's return and restocking policy.



All leased equipment proposed will be covered under a Xerox Full Service Maintenance Agreement (FSMA) for the full term of the lease. FSMA offers a worry-free investment with Xerox, as any device that Xerox cannot maintain in good working order (and thus is deemed defective by Xerox) will be replaced with a like model of similar features and functionality.

This applies to all leased equipment that has been continuously maintained under a Xerox Agreement with Full Service Maintenance Agreement (FSMA). FSMA is also offered for customer-owned purchased Xerox-brand equipment guaranteeing the same like-for-like replacement during the term of the FSMA. Xerox highly recommends annual purchase of the FSMA for all Xerox brand customer-owned equipment.

Xerox customers return more than 2.5 million cartridges and toner containers annually through the Green World Alliance recycling program. Together we've kept more than 145 million pounds of waste out of landfills over the past 20 years. Customers may choose several options for recycling Genuine Xerox Branded consumables.

The primary method is using the free Xerox Eco Box or Pallet Return Process to reduce freight and processing requirements. Xerox funds all recycling / recovery costs and shipping costs on EcoBox and Pallet returns.

Customers can also download a pre-paid single item return label to return the supply items. Xerox funds all recycling / recovery costs and shipping costs for those items on our Single Item Return Take Back List. Customers can recycle locally where services are available and product recovery is not beneficial.

viii. Describe Offeror's ability to meet service and warranty needs.

All leased equipment proposed will be covered under a Xerox Full Service Maintenance Agreement (FSMA) for the full term of the lease. FSMA offers a worry-free investment with Xerox, as any device that Xerox cannot maintain in good working order (and thus is deemed defective by Xerox) will be replaced with a like model of similar features and functionality.

This applies to all leased equipment that has been continuously maintained under a Xerox Agreement with FSMA. FSMA is also offered for customer-owned purchased Xerox-brand equipment guaranteeing the same like-for-like replacement during the term of the FSMA. Xerox highly recommends annual purchase of the FSMA for all Xerox brand customer-owned equipment.

ix. Describe Offeror's customer service/problem resolution process. Include hours of operation, number of services, etc.

The Customer Support Centers (CSCs) are the single focal point of contact for customers to call for all Xerox products and services, regardless of the nature of the problem. The CSCs provide responsive and effective phone support, technical problem management, and problem resolution to customers with contractual support agreements. By providing these services, Xerox improves your self-sufficiency and system utilization, thereby delivering improved productivity.

You can place a service call 24 hours a day, seven days a week, 365 days per year. Our team of professionals and friendly Customer Support Representatives provides one-to-one expert advice over the phone.

The CSCs handle more than 45,000 customer calls per day, averaging two to three minutes per call. They are staffed with highly trained and dedicated Customer Support Representatives (CSRs) using new technology, such as Remote Customer Assistance (RCA). Using CasePoint software, the CSRs can ask product-specific questions based on what the customer is telling them. Once the customer has told the CSR the type of equipment and problem, the CSR can go into CasePoint and ask a series of questions that will either result in a solution or an instruction to initiate a service call. This knowledge-based system is very effective in improving customer up time and reducing overall solution time.



- Service Call Activity Management
- Asset Database Maintenance, Meter Reads and Move / Add / Change
- Supplies Ordering and Tracking
- Problem Resolution and Issue Escalation
- Activity Reporting

Any customer who calls a center is guaranteed problem resolution or genuine assistance in helping to solve a problem. This is called "The Call Quality Guarantee." All the CSRs have been trained in this process to ensure the highest levels of customer satisfaction.

Another process used by the CSCs is the Customer Complaint Process (CPP). If the customer has talked to the CSR and he or she has done everything that can be done for them and the customer is still

unhappy or dissatisfied, then the CCP process allows the CSR to escalate the call to the appropriate Region Manager of Region to make sure that a higher level of management is aware of the customer's needs.

Xerox has developed a national service coverage planning model to optimize the size, location and skills of our workforce with the level and quality of service we promise to OMNIA Partners Members. For on-site Customer Service Engineer (CSE) response time for urban areas, products are planned in the following general categories:

- Office and Fax: 4 – 8 hours
- Productions and Continuous Feed: 4 hours

The above specifications represent the average on-site response time for these classes of products. There may be exceptions within categories based on product maturity, geographic considerations like rural or remote customer sites, or service provided through authorized service delivery partners. Your Xerox Sales contact will provide response time delivery specifications based on the product mix of interest, your business locations, and specific service level requirements.

x. Describe Offeror's invoicing process including payment terms, acceptable methods of payments. Offerors shall describe any associated fees pertaining to credit cards/p-cards.

All payments are due within 31-days of the invoice date. Xerox will bill the end users as per the contract terms in arrears. Xerox will not invoice the Customer until Xerox has received a signed order or purchase order from the Customer, and the equipment has been delivered, installed, and is available for the Customer's use. All invoice payments under this Agreement shall be made via check, Automated Clearing House debit, Electronic Funds Transfer, or direct debit from Customer's bank account. If Customer wishes to use a credit/payment card for payment, the credit/payment card must be enrolled in Xerox's auto-pay system, and Xerox will automatically charge the credit/payment one day after the date of each invoice.

xi. Describe Offeror's contract implementation/customer transition plan.

We pride ourselves in developing a customer transition plan that has proven successful in the past 20 years since marketing the Region 4 ESC contracts. At the heart of the strategy is educating our national sales force. We believe that as our sales force understands the benefits of the contract coupled with our cost-effective document management technologies and services, contract success will follow. Our dedicated OMNIA Partners' contract administrator will educate and promote the benefits of the Region 4 ESC contract to all sales teams. Additionally, with the support of our new Marketing resource, will work in partnership with OMNIA Partners Marketing team to develop ongoing marketing and sales related activities to drive contract awareness to our current OMNIA Partner member base.

xii. Describe the financial condition of Offeror.

Financial Condition

Xerox is a Technology and Intelligent Workplace Services (IWS) leader with over \$10 billion in annual revenue; focused on helping people communicate and work better. We operate in a market estimated at approximately \$85 billion and we apply our expertise in imaging and printing, data analytics, and the development of secure and automated solutions to help our customers improve productivity and increase client satisfaction.

Financial Stability

Our financial stability is backed by a proven track record of maintaining strong margins through ongoing cost and productivity initiatives. As markets shift, we undertake restructuring to optimize our workforce

and facilities to best align our resources with the growth areas of our business, and to maximize profitability and cash flow in businesses that are declining.

For generations, Xerox has stood for innovation, quality and an excellent customer experience. We are the company that revolutionized the office, created printing-on-demand, and repeatedly reinvented and transformed to keep pace with the demands of our customers and the market. Today, we honor this heritage by turning investments in innovation into products and services that help our customers be more productive and profitable. With five research and development sites – including world-renowned PARC – and 2,000 scientists and engineers, we are helping define the future of work and enabling printing beyond paper with new technologies that will disrupt the market and change the way we think about workflows and information processes.

Additional details on the financial stability of Xerox can be found in our Annual Report at: <https://www.news.xerox.com/investors/reports>.

Annual Report

For a full overview of our finances, please refer to the Consolidated Statements of Income in our Annual Report. Xerox Annual Reports average over 100 pages. In order to be environmentally friendly, we respectfully request that ESC visit www.xerox.com/Annual Reports.

xiii. Provide a website link in order to review website ease of use, availability, and capabilities related to ordering, returns and reporting. Describe the website's capabilities and functionality.

Xerox Elite eCommerce Solutions enable the online ordering of equipment, services, supplies and Xerox Replacement Cartridges for our global and enterprise accounts.

Offered as a value-added service to Xerox clients, we will create a web ordering portal, e-catalog or PunchOut site specifically for your business. We will help you through the planning, procurement and deployment process online through 24 / 7 site availability, purchasing level approval workflow and online viewing of contract terms and conditions. Links to additional information such as contact information for your Xerox account team can also be added to your custom B2B storefront (extranet).

With our eCommerce solutions, you can easily:

- Procure Xerox equipment, supplies, and services at your contracted prices
- Select custom-built products or choose from commonly-ordered / standard configurations
- Lower procurement costs through automation and reduction in order cycle time
- Control spend and ensure contract adherence
- Maintain order accuracy
- Establish a My Favorites list for consistency of regularly-ordered items
- Create role-based user accounts and multiple levels of order workflow approval
- Track order status
- Access and manage your account information quickly and easily
- Collaborate online with your Xerox account team
- Reduce environmental impact by eliminating paper forms and using a digital procure to pay process.

We will help you choose the Xerox solution that works best for you:

Xerox Customer Web Ordering Portal

A private extranet site with a comprehensive catalog of products at negotiated prices, collaboration tools and account management capabilities.

Trading Hub: e-Catalog

A portfolio of all available products, supplies and services at your negotiated prices, posted on your intranet.

Trading Hub: Punch-Out Round Trip

A private extranet connected to your eProcurement system (SAP Ariba, Jaggaer, Coupa, etc.) via punch-out link. Authorized users add PO line items to a shopping cart that is sent directly to your ERP for approval.

[xiv. Describe the Offeror's safety record.](#)

As clarified the Region 4 ESC's answers to vendor questions, dated October 16, 2019, specifically question number 6, this requirement is not applicable to this RFP. As such, we do not provide Xerox's safety record.

[xv. Provide any additional information relevant to this section.](#)

Xerox does not have any additional information to present.

Tab 4 – Qualification and Experience

a. References

c) Qualification and Experience

i. Provide a brief history of the Offeror, including year it was established and corporate office location.

History

The roots of Xerox Corporation go back over 100 years to our humble beginnings as the Haloid Company, established in 1906. In that time, we pioneered and brought to market many of the technologies and solutions used by office workers every day. From the first xerographic image made in 1938 to breakthroughs in home and business computing during the 1970's and our influence and leadership in shaping the current Managed Print Services (MPS) offering; to delivering our "game changing" ConnectKey® Technology, which enables modern workers to leverage Xerox® Multifunction Devices (MFDs) to simplify the way work gets done in the office and on the go.



Chester Carlson's Invention

The use of electricity to transfer an image

Xerox Today

With annual revenues of \$9.8 billion we are a leading global provider of digital print technology and related solutions; we operate in a core market estimated at approximately \$67 billion. Our primary offerings span three main areas: Intelligent Workplace Services (formerly Managed Document Services (MDS)), Workplace Solutions and Production Solutions (formerly Graphic Communications). Our Intelligent Workplace Services offerings help customers, ranging from small businesses to global enterprises, optimize their printing and related document workflow and business processes. Xerox led the establishment of this expanding market and continues as the industry leader. Our Workplace Solutions and Production Solutions offerings support the work processes of our customers by providing them with solutions built upon our broad portfolio of industry-leading printing and workflow offerings. We also have digital solutions and software assets to compete in an approximately \$31 billion adjacent Software and Services market. Our main offerings for this market are focused on: industry-specific Digital Solutions, Personalization & Communication Software and Content Management Software. Headquartered in Norwalk, Connecticut, with 32,400 employees, Xerox serves customers in approximately 160 countries providing advanced document technology, services, software and genuine Xerox supplies for a range of customers including small and mid-size businesses (SMB), large enterprises, governments and graphic communications providers, and for our partners who serve them.

To learn more, visit us on Xerox.com, Xerox Innovation History and Xerox Today.

"We are made to think. We take what is and turn it into what will be. We never stop innovating, reimagining, building and doing. And we never stop questioning. We make packaging that talks to you, printers that listen and software that intuitively personalizes and humanizes. Because Made to Think means, we're not just thinking about the future, we're making it".

Xerox Research and Innovation

We believe that a critical role of our research is to identify new competency areas with attractive addressable markets for the future. Our expertise in technology and printing also uniquely positions us to discover those areas and leverage our innovation to move into adjacencies beyond our current core technology. Accordingly, we have prioritized investments in four key areas: Digital Packaging and Print, AI Workflow Assistants for Knowledge Workers, 3D Printing / Digital Manufacturing, and Sensors and Services for the Internet of Things.



We also see opportunity in our core coming from our ability to deliver physical devices that connect with the digital world as well as purely digital offerings that improve our customers' outcomes. As a result, we direct our research and development (R&D) investments to areas such as workflow automation, color printing and customized communication, as well as to improving the quality and reducing the environmental impact of digital printing. We invest in bringing new capabilities to the market such as our ConnectKey™ software to enable our devices to integrate into digital workflows, as well as in technologies to improve the security of our devices and offerings such as our recent market leading FedRAMP authorization for MPS services. We will continue to invest in innovations to improve the reliability, IQ and cost of our printing devices, as well as in new services and software that improve our customers' ability to manage their document-oriented workflows.

Xerox Values

Keeping connected to our core values helps us to execute our priorities and strategies and fulfil our mission of delivering excellence to our customers, our shareholders and each other. They are a part of our heritage and are a part of our future.

Since our inception, we have operated under the guidance of six core values:

- We succeed through satisfied customers.
- We deliver quality and excellence in all we do.
- We require premium return on assets.
- We use technology to develop market leadership.
- We value and empower employees.
- We behave responsibly as a corporate citizen.

Corporate Office

Our registered corporate office address is:

Xerox Corporation
201 Merritt 7
Norwalk, CT 06851-1056

ii. Describe Offeror's reputation in the marketplace.

As a testament to Xerox's reputation in the marketplace, we are honored to be recognized by Forbes in this year's list of World's Most Reputable Companies. As a company, we strive to align our reputation with our brand through exemplifying authenticity, ethical behavior and product value in all initiatives. Forbes and Reputation Institute, a reputation management services firm, surveyed over 230,000 individuals in 15 different countries from January to February 2019 to arrive at a list of most reputable companies, taking revenue, brand familiarity and brand perceptions into consideration. As today's technologies and capabilities have found organizations under a constant microscope, Xerox continues to make a concerted effort towards exemplifying and maintaining our legacy and values both internally and externally.

Industry Strength

We are a leader in our industry and have a strong and valuable global brand. We systematically evaluate our competition and the needs of our customers and partners to maintain our leadership position and make the portfolio and distribution investments to further penetrate growth areas of the market.

We expect to focus on the following:

- Expand leadership in Managed Document Services by leveraging our strength in large enterprises and broadening our SMB (small to mid-sized business) offerings.
- Increase SMB coverage through resellers and partners (including multi-brand dealers) and continued distribution acquisitions.
- Gain share in the A4 product segment of the market, where historically we have been underrepresented, by strengthening our product portfolio and increasing our distribution capacity.
- Extend leadership in digital color production through continued innovation and growth in new markets.

iii. Describe Offeror's reputation of products and services in the marketplace.

Superior Print Performance with Xerox

Comparative tests conducted by independent research laboratories have shown that Xerox devices offer substantial advantages through:

- Faster speeds.
- Enhanced security and workflow capabilities.
- Impeccable green credentials.
- Tightened cost control features.

Xerox devices consistently outperform other MFD technology, as tested by **Buyer's Lab Inc. (BLI)**, one of the leading independent authorities in the office equipment industry.

For example, BLI concluded that Xerox devices perform more efficiently than those of our competitors—operating at 70 to 80% of their rated speed whereas non-Xerox devices performed at 15 to 30% of their rated speed.

"Equipment manufacturers need a complete and compelling solutions portfolio to augment their hardware offerings. After careful evaluation of the company's in-house developed and third-party partner offerings, including lab-based testing of its latest products, BLI analysts feel that Xerox's solutions line-up is the most comprehensive based on our judging criteria."

– Jamie Bscales, Senior Editor
Buyer's Laboratory, Inc.

Award Winning Technology

BLI 2019 PaceSetter Award in in MFP Platform & App Ecosystem



We were the winner of the BLI PaceSetter award in the MFP Platform & App Ecosystem arena. Based on research conducted for the North American and Western European

markets, the award recognized us as the document imaging OEM which offers the most robust device-embedded software platform and associated ecosystem of apps.

"When it comes to an ecosystem of apps designed to expand the functionality of an MFP, Xerox really shines. The company is setting a high bar for the industry with both its robust and flexible ConnectKey® platform and its rapidly expanding portfolio of productivity-enhancing apps that run on it."

– Keypoint Intelligence
Buyers Laboratory

BLI 2019 Document Imaging Software Line of the Year Award

Printer apps and connectors propel Software Line of the Year Award

For the fifth time, Xerox has won the prestigious Document Imaging Software Line of the Year award from Keypoint Intelligence - Buyers Lab.

Essential to this win were the wide variety of ConnectKey® Apps and connectors for **Xerox® Multifunction Printers** as well as Workflow Automation Solutions ranging from HR onboarding and accounts payable to loan application processing and health records information management.



2019 Pick Award “Outstanding Job Management & Mobile Print Solution”

Essential to this win was complete with multiple authentication methods, print policy enforcement, secure print release, content security systems and mobile print that's second to none, Xerox® Workplace Suite surpassed the competition to win this honor.

Workplace Solutions now expands beyond print management and mobility into content security and print rules. Our latest enhancement to the platform supports single sign on (SSO) with any SSO enabled app; includes Xerox® Connect App for Concur and Xerox® Connect App 2.0 for Dropbox, Box, Google Drive, OneDrive and Office 365 with SSO capability.



2018 Buyers Lab Showers Xerox With 15 Awards

Of the 34 BLI awards given in the three categories covering MFPs and printers, Xerox won 13—almost 40 percent. In addition, Xerox won the overall BLI 2018 Monochrome Printer & MFP Line of the Year Award—and the Outstanding MFP App Ecosystem for the Xerox App Gallery.



2017 Keypoint Intelligence – BLI PaceSetter Awards

We're the only vendor to sweep the PaceSetter Awards for document imaging OEMs and win in all three categories: 1) MFP Platforms and App Ecosystems, 2) Document Imaging Security and 3) Mobile Print.

Environmental Sustainability

Many of our products meet or exceed the minimum registration requirements for product environmental performance. Along with EPEAT, Xerox offers ENERGY STAR®, ECOLOGO® and Blue Angel certified office products and with its partnership with PrintReleaf, enables managed print services customers to offset their printing by planting trees in endangered geographies.

Sustainability Goals

Xerox has published its 2019 Global Corporate Social Responsibility Report detailing the impact of the company's sustainability efforts across its operations.

Highlights from this year's report include:

- Named as one of Forbes' JUST 100, Barron's 100 Most Sustainable Companies, and Mediacorp Canada's Greenest Employers lists.
- Committed to a 25 percent reduction in global energy consumption and greenhouse gas emissions by 2025.
- Achieved 100 percent ENERGY STAR eco-labels for all Xerox's new eligible product introductions.

"With Xerox technology, IT decision makers don't have to sacrifice sustainability for productivity," said Tracey Koziol, senior vice president, Global Offerings, Xerox.

"We have a history of developing technology with sustainability in mind."

- Diverted nearly 100 percent of leased Xerox equipment from landfills and optimized end-of-life processing.
- Planted more than 100,000 trees

“For the past 113 years, Xerox has been committed to creating value for business and society and has played an important role in progressing our society globally. We are 100 percent committed to raising the bar on our ourselves in the important quest of building and maintaining a healthy and balanced world that meets society’s evolving needs,” said John Visentin, vice chairman and CEO, Xerox.

The Global CSR report focuses on how Xerox is engineering solutions that are making a more sustainable world in unexpected ways. A recent example is the work Xerox did with the Bangladeshi government to digitize and process their National Household Census results from January 2017 to February 2019, so they can better deliver resources to populations in need.

Xerox’s Intelligent Workplace Services, a new offering that transcends Managed Print Services, also helps companies reduce their reliance on paper by providing digital alternatives, print authentication, and analytics along with gamification techniques. Intelligent Workplace Services clients can opt in to Xerox’s PrintReleaf offering, which is akin to a carbon offset program.

Annually Xerox looks at its approach and performance in corporate social responsibility (CSR) activities supporting social, economic and environmental dimensions. This report was prepared in accordance with the Global Reporting Initiative (GRI) standards and aligns in part with the United Nations Sustainable Development Goals (SDGs) established in 2015.

Visit Xerox.com for more information about Xerox’s CSR activities.

iv. Describe the experience and qualification of key employees.

Master Agreement Contract Administrator

Rachael Jones Turner

State, Local & Education Cooperative Contracts Manager

Public Sector Center of Excellence

Email: Rachael.Jones@Xerox.com

Phone: 310-258-6266

Rachael Jones Turner is the national SLED Cooperative Contracts Manager providing strategic direction and deployment of Cooperative contracts in all Xerox Sales Channels across North America. She provides ongoing support, training and national implementation and is the primary contact in regard to Contract negotiations, amendments, product and price list updates and any other information or documentation relating to the Master Agreement. Prior to her current role, Rachael has served in a variety of management positions supporting S&L and Federal account management and business development activities.

Marketing

Staci McKee

Global Audience Marketing

Government | Healthcare | Education

Email: Staci.mckee@Xerox.com

Phone: 303-881-3718

As the Xerox Global Audience Marketing Director, Staci McKee is responsible for industry positioning, content creation, demand generation and overall Public Sector marketing programs for the United States. Staci is responsible for all facets of marketing including digital events, direct marketing and

account-based marketing programs. Staci joined Xerox in May 2019 with more than 19 years of Public Sector marketing expertise.

Financial Reporting

Kathlene M. Andris

Rebate Analyst – Base Billing COE/ US Customer Business Operations

Email: Kathlene.Andris@Xerox.com

Phone: 847-928-2543

Kathy Andris is a Rebate Analyst responsible for the contractual reporting and administrative/penalty fees obligations associated with many public sector contracts. She has been in this position for over 5 years; she has supported the Region 4ESC contracts for the last 3 years. In her 19 plus years with Xerox, Kathy has held other operational support roles including Compliance and Customer Relations. Kathy is a certified Lean Six Sigma Green Belt.

Executive Support

Mark Browning

Vice President, Public Sector Center of Excellence

NAO Sales Excellence Organization

Email: Mark.Browning@Xerox.com

Phone: 717-777-6624

Mark Browning is the Vice President, Public Sector Center of Excellence for the North American Sales Operations Sales Excellence Organization. Mark has 31 years of successful sales, marketing and operational experience with Xerox. He manages and deploys strategies for Federal, State, Local, K12 and Higher Education across North America. Mark's organization is responsible for all aspects of contracting with the Public Sector marketplace including contract enablement and support, contract education, pricing and strategy, reporting and compliance. As the executive sponsor, his goals are aligned with the overall corporate strategy, gathering senior executive support and communicating goals. Mark has had numerous sales leadership positions in Xerox's Enterprise business. Most recently, he has supported Xerox's initiative to support channel acceleration with the enablement of all Xerox go to market channels.

v. Describe Offeror's experience working with the government sector.

For more than half a century, Xerox has been a leader in document technology and services. We have a long history of building and delivering the finest quality products and services to our customers in both the private and public sectors and have worked with them in every capacity to meet their goals.

Today, as an \$11 billion enterprise, Xerox delivers solutions and services to clients in commercial enterprises, government agencies and local municipalities.

Government Experience

Xerox is experienced in providing Document Management Technologies and Services to government agencies—we provide end-to-end solutions for federal, state and local government agencies, in addition to government healthcare and transportation entities. We have a presence in all 50 U.S. states, 15,700 local governments, 28 U.S. federal agencies and in 30 countries. More than 4,200 local government and



1,200 state entities nationwide trust Xerox to provide the technology and services they need. A significant portion of our revenues is derived from contracts with U.S. federal, state and local governments and their agencies, as well as international governments and their agencies.

Recently, we were ranked #1 in revenue growth in Washington Technology's "Top 100" list of Federal Government Contractors based on an analysis of government procurement data.

We understand your need to do more with less and reallocate dollars and resources to have the deepest impact and greatest benefits to your members. As the current provider of choice for most government agencies in the U.S., Xerox has more than **50 years of experience** to set us apart from our competition.

vi. Describe past litigation, bankruptcy, reorganization, state investigations of entity or current officers and directors.

Bankruptcy

Xerox has not filed for bankruptcy or other form of debt resolution.

Litigation

In the ordinary course of its business, Xerox, its subsidiaries and affiliates are routinely the subject of litigation that asserts a variety of claims, sometimes including employment-related claims. Please see Xerox's Annual (Form 10-K), Quarterly (Form 10-Q) and Current (Form 8-K) Reports filed with the U.S. Securities and Exchange Commission (SEC) for information on material litigation. These reports are available to the public on the SEC website and on Xerox's website <http://www.xerox.com/investor>.

Reorganization

Xerox recently announced that its Board of Directors has approved a reorganization of the Company's corporate structure into a holding company structure, pursuant to which Xerox Corporation will become a direct, wholly-owned subsidiary of a new holding company that will be named Xerox Holdings Incorporated. The reorganization is subject to shareholder and regulatory approval. The purpose of the reorganization is to provide the Company with strategic, operational and financial flexibility. Business operations, directors and executive officers of the Company will not change as a result of the reorganization. The reorganization will not impact our ability to serve Region 4 ESC.

vii. Provide a minimum of 10 customer references relating to the products and services within this RFP. Include entity name, contact name and title, contact phone and email, city, state, years serviced, description of services and annual volume.

1. Entity Name: County of San Diego

Contact Name and Title: Jack Pellegrino, Director of Contracting and Purchasing

Contact Phone: 858-505-6565

Contact Email: jack.pellegrino@sdcounty.ca.gov

City, State: San Diego, California

Years Serviced: 10+ years

Description of Services: Centralized Printing and Managed Print Services to support all County Departments

Annual Volume: \$26MM annually; Estimated 216MM impressions annually

2. Entity Name: Commonwealth of Kentucky

Contact Name and Title: Eugene Raines, MPS Program Manager

Contact Phone: 502-782-0160

Contact Email: eugene.raines@ky.gov

City, State: Frankfort, KY

Years Serviced: 8 years

Description of Services: Managed print services, manage fleet, 4 onsite associates, 1 CSE, expanded solutions to include (optional) AAA solution, scanners, workflow assessments and automation, enterprise content management solution using OnBase.

Annual Volume 4,200+ devices managed

3. Entity Name: Huntsville City Schools

Contact Name and Title: Pam Phillips-Procurement

Contact Phone: 256-428-6934

Contact Email: pam.phillips@hsv-k12.org

City, State: Huntsville, AL

Years Serviced: 7 years

Description of Services: MFPs for schools, Production equipment in Print Shop

Annual Volume: 40 Million B/W and 1.2 Million Color

4. Entity Name: City of Baltimore

Contact Name and Title: Michelle Dean, Contract Specialist – City of Baltimore Department of Finance

Contact Phone: 410-396-5002

Contact Email: Michelle.Dean@baltimorecity.gov

City, State: Baltimore, MD

Years Serviced: 18 plus years. Current contract since 2014

Description of Services: Digital Copiers and Printers and associated maintenance and services. Desktop through Light Production Products

Annual Volume: 3 Million

5. Entity Name: Prince George's County Government

Contact Name and Title: Malcolm Clerkley, Division Manager, County of Prince George's-Central Services

Contact Phone: 301-883-0330

Contact Email: mbclerkley@co.pg.md.us

City, State: Upper Marlboro, MD

Years Serviced: 10 plus years. Current contract since 2012

Description of Services: Digital Copiers and Printers and associated maintenance and services. Desktop through Production Products.

Annual Volume: 1.4 Million

6. Entity Name: Stephen F. Austin State University

Contact Name and Title: Kay Johnson, Director of Procurement and Property Services

Contact Phone: 936-468-4037

Contact Email: johnsondk6@sfasu.edu

City, State: Nacogdoches, Texas

Years Serviced: 33 years

Description of Services: 96 Multifunction Printers

Annual Volume: 24.2 Million

7. Entity Name: Nacogdoches ISD

Contact Name and Title: Michael Owens, Coordinator of Technology

Contact Phone: 936-569-5000, ext. 8848

Contact Email: mowens@nacisd.org

City, State: Nacogdoches, TX

Years Serviced: 31 years

Description of Services: 70 Multifunction Printers

Annual Volume: 17.7 Million

8. Entity Name: New Summerfield ISD

Contact Name and Title: Lanita Coleman, Business Manager

Contact Phone: 903-726-3320

Contact Email: lcoleman@newsummerfieldisd.net

City, State: New Summerfield, TX

Years Serviced: 8 years

Description of Services: 8 Multifunction Printers

Annual Volume: 1.1 Million

9. Entity Name: State of Maryland

Contact Name and Title: Calvin Gladden, Procurement Supervisor, Department of General Services

Contact Phone: 410-767-4281

Contact Email: Calvin.gladden@maryland.gov

City, State: Baltimore, Maryland

Years Serviced: 40 plus years. Current contract since 2012

Description of Services: Digital Copiers and Printers and associated maintenance and services. Desktop through Production products.

Annual Volume: 5 Million

10. Entity Name: City of San Antonio

Contact Name and Title: Amanda Sandoval, Sr. Accountant

Contact Phone: 210-207-7937

Contact Email: amanda.sandoval@sanantonio.gov

City, State: San Antonio, TX

Years Serviced: 5 Years

Description of Services: A3 Fleet Units, Printers, SDM and Analyst

Annual Volume: 6,736,320

[viii. Provide any additional information relevant to this section.](#)

Xerox does not have any additional information to present.

Tab 5 – Value Add

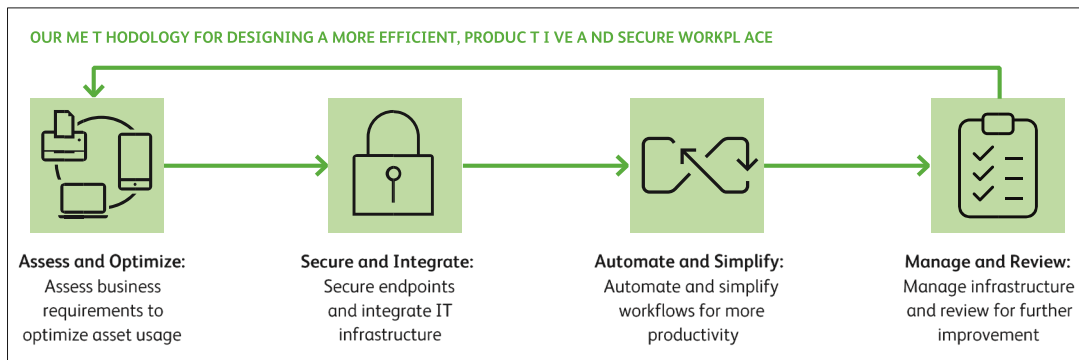
- i. Provide any additional information related to products and services Offeror proposes to enhance and add value to the Contract.

Xerox Intelligent Workplace Services

Xerox's strategy is to maintain our leadership in our core market, which includes Intelligent Workplace Services (formerly known as Managed Document Services (MDS)). Our Intelligent Workplace Services includes a continuum of solutions and services that helps our customers optimize their print and communications infrastructure, ensure the highest levels of security and productivity, and enable their digital business objectives. Our primary offerings in this area are Managed Print Services (MPS). While these Services are well beyond the scope of the RFP, they represent the magnitude of innovation and value we bring to the Public Sector marketplace. Given the intensive nature of so many business processes in public agencies, there are often times great synergy that can be created between these offerings and our world-class technology. Prices for our Intelligent Workplace Services are available upon request.

Since pioneering Managed Print Services more than 25 years ago, Xerox has been the industry catalyst in implementation rather than an adaptor. In our MPS business, we help companies assess and optimize their print infrastructure, secure and integrate their environment and automate and simplify their business processes. We provide the most comprehensive portfolio of MPS services in the industry and are recognized as an industry leader by major analyst firms including IDC, Quocirca, InfoTrends and Forrester.

The Combination of Xerox ConnectKey® Technology with Intelligent Workplace Services (IWS) creates an optimized infrastructure that is customized to your organization. Our state-of-the-art assessment tools and three-stage approach makes sure you have the right mix of technology, apps and solutions.



Xerox® Intelligent Workplace Services is a portfolio of capabilities designed to:

- Build a more efficient workplace with reduced costs, optimized print and document infrastructure, improved sustainability metrics and stronger ROI
- Boost employee engagement and productivity with automated processes, enhanced user experience and easy access to the information they need to get work done
- Ensure the security of your documents, devices and data, and align with data privacy and regulatory compliance policies
- Augment your IT infrastructure and mobile workforce with scalable, easy-to-use cloud technologies that seamlessly integrate with Xerox workplace assistants — Xerox® AltaLink® Printers and Xerox® VersaLink® Printers

- Use analytics to provide actionable insight to devices, documents, users and paper-based processes to maintain an optimized workplace
- Automate processes with solutions ranging from simple apps to content management systems that can be customized to meet your needs
- Prevent, detect and protect: Maintain a secure print infrastructure with comprehensive security features in partnership with McAfee and Cisco

Conclusion

As the recognized leader and innovator in the MPS market, Xerox has the depth of experience, the people, the print technology and the measurement tools to help the OMNIA Partners members achieve its primary goals:

- Continuous Cost Savings: We have designed our offering to address cost containment
- Security: Unsurpassed digital and hard copy data security
- Seamless integration and Availability of Technology: New capabilities available to all

Tab 6 – Additional Required Documents

Appendix C: DOC #1 Acknowledgment and Acceptance of Region 4 ESC's Open Records Policy

ACKNOWLEDGMENT AND ACCEPTANCE
OF REGION 4 ESC's OPEN RECORDS POLICY

OPEN RECORDS POLICY

All proposals, information and documents submitted are subject to the Public Information Act requirements governed by the State of Texas once a Contract(s) is executed. If an Offeror believes its response, or parts of its response, may be exempted from disclosure, the Offeror must specify page-by-page and line-by-line the parts of the response, which it believes, are exempt and include detailed reasons to substantiate the exemption. Price is not confidential and will not be withheld. Any unmarked information will be considered public information and released, if requested under the Public Information Act.

The determination of whether information is confidential and not subject to disclosure is the duty of the Office of Attorney General (OAG). Region 4 ESC must provide the OAG sufficient information to render an opinion and therefore, vague and general claims to confidentiality by the Offeror are not acceptable. Region 4 ESC must comply with the opinions of the OAG. Region 4 ESC assumes no responsibility for asserting legal arguments on behalf of any Offeror. Offeror is advised to consult with their legal counsel concerning disclosure issues resulting from this procurement process and to take precautions to safeguard trade secrets and other proprietary information.

Signature below certifies complete acceptance of Region 4 ESC's Open Records Policy, except as noted below (additional pages may be attached, if necessary).

Check one of the following responses to the Acknowledgment and Acceptance of Region 4 ESC's Open Records Policy below:

- ☒ We acknowledge Region 4 ESC's Open Records Policy and declare that no information submitted with this proposal, or any part of our proposal, is exempt from disclosure under the Public Information Act.
- ☐ We declare the following information to be a trade secret or proprietary and exempt from disclosure under the Public Information Act.

(Note: Offeror must specify page-by-page and line-by-line the parts of the response, which it believes, are exempt. In addition, Offeror must include detailed reasons to substantiate the exemption(s). Price is not confidential and will not be withheld. All information believed to be a trade secret or proprietary must be listed. It is further understood that failure to identify such information, in strict accordance with the instructions, will result in that information being considered public information and released, if requested under the Public Information Act.)

Date

11/11/19

Richard Jose Turner
LED Cooperative Contract Manager
Authorized Signature & Title

Appendix C: DOC #2 Antitrust Certification Statements (Tex. Government Code § 2155.005)

ANTITRUST CERTIFICATION STATEMENTS
(Tex. Government Code § 2155.005)
Attorney General Form

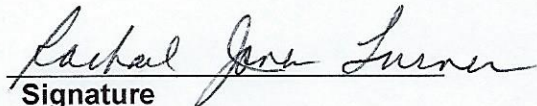
I affirm under penalty of perjury of the laws of the State of Texas that:

1. I am duly authorized to execute this Contract on my own behalf or on behalf of the company, corporation, firm, partnership or individual (Company) listed below;
2. In connection with this proposal, neither I nor any representative of the Company has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;
3. In connection with this proposal, neither I nor any representative of the Company has violated any federal antitrust law; and
4. Neither I nor any representative of the Company has directly or indirectly communicated any of the contents of this proposal to a competitor of the Company or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Company.

Company

Xerox Corporation

Contact


Signature

Rachael Jones Turner

Printed Name

SLED Cooperative Contracts Manager

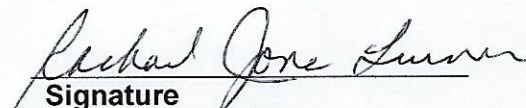
Position with Company

Address

201 Merritt 7

Norwalk, Connecticut 06851

**Official
Authorizing
Proposal**


Signature

Rachael Jones Turner

Printed Name

SLED Cooperative Contracts Manager

Position with Company

Phone

310-258-6266

Fax

818-715-7142

Appendix C: DOC #3 Implementation of House Bill 1295 Certificate of Interested Parties (Form 1295)

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY
CERTIFICATION OF FILING****1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**

Xerox Corporation
Norwalk, CT United States

Certificate Number:
2019-558716

Date Filed:
11/05/2019

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

Region 4 Education Service Center (ESC)

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

RFO 19-11
Copiers & Printers and support services

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.**6 UNSWORN DECLARATION**

My name is Ann M. Russo, and my date of birth is 8/15/61.

My address is 3600 N. Hayden Road, Suite 3510, Scottsdale, AZ, 85251, US.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Maricopa County, State of Arizona, on the 5th day of November, 2019.
(month) (year)

Ann M. Russo

Signature of authorized agent of contracting business entity
(Declarant)

Appendix C: DOC #4 Texas Government Code 2270 Verification Form

Texas Government Code 2270 Verification Form

House Bill 89 (85R Legislative Session), which adds Chapter 2270 to the Texas Government Code, provides that a governmental entity may not enter into a contract with a company without verification that the contracting vendor does not and will not boycott Israel during the term of the contract.

Furthermore, Senate Bill 252 (85R Legislative Session), which amends Chapter 2252 of the Texas Government Code to add Subchapter F, prohibits contracting with a company engaged in business with Iran, Sudan or a foreign terrorist organization identified on a list prepared by the Texas Comptroller.

I, Rachael Jones Turner, as an authorized representative of

Xerox Corporation, a contractor engaged by

Insert Name of Company

Region 4 Education Service Center, 7145 West Tidwell Road, Houston, TX 77092, verify by this writing that the above-named company affirms that it (1) does not boycott Israel; and (2) will not boycott Israel during the term of this contract, or any contract with the above-named Texas governmental entity in the future.

Also, our company is not listed on and we do not do business with companies that are on the Texas Comptroller of Public Accounts list of Designated Foreign Terrorists Organizations found at <https://comptroller.texas.gov/purchasing/docs/foreign-terrorist.pdf>.

I further affirm that if our company's position on this issue is reversed and this affirmation is no longer valid, that the above-named Texas governmental entity will be notified in writing within one (1) business day and we understand that our company's failure to affirm and comply with the requirements of Texas Government Code 2270 et seq. shall be grounds for immediate contract termination without penalty to the above-named Texas governmental entity.

I swear and affirm that the above is true and correct.

Rachael Jones Turner
Signature of Named Authorized Company Representative

11/11/19
Date

Appendix C: DOC #5 Special Conditions

SPECIAL CONDITIONS

Awarded Offerors may need to respond to events and losses where products and services are needed for the immediate and initial response to emergency situations such as, but not limited to, water damage, fire damage, vandalism cleanup, biohazard cleanup, sewage decontamination, deodorization, and/or wind damage during a disaster or emergency situation. By submitting a proposal, the Offeror is accepted these Special Conditions required by the Federal Emergency Management Agency (FEMA).

Conflicts of Interest

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a FEMA award if he or she has a real or apparent conflict of interest. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of these parties, has a financial or other interest in or a tangible personal benefit from a firm considered for award. 2 C.F.R. § 200.318(c)(1); See also Standard Form 424D, ¶ 7; Standard Form 424B, ¶ 3.

i. FEMA considers a “financial interest” to be the potential for gain or loss to the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of these parties as a result of the particular procurement. The prohibited financial interest may arise from ownership of certain financial instruments or investments such as stock, bonds, or real estate, or from a salary, indebtedness, job offer, or similar interest that might be affected by the particular procurement. ii. FEMA considers an “apparent” conflict of interest to exist where an actual conflict does not exist, but where a reasonable person with knowledge of the relevant facts would question the impartiality of the employee, officer, or agent participating in the procurement. c. Gifts. The officers, employees, and agents of Region 4 ESC nor the Participating Public Agency (“NFE”) must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, NFE’s may set standards for situations in which the financial interest is de minimus, not substantial, or the gift is an unsolicited item of nominal value. 2 C.F.R. § 200.318(c)(1). d. Violations. The NFE’s written standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the NFE. 2 C.F.R. § 200.318(c)(1). For example, the penalty for a NFE’s employee may be dismissal, and the penalty for a contractor might be the termination of the contract.

Contractor Integrity

A contractor must have a satisfactory record of integrity and business ethics. Contractors that are debarred or suspended as described in Chapter III, ¶ 6.d must be rejected and cannot receive contract awards at any level.

Public Policy

A contractor must comply with the public policies of the Federal Government and state, local government, or tribal government. This includes, among other things, past and current compliance with the:

- a. Equal opportunity and nondiscrimination laws
- b. Five affirmative steps described at 2 C.F.R. § 200.321(b) for all subcontracting under contracts supported by FEMA financial assistance; and FEMA Procurement Guidance June 21, 2016 Page IV- 7
- c. Applicable prevailing wage laws, regulations, and executive orders

Affirmative Steps

For any subcontracting opportunities, Contractor must take the following Affirmative steps:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce;

Bid Guarantee

For proposals that are to include construction/reconstruction/renovation and related services, bids must be accompanied by Certified or Cashier's Check or an approved Bid Bond in the amount of not less than five percent (5%) of the total bid. Surety shall provide a copy of the Power of Attorney authorizing the Executing Agent the authority to execute the bid bond documents and bind the Surety to the bid bond conditions. The bid bond shall have a corporate Surety that is licensed to conduct business in the state of the lead agency and authorized to underwrite bonds in the amount of the bid bond.

Prevailing Wage Requirements

When applicable, the awarded Contractor(s) and any and all subcontractor(s) agree to comply with all laws regarding prevailing wage rates including the Davis-Bacon Act, applicable to this solicitation and/or Participating Public Agencies. The Participating Public Agency shall notify the Contractor of the applicable pricing/prevailing wage rates and must apply any local wage rates requested. The Contractor and any subcontractor(s) shall comply with the prevailing wage rates set by the Participating Public Agency.

Alternative Pricing for Federal Funding

When applicable, such as when products and services are used in response to an emergency or disaster recovery situation in which federal funding may be used, pricing may not include cost plus a percentage of cost or pricing based on time and materials. If time and materials is necessary in an applicable federal funding situation, a ceiling price that the contract exceeds at its own risk will be needed. In addition, Offeror is subject to and must comply with all federal requirements applicable to the funding including, but not limited, the to the 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II, Required Contract Clauses.

Federal Requirements

If products and services are issued in response to an emergency or disaster recovery the items below, located in this Special Conditions section of the Federal Funds Certifications, are activated and required when federal funding may be utilized.

2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II, Required Contract Clauses

1. Termination for Convenience:

The right to terminate this Contract for the convenience of Region 4 ESC is retained by Region 4 ESC. In the event of a termination for convenience by Region 4 ESC, Region 4 ESC shall, at least ten (10) calendar days in advance, deliver written notice of the termination for convenience to Contractor. Upon Contractor's receipt of such written notice, Contractor immediately shall cease the performance of the Work and shall take reasonable and appropriate action to secure and protect the Work then in place. Contractor shall then be paid by Region 4 ESC, in accordance with the terms and provisions of the Contract Documents, an amount not to exceed the actual labor costs incurred, the actual cost of all materials installed and the actual cost of all materials stored at the project site or away from the project site, as approved in writing by Region 4 ESC but not yet paid for and which cannot be returned, and actual, reasonable and documented demobilization costs, if any, paid by Contractor and approved by Region 4 ESC in connection with the Scope of Work in place which is completed as of the date of termination by Region 4 ESC and that is in conformance with the Contract Documents, less all amounts previously paid for the Work. No amount ever shall be owed or paid to Contractor for lost or anticipated profits on any part of the Scope of Work not performed or for consequential damages of any kind.

2. Equal Employment Opportunity:

Region 4 ESC highly encourages Contractors to implement Affirmative Action practices in their employment programs. This means Contractor should not discriminate against any employee or applicant for employment because of race, color, religion, sex, pregnancy, sexual orientation, political belief or affiliation, age, disability or genetic information.

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided*, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

3. "During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States."

4. Davis Bacon Act and Copeland Anti-Kickback Act.

- (1) Applicability of Davis-Bacon Act. The Davis-Bacon Act only applies to the emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program. **It does not apply to other FEMA grant and cooperative agreement programs, including the Public Assistance Program.**
- (2) All prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction)). See 2 C.F.R. Part 200, Appendix II, ¶ D.
- (3) In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.
- (4) The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
- (5) In contracts subject to the Davis-Bacon Act, the contracts must also include a

provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). The Copeland Anti-Kickback Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to FEMA.

- (6) The regulation at 29 C.F.R. § 5.5(a) does provide the required contract clause that applies to compliance with both the Davis-Bacon and Copeland Acts. However, as discussed in the previous subsection, the Davis-Bacon Act does not apply to Public Assistance recipients and subrecipients. **In situations where the Davis-Bacon Act does not apply, neither does the Copeland “Anti-Kickback Act.”** However, for purposes of grant programs where both clauses do apply, FEMA requires the following contract clause:

“Compliance with the Copeland “Anti-Kickback” Act.

- (1) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- (2) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses
- (3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.”

5. Contract Work Hours and Safety Standards Act.

- (1) Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- (2) Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, ¶ E.
- (3) Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the workweek.
- (4) The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or

under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- (5) The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

“Compliance with the Contract Work Hours and Safety Standards Act.

- (1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- (3) Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- (4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.”

6. Rights to Inventions Made Under a Contract or Agreement.

- (1) Stafford Act Disaster Grants. This requirement **does not apply to the Public Assistance**, Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Grant Program, and Federal Assistance to Individuals and Households – Other Needs Assistance Grant Program, as

FEMA awards under these programs do not meet the definition of “funding agreement.”

- (2) If the FEMA award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the non-Federal entity wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the non-Federal entity must comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by FEMA. See 2 C.F.R. Part 200, Appendix II, ¶ F.
 - (3) The regulation at 37 C.F.R. § 401.2(a) currently defines “funding agreement” as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.
7. Clean Air Act and the Federal Water Pollution Control Act. Contracts of amounts in excess of \$150,000 must contain a provision that requires the contractor to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Violations must be reported to FEMA and the Regional Office of the Environmental Protection Agency. See 2 C.F.R. Part 200, Appendix II, ¶ G.

- (1) The following provides a sample contract clause concerning compliance for contracts of amounts in excess of \$150,000:

“Clean Air Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (2) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- (2) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the

state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.”

8. Debarment and Suspension.

- (1) Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- (2) Non-federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security’s regulations at 2 C.F.R. Part 3000 (Non procurement Debarment and Suspension).
- (3) These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities. See 2 C.F.R. Part 200, Appendix II, ¶ H; and *Procurement Guidance for Recipients and Subrecipients Under 2 C.F.R. Part 200 (Uniform Rules): Supplement to the Public Assistance Procurement Disaster Assistance Team (PDAT) Field Manual* Chapter IV, ¶ 6.d, and Appendix C, ¶ 2 [hereinafter *PDAT Supplement*]. A contract award must not be made to parties listed in the SAM Exclusions. SAM Exclusions is the list maintained by the General Services Administration that contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. SAM exclusions can be accessed at www.sam.gov. See 2 C.F.R. § 180.530; *PDAT Supplement*, Chapter IV, ¶ 6.d and Appendix C, ¶ 2.
- (4) In general, an “excluded” party cannot receive a Federal grant award or a contract within the meaning of a “covered transaction,” to include subawards and subcontracts. This includes parties that receive Federal funding indirectly, such as contractors to recipients and subrecipients. The key to the exclusion is whether there is a “covered transaction,” which is any non-procurement transaction (unless excepted) at either a “primary” or “secondary” tier. Although “covered transactions” do not include contracts awarded by the Federal Government for purposes of the non-procurement common rule and DHS’s implementing regulations, it does include some contracts awarded by recipients and subrecipient.
- (5) Specifically, a covered transaction includes the following contracts for goods or services:
 - (1) The contract is awarded by a recipient or subrecipient in the amount of at least \$25,000.
 - (2) The contract requires the approval of FEMA, regardless of amount.
 - (3) The contract is for federally required audit services.
 - (4) A subcontract is also a covered transaction if it is awarded by the contractor of a recipient or subrecipient and requires either the approval of FEMA or is in excess of \$25,000.

- d. The following provides a debarment and suspension clause. It incorporates an optional method of verifying that contractors are not excluded or disqualified:

“Suspension and Debarment

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by (insert name of subrecipient). If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (name of state agency serving as recipient and name of subrecipient), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.”

9. Byrd Anti-Lobbying Amendment.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. Contractors that apply or bid for an award of \$100,000 or more must file the required certification. See 2 C.F.R. Part 200, Appendix II, ¶ I; 44 C.F.R. Part 18; *PDAT Supplement*, Chapter IV, 6.c; Appendix C, ¶ 4.
- c. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. See *PDAT Supplement*, Chapter IV, ¶ 6.c and Appendix C, ¶ 4.
- d. The following provides a Byrd Anti-Lobbying contract clause:

"Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)"

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient."

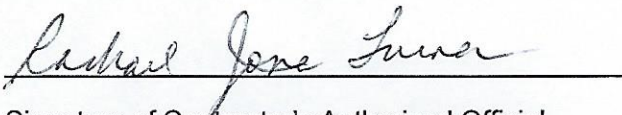
APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements (To be submitted with each bid or offer exceeding \$100,000) The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, Xerox Corporation, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.



Signature of Contractor's Authorized Official

Rachael Jones Turner, SLED Cooperative Contracts Manager
Name and Title of Contractor's Authorized Official

November 14, 2012

Date

10. Procurement of Recovered Materials.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962). See 2 C.F.R. Part 200, Appendix II, ¶ J; 2 C.F.R. § 200.322; PDAT Supplement, Chapter V, ¶ 7.
- c. The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- d. The following provides the clause that a state agency or agency of a political subdivision of a state and its contractors can include in contracts meeting the above contract thresholds:

“(1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired—

- (i) Competitively within a timeframe providing for compliance with the contract performance schedule;
- (ii) Meeting contract performance requirements; or
- (iii) At a reasonable price.

(2) Information about this requirement, along with the list of EPA- designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.”

11. Additional FEMA Requirements.

- a. The Uniform Rules authorize FEMA to require additional provisions for non-Federal entity contracts. FEMA, pursuant to this authority, requires or recommends the following:
- b. Changes.

To be eligible for FEMA assistance under the non-Federal entity's FEMA grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope. FEMA recommends, therefore, that a non-Federal entity include a changes clause in its contract that describes how, if at all, changes can be made by either party to alter the method, price, or schedule of the work without breaching the contract. The language of the clause may differ depending on the nature of the contract and the end-item procured.

c. Access to Records.

All non-Federal entities must place into their contracts a provision that all contractors and their successors, transferees, assignees, and subcontractors acknowledge and

agree to comply with applicable provisions governing Department and FEMA access to records, accounts, documents, information, facilities, and staff. See DHS Standard Terms and Conditions, v 3.0, ¶ XXVI (2013).

d. The following provides a contract clause regarding access to records:

“Access to Records. The following access to records requirements apply to this contract:

(1) The contractor agrees to provide (insert name of state agency or local or Indian tribal government), (insert name of recipient), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.”

12. DHS Seal, Logo, and Flags.

a. All non-Federal entities must place in their contracts a provision that a contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. See DHS Standard Terms and Conditions, v 3.0, ¶ XXV (2013).

b. The following provides a contract clause regarding DHS Seal, Logo, and Flags: “The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre- approval.”

13. Compliance with Federal Law, Regulations, and Executive Orders.

a. All non-Federal entities must place into their contracts an acknowledgement that FEMA financial assistance will be used to fund the contract along with the requirement that the contractor will comply with all applicable federal law, regulations, executive orders, and FEMA policies, procedures, and directives.

b. The following provides a contract clause regarding Compliance with Federal Law, Regulations, and Executive Orders: “This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.”

14. No Obligation by Federal Government.

- a. The non-Federal entity must include a provision in its contract that states that the Federal Government is not a party to the contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.
- b. The following provides a contract clause regarding no obligation by the Federal Government: "The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract."

15. Program Fraud and False or Fraudulent Statements or Related Acts.

- a. The non-Federal entity must include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.
- b. The following provides a contract clause regarding Fraud and False or Fraudulent or Related Acts: "The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract."

Additional contract clauses per 2 C.F.R. § 200.325

For applicable construction/reconstruction/renovation and related services: A payment and performance bond are both required for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided in the contract.

Offeror agrees to comply with all terms and conditions outlined in the Special Conditions section of this solicitation.

Offeror's Name: Xerox Corporation

Address, City, State, and Zip Code: 201 Merritt 7 Norwalk Connecticut 06851

Phone Number: 310-258-6266 Fax Number: 818-715-7142

Printed Name and Title of Authorized Representative:

Rachael Jones Turner, SLED Cooperative Contracts Manager

Email Address: Rachael.Jones@Xerox.com

Rachael Jones Turner Date: November 14, 2019
Signature of Authorized Representative

Appendix C: DOC #6 Questionnaire

QUESTIONNAIRE

Please provide responses to the following questions that address your company's operations, organization, structure and processes for providing products and services.

1. Diversity Programs

- Do you currently have a diversity program or any diversity partners that you do business with? ☐Yes ☒No
(If the answer is yes, attach a statement detailing the structure of your program, along with a list of your diversity alliances and a copy of their certifications.)

2. Diverse Vendor Certification Participation

Region 4 ESC encourages the use of under-utilized businesses (HUB), minority and women business enterprises (MWBE), and small and/or disadvantages business enterprises (SBE) both as prime and subcontractors. Offerors shall indicate below whether or not they and/or any of their subcontractors (and if so which) hold certification in any of the classified areas and include proof of such certification with their response.

a. Minority Women Business Enterprise

Respondent certifies that this firm is an MWBE ☐Yes ☒No

List certifying agency: _____

b. Small Business Enterprise (SBE) or Disadvantaged Business Enterprise (DBE)

Respondent certifies that this firm is a SBE or DBE ☐Yes ☒No

List certifying agency: _____

c. Historically Underutilized Businesses (HUB)

Respondent certifies that this firm is a HUB ☐Yes ☒No

List certifying agency: _____

d. Historically Underutilized Business Zone Enterprise (HUBZone)

Respondent certifies that this firm is a HUBZone ☐Yes ☒No

List certifying agency: _____

e. Other

Respondent certifies that this firm is a recognized diversity certificate holder ☐Yes ☒No

List certifying agency: _____

- 3. Has Offeror made and is Offeror committed to continuing to take all affirmative steps set forth in 2 CFR 200.321 as it relates to the scope of work outlined in this solicitation?** ☒Yes ☐No

Appendix D: Requirements for National Cooperative Contract to be Administered by Omnia Partners, Public Sector

Appendix D: Exhibit A - Response for National Cooperative Contract 3.0 Supplier Response

In compliance with the RFP, our response to 3.0 – Supplier Response is included in Tab 3.

Appendix D: Exhibit F - Federal Funds Certifications

EXHIBIT F
FEDERAL FUNDS CERTIFICATIONS

FEDERAL CERTIFICATIONS
ADDENDUM FOR AGREEMENT FUNDED BY U.S. FEDERAL GRANT

TO WHOM IT MAY CONCERN:

Participating Agencies may elect to use federal funds to purchase under the Master Agreement. This form should be completed and returned.

DEFINITIONS

Contract means a legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award. The term as used in this part does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward

Contractor means an entity that receives a contract as defined in Contract.

Cooperative agreement means a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 6302-6305:

- (a) Is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States (see 31 U.S.C. 6101(3)); and not to acquire property or services for the Federal government or pass-through entity's direct benefit or use;
- (b) Is distinguished from a grant in that it provides for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.
- (c) The term does not include:
 - (1) A cooperative research and development agreement as defined in 15 U.S.C. 3710a; or
 - (2) An agreement that provides only:
 - (i) Direct United States Government cash assistance to an individual;
 - (ii) A subsidy;
 - (iii) A loan;
 - (iv) A loan guarantee; or
 - (v) Insurance.

Federal awarding agency means the Federal agency that provides a Federal award directly to a non-Federal entity

Federal award has the meaning, depending on the context, in either paragraph (a) or (b) of this section:

- (a)(1) The Federal financial assistance that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101 Applicability; or
- (2) The cost-reimbursement contract under the Federal Acquisition Regulations that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101 Applicability.
- (b) The instrument setting forth the terms and conditions. The instrument is the grant agreement, cooperative agreement, other agreement for assistance covered in paragraph (b) of § 200.40 Federal financial assistance, or the cost-reimbursement contract awarded under the Federal Acquisition Regulations.
- (c) Federal award does not include other contracts that a Federal agency uses to buy goods or services from a contractor or a contract to operate Federal government owned, contractor operated facilities (GOCOs).
- (d) See also definitions of Federal financial assistance, grant agreement, and cooperative agreement.

Non-Federal entity means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.

Nonprofit organization means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:

- (a) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

- (b) Is not organized primarily for profit; and
- (c) Uses net proceeds to maintain, improve, or expand the operations of the organization.

Obligations means, when used in connection with a non-Federal entity's utilization of funds under a Federal award, orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non-Federal entity during the same or a future period.

Pass-through entity means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

Recipient means a non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term recipient does not include subrecipients.

Simplified acquisition threshold means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. Non-Federal entities adopt small purchase procedures in order to expedite the purchase of items costing less than the simplified acquisition threshold. The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908. As of the publication of this part, the simplified acquisition threshold is \$150,000, but this threshold is periodically adjusted for inflation. (Also see definition of § 200.67 Micro-purchase.)

Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

Subrecipient means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

Termination means the ending of a Federal award, in whole or in part at any time prior to the planned end of period of performance.

The following certifications and provisions may be required and apply when Participating Agency expends federal funds for any purchase resulting from this procurement process. Pursuant to 2 C.F.R. § 200.326, all contracts, including small purchases, awarded by the Participating Agency and the Participating Agency's subcontractors shall contain the procurement provisions of Appendix II to Part 200, as applicable.

APPENDIX II TO 2 CFR PART 200

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Pursuant to Federal Rule (A) above, when a Participating Agency expends federal funds, the Participating Agency reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

Does offeror agree? YES RG Initials of Authorized Representative of offeror

(B) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

Pursuant to Federal Rule (B) above, when a Participating Agency expends federal funds, the Participating Agency reserves the right to immediately terminate any agreement in excess of \$10,000 resulting from this procurement process in the event of a breach or default of the agreement by Offeror as detailed in the terms of the contract.

Does offeror agree? YES RG Initials of Authorized Representative of offeror

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 CFR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order

Requirements for National Cooperative Contract

Page 24 of 54

11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

Pursuant to Federal Rule (C) above, when a Participating Agency expends federal funds on any federally assisted construction contract, the equal opportunity clause is incorporated by reference herein.

Does offeror agree to abide by the above? YES RG Initials of Authorized Representative of offeror

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non - Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non -Federal entity must report all suspected or reported violations to the Federal awarding agency.

Pursuant to Federal Rule (D) above, when a Participating Agency expends federal funds during the term of an award for all contracts and subgrants for construction or repair, offeror will be in compliance with all applicable Davis-Bacon Act provisions.

Does offeror agree? YES RG Initials of Authorized Representative of offeror

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Pursuant to Federal Rule (E) above, when a Participating Agency expends federal funds, offeror certifies that offeror will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act during the term of an award for all contracts by Participating Agency resulting from this procurement process.

Does offeror agree? YES RG Initials of Authorized Representative of offeror

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

Pursuant to Federal Rule (F) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror agrees to comply with all applicable requirements as referenced in Federal Rule (F) above.

Does offeror agree? YES RG Initials of Authorized Representative of offeror

(G) Clean Air Act (42 U.S.C. 7401 -7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—

Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non - Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 74017671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA)

Pursuant to Federal Rule (G) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency member resulting from this procurement process, the offeror agrees to comply with all applicable requirements as referenced in Federal Rule (G) above.

Does offeror agree? YES KGT Initials of Authorized Representative of offeror

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the Executive Office of the President Office of Management and Budget (OMB) guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Pursuant to Federal Rule (H) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency. If at any time during the term of an award the offeror or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency, the offeror will notify the Participating Agency.

Does offeror agree? YES KGT Initials of Authorized Representative of offeror

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Pursuant to Federal Rule (I) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term and after the awarded term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). The undersigned further certifies that:

(1) No Federal appropriated funds have been paid or will be paid for on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all covered sub-awards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

Does offeror agree? YES KGT Initials of Authorized Representative of offeror

RECORD RETENTION REQUIREMENTS FOR CONTRACTS INVOLVING FEDERAL FUNDS

When federal funds are expended by Participating Agency for any contract resulting from this procurement process, offeror certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. The offeror further certifies that offeror will retain all records as required by 2 CFR § 200.333 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

Does offeror agree? YES KGT Initials of Authorized Representative of offeror

Requirements for National Cooperative Contract

CERTIFICATION OF COMPLIANCE WITH THE ENERGY POLICY AND CONSERVATION ACT

When Participating Agency expends federal funds for any contract resulting from this procurement process, offeror certifies that it will comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.; 49 C.F.R. Part 18).

Does offeror agree? YES RGT Initials of Authorized Representative of offeror

CERTIFICATION OF COMPLIANCE WITH BUY AMERICA PROVISIONS

To the extent purchases are made with Federal Highway Administration, Federal Railroad Administration, or Federal Transit Administration funds, offeror certifies that its products comply with all applicable provisions of the Buy America Act and agrees to provide such certification or applicable waiver with respect to specific products to any Participating Agency upon request. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules calling for free and open competition.

Does offeror agree? YES RGT Initials of Authorized Representative of offeror

CERTIFICATION OF ACCESS TO RECORDS – 2 C.F.R. § 200.336

Offeror agrees that the Inspector General of the Agency or any of their duly authorized representatives shall have access to any documents, papers, or other records of offeror that are pertinent to offeror's discharge of its obligations under the Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to offeror's personnel for the purpose of interview and discussion relating to such documents.

Does offeror agree? YES RGT Initials of Authorized Representative of offeror

CERTIFICATION OF APPLICABILITY TO SUBCONTRACTORS

Offeror agrees that all contracts it awards pursuant to the Contract shall be bound by the foregoing terms and conditions.

Does offeror agree? YES RGT Initials of Authorized Representative of offeror

Offeror agrees to comply with all federal, state, and local laws, rules, regulations and ordinances, as applicable. It is further acknowledged that offeror certifies compliance with all provisions, laws, acts, regulations, etc. as specifically noted above.

Offeror's Name: Xerox Corporation _____

Address, City, State, and Zip Code: 201 Merritt 7, Norwalk, CT 06851 _____

Phone Number: 310-258-6266 _____ Fax Number: 818-715-7142

Printed Name and Title of Authorized Representative: Rachael Jones Turner, SLED Cooperative Contracts Manager

Email Address: Rachael.Jones@Xerox.com _____

Signature of Authorized Representative: Rachael Jones Turner Date: 11/11/2019

Appendix D: Exhibit G - New Jersey Business Compliance

Appendix D: Exhibit G - DOC #1

Ownership Disclosure Form

OWNERSHIP DISCLOSURE FORM
(N.J.S. 52:25-24.2)

Pursuant to the requirements of P.L. 1999, Chapter 440 effective April 17, 2000 (Local Public Contracts Law), the offeror shall complete the form attached to these specifications listing the persons owning 10 percent (10%) or more of the firm presenting the proposal.

Company Name: XEROX CORPORATION

Street: 201 MERRITT 7

City, State, Zip Code: NORWALK, CONNECTICUT 06851

Complete as appropriate:

I _____, certify that I am the sole owner of _____, that there are no partners and the business is not incorporated, and the provisions of N.J.S. 52:25-24.2 do not apply.

OR:

I _____, a partner in _____, do hereby certify that the following is a list of all individual partners who own a 10% or greater interest therein. I further certify that if one (1) or more of the partners is itself a corporation or partnership, there is also set forth the names and addresses of the stockholders holding 10% or more of that corporation's stock or the individual partners owning 10% or greater interest in that partnership.

OR:

I Douglas H. Marshall, an authorized representative of Xerox Corporation, a corporation, do hereby certify that the following is a list of the names and addresses of all stockholders in the corporation who own 10% or more of its stock of any class. I further certify that if one (1) or more of such stockholders is itself a corporation or partnership, that there is also set forth the names and addresses of the stockholders holding 10% or more of the corporation's stock or the individual partners owning a 10% or greater interest in that partnership.

(Note: If there are no partners or stockholders owning 10% or more interest, indicate none.)

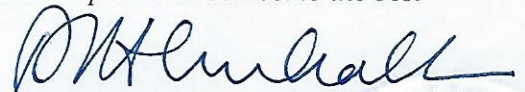
Name	Address	Interest
------	---------	----------

- | |
|---|
| • Please see attached pages from Xerox Corporation's 2019 Proxy Statement. There are two greater than 10% owners of Xerox stock: (1) Carl Icahn, an individual, and (2) The Vanguard Group. |
| • We do not have information about the owners of The Vanguard Group. |
| • All information is as of December 31, 2018, and is based on SEC filings. |

I further certify that the statements and information contained herein, are complete and correct to the best of my knowledge and belief.

November 1, 2019

Date



By: Douglas H. Marshall
Title: Corporate Secretary



xerox™
Xerox Corporation
JOINT PROXY STATEMENT/PROSPECTUS
YOUR VOTE IS VERY IMPORTANT

Dear Shareholders:

You are cordially invited to attend the 2019 Annual Meeting of Shareholders of Xerox Corporation (Xerox), to be held at 9:00 a.m. on Tuesday, May 21, 2019, at 301 Merritt 7 in Norwalk, Connecticut. We look forward to meeting our shareholders who are able to attend.

At the Annual Meeting, you will be asked to consider and vote upon proposals to: (i) adopt the merger agreement pursuant to which we will implement a holding company reorganization; (ii) elect seven directors to our board of directors; (iii) ratify the appointment of PricewaterhouseCoopers LLP as our independent registered public accounting firm for 2019; (iv) approve, on an advisory basis, the 2018 compensation of our named executive officers; (v) authorize the amendment of the Xerox restated certificate of incorporation to implement a majority voting standard for certain corporate actions; and (vi) authorize the adjournment of the Annual Meeting, if necessary, to solicit additional proxies if there are not sufficient votes to approve the foregoing proposals, in each case as described in the accompanying joint proxy statement/prospectus. There will also be one shareholder proposal submitted for shareholder vote, if properly presented.

This year, we are asking you to approve a proposal to implement a holding company structure for Xerox. We regularly evaluate a range of possible strategic growth opportunities for our company. We believe implementation of a holding company structure will provide us with more flexibility to develop and realize these possibilities. By providing optionality for future innovation, investment and growth opportunities to exist either within or separate from current Xerox businesses, we believe that the holding company reorganization is an important step in reestablishing Xerox as a technology powerhouse with a robust portfolio of hardware, software, solutions and services, while preserving our existing customer, partner, vendor and supplier relationships. The holding company structure is intended to provide us with optionality to potentially acquire and incubate future businesses through subsidiaries that can operate on a global scale, with the flexibility to finance and structure each new opportunity in a manner that we believe will create value, while also maintaining — and continuing investment in — the existing Xerox product and technology platforms. We have carefully considered the holding company reorganization and believe it is advisable, fair to and in the best interests of our shareholders.

If the holding company reorganization is completed, your existing shares of Xerox common stock will be automatically converted, on a one-for-one basis, into shares of common stock of Xerox Holdings Corporation (Holdings), the new holding company. As a result, you will hold the same number of shares of Holdings common stock as you held of Xerox common stock immediately before the holding company reorganization. We expect the common stock of Holdings to trade on the New York Stock Exchange under Xerox's current trading symbol, "XRX."

Additionally, as a result of our shareholder engagement efforts and our commitment to corporate governance, we are asking you to approve a proposal to amend the Xerox restated certificate of incorporation to implement a majority voting standard for certain corporate actions which currently require a supermajority vote. We recognize that many shareholders believe that a majority voting requirement will provide shareholders with a greater voice in expressing their views on matters impacting Xerox.

Confident in the future direction and strategy of the Company, directors Greg Brown and Sara Martinez Tucker have decided not to stand for reelection to the Board. We thank them for their many significant contributions over the years.

Our Board unanimously recommends that you vote "FOR" the adoption of the merger agreement, "FOR" all nominees for director, "FOR" ratification of the appointment of PricewaterhouseCoopers LLP as our independent registered public accounting firm for 2019, "FOR" the non-binding executive compensation proposal, "FOR" the majority voting standard proposal, and "FOR" the adjournment proposal. Our Board makes no recommendation on the shareholder proposal regarding a simple majority vote requirement.

Your vote is important — no matter how many or how few shares you may own. Whether or not you plan to attend the Annual Meeting, please vote your shares as soon as possible. You may vote via the Internet, by telephone or by signing, dating and mailing the enclosed proxy card. Specific instructions for shareholders of record who wish to use Internet or telephone voting procedures are included in the enclosed joint proxy statement/prospectus. Any shareholder attending the Annual Meeting may vote in person even if a proxy has been returned.

The accompanying notice of meeting and this joint proxy statement/prospectus provide specific information about the Annual Meeting and explain the various proposals. Please read these materials carefully. **In particular, you should consider the discussion of risk factors beginning on page 18 before voting on the proposal to adopt the merger agreement pursuant to which we will implement the holding company reorganization.**

Thank you for your continued support of Xerox.
For the Board of Directors,

Keith Cozza
Chairman of the Board

Giovanni ("John") Visentin
Vice Chairman and Chief Executive Officer

Neither the Securities and Exchange Commission, or SEC, nor any state securities regulatory agency has approved or disapproved of the securities to be issued under this joint proxy statement/prospectus or passed upon the adequacy or accuracy of the disclosure in this joint proxy statement/prospectus. Any representation to the contrary is a criminal offense.

The accompanying joint proxy statement/prospectus is dated April 22, 2019 and is first being mailed to shareholders on or about April 23, 2019.

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director is as follows: Mr. Brown, 12,860 (\$254,114); Mr. Christodoro, 13,772 (\$272,135); Mr. Cozza, 4,780 (\$94,453); Mr. Echevarria, 13,064 (\$258,145); Mr. Graziano, 4,780 (\$94,453); Mr. Hunter, 68,803 (\$1,359,547); Mr. Keegan, 40,147 (\$793,305); Ms. Krongard, 13,064 (\$258,145); Mr. Letier, 4,780 (\$94,453); Mr. Prince, 49,307 (\$974,306); Ms. Reese, 63,968 (\$1,264,008); Mr. Rusckowski, 18,601 (\$367,556); and Ms. Tucker, 40,601 (\$802,276).

- (3) In accordance with applicable SEC rules, dividend equivalents paid in 2018 on DSUs are not included in "All Other Compensation" because those amounts were factored into the grant date fair values of the DSUs.

For information on compensation for Mr. Visentin, a director and the Chief Executive Officer of Xerox, and Jeffrey Jacobson, a former director who was also the Chief Executive Officer of Xerox for a portion of 2018, see the executive compensation tables beginning on page 77.

SECURITIES OWNERSHIP

Ownership of Company Securities

We are not aware of any person who, or group that, owns beneficially more than 5% of any class of the Company's voting securities as of December 31, 2018, except as otherwise set forth below⁽¹⁾.

Title of Class*	Name and Address of Beneficial Owner	Amount and Nature of Beneficial Ownership	Percent of Class (1)
Common Stock	Mr. Carl C. Icahn c/o Icahn Capital LP 767 Fifth Ave, Suite 4700 New York, NY 10153	23,456,087 (2)	10.21%
Common Stock	The Vanguard Group, Inc. 100 Vanguard Blvd. Malvern, PA 19355	23,024,451 (3)	10.02%
Common Stock	BlackRock, Inc. 55 East 52nd Street New York, NY 10055	15,816,977 (4)	6.7%
Common Stock	Darwin Deason 5956 Sherry Ln., Suite 800 Dallas, TX 75225	15,322,341 (5)	6.7%

- (1) The words "group" and "beneficial" are as defined in regulations issued by the SEC. Beneficial ownership under such definition means possession of sole voting power, shared voting power, sole dispositive power or shared dispositive power. The information provided in this table is based solely upon the information contained in the most recent Schedule 13G or 13G/A (or in the case of Mr. Icahn and Mr. Deason, the most recent Schedule 13D/A) filed by the named entity with the SEC. BlackRock, Inc. is a registered investment adviser under the Investment Advisers Act of 1940, as amended, and has subsidiaries that are also investment advisers under the Investment Advisers Act with beneficial ownership of the reported shares.
- (2) Based on the Schedule 13D/A filed on February 25, 2019, represents shares of common stock held by the following group of entities associated with Carl C. Icahn: High River Limited Partnership ("High River"), Hopper Investments LLC ("Hopper"), Barberry Corp. ("Barberry"), Icahn Partners Master Fund LP ("Icahn Master"), Icahn Offshore LP ("Icahn Offshore"), Icahn Partners LP ("Icahn Partners"), Icahn Onshore LP ("Icahn Onshore"), Icahn Capital LP ("Icahn Capital"), IPH GP LLC ("IPH"), Icahn Enterprises Holdings L.P. ("Icahn Enterprises Holdings"), Icahn Enterprises G.P. Inc. ("Icahn Enterprises GP") and Beckton Corp. ("Beckton") (collectively, the "Reporting Persons"). The principal business address of (i) each of High River, Hopper, Barberry, Icahn Offshore, Icahn Partners, Icahn Master, Icahn Onshore, Icahn Capital, IPH, Icahn Enterprises Holdings, Icahn Enterprises GP and Beckton is White Plains Plaza, 445 Hamilton

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Avenue — Suite 1210, White Plains, NY 10601, and (ii) Mr. Icahn, Barberry and Hopper is c/o Icahn Capital LP, 767 Fifth Avenue, 47th Floor, New York, NY 10153.

Icahn Partners, Icahn Master and High River (collectively, the “Icahn Parties”) are entities controlled by Carl C. Icahn. Barberry is the sole member of Hopper, which is the general partner of High River. Icahn Offshore is the general partner of Icahn Master. Icahn Onshore is the general partner of Icahn Partners. Icahn Capital is the general partner of each of Icahn Offshore and Icahn Onshore. Icahn Enterprises Holdings is the sole member of IPH, which is the general partner of Icahn Capital. Beckton is the sole stockholder of Icahn Enterprises GP, which is the general partner of Icahn Enterprises Holdings. Carl C. Icahn is the sole stockholder of each of Barberry and Beckton. As such, Mr. Icahn is in a position indirectly to determine the investment and voting decisions made by each of the Icahn Parties. In addition, Mr. Icahn is the indirect holder of approximately 91.0% of the outstanding depositary units representing limited partnership interests in Icahn Enterprises L.P. (“Icahn Enterprises”). Icahn Enterprises GP is the general partner of Icahn Enterprises, which is the sole limited partner of Icahn Enterprises Holdings.

The Reporting Persons may be deemed to beneficially own, in the aggregate, 23,456,087 shares of common stock. Calculation of the percent of class is based upon the 229,726,488 shares of common stock stated to be outstanding as of January 31, 2019 by the Company in the Company’s Annual Report on Form 10-K for the year ended December 31, 2018, filed with the SEC on February 25, 2019.

High River has sole voting power and sole dispositive power with regard to 4,691,218 shares of common stock. Each of Hopper, Barberry and Mr. Icahn has shared voting power and shared dispositive power with regard to such shares. Icahn Partners has sole voting power and sole dispositive power with regard to 11,130,555 shares of common stock. Each of Icahn Onshore, Icahn Capital, IPH, Icahn Enterprises Holdings, Icahn Enterprises GP, Beckton and Mr. Icahn has shared voting power and shared dispositive power with regard to such shares of common stock. Icahn Master has sole voting power and sole dispositive power with regard to 7,634,314 shares of common stock. Each of Icahn Offshore, Icahn Capital, IPH, Icahn Enterprises Holdings, Icahn Enterprises GP, Beckton and Mr. Icahn has shared voting power and shared dispositive power with regard to such shares of common stock.

Each of Hopper, Barberry and Mr. Icahn, by virtue of their relationships to High River, may be deemed to indirectly beneficially own the shares of common stock that High River directly beneficially owns. Each of Hopper, Barberry and Mr. Icahn disclaims beneficial ownership of such shares of common stock for all other purposes. Each of Icahn Offshore, Icahn Capital, IPH, Icahn Enterprises Holdings, Icahn Enterprises GP, Beckton and Mr. Icahn, by virtue of their relationships to Icahn Master, may be deemed to indirectly beneficially own the shares of common stock which Icahn Master directly beneficially owns. Each of Icahn Offshore, Icahn Capital, IPH, Icahn Enterprises Holdings, Icahn Enterprises GP, Beckton and Mr. Icahn disclaims beneficial ownership of such shares of common stock for all other purposes. Each of Icahn Onshore, Icahn Capital, IPH, Icahn Enterprises Holdings, Icahn Enterprises GP, Beckton and Mr. Icahn, by virtue of their relationships to Icahn Partners, may be deemed to indirectly beneficially own the shares of common stock which Icahn Partners directly beneficially owns. Each of Icahn Onshore, Icahn Capital, IPH, Icahn Enterprises Holdings, Icahn Enterprises GP, Beckton and Mr. Icahn disclaims beneficial ownership of such shares of common stock for all other purposes.

- (3) Based on the Schedule 13G/A filed on March 11, 2019, the Vanguard Group, Inc. and its subsidiary companies have sole voting power for 256,417 shares of common stock, sole dispositive power for 22,745,582 shares of common stock, shared dispositive power for 278,869 shares of common stock and shared voting power for 40,659 shares of common stock.
- (4) BlackRock, Inc. and its subsidiary companies have sole voting power for 13,827,430 shares of common stock and sole dispositive power for 15,816,977 shares of common stock, and have no shared voting power or shared dispositive power for any of the shares.
- (5) Based solely on the Schedule 13D/A filed on March 18, 2019, Darwin Deason has sole voting power and sole dispositive power for 15,322,341 shares of common stock, and has no shared dispositive or shared voting power for any of the shares. Mr. Deason may be deemed to beneficially own, in the aggregate, 15,322,341 shares, including 6,741,572 shares issuable upon the conversion of 180,000 shares of Xerox Series B Convertible Perpetual Preferred Stock, par value \$1.00 per share.

Appendix D: Exhibit G - DOC #2 Non-Collusion Affidavit

NON-COLLUSION AFFIDAVIT

Company Name: XenX Corporation
 Street: 201 Merritt 7
 City, State, Zip Code: Norwalk, CT 06851

State of New Jersey
 County of Mercer

I, Joanne Levy of the Hamilton
 Name City

in the County of Mercer, State of New Jersey
 of full age, being duly sworn according to law on my oath depose and say that:

I am the General Manager of the firm of XenX Corporation
 Title Company Name

the Offeror making the Proposal for the goods, services or public work specified under the attached proposal, and that I executed the said proposal with full authority to do so; that said Offeror has not directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free, competitive bidding in connection with the above proposal, and that all statements contained in said proposal and in this affidavit are true and correct, and made with full knowledge that relies upon the truth of the statements contained in said proposal and in the statements contained in this affidavit in awarding the contract for the said goods, services or public work.

I further warrant that no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by

XenX Corporation
 Company Name

Joanne Levy GM
 Authorized Signature & Title

Subscribed and sworn before me

this 1st day of November, 2019

Karen M Cohen
 Notary Public of New Jersey

My commission expires July 18, 2022



SEAL

Appendix D: Exhibit G - DOC #3

Affirmative Action Affidavit

**AFFIRMATIVE ACTION AFFIDAVIT
(P.L. 1975, C.127)**

Company Name: Xerox Corporation
 Street: 201 Merritt 7
 City, State, Zip Code: Norwalk, CT 06851

Proposal Certification:

Indicate below company's compliance with New Jersey Affirmative Action regulations. Company's proposal will be accepted even if company is not in compliance at this time. No contract and/or purchase order may be issued, however, until all Affirmative Action requirements are met.

Required Affirmative Action Evidence:

Procurement, Professional & Service Contracts (Exhibit A)

Vendors must submit with proposal:

1. A photo copy of their Federal Letter of Affirmative Action Plan

Approval OR

2. A photo copy of their Certificate of Employee Information Report
OR

3. A complete Affirmative Action Employee Information Report (AA302)

Public Work – Over \$50,000 Total Project Cost:

A. No approved Federal or New Jersey Affirmative Action Plan. We will complete Report Form AA201-A upon receipt from the

B. Approved Federal or New Jersey Plan – certificate enclosed

I further certify that the statements and information contained herein, are complete and correct to the best of my knowledge and belief.

11/1/2019
Date

Janice Long AGM
Authorized Signature and Title

P.L. 1995, c. 127 (N.J.A.C. 17:27)
MANDATORY AFFIRMATIVE ACTION LANGUAGE

PROCUREMENT, PROFESSIONAL AND SERVICE
CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. The contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this non-discrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisement for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation.

The contractor or subcontractor, where applicable, will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time and the Americans with Disabilities Act.

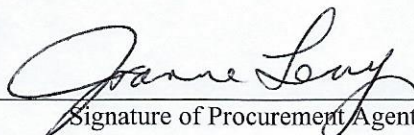
The contractor or subcontractor agrees to attempt in good faith to employ minority and female workers trade consistent with the applicable county employment goal prescribed by N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, C.127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, C.127, as amended and supplemented from time to time.

The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the state of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

The contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and lay-off to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor and its subcontractors shall furnish such reports or other documents to the Affirmative Action Office as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Affirmative Action Office for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code (NJAC 17:27).


Signature of Procurement Agent

Certification **1160**

CERTIFICATE OF EMPLOYEE INFORMATION REPORT
RENEWAL

This is to certify that the contractor listed below has submitted an Employee Information Report pursuant to N.J.A.C. 17:27-1.1 et. seq. and the State Treasurer has approved said report. This approval will remain in effect for the period of **15-MAR-2019** to **15-MAR-2022**

XEROX CORPORATION
10 WOODBRIDGE CENTER DR.
WOODBIDGE NJ 07095




Elizabeth M. Muoio
ELIZABETH MAHER MUOIO
State Treasurer

Appendix D: Exhibit G - DOC #4 Political Contribution Disclosure Form

C. 271 POLITICAL CONTRIBUTION DISCLOSURE FORM

Public Agency Instructions

This page provides guidance to public agencies entering into contracts with business entities that are required to file Political Contribution Disclosure forms with the agency. **It is not intended to be provided to contractors.** What follows are instructions on the use of form local units can provide to contractors that are required to disclose political contributions pursuant to N.J.S.A. 19:44A-20.26 (P.L. 2005, c. 271, s.2). Additional information on the process is available in Local Finance Notice 2006-1 (http://www.nj.gov/dca/divisions/dlgs/resources/lfns_2006.html). Please refer back to these instructions for the appropriate links, as the Local Finance Notices include links that are no longer operational.

1. The disclosure is required for all contracts in excess of \$17,500 that are **not awarded** pursuant to a “fair and open” process (N.J.S.A. 19:44A-20.7).
2. Due to the potential length of some contractor submissions, the public agency should consider allowing data to be submitted in electronic form (i.e., spreadsheet, pdf file, etc.). Submissions must be kept with the contract documents or in an appropriate computer file and be available for public access. **The form is worded to accept this alternate submission.** The text should be amended if electronic submission will not be allowed.
3. The submission must be **received from the contractor and** on file at least 10 days prior to award of the contract. Resolutions of award should reflect that the disclosure has been received and is on file.
4. The contractor must disclose contributions made to candidate and party committees covering a wide range of public agencies, including all public agencies that have elected officials in the county of the public agency, state legislative positions, and various state entities. The Division of Local Government Services recommends that contractors be provided a list of the affected agencies. This will assist contractors in determining the campaign and political committees of the officials and candidates affected by the disclosure.
 - a. The Division has prepared model disclosure forms for each county. They can be downloaded from the “County PCD Forms” link on the Pay-to-Play web site at <http://www.nj.gov/dca/divisions/dlgs/programs/lpcl.html#12>. They will be updated from time-to-time as necessary.
 - b. A public agency using these forms **should edit them to properly reflect the correct legislative district(s)**. As the forms are county-based, **they list all legislative districts** in each county. **Districts that do not represent the public agency should be removed from the lists.**
 - c. Some contractors may find it easier to provide a single list that covers all contributions, regardless of the county. These submissions are appropriate and should be accepted.
 - d. The form may be used “as-is”, subject to edits as described herein.
 - e. The “Contractor Instructions” sheet is intended to be provided with the form. It is recommended that the Instructions and the form be printed on the same piece of paper. The form notes that the Instructions are printed on the back of the form; where that is not the case, the text should be edited accordingly.
 - f. The form is a Word document and can be edited to meet local needs, and posted for download on web sites, used as an e-mail attachment, or provided as a printed document.
5. It is recommended that the contractor also complete a “Stockholder Disclosure Certification.” This will assist the local unit in its obligation to ensure that contractor did not make any prohibited contributions to the committees listed on the Business Entity Disclosure Certification in the 12 months prior to the contract (See Local Finance Notice 2006-7 for additional information on this obligation at http://www.nj.gov/dca/divisions/dlgs/resources/lfns_2006.html). A sample Certification form is part of this package and the instruction to complete it is included in the Contractor Instructions. NOTE: This section is not applicable to Boards of Education.

C. 271 POLITICAL CONTRIBUTION DISCLOSURE FORM

Contractor Instructions

Business entities (contractors) receiving contracts from a public agency that are NOT awarded pursuant to a "fair and open" process (defined at N.J.S.A. 19:44A-20.7) are subject to the provisions of P.L. 2005, c. 271, s.2 (N.J.S.A. 19:44A-20.26). This law provides that 10 days prior to the award of such a contract, the contractor shall disclose contributions to:

- any State, county, or municipal committee of a political party
- any legislative leadership committee*
- any continuing political committee (a.k.a., political action committee)
- any candidate committee of a candidate for, or holder of, an elective office:
 - of the public entity awarding the contract
 - of that county in which that public entity is located
 - of another public entity within that county
 - or of a legislative district in which that public entity is located or, when the public entity is a county, of any legislative district which includes all or part of the county

The disclosure must list reportable contributions to any of the committees that exceed \$300 per election cycle that were made during the 12 months prior to award of the contract. See N.J.S.A. 19:44A-8 and 19:44A-16 for more details on reportable contributions.

N.J.S.A. 19:44A-20.26 itemizes the parties from whom contributions must be disclosed when a business entity is not a natural person. This includes the following:

- individuals with an "interest" ownership or control of more than 10% of the profits or assets of a business entity or 10% of the stock in the case of a business entity that is a corporation for profit
- all principals, partners, officers, or directors of the business entity or their spouses
- any subsidiaries directly or indirectly controlled by the business entity
- IRS Code Section 527 New Jersey based organizations, directly or indirectly controlled by the business entity and filing as continuing political committees, (PACs).

When the business entity is a natural person, "a contribution by that person's spouse or child, residing therewith, shall be deemed to be a contribution by the business entity." [N.J.S.A. 19:44A-20.26(b)] The contributor must be listed on the disclosure.

Any business entity that fails to comply with the disclosure provisions shall be subject to a fine imposed by ELEC in an amount to be determined by the Commission which may be based upon the amount that the business entity failed to report.

The enclosed list of agencies is provided to assist the contractor in identifying those public agencies whose elected official and/or candidate campaign committees are affected by the disclosure requirement. It is the contractor's responsibility to identify the specific committees to which contributions may have been made and need to be disclosed. The disclosed information may exceed the minimum requirement.

The enclosed form, a content-consistent facsimile, or an electronic data file containing the required details (along with a signed cover sheet) may be used as the contractor's submission and is disclosable to the public under the Open Public Records Act.

The contractor must also complete the attached Stockholder Disclosure Certification. This will assist the agency in meeting its obligations under the law. **NOTE: This section does not apply to Board of Education contracts.**

* N.J.S.A. 19:44A-3(s): "The term "legislative leadership committee" means a committee established, authorized to be established, or designated by the President of the Senate, the Minority Leader of the Senate, the Speaker of the General Assembly or the Minority Leader of the General Assembly pursuant to section 16 of P.L.1993, c.65 (C.19:44A-10.1) for the purpose of receiving contributions and making expenditures."

Requirements for National Cooperative Contract

Page 34 of 54

C. 271 POLITICAL CONTRIBUTION DISCLOSURE FORM

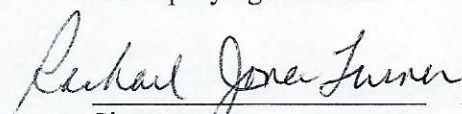
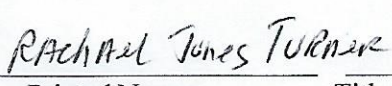
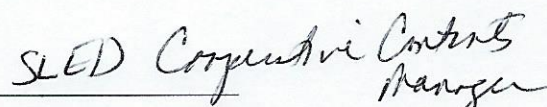
Required Pursuant to N.J.S.A. 19:44A-20.26

**This form or its permitted facsimile must be submitted to the local unit
no later than 10 days prior to the award of the contract.**

Part I – Vendor Information

Vendor Name:	Xerox Corporation		
Address:	201 Merritt 7		
City:	Norwalk	State: CT	Zip: 06851

The undersigned being authorized to certify, hereby certifies that the submission provided herein represents compliance with the provisions of N.J.S.A. 19:44A-20.26 and as represented by the Instructions accompanying this form.

Signature Printed Name Title

Part II – Contribution Disclosure

Disclosure requirement: Pursuant to N.J.S.A. 19:44A-20.26 this disclosure must include all reportable political contributions (more than \$300 per election cycle) over the 12 months prior to submission to the committees of the government entities listed on the form provided by the local unit.

☐ Check here if disclosure is provided in electronic form

Contributor Name	Recipient Name	Date	Dollar Amount
None			\$

☐ Check here if the information is continued on subsequent page(s)

List of Agencies with Elected Officials Required for Political Contribution Disclosure
N.J.S.A. 19:44A-20.26

County Name:

State: Governor, and Legislative Leadership Committees

Legislative District #s:

State Senator and two members of the General Assembly per district.

County:

Freeholders

{County Executive}

County Clerk

Surrogate

Sheriff

Municipalities (Mayor and members of governing body, regardless of title):

**USERS SHOULD CREATE THEIR OWN FORM, OR DOWNLOAD
FROM THE PAY TO PLAY SECTION OF THE DLGS WEBSITE A
COUNTY-BASED, CUSTOMIZABLE FORM.**

Appendix D: Exhibit G - DOC #5 Stockholder Disclosure Certification

STOCKHOLDER DISCLOSURE CERTIFICATION

Name of Business:

☒ I certify that the list below contains the names and home addresses of all stockholders holding 10% or more of the issued and outstanding stock of the undersigned.

OR

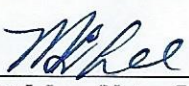
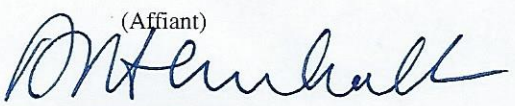
☐ I certify that no one stockholder owns 10% or more of the issued and outstanding stock of the undersigned.

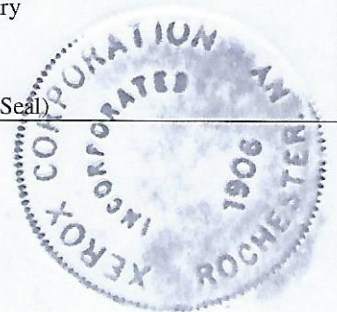
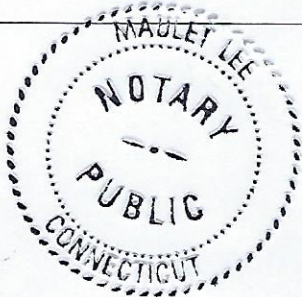
Check the box that represents the type of business organization:

- ☐ Partnership ☒ Corporation ☐ Sole Proprietorship
- ☐ Limited Partnership ☐ Limited Liability Corporation ☐ Limited Liability Partnership
- ☐ Subchapter S Corporation

Sign and notarize the form below, and, if necessary, complete the stockholder list below.

Stockholders:

Name:	Name:
• Please see attached pages from Xerox Corporation's 2019 Proxy Statement. There are two greater than 10% owners of Xerox stock: (1) Carl Icahn, an individual, and (2) The Vanguard Group. • We do not have information about the owners of The Vanguard Group. • All information is as of December 31, 2018, and is based on SEC filings	
Subscribed and sworn to before me This <u>1st</u> day of <u>November</u>, 2019.  Maulet L Lee, (Notary Public) My Commission expires: September 30, 2024	(Affiant)  Douglas H. Marshall Corporate Secretary (Corporate Seal)



xerox™
Xerox Corporation
JOINT PROXY STATEMENT/PROSPECTUS
YOUR VOTE IS VERY IMPORTANT

Dear Shareholders:

You are cordially invited to attend the 2019 Annual Meeting of Shareholders of Xerox Corporation (Xerox), to be held at 9:00 a.m. on Tuesday, May 21, 2019, at 301 Merritt 7 in Norwalk, Connecticut. We look forward to meeting our shareholders who are able to attend.

At the Annual Meeting, you will be asked to consider and vote upon proposals to: (i) adopt the merger agreement pursuant to which we will implement a holding company reorganization; (ii) elect seven directors to our board of directors; (iii) ratify the appointment of PricewaterhouseCoopers LLP as our independent registered public accounting firm for 2019; (iv) approve, on an advisory basis, the 2018 compensation of our named executive officers; (v) authorize the amendment of the Xerox restated certificate of incorporation to implement a majority voting standard for certain corporate actions; and (vi) authorize the adjournment of the Annual Meeting, if necessary, to solicit additional proxies if there are not sufficient votes to approve the foregoing proposals, in each case as described in the accompanying joint proxy statement/prospectus. There will also be one shareholder proposal submitted for shareholder vote, if properly presented.

This year, we are asking you to approve a proposal to implement a holding company structure for Xerox. We regularly evaluate a range of possible strategic growth opportunities for our company. We believe implementation of a holding company structure will provide us with more flexibility to develop and realize these possibilities. By providing optionality for future innovation, investment and growth opportunities to exist either within or separate from current Xerox businesses, we believe that the holding company reorganization is an important step in reestablishing Xerox as a technology powerhouse with a robust portfolio of hardware, software, solutions and services, while preserving our existing customer, partner, vendor and supplier relationships. The holding company structure is intended to provide us with optionality to potentially acquire and incubate future businesses through subsidiaries that can operate on a global scale, with the flexibility to finance and structure each new opportunity in a manner that we believe will create value, while also maintaining — and continuing investment in — the existing Xerox product and technology platforms. We have carefully considered the holding company reorganization and believe it is advisable, fair to and in the best interests of our shareholders.

If the holding company reorganization is completed, your existing shares of Xerox common stock will be automatically converted, on a one-for-one basis, into shares of common stock of Xerox Holdings Corporation (Holdings), the new holding company. As a result, you will hold the same number of shares of Holdings common stock as you held of Xerox common stock immediately before the holding company reorganization. We expect the common stock of Holdings to trade on the New York Stock Exchange under Xerox's current trading symbol, "XRX."

Additionally, as a result of our shareholder engagement efforts and our commitment to corporate governance, we are asking you to approve a proposal to amend the Xerox restated certificate of incorporation to implement a majority voting standard for certain corporate actions which currently require a supermajority vote. We recognize that many shareholders believe that a majority voting requirement will provide shareholders with a greater voice in expressing their views on matters impacting Xerox.

Confident in the future direction and strategy of the Company, directors Greg Brown and Sara Martinez Tucker have decided not to stand for reelection to the Board. We thank them for their many significant contributions over the years.

Our Board unanimously recommends that you vote "FOR" the adoption of the merger agreement, "FOR" all nominees for director, "FOR" ratification of the appointment of PricewaterhouseCoopers LLP as our independent registered public accounting firm for 2019, "FOR" the non-binding executive compensation proposal, "FOR" the majority voting standard proposal, and "FOR" the adjournment proposal. Our Board makes no recommendation on the shareholder proposal regarding a simple majority vote requirement.

Your vote is important — no matter how many or how few shares you may own. Whether or not you plan to attend the Annual Meeting, please vote your shares as soon as possible. You may vote via the Internet, by telephone or by signing, dating and mailing the enclosed proxy card. Specific instructions for shareholders of record who wish to use Internet or telephone voting procedures are included in the enclosed joint proxy statement/prospectus. Any shareholder attending the Annual Meeting may vote in person even if a proxy has been returned.

The accompanying notice of meeting and this joint proxy statement/prospectus provide specific information about the Annual Meeting and explain the various proposals. Please read these materials carefully. **In particular, you should consider the discussion of risk factors beginning on page 18 before voting on the proposal to adopt the merger agreement pursuant to which we will implement the holding company reorganization.**

Thank you for your continued support of Xerox.
For the Board of Directors,

Keith Cozza
Chairman of the Board

Giovanni ("John") Visentin
Vice Chairman and Chief Executive Officer

Neither the Securities and Exchange Commission, or SEC, nor any state securities regulatory agency has approved or disapproved of the securities to be issued under this joint proxy statement/prospectus or passed upon the adequacy or accuracy of the disclosure in this joint proxy statement/prospectus. Any representation to the contrary is a criminal offense.

The accompanying joint proxy statement/prospectus is dated April 22, 2019 and is first being mailed to shareholders on or about April 23, 2019.

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director is as follows: Mr. Brown, 12,860 (\$254,114); Mr. Christodoro, 13,772 (\$272,135); Mr. Cozza, 4,780 (\$94,453); Mr. Echevarria, 13,064 (\$258,145); Mr. Graziano, 4,780 (\$94,453); Mr. Hunter, 68,803 (\$1,359,547); Mr. Keegan, 40,147 (\$793,305); Ms. Krongard, 13,064 (\$258,145); Mr. Letier, 4,780 (\$94,453); Mr. Prince, 49,307 (\$974,306); Ms. Reese, 63,968 (\$1,264,008); Mr. Rusckowski, 18,601 (\$367,556); and Ms. Tucker, 40,601 (\$802,276).

- (3) In accordance with applicable SEC rules, dividend equivalents paid in 2018 on DSUs are not included in "All Other Compensation" because those amounts were factored into the grant date fair values of the DSUs.

For information on compensation for Mr. Visentin, a director and the Chief Executive Officer of Xerox, and Jeffrey Jacobson, a former director who was also the Chief Executive Officer of Xerox for a portion of 2018, see the executive compensation tables beginning on page 77.

SECURITIES OWNERSHIP

Ownership of Company Securities

We are not aware of any person who, or group that, owns beneficially more than 5% of any class of the Company's voting securities as of December 31, 2018, except as otherwise set forth below⁽¹⁾.

Title of Class*	Name and Address of Beneficial Owner	Amount and Nature of Beneficial Ownership	Percent of Class (1)
Common Stock	Mr. Carl C. Icahn c/o Icahn Capital LP 767 Fifth Ave, Suite 4700 New York, NY 10153	23,456,087 (2)	10.21%
Common Stock	The Vanguard Group, Inc. 100 Vanguard Blvd. Malvern, PA 19355	23,024,451 (3)	10.02%
Common Stock	BlackRock, Inc. 55 East 52nd Street New York, NY 10055	15,816,977 (4)	6.7%
Common Stock	Darwin Deason 5956 Sherry Ln., Suite 800 Dallas, TX 75225	15,322,341 (5)	6.7%

- (1) The words "group" and "beneficial" are as defined in regulations issued by the SEC. Beneficial ownership under such definition means possession of sole voting power, shared voting power, sole dispositive power or shared dispositive power. The information provided in this table is based solely upon the information contained in the most recent Schedule 13G or 13G/A (or in the case of Mr. Icahn and Mr. Deason, the most recent Schedule 13D/A) filed by the named entity with the SEC. BlackRock, Inc. is a registered investment adviser under the Investment Advisers Act of 1940, as amended, and has subsidiaries that are also investment advisers under the Investment Advisers Act with beneficial ownership of the reported shares.
- (2) Based on the Schedule 13D/A filed on February 25, 2019, represents shares of common stock held by the following group of entities associated with Carl C. Icahn: High River Limited Partnership ("High River"), Hopper Investments LLC ("Hopper"), Barberry Corp. ("Barberry"), Icahn Partners Master Fund LP ("Icahn Master"), Icahn Offshore LP ("Icahn Offshore"), Icahn Partners LP ("Icahn Partners"), Icahn Onshore LP ("Icahn Onshore"), Icahn Capital LP ("Icahn Capital"), IPH GP LLC ("IPH"), Icahn Enterprises Holdings L.P. ("Icahn Enterprises Holdings"), Icahn Enterprises G.P. Inc. ("Icahn Enterprises GP") and Beckton Corp. ("Beckton") (collectively, the "Reporting Persons"). The principal business address of (i) each of High River, Hopper, Barberry, Icahn Offshore, Icahn Partners, Icahn Master, Icahn Onshore, Icahn Capital, IPH, Icahn Enterprises Holdings, Icahn Enterprises GP and Beckton is White Plains Plaza, 445 Hamilton

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Avenue — Suite 1210, White Plains, NY 10601, and (ii) Mr. Icahn, Barberry and Hopper is c/o Icahn Capital LP, 767 Fifth Avenue, 47th Floor, New York, NY 10153.

Icahn Partners, Icahn Master and High River (collectively, the "Icahn Parties") are entities controlled by Carl C. Icahn. Barberry is the sole member of Hopper, which is the general partner of High River. Icahn Offshore is the general partner of Icahn Master. Icahn Onshore is the general partner of Icahn Partners. Icahn Capital is the general partner of each of Icahn Offshore and Icahn Onshore. Icahn Enterprises Holdings is the sole member of IPH, which is the general partner of Icahn Capital. Beckton is the sole stockholder of Icahn Enterprises GP, which is the general partner of Icahn Enterprises Holdings. Carl C. Icahn is the sole stockholder of each of Barberry and Beckton. As such, Mr. Icahn is in a position indirectly to determine the investment and voting decisions made by each of the Icahn Parties. In addition, Mr. Icahn is the indirect holder of approximately 91.0% of the outstanding depositary units representing limited partnership interests in Icahn Enterprises L.P. ("Icahn Enterprises"). Icahn Enterprises GP is the general partner of Icahn Enterprises, which is the sole limited partner of Icahn Enterprises Holdings.

The Reporting Persons may be deemed to beneficially own, in the aggregate, 23,456,087 shares of common stock. Calculation of the percent of class is based upon the 229,726,488 shares of common stock stated to be outstanding as of January 31, 2019 by the Company in the Company's Annual Report on Form 10-K for the year ended December 31, 2018, filed with the SEC on February 25, 2019.

High River has sole voting power and sole dispositive power with regard to 4,691,218 shares of common stock. Each of Hopper, Barberry and Mr. Icahn has shared voting power and shared dispositive power with regard to such shares. Icahn Partners has sole voting power and sole dispositive power with regard to 11,130,555 shares of common stock. Each of Icahn Onshore, Icahn Capital, IPH, Icahn Enterprises Holdings, Icahn Enterprises GP, Beckton and Mr. Icahn has shared voting power and shared dispositive power with regard to such shares of common stock. Icahn Master has sole voting power and sole dispositive power with regard to 7,634,314 shares of common stock. Each of Icahn Offshore, Icahn Capital, IPH, Icahn Enterprises Holdings, Icahn Enterprises GP, Beckton and Mr. Icahn has shared voting power and shared dispositive power with regard to such shares of common stock.

Each of Hopper, Barberry and Mr. Icahn, by virtue of their relationships to High River, may be deemed to indirectly beneficially own the shares of common stock that High River directly beneficially owns. Each of Hopper, Barberry and Mr. Icahn disclaims beneficial ownership of such shares of common stock for all other purposes. Each of Icahn Offshore, Icahn Capital, IPH, Icahn Enterprises Holdings, Icahn Enterprises GP, Beckton and Mr. Icahn, by virtue of their relationships to Icahn Master, may be deemed to indirectly beneficially own the shares of common stock which Icahn Master directly beneficially owns. Each of Icahn Offshore, Icahn Capital, IPH, Icahn Enterprises Holdings, Icahn Enterprises GP, Beckton and Mr. Icahn disclaims beneficial ownership of such shares of common stock for all other purposes. Each of Icahn Onshore, Icahn Capital, IPH, Icahn Enterprises Holdings, Icahn Enterprises GP, Beckton and Mr. Icahn, by virtue of their relationships to Icahn Partners, may be deemed to indirectly beneficially own the shares of common stock which Icahn Partners directly beneficially owns. Each of Icahn Onshore, Icahn Capital, IPH, Icahn Enterprises Holdings, Icahn Enterprises GP, Beckton and Mr. Icahn disclaims beneficial ownership of such shares of common stock for all other purposes.

- (3) Based on the Schedule 13G/A filed on March 11, 2019, the Vanguard Group, Inc. and its subsidiary companies have sole voting power for 256,417 shares of common stock, sole dispositive power for 22,745,582 shares of common stock, shared dispositive power for 278,869 shares of common stock and shared voting power for 40,659 shares of common stock.
- (4) BlackRock, Inc. and its subsidiary companies have sole voting power for 13,827,430 shares of common stock and sole dispositive power for 15,816,977 shares of common stock, and have no shared voting power or shared dispositive power for any of the shares.
- (5) Based solely on the Schedule 13D/A filed on March 18, 2019, Darwin Deason has sole voting power and sole dispositive power for 15,322,341 shares of common stock, and has no shared dispositive or shared voting power for any of the shares. Mr. Deason may be deemed to beneficially own, in the aggregate, 15,322,341 shares, including 6,741,572 shares issuable upon the conversion of 180,000 shares of Xerox Series B Convertible Perpetual Preferred Stock, par value \$1.00 per share.

Appendix D: Exhibit G - DOC #6 Certification of Non- Involvement in Prohibited Activities in Iran

STATE OF NEW JERSEY -- DIVISION OF PURCHASE AND PROPERTY
DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN

Quote Number: Region 4 ESC 19-11

Bidder/Offoror: Xerox Corporation

PART 1: CERTIFICATION

BIDDERS MUST COMPLETE PART 1 BY CHECKING EITHER BOX.

FAILURE TO CHECK ONE OF THE BOXES WILL RENDER THE PROPOSAL NON-RESPONSIVE.

Pursuant to Public Law 2012, c. 25, any person or entity that submits a bid or proposal or otherwise proposes to enter into or renew a contract must complete the certification below to attest, under penalty of perjury, that neither the person or entity, nor any of its parents, subsidiaries, or affiliates, is identified on the Department of Treasury's Chapter 25 list as a person or entity engaging in investment activities in Iran. The Chapter 25 list is found on the Division's website at <http://www.state.nj.us/treasury/purchase/pdf/Chapter25List.pdf>. Bidders must review this list prior to completing the below certification. **Failure to complete the certification will render a bidder's proposal non-responsive.** If the Director finds a person or entity to be in violation of law, s/he shall take action as may be appropriate and provided by law, rule or contract, including but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party

PLEASE CHECK THE APPROPRIATE BOX:



I certify, pursuant to Public Law 2012, c. 25, that neither the bidder listed above nor any of the bidder's parents, subsidiaries, or affiliates is listed on the N.J. Department of the Treasury's list of entities determined to be engaged in prohibited activities in Iran pursuant to P.L. 2012, c. 25 ("Chapter 25 List"). I further certify that I am the person listed above, or I am an officer or representative of the entity listed above and am authorized to make this certification on its behalf. **I will skip Part 2 and sign and complete the Certification below.**

OR



I am unable to certify as above because the bidder and/or one or more of its parents, subsidiaries, or affiliates is listed on the Department's Chapter 25 list. I will provide a detailed, accurate and precise description of the activities in Part 2 below and sign and complete the Certification below. Failure to provide such will result in the proposal being rendered as non-responsive and appropriate penalties, fines and/or sanctions will be assessed as provided by law.

PART 2: PLEASE PROVIDE FURTHER INFORMATION RELATED TO INVESTMENT ACTIVITIES IN IRAN

You must provide a detailed, accurate and precise description of the activities of the bidding person/entity, or one of its parents, subsidiaries or affiliates, engaging in the investment activities in Iran outlined above by completing the boxes below.

EACH BOX WILL PROMPT YOU TO PROVIDE INFORMATION RELATIVE TO THE ABOVE QUESTIONS. PLEASE PROVIDE THOROUGH ANSWERS TO EACH QUESTION. IF YOU NEED TO MAKE ADDITIONAL ENTRIES, CLICK THE "ADD AN ADDITIONAL ACTIVITIES ENTRY" BUTTON.

Name _____ Relationship to Bidder/Offoror _____

Description of Activities _____

Duration of Engagement _____ Anticipated Cessation Date _____

Bidder/Offoror Contact Name _____ Contact Phone Number _____

ADD AN ADDITIONAL ACTIVITIES ENTRY

Certification: I, being duly sworn upon my oath, hereby represent and state that the foregoing information and any attachments thereto to the best of my knowledge are true and complete. I attest that I am authorized to execute this certification on behalf of the above-referenced person or entity. I acknowledge that the State of New Jersey is relying on the information contained herein and thereby acknowledge that I am under a continuing obligation from the date of this certification through the completion of any contracts with the State to notify the State in writing of any changes to the answers of information contained herein. I acknowledge that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I recognize that I am subject to criminal prosecution under the law and that it will also constitute a material breach of my agreement(s) with the State of New Jersey and that the State at its option may declare any contract(s) resulting from this certification void and unenforceable.

Full Name (Print): Rachael Jones Turner

Signature: Rachael Jones Turner

Title: SLED Cooperative Contracts Manager

Date: 11-5-2019

Appendix D: Exhibit G - DOC #7 New Jersey Business Registration Certificate



STATE OF NEW JERSEY BUSINESS REGISTRATION CERTIFICATE

Taxpayer Name: XEROX CORPORATION

Trade Name:

Address: 800 PHILLIPS ROAD BLDG 205-99Z
WEBSTER, NY 14580

Certificate Number: 0061020

Effective Date: November 07, 1960

Date of Issuance: July 20, 2017

For Office Use Only:

20170720114925109

Appendix D: Exhibit H - Advertising Compliance Requirement

EXHIBIT H

ADVERTISING COMPLIANCE REQUIREMENT

Pursuant to certain state notice provisions, including but not limited to Oregon Revised Statutes Chapter 279A.220, the following public agencies and political subdivisions of the referenced public agencies are eligible to register with OMNIA Partners, Public Sector and access the Master Agreement contract award made pursuant to this solicitation, and are hereby given notice of the foregoing request for proposals for purposes of complying with the procedural requirements of said statutes:

Nationwide:

State of Alabama	State of Hawaii	State of Massachusetts	State of New Mexico	State of South Dakota
State of Alaska	State of Idaho	State of Michigan	State of New York	State of Tennessee
State of Arizona	State of Illinois	State of Minnesota	State of North Carolina	State of Texas
State of Arkansas	State of Indiana	State of Mississippi	State of North Dakota	State of Utah
State of California	State of Iowa	State of Missouri	State of Ohio	State of Vermont
State of Colorado	State of Kansas	State of Montana	State of Oklahoma	State of Virginia
State of Connecticut	State of Kentucky	State of Nebraska	State of Oregon	State of Washington
State of Delaware	State of Louisiana	State of Nevada	State of Pennsylvania	State of West Virginia
State of Florida	State of Maine	State of New Hampshire	State of Rhode Island	State of Wisconsin
State of Georgia	State of Maryland	State of New Jersey	State of South Carolina	State of Wyoming
District of Columbia				

Lists of political subdivisions and local governments in the above referenced states / districts may be found at http://www.usa.gov/Agencies/State_and_Territories.shtml and <https://www.usa.gov/local-governments>.

Certain Public Agencies and Political Subdivisions:

CITIES, TOWNS, VILLAGES AND BOROUGHS INCLUDING BUT NOT LIMITED TO:

BAKER CITY GOLF COURSE, OR
CITY OF ADAIR VILLAGE, OR
CITY OF ASHLAND, OR
CITY OF AUMSVILLE, OR
CITY OF AURORA, OR
CITY OF BAKER, OR
CITY OF BATON ROUGE, LA
CITY OF BEAVERTON, OR
CITY OF BEND, OR
CITY OF BOARDMAN, OR
CITY OF BONANAZA, OR
CITY OF BOSSIER CITY, LA
CITY OF BROOKINGS, OR
CITY OF BURNS, OR
CITY OF CANBY, OR
CITY OF CANYONVILLE, OR
CITY OF CLATSKANIE, OR
CITY OF COBURG, OR
CITY OF CONDON, OR
CITY OF COQUILLE, OR
CITY OF CORVALLI, OR
CITY OF CORVALLIS PARKS AND RECREATION DEPARTMENT, OR
CITY OF COTTAGE GROVE, OR
CITY OF DONALD, OR
CITY OF EUGENE, OR
CITY OF FOREST GROVE, OR
CITY OF GOLD HILL, OR
CITY OF GRANTS PASS, OR
CITY OF GRESHAM, OR
CITY OF HILLSBORO, OR
CITY OF INDEPENDENCE, OR
CITY AND COUNTY OF HONOLULU, HI

CITY OF KENNER, LA
CITY OF LA GRANDE, OR
CITY OF LAFAYETTE, LA
CITY OF LAKE CHARLES, OR
CITY OF LEBANON, OR
CITY OF MCMINNVILLE, OR
CITY OF MEDFORD, OR
CITY OF METAIRIE, LA
CITY OF MILL CITY, OR
CITY OF MILWAUKIE, OR
CITY OF MONROE, LA
CITY OF MOSIER, OR
CITY OF NEW ORLEANS, LA
CITY OF NORTH PLAINS, OR
CITY OF OREGON CITY, OR
CITY OF PILOT ROCK, OR
CITY OF PORTLAND, OR
CITY OF POWERS, OR
CITY OF PRINEVILLE, OR
CITY OF REDMOND, OR
CITY OF REEDSPORT, OR
CITY OF RIDDLE, OR
CITY OF ROGUE RIVER, OR
CITY OF ROSEBURG, OR
CITY OF SALEM, OR
CITY OF SANDY, OR
CITY OF SCAPPOOSE, OR
CITY OF SHADY COVE, OR
CITY OF SHERWOOD, OR
CITY OF SHREVEPORT, LA
CITY OF SILVERTON, OR
CITY OF SPRINGFIELD, OR
CITY OF ST. HELENS, OR
CITY OF ST. PAUL, OR
CITY OF SULPHUR, LA

CITY OF TIGARD, OR
CITY OF TROUTDALE, OR
CITY OF TUALATIN, OR
CITY OF WALKER, LA
CITY OF WARRENTON, OR
CITY OF WEST LINN, OR
CITY OF WILSONVILLE, OR
CITY OF WINSTON, OR
CITY OF WOODBURN, OR
LEAGUE OF OREGON CITES
THE CITY OF HAPPY VALLEY OREGON
ALPINE, UT
ALTA, UT
ALTAMONT, UT
ALTON, UT
AMALGA, UT
AMERICAN FORK CITY, UT
ANNABELLA, UT
ANTIMONY, UT
APPLE VALLEY, UT
AURORA, UT
BALLARD, UT
BEAR RIVER CITY, UT
BEAVER, UT
BICKNELL, UT
BIG WATER, UT
BLANDING, UT
BLUFFDALE, UT
BOULDER, UT
CITY OF BOUNTIFUL, UT
BRIAN HEAD, UT
BRIGHAM CITY CORPORATION, UT
BRYCE CANYON CITY, UT
CANNONVILLE, UT
CASTLE DALE, UT
CASTLE VALLEY, UT
CITY OF CEDAR CITY, UT
CEDAR FORT, UT
CITY OF CEDAR HILLS, UT
CENTERFIELD, UT
CENTERVILLE CITY CORPORATION, UT
CENTRAL VALLEY, UT
CHARLESTON, UT
CIRCLEVILLE, UT
CLARKSTON, UT
CLAWSON, UT
CLEARFIELD, UT
CLEVELAND, UT
CLINTON CITY CORPORATION, UT
COALVILLE, UT
CORINNE, UT
CORNISH, UT
COTTONWOOD HEIGHTS, UT
DANIEL, UT
DELTA, UT
DEWEYVILLE, UT
DRAPER CITY, UT
DUCHESNE, UT
EAGLE MOUNTAIN, UT
EAST CARBON, UT
ELK RIDGE, UT
ELMO, UT
ELSINORE, UT
ELWOOD, UT
EMERY, UT

ENOCH, UT
ENTERPRISE, UT
EPHRAIM, UT
ESCALANTE, UT
EUREKA, UT
FAIRFIELD, UT
FAIRVIEW, UT
FARMINGTON, UT
FARR WEST, UT
FAYETTE, UT
FERRON, UT
FIELDING, UT
FILLMORE, UT
FOUNTAIN GREEN, UT
FRANCIS, UT
FRUIT HEIGHTS, UT
GARDEN CITY, UT
GARLAND, UT
GENOLA, UT
GLENDALE, UT
GLENWOOD, UT
GOSHEN, UT
GRANTSVILLE, UT
GREEN RIVER, UT
GUNNISON, UT
HANKSVILLE, UT
HARRISVILLE, UT
HATCH, UT
HEBER CITY CORPORATION, UT
HELPER, UT
HENEFER, UT
HENRIEVILLE, UT
HERRIMAN, UT
HIDEOUT, UT
HIGHLAND, UT
HILDALE, UT
HINCKLEY, UT
HOLDEN, UT
HOLLADAY, UT
HONEYVILLE, UT
HOOPER, UT
HOWELL, UT
HUNTINGTON, UT
HUNTSVILLE, UT
CITY OF HURRICANE, UT
HYDE PARK, UT
HYRUM, UT
INDEPENDENCE, UT
IVINS, UT
JOSEPH, UT
JUNCTION, UT
KAMAS, UT
KANAB, UT
KANARRAVILLE, UT
KANOSH, UT
KAYSVILLE, UT
KINGSTON, UT
KOOSHAREM, UT
LAKETOWN, UT
LA VERKIN, UT
LAYTON, UT
LEAMINGTON, UT
LEEDS, UT
LEHI CITY CORPORATION, UT
LEVAN, UT

LEWISTON, UT
LINDON, UT
LOA, UT
LOGAN CITY, UT
LYMAN, UT
LYNN DYLAN, UT
MANILA, UT
MANTI, UT
MANTUA, UT
MAPLETON, UT
MARRIOTT-SLATERVILLE, UT
MARYSVILLE, UT
MAYFIELD, UT
MEADOW, UT
MENDON, UT
MIDVALE CITY INC., UT
MIDWAY, UT
MILFORD, UT
MILLVILLE, UT
MINERSVILLE, UT
MOAB, UT
MONA, UT
MONROE, UT
CITY OF MONTICELLO, UT
MORGAN, UT
MORONI, UT
MOUNT PLEASANT, UT
MURRAY CITY CORPORATION, UT
MYTON, UT
NAPLES, UT
NEPHI, UT
NEW HARMONY, UT
NEWTON, UT
NIBLEY, UT
NORTH LOGAN, UT
NORTH OGDEN, UT
NORTH SALT LAKE CITY, UT
OAK CITY, UT
OAKLEY, UT
OGDEN CITY CORPORATION, UT
OPHIR, UT
ORANGEVILLE, UT
ORDERVILLE, UT
OREM, UT
PANGUITCH, UT
PARADISE, UT
PARAGONAH, UT
PARK CITY, UT
PAROWAN, UT
PAYSON, UT
PERRY, UT
PLAIN CITY, UT
PLEASANT GROVE CITY, UT
PLEASANT VIEW, UT
PLYMOUTH, UT
PORTAGE, UT
PRICE, UT
PROVIDENCE, UT
PROVO, UT
RANDOLPH, UT
REDMOND, UT
RICHFIELD, UT
RICHMOND, UT
RIVERDALE, UT
RIVER HEIGHTS, UT

RIVERTON CITY, UT
ROCKVILLE, UT
ROCKY RIDGE, UT
ROOSEVELT CITY CORPORATION, UT
ROY, UT
RUSH VALLEY, UT
CITY OF ST. GEORGE, UT
SALEM, UT
SALINA, UT
SALT LAKE CITY CORPORATION, UT
SANDY, UT
SANTA CLARA, UT
SANTAQUIN, UT
SARATOGA SPRINGS, UT
SCIPIO, UT
SCOFIELD, UT
SIGURD, UT
SMITHFIELD, UT
SNOWVILLE, UT
CITY OF SOUTH JORDAN, UT
SOUTH OGDEN, UT
CITY OF SOUTH SALT LAKE, UT
SOUTH WEBER, UT
SPANISH FORK, UT
SPRING CITY, UT
SPRINGDALE, UT
SPRINGVILLE, UT
STERLING, UT
STOCKTON, UT
SUNNYSIDE, UT
SUNSET CITY CORP, UT
SYRACUSE, UT
TABIONA, UT
CITY OF TAYLORSVILLE, UT
TOOELE CITY CORPORATION, UT
TOQUERVILLE, UT
TORREY, UT
TREMONTON CITY, UT
TRENTON, UT
TROPIC, UT
UINTAH, UT
VERNAL CITY, UT
VERNON, UT
VINEYARD, UT
VIRGIN, UT
WALES, UT
WALLSBURG, UT
WASHINGTON CITY, UT
WASHINGTON TERRACE, UT
WELLINGTON, UT
WELLSVILLE, UT
WENDOVER, UT
WEST BOUNTIFUL, UT
WEST HAVEN, UT
WEST JORDAN, UT
WEST POINT, UT
WEST VALLEY CITY, UT
WILLARD, UT
WOODLAND HILLS, UT
WOODRUFF, UT
WOODS CROSS, UT

COUNTIES AND PARISHES INCLUDING BUT NOT LIMITED TO:
ASCENSION PARISH, LA

ASCENSION PARISH, LA, CLEAR OF COURT
 CADDO PARISH, LA
 CALCASIEU PARISH, LA
 CALCASIEU PARISH SHERIFF'S OFFICE, LA
 CITY AND COUNTY OF HONOLULU, HI
 CLACKAMAS COUNTY, OR
 CLACKAMAS COUNTY DEPT OF TRANSPORTATION,
 OR
 CLATSOP COUNTY, OR
 COLUMBIA COUNTY, OR
 COOS COUNTY, OR
 COOS COUNTY HIGHWAY DEPARTMENT, OR
 COUNTY OF HAWAII, OR
 CROOK COUNTY, OR
 CROOK COUNTY ROAD DEPARTMENT, OR
 CURRY COUNTY, OR
 DESCHUTES COUNTY, OR
 DOUGLAS COUNTY, OR
 EAST BATON ROUGE PARISH, LA
 GILLIAM COUNTY, OR
 GRANT COUNTY, OR
 HARNEY COUNTY, OR
 HARNEY COUNTY SHERIFFS OFFICE, OR
 HAWAII COUNTY, HI
 HOOD RIVER COUNTY, OR
 JACKSON COUNTY, OR
 JEFFERSON COUNTY, OR
 JEFFERSON PARISH, LA
 JOSEPHINE COUNTY GOVERNMENT, OR
 LAFAYETTE CONSOLIDATED GOVERNMENT, LA
 LAFAYETTE PARISH, LA
 LAFAYETTE PARISH CONVENTION & VISITORS
 COMMISSION
 LAFOURCHE PARISH, LA
 KAUAI COUNTY, HI
 KLAMATH COUNTY, OR
 LAKE COUNTY, OR
 LANE COUNTY, OR
 LINCOLN COUNTY, OR
 LINN COUNTY, OR
 LIVINGSTON PARISH, LA
 MALHEUR COUNTY, OR
 MAUI COUNTY, HI
 MARION COUNTY, SALEM, OR
 MORROW COUNTY, OR
 MULTNOMAH COUNTY, OR
 MULTNOMAH COUNTY BUSINESS AND
 COMMUNITY SERVICES, OR
 MULTNOMAH COUNTY SHERIFFS OFFICE, OR
 MULTNOMAH LAW LIBRARY, OR
 ORLEANS PARISH, LA
 PLAQUEMINES PARISH, LA
 POLK COUNTY, OR
 RAPIDES PARISH, LA
 SAINT CHARLES PARISH, LA
 SAINT CHARLES PARISH PUBLIC SCHOOLS, LA
 SAINT LANDRY PARISH, LA
 SAINT TAMMANY PARISH, LA
 SHERMAN COUNTY, OR
 TERREBONNE PARISH, LA
 TILLAMOOK COUNTY, OR
 TILLAMOOK COUNTY SHERIFF'S OFFICE, OR
 TILLAMOOK COUNTY GENERAL HOSPITAL, OR
 UMATILLA COUNTY, OR
 UNION COUNTY, OR

WALLOWA COUNTY, OR
 WASCO COUNTY, OR
 WASHINGTON COUNTY, OR
 WEST BATON ROUGE PARISH, LA
 WHEELER COUNTY, OR
 YAMHILL COUNTY, OR
 COUNTY OF BOX ELDER, UT
 COUNTY OF CACHE, UT
 COUNTY OF RICH, UT
 COUNTY OF WEBER, UT
 COUNTY OF MORGAN, UT
 COUNTY OF DAVIS, UT
 COUNTY OF SUMMIT, UT
 COUNTY OF DAGGETT, UT
 COUNTY OF SALT LAKE, UT
 COUNTY OF TOOELE, UT
 COUNTY OF UTAH, UT
 COUNTY OF WASATCH, UT
 COUNTY OF DUCHESNE, UT
 COUNTY OF Uintah, UT
 COUNTY OF CARBON, UT
 COUNTY OF SANPETE, UT
 COUNTY OF JUAB, UT
 COUNTY OF MILLARD, UT
 COUNTY OF SEVIER, UT
 COUNTY OF EMERY, UT
 COUNTY OF GRAND, UT
 COUNTY OF BEVER, UT
 COUNTY OF PIUTE, UT
 COUNTY OF WAYNE, UT
 COUNTY OF SAN JUAN, UT
 COUNTY OF GARFIELD, UT
 COUNTY OF KANE, UT
 COUNTY OF IRON, UT
 COUNTY OF WASHINGTON, UT

**OTHER AGENCIES INCLUDING ASSOCIATIONS,
 BOARDS, DISTRICTS, COMMISSIONS, COUNCILS,
 PUBLIC CORPORATIONS, PUBLIC DEVELOPMENT
 AUTHORITIES, RESERVATIONS AND UTILITIES
 INCLUDING BUT NOT LIMITED TO:**

ADAIR R.F.P.D., OR
 ADEL WATER IMPROVEMENT DISTRICT, OR
 ADRIAN R.F.P.D., OR
 AGNESS COMMUNITY LIBRARY, OR
 AGNESS-ILLAHE R.F.P.D., OR
 AGRICULTURE EDUCATION SERVICE EXTENSION
 DISTRICT, OR
 ALDER CREEK-BARLOW WATER DISTRICT NO. 29,
 OR
 ALFALFA FIRE DISTRICT, OR
 ALSEA R.F.P.D., OR
 ALSEA RIVIERA WATER IMPROVEMENT DISTRICT,
 OR
 AMITY FIRE DISTRICT, OR
 ANTELOPE MEADOWS SPECIAL ROAD DISTRICT, OR
 APPLE ROGUE DISTRICT IMPROVEMENT COMPANY,
 OR
 APPLEGATE VALLEY R.F.P.D. #9, OR
 ARCH CAPE DOMESTIC WATER SUPPLY DISTRICT,
 OR
 ARCH CAPE SANITARY DISTRICT, OR
 ARNOLD IRRIGATION DISTRICT, OR
 ASH CREEK WATER CONTROL DISTRICT, OR
 ATHENA CEMETERY MAINTENANCE DISTRICT, OR

AUMSVILLE R.F.P.D., OR
 AURORA R.F.P.D., OR
 AZALEA R.F.P.D., OR
 BADGER IMPROVEMENT DISTRICT, OR
 BAILEY-SPENCER R.F.P.D., OR
 BAKER COUNTY LIBRARY DISTRICT, OR
 BAKER R.F.P.D., OR
 BAKER RIVERTON ROAD DISTRICT, OR
 BAKER VALLEY IRRIGATION DISTRICT, OR
 BAKER VALLEY S.W.C.D., OR
 BAKER VALLEY VECTOR CONTROL DISTRICT, OR
 BANDON CRANBERRY WATER CONTROL DISTRICT,
 OR
 BANDON R.F.P.D., OR
 BANKS FIRE DISTRICT, OR
 BANKS FIRE DISTRICT #13, OR
 BAR L RANCH ROAD DISTRICT, OR
 BARLOW WATER IMPROVEMENT DISTRICT, OR
 BASIN AMBULANCE SERVICE DISTRICT, OR
 BASIN TRANSIT SERVICE TRANSPORTATION
 DISTRICT, OR
 BATON ROUGE WATER COMPANY
 BAY AREA HEALTH DISTRICT, OR
 BAYSHORE SPECIAL ROAD DISTRICT, OR
 BEAR VALLEY SPECIAL ROAD DISTRICT, OR
 BEAVER CREEK WATER CONTROL DISTRICT, OR
 BEAVER DRAINAGE IMPROVEMENT COMPANY,
 INC., OR
 BEAVER SLOUGH DRAINAGE DISTRICT, OR
 BEAVER SPECIAL ROAD DISTRICT, OR
 BEAVER WATER DISTRICT, OR
 BELLE MER S.I.G.L. TRACTS SPECIAL ROAD
 DISTRICT, OR
 BEND METRO PARK AND RECREATION DISTRICT
 BENTON S.W.C.D., OR
 BERNDT SUBDIVISION WATER IMPROVEMENT
 DISTRICT, OR
 BEVERLY BEACH WATER DISTRICT, OR
 BIENVILLE PARISH FIRE PROTECTION DISTRICT 6,
 LA
 BIG BEND IRRIGATION DISTRICT, OR
 BIGGS SERVICE DISTRICT, OR
 BLACK BUTTE RANCH DEPARTMENT OF POLICE
 SERVICES, OR
 BLACK BUTTE RANCH R.F.P.D., OR
 BLACK MOUNTAIN WATER DISTRICT, OR
 BLODGETT-SUMMIT R.F.P.D., OR
 BLUE MOUNTAIN HOSPITAL DISTRICT, OR
 BLUE MOUNTAIN TRANSLATOR DISTRICT, OR
 BLUE RIVER PARK & RECREATION DISTRICT, OR
 BLUE RIVER WATER DISTRICT, OR
 BLY R.F.P.D., OR
 BLY VECTOR CONTROL DISTRICT, OR
 BLY WATER AND SANITARY DISTRICT, OR
 BOARDMAN CEMETERY MAINTENANCE DISTRICT,
 OR
 BOARDMAN PARK AND RECREATION DISTRICT
 BOARDMAN R.F.P.D., OR
 BONANZA BIG SPRINGS PARK & RECREATION
 DISTRICT, OR
 BONANZA MEMORIAL PARK CEMETERY DISTRICT,
 OR
 BONANZA R.F.P.D., OR
 BONANZA-LANGELL VALLEY VECTOR CONTROL
 DISTRICT, OR

BORING WATER DISTRICT #24, OR
 BOULDER CREEK RETREAT SPECIAL ROAD
 DISTRICT, OR
 BRIDGE R.F.P.D., OR
 BROOKS COMMUNITY SERVICE DISTRICT, OR
 BROWNSVILLE R.F.P.D., OR
 BUELL-RED PRAIRIE WATER DISTRICT, OR
 BUNKER HILL R.F.P.D. #1, OR
 BUNKER HILL SANITARY DISTRICT, OR
 BURLINGTON WATER DISTRICT, OR
 BURNT RIVER IRRIGATION DISTRICT, OR
 BURNT RIVER S.W.C.D., OR
 CALAPOOIA R.F.P.D., OR
 CAMAS VALLEY R.F.P.D., OR
 CAMELLIA PARK SANITARY DISTRICT, OR
 CAMMANN ROAD DISTRICT, OR
 CAMP SHERMAN ROAD DISTRICT, OR
 CANBY AREA TRANSIT, OR
 CANBY R.F.P.D. #62, OR
 CANBY UTILITY BOARD, OR
 CANNON BEACH R.F.P.D., OR
 CANYONVILLE SOUTH UMPQUA FIRE DISTRICT, OR
 CAPE FERRELO R.F.P.D., OR
 CAPE FOULWEATHER SANITARY DISTRICT, OR
 CARLSON PRIMROSE SPECIAL ROAD DISTRICT, OR
 CARMEL BEACH WATER DISTRICT, OR
 CASCADE VIEW ESTATES TRACT 2, OR
 CEDAR CREST SPECIAL ROAD DISTRICT, OR
 CEDAR TRAILS SPECIAL ROAD DISTRICT, OR
 CEDAR VALLEY - NORTH BANK R.F.P.D., OR
 CENTRAL CASCADES FIRE AND EMS, OR
 CENTRAL CITY ECONOMIC OPPORTUNITY CORP, LA
 CENTRAL LINCOLN P.U.D., OR
 CENTRAL OREGON COAST FIRE & RESCUE
 DISTRICT, OR
 CENTRAL OREGON INTERGOVERNMENTAL
 COUNCIL
 CENTRAL OREGON IRRIGATION DISTRICT, OR
 CHAPARRAL WATER CONTROL DISTRICT, OR
 CHARLESTON FIRE DISTRICT, OR
 CHARLESTON SANITARY DISTRICT, OR
 CHARLOTTE ANN WATER DISTRICT, OR
 CHEHALEM PARK & RECREATION DISTRICT, OR
 CHEHALEM PARK AND RECREATION DISTRICT
 CHEMULT R.F.P.D., OR
 CHENOWITH WATER P.U.D., OR
 CHERRIOTS, OR
 CHETCO COMMUNITY PUBLIC LIBRARY DISTRICT,
 OR
 CHILOQUIN VECTOR CONTROL DISTRICT, OR
 CHILOQUIN-AGENCY LAKE R.F.P.D., OR
 CHINOOK DRIVE SPECIAL ROAD DISTRICT, OR
 CHR DISTRICT IMPROVEMENT COMPANY, OR
 CHRISTMAS VALLEY DOMESTIC WATER DISTRICT,
 OR
 CHRISTMAS VALLEY PARK & RECREATION
 DISTRICT, OR
 CHRISTMAS VALLEY R.F.P.D., OR
 CITY OF BOGALUSA SCHOOL BOARD, LA
 CLACKAMAS COUNTY FIRE DISTRICT #1, OR
 CLACKAMAS COUNTY SERVICE DISTRICT #1, OR
 CLACKAMAS COUNTY VECTOR CONTROL
 DISTRICT, OR
 CLACKAMAS RIVER WATER
 CLACKAMAS RIVER WATER, OR

CLACKAMAS S.W.C.D., OR
 CLATSKANIE DRAINAGE IMPROVEMENT
 COMPANY, OR
 CLATSKANIE LIBRARY DISTRICT, OR
 CLATSKANIE P.U.D., OR
 CLATSKANIE PARK & RECREATION DISTRICT, OR
 CLATSKANIE PEOPLE'S UTILITY DISTRICT
 CLATSKANIE R.F.P.D., OR
 CLATSOP CARE CENTER HEALTH DISTRICT, OR
 CLATSOP COUNTY S.W.C.D., OR
 CLATSOP DRAINAGE IMPROVEMENT COMPANY #15,
 INC., OR
 CLEAN WATER SERVICES
 CLEAN WATER SERVICES, OR
 CLOVERDALE R.F.P.D., OR
 CLOVERDALE SANITARY DISTRICT, OR
 CLOVERDALE WATER DISTRICT, OR
 COALEDO DRAINAGE DISTRICT, OR
 COBURG FIRE DISTRICT, OR
 COLESTIN RURAL FIRE DISTRICT, OR
 COLTON R.F.P.D., OR
 COLTON WATER DISTRICT #11, OR
 COLUMBIA 911 COMMUNICATIONS DISTRICT, OR
 COLUMBIA COUNTY 4-H & EXTENSION SERVICE
 DISTRICT, OR
 COLUMBIA DRAINAGE VECTOR CONTROL, OR
 COLUMBIA IMPROVEMENT DISTRICT, OR
 COLUMBIA R.F.P.D., OR
 COLUMBIA RIVER FIRE & RESCUE, OR
 COLUMBIA RIVER PUD, OR
 COLUMBIA S.W.C.D., OR
 COLUMBIA S.W.C.D., OR
 CONFEDERATED TRIBES OF THE UMATILLA INDIAN
 RESERVATION
 COOS COUNTY AIRPORT DISTRICT, OR
 COOS COUNTY AIRPORT DISTRICT, OR
 COOS COUNTY AREA TRANSIT SERVICE DISTRICT,
 OR
 COOS COUNTY AREA TRANSIT SERVICE DISTRICT,
 OR
 COOS FOREST PROTECTIVE ASSOCIATION
 COOS S.W.C.D., OR
 COQUILLE R.F.P.D., OR
 COQUILLE VALLEY HOSPITAL DISTRICT, OR
 CORBETT WATER DISTRICT, OR
 CORNELIUS R.F.P.D., OR
 CORP RANCH ROAD WATER IMPROVEMENT, OR
 CORVALLIS R.F.P.D., OR
 COUNTRY CLUB ESTATES SPECIAL WATER
 DISTRICT, OR
 COUNTRY CLUB WATER DISTRICT, OR
 COUNTRY ESTATES ROAD DISTRICT, OR
 COVE CEMETERY MAINTENANCE DISTRICT, OR
 COVE ORCHARD SEWER SERVICE DISTRICT, OR
 COVE R.F.P.D., OR
 CRESCENT R.F.P.D., OR
 CRESCENT SANITARY DISTRICT, OR
 CRESCENT WATER SUPPLY AND IMPROVEMENT
 DISTRICT, OR
 CROOK COUNTY AGRICULTURE EXTENSION
 SERVICE DISTRICT, OR
 CROOK COUNTY CEMETERY DISTRICT, OR
 CROOK COUNTY FIRE AND RESCUE, OR
 CROOK COUNTY PARKS & RECREATION DISTRICT,
 OR

CROOK COUNTY S.W.C.D., OR
 CROOK COUNTY VECTOR CONTROL DISTRICT, OR
 CROOKED RIVER RANCH R.F.P.D., OR
 CROOKED RIVER RANCH SPECIAL ROAD DISTRICT,
 OR
 CRYSTAL SPRINGS WATER DISTRICT, OR
 CURRY COUNTY 4-H & EXTENSION SERVICE
 DISTRICT, OR
 CURRY COUNTY PUBLIC TRANSIT SERVICE
 DISTRICT, OR
 CURRY COUNTY S.W.C.D., OR
 CURRY HEALTH DISTRICT, OR
 CURRY PUBLIC LIBRARY DISTRICT, OR
 DALLAS CEMETERY DISTRICT #4, OR
 DARLEY DRIVE SPECIAL ROAD DISTRICT, OR
 DAVID CROCKETT STEAM FIRE COMPANY #1, LA
 DAYS CREEK R.F.P.D., OR
 DAYTON FIRE DISTRICT, OR
 DEAN MINARD WATER DISTRICT, OR
 DEE IRRIGATION DISTRICT, OR
 DEER ISLAND DRAINAGE IMPROVEMENT
 COMPANY, OR
 DELL BROGAN CEMETERY MAINTENANCE
 DISTRICT, OR
 DEPOE BAY R.F.P.D., OR
 DESCHUTES COUNTY 911 SERVICE DISTRICT, OR
 DESCHUTES COUNTY R.F.P.D. #2, OR
 DESCHUTES PUBLIC LIBRARY DISTRICT, OR
 DESCHUTES S.W.C.D., OR
 DESCHUTES VALLEY WATER DISTRICT, OR
 DEVILS LAKE WATER IMPROVEMENT DISTRICT, OR
 DEXTER R.F.P.D., OR
 DEXTER SANITARY DISTRICT, OR
 DORA-SITKUM R.F.P.D., OR
 DOUGLAS COUNTY FIRE DISTRICT #2, OR
 DOUGLAS S.W.C.D., OR
 DRAKES CROSSING R.F.P.D., OR
 DRRH SPECIAL ROAD DISTRICT #6, OR
 DRY GULCH DITCH DISTRICT IMPROVEMENT
 COMPANY, OR
 DUFUR RECREATION DISTRICT, OR
 DUMBECK LANE DOMESTIC WATER SUPPLY, OR
 DUNDEE R.F.P.D., OR
 DURKEE COMMUNITY BUILDING PRESERVATION
 DISTRICT, OR
 EAGLE POINT IRRIGATION DISTRICT, OR
 EAGLE VALLEY CEMETERY MAINTENANCE
 DISTRICT, OR
 EAGLE VALLEY R.F.P.D., OR
 EAGLE VALLEY S.W.C.D., OR
 EAST FORK IRRIGATION DISTRICT, OR
 EAST MULTNOMAH S.W.C.D., OR
 EAST SALEM SERVICE DISTRICT, OR
 EAST UMATILLA CHEMICAL CONTROL DISTRICT,
 OR
 EAST UMATILLA COUNTY AMBULANCE AREA
 HEALTH DISTRICT, OR
 EAST UMATILLA COUNTY R.F.P.D., OR
 EAST VALLEY WATER DISTRICT, OR
 ELGIN COMMUNITY PARKS & RECREATION
 DISTRICT, OR
 ELGIN HEALTH DISTRICT, OR
 ELGIN R.F.P.D., OR
 ELKTON ESTATES PHASE II SPECIAL ROAD
 DISTRICT, OR

ELKTON R.F.P.D., OR
 EMERALD P.U.D., OR
 ENTERPRISE IRRIGATION DISTRICT, OR
 ESTACADA CEMETERY MAINTENANCE DISTRICT,
 OR
 ESTACADA R.F.P.D. #69, OR
 EUGENE R.F.P.D. # 1, OR
 EUGENE WATER AND ELECTRIC BOARD
 EVANS VALLEY FIRE DISTRICT #6, OR
 FAIR OAKS R.F.P.D., OR
 FAIRVIEW R.F.P.D., OR
 FAIRVIEW WATER DISTRICT, OR
 FALCON HEIGHTS WATER AND SEWER, OR
 FALCON-COVE BEACH WATER DISTRICT, OR
 FALL RIVER ESTATES SPECIAL ROAD DISTRICT, OR
 FARGO INTERCHANGE SERVICE DISTRICT, OR
 FARMERS IRRIGATION DISTRICT, OR
 FAT ELK DRAINAGE DISTRICT, OR
 FERN RIDGE PUBLIC LIBRARY DISTRICT, OR
 FERN VALLEY ESTATES IMPROVEMENT DISTRICT,
 OR
 FOR FAR ROAD DISTRICT, OR
 FOREST GROVE R.F.P.D., OR
 FOREST VIEW SPECIAL ROAD DISTRICT, OR
 FORT ROCK-SILVER LAKE S.W.C.D., OR
 FOUR RIVERS VECTOR CONTROL DISTRICT, OR
 FOX CEMETERY MAINTENANCE DISTRICT, OR
 GARDINER R.F.P.D., OR
 GARDINER SANITARY DISTRICT, OR
 GARIBALDI R.F.P.D., OR
 GASTON R.F.P.D., OR
 GATES R.F.P.D., OR
 GEARHART R.F.P.D., OR
 GILLIAM S.W.C.D., OR
 GLENDALE AMBULANCE DISTRICT, OR
 GLENDALE R.F.P.D., OR
 GLENEDEN BEACH SPECIAL ROAD DISTRICT, OR
 GLENEDEN SANITARY DISTRICT, OR
 GLENWOOD WATER DISTRICT, OR
 GLIDE - IDLEYLD SANITARY DISTRICT, OR
 GLIDE R.F.P.D., OR
 GOLD BEACH - WEDDERBURN R.F.P.D., OR
 GOLD HILL IRRIGATION DISTRICT, OR
 GOLDFINCH ROAD DISTRICT, OR
 GOSHEN R.F.P.D., OR
 GOVERNMENT CAMP ROAD DISTRICT, OR
 GOVERNMENT CAMP SANITARY DISTRICT, OR
 GRAND PRAIRIE WATER CONTROL DISTRICT, OR
 GRAND RONDE SANITARY DISTRICT, OR
 GRANT COUNTY TRANSPORTATION DISTRICT, OR
 GRANT S.W.C.D., OR
 GRANTS PASS IRRIGATION DISTRICT, OR
 GREATER BOWEN VALLEY R.F.P.D., OR
 GREATER ST. HELENS PARK & RECREATION
 DISTRICT, OR
 GREATER TOLEDO POOL RECREATION DISTRICT,
 OR
 GREEN KNOLLS SPECIAL ROAD DISTRICT, OR
 GREEN SANITARY DISTRICT, OR
 GREENACRES R.F.P.D., OR
 GREENBERRY IRRIGATION DISTRICT, OR
 GREENSPRINGS RURAL FIRE DISTRICT, OR
 HAHLEN ROAD SPECIAL DISTRICT, OR
 HAINES CEMETERY MAINTENANCE DISTRICT, OR
 HAINES FIRE PROTECTION DISTRICT, OR

HALSEY-SHEDD R.F.P.D., OR
 HAMLET R.F.P.D., OR
 HARBOR R.F.P.D., OR
 HARBOR SANITARY DISTRICT, OR
 HARBOR WATER P.U.D., OR
 HARNEY COUNTY HEALTH DISTRICT, OR
 HARNEY S.W.C.D., OR
 HARPER SOUTH SIDE IRRIGATION DISTRICT, OR
 HARRISBURG FIRE AND RESCUE, OR
 HAUSER R.F.P.D., OR
 HAZELDELL RURAL FIRE DISTRICT, OR
 HEBO JOINT WATER-SANITARY AUTHORITY, OR
 HECETA WATER P.U.D., OR
 HELIX CEMETERY MAINTENANCE DISTRICT #4, OR
 HELIX PARK & RECREATION DISTRICT, OR
 HELIX R.F.P.D. #7-411, OR
 HEPPNER CEMETERY MAINTENANCE DISTRICT, OR
 HEPPNER R.F.P.D., OR
 HEPPNER WATER CONTROL DISTRICT, OR
 HEREFORD COMMUNITY HALL RECREATION
 DISTRICT, OR
 HERMISTON CEMETERY DISTRICT, OR
 HERMISTON IRRIGATION DISTRICT, OR
 HIDDEN VALLEY MOBILE ESTATES IMPROVEMENT
 DISTRICT, OR
 HIGH DESERT PARK & RECREATION DISTRICT, OR
 HIGHLAND SUBDIVISION WATER DISTRICT, OR
 HONOLULU INTERNATIONAL AIRPORT
 HOOD RIVER COUNTY LIBRARY DISTRICT, OR
 HOOD RIVER COUNTY TRANSPORTATION DISTRICT,
 OR
 HOOD RIVER S.W.C.D., OR
 HOOD RIVER VALLEY PARKS & RECREATION
 DISTRICT, OR
 HOODLAND FIRE DISTRICT #74
 HOODLAND FIRE DISTRICT #74, OR
 HORSEFLY IRRIGATION DISTRICT, OR
 HOSKINS-KINGS VALLEY R.F.P.D., OR
 HOUSING AUTHORITY OF PORTLAND
 HUBBARD R.F.P.D., OR
 HUDSON BAY DISTRICT IMPROVEMENT COMPANY,
 OR
 I N (KAY) YOUNG DITCH DISTRICT IMPROVEMENT
 COMPANY, OR
 ICE FOUNTAIN WATER DISTRICT, OR
 IDAHO POINT SPECIAL ROAD DISTRICT, OR
 IDANHA-DETROIT RURAL FIRE PROTECTION
 DISTRICT, OR
 ILLINOIS VALLEY FIRE DISTRICT
 ILLINOIS VALLEY R.F.P.D., OR
 ILLINOIS VALLEY S.W.C.D., OR
 IMBLER R.F.P.D., OR
 INTERLACHEN WATER P.U.D., OR
 IONE LIBRARY DISTRICT, OR
 IONE R.F.P.D. #6-604, OR
 IRONSIDE CEMETERY MAINTENANCE DISTRICT, OR
 IRONSIDE RURAL ROAD DISTRICT #5, OR
 IRRIGON PARK & RECREATION DISTRICT, OR
 IRRIGON R.F.P.D., OR
 ISLAND CITY AREA SANITATION DISTRICT, OR
 ISLAND CITY CEMETERY MAINTENANCE DISTRICT,
 OR
 JACK PINE VILLAGE SPECIAL ROAD DISTRICT, OR
 JACKSON COUNTY FIRE DISTRICT #3, OR
 JACKSON COUNTY FIRE DISTRICT #4, OR

JACKSON COUNTY FIRE DISTRICT #5, OR
 JACKSON COUNTY LIBRARY DISTRICT, OR
 JACKSON COUNTY VECTOR CONTROL DISTRICT, OR
 JACKSON S.W.C.D., OR
 JASPER KNOLLS WATER DISTRICT, OR
 JEFFERSON COUNTY EMERGENCY MEDICAL
 SERVICE DISTRICT, OR
 JEFFERSON COUNTY FIRE DISTRICT #1, OR
 JEFFERSON COUNTY LIBRARY DISTRICT, OR
 JEFFERSON COUNTY S.W.C.D., OR
 JEFFERSON PARK & RECREATION DISTRICT, OR
 JEFFERSON R.F.P.D., OR
 JOB'S DRAINAGE DISTRICT, OR
 JOHN DAY WATER DISTRICT, OR
 JOHN DAY-CANYON CITY PARKS & RECREATION
 DISTRICT, OR
 JOHN DAY-FERNHILL R.F.P.D. #5-108, OR
 JORDAN VALLEY CEMETERY DISTRICT, OR
 JORDAN VALLEY IRRIGATION DISTRICT, OR
 JOSEPHINE COMMUNITY LIBRARY DISTRICT, OR
 JOSEPHINE COUNTY 4-H & EXTENSION SERVICE
 DISTRICT, OR
 JOSEPHINE COUNTY 911 AGENCY, OR
 JUNCTION CITY R.F.P.D., OR
 JUNCTION CITY WATER CONTROL DISTRICT, OR
 JUNIPER BUTTE ROAD DISTRICT, OR
 JUNIPER CANYON WATER CONTROL DISTRICT, OR
 JUNIPER FLAT DISTRICT IMPROVEMENT COMPANY,
 OR
 JUNIPER FLAT R.F.P.D., OR
 JUNO NONPROFIT WATER IMPROVEMENT
 DISTRICT, OR
 KEATING R.F.P.D., OR
 KEATING S.W.C.D., OR
 KEIZER R.F.P.D., OR
 KELLOGG RURAL FIRE DISTRICT, OR
 KENO IRRIGATION DISTRICT, OR
 KENO PINES ROAD DISTRICT, OR
 KENO R.F.P.D., OR
 KENT WATER DISTRICT, OR
 KERBY WATER DISTRICT, OR
 K-GB-LB WATER DISTRICT, OR
 KILCHIS WATER DISTRICT, OR
 KLAMATH 9-1-1 COMMUNICATIONS DISTRICT, OR
 KLAMATH BASIN IMPROVEMENT DISTRICT, OR
 KLAMATH COUNTY DRAINAGE SERVICE DISTRICT,
 OR
 KLAMATH COUNTY EXTENSION SERVICE DISTRICT,
 OR
 KLAMATH COUNTY FIRE DISTRICT #1, OR
 KLAMATH COUNTY FIRE DISTRICT #3, OR
 KLAMATH COUNTY FIRE DISTRICT #4, OR
 KLAMATH COUNTY FIRE DISTRICT #5, OR
 KLAMATH COUNTY LIBRARY SERVICE DISTRICT,
 OR
 KLAMATH COUNTY PREDATORY ANIMAL
 CONTROL DISTRICT, OR
 KLAMATH DRAINAGE DISTRICT, OR
 KLAMATH FALLS FOREST ESTATES SPECIAL ROAD
 DISTRICT UNIT #2, OR
 KLAMATH INTEROPERABILITY RADIO GROUP, OR
 KLAMATH IRRIGATION DISTRICT, OR
 KLAMATH RIVER ACRES SPECIAL ROAD DISTRICT,
 OR
 KLAMATH S.W.C.D., OR

KLAMATH VECTOR CONTROL DISTRICT, OR
 KNAPPA-SVENSEN-BURNSIDE R.F.P.D., OR
 LA GRANDE CEMETERY MAINTENANCE DISTRICT,
 OR
 LA GRANDE R.F.P.D., OR
 LA PINE PARK & RECREATION DISTRICT, OR
 LA PINE R.F.P.D., OR
 LABISH VILLAGE SEWAGE & DRAINAGE, OR
 LACOMB IRRIGATION DISTRICT, OR
 LAFAYETTE AIRPORT COMMISSION, LA
 LAFOURCHE PARISH HEALTH UNIT – DHH-OPH
 REGION 3
 LAIDLAW WATER DISTRICT, OR
 LAKE CHINOOK FIRE & RESCUE, OR
 LAKE COUNTY 4-H & EXTENSION SERVICE
 DISTRICT, OR
 LAKE COUNTY LIBRARY DISTRICT, OR
 LAKE CREEK R.F.P.D. - JACKSON, OR
 LAKE CREEK R.F.P.D. - LANE COUNTY, OR
 LAKE DISTRICT HOSPITAL, OR
 LAKE GROVE R.F.P.D. NO. 57, OR
 LAKE GROVE WATER DISTRICT, OR
 LAKE LABISH WATER CONTROL DISTRICT, OR
 LAKE POINT SPECIAL ROAD DISTRICT, OR
 LAKESIDE R.F.P.D. #4, OR
 LAKESIDE WATER DISTRICT, OR
 LAKEVIEW R.F.P.D., OR
 LAKEVIEW S.W.C.D., OR
 LAMONTAI IMPROVEMENT DISTRICT, OR
 LANE FIRE AUTHORITY, OR
 LANE LIBRARY DISTRICT, OR
 LANE TRANSIT DISTRICT, OR
 LANGELL VALLEY IRRIGATION DISTRICT, OR
 LANGLOIS PUBLIC LIBRARY, OR
 LANGLOIS R.F.P.D., OR
 LANGLOIS WATER DISTRICT, OR
 LAZY RIVER SPECIAL ROAD DISTRICT, OR
 LEBANON AQUATIC DISTRICT, OR
 LEBANON R.F.P.D., OR
 LEWIS & CLARK R.F.P.D., OR
 LINCOLN COUNTY LIBRARY DISTRICT, OR
 LINCOLN S.W.C.D., OR
 LINN COUNTY EMERGENCY TELEPHONE AGENCY,
 OR
 LINN S.W.C.D., OR
 LITTLE MUDDY CREEK WATER CONTROL, OR
 LITTLE NESTUCCA DRAINAGE DISTRICT, OR
 LITTLE SWITZERLAND SPECIAL ROAD DISTRICT, OR
 LONE PINE IRRIGATION DISTRICT, OR
 LONG PRAIRIE WATER DISTRICT, OR
 LOOKINGGLASS OLALLA WATER CONTROL
 DISTRICT, OR
 LOOKINGGLASS RURAL FIRE DISTRICT, OR
 LORANE R.F.P.D., OR
 LOST & BOULDER DITCH IMPROVEMENT DISTRICT,
 OR
 LOST CREEK PARK SPECIAL ROAD DISTRICT, OR
 LOUISIANA PUBLIC SERVICE COMMISSION, LA
 LOUISIANA WATER WORKS
 LOWELL R.F.P.D., OR
 LOWER MCKAY CREEK R.F.P.D., OR
 LOWER MCKAY CREEK WATER CONTROL
 DISTRICT, OR
 LOWER POWDER RIVER IRRIGATION DISTRICT, OR
 LOWER SILETZ WATER DISTRICT, OR

LOWER UMPQUA HOSPITAL DISTRICT, OR
 LOWER UMPQUA PARK & RECREATION DISTRICT,
 OR
 LOWER VALLEY WATER IMPROVEMENT DISTRICT,
 OR
 LUCE LONG DITCH DISTRICT IMPROVEMENT CO.,
 OR
 LUSTED WATER DISTRICT, OR
 LYONS R.F.P.D., OR
 LYONS-MEHAMA WATER DISTRICT, OR
 MADRAS AQUATIC CENTER DISTRICT, OR
 MAKAI SPECIAL ROAD DISTRICT, OR
 MALHEUR COUNTY S.W.C.D., OR
 MALHEUR COUNTY VECTOR CONTROL DISTRICT,
 OR
 MALHEUR DISTRICT IMPROVEMENT COMPANY, OR
 MALHEUR DRAINAGE DISTRICT, OR
 MALHEUR MEMORIAL HEALTH DISTRICT, OR
 MALIN COMMUNITY CEMETERY MAINTENANCE
 DISTRICT, OR
 MALIN COMMUNITY PARK & RECREATION
 DISTRICT, OR
 MALIN IRRIGATION DISTRICT, OR
 MALIN R.F.P.D., OR
 MAPLETON FIRE DEPARTMENT, OR
 MAPLETON WATER DISTRICT, OR
 MARCOLA WATER DISTRICT, OR
 MARION COUNTY EXTENSION & 4H SERVICE
 DISTRICT, OR
 MARION COUNTY FIRE DISTRICT #1, OR
 MARION JACK IMPROVEMENT DISTRICT, OR
 MARION S.W.C.D., OR
 MARY'S RIVER ESTATES ROAD DISTRICT, OR
 MCDONALD FOREST ESTATES SPECIAL ROAD
 DISTRICT, OR
 MCKAY ACRES IMPROVEMENT DISTRICT, OR
 MCKAY DAM R.F.P.D. # 7-410, OR
 MCKENZIE FIRE & RESCUE, OR
 MCKENZIE PALISADES WATER SUPPLY
 CORPORATION, OR
 MCMINNVILLE R.F.P.D., OR
 MCNULTY WATER P.U.D., OR
 MEADOWS DRAINAGE DISTRICT, OR
 MEDFORD IRRIGATION DISTRICT, OR
 MEDFORD R.F.P.D. #2, OR
 MEDFORD WATER COMMISSION
 MEDICAL SPRINGS R.F.P.D., OR
 MELHEUR COUNTY JAIL, OR
 MERLIN COMMUNITY PARK DISTRICT, OR
 MERRILL CEMETERY MAINTENANCE DISTRICT, OR
 MERRILL PARK DISTRICT, OR
 MERRILL R.F.P.D., OR
 METRO REGIONAL GOVERNMENT
 METRO REGIONAL PARKS
 METROPOLITAN EXPOSITION RECREATION
 COMMISSION
 METROPOLITAN SERVICE DISTRICT (METRO)
 MID COUNTY CEMETERY MAINTENANCE DISTRICT,
 OR
 MID-COLUMBIA FIRE AND RESCUE, OR
 MIDDLE FORK IRRIGATION DISTRICT, OR
 MIDLAND COMMUNITY PARK, OR
 MIDLAND DRAINAGE IMPROVEMENT DISTRICT, OR
 MILES CROSSING SANITARY SEWER DISTRICT, OR
 MILL CITY R.F.P.D. #2-303, OR

MILL FOUR DRAINAGE DISTRICT, OR
 MILLICOMA RIVER PARK & RECREATION DISTRICT,
 OR
 MILLINGTON R.F.P.D. #5, OR
 MILO VOLUNTEER FIRE DEPARTMENT, OR
 MILTON-FREEWATER AMBULANCE SERVICE AREA
 HEALTH DISTRICT, OR
 MILTON-FREEWATER WATER CONTROL DISTRICT,
 OR
 MIROCO SPECIAL ROAD DISTRICT, OR
 MIST-BIRKENFELD R.F.P.D., OR
 MODOC POINT IRRIGATION DISTRICT, OR
 MODOC POINT SANITARY DISTRICT, OR
 MOHAWK VALLEY R.F.P.D., OR
 MOLALLA AQUATIC DISTRICT, OR
 MOLALLA R.F.P.D. #73, OR
 MONITOR R.F.P.D., OR
 MONROE R.F.P.D., OR
 MONUMENT CEMETERY MAINTENANCE DISTRICT,
 OR
 MONUMENT S.W.C.D., OR
 MOOREA DRIVE SPECIAL ROAD DISTRICT, OR
 MORO R.F.P.D., OR
 MORROW COUNTY HEALTH DISTRICT, OR
 MORROW COUNTY UNIFIED RECREATION
 DISTRICT, OR
 MORROW S.W.C.D., OR
 MOSIER FIRE DISTRICT, OR
 MOUNTAIN DRIVE SPECIAL ROAD DISTRICT, OR
 MT. ANGEL R.F.P.D., OR
 MT. HOOD IRRIGATION DISTRICT, OR
 MT. LAKI CEMETERY DISTRICT, OR
 MT. VERNON R.F.P.D., OR
 MULINO WATER DISTRICT #1, OR
 MULTNOMAH COUNTY DRAINAGE DISTRICT #1, OR
 MULTNOMAH COUNTY R.F.P.D. #10, OR
 MULTNOMAH COUNTY R.F.P.D. #14, OR
 MULTNOMAH EDUCATION SERVICE DISTRICT
 MYRTLE CREEK R.F.P.D., OR
 NEAH-KAH-NIE WATER DISTRICT, OR
 NEDONNA R.F.P.D., OR
 NEHALEM BAY FIRE AND RESCUE, OR
 NEHALEM BAY HEALTH DISTRICT, OR
 NEHALEM BAY WASTEWATER AGENCY, OR
 NESIKA BEACH-OPHIR WATER DISTRICT, OR
 NESKOWIN REGIONAL SANITARY AUTHORITY, OR
 NESKOWIN REGIONAL WATER DISTRICT, OR
 NESTUCCA R.F.P.D., OR
 NETARTS WATER DISTRICT, OR
 NETARTS-OCEANSIDE R.F.P.D., OR
 NETARTS-OCEANSIDE SANITARY DISTRICT, OR
 NEW BRIDGE WATER SUPPLY DISTRICT, OR
 NEW CARLTON FIRE DISTRICT, OR
 NEW ORLEANS REDEVELOPMENT AUTHORITY, LA
 NEW PINE CREEK R.F.P.D., OR
 NEWBERG R.F.P.D., OR
 NEWBERRY ESTATES SPECIAL ROAD DISTRICT, OR
 NEWPORT R.F.P.D., OR
 NEWT YOUNG DITCH DISTRICT IMPROVEMENT
 COMPANY, OR
 NORTH ALBANY R.F.P.D., OR
 NORTH BAY R.F.P.D. #9, OR
 NORTH CLACKAMAS PARKS & RECREATION
 DISTRICT, OR
 NORTH COUNTY RECREATION DISTRICT, OR

NORTH DOUGLAS COUNTY FIRE & EMS, OR
 NORTH DOUGLAS PARK & RECREATION DISTRICT,
 OR
 NORTH GILLIAM COUNTY HEALTH DISTRICT, OR
 NORTH GILLIAM COUNTY R.F.P.D., OR
 NORTH LAKE HEALTH DISTRICT, OR
 NORTH LEBANON WATER CONTROL DISTRICT, OR
 NORTH LINCOLN FIRE & RESCUE DISTRICT #1, OR
 NORTH LINCOLN HEALTH DISTRICT, OR
 NORTH MORROW VECTOR CONTROL DISTRICT, OR
 NORTH SHERMAN COUNTY R.F.P.D, OR
 NORTH UNIT IRRIGATION DISTRICT, OR
 NORTHEAST OREGON HOUSING AUTHORITY, OR
 NORTHEAST WHEELER COUNTY HEALTH DISTRICT,
 OR
 NORTHERN WASCO COUNTY P.U.D., OR
 NORTHERN WASCO COUNTY PARK & RECREATION
 DISTRICT, OR
 NYE DITCH USERS DISTRICT IMPROVEMENT, OR
 NYSSA ROAD ASSESSMENT DISTRICT #2, OR
 NYSSA RURAL FIRE DISTRICT, OR
 NYSSA-ARCADIA DRAINAGE DISTRICT, OR
 OAK LODGE WATER SERVICES, OR
 OAKLAND R.F.P.D., OR
 OAKVILLE COMMUNITY CENTER, OR
 OCEANSIDE WATER DISTRICT, OR
 OCHOCO IRRIGATION DISTRICT, OR
 OCHOCO WEST WATER AND SANITARY
 AUTHORITY, OR
 ODELL SANITARY DISTRICT, OR
 OLD OWYHEE DITCH IMPROVEMENT DISTRICT, OR
 OLNEY-WALLUSKI FIRE & RESCUE DISTRICT, OR
 ONTARIO LIBRARY DISTRICT, OR
 ONTARIO R.F.P.D., OR
 OPHIR R.F.P.D., OR
 OREGON COAST COMMUNITY ACTION
 OREGON HOUSING AND COMMUNITY SERVICES
 OREGON INTERNATIONAL PORT OF COOS BAY, OR
 OREGON LEGISLATIVE ADMINISTRATION
 OREGON OUTBACK R.F.P.D., OR
 OREGON POINT, OR
 OREGON TRAIL LIBRARY DISTRICT, OR
 OTTER ROCK WATER DISTRICT, OR
 OWW UNIT #2 SANITARY DISTRICT, OR
 OWYHEE CEMETERY MAINTENANCE DISTRICT, OR
 OWYHEE IRRIGATION DISTRICT, OR
 PACIFIC CITY JOINT WATER-SANITARY
 AUTHORITY, OR
 PACIFIC COMMUNITIES HEALTH DISTRICT, OR
 PACIFIC RIVIERA #3 SPECIAL ROAD DISTRICT, OR
 PALATINE HILL WATER DISTRICT, OR
 PALMER CREEK WATER DISTRICT IMPROVEMENT
 COMPANY, OR
 PANORAMIC ACCESS SPECIAL ROAD DISTRICT, OR
 PANTHER CREEK ROAD DISTRICT, OR
 PANTHER CREEK WATER DISTRICT, OR
 PARKDALE R.F.P.D., OR
 PARKDALE SANITARY DISTRICT, OR
 PENINSULA DRAINAGE DISTRICT #1, OR
 PENINSULA DRAINAGE DISTRICT #2, OR
 PHILOMATH FIRE AND RESCUE, OR
 PILOT ROCK CEMETERY MAINTENANCE DISTRICT
 #5, OR
 PILOT ROCK PARK & RECREATION DISTRICT, OR
 PILOT ROCK R.F.P.D., OR

PINE EAGLE HEALTH DISTRICT, OR
 PINE FLAT DISTRICT IMPROVEMENT COMPANY, OR
 PINE GROVE IRRIGATION DISTRICT, OR
 PINE GROVE WATER DISTRICT-KLAMATH FALLS,
 OR
 PINE GROVE WATER DISTRICT-MAUPIN, OR
 PINE VALLEY CEMETERY DISTRICT, OR
 PINE VALLEY R.F.P.D., OR
 PINWOOD COUNTRY ESTATES SPECIAL ROAD
 DISTRICT, OR
 PIONEER DISTRICT IMPROVEMENT COMPANY, OR
 PISTOL RIVER CEMETERY MAINTENANCE
 DISTRICT, OR
 PISTOL RIVER FIRE DISTRICT, OR
 PLEASANT HILL R.F.P.D., OR
 PLEASANT HOME WATER DISTRICT, OR
 POCAHONTAS MINING AND IRRIGATION DISTRICT,
 OR
 POE VALLEY IMPROVEMENT DISTRICT, OR
 POE VALLEY PARK & RECREATION DISTRICT, OR
 POE VALLEY VECTOR CONTROL DISTRICT, OR
 POLK COUNTY FIRE DISTRICT #1, OR
 POLK S.W.C.D., OR
 POMPADOUR WATER IMPROVEMENT DISTRICT, OR
 PONDEROSA PINES EAST SPECIAL ROAD DISTRICT,
 OR
 PORT OF ALSEA, OR
 PORT OF ARLINGTON, OR
 PORT OF ASTORIA, OR
 PORT OF BANDON, OR
 PORT OF BRANDON, OR
 PORT OF BROOKINGS HARBOR, OR
 PORT OF CASCADE LOCKS, OR
 PORT OF COQUILLE RIVER, OR
 PORT OF GARIBALDI, OR
 PORT OF GOLD BEACH, OR
 PORT OF HOOD RIVER, OR
 PORT OF MORGAN CITY, LA
 PORT OF MORROW, OR
 PORT OF NEHALEM, OR
 PORT OF NEWPORT, OR
 PORT OF PORT ORFORD, OR
 PORT OF PORTLAND, OR
 PORT OF SIUSLAW, OR
 PORT OF ST. HELENS, OR
 PORT OF THE DALLES, OR
 PORT OF TILLAMOOK BAY, OR
 PORT OF TOLEDO, OR
 PORT OF UMATILLA, OR
 PORT OF UMPQUA, OR
 PORT ORFORD CEMETERY MAINTENANCE
 DISTRICT, OR
 PORT ORFORD PUBLIC LIBRARY DISTRICT, OR
 PORT ORFORD R.F.P.D., OR
 PORTLAND DEVELOPMENT COMMISSION, OR
 PORTLAND FIRE AND RESCUE
 PORTLAND HOUSING CENTER, OR
 POWDER R.F.P.D., OR
 POWDER RIVER R.F.P.D., OR
 POWDER VALLEY WATER CONTROL DISTRICT, OR
 POWERS HEALTH DISTRICT, OR
 PRAIRIE CEMETERY MAINTENANCE DISTRICT, OR
 PRINEVILLE LAKE ACRES SPECIAL ROAD DISTRICT
 #1, OR
 PROSPECT R.F.P.D., OR

QUAIL VALLEY PARK IMPROVEMENT DISTRICT, OR
 QUEENER IRRIGATION IMPROVEMENT DISTRICT,
 OR
 RAINBOW WATER DISTRICT, OR
 RAINIER CEMETERY DISTRICT, OR
 RAINIER DRAINAGE IMPROVEMENT COMPANY, OR
 RALEIGH WATER DISTRICT, OR
 REDMOND AREA PARK & RECREATION DISTRICT,
 OR
 REDMOND FIRE AND RESCUE, OR
 RIDDLE FIRE PROTECTION DISTRICT, OR
 RIDGEWOOD DISTRICT IMPROVEMENT COMPANY,
 OR
 RIDGEWOOD ROAD DISTRICT, OR
 RIETH SANITARY DISTRICT, OR
 RIETH WATER DISTRICT, OR
 RIMROCK WEST IMPROVEMENT DISTRICT, OR
 RINK CREEK WATER DISTRICT, OR
 RIVER BEND ESTATES SPECIAL ROAD DISTRICT, OR
 RIVER FOREST ACRES SPECIAL ROAD DISTRICT, OR
 RIVER MEADOWS IMPROVEMENT DISTRICT, OR
 RIVER PINES ESTATES SPECIAL ROAD DISTRICT, OR
 RIVER ROAD PARK & RECREATION DISTRICT, OR
 RIVER ROAD WATER DISTRICT, OR
 RIVERBEND RIVERBANK WATER IMPROVEMENT
 DISTRICT, OR
 RIVERDALE R.F.P.D. 11-JT, OR
 RIVERGROVE WATER DISTRICT, OR
 RIVERSIDE MISSION WATER CONTROL DISTRICT,
 OR
 RIVERSIDE R.F.P.D. #7-406, OR
 RIVERSIDE WATER DISTRICT, OR
 ROBERTS CREEK WATER DISTRICT, OR
 ROCK CREEK DISTRICT IMPROVEMENT, OR
 ROCK CREEK WATER DISTRICT, OR
 ROCKWOOD WATER P.U.D., OR
 ROCKY POINT FIRE & EMS, OR
 ROGUE RIVER R.F.P.D., OR
 ROGUE RIVER VALLEY IRRIGATION DISTRICT, OR
 ROGUE VALLEY SEWER SERVICES, OR
 ROGUE VALLEY SEWER, OR
 ROGUE VALLEY TRANSPORTATION DISTRICT, OR
 ROSEBURG URBAN SANITARY AUTHORITY, OR
 ROSEWOOD ESTATES ROAD DISTRICT, OR
 ROW RIVER VALLEY WATER DISTRICT, OR
 RURAL ROAD ASSESSMENT DISTRICT #3, OR
 RURAL ROAD ASSESSMENT DISTRICT #4, OR
 SAINT LANDRY PARISH TOURIST COMMISSION
 SAINT MARY PARISH REC DISTRICT 2
 SAINT MARY PARISH REC DISTRICT 3
 SAINT TAMMANY FIRE DISTRICT 4, LA
 SALEM AREA MASS TRANSIT DISTRICT, OR
 SALEM MASS TRANSIT DISTRICT
 SALEM SUBURBAN R.F.P.D., OR
 SALISHAN SANITARY DISTRICT, OR
 SALMON RIVER PARK SPECIAL ROAD DISTRICT, OR
 SALMON RIVER PARK WATER IMPROVEMENT
 DISTRICT, OR
 SALMONBERRY TRAIL INTERGOVERNMENTAL
 AGENCY, OR
 SANDPIPER VILLAGE SPECIAL ROAD DISTRICT, OR
 SANDY DRAINAGE IMPROVEMENT COMPANY, OR
 SANDY R.F.P.D. #72, OR
 SANTA CLARA R.F.P.D., OR
 SANTA CLARA WATER DISTRICT, OR

SANTIAM WATER CONTROL DISTRICT, OR
 SAUVIE ISLAND DRAINAGE IMPROVEMENT
 COMPANY, OR
 SAUVIE ISLAND VOLUNTEER FIRE DISTRICT #30J,
 OR
 SCAPPOOSE DRAINAGE IMPROVEMENT COMPANY,
 OR
 SCAPPOOSE PUBLIC LIBRARY DISTRICT, OR
 SCAPPOOSE R.F.P.D., OR
 SCIO R.F.P.D., OR
 SCOTTSBURG R.F.P.D., OR
 SEAL ROCK R.F.P.D., OR
 SEAL ROCK WATER DISTRICT, OR
 SEWERAGE AND WATER BOARD OF NEW ORLEANS,
 LA
 SHANGRI-LA WATER DISTRICT, OR
 SHASTA VIEW IRRIGATION DISTRICT, OR
 SHELLEY ROAD CREST ACRES WATER DISTRICT,
 OR
 SHERIDAN FIRE DISTRICT, OR
 SHERMAN COUNTY HEALTH DISTRICT, OR
 SHERMAN COUNTY S.W.C.D., OR
 SHORELINE SANITARY DISTRICT, OR
 SILETZ KEYS SANITARY DISTRICT, OR
 SILETZ R.F.P.D., OR
 SILVER FALLS LIBRARY DISTRICT, OR
 SILVER LAKE IRRIGATION DISTRICT, OR
 SILVER LAKE R.F.P.D., OR
 SILVER SANDS SPECIAL ROAD DISTRICT, OR
 SILVERTON R.F.P.D. NO. 2, OR
 SISTERS PARKS & RECREATION DISTRICT, OR
 SISTERS-CAMP SHERMAN R.F.P.D., OR
 SIUSLAW PUBLIC LIBRARY DISTRICT, OR
 SIUSLAW S.W.C.D., OR
 SIUSLAW VALLEY FIRE AND RESCUE, OR
 SIXES R.F.P.D., OR
 SKIPANON WATER CONTROL DISTRICT, OR
 SKYLINE VIEW DISTRICT IMPROVEMENT
 COMPANY, OR
 SLEEPY HOLLOW WATER DISTRICT, OR
 SMITH DITCH DISTRICT IMPROVEMENT COMPANY,
 OR
 SOUTH CLACKAMAS TRANSPORTATION DISTRICT,
 OR
 SOUTH COUNTY HEALTH DISTRICT, OR
 SOUTH FORK WATER BOARD, OR
 SOUTH GILLIAM COUNTY CEMETERY DISTRICT, OR
 SOUTH GILLIAM COUNTY HEALTH DISTRICT, OR
 SOUTH GILLIAM COUNTY R.F.P.D. VI-301, OR
 SOUTH LAFOURCHE LEVEE DISTRICT, LA
 SOUTH LANE COUNTY FIRE & RESCUE, OR
 SOUTH SANTIAM RIVER WATER CONTROL
 DISTRICT, OR
 SOUTH SHERMAN FIRE DISTRICT, OR
 SOUTH SUBURBAN SANITARY DISTRICT, OR
 SOUTH WASCO PARK & RECREATION DISTRICT, OR
 SOUTHERN COOS HEALTH DISTRICT, OR
 SOUTHERN CURRY CEMETERY MAINTENANCE
 DISTRICT, OR
 SOUTHVIEW IMPROVEMENT DISTRICT, OR
 SOUTHWEST LINCOLN COUNTY WATER DISTRICT,
 OR
 SOUTHWESTERN POLK COUNTY R.F.P.D., OR
 SOUTHWOOD PARK WATER DISTRICT, OR
 SPECIAL ROAD DISTRICT #1, OR

SPECIAL ROAD DISTRICT #8, OR
 SPRING RIVER SPECIAL ROAD DISTRICT, OR
 SPRINGFIELD UTILITY BOARD, OR
 ST. PAUL R.F.P.D., OR
 STANFIELD CEMETERY DISTRICT #6, OR
 STANFIELD IRRIGATION DISTRICT, OR
 STARR CREEK ROAD DISTRICT, OR
 STARWOOD SANITARY DISTRICT, OR
 STAYTON FIRE DISTRICT, OR
 SUBLIMITY FIRE DISTRICT, OR
 SUBURBAN EAST SALEM WATER DISTRICT, OR
 SUBURBAN LIGHTING DISTRICT, OR
 SUCCOR CREEK DISTRICT IMPROVEMENT
 COMPANY, OR
 SUMMER LAKE IRRIGATION DISTRICT, OR
 SUMMERVILLE CEMETERY MAINTENANCE
 DISTRICT, OR
 SUMNER R.F.P.D., OR
 SUN MOUNTAIN SPECIAL ROAD DISTRICT, OR
 SUNDOWN SANITATION DISTRICT, OR
 SUNFOREST ESTATES SPECIAL ROAD DISTRICT, OR
 SUNNYSIDE IRRIGATION DISTRICT, OR
 SUNRISE WATER AUTHORITY, OR
 SUNRIVER SERVICE DISTRICT, OR
 SUNSET EMPIRE PARK & RECREATION DISTRICT,
 OR
 SUNSET EMPIRE TRANSPORTATION DISTRICT, OR
 SURFLAND ROAD DISTRICT, OR
 SUTHERLIN VALLEY RECREATION DISTRICT, OR
 SUTHERLIN WATER CONTROL DISTRICT, OR
 SWALLEY IRRIGATION DISTRICT, OR
 SWEET HOME CEMETERY MAINTENANCE DISTRICT,
 OR
 SWEET HOME FIRE & AMBULANCE DISTRICT, OR
 SWISSHOME-DEADWOOD R.F.P.D., OR
 TABLE ROCK DISTRICT IMPROVEMENT COMPANY,
 OR
 TALENT IRRIGATION DISTRICT, OR
 TANGENT R.F.P.D., OR
 TENMILE R.F.P.D., OR
 TERREBONNE DOMESTIC WATER DISTRICT, OR
 THE DALLES IRRIGATION DISTRICT, OR
 THOMAS CREEK-WESTSIDE R.F.P.D., OR
 THREE RIVERS RANCH ROAD DISTRICT, OR
 THREE SISTERS IRRIGATION DISTRICT, OR
 TIGARD TUALATIN AQUATIC DISTRICT, OR
 TIGARD WATER DISTRICT, OR
 TILLAMOOK BAY FLOOD IMPROVEMENT DISTRICT,
 OR
 TILLAMOOK COUNTY EMERGENCY
 COMMUNICATIONS DISTRICT, OR
 TILLAMOOK COUNTY S.W.C.D., OR
 TILLAMOOK COUNTY TRANSPORTATION DISTRICT,
 OR
 TILLAMOOK FIRE DISTRICT, OR
 TILLAMOOK P.U.D., OR
 TILLER R.F.P.D., OR
 TOBIN DITCH DISTRICT IMPROVEMENT COMPANY,
 OR
 TOLEDO R.F.P.D., OR
 TONE WATER DISTRICT, OR
 TOOLEY WATER DISTRICT, OR
 TRASK DRAINAGE DISTRICT, OR
 TRI CITY R.F.P.D. #4, OR
 TRI-CITY WATER & SANITARY AUTHORITY, OR

TRI-COUNTY METROPOLITAN TRANSPORTATION
 DISTRICT OF OREGON
 TRIMET, OR
 TUALATIN HILLS PARK & RECREATION DISTRICT
 TUALATIN HILLS PARK & RECREATION DISTRICT,
 OR
 TUALATIN S.W.C.D., OR
 TUALATIN VALLEY FIRE & RESCUE
 TUALATIN VALLEY FIRE & RESCUE, OR
 TUALATIN VALLEY IRRIGATION DISTRICT, OR
 TUALATIN VALLEY WATER DISTRICT
 TUALATIN VALLEY WATER DISTRICT, OR
 TUMALO IRRIGATION DISTRICT, OR
 TURNER FIRE DISTRICT, OR
 TWIN ROCKS SANITARY DISTRICT, OR
 TWO RIVERS NORTH SPECIAL ROAD DISTRICT, OR
 TWO RIVERS S.W.C.D., OR
 TWO RIVERS SPECIAL ROAD DISTRICT, OR
 TYGH VALLEY R.F.P.D., OR
 TYGH VALLEY WATER DISTRICT, OR
 UMATILLA COUNTY FIRE DISTRICT #1, OR
 UMATILLA COUNTY S.W.C.D., OR
 UMATILLA COUNTY SPECIAL LIBRARY DISTRICT,
 OR
 UMATILLA HOSPITAL DISTRICT, OR
 UMATILLA R.F.P.D. #7-405, OR
 UMATILLA-MORROW RADIO AND DATA DISTRICT,
 OR
 UMPQUA S.W.C.D., OR
 UNION CEMETERY MAINTENANCE DISTRICT, OR
 UNION COUNTY SOLID WASTE DISPOSAL DISTRICT,
 OR
 UNION COUNTY VECTOR CONTROL DISTRICT, OR
 UNION GAP SANITARY DISTRICT, OR
 UNION GAP WATER DISTRICT, OR
 UNION HEALTH DISTRICT, OR
 UNION R.F.P.D., OR
 UNION S.W.C.D., OR
 UNITY COMMUNITY PARK & RECREATION
 DISTRICT, OR
 UPPER CLEVELAND RAPIDS ROAD DISTRICT, OR
 UPPER MCKENZIE R.F.P.D., OR
 UPPER WILLAMETTE S.W.C.D., OR
 VALE OREGON IRRIGATION DISTRICT, OR
 VALE RURAL FIRE PROTECTION DISTRICT, OR
 VALLEY ACRES SPECIAL ROAD DISTRICT, OR
 VALLEY VIEW CEMETERY MAINTENANCE
 DISTRICT, OR
 VALLEY VIEW WATER DISTRICT, OR
 VANDEVERT ACRES SPECIAL ROAD DISTRICT, OR
 VERNONIA R.F.P.D., OR
 VINEYARD MOUNTAIN PARK & RECREATION
 DISTRICT, OR
 VINEYARD MOUNTAIN SPECIAL ROAD DISTRICT,
 OR
 WALLA WALLA RIVER IRRIGATION DISTRICT, OR
 WALLOWA COUNTY HEALTH CARE DISTRICT, OR
 WALLOWA LAKE COUNTY SERVICE DISTRICT, OR
 WALLOWA LAKE IRRIGATION DISTRICT, OR
 WALLOWA LAKE R.F.P.D., OR
 WALLOWA S.W.C.D., OR
 WALLOWA VALLEY IMPROVEMENT DISTRICT #1,
 OR
 WAMIC R.F.P.D., OR
 WAMIC WATER & SANITARY AUTHORITY, OR

WARMSPRINGS IRRIGATION DISTRICT, OR
 WASCO COUNTY S.W.C.D., OR
 WATER ENVIRONMENT SERVICES, OR
 WATER WONDERLAND IMPROVEMENT DISTRICT,
 OR
 WATERBURY & ALLEN DITCH IMPROVEMENT
 DISTRICT, OR
 WATSECO-BARVIEW WATER DISTRICT, OR
 WAUNA WATER DISTRICT, OR
 WEDDERBURN SANITARY DISTRICT, OR
 WEST EAGLE VALLEY WATER CONTROL DISTRICT,
 OR
 WEST EXTENSION IRRIGATION DISTRICT, OR
 WEST LABISH DRAINAGE & WATER CONTROL
 IMPROVEMENT DISTRICT, OR
 WEST MULTNOMAH S.W.C.D., OR
 WEST SIDE R.F.P.D., OR
 WEST SLOPE WATER DISTRICT, OR
 WEST UMATILLA MOSQUITO CONTROL DISTRICT,
 OR
 WEST VALLEY FIRE DISTRICT, OR
 WESTERN HEIGHTS SPECIAL ROAD DISTRICT, OR
 WESTERN LANE AMBULANCE DISTRICT, OR
 WESTLAND IRRIGATION DISTRICT, OR
 WESTON ATHENA MEMORIAL HALL PARK &
 RECREATION DISTRICT, OR
 WESTON CEMETERY DISTRICT #2, OR
 WESTPORT FIRE AND RESCUE, OR
 WESTRIDGE WATER SUPPLY CORPORATION, OR
 WESTWOOD HILLS ROAD DISTRICT, OR
 WESTWOOD VILLAGE ROAD DISTRICT, OR
 WHEELER S.W.C.D., OR
 WHITE RIVER HEALTH DISTRICT, OR
 WIARD MEMORIAL PARK DISTRICT, OR
 WICKIUP WATER DISTRICT, OR
 WILLAKENZIE R.F.P.D., OR
 WILLAMALANE PARK & RECREATION DISTRICT, OR
 WILLAMALANE PARK AND RECREATION DISTRICT
 WILLAMETTE HUMANE SOCIETY
 WILLAMETTE RIVER WATER COALITION, OR
 WILLIAMS R.F.P.D., OR
 WILLOW CREEK PARK DISTRICT, OR
 WILLOW DALE WATER DISTRICT, OR
 WILSON RIVER WATER DISTRICT, OR
 WINCHESTER BAY R.F.P.D., OR
 WINCHESTER BAY SANITARY DISTRICT, OR
 WINCHUCK R.F.P.D., OR
 WINSTON-DILLARD R.F.P.D., OR
 WINSTON-DILLARD WATER DISTRICT, OR
 WOLF CREEK R.F.P.D., OR
 WOOD RIVER DISTRICT IMPROVEMENT COMPANY,
 OR
 WOODBURN R.F.P.D. NO. 6, OR
 WOODLAND PARK SPECIAL ROAD DISTRICT, OR
 WOODS ROAD DISTRICT, OR
 WRIGHT CREEK ROAD WATER IMPROVEMENT
 DISTRICT, OR
 WY'EAST FIRE DISTRICT, OR
 YACHATS R.F.P.D., OR
 YAMHILL COUNTY TRANSIT AREA, OR
 YAMHILL FIRE PROTECTION DISTRICT, OR
 YAMHILL SWCD, OR
 YONCALLA PARK & RECREATION DISTRICT, OR
 YOUNGS RIVER-LEWIS & CLARK WATER DISTRICT,
 OR

ZUMWALT R.F.P.D., OR

K-12 INCLUDING BUT NOT LIMITED TO:

ACADIA PARISH SCHOOL BOARD
 BEAVERTON SCHOOL DISTRICT
 BEND-LA PINE SCHOOL DISTRICT
 BOGALUSA HIGH SCHOOL, LA
 BOSSIER PARISH SCHOOL BOARD
 BROOKING HARBOR SCHOOL DISTRICT
 CADDO PARISH SCHOOL DISTRICT
 CALCASIEU PARISH SCHOOL DISTRICT
 CANBY SCHOOL DISTRICT
 CANYONVILLE CHRISTIAN ACADEMY
 CASCADE SCHOOL DISTRICT
 CASCADES ACADEMY OF CENTRAL OREGON
 CENTENNIAL SCHOOL DISTRICT
 CENTRAL CATHOLIC HIGH SCHOOL
 CENTRAL POINT SCHOOL DISTRICT NO.6
 CENTRAL SCHOOL DISTRICT 13J
 COOS BAY SCHOOL DISTRICT NO.9
 CORVALLIS SCHOOL DISTRICT 509J
 COUNTY OF YAMHILL SCHOOL DISTRICT 29
 CULVER SCHOOL DISTRICT
 DALLAS SCHOOL DISTRICT NO.2
 DAVID DOUGLAS SCHOOL DISTRICT
 DAYTON SCHOOL DISTRICT NO.8
 DE LA SALLE N CATHOLIC HS
 DESCHUTES COUNTY SCHOOL DISTRICT NO.6
 DOUGLAS EDUCATIONAL DISTRICT SERVICE
 DUFUR SCHOOL DISTRICT NO.29
 EAST BATON ROUGE PARISH SCHOOL DISTRICT
 ESTACADA SCHOOL DISTRICT NO.10B
 FOREST GROVE SCHOOL DISTRICT
 GEORGE MIDDLE SCHOOL
 GLADSTONE SCHOOL DISTRICT
 GRANTS PASS SCHOOL DISTRICT 7
 GREATER ALBANY PUBLIC SCHOOL DISTRICT
 GRESHAM BARLOW JOINT SCHOOL DISTRICT
 HEAD START OF LANE COUNTY
 HIGH DESERT EDUCATION SERVICE DISTRICT
 HILLSBORO SCHOOL DISTRICT
 HOOD RIVER COUNTY SCHOOL DISTRICT
 JACKSON CO SCHOOL DIST NO.9
 JEFFERSON COUNTY SCHOOL DISTRICT 509-J
 JEFFERSON PARISH SCHOOL DISTRICT
 JEFFERSON SCHOOL DISTRICT
 JUNCTION CITY SCHOOLS, OR
 KLAMATH COUNTY SCHOOL DISTRICT
 KLAMATH FALLS CITY SCHOOLS
 LAFAYETTE PARISH SCHOOL DISTRICT
 LAKE OSWEGO SCHOOL DISTRICT 7J
 LANE COUNTY SCHOOL DISTRICT 4J
 LINCOLN COUNTY SCHOOL DISTRICT
 LINN CO. SCHOOL DIST. 95C
 LIVINGSTON PARISH SCHOOL DISTRICT
 LOST RIVER JR/SR HIGH SCHOOL
 LOWELL SCHOOL DISTRICT NO.71
 MARION COUNTY SCHOOL DISTRICT
 MARION COUNTY SCHOOL DISTRICT 103
 MARIST HIGH SCHOOL, OR
 MCMINNVILLE SCHOOL DISTRICT NOAO
 MEDFORD SCHOOL DISTRICT 549C
 MITCH CHARTER SCHOOL
 MONROE SCHOOL DISTRICT NO.1J

MORROW COUNTY SCHOOL DIST, OR
 MULTNOMAH EDUCATION SERVICE DISTRICT
 MULTISENSORY LEARNING ACADEMY
 MYRTLE PINT SCHOOL DISTRICT 41
 NEAH-KAH-NIE DISTRICT NO.56
 NEWBERG PUBLIC SCHOOLS
 NESTUCCA VALLEY SCHOOL DISTRICT NO.101
 NOBEL LEARNING COMMUNITIES
 NORTH BEND SCHOOL DISTRICT 13
 NORTH CLACKAMAS SCHOOL DISTRICT
 NORTH DOUGLAS SCHOOL DISTRICT
 NORTH WASCO CITY SCHOOL DISTRICT 21
 NORTHWEST REGIONAL EDUCATION SERVICE DISTRICT
 ONTARIO MIDDLE SCHOOL
 OREGON TRAIL SCHOOL DISTRICT NOA6
 ORLEANS PARISH SCHOOL DISTRICT
 PHOENIX-TALENT SCHOOL DISTRICT NOA
 PLEASANT HILL SCHOOL DISTRICT
 PORTLAND JEWISH ACADEMY
 PORTLAND PUBLIC SCHOOLS
 RAPIDES PARISH SCHOOL DISTRICT
 REDMOND SCHOOL DISTRICT
 REYNOLDS SCHOOL DISTRICT
 ROGUE RIVER SCHOOL DISTRICT
 ROSEBURG PUBLIC SCHOOLS
 SCAPPOOSE SCHOOL DISTRICT 1J
 SAINT TAMMANY PARISH SCHOOL BOARD, LA
 SEASIDE SCHOOL DISTRICT 10
 SHERWOOD SCHOOL DISTRICT 88J
 SILVER FALLS SCHOOL DISTRICT 4J
 SOUTH LANE SCHOOL DISTRICT 45J3
 SOUTHERN OREGON EDUCATION SERVICE DISTRICT
 SPRINGFIELD PUBLIC SCHOOLS
 SUTHERLIN SCHOOL DISTRICT
 SWEET HOME SCHOOL DISTRICT NO.55
 TERREBONNE PARISH SCHOOL DISTRICT
 THE CATLIN GABEL SCHOOL
 TIGARD-TUALATIN SCHOOL DISTRICT
 UMATILLA MORROW ESD
 WEST LINN WILSONVILLE SCHOOL DISTRICT
 WILLAMETTE EDUCATION SERVICE DISTRICT
 WOODBURN SCHOOL DISTRICT
 YONCALLA SCHOOL DISTRICT
 ACADEMY FOR MATH ENGINEERING & SCIENCE (AMES), UT
 ALIANZA ACADEMY, UT
 ALPINE DISTRICT, UT
 AMERICAN LEADERSHIP ACADEMY, UT
 AMERICAN PREPARATORY ACADEMY, UT
 BAER CANYON HIGH SCHOOL FOR SPORTS & MEDICAL SCIENCES, UT
 BEAR RIVER CHARTER SCHOOL, UT
 BEAVER SCHOOL DISTRICT, UT
 BEEHIVE SCIENCE & TECHNOLOGY ACADEMY (BSTA), UT
 BOX ELDER SCHOOL DISTRICT, UT
 CBA CENTER, UT
 CACHE SCHOOL DISTRICT, UT
 CANYON RIM ACADEMY, UT
 CANYONS DISTRICT, UT
 CARBON SCHOOL DISTRICT, UT
 CHANNING HALL, UT
 CHARTER SCHOOL LEWIS ACADEMY, UT

CITY ACADEMY, UT
 DAGGETT SCHOOL DISTRICT, UT
 DAVINCI ACADEMY, UT
 DAVIS DISTRICT, UT
 DUAL IMMERSION ACADEMY, UT
 DUCHESNE SCHOOL DISTRICT, UT
 EARLY LIGHT ACADEMY AT DAYBREAK, UT
 EAST HOLLYWOOD HIGH, UT
 EDITH BOWEN LABORATORY SCHOOL, UT
 EMERSON ALCOTT ACADEMY, UT
 EMERY SCHOOL DISTRICT, UT
 ENTHEOS ACADEMY, UT
 EXCELSIOR ACADEMY, UT
 FAST FORWARD HIGH, UT
 FREEDOM ACADEMY, UT
 GARFIELD SCHOOL DISTRICT, UT
 GATEWAY PREPARATORY ACADEMY, UT
 GEORGE WASHINGTON ACADEMY, UT
 GOOD FOUNDATION ACADEMY, UT
 GRAND SCHOOL DISTRICT, UT
 GRANITE DISTRICT, UT
 GUADALUPE SCHOOL, UT
 HAWTHORN ACADEMY, UT
 INTECH COLLEGIATE HIGH SCHOOL, UT
 IRON SCHOOL DISTRICT, UT
 ITINERIS EARLY COLLEGE HIGH, UT
 JOHN HANCOCK CHARTER SCHOOL, UT
 JORDAN DISTRICT, UT
 JUAB SCHOOL DISTRICT, UT
 KANE SCHOOL DISTRICT, UT
 KARL G MAESER PREPARATORY ACADEMY, UT
 LAKEVIEW ACADEMY, UT
 LEGACY PREPARATORY ACADEMY, UT
 LIBERTY ACADEMY, UT
 LINCOLN ACADEMY, UT
 LOGAN SCHOOL DISTRICT, UT
 MARIA MONTESSORI ACADEMY, UT
 MERIT COLLEGE PREPARATORY ACADEMY, UT
 MILLARD SCHOOL DISTRICT, UT
 MOAB CHARTER SCHOOL, UT
 MONTICELLO ACADEMY, UT
 MORGAN SCHOOL DISTRICT, UT
 MOUNTAINVILLE ACADEMY, UT
 MURRAY SCHOOL DISTRICT, UT
 NAVIGATOR POINTE ACADEMY, UT
 NEBO SCHOOL DISTRICT, UT
 NO UT ACAD FOR MATH ENGINEERING & SCIENCE (NUAMES), UT
 NOAH WEBSTER ACADEMY, UT
 NORTH DAVIS PREPARATORY ACADEMY, UT
 NORTH SANPETE SCHOOL DISTRICT, UT
 NORTH STAR ACADEMY, UT
 NORTH SUMMIT SCHOOL DISTRICT, UT
 ODYSSEY CHARTER SCHOOL, UT
 OGDEN PREPARATORY ACADEMY, UT
 OGDEN SCHOOL DISTRICT, UT
 OPEN CLASSROOM, UT
 OPEN HIGH SCHOOL OF UTAH, UT
 OQUIRRH MOUNTAIN CHARTER SCHOOL, UT
 PARADIGM HIGH SCHOOL, UT
 PARK CITY SCHOOL DISTRICT, UT
 PINNACLE CANYON ACADEMY, UT
 PIUTE SCHOOL DISTRICT, UT
 PROVIDENCE HALL, UT
 PROVO SCHOOL DISTRICT, UT

QUAIL RUN PRIMARY SCHOOL, UT
 QUEST ACADEMY, UT
 RANCHES ACADEMY, UT
 REAGAN ACADEMY, UT
 RENAISSANCE ACADEMY, UT
 RICH SCHOOL DISTRICT, UT
 ROCKWELL CHARTER HIGH SCHOOL, UT
 SALT LAKE ARTS ACADEMY, UT
 SALT LAKE CENTER FOR SCIENCE EDUCATION, UT
 SALT LAKE SCHOOL DISTRICT, UT
 SALT LAKE SCHOOL FOR THE PERFORMING ARTS,
 UT
 SAN JUAN SCHOOL DISTRICT, UT
 SEVIER SCHOOL DISTRICT, UT
 SOLDIER HOLLOW CHARTER SCHOOL, UT
 SOUTH SANPETE SCHOOL DISTRICT, UT
 SOUTH SUMMIT SCHOOL DISTRICT, UT
 SPECTRUM ACADEMY, UT
 SUCCESS ACADEMY, UT
 SUCCESS SCHOOL, UT
 SUMMIT ACADEMY, UT
 SUMMIT ACADEMY HIGH SCHOOL, UT
 SYRACUSE ARTS ACADEMY, UT
 THOMAS EDISON - NORTH, UT
 TIMPANOGOS ACADEMY, UT
 TINTIC SCHOOL DISTRICT, UT
 TOOEELE SCHOOL DISTRICT, UT
 TUACAHN HIGH SCHOOL FOR THE PERFORMING
 ARTS, UT
 UINTAH RIVER HIGH, UT
 UINTAH SCHOOL DISTRICT, UT
 UTAH CONNECTIONS ACADEMY, UT
 UTAH COUNTY ACADEMY OF SCIENCE, UT
 UTAH ELECTRONIC HIGH SCHOOL, UT
 UTAH SCHOOLS FOR DEAF & BLIND, UT
 UTAH STATE OFFICE OF EDUCATION, UT
 UTAH VIRTUAL ACADEMY, UT
 VENTURE ACADEMY, UT
 VISTA AT ENTRADA SCHOOL OF PERFORMING
 ARTS AND TECHNOLOGY, UT
 WALDEN SCHOOL OF LIBERAL ARTS, UT
 WASATCH PEAK ACADEMY, UT
 WASATCH SCHOOL DISTRICT, UT
 WASHINGTON SCHOOL DISTRICT, UT
 WAYNE SCHOOL DISTRICT, UT
 WEBER SCHOOL DISTRICT, UT
 WEILENMANN SCHOOL OF DISCOVERY, UT

HIGHER EDUCATION

ARGOSY UNIVERSITY
 BATON ROUGE COMMUNITY COLLEGE, LA
 BIRTHINGWAY COLLEGE OF MIDWIFERY
 BLUE MOUNTAIN COMMUNITY COLLEGE
 BRIGHAM YOUNG UNIVERSITY - HAWAII
 CENTRAL OREGON COMMUNITY COLLEGE
 CENTENARY COLLEGE OF LOUISIANA
 CHEMEKETA COMMUNITY COLLEGE
 CLACKAMAS COMMUNITY COLLEGE
 COLLEGE OF THE MARSHALL ISLANDS
 COLUMBIA GORGE COMMUNITY COLLEGE
 CONCORDIA UNIVERSITY
 GEORGE FOX UNIVERSITY
 KLAMATH COMMUNITY COLLEGE DISTRICT
 LANE COMMUNITY COLLEGE
 LEWIS AND CLARK COLLEGE

LINFIELD COLLEGE
 LINN-BENTON COMMUNITY COLLEGE
 LOUISIANA COLLEGE, LA
 LOUISIANA STATE UNIVERSITY
 LOUISIANA STATE UNIVERSITY HEALTH SERVICES
 MARYLHURST UNIVERSITY
 MT. HOOD COMMUNITY COLLEGE
 MULTNOMAH BIBLE COLLEGE
 NATIONAL COLLEGE OF NATURAL MEDICINE
 NORTHWEST CHRISTIAN COLLEGE
 OREGON HEALTH AND SCIENCE UNIVERSITY
 OREGON INSTITUTE OF TECHNOLOGY
 OREGON STATE UNIVERSITY
 OREGON UNIVERSITY SYSTEM
 PACIFIC UNIVERSITY
 PIONEER PACIFIC COLLEGE
 PORTLAND COMMUNITY COLLEGE
 PORTLAND STATE UNIVERSITY
 REED COLLEGE
 RESEARCH CORPORATION OF THE UNIVERSITY OF
 HAWAII
 ROGUE COMMUNITY COLLEGE
 SOUTHEASTERN LOUISIANA UNIVERSITY
 SOUTHERN OREGON UNIVERSITY (OREGON
 UNIVERSITY SYSTEM)
 SOUTHWESTERN OREGON COMMUNITY COLLEGE
 TULANE UNIVERSITY
 TILLAMOOK BAY COMMUNITY COLLEGE
 UMPQUA COMMUNITY COLLEGE
 UNIVERSITY OF HAWAII BOARD OF REGENTS
 UNIVERSITY OF HAWAII-HONOLULU COMMUNITY
 COLLEGE
 UNIVERSITY OF OREGON-GRADUATE SCHOOL
 UNIVERSITY OF PORTLAND
 UNIVERSITY OF NEW ORLEANS
 WESTERN OREGON UNIVERSITY
 WESTERN STATES CHIROPRACTIC COLLEGE
 WILLAMETTE UNIVERSITY
 XAVIER UNIVERSITY
 UTAH SYSTEM OF HIGHER EDUCATION, UT
 UNIVERSITY OF UTAH, UT
 UTAH STATE UNIVERSITY, UT
 WEBER STATE UNIVERSITY, UT
 SOUTHERN UTAH UNIVERSITY, UT
 SNOW COLLEGE, UT
 DIXIE STATE COLLEGE, UT
 COLLEGE OF EASTERN UTAH, UT
 UTAH VALLEY UNIVERSITY, UT
 SALT LAKE COMMUNITY COLLEGE, UT
 UTAH COLLEGE OF APPLIED TECHNOLOGY, UT

STATE AGENCIES

ADMIN. SERVICES OFFICE
 BOARD OF MEDICAL EXAMINERS
 HAWAII CHILD SUPPORT ENFORCEMENT AGENCY
 HAWAII DEPARTMENT OF TRANSPORTATION
 HAWAII HEALTH SYSTEMS CORPORATION
 OFFICE OF MEDICAL ASSISTANCE PROGRAMS
 OFFICE OF THE STATE TREASURER
 OREGON BOARD OF ARCHITECTS
 OREGON CHILD DEVELOPMENT COALITION
 OREGON DEPARTMENT OF EDUCATION
 OREGON DEPARTMENT OF FORESTRY
 OREGON DEPT OF TRANSPORTATION
 OREGON DEPT. OF EDUCATION

OREGON LOTTERY
OREGON OFFICE OF ENERGY
OREGON STATE BOARD OF NURSING
OREGON STATE DEPT OF CORRECTIONS
OREGON STATE POLICE
OREGON TOURISM COMMISSION
OREGON TRAVEL INFORMATION COUNCIL
SANTIAM CANYON COMMUNICATION CENTER
SEIU LOCAL 503, OPEU
SOH- JUDICIARY CONTRACTS AND PURCH
STATE DEPARTMENT OF DEFENSE, STATE OF
HAWAII
STATE OF HAWAII
STATE OF HAWAII, DEPT. OF EDUCATION
STATE OF LOUISIANA
STATE OF LOUISIANA DEPT. OF EDUCATION
STATE OF LOUISIANA, 26TH JUDICIAL DISTRICT
ATTORNEY
STATE OF UTAH

EXAMPLE

Attachments

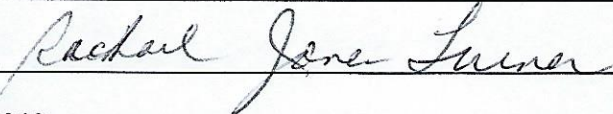
Attachment A. Addenda Acknowledgments

RECEIPT OF ADDENDUM ACKNOWLEDGEMENT

Offeror shall acknowledge this addendum by signing below and include in their proposal response.

Company Name Xerox Corporation

Contact Person Rachael Jones Turner

Signature 

Date 11/8/2019

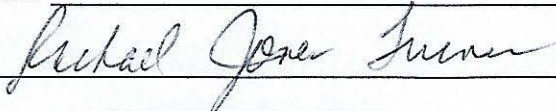
Crystal Wallace
Region 4 Education Service Center
Business Operations Specialist

RECEIPT OF ADDENDUM NO. 2 ACKNOWLEDGEMENT

Offeror shall acknowledge this addendum by signing below and include in their proposal response.

Company Name Xerox Corporation

Contact Person Rachael Jones Turner

Signature 

Date November 14, 2019

Crystal Wallace
Region 4 Education Service Center
Business Operations Specialist

RECEIPT OF ADDENDUM NO. 3 ACKNOWLEDGEMENT

Offeror shall acknowledge this addendum by signing below and include in their proposal response.

Company Name Xerox Corporation

Contact Person Rachael Jones Turner

Signature *Rachael Jones Turner*

Date 11/14/2019

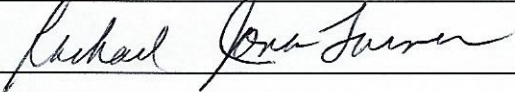
Crystal Wallace
Region 4 Education Service Center
Business Operations Specialist

RECEIPT OF ADDENDUM NO. 4 ACKNOWLEDGEMENT

Offeror shall acknowledge this addendum by signing below and include in their proposal response.

Company Name Xerox Corporation

Contact Person Rachael Jones Turner

Signature 

Date 11/19/2019

Crystal Wallace
Region 4 Education Service Center
Business Operations Specialist

Attachment C. Xerox U.S. Sales Offices

Xerox Government, Healthcare and Education

Xerox Direct Enterprise

Region	VP Sales	Email
Southeast	Steve Pitts	Steve.Pitts@Xerox.com
Mid America	Jorge Galindez	Jorge.Galindez@Xerox.com
Northeast	Chris Goodwin	Chris.Goodwin@Xerox.com
TX/OK	Kelly Grotheer	Kelly.Grotheer@Xerox.com
West	Andy Jones	Andy.Jones@Xerox.com

Xerox Authorized Agents

Establishment	Owner_First	Owner_Last	Address1	City	State	Zip
SMART DOCUMENT SOLUTIONS (SOUTH I)	TRACEY	ARVIEUX	PO BOX 86	SAFFORD	AZ	85548
ADVANCED XEROGRAPHICS	RAYMOND	BURT	307 S. MAIN STREET	UKIAH	CA	95482
SMART DOCUMENT SOLUTIONS - (LAKE HAVASU)	TRACEY	ARVIEUX	4045 E. PALM LANE	PHOENIX	AZ	85008
COPIERS PLUS	KRIS	SMITH	218 NORTH MAIN, SUITE 1	MONTICELLO	IN	47960
NORTHEAST OFFICE EQUIPMENT	JIM	CHIAACCHIERO	1520 W. 13TH STREET	ASHTABULA	OH	44004
PENDRED OFFICE MACHINES	MICHAEL	PENDRED	1233 N. MISSION	MT. PLEASANT	MI	48858
DIGITAL DOCUMENT SOLUTIONS	LANNY	LEONARD	324 NO. MCPHERSON CHURCH ROAD - 2ND FL	FAYETTEVILLE	NC	28303
AMERICAN BUSINESS CENTER MPS, INC.	RICHARD	YEATS	PO BOX 20128	PANAMA CITY	FL	32417
DOCUGRAPHICS, LLC	THOMAS	FIMIAN	6624-C GORDON ROAD	WILMINGTON	NC	28411
COPIERS ETC.	PEGGY ANN	BRANNON	148 SOUTH DOROUGH ROAD	CORDELE	GA	31015
XDOS, INC.	HAROLD	NIXON	18 EAST LIBERTY STREET	SUMTER	SC	29150
ADVANTAGE BUSINESS PRODUCTS	RANDY	KIDWELL	2064 S. WESTERN AVENUE	SPRINGFIELD	MO	65807
PROFESSIONAL OFFICE PRODUCTS, INC. (II)	JASON	MONTET	441 N. MAIN	JENNINGS	LA	70546
LEESBURG OFFICE EQUIPMENT, INC. (II)	SARAH	COSTELLO	2006 LAFAYETTE BLVD STE#204	FREDERICKSBURG	VA	22401
QUALITY QUICKLY	BRIAN	MARSHALL	945 3rd AVE SE SUITE 103	HICKORY	NC	28602
RYDER BROTHERS STATIONERY	RANDY	DODSON	1735 MAIN STREET	BAKER CITY	OR	97814
BUSINESS EQUIPMENT LLC	MARK	DURBIN	PO BOX 7948	PADUCAH	KY	42003
BUSINESS IMPRESSIONS	JEFF	BASSETT	PO BOX 959	AUBURN	IN	46706
BUTLER'S OFFICE EQUIPMENT & SUPPLY (EAST)	PATRICK	BUTLER	1900 E. HISTORIC HWY 66, SUITE C	GALLUP	NM	87301
BENCHMARK BUSINESS SOLUTIONS, INC. (NEW MEXICO)	JEFF	HORN	1607 BROADWAY	LUBBOCK	TX	79401
XEROGRAPHIC EQUIPMENT SYSTEMS	MICHAEL	MCKENNA	PO BOX 794	CHEYENNE	WY	82003
METRO CENTRE, LP	KARLA	METZLER	679 COUNTY ROAD 404	GAINESVILLE	TX	76240
BEST OFFICE SOLUTIONS	BOB	VALENTA	PO BOX 849	ATLANTA	TX	75551
COMPUTERS911, LLC (II)	BILLY	TINGLE	403 N. MAIN	MARKSVILLE	LA	71351
COMPUTERS911, LLC	BILLY	TINGLE	403 N. MAIN	MARKSVILLE	LA	71351

Establishment	Owner_First	Owner_Last	Address1	City	State	Zip
X WEST INC.	RANDALL	BERNHARDT	12136 W. BAYAUD AVE., STE 125	LAKEWOOD	CO	80228
PROFESSIONAL OFFICE PRODUCTS, INC. (III)	JASON	MONTET	441 N. MAIN	JENNINGS	LA	70546
SOUTH TEXAS SALES	SONNY	HOELSCHER	1901 EAST MAIN STREET	ALICE	TX	78332
ALABAMA OFFICE SUPPLY	HARRIS	ASBURY	PO BOX 467	OPELIKA	AL	36801
COLONY OFFICE PRODUCTS	DAN	WILSON	121 EAST WASHINGTON STREET	DEMOPOLIS	AL	36732
LOW COUNTRY OFFICE SOLUTIONS	DON	NESBITT	802 EAST MARTINTOWN RD, SUITE 162	NO. AUGUSTA	SC	29841
SOUTHERN OFFICE EQUIPMENT, LLC	TIMOTH	TODD	PO BOX 636	DAPHNE	AL	36526
NO MISSISSIPPI BUS PRODUCTS	MARK	FOSTER	223 SHARKEY AVE., SUITE 104	CLARKSDALE	MS	38614
COURNOYER'S OFFICE SUPPLY COMPANY, INC.	MIKE	COURNOYER	243 SOUTH SPRING AVENUE	LOUISVILLE	MS	39339
MICKEY MAYS OFFICE SOLUTIONS	MICKEY	MAYS	600 MONROVIA DR	RUSTON	LA	71270
PREFERRED OFFICE MACHINES	JOHN	MILAN	215 NORTH MICHIGAN	BIG RAPIDS	MI	49307
DIGITAL OFFICE CENTRE	TOM	ROSTVEDT	515 20TH AVENUE SE, STE 11	MINOT	ND	58701
JUSTTECH, LLC (V)	JOSHUA	JUSTICE	101 CATALPA DR STE 102	LA PLATA	MD	20646
IMAGE MAKERS INC	LAURA	NYQUIST	3588 VETERANS DRIVE, SUITE 3	TRAVERSE CITY	MI	49684
VALLEY OFFICE PRODUCTS	LARRY	CANTINE	110 SOUTH MAIN STREET	MILBANK	SD	57252
THE BUSINESS CONNECTION	JAMES	PUCHNER	214 MAIN	CHADRON	NE	69337
PROFESSIONAL BUS PRODUCTS	KEN	MCBRIDE	PO BOX 1154	CRAB ORCHARD	WV	25827
ATLAS REPRODUCTION, INC.	MICHAEL	MCKENNA	PO BOX 2901	CASPER	WY	82601
XEROGRAPHIX EAST TEXAS	SCOTT	WALLER	424 NORTH STREET	NACOGDOCHE S	TX	75961
SOUTHWEST OFFICE SOLUTIONS, INC. (BELEN)	TRACY	ASHTON	1789 CENTRAL AVENUE, SUITE 4	LOS ALAMOS	NM	87544
SUPERIOR OFFICE PRODUCTS	RANDY	POCHE	533 HIGHLANDIA DRIVE, STE K	BATON ROUGE	LA	70810
DOCUMENT SOLUTIONS (II)	LOREN	MAUK	1540 RICE ROAD, SUITE 100	TYLER	TX	75703
BUTLER'S OFFICE EQUIPMENT & SUPPLY (NORTH)	PATRICK	BUTLER	1900 E. HISTORIC HWY 66, SUITE C	GALLUP	NM	87301
PROFESSIONAL OFFICE PRODUCTS, INC.	JASON	MONTET	441 N. MAIN	JENNINGS	LA	70546
NORMAN ORR OFFICE SUPPLY, LLC	REID	GRIGSBY	202 WEST MAIN	WEST PLAINS	MO	65775
MERRIFIELD OFFICE SUPPLY, LLC	DARRELL	MERRIFIELD	224 SOUTH MAIN	ELK CITY	OK	73644
OFFICE EQUIPMENT SOURCE, INC. (II)	MIKE	MITCHELL	227 W. WATER STREET	ELMIRA	NY	14901
JUSTTECH, LLC (III)	JOSHUA	JUSTICE	101 CATALPA DR STE 102	LA PLATA	MD	20646
JUSTTECH, LLC (IV)	JOSHUA	JUSTICE	101 CATALPA DR STE 102	LA PLATA	MD	20646
WYTHEVILLE OFFICE SUPPLY	KENNETH WAYNE	ROOP	146 WEST MAIN STREET	WYTHEVILLE	VA	24382
KYLE OFFICE SUPPLY	CHRIS	KYLE	1020 21ST AVENUE	TUSCALOOSA	AL	35401
HUGHES OFFICE EQUIPMENT, LLC	JOHN	TURZIANO	PO BOX 278	BELLAIRE	OH	43906
SIERRA OFFICE SOLUTIONS	TODD	ALLRED	23811 WASHINGTON AVE STE C110-230	MURIETTA	CA	92562
PRINT 'N COPY CENTER	REECE	KEENER	565 W. SILVER ST.	ELKO	NV	89801

Establishment	Owner_First	Owner_Last	Address1	City	State	Zip
D-TECH NORTH, LLC	FRANK	DEFRANCESCO	1095 MILITARY TRL, UNIT 1447	JUPITER	FL	33458
BUDDE'S OFFICE SUPPLY	BERT	BUDDE	3210 FLAGLER AVENUE	KEY WEST	FL	33040
OFFICE AUTOMATION	DANIEL PATRICK	CURRIE	851 NW 250 TERRACE	NEWBERRY	FL	32669
PRECISION OFFICE SYSTEMS	ROBERT	DEMARCO	8817 NW 40th CIRCLE	GAINESVILLE	FL	32653
DOCUMENT SYSTEMS, INC. (II)	CRAIG	BRAME	89 MARKET STREET	HENDERSON	NC	27537
BUERGER OFFICE SYSTEMS	CAMERON	BUERGER	1670 WARREN ROAD	INDIANA	PA	15701
OFFICE EQUIPMENT SOURCE, INC. (I)	MIKE	MITCHELL	227 W. WATER STREET	ELMIRA	NY	14901
XEROGRAPHICS OF FLAGSTAFF, INC.	TRACEY	ARVIEUX	4045 E. PALM LANE	PHOENIX	AZ	85008
ADVANCED DOCUMENT SYSTEMS, INC.	HECTOR	LIZARDI	19226 66th AVE. S., SUITE L-100	KENT	WA	98032
DOCUMENT CONSULTING SERVICES	TED	SWICK	880 APOLLO STREET, SUITE 353	EL SEGUNDO	CA	90245
LAS AMERICAS OFFICE EQUIPMENT, INC.	FELIX	RIVERA	PO BOX 90	MERCEDITA	PR	00715
EXECUTIVE OFFICE EQUIPMENT	LAURANCE	BONELLI	PO BOX 6217	ST THOMAS	VI	00804
OFFITEK	FELIX	RIVERA	2980 EMILIO FAGOT AVENUE SUITE 2	PONCE	PR	00716
DOCUMENT COMPANY	JORGE	CANALS	AVE. LAUREL #GA11, CALLE 49, SANTA JUANITA	BAYAMON	PR	00956
C & M DOCUMENT COMPANY, INC.	JORGE	CANALS	MSC 848, AVENIDA WINSTON CHURHILL #138	SAN JUAN	PR	00926
COMPLETE DOCUMENT SOLUTIONS LLC (III)	JOHN	HAND	19 GLORIA LANE	FAIRFIELD	NJ	07004
LEESBURG OFFICE EQUIPMENT	SARAH	COSTELLO	2006 LAFAYETTE BLVD STE#204	FREDERICKSBURG	VA	22401
ANNAPOLIS OFFICE PRODUCTS	JIM	SCHALGE	8258 VETERANS HIGHWAY, SUITE 3A	MILLERSVILLE	MD	21108
MARITIME BUSINESS CONCEPTS	SCOTT	WILLIAMS	1306 N. HERRITAGE ST	KINSTON	NC	28501
AMERICAN BUSINESS CENTER MPS INC. (II)	RICHARD	YEATS	PO BOX 20128	PANAMA CITY	FL	32417
WATTLES OFFICE SUPPLY	LINDA	MCCLARNEY	110 S. SECOND ST.	PALATKA	FL	32177
IMAGE SOURCE IV	BRAD	CRAFT	650 EAST HOSPITALITY LANE, STE 540	SAN BERNARDINO	CA	92408
XEROGRAPHIC BUSINESS SYS	LARRY	GLEASON	819 WATER ST, SUITE 110.	KERRVILLE	TX	78028
XMC OF ARKANSAS	BOB	HAMILTON	7585 AE BEATY DRIVE, SUITE 101	BARTLETT	TN	38133
TALLAHASSEE TECHNOLOGY GROUP, INC.	RICHARD	MAUS	1949 RAYMOND DIEHL ROAD STE B	TALLAHASSEE	FL	32308
KIMBRELL'S DIGITAL SOLUTIONS	SCOTT	KIMBRELL	520 MAIN STREET	NATCHEZ	MS	39120
DOCUMENT SOLUTIONS EAST, INC.	DARRELL	HARRISON	PO BOX 4006	GREENVILLE	NC	27858
THE OFFICE ADVANTAGE	MARK	VAN DEN HOEK	318 N. MAIN	MITCHELL	SD	57301
FLYNN'S INC.	BRIAN	CANTOR	115 W 30th ST., RM 411	NEW YORK	NY	10001
T.E.C DOCUMENT SOLUTIONS	ANTHONY	GARCIA	231 WEST 29TH STREET SUITE 905	NEW YORK	NY	10001
DELMARVA DOCUMENT SOLUTIONS, INC.	JENNIFER	ATCHISON	112 SOUTH BOULEVARD	SALISBURY	MD	21804
DOCUMENT TECHNOLOGIES, INC.	JANICE	DUPLISEA	23 CROSBY DRIVE	BEDFORD	MA	01730
CSRA DOCUMENT SOLUTIONS	DON	NESBITT	802 EAST MARTINTOWN RD, SUITE 162	NO. AUGUSTA	SC	29841
IMAGE SOURCE	BRAD	CRAFT	650 EAST HOSPITALITY LANE, STE 500	SAN BERNARDINO	CA	92408

Establishment	Owner_First	Owner_Last	Address1	City	State	Zip
PROFESSIONAL DOCUMENT SOLUTIONS, INC. (PDS - GJ)	TROY	TAFOYA	4114 TIMBERLINE ROAD	FORT COLLINS	CO	80525
UTOPIAN IQ SERVICES INC.	SEBASTIAN	MARTINEZ	6095 NW 82 AVE	MIAMI	FL	33166
IMPRESSIONS OF ASPEN, INC.	NANCY	TORINUS	P.O. BOX 295	CARBONDALE	CO	81623
ADVANCED DOCUMENT SOLUTIONS, INC. (II)	SCOTT	HAMILTON	819 S. FLOYD STREET	LOUISVILLE	KY	40203
TOTAL DOCUMENT SOLUTIONS, INC.	TIMOTHY	STANLEY	2515 NORTH SHILOH DRIVE	FAYETTEVILLE	AR	72704
COMPLETE DOCUMENT SOLUTIONS, NY LLC	JOHN	HAND	19 GLORIA LANE	FAIRFIELD	NJ	07004
XRX BUSINESS CONSULTANTS	DAVID	CAVAZOS	708 NORTH MCCOLL	MCALLEN	TX	78501
XMC OF MEMPHIS	BOB	HAMILTON	7585 AE BEATY DRIVE, SUITE 101	BARTLETT	TN	38133
XCEL OFFICE SOLUTIONS	WAYNE	TYLER	304 N MERIDIAN AVE STE 18	OKLAHOMA CITY	OK	73107
DIXIE DIGITAL IMAGING, INC.	KELLY	SMITH	1401 COMMERCE COURT	FORT SMITH	AR	72908
SHAMROCK OFFICE SUPPLY	MIKE	FORMELLER	219 E. VEROT SCHOOL ROAD	LAFAYETTE	LA	70508
DOCUMENT SOLUTIONS OF SPRINGFIELD	GREG	TIGGES	1736 E. SUNSHINE STREET, SUITE 100	SPRINGFIELD	MO	65804
DOCUMENT SOLUTIONS, INC.	ROBERT	BIGHAM JR.	4401 N. MAIN ST., SUITE A	VICTORIA	TX	77904
BENCHMARK BUSINESS SOLUTIONS	JEFF	HORN	1607 BROADWAY	LUBBOCK	TX	79401
COMPLETE OFFICE SOURCE INC.	GLEN	DUNN	429 CURWOOD DRIVE	OWOSSO	MI	48867
INDIANA BUSINESS SOLUTIONS	TIMOTHY	SLOPSEMA	8227 NORTHWEST BLVD., #200	INDIANAPOLIS	IN	46278
COPY SOLUTIONS, INC.	ROGER	ZHAO	919 S. FREMONT AVE, SUITE 398	ALHAMBRA	CA	91803
MORRIS COUNTY STATIONERS	RICHARD	FLETCHER	PO BOX 279	FLANDERS	NJ	07836
BENCHMARK BUSINESS SOLUTIONS, INC.-ABILENE	JEFF	HORN	1607 BROADWAY	LUBBOCK	TX	79401
EDGE OFFICE PRODUCTS	LESTER	KILPATRICK	1909 JUDSON RD.	LONGVIEW	TX	75605
DOCUMENT SOLUTIONS	LOREN	MAUK	1540 RICE ROAD, SUITE 100	TYLER	TX	75703
COPIER CONNECTION	BONNIE	DOOLEY	10425 WESLEY	GREENVILLE	TX	75402
EXCEL OFFICE SERVICES	BRETT	BUTLER	12031 JEFFERSON BLVD	CULVER CITY	CA	90232
RAY BLOCK STATIONERY	GEORGE	GARCIA	3 PLAINFIELD AVE.	FLORAL PARK	NY	11001
XCL BUSINESS PRODUCTS	MICHAEL	DAVID	1767-46 VETERANS MEMORIAL HWY	ISLANDIA	NY	11749
OFFICE EVOLUTIONS, INC.	JOHN	GILLON	3701 KIRBY, SUITE 730	HOUSTON	TX	77098
ALASKA ENTERPRISE SOLUTIONS, INC. (FAIRBANKS)	MICHAEL	FERRIS	557 E FIREWEED LANE SUITE A	ANCHORAGE	AK	99503
HIGH COUNTRY COPIERS, INC.	TROY	TAFOYA	4114 TIMBERLINE ROAD	FORT COLLINS	CO	80525
KYLE OFFICE PRODUCTS	TOM	KYLE	418 TARROW	COLLEGE STATION	TX	77840
DOCUMENT SOLUTIONS (V)	LOREN	MAUK	1540 RICE ROAD, SUITE 100	TYLER	TX	75703
PREMIER OFFICE SYSTEMS	COLIN	MCTERNAN	500 N. RAINBOW BLVD. STE 312	LAS VEGAS	NV	89107
QUALITY BUSINESS	EDGARDO	RODRIGUEZ	1142 FD ROOSEVELT AVENUE	HATO REY	PR	00920
OFFICE EQUIPMENT SOURCE, INC. (VI)	MIKE	MITCHELL	227 W. WATER STREET	ELMIRA	NY	14901
PROFESSIONAL DOCUMENT SOLUTIONS (PDS)	TROY	TAFOYA	4114 TIMBERLINE ROAD	FORT COLLINS	CO	80525

Establishment	Owner_First	Owner_Last	Address1	City	State	Zip
IMAGE SOURCE - METRO	BRAD	CRAFT	650 EAST HOSPITALITY LANE, STE 540	SAN BERNARDINO	CA	92408
IMAGE SOURCE - TEMECULA	BRAD	CRAFT	650 EAST HOSPITALITY LANE, STE 540	SAN BERNARDINO	CA	92408
BENCHMARK OFFICE SYSTEMS INC.	MICHELLE	MCMANUS	75 GILCREAST RD., STE. 311	LONDONDERRY	NH	03053
ADVANCED DOCUMENT SOLUTIONS, INC. (III)	SCOTT	HAMILTON	819 S. FLOYD STREET	LOUISVILLE	KY	40203
DOCUMENT SOLUTIONS - TENNESSEE	KAREN	MCGINNIS	256 AVIGNON WAY	CLARKSVILLE	TN	37043
CONVERGING TECHNOLOGIES - SANTA ROSA	GENE	IRTENKAUF	800 MENDOCINO AVENUE, STE 1	SANTA ROSA	CA	95401
ITECH	MICHAEL	WILLIAMS	326 5TH STREET	PARKERSBURG	WV	26101
NETWORK ENHANCEMENT SYSTEMS, INC.	EDGAR	SILKEY	10827 EAST MARSHALL STREET	TULSA	OK	74116
COMPLETE DOCUMENT SOLUTIONS	JOHN	HAND	19 GLORIA LANE	FAIRFIELD	NJ	07004
XCEL OFFICE SOLUTIONS, LLC	WAYNE	TYLER	304 N MERIDIAN AVE STE 18	OKLAHOMA CITY	OK	73107
Q DOCUMENT SOLUTIONS	JOEL	HACKETT	3030 OLD RANCH PARKWAY, SUITE 190	SEAL BEACH	CA	90740
OFFICE TECH	B.K.	POWELL	3709 SPENARD ROAD SUITE 200	ANCHORAGE	AK	99503
TOTAL OFFICE SOLUTION OF WEST TEXAS	TOMMY	MCCRURY	1601 N. LEE AVENUE	ODESSA	TX	79761
DOCUMENT SYSTEMS	CRAIG	BRAME	89 MARKET STREET	HENDERSON	NC	27537
GREAT NORTHERN EQUIPMENT	KIM	BROWN	104 NE 3RD STREET, SUITE 200C	GRAND RAPIDS	MN	55744
COMPLETE DOCUMENT SOLUTIONS, NY LLC	JOHN	HAND	19 GLORIA LANE	FAIRFIELD	NJ	07004
WEST KENTUCKY XEROGRAPHICS LLC	JAMES	DEMA	PO BOX 124	BENTON	KY	42025
SOUTHERN DIGITAL LLC	ALBERT	HENRICKS	330 N JEFFERSON DAVIS PARKWAY	NEW ORLEANS	LA	70119
CONNEX SYSTEMS INC.	GREGORY	WALTER	2033 CHENAULT DR STE 150	CARROLLTON	TX	75006
IMAGE SOURCE (LA)	BRAD	CRAFT	650 EAST HOSPITALITY LANE, STE 540	SAN BERNARDINO	CA	92408
ALPINE OFFICE SYSTEMS, INC.	JOE	WITTENBERG	PO BOX 47	MONTROSE	CO	81402
COPY CONNECTION	RAJAT	GANDHI	201 W. HILLSIDE, SUITE 24	LAREDO	TX	78041
ADVANCED XEROGRAPHY	DEREK	BARNES	1823 N. YELLOWOOD	BROKEN ARROW	OK	74012
ADVANCED DIGITAL SOLUTIONS, INC	BILL	NORTHAM	1512 BROADWAY AVENUE	MATTOON	IL	61938
MOUNTAIN WEST OFFICE SOLUTIONS	BRUCE	PORCH	1205-B KENSINGTON AVENUE	MISSOULA	MT	59801
XDOS, INC.	HAROLD	NIXON	20 EAST LIBERTY STREET	SUMTER	SC	29150
DOCUMENT TECHNOLOGIES, INC. (SOUTH SHORE)	JANICE	DUPLISEA	23 CROSBY DRIVE	BEDFORD	MA	01730
AMBIZ SOLUTIONS, INC.	RICHARD	YEATS	PO BOX 20128	PANAMA CITY	FL	32417
SOUTHWEST OFFICE SOLUTIONS, INC. (LOS ALAMOS)	TRACY	ASHTON	1789 CENTRAL AVENUE, SUITE 4	LOS ALAMOS	NM	87544
MARCOTEK DIGITAL OFFICE SOLUTIONS	KEITH	NORRIS	2744 SW MAIN BLVD. S-101	LAKE CITY	FL	32025
WASATCH DOCUMENT SOLUTIONS INC.	CASEY	BECK	373 EDGEHILL DRIVE	PROVIDENCE	UT	84332
OFFICE SYSTEMS OF FAYETTE & GREENE	CAMERON	BUERGER	1670 WARREN ROAD	INDIANA	PA	15701

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SARASOTA OFFICE SOLUTIONS, LLC	CHRIS	DEICHMAN	3449 TECHNOLOGY DRIVE STE 108	NORTH VENICE	FL	34275
PDS DENVER TECH CENTER	TROY	TAFOYA	4114 TIMBERLINE ROAD	FORT COLLINS	CO	80525
DIGITAL OFFICE SOLUTIONS V	ROBERT	WEBB	4125 N. 124TH STREET, SUITE J	BROOKFIELD	WI	53005
MARCOTEK DIGITAL OFFICE SOLUTIONS II	KEITH	NORRIS	100 NORTH PATTERSON STREET	VALDOSTA	GA	31601
OFFICETECH NORTHWEST	B.K.	POWELL	6310 E. SPRAGUE AVENUE	SPOKANE	WA	99212
XEROGRAPHIC EQUIPMENT SYSTEMS - LARAMIE	MICHAEL	MCKENNA	PO BOX 794	CHEYENNE	WY	82003
IT BUSINESS SOLUTIONS	ROBERT	HAY	2698 CASSELMAN ROAD	ROCKWOOD	PA	15557
HEARTLAND DIGITAL IMAGING INC.	RYAN	VERCELLINO	6004 WILLOW SPRINGS	MARION	IL	62959
XMC OF LITTLE ROCK, INC.	BOB	HAMILTON	7585 AE BEATY DRIVE, SUITE 101	BARTLETT	TN	38133
OFFICE TECH - WENATCHEE	B.K.	POWELL	6310 E. SPRAGUE AVENUE	SPOKANE	WA	99212
DIGITAL OFFICE SOLUTIONS	ROBERT	WEBB	4125 N. 124TH STREET, SUITE J	BROOKFIELD	WI	53005
DOCUGRAPHICS, LLC	THOMAS	FIMIAN	2408A ASHLEY RIVER ROAD, SUITE 6-B	CHARLESTON	SC	29407
POTOMAC BUSINESS SOLUTIONS LLC	KRISTIN	JAQUETTE	13800 COPPERMINE ROAD, STE 273	HERNDON	VA	20171
GEYER'S OFFICE SUPPLY	RON	GEYER	169 W. MAIN STREET	XENIA	OH	45385
DIGITAL OFFICE SOLUTIONS II	ROBERT	WEBB	4125 N. 124TH STREET, SUITE J	BROOKFIELD	WI	53005
RBI	RICK	BOWLING	1113B N. CASTLE HEIGHTS AVE	LEBANON	TN	37087
XCEL OFFICE SOLUTIONS	WAYNE	TYLER	304 N MERIDIAN AVE STE 18	OKLAHOMA CITY	OK	73107
APPLIED DOCUMENT SOLUTIONS, INC.	ROBERT	WERTZBERGER	2419 RETREAT CLOSE	MARIETTA	GA	30066
ROCKY MOUNTAIN COMPETITIVE SOLUTIONS, LLC (III)	ANDY	COON	2413 GRANT AVENUE	OGDEN	UT	84404
QUALITY PRINT SOLUTIONS	GENE	AYALA	220 N. GETTY STREET	UVALDE	TX	78801
IMAGE XCELLENCE, LLC	JENNIFER	CAMBIO	2123 KING STREET	LA CROSSE	WI	54601
CENTRAL OREGON OFFICE SOLUTIONS	RHONDA	ROGERS	PO BOX 2185	BEND	OR	97709
MAINE DOCUMENT SOLUTIONS, LLC	GABE	POLCHIES	59 SANFORD DRIVE, UNIT 1	GORHAM	ME	04038
OFFICE EQUIPMENT SOURCE, INC. (IV)	MIKE	MITCHELL	227 W. WATER STREET	ELMIRA	NY	14901
GULF SUPERIOR OFFICE PRODUCTS, INC. – SUPERIOR VI	RANDY	POCHE	533 HIGHLANDIA DRIVE, STE K	BATON ROUGE	LA	70810
ADVANCED DOCUMENT SOLUTIONS, INC. (IV)	SCOTT	HAMILTON	819 S. FLOYD STREET	LOUISVILLE	KY	40203
DOCUMENT TECHNOLOGIES, INC.	JANICE	DUPLISEA	23 CROSBY DRIVE	BEDFORD	MA	01730
METRO CENTRE, LP	KARLA	METZLER	679 COUNTY ROAD 404	GAINESVILLE	TX	76240
BENCHMARK BUSINESS SOLUTIONS, INC. (AMARILLO II)	JEFF	HORN	1607 BROADWAY	LUBBOCK	TX	79401
DIGITAL OFFICE CENTRE, INC. (II)	TOM	ROSTVEDT	515 20TH AVENUE SE, STE 11	MINOT	ND	58701
XMC OF WEST TENNESSEE, INC.	BOB	HAMILTON	7585 AE BEATY DRIVE, SUITE 101	BARTLETT	TN	38133
NORTH COUNTRY DIGITAL SOLUTIONS	DAN	MCALOON	2 CRESTWOOD DRIVE	ALEXANDRIA BAY	NY	13607
SMART DOCUMENT SOLUTIONS - (YUMA)	TRACEY	ARVIEUX	4045 E. PALM LANE	PHOENIX	AZ	85008

Establishment	Owner_First	Owner_Last	Address1	City	State	Zip
SOLUTIONS FOR DOCUMENTS	MARVIN	HAMONS	842 W SOUTH BOUNDARY	PERRYSBURG	OH	43551
EAST-PENN BUSINESS MACHINES, INC.	HEMAN	PATEL	2980 LINDEN STREET	BETHLEHEM	PA	18017
YAKIMA DOCUMENT SOLUTIONS	LEE	HARTUNG	6799 N WENAS RD	SELAH	WA	98942
DOCUGRAPHICS, LLC	THOMAS	FIMIAN	2015 BOUNDARY ST, STE 232	BEAUFORT	SC	29902
MORRIS BUSINESS SOLUTIONS, LLC	RICHARD	MORRIS	P.O. BOX 15090	GREENVILLE	SC	29610
XMC OF NORTH ALABAMA, INC.	BOB	HAMILTON	7585 AE BEATY DRIVE, SUITE 101	BARTLETT	TN	38133
DOCUMENT CONSULTING SERVICES II	TED	SWICK	880 APOLLO STREET, SUITE 353	EL SEGUNDO	CA	90245
DIGITAL OFFICE SOLUTIONS, INC.	VIC	KALIA	311 3RD AVE, SE	CEDAR RAPIDS	IA	52401
CAPE COD BUSINESS SOLUTIONS, INC.	KEVIN	DONAHUE	PO BOX 323	SANDWICH	MA	02563
MARITIME BUSINESS CONCEPTS, INC. (II)	SCOTT	WILLIAMS	1306 N. HERRITAGE ST	KINSTON	NC	28501
SUPERIOR OFFICE PRODUCTS II	RANDY	POCHE	533 HIGHLANDIA DRIVE, STE K	BATON ROUGE	LA	70810
MAINE DOCUMENT SOLUTIONS OF CENTRAL MAINE	GABE	POLCHIES	59 SANFORD DRIVE, UNIT 1	GORHAM	ME	04038
TALLAHASSEE TECHNOLOGY GROUP, INC. (COLUMBUS)	RICHARD	MAUS	1949 RAYMOND DIEHL ROAD STE B	TALLAHASSEE	FL	32308
BUSINESS IMPRESSIONS OF MICHIGAN	JEFF	BASSETT	PO BOX 959	AUBURN	IN	46706
DOCUGRAPHICS, LLC	THOMAS	FIMIAN	2408 ASHLEY RIVER RD, UNIT A	CHARLESTON	SC	29414
DIGITAL OFFICE SOLUTIONS IV	ROBERT	WEBB	4125 N. 124TH STREET, SUITE J	BROOKFIELD	WI	53005
ASTRATECH, INC.	CHARLLEE	HOLMES	81 EAST GROVE STREET	GALESBURG	IL	61401
BENCHMARK BUSINESS SOLUTIONS, INC. (MARBLE FALLS)	JEFF	HORN	1607 BROADWAY	LUBBOCK	TX	79401
BENCHMARK BUSINESS SOLUTIONS-WICHITA FALLS	JEFF	HORN	1607 BROADWAY	LUBBOCK	TX	79401
JUSTTECH, LLC	JOSHUA	JUSTICE	101 CATALPA DR STE 102	LA PLATA	MD	20646
COMPLETE OFFICE SOLUTIONS	JOHN	COOPER	2627 RIDGEWOOD ROAD	JACKSON	MS	39216
ADVANCED DOCUMENT SOLUTIONS, INC.	SCOTT	HAMILTON	819 S. FLOYD STREET	LOUISVILLE	KY	40203
XMC OF MIDDLE TENNESSEE	BOB	HAMILTON	7585 AE BEATY DRIVE, SUITE 101	BARTLETT	TN	38133
XMC OF FLORENCE	BOB	HAMILTON	7585 AE BEATY DRIVE, SUITE 101	BARTLETT	TN	38133
COMPLETE DOCUMENT SOLUTIONS - MD LLC	JOHN	HAND	19 GLORIA LANE	FAIRFIELD	NJ	07004
SOUTHWEST OFFICE SOLUTIONS, INC. (TAOS)	TRACY	ASHTON	1789 CENTRAL AVENUE, SUITE 4	LOS ALAMOS	NM	87544
ELITE BUSINESS SYSTEMS, LLC	WILLIAM	ARNETT	P.O. BOX 737	GADSDEN	AL	35901
IMAGE MAKERS INC II	LAURA	NYQUIST	3588 VETERANS DRIVE, SUITE 3	TRAVERSE CITY	MI	49684
DOCUGRAPHICS, LLC	THOMAS	FIMIAN	454 ANDERSON RD. S, STE 152 BTC 571	ROCK HILL	SC	29730
MORRIS BUSINESS SOLUTIONS LLC (IV)	RICHARD	MORRIS	P.O. BOX 15090	GREENVILLE	SC	29610
SUPERIOR OFFICE PRODUCTS III	RANDY	POCHE	533 HIGHLANDIA DRIVE, STE K	BATON ROUGE	LA	70810
BENCHMARK BUSINESS SOLUTIONS-EL PASO	JEFF	HORN	1607 BROADWAY	LUBBOCK	TX	79401

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OFFICE EXPERTS, INC	KATHLEEN	SALIMBENE	520 HIGHRIDGE ROAD	LEXINGTON	OH	44904
PREFERRED DOCUMENT SOLUTIONS, LLC	CHRISTOPHER	SPAHN	101 N. TEJON, SUITE 108	COLORADO SPRINGS	CO	80903
ADVANTAGE BUSINESS SYSTEMS, INC.	MEIR	HOLTZBERG	370 STATE ST., SUITE 2	NORTH HAVEN	CT	06473
MIDWEST DATA SYSTEMS, INC.	KRISTIN	PORTER	10124 HUTTON ROAD	KANSAS CITY	KS	66109
ADVANCED DIGITAL SOLUTIONS, INC II	BILL	NORTHAM	1512 BROADWAY AVENUE	MATTOON	IL	61938
DOCUGRAPHICS, LLC	THOMAS	FIMIAN	1201 MAIN STREET SUITE 1100	COLUMBIA	SC	29201
COPY SOLUTIONS, INC. (WEST)	ROGER	ZHAO	919 S. FREMONT AVE, SUITE 398	ALHAMBRA	CA	91803
SMART DOCUMENT SOLUTIONS (SOUTH II)	TRACEY	ARVIEUX	PO BOX 86	SAFFORD	AZ	85548
BUTLER'S OFFICE EQUIPMENT & SUPPLY (WEST)	PATRICK	BUTLER	1900 E. HISTORIC HWY 66, SUITE C	GALLUP	NM	87301
REPRO PRODUCTS MFD, LLC (NORTH)	ROBERT	FELDBERG	4485 S ATLANTA RD	SMYRNA	GA	30080
REPRO PRODUCTS MFD, LLC (EAST)	ROBERT	FELDBERG	4485 S ATLANTA RD	SMYRNA	GA	30080
REPRO PRODUCTS MFD, LLC (SOUTH)	ROBERT	FELDBERG	4485 S ATLANTA RD	SMYRNA	GA	30080
BENCHMARK BUSINESS SOLUTIONS-SAN ANTONIO	JEFF	HORN	1607 BROADWAY	LUBBOCK	TX	79401
SUPERIOR PRINT SOLUTIONS, INC.	BETHANY	SCHRIEVER	202 1st STREET SE, STE 103	MASON CITY	IA	50401
MORRIS BUSINESS SOLUTIONS, LLC (II)	RICHARD	MORRIS	P.O. BOX 15090	GREENVILLE	SC	29610
DOCUGRAPHICS, LLC	THOMAS	FIMIAN	2408 ASHLEY RIVER ROAD, SUITE 6-B	CHARLESTON	SC	29407
JUSTTECH, LLC (II)	JOSHUA	JUSTICE	101 CATALPA DR STE 102	LA PLATA	MD	20646
HAMILTON DIGITAL, INC. (CINCINNATI)	FRED	HAMILTON	2165 CENTRAL PARKWAY	CINCINNATI	OH	45219
GEYER'S OFFICE SUPPLY (II)	RON	GEYER	169 W. MAIN STREET	XENIA	OH	45385
IMAGE SOURCE - ORANGE COUNTY	BRAD	CRAFT	650 EAST HOSPITALITY LANE, STE 540	SAN BERNARDINO	CA	92408
ITECH	MICHAEL	WILLIAMS	326 5TH STREET	PARKERSBURG	WV	26101
OFFICE EQUIPMENT SOURCE, INC. (III)	MIKE	MITCHELL	227 W. WATER STREET	ELMIRA	NY	14901
QUALITY QUICKLY (II)	BRIAN	MARSHALL	945 3rd AVE SE SUITE 103	HICKORY	NC	28602
COMPLETE OFFICE SOLUTIONS (II)	MIKE	COURNOYER	243 SOUTH SPRING AVENUE	LOUISVILLE	MS	39339
RAY BLOCK STATIONERY II	GEORGE	GARCIA	3 PLAINFIELD AVE.	FLORAL PARK	NY	11001
MCGARITY'S BUSINESS PRODUCTS	SCOTT	MCGARITY	870 GROVE STREET	GAINSVILLE	GA	30501
IMAGE SOURCE - ORANGE COUNTY II	BRAD	CRAFT	650 EAST HOSPITALITY LANE, STE 540	SAN BERNARDINO	CA	92408
DOCUMENT SOLUTIONS (III)	LOREN	MAUK	1540 RICE ROAD, SUITE 100	TYLER	TX	75703
XMC OF EAST TENNESSEE, INC.	BOB	HAMILTON	7585 AE BEATY DRIVE, SUITE 101	BARTLETT	TN	38133
SOUTHWEST OFFICE SOLUTIONS, INC. (SANTE FE)	TRACY	ASHTON	1789 CENTRAL AVENUE, SUITE 4	LOS ALAMOS	NM	87544
THE RAY-BLOCK STATIONERY CO. INC. (EAST)	GEORGE	GARCIA	3 PLAINFIELD AVE.	FLORAL PARK	NY	11001
COMPLETE DOCUMENT SOLUTIONS PA, LLC (S JERSEY I)	JOHN	HAND	19 GLORIA LANE	FAIRFIELD	NJ	07004
COMPLETE DOCUMENT SOLUTIONS PA, LLC (S JERSEY II)	JOHN	HAND	19 GLORIA LANE	FAIRFIELD	NJ	07004
COMPLETE DOCUMENT SOLUTIONS PA, LLC (PHL)	JOHN	HAND	19 GLORIA LANE	FAIRFIELD	NJ	07004

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COMPLETE DOCUMENT SOLUTIONS PA, LLC (PHL II)	JOHN	HAND	19 GLORIA LANE	FAIRFIELD	NJ	07004
COMPLETE DOCUMENT SOLUTIONS, LLC (II)	JOHN	HAND	19 GLORIA LANE	FAIRFIELD	NJ	07004
ALASKA ENTERPRISE SOLUTIONS, INC.	MICHAEL	FERRIS	557 E FIREWEED LN, SUITE A	ANCHORAGE	AK	99503
DOCUMENT SOLUTIONS (IV)	LOREN	MAUK	1540 RICE ROAD, SUITE 100	TYLER	TX	75703
BLACK DOG SOLUTIONS	AMIT	GAURI	4226 LAWNDAL	LYONS	IL	60534
BENCHMARK BUSINESS SOLUTIONS, INC. (AUSTIN)	JEFF	HORN	1607 BROADWAY	LUBBOCK	TX	79401
DMC2, INC.	KEVIN	FITZPATRICK	42 WORTHINGTON ACCESS DR	MARYLAND HEIGHTS	MO	63043
DMC2, INC. (II)	KEVIN	FITZPATRICK	42 WORTHINGTON ACCESS DR	MARYLAND HEIGHTS	MO	63043
BLACK DOG SOLUTIONS (II)	AMIT	GAURI	4226 LAWNDAL	LYONS	IL	60534
SUPERIOR OFFICE PRODUCTS - BEAUMONT	RANDY	POCHE	533 HIGHLANDIA DRIVE, STE K	BATON ROUGE	LA	70810
D-TECH BUSINESS SOLUTIONS, LLC	FRANK	DEFRANCESCO	1095 MILITARY TRL, UNIT 1447	JUPITER	FL	33458
DIGITAL DOCUMENT SOLUTIONS, LLC	BRIDGET	EVANS	901 LAKE ROAD	MOUNTAIN TOP	PA	18707
IMAGE SOURCE (SAN DIEGO)	BRAD	CRAFT	650 EAST HOSPITALITY LANE, STE 540	SAN BERNARDINO	CA	92408
A2X BUSINESS SERVICES	PAUL	VARNAUSKAS	900 E. HAMILTON AVE.	CAMPBELL	CA	95008
NAPLES OFFICE SOLUTIONS, LLC	CHRIS	DEICHMAN	3449 TECHNOLOGY DRIVE STE 108	NORTH VENICE	FL	34275
ADVANCED OFFICE SOLUTIONS, LLC	JOHN	BARROW	4124 KESTEVEN DRIVE	BIRMINGHAM	AL	35242
COMPLETE OFFICE SOURCE INC. (III)	GLEN	DUNN	429 CURWOOD DRIVE	OWOSSO	MI	48867
AMERICAN BUSINESS CENTER, INC.	RICHARD	YEATS	PO BOX 20128	PANAMA CITY	FL	32417
OFFICE EQUIPMENT SOURCE, INC. (V)	MIKE	MITCHELL	227 W. WATER STREET	ELMIRA	NY	14901
BENCHMARK OFFICE SYSTEMS INC. (WEST)	MICHELLE	MCMANUS	75 GILCREAST RD., STE. 311	LONDONDERRY	NH	03053
COMPLETE DOCUMENT SOLUTIONS, WC-CT, LLC (I)	JOHN	HAND	19 GLORIA LANE	FAIRFIELD	NJ	07004
COMPLETE DOCUMENT SOLUTIONS, MARYLAND LLC (II)	JOHN	HAND	19 GLORIA LANE	FAIRFIELD	NJ	07004
COASTAL OREGON OFFICE SOLUTIONS	RHONDA	ROGERS	PO BOX 2185	BEND	OR	97709
SOUTHWEST OFFICE SOLUTIONS, INC. (ALBUQUERQUE)	TRACY	ASHTON	1789 CENTRAL AVENUE, SUITE 4	LOS ALAMOS	NM	87544
XMC, INC. (SOUTH ARKANSAS)	BOB	HAMILTON	7585 AE BEATY DRIVE, SUITE 101	BARTLETT	TN	38133
BLACK DOG SOLUTIONS (III)	AMIT	GAURI	4226 LAWNDAL	LYONS	IL	60534
MORRIS BUSINESS SOLUTIONS, LLC (III)	RICHARD	MORRIS	P.O. BOX 15090	GREENVILLE	SC	29610
COMPLETE DOCUMENT SOLUTIONS, MARYLAND LLC (III)	JOHN	HAND	19 GLORIA LANE	FAIRFIELD	NJ	07004
IMAGE SOURCE (SACRAMENTO)	BRAD	CRAFT	650 EAST HOSPITALITY LANE, STE 540	SAN BERNARDINO	CA	92408
SMART DOCUMENT SOLUTIONS - (PHOENIX)	TRACEY	ARVIEUX	4045 E. PALM LANE	PHOENIX	AZ	85008
TINLOF TECHNOLOGIES, INC.	FERNANDO	MARTINEZ	21011 JOHNSON STREET SUITE #124	PEMBROKE PINES	FL	33029
ROCKY MOUNTAIN COMPETITIVE SOLUTIONS, LLC	ANDY	COON	2413 GRANT AVENUE	OGDEN	UT	84404

Establishment	Owner_First	Owner_Last	Address1	City	State	Zip
IMAGE SOURCE (OAKLAND)	BRAD	CRAFT	650 EAST HOSPITALITY LANE, STE 500	SAN BERNARDINO	CA	92408
SARASOTA OFF SOL (ORLANDO)	CHRIS	DEICHMAN	3449 TECHNOLOGY DRIVE STE 108	NORTH VENICE	FL	34275
IMAGE SOURCE (STOCKTON)	BRAD	CRAFT	650 EAST HOSPITALITY LANE, STE 540	SAN BERNARDINO	CA	92408
INNOVATIVE DOC TECH INC	JULIO	DIAZ	2770 AVE HOSTOS, SUITE 303, SVS PLAZA II	MAYAGUEZ	PR	00682
IMAGE SOURCE (WOODLAND HILLS)	BRAD	CRAFT	650 EAST HOSPITALITY LANE, STE 540	SAN BERNARDINO	CA	92408
COMPLETE DOCUMENT SOLUTIONS WC-CT LLC II	JOHN	HAND	19 GLORIA LANE	FAIRFIELD	NJ	07004
COMPLETE DOCUMENT SOLUTIONS PA, LLC	JOHN	HAND	19 GLORIA LANE	FAIRFIELD	NJ	07004
ROCKY MOUNTAIN COMPETITIVE SOLUTIONS, LLC (II)	ANDY	COON	2413 GRANT AVENUE	OGDEN	UT	84404
COMPLETE DOCUMENT SOLUTIONS CENTRAL PENN LLC	JOHN	HAND	2209 FOREST HILLS DRIVE	HARRISBURG	PA	17112
INDIANA BUSINESS SOLUTIONS LLC (SOUTH)	TIMOTHY	SLOPSEMA	8227 NORTHWEST BLVD., #200	INDIANAPOLIS	IN	46278
IMAGE SOURCE (MONT)	BRAD	CRAFT	650 EAST HOSPITALITY LANE, STE 500	SAN BERNARDINO	CA	92408
IMAGE SOURCE (FNO)	BRAD	CRAFT	650 EAST HOSPITALITY LANE, STE 500	SAN BERNARDINO	CA	92408
AMBIZ SOLUTIONS, INC. (EAST)	RICHARD	YEATS	PO BOX 20128	PANAMA CITY	FL	32417
IMAGE SOURCE (SAN FRANCISCO)	BRAD	CRAFT	650 EAST HOSPITALITY LANE, STE 500	SAN BERNARDINO	CA	92408
GULF SUPERIOR OFFICE PRODUCTS, INC.	RANDY	POCHE	533 HIGHLANDIA DRIVE, STE K	BATON ROUGE	LA	70810
CONNEX SYSTEMS INC. II	GREGORY	WALTER	2033 CHENAULT DR STE 150	CARROLLTON	TX	75006
ROCKY MOUNTAIN COMPETITIVE SOLUTIONS, LLC (IV)	ANDY	COON	2413 GRANT AVENUE	OGDEN	UT	84404
SHOFNER BUSINESS SOLUTIONS OF EASTERN KY L.L.C.	CHARLES	SHOFNER	1010 BRANDY LN, SUITE E	RICHMOND	KY	40475
SUPERIOR OFFICE SYSTEMS	HECTOR	LIZARDI	19226 66th AVE. S., SUITE L-100	KENT	WA	98032
ADVANCED DOCUMENT SOLUTIONS, INC. (V)	SCOTT	HAMILTON	819 S. FLOYD STREET	LOUISVILLE	KY	40203
COMPLETE DOCUMENT SOLUTIONS NORTH, LLC	JOHN	HAND	19 GLORIA LANE	FAIRFIELD	NJ	07004

Xerox Business Solutions, Inc. (XBS)

COMPANY / GROUP	STREET ADDRESS	CITY/STATE/ZIP	WEB ADDRESS	PRESIDENT
Amcom Office - AMC	3600 McClaren Woods Drive	Coraopolis, PA 15108	www.teamamcom.com	Anthony Massari
Arizona Office Technologies - AOT	4320 E. Cotton Center Blvd #100	Phoenix, AZ 85040	www.aot-xerox.com	Scott Reynolds
Berney Office Solutions - BER	10690 John Knight Close	Montgomery, AL 36117	www.berney.com	Ben Blankenship
Berney Office Solutions - BER	780 Lakeside Drive W., Ste B	Mobile, AL 36693	www.berney.com	Ben Blankenship
Berney Office Solutions - BER	4000 Colonnade Parkway	Birmingham, AL 35243	www.berney.com	Ben Blankenship
Carr Business Systems - CAR	500 Commack Road, Ste 110	Commack, NY 11725	www.carrxerox.com	Joseph Koury
Carr Business Systems - CAR	485 Lexington Ave FL25	New York, NY 10017	www.carrxerox.com	Joseph Koury
Connecticut Bus. Systems - CBS	100 Great Meadow Rd	Wethersfield, CT 06109	www.cbs-gisx.com	Jay Cartisano
Connecticut Bus. Systems - CBS (Warehouse)	240 Pane Rd	Newington, CT 06111	www.cbs-gisx.com	Jay Cartisano
Connecticut Bus. Systems - CBS	134 Capital Drive	West Springfield, MA 01089	www.cbs-gisx.com	Jay Cartisano
Connecticut Bus. Systems - CBS	465 Taylor Street	Springfield, MA 01105	www.cbs-gisx.com	Jay Cartisano
Integrity One Technologies, Inc.- IOT	2920 Fortune Circle W, Suite C	Indianapolis, IN 46241	www.integrityonetechnologies.com/	Sam Castiglione
Integrity One Technologies, Inc.- IOT	801 N Capitol Avenue	Indianapolis, IN 46204	www.marbaugh.com	Sam Castiglione
ComDoc, Inc. - COM	8247 Pittsburg Avenue NW	North Canton, OH 44720	www.comdoc.com	Gordon Opitz
ComDoc, Inc. - COM	9100 South Hills Blvd. (Cleveland)	Broadview Hgts, OH 44147	www.comdoc.com	Gordon Opitz
ComDoc, Inc. - COM (Warehouse)	220 Ascot Parkway	Cuyahoga Falls, OH 44223	www.comdoc.com	Gordon Opitz

COMPANY / GROUP	STREET ADDRESS	CITY/STATE/ZIP	WEB ADDRESS	PRESIDENT
ComDoc, Inc. - COM	9999 Carver Road, Ste 100	Blue Ash, OH 45242	www.comdoc.com	Gordon Opitz
ComDoc, Inc. - COM	330 West Spring St, Ste 100 & 140	Columbus, OH 43215	www.comdoc.com	Gordon Opitz
ComDoc, Inc. - COM (Warehouse)	711-713 Hadley Drive (WH)	Columbus, OH 43228	www.comdoc.com	Gordon Opitz
ComDoc, Inc. - COM	51 Plum Street, Ste 200	Beavercreek, OH 45440	www.comdoc.com	Gordon Opitz
ComDoc, Inc. - COM	55 Amherst Villa Rd	Buffalo, NY 14225	www.comdoc.com	Gordon Opitz
Capital Busines Systems, Inc.- CBU	2708 Commerce Drive, Unit A	Harrisburg, PA 17110	www.capitalbusinessinc.com	Gordon Opitz
Conway Technology Group LLC - COP	10 Capitol Street	Nashua, NH 03063	www.conwayoffice.com	Carl Tourigny
Conway Tech Group LLC - COP d/b/a Transco	34 Leighton Road	Augusta, ME 04330	www.transcobusiness.com	Carl Tourigny
Capitol Office Solutions, LLC - COS	9065 Guilford Road	Columbia, MD 21046	www.cosxs.com	Reed Hagmann
Chicago Office Technology Group, Inc. - COTG	3 Territorial Court	Bolingbrook, IL 60440	www.cotg.com	Dan Tuohy
Chicago Office Technology Group, Inc. - COTG	1 East Wacker Dr, #1305	Chicago, IL 60601	www.cotg.com	Dan Tuohy
Chicago Office Technology Group, Inc. - COTG	Two Pierce Pl, Ste 12th Floor	Itasca, IL 60143	www.cotg.com	Dan Tuohy
Carolina Office Systems - CSS	13245 W Reese Blvd, Ste 130	Huntersville, NC 28078	www.carolinaos.com	Mark Taylor
Carolina Office Systems - CSS	1042 Legrand Blvd, Suite 1	Wando, SC 29492 (Charleston)	www.carolinaos.com	Mark Taylor
G-Five, Inc. - GFI	297 Garlington Rd, Suites E-H	Greenville, SC 29615	www.gfive.net	Mark Taylor

COMPANY / GROUP	STREET ADDRESS	CITY/STATE/ZIP	WEB ADDRESS	PRESIDENT
Dahill Office Technology Corp-DAH d/b/a Xerox Business Solutions Southwest	8200 IH 10 W, Suite 400	San Antonio, TX 78230	www.dahill.com	Brad Rollins
Dahill Office Technology Corp-DAH d/b/a Xerox Business Solutions Southwest	17280 Green Mtn Road, Ste. 130	San Antonio, TX 78247	www.dahill.com	Brad Rollins
Dahill Office Technology Corp-DAH d/b/a Xerox Business Solutions Southwest	2100 West Loop South, Ste 1300	Houston, TX 77027 (Galleria)	www.dahill.com	Brad Rollins
Dahill Office Technology Corp-DAH d/b/a Xerox Business Solutions Southwest	5747 Brittmoore Rd, Suite 100	Houston, TX 77041 (WH)	www.dahill.com	Brad Rollins
Dahill Office Technology Corp-DAH d/b/a Xerox Business Solutions Southwest	901 S. Mopac Expwy, Ste 595	Austin, TX 78746	www.dahill.com	Brad Rollins
Dahill Office Technology Corp-DAH d/b/a Xerox Business Solutions Southwest	11831 Miriam, Unit A-9 (Serv Wh)	El Paso, TX 79936		Brad Rollins
Denitech Corporation - DEN	820 W Sandy Lake Rd, Ste 100	Coppell, TX 75019	www.denitech.com	Brad Rollins
Eastern Managed Print Network - ECP	1224 W. Genessee St.	Syracuse, NY 13204	www.easternmpn.com	Carl Tourigny
Eastern Managed Print Network - ECP	111 Grant Avenue	Endicott, NY 13760	www.easternmpn.com	Carl Tourigny
Eastern Managed	8 Access Road	Colonie (Albany), NY 12205	www.easternmpn.com	Carl Tourigny

COMPANY / GROUP	STREET ADDRESS	CITY/STATE/ZIP	WEB ADDRESS	PRESIDENT
Print Network				
Elan Marketing, Inc. d/b/a Elan Office Systems	6760 Surrey Street	Las Vegas, NV 89119	www.elanoffice.com	Peter Cherubino
Electronic Systems - ESI	369 Edwin Drive (Building 1)	Virginia Beach, VA 23462	www.esi.net	Anthony Lane
Electronic Systems - ESI	365 Edwin Dr (Bldg. 2- not publishd)	Virginia Beach, VA 23462	www.esi.net	Anthony Lane
Electronic Systems - ESI	4417 Expressway Dr	Virginia Beach, VA 23452	www.esi.net	Anthony Lane
Electronic Systems - ESI	3727 Challenger Avenue	Roanoke, VA 24012	www.esi.net	Anthony Lane
Electronic Systems - ESI	10406 Lakeridge Parkwy, Ste 1000	Ashland, VA 23055	www.esi.net	Anthony Lane
TML Enterprises, Inc. - TML	4151 Lafayette Center Dr, Ste 100	Chantilly, VA 20151	www.tml-xerox.com	Anthony Lane
GDP Technologies, Inc. - GDP	1180 Eisenhower Parkway	Macon, GA 31206	www.gadup.com	Ben Blankenship
GDP Technologies, Inc. - GDP	4350 Rivergreen Parkway, Ste 100	Duluth, GA 30096	www.gadup.com	Ben Blankenship
Inland Business Systems, Inc. - IBS	1326 N. Market Blvd,	Sacramento, CA 95834	www.igoinland.com	Beth Thomas
Inland Business Systems, Inc. - IBS aka Sierra Office Solutions - SIO	4710 Longley Lane	Reno, NV 89502	www.sierraoffice.com	Beth Thomas
Inland Business Systems, Inc. - IBS aka Lucas Business Systems, Inc. - LUC	627 Bitritto Court	Modesto, CA 95351	www.lucassystems.com	Beth Thomas

COMPANY / GROUP	STREET ADDRESS	CITY/STATE/ZIP	WEB ADDRESS	PRESIDENT
imageQuest - IQI	11021 E 26th Street N	Wichita, KS 67226	www.imagequestks.com	Andrew Shirah
imageQuest - IQI	11106 Strang Line Rd, Bldg K	Lenexa, KS 66213	www.imagequestks.com	Andrew Shirah
Image Technology Specialists, Inc. - ITS	70 Shawmut Road	Canton, MA 02021	www.its-xrx.com	Randy Baril
Lewan & Associates - LEW	1400 South Colorado Blvd.	Denver, CO 80222	www.lewan.com	Steve St. John
Lewan & Associates - LEW (Warehouse)	8530 Concord Center Dr, #400	Englewood, CO 80112	www.lewan.com	Steve St. John
Lewan & Associates - LEW	1551-D Mercantile Avenue NE	Albuquerque, NM 87107	www.lewan.com	Steve St. John
LRI, LLC	1601 SE Gateway Drive, Ste 130	Grimes, Iowa 50111	www.laserresources.com	Bob Lashier
Merizon Group, Inc - MBM d/b/a Modern Business Machines	620 N. Lynndale Drive	Appleton, WI 54914	www.mbm360.com	Dan Tuohy
Merizon Group, Inc. (Warehouse)	525 N. Perkins Street	Appleton, WI 54914	www.mbm360.com	Dan Tuohy
Michigan Office Solutions - MOS	2859 Walkent Drive NW	Grand Rapids, MI 49544	www.mos-xerox.com	Paul Hartley
Michigan Office Solutions - MOS	3101 Technology Blvd, Ste J	Lansing, MI 48910	www.mos-xerox.com	Paul Hartley
Michigan Office Solutions - MOS	40000 Grand River, Ste 500	Novi, MI 48375	www.mos-xerox.com	Paul Hartley
Minnesota Office Technology Group - MOTG	5600 Rowland Rd, Ste 205	Minnetonka, MN 55343	www.motg-xerox.com	Dan Tuohy
Mr. Copy, Inc. - MRC, d/b/a MRC Smart Technology Solutions	5657 Copley Dr.	San Diego, CA 92111	www.mrc360.com	Bob Leone

COMPANY / GROUP	STREET ADDRESS	CITY/STATE/ZIP	WEB ADDRESS	PRESIDENT
Mr. Copy, Inc. (Warehouse)	5625-5629 Copley Dr	San Diego, CA 92111	www.mrc360.com	Bob Leone
Mr. Copy, Inc. - MRC, d/b/a MRC Smart Technology Solutions	5050 Hopyard Road, Ste 100	Pleasanton, CA 94588	www.mrc360.com	Bob Leone
Mr. Copy, Inc. - MRC, d/b/a MRC Smart Technology Solutions (Warehouse)	21343 Cabot Blvd, Bldg A	Hayward, CA 94545	www.mrc360.com	Bob Leone
Rabbit Office Automation (ROA)	904 Weddell Court	Sunnyvale, CA 94089	www.roa-usa.com	Bob Leone
Xerox Hawaii - XHI	700 Bishop Street, Ste 1200	Honolulu, HI	www.xerox.com	Glen Sexton
MT Business Technologies, Inc. - MTB	1150 National Parkway	Mansfield, OH 44906	www.mtbt.com	Chuck Rounds
MT Business Technologies, Inc. - MTB	1205 Corporate Drive	Holland, OH 43528	www.mtbt.com	Chuck Rounds
Quality Business Systems - QBS	14432 SE Eastgate Way, Ste 300	Bellevue, WA 98007	www.qbsi-xerox.com	Kelly Stackpole
Quality Business Systems - QBS (Warehouse)	7112 S. 212th Street	Kent, WA 98032	www.qbsi-xerox.com	Kelly Stackpole
CTX Business Solutions d/b/a Copytronix - CTX	16640 SW 72nd Ave, Bldg 10	Portland, OR 97224	www.ctx-xerox.com	Kyle Marvin
Boise Office Equipment, Inc. - BOE	330 North Ancestor Place	Boise, ID 83704	www.boeweb.com	Pete Battista
R.K. Dixon Company - RDK	5700 Utica Ridge Road	Davenport, IA 52807	www.rkdixon.com	Don Phillips
R.K. Dixon Company - RDK (Warehouse)	5442 Tremont Ave, Ste B	Davenport, IA 52807	www.rkdixon.com	Don Phillips
R.K. Dixon Company - RDK	8630 North Allen Road	Peoria, IL 61615	www.rkdixon.com	Don Phillips

COMPANY / GROUP	STREET ADDRESS	CITY/STATE/ZIP	WEB ADDRESS	PRESIDENT
Premier Office Equipment, Inc. - POE	1510 East Olive Street	Marshalltown, IA 50158	www.premierofficeequipment.com	Don Phillips
Saxon Business Systems - SAX	14025 NW 60th Avenue	Miami Lakes, FL 33014	www.saxon.net	George Cavallaro
Saxon Business Systems - SAX	1395 NW 17th Avenue, #107	Delray Beach, FL 33445	www.saxon.net	George Cavallaro
Saxon Business Systems - SAX	9150 Phillips Highway, Ste 2	Jacksonville, FL 32256	www.saxon.net	George Cavallaro
SoCal Office Technologies f/d/b/a MWB Copy Products. - SOC	5700 Warland Drive	Cypress, CA 90630	www.socal-office.com	Bob Leone
Stewart of Alabama, Inc. - STO	4000 Colonnade Parkway	Birmingham, AL 35243	www.stewartal.com	Vince Caltagirone
Stewart Business Systems - STW	6000 Irwin Road, Suite A	Mt. Laurel, NJ 08054	www.stewartxerox.com	Joseph O'Malley
Stewart Business Systems - STW (Warehouse)	3001 Irwin Road, Suite B&C	Mt. Laurel, NJ 08054	www.stewartxerox.com	Joseph O'Malley
Stewart Business Systems - STW	365 W. Passaic St, Ste 585	Rochelle Park, PA 07662	www.stewartxerox.com	Joseph O'Malley
Heritage Business Systems - HBS	1263 Glen Avenue	Moorestown, NJ 08057	www.heritagebusiness.com	Joseph O'Malley
Heritage Business Systems - HBS	3525 Quaker Bridge Rd, Ste 910	Hamilton, NJ 08619	www.heritagebusiness.com	Joseph O'Malley
Heritage Business Systems - HBS	501 Silverside Road	Wilmington, DE 19809	www.heritagebusiness.com	Joseph O'Malley
Zoom Imaging Solutions - ZIS	4603 W. Jennifer Ave.	Fresno, CA 93722	www.zoomcopiers.com	Beth Thomas
Zeno Office Solutions - ZOS	8701 Florida	Tampa, FL 33634	www.zenosolutions.com	Matt Petry

COMPANY / GROUP	STREET ADDRESS	CITY/STATE/ZIP	WEB ADDRESS	PRESIDENT
	Mining Blvd			
Zeno Office Solutions - ZOS	4525 Vineland Road, Ste 203-204	Orlando, FL 32811	www.zenosolutions.com	Matt Petry



October 27, 2023

Ms. Rachael Jones Turner
SLED Cooperative Contracts Manager
Xerox Corporation
201 Merritt 7
Norwalk, CT 06851
Rachael.jones@xerox.com

Re: Renewal Award of Contract #R191104

Dear Ms. Jones Turner:

Per official action taken by the Board of Directors of Region 4 Education Service Center on October 24, 2023, Region 4 ESC is pleased to announce that Xerox Corporation has been awarded an annual contract renewal for the following, based on the sealed proposal submitted to Region 4 on November 19, 2019, and subsequent performance thereafter:

Contract

Copiers and Printers

The contract will expire on May 31, 2025, completing the fifth year of a five-year term contract. The contract is available through OMNIA Partners, Public Sector. Your designated OMNIA Partners, Public Sector contact is Deborah Bushnell, at (713) 554-7348 or deborah.bushnell@omniapartners.com

The partnership between Xerox Corporation, Region 4 and OMNIA Partners, Public Sector can be of great help to participating agencies. Please provide copies of this letter to your sales representative(s) to assist in their daily course of business.

Sincerely,

DocuSigned by:

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Robert Zingelmann
Chief Financial Officer, Finance and Operations Services

DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN, RUSSIA AND BELARUS

N.J.S.A. 52:32-57, et seq. (P.L. 2012, c.25 and P.L. 2021, c.4) and N.J.S.A. 52:32-60.1

Pursuant to N.J.S.A. 52:32-57, et seq. (P.L. 2012, c.25 and P.L. 2021, c.4) and N.J.S.A. 52:32-60.1 any person or entity that submits a bid or proposal or otherwise proposes to enter into or renew a contract must certify that neither the person nor entity, nor any of its parents, subsidiaries, or affiliates, is identified on the New Jersey Department of the Treasury's Chapter 25 List as a person or entity engaged in investment activities in Iran, Russia or Belarus. The Chapter 25 list is found on the Division's website at <https://www.state.nj.us/treasury/purchase/>. Vendors/Bidders must review this list prior to completing the below certification. If the Qualified Purchasing Agent of the Atlantic County Utilities Authority finds a person or entity to be in violation of the law, he shall take action as may be appropriate and provided by law, rule or contract, including but not limited to, imposing sanctions, seeking compliance, recovering damages, declaring the party in default and seeking debarment or suspension of the party.

CHECK THE APPROPRIATE BOX

☒ I certify, pursuant to N.J.S.A. 52:32-57, et seq. (P.L. 2012, c.25 and P.L. 2021, c.4), and N.J.S.A. 52:32-60.1 that neither the Vendor/Bidder listed above nor any of its parents, subsidiaries, or affiliates is listed on the New Jersey Department of the Treasury's Chapter 25 List of entities determined to be engaged in prohibited activities in Iran, Russia or Belarus.

OR

☐ I am unable to certify as above because the Vendor/Bidder and/or one or more of its parents, subsidiaries, or affiliates is listed on the New Jersey Department of the Treasury's Chapter 25 List. I will provide a detailed, accurate and precise description of the activities of the Vendor/Bidder, or one of its parents, subsidiaries or affiliates, has engaged in regarding investment activities in Iran by completing the information requested below.

Entity Engaged in Investment Activities Limited Liability Company Xerox (C.I.S.)

Relationship to Vendor/ Bidder Subsidiary of affiliated company.

Description of Activities engaged in the provision of goods and services to certain entities of the Government of Russia.

Duration of Engagement Ongoing.

Anticipated Cessation Date

Xerox is actively pursuing its exit from Russia as soon as possible in 2023. Xerox and its counterparty have executed a Letter of Intent for the purchase/sale the business in Russia. Xerox is in the process of finalizing the details of that purchase/sale agreement and preparing an Application to be filed with the Governmental Commission on the Control over Foreign Investments in the Russian Federation.

Attach Additional Sheets If Necessary.

CERTIFICATION

I, the undersigned, certify that I am authorized to execute this certification on behalf of the Vendor, that the foregoing information and any attachments hereto, to the best of my knowledge are true and complete. I acknowledge that the ACUA is relying on the information contained herein, and that the Vendor is under a continuing obligation from the date of this certification through the completion of any contract(s) with the ACUA to notify the Qualified Purchasing Agent in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification. If I do so, I will be subject to criminal prosecution under the law, and it will constitute a material breach of my agreement(s) with the ACUA, I am permitting the ACUA to declare any contract(s) resulting from this certification void and unenforceable.

Joanne Levy

Printed Name of Authorized Agent

General Manager

Title

Xerox Corporation

Company Name

Joanne Levy

Signature of Authorized Agent

2/2/23

Date



February 25, 2020

Ms. Rachael Jones Turner
SLED Cooperative Contracts Manager
Xerox Corporation
201 Merritt 7
Norwalk, CT 06851
Rachael.jones@xerox.com

Re: Award of Contract #R191104

Dear Ms. Jones Turner:

Per official action taken by the Board of Directors of Region 4 Education Service Center on February 25, 2020, we are pleased to announce that after successful negotiated terms and conditions, Xerox Corporation has been awarded an annual contract for the following, based on the sealed proposal (RFP#19-11) submitted on November 19, 2019:

Commodity/Service

Copiers and Printers

Supplier

Xerox Corporation

This contract is effective June 1, 2020 and will expire on May 31, 2023. As indicated above, your contract # is R191104 This contract may be renewed annually for an additional two (2) years if mutually agreed upon by Region 4 ESC/OMNIA Partners, Public Sector and Xerox Corporation

Your participation in the proposal process is appreciated and we look forward to a successful partnership. Please feel free to provide copies of this letter to your sales representative(s) to assist in their daily course of business.

If you have any questions, please contact Deborah Bushnell, the Contract Manager assigned to your contract, at (713) 554-7348 or Deborah.bushnell@omniapartners.com.

Sincerely,

DocuSigned by:

Robert Zingelmann

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Robert Zingelmann
Chief Financial Officer, Finance and Operations Services

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Request for Contract Update Details:

- 1) Xerox is requesting to add the Xerox Capture and Content Services (CCS) to the Region 4 ESC Contract #R191104. The Xerox Capture & Content Services provides advanced multichannel capture and process automation to help members throughout the capture/digitize, transform, process, manage and delivery stages. See the attached CCS Description of Services for additional information.

The attached five documents include:

- A detailed Capture and Content Description of Services.
- The Capture and Content Services rate card pricing.
- The following Xerox Order-Time Documents will be provided at order time to the end user procuring these services. They consist of:

1. The EDMS DocuShare Addendum. This solution requires an order-time Addendum which includes the unique terms and conditions for the Services.
2. The Xerox CCS Statement of Work, developed and provided to the end user based on the solution being offered. It provides all of the specifications, implementation and unique SLA's of the offer.
3. The Xerox Services Master Agreement.

- 2) Xerox is also requesting to add our Xerox App Gallery to the Region 4 ESC R191104 contract. This collection of easily downloadable apps extends the capabilities of our MFD's. On the technology enabled devices, users get instant access to an array of apps that improve workflow, user experience and augment your printer's ability to print, scan and fax.

The attached two documents include:

- The Xerox App Gallery Enterprise Price List, for Services Orders only, includes a the list and Region 4 ESC contract price for all of the available Apps.
- Xerox App Gallery order-time Addendum which will be provided to the end user procuring these services.

Capture & Content Services

Xerox Capture & Content Services provides advanced multichannel capture and process automation to help you throughout the capture/digitize, transform, process, manage and delivery stages.

- Capture information systematically from multiple sources
- Digitize multichannel information to feed downstream business processes
- Automate repetitive tasks to integrate with appropriate ERP, CRM, and third-party systems
- Manage storage, retrieval and retention of documents and encrypted data
- Make information available at the point of need

An extensive portfolio delivers a unified approach to tackling complex business challenges with powerful A.I. Robotic Process Automation and machine learning to help organizations harness critical business data. Xerox Capture and Content Services streamline processes and improve cycle times by digitizing and automating complex business workflows.

Services can be provided on-site or off-site. The service will deliver all images or documents as searchable PDF with document classification and indexing.

Capture & Content Services Capabilities

- Digitization of multichannel data and information
- Integrated electronic and hard copy information
- Data classification and indexing
- Automation of repetitive tasks through workflow automation
- Management storage, retrieval and retention of documents, and encrypted data
- Integration with downstream with business processes such as ERP, CRM and third-party systems
- Role-based access to data with auditable workflows supporting regulatory compliance

Capture & Content Services Benefits

- Speed up processing time for intake/capture and processing of paper documents
- Improvement of the accuracy of information delivered downstream, avoiding errors, wrong delivery, and rework
- Improve access to information

- Reduction of costs in human labor, floor space, paper-handling, management, and non-conformance
- Reduction of manual intervention, processing errors, redundant tasks, and associated costs
- Ability to extract insight and gain control through automated classification
- Enablement of corporate digital migration efforts through digital content management and processing such as faster processing of incoming correspondence (improved turnaround time), and accelerated business workflow process through digitization
- Integration of electronic and hard copy information, helping to streamline processes and automate workflows
- Quality Assurance/Quality Control audit reporting for compliance monitoring (i.e., HIPAA and SOX)

Region 4 ESC Copier Printer Contract #R191104
Capture and Content Services Rate Card
12/15/2022

Document Scanning	Unit of Measure	List Price	Region 4 ESC Contract Discounted Price	Comments/Notes
Standard Scanning¹	Per Image			¹Standard: Paper Sizes: Legal 8.5"x14"; Tabloid 11"x17"; Ledger 17"x11"; Letter 8.5"x11"; A3 11.7"x 16.5"; A4 8.27"x11.7"; A5 - 1/2 A4 Scanning: Up to 300 DPI, Duplex Scanning; up to 300 DPI Image Quality Control sampling at 10%; Standard Preparation - Where Xerox shall apply effort (no more than five (5) seconds) to fix a Document to allow it to be Scanned on the bulk scanner. This may include applying sticky tape to fix a small tear which does not render the Document in two (2) parts, limited to a percentage of 1% of total processed volume. Remove Bindings found connected/attached to Documents. (e.g. es, paper clips, plastic sleeves, elastic bands, Document clips.) limited to 10% of the pages. ²Wide Format :Short side of Page is wider than A3 or Tabloid; Long Format - Long side of Page is longer than A3, but short side is the same as A4 or Long side of Page is longer than Tabloid, but short side is the same as Letter. Note: Image files shall be named utilizing an automatically generated unique document identification or control number.
Scanned Images – Black and White	Images per year			
	12M+	Custom Quote	Custom Quote	
	>3M-12M	\$ 0.0495	\$ 0.0446	
	>1M-3M	\$ 0.0611	\$ 0.0550	
	>500K-1M	\$ 0.0803	\$ 0.0723	
	>100K-500K	Custom Quote	Custom Quote	
	0-100K	Custom Quote	Custom Quote	
Scanned Images – Color / Grayscale	Images per year			
	12M+	Custom Quote	Custom Quote	
	>3M-12M	\$ 0.0500	\$ 0.0450	
	>1M-3M	\$ 0.0618	\$ 0.0557	
	>500K-1M	\$ 0.0825	\$ 0.0742	
	>100K-500K	Custom Quote	Custom Quote	
	0-100K	Custom Quote	Custom Quote	
Scanned Images – Wide Format Documents²	Images per year			
Scanned Images – Wide Format Documents – Black and White	Images per year			
	12M+	Custom Quote	Custom Quote	
	>3M-12M	Custom Quote	Custom Quote	
	>1M-3M	Custom Quote	Custom Quote	
	>500K-1M	Custom Quote	Custom Quote	
	>100K-500K	\$ 1.8462	\$ 1.6615	
	0-100K	Custom Quote	Custom Quote	
Scanned Images – Wide Format Documents – Color / Grayscale	Images per year	Custom Quote	Custom Quote	
Scanned Images – Long Format Documents	Images per year			
Scanned Images – Long Format Documents – Black and White	Images per year	Custom Quote	Custom Quote	

Region 4 ESC Contract #R191104

Scanned Images – Long Format Documents – Color / Grayscale	Images per year	Custom Quote	Custom Quote	
Scanned Images – Flatbed Scanning	Images per year	Custom Quote	Custom Quote	
Ingested Images (e.g., inbound Email)	Images per year	Custom Quote	Custom Quote	
Document Preparation & Re-prep	Unit of Measure	List Price	Region 4 ESC Contract Discounted Price	Comments/Notes
Non Standard Document Preparation. Removal of documents from their respective envelopes. Removal of any staples, paper-clips et al, unfolding creased documents or edges of documents, taping documents to backing sheets, insertion of bar coded targets and any other prep required to enable scanning.	Per Hour	\$ 35.1385	\$ 31.6246	
Non-Standard Media	Unit of Measure	List Price	Region 4 ESC Contract Discounted Price	Comments/Notes
Microfiche	Per Image	Custom Quote	Custom Quote	
Aperture Cards	Per Image	Custom Quote	Custom Quote	
Microfilm 16MM	Per Image	Custom Quote	Custom Quote	
Microfilm 35MM	Per Image	Custom Quote	Custom Quote	
Document Typing	Unit of Measure	List Price	Region 4 ESC Contract Discounted Price	Comments/Notes
Creation of document type group	Doc Type	Custom Quote	Custom Quote	
Document Type Indexing (keywords)	Unit of Measure	List Price	Region 4 ESC Contract Discounted Price	Comments/Notes
Indexing of alphanumeric characters	Per Character	Custom Quote	Custom Quote	
Indexing of numeric characters	Per Character	Custom Quote	Custom Quote	
Indexing of handwritten characters	Per Character	Custom Quote	Custom Quote	
Packaged Service - Invoice Indexing - W/O line items	Unit of Measure	List Price	Region 4 ESC Contract Discounted Price	Comments/Notes

Region 4 ESC Contract #R191104

Indexing of 14 pre-defined invoice fields	Per Invoice	Custom Quote	Custom Quote	
Additional pre-defined tax fields	Per Invoice	Custom Quote	Custom Quote	
Additional 6 pre-defined fields	Per Invoice	Custom Quote	Custom Quote	
Labor/Service per hour (Make sure these meet the federal wage determination guidelines)	Unit of Measure	List Price	Region 4 ESC Contract Discounted Price	Comments/Notes
Project Manager	Per Hour	\$ 92.3077	\$ 83.0769	
Solution Architect Implements and maintains smooth operation and physical design of solution.	Per Hour	\$ 167.6923	\$ 150.9231	
Solutions Delivery Manager (SDM) Manages client-site locations. Responsible for the day-to-day operations and support of onsite staff. Ensures staff is trained and all resources are well utilized. Coaches team to provide superior customer satisfaction, which may include utilizing multiple feedback mechanisms. Provides communication and reporting to client team.	Per Hour	\$ 126.1538	\$ 113.5385	
Team Leader Assigns and oversees the work of team. Oversee work task assignment Delivers documents to various departments, prepares paper documents for conversion to digital format, scans documents, enhances digital images, performs data entry, and reviews work for accuracy.	Per Hour	\$ 67.6923	\$ 60.9231	
On Site Associate Performs a variety of routine administrative/clerical tasks in such functional areas as finance, purchasing, or human resources or for a specific project/business/technical unit. Gathers, collects, records, tracks and verifies data and information from multiple sources. Compiles, reviews and analyzes data. Uses personal computer and commercial software packages, and/or proprietary software for functional area, to compile and generate reports, statistics, timelines, tables, graphs, correspondence and presentations. May design processes to enhance workflow.	Per Hour	\$ 53.8462	\$ 48.4615	

Region 4 ESC Contract #R191104

Associate Documentation Technician Performs a variety of routine administrative/clerical tasks in such functional areas as finance, purchasing, or human resources or for a specific project/business/technical unit. Gathers, collects, records, tracks and verifies data and information from multiple sources. Compiles, reviews and analyzes data. Uses personal computer and commercial software packages, and/or proprietary software for functional area, to compile and generate reports, statistics, timelines, tables, graphs, correspondence and presentations. May design processes to enhance workflow. Provides data and information to others on functional unit processes and procedures.	Per Hour	\$ 81.5385	\$ 73.3846	
Data Entry Gathers, collects, records, tracks and verifies data and information from multiple sources. Compiles, reviews and analyzes data. Uses personal computer and commercial software packages, and/or proprietary software for functional area, to compile and generate reports, statistics, timelines, tables, graphs, correspondence and presentations. May design processes to enhance workflow.	Per Hour	\$ 81.5385	\$ 73.3846	
Quality Assurance Manager Synthesizes customer contractual needs and requirements into system test solutions that acknowledge technical, schedule and cost constraints. Coordinates integrated testing activities with affected program and outside organizations. Reviews and evaluates test requirements to insure completeness of test program. Performs analysis of test results and prepares comprehensive system level evaluation reports which verify and validate system performance.	Per Hour	\$ 81.5385	\$ 73.3846	
Training Specialist	Per Hour	\$ 53.8462	\$ 48.4615	
Miscellaneous Items	Unit of Measure	List Price	Region 4 ESC Contract Discounted Price	Comments/Notes
Cherished (Special) Document Handling Charge	Per Document	Custom Quote	Custom Quote	
Currency or Negotiable Documents Handling Charge, including Checks	Per Document	Custom Quote	Custom Quote	
Expedited Scan Charge	Per Image	Custom Quote	Custom Quote	
Document Retrieval Charge	Per Document	Custom Quote	Custom Quote	

Region 4 ESC Contract #R191104

Rescans (excludes Document Retrieval charges)	Per Image	Custom Quote	Custom Quote	
Incremental End User Access Request	Per End User	Custom Quote	Custom Quote	
Non-Simple Binding Removal	Per bind	Custom Quote	Custom Quote	
Document Storage – On-Site at C&CS Facility (following Image Availability Period)	Per Box per month	Custom Quote	Custom Quote	
Document Storage – Off-Site from C&CS Facility (following Image Availability Period)	Per Box per month	Custom Quote	Custom Quote	
Document Destruction	Per Box	Custom Quote	Custom Quote	
Manually count hardcopy Pages before Scanning	Per Page	Custom Quote	Custom Quote	
Document Refile	Per Document	Custom Quote	Custom Quote	
Exception handling fee	Per Exception	Custom Quote	Custom Quote	
		Custom Quote	Custom Quote	
Note: Covers any exceptions not outlined in Section 4: Service Operations		Custom Quote	Custom Quote	
Repair (requires more than Light Repair activities)	Per Item	Custom Quote	Custom Quote	
Manual rotation of Images during Quality Assurance (QA)	Per Image	Custom Quote	Custom Quote	

Capture and Content Services Statement of Work



IMPORTANT — You must read these instructions when configuring the SOW, and prior to Customer presentation of the Statement of Work! Remove these instruction pages from this SOW before Customer presentation.

NOTE: THIS SOW IS NOT INTENDED FOR USE IN CAP DEALS. This SOW must be written under its own extension under the Agreement.

This SOW describes the scope and scale of the operational Capture and Content Services (C&CS) that we provide to our Customers. It describes what Xerox and the Customer will do to implement and enable ongoing operations. This SOW should be completed by the appropriate personnel working with the Business Development Director (BDD), Capture and Content Services Consultants (CCSC), Client Manager (CM), or appropriate personnel. The SOW should be reviewed with the Services Delivery Manager (SDM), Delivery Consultant (DC), and SOW Negotiation Manager (if applicable).

The language used in this SOW has been carefully written to describe Xerox and Customer responsibilities for C&CS. Editing of text is to be avoided if at all possible. Text that is added, deleted, or changed must be reviewed and agreed to by the appropriate parties (SOW Negotiation Manager (if applicable), BDD, CCSC, local Services Delivery, and finance) for:

- 1. Xerox's ability to operationally deliver the service as described, considering operational risks
- 2. Xerox's ability to deliver the expected financial performance in light of the changes.

In addition, Accounting will review SOW's for **signings incentives**, service level agreement credits, etc. **Requests to pre-review SOW changes should be sent to the XBS Language Pre Review email box at: (XBSLanguagePreReview@xerox.com)** prior to SOW submission to Customer.

Blue denotes instructions that must be adhered to when editing the document, the text should either be updated per instructions or removed prior to submission to Customer.

Red Text indicates areas that need to be updated or customized per engagement. Fill in this area with appropriate items and change text to black.

Note: Highlights in a header means the entire section below the header has the same context as the highlight

Note: This SOW must be attached to a "signed" Order. The Customer cannot just sign the SOW, if you add a "Signature" section to this SOW. A signed Order is required that has charges and references this SOW.

Remove these instruction pages from this SOW before Customer presentation.



Account Team: Title Page

If your C&CS SOW is supporting an HRA solution, insert "FOR HEALTH RECORDS AUTOMATION (HRA)" below CAPTURE AND CONTENT SERVICES and align it to the center

If your C&CS SOW is supporting a Digital Mail Light solution, insert "FOR DIGITAL MAIL" below CAPTURE AND CONTENT SERVICES and align it to the center

If your C&CS SOW is supporting an Accounts Payable Light solution, insert "FOR ACCOUNTS PAYABLE" below CAPTURE AND CONTENT SERVICES and align it to the center

CAPTURE AND CONTENT SERVICES

STATEMENT OF WORK

FOR

[CUSTOMER NAME GOES HERE]

Xerox Services Contract Number

xxxxxxx-xxx

DRAFT

SOW Version Date

xx/xx/xxxx



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1 DESCRIPTION OF SERVICES

1.1 Executive Summary

This Statement of Work ("SOW") is made by and between Xerox Corporation ("Xerox") and [Customer name] ("Customer") which shall collectively be known as the "Parties" pursuant to the terms and conditions in Xerox Contract Number [insert 7-digit Contract #] ("Agreement") the Parties.

1.2 Objectives

This SOW presents the description of Capture and Content Services ("Services") that Xerox shall provide to the Customer for Scanning and digitization services. The Agreement is the governing document, and this SOW describes the Customer's requirements for this project. This SOW may only be changed via the Change Control Process.

1.3 Key Dates

- The effective date of this SOW shall be the effective date of the Order to which this SOW is attached ("Effective Date")
- The Term of this SOW is the term of the Order (# of months) to which this SOW is attached, including any extensions thereto as mutually agreed upon by the Parties. The Term shall commence upon the activation of Services
- Xerox shall notify Customer in writing of the completion of the activation of Services and the Charges in the applicable Order and the SOW shall begin being invoiced
- SLAs shall become effective upon the completion of the activation of Services

Customer has identified Documents that require Capture and Content Services (C&CS). Capture and Content Services (C&CS) simplifies the process path, from Document Capture, Scanning, Data Extraction and Indexing, Quality Assurance, Exception Request Handling, Data Delivery, and Archiving. All Image and metadata files, if applicable, shall be delivered to the Customer via an Electronic Document Management System (EDMS).

Xerox agrees to provide the Capture and Content Services during Business Days/Hours at the designated C&CS Facilities as outlined in this SOW. During the development of this Statement of Work, the Customer has provided Xerox with a complete list of any rules and/or requirements related to all aspects of the Services (e.g.: Document preparation, Scanning, etc.) which have formed the basis of the assumptions of the Services described herein. If any requirements as described above are not specifically called out in the Services described within this Statement of Work, then those requirements are considered out-of-scope but can be added to the Services via the Change Control Process.

1.4 In-Scope Summary of Services

Account Team: In-Scope Summary of Services

If any of the Services outlined below take place On-Site, Customer **must** provide C&CS Facility security training

Note: For Accounts Payable Light (AP) opportunities, the default selection is "Off-Site". Exception approval is required if Customer is requiring/requesting On-Site. Engage the Solution Architect (SA) to escalate the request.

For Accounts Payable (Light), Electronic Document Submission – SFTP is not available, you must select "No" and select "Yes" to Electronic Document Submission – Email

C&CS Overview	On-Site	Off-Site
Services		
Document Capture	[Yes or No, default is No]	[Yes or No, default is Yes]
Electronic Document Submission – Secure File Transfer Protocol ("SFTP")	[Yes or No, default is No]	[Yes or No, default is No]
Electronic Document Submission – Email	[Yes or No, default is No]	[Yes or No, default is No]
Electronic Document Submission – Xerox® Capture and Content App	[Yes or No, default is No]	[Yes or No, default is No]
Scanning	[Yes or No, default is No]	[Yes or No, default is Yes]

Capture and Content Services Statement of Work



C&CS Overview	On-Site	Off-Site
Indexing	[Yes or No, default is No]	[Yes or No, default is Yes]
Scanning and Indexing Quality Control	[Yes or No, default is No]	[Yes or No, default is Yes]
Data Export and Release	[Yes or No, default is No]	[Yes or No, default is Yes]
Original Document Disposition	[Yes or No, default is No]	[Yes or No, default is Yes]
Service Request and Incident Management	[Yes or No, default is no]	[Yes or No, default is Yes]
C&CS Facility		
Customer to provide C&CS Facility security training to Xerox in order access the Customer designated Site and provide the Services	Yes	No
Responsible for C&CS Facility security	Customer	Xerox

1.5 C&CS Facility and Document Storage Locations

The C&CS Facility address where the Services, unless otherwise outlined above, shall take place and the address of where the original Documents shall be stored, are as follows:

Location Name	Address	City	State	Zip Code
C&CS Facility				
Document Storage				

1.5.1.1 C&CS Facility Security

The C&CS Facility shall maintain administrative, technical and physical safeguards designed to protect against threats or hazards: (a) to the privacy, confidentiality or integrity of information; (b) from unauthorized or unauthenticated access to information; and (c) from unauthorized disclosure, destruction, loss or alteration of information. The C&CS Facility shall be in a secure area with restricted access to a limited set of Xerox personnel.



2 DEFINITIONS

Account Team: Definitions

If SLAs are not In-Scope to this SOW, delete the definition "Service Level Agreements (SLA)" and other references to SLAs throughout this SOW.

Terms defined in the Agreement and used herein shall have the meaning set forth in the Agreement unless expressly defined below or elsewhere within this SOW.

- Ad Hoc Request** – A request by Customer for any services that are not a part of this SOW.
- Box** – A container that contains no more than two (2) cubic feet with a maximum capacity of 3,000 Pages.
- Business Day / Hours** – The hours during which Xerox shall perform the Services, which are Monday through Friday, 8:00 AM to 5:00 PM, local C&CS Facility time, excluding Xerox and Customer’s holidays.
- C&CS** – Capture and Content Services.
- C&CS Facility** – The location where Xerox shall conduct the Scanning services.
- Capture and Content Services Dashboard** – A Xerox hosted website that provides Scanning analytics.
- Change Control Process** – A systematic approach to managing all changes made to the Services supported under this SOW. All changes shall be made via a change control document (SOW amendment or an Order) agreed to by the Parties, prior to implementation of such changes.
- Cherished Documents** – Documents classified by Customer as containing Personal Data or other information that requires special handling according to Customer requirements (i.e., identification and subsequent return to Customer).
- Comma Separated Value (or “CSV”)** – Comma separated values which is a data format that specifies how Xerox and/or Customer shall receive metadata.
- CRT** – Customer Requirements-based Testing.
- Currency** – A system of money in general use in a particular country.
- Customer Caused Delay** – Customer, or Customer’s agents’, failure to perform or facilitate completion of the Customer accountable Transition activities outlined in this SOW, which result in elongating the Transition project schedule as documented in the Project Plan.
- Document** – A Customer provided piece of written or printed matter, that is considered In-Scope. Documents may include one (1) or more Pages and are outlined in Exhibit A: Services Scope Assumptions.
- Dots per Inch (or “DPI”)** – Dots per Inch details the level of Scanned Image quality.
- Electronic Document Management System (or “EDMS”)** – A software system for organizing and storing different kinds of electronic files (i.e. Images, etc.)
- Electronic Document Submission** – The process of obtaining and importing files and/or Images into the Xerox Tools.
- Email** – Messages distributed by electronic means from one (1) computer user to one (1) or more recipients via a network including attachments.
- End User** – Customer employees or any other individuals identified by the Customer as being authorized to receive Scanned Images and associated metadata from Xerox.
- Flatbed Scanning** – A Document that cannot be Scanned using a high speed scanner for any reason (i.e., damaged documents, using the high speed scanner would damage the original Document, Documents that cannot be removed from a book or binding as designated by Customer, books or require hand to glass, thermal paper, etc.)
- Good Quality Image(s)** – Images where the original(s) are found to be of sufficient quality to produce a serviceable quality on-screen Image. See Exhibit D: Good Quality Image Review Requirements.
- Grayscale** – A range of gray shades from white to black, as used in a monochrome display or printout.
- Image (or “Image File”)** – The electronic rendering of a single side of a Page.
- Image Output** – The export of an Image out of the Scanning system ready for transfer to the Customer.

Capture and Content Services Statement of Work



Incremental Monthly Volume – The monthly transaction volume that exceeds the Minimum Monthly Volume.

Index(ing) – The capture of metadata and its assignment to an Image so that it can be searched on and found in the future.

In-Scope – Documents which have been agreed to receive the Services provided by Xerox under this SOW.

Light Repair – Where Xerox shall apply effort (no more than five (5) seconds) to fix a Document to allow it to be Scanned on the bulk scanner. This may include applying sticky tape to fix a small tear which does not render the Document in two (2) parts.

Long Format Document – A Customer provided piece of written or printed matter that is longer than a Document as defined in this section and is considered In-Scope.

Manifest – A listing of all Boxes, contained in a delivery to the C&CS Facility, by unique identifier (i.e., pallet number and/or box number) and accurately detailing the contents of each Box.

Master Data – Structured list of data that enables validating Indexing content.

Minimum Monthly Volume – The monthly baseline transaction volume that shall incur charges on a monthly basis.

Negotiable Document(s) – A signed document that promises a sum of payment to a specified person or the assignee.

Non-Simple Bindings – Bindings found connected/attached to Documents (e.g., folder, plastic wallet, etc.), types of permanent binding that require specialist removal (i.e., glue-bound Documents), bindings requiring removal by guillotine, or where Xerox is not able to remove a binding due to the potential compromise of the Document's integrity.

Page – The physical single sheet of paper. A Page generates two (2) digitized Images, the front, and the back of a Page.

PDF – Portable Document Format.

Poor Quality – Documents that are not found to be of sufficient quality to produce a serviceable quality on-screen Image.

Post Office Box (or "PO Box") – A box at a post office where mail is delivered.

Production Environment – IT and operational systems that undertake the live processing of Customer work.

Project Plan – Xerox and Customer shall develop this operational document containing the specific activities and schedules to be conducted and followed in accordance with the terms of this SOW.

Rescan (or "Rescanning" or "Rescanned") – To Scan again.

Retrieval – The retrieval of hard copy Document(s) upon request by Customer.

Scan (or "Scanning" or "Scanned") – The digitization of a piece of Paper into an electronic Image.

Services – The combination of software, technology, people, and processes provided to digitize all Documents as defined in this SOW.

Service Incident(s) – An individual occurrence or event that requires Xerox and/or Customer approval.

Service Incident Management – The management of Service Incidents from the point of request to resolution including, tracking the status of Service Incidents, and reporting on Service performance levels as set forth in this SOW.

Service Level Agreement (or "SLA") – Performance standards and the associated metrics used to measure Xerox's achievement of Service performance levels.

Service Request – A request from Customer's authorized representative that initiates a service action which has been agreed as a normal part of Service delivery as detailed within this SOW.

Simple Binding(s) – Bindings found connected/attached to Documents. (e.g., staples, paper clips, plastic sleeves, elastic bands, Document clips.)

On-Site – That which takes place, or is situated, at a Site.

Site – Customer or eligible affiliate location.

Staging Environment – IT and operational systems used to develop and test the systems and processes prior to code/configurations/processes being promoted to the Production Environment and ready for live processing.

TIF (or "TIFF") – Tag Image File or Tag Image File Format.

Transition – A period of time required to design, procure, build and test the solution for the Services.

Capture and Content Services Statement of Work



Wide Format Document – A Customer provided piece of written or printed matter that is wider than a Document as defined in Exhibit A: Services Scope Assumptions and is considered In-Scope.

XML – Extensible Mark-up Language.



3 TRANSITION

3.1 Project Management

ID	Activity	Accountable
1.	The Parties shall each provision a Project Manager to deliver the Services and be the main points of contact for coordination of appropriate resources throughout Transition, or until an agreed upon time during Transition.	Xerox and Customer
2.	Provision of other resources to work with Xerox to ensure that the Services and processes shall be enabled during Transition	Customer
3.	Develop the Project Plan based on the assumptions in Exhibit A: Services Scope Assumptions	Xerox and Customer
4.	Provide final Project Plan to Customer. This plan shall detail the timeline, obligations of the Parties and activities	Xerox
5.	Execute the Project Plan activities as defined	Xerox and Customer
6.	Conduct Transition project review meetings Such meetings shall include: - Status on roll-out plan - Status on action and issues logged - Decisions that need to be made - Risks assessed - Communication plan and any other relevant subjects	Xerox and Customer
7.	Attend regular Transition project review meetings	Xerox and Customer
8.	Communicate to Customer the Service Request processes	Xerox
9.	Provide escalation protocol detailing contact names and escalation flow	Customer

3.2 Xerox Tools

The appropriate Xerox Tools shall be selected, implemented, and administered solely by Xerox for the delivery of the Services. Xerox shall host some Xerox Tools in a secure off-Site environment which shall communicate directly with the On-Site Xerox Tools when deployed within the Customer's network. All Xerox Tools shall be remotely accessible by Xerox personnel. The On-Site Xerox Tools must be accessible via the Customer network and the internet.

Xerox Tools Server(s)	Accountable
Hardware and network administration by	[Xerox or Customer]
Provide ongoing server maintenance and backup	[Xerox or Customer]
Provide and maintain data backup	[Xerox or Customer]

3.2.1 Hosted Xerox Tools Deployment

Where appropriate, portions of the Xerox Tools shall be hosted for the delivery of the Services.

ID	Activity	Accountable
1.	Implement and configure Xerox Tools to be hosted	Xerox
2.	Provide Xerox the list of End Users to be granted log in credentials to access the Xerox Tools	Customer

Capture and Content Services Statement of Work



ID	Activity	Accountable
3.	Provide Customer appropriate End User login credentials to the Xerox Tools Note: See Exhibit A: Services Scope Assumptions for the number of End User logins supported	Xerox

3.2.2 On-Site Xerox Tools Deployment

Where required, portions of the Xerox Tools shall be deployed On-Site for the delivery of the Services.

ID	Activity	Accountable
1.	Provide required Xerox Tools software and hardware, server, database, network, and firewall specifications to Customer IT group	Xerox
2.	Assist in the implementation of the Xerox On-Site Tools by providing required network information such as the appropriate server access credentials, and other required data and settings as provided by Xerox	Customer
3.	Provide Xerox with administrative rights to the server during the implementation of the Xerox Tools and during Xerox Tools maintenance (if applicable)	Customer
4.	Install and configure the appropriate portions of the On-Site Xerox Tools	Xerox
5.	Perform application data backup test	Customer
6.	Support application data backup test	Xerox

3.2.3 Xerox Tools Update(s)

Upon implementation of the On-Site Xerox Tools, Xerox shall provide on-going maintenance and update(s) of the Xerox Tools, as necessary.

ID	Activity	Accountable
1.	Provide notification of On-Site Xerox Tools updates that must be performed	Xerox
2.	Schedule updates with Customer's team with reasonable notification of not less than thirty (30) days, unless otherwise required and agreed upon by the Parties	Xerox
3.	Updates that can be completed remotely, without On-Site Xerox assistance, shall be coordinated with Customer during the notification and planning of such updates	Xerox
4.	Provide access and enable Xerox to update the Xerox Tools as required	Customer
5.	Provide the most current available version of the Xerox Tools as required to perform the Services, as determined by Xerox, during the Term	Xerox
6.	Prior to any update of the Xerox Tools, ensure appropriate backup of data and application servers, or other supporting applications	Customer

3.2.4 Backup and Support for On-Site Xerox Tools Servers

ID	Activity	Accountable
1.	Provide advance notification to Xerox of all maintenance and upgrades to any Customer Software and third party software that may affect the proper operation of Xerox Tools	Customer
2.	Back up all Customer Software applications installed on the servers hosting the Xerox Tools and MS SQL on at least a monthly basis	Customer
3.	Back up all databases associated with the Xerox Tools	Customer

Capture and Content Services Statement of Work



ID	Activity	Accountable
	Conduct daily incremental and (weekly or monthly) full backups of all data tables and data associated with the Xerox Tools database installation on MS SQL Server. Verify that backups can be read and installed	
4.	Conduct application and service monitoring (with notifications to Xerox) for Xerox defined applications and services	Customer
5.	Hardware and system software maintenance of servers hosting the On-Site Xerox Tools or Xerox Tools data on the Customer network	Customer
6.	Provide appropriate and sufficient virus protection for the servers hosting the On-Site Xerox Tools or Xerox Tools data on the Customer network	Customer

Account Team: Engage Xerox Legal (OGC)

The following paragraph is a requirement by Xerox for C&CS SOW's. If the Customer requests changes and/or deletions to this language, engage your applicable Xerox legal representative supporting your opportunity

To the extent that Customer utilizes a third party provider for the support and maintenance of its information technology infrastructure, including the servers hosting the Xerox Tools and MS SQL, or otherwise has access to such, the Customer agrees that it shall, pursuant to the "Confidentiality" provision(s) of the Agreement, require all such third party providers to execute written obligations of confidentiality, in regards to Xerox's Confidential Information, including, but not limited to the Xerox Tools, which are no less restrictive than those set forth in the Agreement and this SOW.

3.2.5 Electronic Document Submission

ID	Activity	Accountable
1.	Establish an inbound (Customer to Xerox) SFTP site (separate from EDMS) (if applicable)	Xerox
2.	Establish inbound Email address(es) (if applicable)	Xerox
3.	Enable Xerox® Capture and Content App integration (if applicable)	Xerox
4.	Provide electronic access, including access rights, to the Xerox provided inbound SFTP site to Customer	Xerox
5.	Provide the rules for file submission, including file structure and directory structure specification for the submission	Xerox

Account Team: Xerox® Capture and Content App

Delete 3.2.5.1 Xerox® Capture and Content App content if it is not part of the scope of the C&CS Solution.

3.2.5.1 Xerox® Capture and Content App

Xerox® Capture and Content App provides the ability to Scan Documents from multi-function printers (print, copy, scan, fax) (MFPs) into the EDMS. End Users may submit Documents from Xerox® Capture and Content App Authorized Equipment (Xerox® VersaLink® and AltaLink® MFPs) registered by Xerox under the C&CS SOW.

The following are requirements to enable Xerox® Capture and Content App to be configured on Xerox® Capture and Content App Authorized Equipment:

- Xerox® Capture and Content App Authorized Equipment must support the Xerox® Extensible Interface Platform® (EIP) (or Base Software) version 3.5 or higher. Xerox® Extensible Interface Platform® (EIP) (or Base Software) update deployment may incur additional charges.
- Customer must configure the Xerox® Capture and Content App Authorized Equipment multi-function printers (MFPs) (print, copy, scan, fax) to:

Capture and Content Services Statement of Work



- o Allow the Xerox® Capture and Content App to be installed
- o Enable SNMP Web Services setting

Enable and configure the proxy setting, if the Xerox® Capture and Content App Authorized Equipment is on a network that uses a proxy to access the internet.

ID	Activity	Accountable
1.	Identify and provide make, models, serial numbers, and physical address of the Xerox® Capture and Content App Authorized Equipment on which the Xerox® Capture and Content App is to be deployed	Customer
2.	Remotely deploy the Xerox® Capture and Content App Note: Customer must allow remote access by Xerox to the Xerox® Capture and Content App Authorized Equipment	Xerox
3.	Submit test Documents via the Xerox® Capture and Content App for CRT	Customer
4.	Upon completion of CRT, submit Documents via the Xerox® Capture and Content App	Customer
5.	Update and maintain Xerox® Capture and Content App Authorized Equipment during Service Operations	Xerox and Customer

3.2.6 Capture and Content Services Dashboard (Reporting)

The Capture and Content Services Dashboard ("C&CS Dashboard") provides End Users with convenient and simple-to-use access to Scanning analytics. The C&CS Dashboard displays the raw data that is collected during the Scanning process. Such raw data may not align with reports and invoices provided to Customer.

ID	Activity	Accountable
1.	Configure Xerox hosted C&CS Dashboard	Xerox

3.2.6.1 Capture and Content Services Dashboard Terms of Use:

Access to the C&CS Dashboard is via username and password. Customer shall: (a) advise Xerox as soon as reasonably practicable of any known or reasonably suspected unauthorized use of any password or account on the C&CS Dashboard or any other known or reasonably suspected breach of security; (b) use commercially reasonable efforts to ensure that Customer's use of the C&CS Dashboard shall at all times comply with all applicable laws.

3.2.6.2 Capture and Content Services Dashboard General Assumptions

Account Team: Capture and Content Service Dashboard Terms of Use

If including additional languages, beyond the standard for the applicable country/countries, to be supported by the C&CS Dashboard, ensure applicable costs are included in the Business Case. Delivery has approved and update the paragraph below to include the languages to be supported

Any Scanning volumes displayed in the C&CS Dashboard are raw Scanning volumes and not invoiced Scanning volumes. The C&CS Dashboard is implemented to display information commonly to all End Users in English. Requests for additional languages may be quoted upon request and documented via the Change Control Process.

Capture and Content Services Statement of Work



3.2.7 Electronic Document Availability

Account Team: Electronic Document Availability

If ID #1 is Customer, keep ID #1, #2, #3, and #4, delete the "Note" regarding the EDMS Schedule in ID #1

If ID #1 is Xerox, delete ID #2 and #3, and attach the applicable EDMS Schedule to the C&CS SOW

ID	Activity	Accountable
1.	Establish the EDMS for which the data shall be imported into Note: See the EDMS Schedule attached to this SOW	[Xerox or Customer]
2.	Provide electronic access, including access rights, to Customer's SFTP site to Xerox (if applicable)	Customer
3.	Provide folder for Xerox to import Image Files (data), sub-folders, if applicable	Customer
4.	Place all Image Files (i.e., PDF, TIF, etc.) and associated metadata (if applicable) into the EDMS Note: Utilize the file naming convention in accordance with Exhibit A: Services Scope Assumptions.	Xerox

3.3 Customer Requirements-based Testing (CRT)

ID	Activity	Accountable
1.	Develop a Project Plan for the Customer Requirements-based Testing (CRT)	Xerox and Customer
2.	Provide Xerox with a representative sample set of Documents for CRT. This representative sample set shall cover all Document Process Types that Xerox shall be responsible for Scanning Note: This representative sample shall act as the baseline for any future Document quality and / or Image quality related queries between the Parties Note: Additional charges may apply, and shall be documented via the Change Control Process, if Customer submits to Xerox additional Document and/or Document Process Types, as part of the original CRT representative sample set documented in this SOW	Customer
3.	Retain Customer provided CRT documents resulting from testing	Xerox
4.	Conduct CRT on representative samples of the source material as provided by the Customer against parameters and specifications of this SOW	Xerox
5.	Present results of CRT to Customer	Xerox
6.	Agrees to CRT completion and signs off on migration from the Staging Environment to the Production Environment	Customer

3.3.1 Customer Requirements-based Testing (CRT) Acceptance Criteria

Xerox shall submit an Acceptance Signoff document to Customer for review and approval (signature) at the completion of CRT for each Document Process Type. Acceptance of the completion of CRT for each Document Process Type shall be acknowledged by the signature of an Acceptance Signoff document by the Customer. The Acceptance Signoff document



shall be considered approved if Customer has not responded to the request for signature of the Acceptance Signoff document within **ten (10)** Business Days.

3.4 Change Management

Change Management is a communication process that enables the Customer to inform and prepare their End Users for the introduction of new technology and processes related to the Services. A communication plan shall be mutually agreed upon by the Parties, developed and implemented by the Customer throughout Transition.

ID	Activity	Accountable
1.	Advise Customer in support of Customer's change management efforts	Xerox
2.	Develop and produce content and distribution methods of all communications	Customer

3.5 Transition Delay

Account Team: Transition Delay

If SLAs are not In-Scope to the scope of this SOW, delete "or the SLAs" in first sentence of the first paragraph below

Change **[insert timeframe]** to align with the scope, timeline, and identified risks associated with the scope of this SOW. An example of the format is as follows: two (2) months, or thirty (30) days, or two (2) weeks, etc.

Any other changes to the language in the Transition Delay section required written approval of the responsible Delivery Controller and VP of Delivery Operations

Xerox shall not be liable for failure to meet the Project Plan or the SLAs where Xerox is unable to establish the Services aligned to the assumptions in Exhibit A: Services Scope Assumptions, due to a Customer Caused Delay. A Customer Caused Delay may result in Transition Delay charges as listed in the Section 6 Pricing.

If there is more than a **[insert timeframe]** delay in the Transition Project Plan due to a Customer Caused Delay, the Parties agree to revise the Project Plan. Transition Delay charges, if applicable, shall be processed via a change control document agreed to by the Parties in writing. Customer acceptance of the change control document shall not be unreasonably withheld.



4 SERVICE OPERATIONS

4.1 Governance and Performance

The Parties shall meet on a regular basis to enable timely and accurate communication; allow for planning and alignment with Customer's objectives and requirements as set forth in this SOW; and provide timely resolution of issues. Meetings may include On-Site, web conferencing, and/or teleconference meetings.

ID	Activity	Accountable
1.	Provide a representative to lead and monitor the provision of the Services and be the main point of contact for coordination during Service Operations	Xerox and Customer
2.	Document meeting minutes and distribute to all attendees	Xerox
3.	Ensure appropriate personnel are available for meetings, including IT contact and Executive Sponsor	Customer

4.1.1 Operational Reviews

Xerox shall schedule joint communication and status review meetings with the Customer's designated focal point as required. Xerox recommends a monthly operations review. Topics discussed may include:

- Open issues and progress toward resolution
- Proposed /impending changes
- Status of special projects
- Customer support requirements
- Customer management support
- Communication needs
- Performance Reporting

4.1.2 Quarterly Business Reviews

A formal management meeting to discuss the Services and their relationship to the Customer's strategic business goals shall be conducted on a mutually agreed upon schedule. Xerox recommends a quarterly business review where applicable. Topics discussed may include:

- Review of the SLA reports and trends for the quarter
- Review of overall Services
- Review of the progress of the resolution of previously discussed open issues
- Innovation proposals and opportunities
- Major business and technology changes affecting the Services

4.2 Document Capture

Account Team: Document Transportation and Receipt

If you change ID #2 you must change ID #4 to match

4.2.1 Document Transportation and Receipt

ID	Activity	Accountable
1.	Schedule delivery, collection points, shipment sizes, and all other transportation related matters	Xerox and Customer
2.	Responsible and liable for the logistics handling and transportation of all Documents to and from the C&CS Facility, including all associated costs Note: When providing Documents to Xerox for Scanning, provide a Manifest, in a similar format to the table below, that includes a detailed accounting of the Boxes	Customer

Capture and Content Services Statement of Work



ID	Activity	Accountable
	Note: If transporting multiple Boxes, said Boxes shall be shrink-wrapped and securely loaded onto pallets, prior to transportation to the C&CS Facility	
3.	Reconcile the delivery against the Manifest and notify Customer of any discrepancies (if applicable)	Xerox
4.	Resolve discrepancies between the delivery and the Manifest (if applicable)	Customer

An example of the Manifest format is provided below, for illustrative purposes only:

Manifest Assumptions (Example)

e.g: Pallet Number	e.g: Box Number	e.g: Document Process Type	e.g: Reference Number	e.g: Date
e.g: 12	e.g: 365	e.g: Invoice	e.g: INV000098	e.g: 05262018

4.2.2 Mail Transportation and Receipt

ID	Activity	Accountable
1.	Establish PO Boxes for the C&CS Facility Note: Customer shall be responsible for any applicable PO Box charges.	Customer
2.	Assist Customer with establishing dedicated PO Boxes for the C&CS Facility	Xerox
3.	Work with the applicable postal mail service to redirect 'day-forward' physical postal deliveries to dedicated PO Boxes for the C&CS Facility	Customer

4.2.3 Electronic Document Submission

ID	Activity	Accountable
1.	Submit electronic Documents to Xerox utilizing the inbound (Customer to Xerox) SFTP site (separate from EDMS), Xerox® Capture and Content App (where applicable), and/or Email address to required specification as provided by Xerox	Customer

4.2.4 Document Preparation**Account Team: Document Preparation**

Update/edit the bulleted list of examples in ID #1 based on the scope of the solution for your customer.

ID	Activity	Accountable
1.	If requested by Customer, perform verification step on Documents to be Scanned that is applicable to the context of the Scanning activity. Additional charges may apply and shall be documented via the Change Control Process. Examples: - Document to be Scanned is the Customer's invoice - Document to be Scanned is a Customer patient record Note: See Exhibit F: Standard Document Preparation Activities.	Xerox

Capture and Content Services Statement of Work



ID	Activity	Accountable
2.	If requested by Customer, remove any Documents that are not required to be Scanned. Note: Additional charges may apply and shall be documented via the Change Control Process	Xerox
3.	Remove Simple Bindings from the hardcopy Documents	Xerox
4.	Remove Non-Simple Bindings Note: Additional charges may apply and shall be documented via the Change Control Process. Note: Where Xerox is not able to remove a binding due to the potential compromise of the Document integrity then it shall be raised to the Customer as an exception through the Service Request Management process. Note: Xerox shall photocopy any folder/plastic wallet/etc. found within the Document container (i.e., file/folder/ envelope) containing information relating to the contents of said Document.	Xerox
5.	Documents contained within envelopes shall be opened and both the Documents and the envelopes shall be scanned	Xerox
6.	Identify and mark Poor Quality Documents or Cherished Documents prior to Scanning	Xerox
7.	Complete Light Repair on Documents	Xerox
8.	Group Documents and submit for Scanning	Xerox

4.3 Scanning

4.3.1 Document Scan Process

Account Team: Document Scan Process

If Customer requests to delete the Note: in ID #1, exception approval is required. The team will need to engage OGC and Service Delivery

ID	Activity	Accountable
1.	Convert Documents into Images Note: Xerox is not liable for Scanning Documents, provided by Customer to Xerox, which are considered confidential, proprietary and/or other legal determination by Customer or Customer's customer nor actions of Customer stemming from the use of the Image.	Xerox
2.	Apply unique name to each file	Xerox

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ID	Activity	Accountable
3.	Perform automated Image clean up but shall not be adjusted on an Image-by-Image basis. The following automated Image cleanup shall be applied: - Auto De-skew - Auto Black Border Removal Note: Characteristics of Images or quality of the source paper may deteriorate the effectiveness of the automated cleanup tools Note: Manual correction of anomalies may be required, and additional charges may apply and shall be documented via the Change Control Process.	Xerox

4.3.2 Currency or Negotiable Documents Scan Process

ID	Activity	Accountable
1.	Log Currency and Negotiable Documents for audit purposes	Xerox
2.	Send Currency and Negotiable Documents to Customer at Customer's expense	Xerox

4.4 Indexing

ID	Activity	Accountable
1.	Provide the Master Data format and structure specification	Xerox
2.	Provide upload instructions and rules to Customer	Xerox
3.	Provide Master Data or electronic access (i.e., access to Customer's Active Directory, etc.) of Indexing specifications to Xerox as per the Xerox provided instructions	Customer
4.	Utilize the Exhibit C: Indexing Specifications, Index attribute data	Xerox

4.5 Quality Assurance

ID	Activity	Accountable
1.	Provide Image and Indexing quality assurance - See Exhibit D: Good Quality Image Review Requirements Note: Customer is responsible for the quality of the Image where the original Documents received for processing contain faint or illegible information, or where the Document contains information that has not been recorded in either black or blue ink.	Xerox
2.	Recheck Pages where Image quality fails the above review and Rescan - If the Image is identified as Poor Quality and optionally marked as best available source, Xerox shall not be required to Rescan	Xerox

4.6 Data Export and Release

ID	Activity	Accountable
1.	Images and associated metadata shall be exported and released into the applicable EDMS	Xerox

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4.7 Original Document Disposition

4.7.1 Document Storage

ID	Activity	Accountable
1.	Store the hardcopy Documents as outlined in Exhibit A: Services Scope Assumptions Note: Documents set for destruction shall incur Document storage charges, as outlined in the "Pricing" section below, following Image Availability Period to Customer.	Xerox
2.	Request access to the physical documents.	Customer

4.7.2 Document Return

ID	Activity	Accountable
1.	Schedule delivery, collection points, shipment sizes, and all other transportation related matters	Xerox and Customer
2.	Responsible and liable for the logistics handling and transportation of all Documents from the C&CS Facility back to Customer Note: Customer is responsible for all associated transportation costs. Note: When returning Documents to Customer, provide a Manifest, in a similar format to the Manifest Assumptions table under Document Transportation and Receipt section, that includes a detailed accounting of the Boxes. Note: If transporting multiple Boxes, said Boxes shall be shrink-wrapped and securely loaded onto pallets, prior to transportation to Customer.	Xerox
3.	Return hardcopy Documents, per Exhibit A: Services Scope Assumptions, to Customer designated location at the Customer's expense	Xerox
4.	Reconcile the delivery against the Manifest and notify Xerox of any discrepancies	Customer
5.	Resolve discrepancies between the delivery and the Manifest	Xerox

4.7.3 Original Document Destruction

ID	Activity	Accountable
1.	All original Documents associated with the applicable Images shall be destroyed upon completion of the Image Availability Period and Email Availability Period	Xerox
2.	Certificate(s) of destruction shall be provided to the Customer upon completion of the destruction process, if requested by Customer	Xerox

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4.8 Service Request and Incident Management

4.8.1 Service Request Management

ID	Activity	Accountable
1.	Utilizing the Xerox provided process, submit the Service Request to Xerox Note: Xerox shall reject any Service Requests that do not follow the documented process Note: All Customer requested Service Requests shall be charged as outlined in the Pricing section unless otherwise quoted	Customer
2.	If Service Requests (which may include but are not limited to Rescan, Expedited Scan and/or original Document Requests) are rejected by Xerox, respond to the Customer by Email, providing the reason for the rejection	Xerox
3.	If desired, request that the rejected Service Request be completed by notifying Xerox	Customer
4.	Complete Service Requests per the processes outlined below	Xerox

4.8.1.1 Rescan Requests

ID	Activity	Accountable
1.	Retrieve the physical Document(s)	Xerox
2.	Complete the following activities: - Review the quality of the original Document(s), if this is deemed Poor Quality it shall be marked 'Poor Quality Original' - Photocopy the original Document(s) and place the copy of the original Document in place of the original(s) noting the date Rescanned Note: Xerox shall only be able to Rescan Documents that are not destroyed, returned to Customer or moved to long term storage. Documents in long term storage to be Rescanned shall be charged as outlined in the Pricing section	Xerox
3.	Scan the Document as a Rescan Document Process Type	Xerox
4.	The Xerox shall confirm the new unique identifier and the Rescan date	Xerox

4.8.1.2 Expedited Scan Process

ID	Activity	Accountable
1.	Utilizing best effort, process remaining steps in the Document Scan Process	Xerox

4.8.1.3 Original Document Request

ID	Activity	Accountable
1.	Retrieve the physical Document(s)	Xerox
2.	Ship original Documents to Customer Note: Xerox shall only mail original Documents that are in Document storage managed by Xerox	Xerox

4.8.1.4 Xerox Tools User Access Request

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ID	Activity	Accountable
1.	Request End User access to Xerox Tools Note: If request for End User access to Xerox Tools exceeds the number of included End User log in credentials outlined in Exhibit A, additional charges shall apply as outlined in the Pricing section below	Customer
2.	Evaluate request for End User access to Xerox Tools	Xerox
3.	Update and provide Xerox Tools system End User access to Customer, if applicable	Xerox

4.8.2 Service Incident Management

Customer may create a Service Incident via one of the means noted in the Service Request Management section above. If a Service Incident reported to Xerox is identified as an issue that the Customer is responsible for resolving, including without limitation, End User access to Xerox Tools solution (if applicable), passwords to EDMS solution (if applicable) are expired, etc., then the Xerox shall send the Service Incident to the Customer for closure/resolution, along with any available problem identification information that was provided to Xerox.

Account Team: Standard Service Elements

Standard Support Hours can be modified if they are different from the Scanning Hours.

Note: This is not a central point of contract (i.e. a help desk). The hours of support and language supported are determined/approved by Service Delivery

4.8.2.1 Standard Service Elements

ID	Service Elements	Accountable
1.	Standard Support Hours: Business Hours	Xerox
2.	Language(s) Supported: English. Other languages may be available at additional cost	Xerox

4.8.2.2 Service Incident Process

ID	Activity	Accountable
1.	Customer identifies and initiates a Service Incident utilizing the Xerox provided support process	Customer
2.	Evaluate submitted Service Incident. Where Xerox is responsible, perform resolution activities	Xerox
3.	Notify Customer upon completion of Service Incident resolution	Xerox



5 SERVICE LEVEL AGREEMENTS

5.1 SLA Metrics

Each Service Level Agreement (SLA) described in this section is the standard against which Xerox’s performance shall be measured. The measurement of any SLA under this SOW excludes any out-of-scope services including, but not limited to any Ad Hoc Requests. The SLAs are based on the reasonable achievement of and staying within the specifications outlined in Exhibit A: Services Scope Assumptions. Any metrics shown/outlined in the Xerox Tools, reporting, etc., but not listed in this section, are not considered Service Level Agreements below and simply used as Key Performance Indicators (KPIs). Key Performance Indicators are intended by the Parties to be another set of metrics to measure the performance of the Services outlined under this SOW. However, in no event shall failure to meet SLAs and/or KPIs be considered a breach by Xerox of its obligations under this SOW.

Except as otherwise specified, all references to hours shall be on the Business Days/Hours of the C&CS Facility as outlined in this SOW.

Account Team: SLA Metrics

Any changes to the SLAs must be reviewed and approved by Service Delivery.

Document Process Type SLAs are by exception and must be reviewed and approved by Service Delivery. Document Process Type SLAs can only exist in the SLA table if Document Process Type is outlined in the Pricing Section of this SOW.

If Document Process Type is not selected in the Pricing Section, delete the Document Process Type SLA row in the table below

If the Customer requires heavy or time consuming Indexing, consider incremental Business Days to the SLAs below where applicable

Capture and Content Services SLAs			
Service Level Agreement (SLA)	SLA Measurement Criteria	Service Level Agreement	SLA Attainment
Image Turnaround Time	Percent of Images made available in the EDMS within the SLA monthly Note: Excludes all specified Document Process Type Image Turn Around Time SLAs (if applicable)	Next Business Day	95%
Image Turnaround Time – [insert Document Process Type X]	Percent of [insert Document Process Type X] Images made available in the EDMS within the SLA monthly	Next Business Day	95%
Index Accuracy	Percent of accurate Index fields within the SLA	Monthly Index Accuracy	98%
Image Quality	Percent of Good Quality Images within the SLA monthly	Image Quality	95%
Rescan Image Turnaround Time	Percent of Rescanned Images made available in the EDMS within the SLA monthly	Three (3) Business Days	95%

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5.2 SLA Measurement

Image Turnaround Time	
SLA Definition	The duration in time required to convert a Document to an Image and make the Image available within the EDMS each calendar month. Image Turnaround Time is measured from the time Xerox begins the Scanning process to the time the Document, as converted into an Image, is available in the EDMS. For the purpose of this Service Level, any Document received after 10:00am shall be treated as if it were received on the following Business Day.
Measurement Basis	Basis: The % of Images made available in the EDMS within the SLA performance specification.
Measurement Computation	Image Turnaround Time = % of Images made available within the EDMS within the SLA performance specification for a given calendar month divided by the total number of Scanned Images in that same calendar month. Example: January = 19,876 Images made available in the EDMS within the SLA / 20,000 Scanned Images in the same calendar month = 99.3% achievement Note: Other unplanned outages not included in the computation include, but are not limited to power failure, network failure, virus or other Customer limitation, Force Majeure event, misuse, abuse, operational exceptional event, or Customer-caused failure.
Index Accuracy	
SLA Definition	The percentage of Index fields verified to be accurate in accordance with Exhibit C: Indexing Specifications. Accuracy, for purposes of this Service Level Agreement, means that the Index fields captured by Xerox and delivered to the Customer match the Image from the original Document provided by the Customer.
Measurement Basis	Basis: The % of accurate Index fields made available in the EDMS within the SLA performance specification.
Measurement Computation	Index Accuracy = % of Index fields, without defects, made available in the EDMS within the SLA performance specification for a given calendar month, divided by the total quantity of Index fields made available in the EDMS in that same calendar month. Defects, for the purposes of this Service Level Agreement, means defects within the Index fields identified and reported by Customer and verified and accepted by Xerox. Example: January = 19,876 accurate Index fields made available in the EDMS within the SLA / 20,000 Index fields made available in the EDMS in the same calendar month = 99.3% achievement
Image Quality	
SLA Definition	The number of Scanned Images verified to be correct against the original Document in accordance with the Good Quality Image specification listed below: - at the agreed resolution in DPI - uncropped reproduction of the Page - with skew under 10% from the original Document - contrast between text and background consistent with original Document - characters reproduced at the same size/proportion as the original Document - absence of darkened borders at Page edges, except if they are in the original Document - absence of wavy or distorted text, except if they are in the original Document - no missing Pages

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Measurement Basis	Basis: The % of Scanned Good Quality Images made available in the EDMS within the SLA performance specification.
Measurement Computation	Image Quality = % of Scanned Good Quality Images made available within the EDMS within the SLA performance specification for a given calendar month divided by the total number of Scanned Images made available in the EDMS in that same calendar month. Defects are identified and reported by the Customer and then verified and accepted by Xerox. Example: January = 19,876 Scanned Good Quality Images made available in the EDMS within the SLA / 20,000 Scanned Images made available in the EDMS in the same calendar month = 99.3% achievement.
Rescan Request Turnaround Time	
SLA Definition	The duration in time required to convert a Document to an Image(s) and make the Image(s) available within the EDMS; starting from the time Xerox receives a Rescan request to the time the Document, as converted into an Image(s), is made available in the EDMS.
Measurement Basis	Basis: The % of Rescanned Images made available in the EDMS within the SLA performance specification.
Measurement Computation	Rescan Request Image Turnaround Time = % of Rescanned Images made available within the EDMS within the SLA performance specification for a given calendar month divided by the total number of Rescanned Images in that same calendar month. Example: January = 19,876 Rescanned Images made available in the EDMS within the SLA / 20,000 Rescanned Images in the same calendar month = 99.3% achievement. Note: Other unplanned outages not included in the computation include, but are not limited to power failure, network failure, virus or other Customer limitation, force majeure event, misuse, abuse, operational exceptional event, or Customer-caused failure.

5.3 Excusable Events

Achievement of the SLAs as outlined above is based on reasonable achievement and that the total process volume aligns with the assumptions outlined in Exhibit A: Service Scope Assumptions. If any of the following events occur, such events shall be excused from the SLA calculations:

- Customer willful misconduct
- Customer violations of law
- The failure of [insert Customer or Customer's service providers name] (not under contract to Xerox) to deliver its Services in a timely manner, which caused Xerox to not achieve an SLA; for clarity, this excuse for non-performance does not apply if a Xerox contractor or subcontractor caused the non-achievement of an SLA
- Customer's failure to meet any Customer responsibilities as outlined in this SOW
- The total processing volume in a month being one hundred and twenty percent (120%) more than the total number of Expected Monthly Volume of Scanned Images, see Exhibit A: Services Scope Assumptions



6 PRICING

6.1 Pricing Overview

The charges for various Services (“Price” or “Pricing”) included in this SOW are detailed in this section and excludes all applicable taxes per the Agreement. Pricing for the Service Charges are set forth in the signed Order to which this SOW is attached and invoiced upon the activation of Services. Transactional, Incremental and Ad Hoc Request charges shall be invoiced as incurred. Pricing is contingent upon the assumptions in Exhibit A: Services Scope Assumptions. Xerox reserves the right to amend the Pricing if the actual volumes/assumptions vary from Exhibit A: Services Scope Assumptions, via the Change Control Process.

6.2 Scanning Volume Ramp Up Timeline

Customer shall deliver Documents in line with the Scanning volume ramp up timeline outlined in Exhibit A: Services Scope Assumptions. The Scanning volume ramp up timeline is subject to change based on additional opportunities and/or changes in the assumptions outlined in this SOW and mutually agreed to by the Parties, via the Change Control Process.

6.3 Service Charges

Account Team: Service Charges

Remove the Setup Charge row in the table below (future option not available currently)

Note: If this pricing models is not viable for an opportunity, escalate and engage the Sales and Delivery Controllers for alternate pricing options (if available)

Item	Description	Unit of Measure	Per Unit of Measure Charge
Setup Charge	A one-time setup charge to initiate Services	One-time	See Order to which this SOW is attached
Monthly Service Charge	Ongoing monthly charges for Services; may include a minimum monthly volume as outlined in Section 6.4 below Note: If the actual monthly volume for a given Standard Transactional line item exceeds the Minimum Monthly Volume in a given month, Customer shall be invoiced for the Incremental Monthly Volume as detailed in Section 6-4 below Note: Excludes Standard Transactional, Incremental Transactional, Incremental Processing and Ad Hoc Charges	Monthly	See Order to which this SOW is attached



6.4 Standard Transactional Charges

Account Team: Standard Transactional Charges

Select Scenario #1, #2, or #3 and delete the other two (including their applicable examples) and the Table headers for "Scenario "X" as well.

Insert the prices and minimum monthly volume number from the Evaluation Tool.

If no Minimum Monthly Volume is included within the Monthly Service Charge, insert "zero (0)" in the Minimum Monthly Volume.

Scenario #1

Item	Unit of Measure (UOM)	Charge per UOM above Minimum Monthly Volume	Minimum Monthly Volume
Scanned Images	Per Image	[insert price]	[insert volume]
Scanned Images – Flatbed Scanning	Per Image	[insert price]	[insert volume]
Ingested Images (e.g., inbound Email)	Per Image	[insert price]	[insert volume]

Standard Transaction Charges Calculation Example

Scan activity using the table above would be calculated as following:

- 1 When over the Minimum Monthly Volume:

a. (Scanned Images Charge per UOM) x (Incremental Monthly Volume)

Scenario #2

Account Team: Standard Transactional Charges – Scenario #2

If you are proposing Scenario #2 with an Accounts Payable solution, delete the following rows in the table below as they are not supported under an Accounts Payable solution:

Scanned Images – Wide Format Documents – Black and White

Scanned Images – Wide Format Documents – Color / Grayscale

Scanned Images – Long Format Documents – Black and White

Scanned Images – Long Format Documents – Color / Grayscale

Item	Unit of Measure (UOM)	Charge per UOM above Minimum Monthly Volume	Minimum Monthly Volume
Scanned Images – Black and White	Per Image	[insert price]	[insert volume]
Scanned Images – Color / Grayscale	Per Image	[insert price]	[insert volume]
Scanned Images – Wide Format Documents – Black and White	Per Image	[insert price]	[insert volume]

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Item	Unit of Measure (UOM)	Charge per UOM above Minimum Monthly Volume	Minimum Monthly Volume
Scanned Images – Wide Format Documents – Color / Grayscale	Per Image	[insert price]	[insert volume]
Scanned Images – Long Format Documents – Black and White	Per Image	[insert price]	[insert volume]
Scanned Images – Long Format Documents – Color / Grayscale	Per Image	[insert price]	[insert volume]
Scanned Images – Flatbed Scanning	Per Image	[insert price]	[insert volume]
Ingested Images (e.g., inbound Email)	Per Image	[insert price]	[insert volume]

Standard Transaction Charges Calculation Example

Scan activity using the table above would be calculated as following:

- 1 When over the Minimum Monthly Volume
 - a. (Scanned Images Charge – Black and White Charge per UOM) x (Incremental Monthly Volume)

Scenario #3

Account Team: Standard Transactional Charges – Scenario 3

If the proposed pricing solution requires fewer than 4 Document Process Types, delete the rows as necessary.

If the proposed solution requires more than 4 Document Process Types, add additional rows

Document Type examples are: Invoice Profile 1, Claim, Contract, etc.

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Item	Document Type	Unit of Measure (UOM)	Charge per UOM above Minimum Monthly Volume	Minimum Monthly Volume
Document Process Type 1	Generic	Per Document	[insert price]	[insert volume]
Document Process Type 2	[Insert Type]	Per Document	[insert price]	[insert volume]
Document Process Type 3	[Insert Type]	Per Document	[insert price]	[insert volume]
Document Process Type 4	[Insert Type]	Per Document	[insert price]	[insert volume]
Box Scanning		Per Box	[insert price]	[insert volume]

Standard Charges Calculation Example

Scan activity using the table above would be calculated as following

- 1 When over the Minimum Monthly Volume:
 - a. (Document Process Type 1 Charge per UOM) x (Incremental Monthly Volume)



6.5 Incremental Transactional Charges

Account Team: Incremental Transactional Charges

Delete rows that do not apply to your proposed solution. You must have an Index Charge for each Document Type listed in Exhibit A: Services Scope Assumptions

If Scenario #3 includes a Document Process Type for Cherished Document Handling and/or Currency or Negotiable Documents Charge, including Checks, then delete those rows in the table below.

If, under Exhibit A: Services Scope Assumptions, Processing, Required to count hardcopy Pages is "no", delete/remove the "Count hardcopy Pages" row from the table

Note: The charges listed in the table below are incremental to the charges in the table above.

Item	Unit of Measure	Per Unit of Measure Charge
Cherished Document Handling Charge	Per Document	[insert price]
Currency or Negotiable Documents Handling Charge, including Checks	Per Document	[insert price]
Expedited Scan Charge	Per Image	[insert price]
Document Retrieval Charge	Per Document	[insert price]
Rescans (excludes Document Retrieval charges)	Per Image	See the applicable charge in Section 6.4 Standard Transactional Charges
Incremental End User Access Request	Per End User	[insert price]
Non-Simple Binding Removal	Per bind	[insert price]
Document Storage – On-Site at C&CS Facility (following Image Availability Period)	Per Box per month	[insert price]
Document Storage – Off-Site from C&CS Facility (following Image Availability Period)	Per Box per month	[insert price]
Document Destruction	Per Box	[insert price]
Manually count hardcopy Pages before Scanning	Per Page	[insert price]
Document Refile	Per Document	[insert price]
Exception handling fee	Per Exception	[insert price]
Note: Covers any exceptions not outlined in Section 4: Service Operations		
Repair (requires more than Light Repair activities)	Per Item	[insert price]
Manual rotation of Images during Quality Assurance (QA)	Per Image	[insert price]

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Incremental Transaction Charges Calculation Example

Activity using the table above would be calculated as following:

Note: Sample Document charges calculation assumes a single Document of a single Image and is a Cherished Document that the Customer has requested, for their own purposes, a Rescan.

- 1 Original Scan of the example above would be calculated as:

a. Per Image = (Standard Transactional Charges as calculated in Section 6.4 above) + (Cherished Document Handling Charge)

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- 2
- Customer requested Rescan of the example above, when each of the individual activities are re-performed, they would be calculated as:

a. (Document Retrieval Charge) + (Standard Transactional Charges as calculated in Section 6.4 above) + (Cherished Document Handling Charge)

6.6 Incremental Processing Charges

Account Team: Incremental Processing Charges

The Document Types are found in the Evaluation Tool

Item	Document Type	Unit of Measure	Per Unit of Measure Charge
Index Charge – Document Process Type 1	Generic	Per Document	[insert price]
Index Charge – Document Process Type 2	[Insert Type]	Per Document	[insert price]
Index Charge – Document Process Type 3	[Insert Type]	Per Document	[insert price]
Index Charge – Document Process Type 4	[Insert Type]	Per Document	[insert price]
Optical Character Recognition (OCR) - Searchable PDF		Per Image	[insert price]

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Incremental Processing Charges Calculation Example

Activity using the table above would be calculated as following: sample Document charges calculation assumes a single Document of a single Image and is a Cherished Document that the Customer has requested, for their own purposes, a Rescan. This Document is a Document Process Type 1 and also includes an Index Charge.

- 1
- Original Scan of the example above would be calculated as:

a. Per Image = (Standard Transaction Charges as calculated in Section 6.4 above) + (Cherished Document Handling Charge) + (Index Charge – Document Process Type 1)
- 2
- Customer requested Rescan of the example above, when each of the individual activities are re-performed, they would be calculated as:

a. (Document Retrieval Charge) + (Standard Transaction Charges as calculated in Section 6.4 above) + (Cherished Document Handling Charge) + (Index Charge – Document Process Type 1)

6.7 Ad Hoc Request Charges

Account Team: Ad Hoc Request Charges

If the Evaluation Tool does not provide a Per Unit of Measure Charge for an item below, the Solution Architect shall identify the cost and assist in pricing.

If a solution doesn't require a line item in the table below, delete it. If additional line items are required, add to the list below, then engage the Solution Architect for escalation and exception approval.

Ad Hoc Request charges shall be applicable for the following Services.

-
- The following Ad Hoc Request activities, but not limited to, are chargeable events and are not included in the Services outlined in this SOW based on the then Xerox current rates.

Item	Unit of Measure (UOM)	Per Unit of Measure Charge
Pickup	Per Shipment from agreed location	Quoted upon per Request
Shipment to Customer	Per Shipment to agreed location	Quoted upon per Request
Images delivered via removable media	Per removable media	Quoted upon per Request

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Item	Unit of Measure (UOM)	Per Unit of Measure Charge
Additional or Alternate Reports	Per report	Quoted upon per Request
Box supply	Per Box	[insert price]
Paper supply	Per sheet	[insert price]
Envelope supply	Per C5 envelope	[insert price]
PO Box Setup	Per PO Box	[insert price]
Manifest validation	Per line item on a Manifest	[insert price]
Box Retrieval	Per Box	[insert price]
Microfilm Conversion 16MM	Per Image	[insert price]
Microfilm Conversion 35MM	Per Image	[insert price]
Microfiche Conversion	Per Image	[insert price]
Aperture Cards Conversion	Per Image	[insert price]
Box Refile	Per Box	[insert price]
eSeal - Electronic Seal	Per eSeal	[insert price]
Email address set up (Electronic Document Submission)	Per Mailbox	[insert price]
Mailstop Master Data uploads	Per Upload	[insert price]

Ad Hoc Request Charges Calculation Example

Activity using the table above would be calculated as following:

- 1 When activity occurs:

a. (Box supply charge per UOM) x (monthly UOM volume)

6.8 Transition Delay Charges

Account Team: Transition Delay Charges

Insert the Delay Charge as outlined in the Evaluation Tool

The following charges shall be processed via a change control document agreed to by the Parties in writing as indicated in the Transition sections of this SOW.

Delay Charges		
Item	Charges	Notes
Transition Delay charges resulting from Customer Caused Delays	\$(charge) Monthly	Additional Transition support, implementation and management services due to Project Plan reschedule resulting in a delay to the Transition project schedule.



7 TERMINATION

Account Team: Termination

Exception approval is required from the Sales and Delivery Finance Controllers to delete all of Section 7 Termination. Which would leave the scope of Termination to what is outlined in the Agreement.

7.1 Termination Overview

This SOW shall remain in force for its full Term until terminated either by Customer or by Xerox upon giving to the other written notice of termination, subject to the termination provisions of the Agreement. Except as otherwise expressly stated below, any termination hereunder shall be a complete termination of the SOW (not partial), unless otherwise mutually agreed upon by the Parties in writing. Any Services not terminated in accordance with this Section shall continue until the end of the remainder of the Term of the SOW.

7.2 Termination for Material Breach

Either Party may terminate this SOW, by written notice, if the other Party shall have committed a material breach of this SOW or the Agreement and such breach shall have remained uncured for sixty (60) days following written notice from the Party alleging such breach. In the event of termination by Customer for Xerox’s uncured material breach, Xerox shall waive any Early Termination Charges (ETCs) as outlined below. In the event of termination by Xerox for an uncured material breach by Customer, Xerox shall not be required to provide any termination assistance and Customer shall be responsible for ETC’s, outlined in the Early Termination Charges table below.

7.3 Termination for Convenience

If Customer terminates this SOW for convenience during the Term of the SOW, by providing ninety (90) days’ prior written notice to Xerox, Customer agrees to pay all amounts due and owing, and the Early Termination Charges (ETCs) listed in the table below shall be used to identify the applicable ETC.

Early Termination Charges

Account Team: Early Termination Charges

The numbers shown in the Early Termination Charges table below are placeholders only and SHOULD NOT BE USED for your specific engagement. See the Evaluation Tool.

Month from the Effective Date	ETCs Due	Month	ETCs Due	Month	ETCs Due	Month	ETCs Due	Month	ETCs Due
Month 1	[\$0.00]	Month 13	[\$0.00]	Month 25	[\$0.00]	Month 37	[\$0.00]	Month 49	[\$0.00]
Month 2	[\$0.00]	Month 14	[\$0.00]	Month 26	[\$0.00]	Month 38	[\$0.00]	Month 50	[\$0.00]
Month 3	[\$0.00]	Month 15	[\$0.00]	Month 27	[\$0.00]	Month 39	[\$0.00]	Month 51	[\$0.00]
Month 4	[\$0.00]	Month 16	[\$0.00]	Month 28	[\$0.00]	Month 40	[\$0.00]	Month 52	[\$0.00]
Month 5	[\$0.00]	Month 17	[\$0.00]	Month 29	[\$0.00]	Month 41	[\$0.00]	Month 53	[\$0.00]
Month 6	[\$0.00]	Month 18	[\$0.00]	Month 30	[\$0.00]	Month 42	[\$0.00]	Month 54	[\$0.00]
Month 7	[\$0.00]	Month 19	[\$0.00]	Month 31	[\$0.00]	Month 43	[\$0.00]	Month 55	[\$0.00]
Month 8	[\$0.00]	Month 20	[\$0.00]	Month 32	[\$0.00]	Month 44	[\$0.00]	Month 56	[\$0.00]
Month 9	[\$0.00]	Month 21	[\$0.00]	Month 33	[\$0.00]	Month 45	[\$0.00]	Month 57	[\$0.00]
Month 10	[\$0.00]	Month 22	[\$0.00]	Month 34	[\$0.00]	Month 46	[\$0.00]	Month 58	[\$0.00]
Month 11	[\$0.00]	Month 23	[\$0.00]	Month 35	[\$0.00]	Month 47	[\$0.00]	Month 59	[\$0.00]
Month 12	[\$0.00]	Month 24	[\$0.00]	Month 36	[\$0.00]	Month 48	[\$0.00]	Month 60	[\$0.00]



EXHIBIT A: SERVICES SCOPE ASSUMPTIONS

Account Team: Scope Assumptions

Include all stated Assumptions from the Solution Design Document.

You can insert your own numbers or use the default numbers provided.

If pricing is based on a per Image, delete the rows associated with Document Scanning - Box

If pricing is based on a per Box, Delete the rows associated with Document Scanning below and keep those rows associated with Document Scanning - Box

Delete those solution columns in the table(s) below that do not apply to the solution you are proposing/deploying for your Customer.

Note: For the avoidance of doubt, Xerox shall not be liable for any fraudulent items that may be passed on to the Customer.

Assumptions	C&CS Standard	Accounts Payable: Light	Digital Mail: Light
General			
# of authorized End User log in credentials to the Xerox Tools (i.e., Customer Dashboard)	[insert #]	[insert #]	[insert #]
Documents that are Indexed/OCR'd where applicable shall be in the following languages	[insert languages]	[insert languages]	[insert languages]
# of Email addresses (mailboxes) setup for Electronic Document Submission	[insert #]	[insert #]	[insert #]
# mailstop Master Data uploads	[insert #]	[insert #]	[insert #]
Xerox® Capture and Content App – number of licenses Note: Incremental licenses may incur additional charges via the Change Control Process	[insert #]	[insert #]	[insert #]
Onshore Data Entry only	[Yes or No]	N/A	[Yes or No]
% of Pages that are double-sided (i.e., Duplex)	[insert %]	50%	[insert %]
% of any Long Format Documents	[insert %]	N/A	[insert %]
% of any Wide Format Documents	[insert %]	N/A	[insert %]
Average # of Pages per Document	[insert quantity]	N/A	[insert quantity]

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Assumptions	C&CS Standard	Accounts Payable: Light	Digital Mail: Light
Percentage of all Document/Pages that require Light Repair	[insert %, default is 1%]	0.5%	[insert %, default is 1%]
% of Pages with Simple Bindings	[insert %, default is 10%]	10%	[insert %, default is 10%]
All Documents are contained in envelopes, folders, binders, Boxes, or plastic wallets ('poly pockets') Note: Loose paper shall not be accepted by Xerox.	Yes	Yes	Yes
Document Scanning			
Expected Monthly Volume of Scanned Images	[insert quantity]	[insert quantity]	[insert quantity]
Average # of Documents per Day	[insert quantity]	[insert quantity]	[insert quantity]
Average Pages per Document	[insert quantity]	2	[insert quantity]
Estimated percentage of Pages that are classified as Currency and Negotiable Documents	[insert %]	0%	[insert %]
Estimated percentage of Pages that are classified as Cherished Documents	[insert %]	0%	[insert %]
The percentage of all Pages that are capable of being processed through standard bulk scanner	[insert %]	100%	[insert %]
Digital imprinting required	[Yes or No, default is No]	[Yes or No, default is No]	[Yes or No, default is No]
Document Scanning - Boxes			
# of Index Fields per Box (Index fields applied to all Documents from the Box)	[insert #, or default is 2]	N/A	[insert #, or default is 2]
Approximate # of Boxes	[insert #] Boxes	N/A	[insert #] Boxes
Average # of Documents per Box	[insert quantity]	N/A	[insert quantity]
Pallets shall be package such that the lower level Boxes are not damaged.	Yes	N/A	Yes
Transportation of Boxes to the C&CS Facility could be carried out as a series of phased deliveries, spread over the course of the Term	Average of [insert quantity] Boxes per [insert week or month]	N/A	Average of [insert quantity] Boxes per [insert week or month]
Processing			

Capture and Content Services Statement of Work



Assumptions	C&CS Standard	Accounts Payable: Light	Digital Mail: Light
File, folders, envelopes, etc. require Scanning	[Yes or No]	No	[Yes or No]
Pages shall be kept in the order they are received	[Yes or No]	No	[Yes or No]
Metadata shall be captured for applicable Document Process Types as an	[.CSV or .XML] file	CSV file	[.CSV or .XML] file
Specialized re-collation of Documents shall be performed Note: Some Documents may not be able to be placed back inside original container (i.e. envelopes)	No [or Specify requirements if different e.g.: re-binding, place Documents back in folders/wallets, etc.]	No	No [or Specify requirements if different e.g.: re-binding, place Documents back in folders/wallets, etc.]
Required to count hardcopy Pages	[insert yes or no, default is no]	No	[insert yes or no, default is no]
Requests for original Documents are limited to no more than	[insert #] per Business Day	1 per Business Day	[insert #] per Business Day
Expedited Box and/or Document Scanning requests are limited to	[insert #] per Business Day	1 per Business Day	[insert #] per Business Day

Indexing

See Exhibit C: Indexing Specifications.

Assumptions	C&CS Standard	Accounts Payable: Light	Digital Mail: Light
Percentage of Index fields that requires data entry Note: All Indexing fields are easily identifiable in a predetermined location, and Xerox shall not be required to read any Documents in order to locate said Indexing data Note: Index fields that require data entry shall be of sufficiently high quality when viewed by the human eye	[insert %]	100%	[insert %]
Percentage of Documents that require Indexing and are handwritten	[insert %, default is .01%]	0.01%	[insert %, default is .01%]
The Index field(s) (e.g.: 'Title') shall be	Clearly visible	Clearly visible	Clearly visible
The Index field(s) values are detailed in and shall conform to	a mixture of alphabetical, alphanumeric and	A mixture of alphabetical, alphanumeric and	A mixture of alphabetical, alphanumeric and

Capture and Content Services Statement of Work



Assumptions	C&CS Standard	Accounts Payable: Light	Digital Mail: Light
EXHIBIT C: INDEXING SPECIFICATIONS	numeric, Optical Mark Recognition (OMR) marks, 2D/3D barcodes	numeric, Optical Mark Recognition ("OMR") marks, 2D/3D barcodes	numeric, OMR marks, 2D/3D barcodes
Xerox shall use the following Index methods to achieve the requested Indexing quality	[single or double key comparison, default is single key]	Single key	[single or double key comparison, default is single key]
Reading of MICR Documents	[Yes or No]	N/A	[Yes or No]
Customer shall provide Master Data in the specified format using the defined structure. Note: See Exhibit C, Table C-2: Master Data Format, if applicable	[Yes or No]	[Yes or No]	[Yes or No]
Customer Master Data Frequency	[Daily, Weekly, Monthly or Other]	Vendor Master Data – [Daily, Weekly, Monthly] Order Master Data – [Daily, Weekly, Monthly] Company extracts – [Daily, Weekly, Monthly]	[Daily, Weekly, Monthly or Other]
Customer Master Data Update Types	[Incremental table or Full table]	Vendor Master Data – Full table Order Master Data – Incremental table with new entries Company extracts – Full Table	[Incremental table or Full table]

Output Formats

Account Team: Output Formats

The metadata file formats selected in the last two (2) rows of the table must match

Output Formats	C&CS Standard	Accounts Payable: Light	Digital Mail: Light
A single multipage PDF per Document shall be provided as	[Image Only or Image and OCR]	[Image Only or Image and OCR]	[Image Only or Image and OCR]
Image File Name structure	[insert file name structure example].PDF	[insert file name structure example].PDF	[insert file name structure example].PDF
Deliver metadata with Images	[Yes or No]	Yes	[Yes or No]
Metadata Format shall be	[XML or CSV] unicode text file	CSV	[XML or CSV] unicode text file

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Output Formats	C&CS Standard	Accounts Payable: Light	Digital Mail: Light
Metadata File Name structure	[insert file name structure example].[XML or CSV]	[Xerox defined structure] CSV	[insert file name structure example].[XML or CSV]

Document Process Types

Data delivery shall occur per Document in the following format as described in the table below. The two (2) categories of data to be delivered are Images and Metadata.

Account Team: Document Process Types

Each Document Process Type may include multiple Documents. For example, Accounts Payable may include Invoice, debit note, credit note, etc. All of which would be included in the applicable Document Process Type

Delete additional Document Process Type rows if not including more than the Document Process Type 1 – All Types

If the proposed pricing solution requires fewer than 4 Document Process Types, delete the rows as necessary.

If the proposed solution requires more than 4 Document Process Types, add additional rows

Document Type examples are: Invoice Profile 1, Claim, Contract, etc.

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See Exhibit E: Document Process Type Workflow (if applicable)

Assumptions	Document Type	Disposition
Document Process Type decisions are required	N/A	[yes or no, default is no]
Document Process Type 1	Generic	Document Storage
Document Process Type 2	[Insert Type]	[insert Document Storage, Document Return or original Document Destruction]
Document Process Type 3	[Insert Type]	[insert Document Storage, Document Return or original Document Destruction]
Document Process Type 4	[Insert Type]	[insert Document Storage, Document Return or original Document Destruction]

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Original Document Disposition

Account Team: Original Document Disposition

If selecting Store or Destroy after the Image Availability Period, delete the Document Return rows below

General Assumptions	
Availability Period	
"Image Availability Period"	Thirty (30) day period after Images are made available to Customer
"Email Availability Period"	Thirty (30) day period after Images are made available to Customer
Original Document Disposition	

Capture and Content Services Statement of Work



General Assumptions	
After the Image and/or Email Availability Period(s)	[Store or Destroy or Return] Documents
Approximate sq. ft of storage	[insert #] of sq. ft
Document Return	
Customer Address for Return of Documents	[insert address(es)]
Pages shall be kept in the order they are received	[Yes or No, default is No]
Document Return Activities	Gather loose Pages: - Utilize elastic bands to wrap around each Scanned volume or Documents - Place Scanned volume or Documents into relevant Box - Apply a barcode to Box, if applicable, for audit purposes Not required to: - Provide specialized collation of Documents - Remove any inserted barcode slip sheets or barcode stickers - Rebind, no re-stapling, nor reattaching of paper clips to source Documents - Remove undersized Pages from carrier sheets

Accepted Paper Sizes

	Paper Type	Paper Size	Paper Type	Paper size
Scanned Image	A3	11.7 X 16.5	Legal	8.5 X 14
Scanned Image	A4	8.27 X 11.7	Tabloid	11 X 17
Scanned Image	A5	½ of A4	Ledger	17 X 11
Scanned Image	N/A	N/A	Letter	8.5 X 11
Scanned Images – Wide Format Documents	N/A	Short side of Page is wider than A3	Short side of Page is wider than Tabloid	N/A
Scanned Images – Long Format Documents	N/A	Long side of Page is longer than A3, but short side is the same as A4	Long side of Page is longer than Tabloid, but short side is the same as Letter	N/A

Accepted Emails

Extension	Description
Email Message	Email contents as plain text in Multipurpose Internet Mail Extension (MIME) format, containing the Email header and body, including attachments or compressed ZIP, all Documents must be in one (1) of the Accepted Image File Formats set forth in the table below. Zip files cannot be encrypted or password protected Emails without an attachment shall be processed as a Document For Emails with attachments, only the attachment shall be processed as a Document Each attachment contains only one (1) Document, unless attachment is a ZIP file

Capture and Content Services Statement of Work



Extension	Description
	Total size of the attached files must not exceed twenty megabytes (20 MB) per email Email attachments must be in one (1) of the Accepted Image File Formats Zip files cannot be encrypted, or password protected

Accepted Email Attachment File Formats

Image File Type	Extension	Description	C&CS Standard	Accounts Payable: Light	Digital Mail: Light
Multipage TIF/TIFF File	TIF or TIFF	Accepted types are Image-only TIF/TIFF.	Yes	[Yes or Not Applicable]	[Yes or Not Applicable]
Multipage PDF File	PDF	Accepted types are Image-only PDFs, digitally created PDFs (text PDFs) and Searchable PDFs (Image with Text) or mixed type PDF (digital and Image).	Yes	[Yes or Not Applicable]	[Yes or Not Applicable]
Multi-Document Zip File	ZIP	Accepted ZIP files may only include the Image File formats above	Yes	[Yes or Not Applicable]	[Yes or Not Applicable]

Scanning Volume Ramp Up by Month

Account Team: Scanning Volume Schedule by Month

Fill in estimated Scanning volume per month. This volume should align to the Business case

Scanning Volume ramp up should be between 3 and 8 months as a default position. If more than 8 months or beginning in months 1 and 2, engage Service Delivery

Expected Scanning Volume by Month								
1	2	3	4	5	6	7	8	or 9+



EXHIBIT B: SCANNER SETTINGS

Customer shall not require Xerox to make any adjustments to the scanner settings to accommodate variations in the quality of originals and/or subsequent Image Output.

Scanner Configuration	
Scan Pages in the following formats	See Accepted Paper Sizes
Fixed Resolution of	300 DPI
Scanned with auto deskew software	Double-sided (duplex) mode
Pages Scanned with auto-blank Page deletion	[Yes or No]
Automatic Image rotation Note: If enabled, when documents are set in different directions or many characters using text decorations may not be correct.	[Yes or No]
Black margin removal (auto cropping)	[Yes or No]
Punch hole detection	



EXHIBIT C: INDEXING SPECIFICATIONS

Account Team: Indexing Specifications

Align Table C-1 with the selections specified within the Evaluation Tool and delete all rows that are not required/needed. This table must match the Evaluation Tool used for this opportunity.

If it is Accounts Payable Light then insert Field Definition from the selected Customer Profile (Catalog).

Table C-1: Indexing Value Examples

Index Field Name	Character Length	Index Field Value	Examples	Validation Rules
Claim/Case Number	12 characters	Numeric	108635/2014	Last number is a digit
Forename	6-10 characters	Alphabetical	Herman	Matches Customer provided Master Data list
Surname	6-10 characters	Alphabetical	Pearson	Matches Customer provided Master Data list
Document Type	6 characters	Numeric	ET1, ET3, SupDoc	
Mail Stop			M20, M14, etc.	
First Name			Jane	
Last Name			Doe	
Department			Accounting	
Folder ID				
Document Type				

Table C-2: Master Data Format Specification

Account Team: Master Data Format Specification

Customer to Xerox file format specification.

The "Required Master Data Files" row at the bottom of the table must be removed if you are not proposing an AP Light solution.

Provided by Customer in a Comma Separated Values (CSV) format

Type	Description	Examples
File Name	Unique filename, ending with file extension .csv Start of file name should be YYYYMMDDHHMMSSZZZZZZZZZZ_TYPE.csv YYYY – 4-digit Year MM – 2-digit Month DD – 2-digit day HH – 2-digit hour	202012282133100000000012_VENDOR.csv 202012282133100000000013_EMPLOYEE.csv 202101012133100000000014_CLAIM.csv 202101012133100000000015_Order.csv



Type	Description	Examples
	MM – 2-digit SS – 2-digit ZZZZZZZZZZ – 10-digit sequence number _ - Underscore TYPE – Process Type/Document Type/Index Field Name	202101012133100000000016_Company.csv
Field Names	All lowercase, no space, no numbers, no special characters (exception to underscore _) and accents, easy and understandable, short names no-longer than two words.	employee_name employee_id firstname vendor_id
Field and Value Separator	, comma	"1","231","Name A","7784723849"
Decimal Separator	. period	\$12.12 - twelve dollars and twelve cents = "12.12" 12.1234212 - twelve and one hundred twenty-three thousand two hundred twelve millionths = "12.1234212"
Allowed Escape Sequences	\' single quote \" double quote \\ backslash	
Field Values	Field values to be wrapped in " quotation marks.	"1","231","Name A","7784723849"
1 st Column	First column should always contain sequential line number for the current file.	"line_number","vendor_id","name","fax" "1","231","Name A","7784723849" "2","455","Name B","77234223849" "3","2343","Name C","7784723449" "4","2343","Name D","77847223449"
1 st Line	First Line of the CSV contains field names wrapped in " quotation marks.	"line_number","vendor_id","name","fax" "1","231","Name A","7784723849" "2","455","Name B","77234223849" "3","2343","Name C","7784723449" "4","2343","Name D","77847223449"
Required Master Data Files	For Accounts Payable: – vendor Master Data File – order Master Data File – company extracts Master Data File	YYYYMMDDHHMMSSZZZZZZZZZZ_VENDOR.csv YYYYMMDDHHMMSSZZZZZZZZZZ_ORDER.csv YYYYMMDDHHMMSSZZZZZZZZZZ_EXTRACT.csv

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EXHIBIT D: GOOD QUALITY IMAGE REVIEW REQUIREMENTS

Image quality review requirements for Documents that are not identified as "Poor Quality", include, but are not limited to:

- The Image is a legible reproduction of the original as demonstrated and documented and approved by the Customer during CRT
- The Image is not skewed beyond ten (10) degrees (unless the original Document is skewed beyond ten (10) degrees
- The complete Image is produced, without folds masking the Document or corners being cut-off.
 - o It should be noted that on Poor Quality original Documents where the corners of the Pages have been folded over for a period of time that it may not be possible to "unfold" the corners to the degree that a Good Quality Image Scan shall be achieved.
 - o Xerox shall ensure reasonable endeavors are made to ensure there are no folds in the Documents when Scanned

EXHIBIT E: DOCUMENT PROCESS TYPE WORKFLOW**Account Team: Document Process Type Workflow**

Insert the applicable Document Process Type(s), the Index Fields, and Decision(s). Each Document Process Type may have more than one (1) Index Field. Document Process Type(s) without Index Fields, mark the Index Field column with "N/A"

This is an example table only and will need be updated/replaced with Customer specific content

Document Process Type #	Document Process Type	Index Field	Decision
[insert the applicable Document Process Type Number as aligned in Exhibit A: Services Scope Assumptions]	Advertising	[Name].[Index Type].[Length]	Sent by mail to Customer on a daily basis (keep the envelope). Postal costs shall be added at standard rates.
[insert the applicable Document Process Type Number as aligned in Exhibit A: Services Scope Assumptions]	Claims, reminders, statements	[Name].[Index Type].[Length]	Separate and Scan Documents, identifying the Document Process Types Scanned – claims, reminders, or statements.
[insert the applicable Document Process Type Number as aligned in Exhibit A: Services Scope Assumptions]	Audit Requests	[Name].[Index Type].[Length]	Separate and Scan Documents, identifying the Document Process Type in the subject – audit requests.
[insert the applicable Document Process Type Number as aligned in Exhibit A: Services Scope Assumptions]	Invoice P/O which normally has the following structure:	[Name].[Index Type].[Length]	Separate and Scan Documents, identifying the Document Process Types Scanned – invoice with a PO or an invoice without a PO, late archiving (identified with document reference starting by the applicable Document reference). Invoices with copies, the duplicates can be destroyed.
[insert the applicable Document Process Type Number as aligned in Exhibit A: Services Scope Assumptions]	Self-invoices Documents (identified by a Customer layout)	[Name].[Index Type].[Length]	Should not receive self-billing documents – action: Scan and assign it to "Reject folder". Exception: Country A is legally required that supplier sent self-invoice is signed and marked – action: send by mail to Customer on a daily basis to unblock and then shall be returned to Xerox for late archiving Scanning and archive.

**EXHIBIT F: STANDARD DOCUMENT PREPARATION ACTIVITIES**

Type	Preparation Action by Xerox	Comment
Documents that are clipped or stapled together	Metal clips of any kind must be removed using the appropriate tools	It is not permitted to tear off clipped or stapled portions of a Document
Documents that are fastened by pressing them together	Must also be separated using an appropriate tool	It is not permitted to have torn corners
Information that is affixed to the Document	Leave it there unless it is covering up any information – if covering up any information then remove it and affix to another Page	Most importantly do not let the 'affixed' information block any information written onto the Document
Difficult to Scan	These Documents shall be separated into an additional stack, each Document shall be marked on the first Page in a free area with a reference to "Poor Quality"	Customer shall recognize this mark. It shall bypass Indexing
Non Scannable Items	Send back to Customer with explanation at Customer's expense	Customer needs to either manually enter data into their system, or issue a replacement Item



EXHIBIT G: METADATA OUTPUT

Table G-1: Metadata Data Format Specification

Provided by Xerox to the Customer in a Comma Separated Values (CSV) format

Type	Description	Examples
File Name	Unique filename, ending with file extension .csv XX [CCC][YYYY][MM][DD][#####].csv XX = constant (e.g., IN for INVOICE) CCC = 3-character customer code (e.g., ABC) YYYY = 4-digit year (e.g., 2021) MM = 2-digit month (e.g., 09) DD = 2-digit day (e.g., 16) ##### = Sequential number - reset daily (e.g., 00001)	INABC2021091600001.csv
Field Names	All uppercase, no space, no numbers, no special characters (exception to underscore _) and accents, easy and understandable.	EMPLOYEE_NAME EMPLOYEE_ID FIRSTNAME VENDOR_ID
Field and Value Separator	, comma separated. Field values to be wrapped in " quotation marks.	"1","231","Name A","7784723849"
Decimal Separator	. period	\$12.12 - twelve dollars and twelve cents = "12.12" 12.1234212 - twelve and one hundred twenty-three thousand two hundred twelve millionths = "12.1234212"
Allowed Escape Sequences	\' single quote \" double quote \\ backslash	
1 st Column	First column should always contain line type.	INVOICE BANK ACCOUNT

END OF STATEMENT OF WORK FOR CAPTURE AND CONTENT SERVICES

Electronic Document Management System (EDMS) – DocuShare® Schedule Addendum

This Addendum (the “**EDMS – DocuShare® Schedule Addendum**” or “**Addendum**”) is made and entered into by and between Xerox Corporation (“**Xerox**”) and << Enter Customer Name>>> (“**Customer**”) as of the date of the last signature affixed hereto (the “**Addendum Effective Date**”) to add the terms and conditions for the use of the EDMS – DocuShare® Schedule attached to an applicable Capture and Content Services Statement of Work (SOW) to the Services Master Agreement No. << Enter 7 Digit Contract Number from Customer's SMA >>> (“**Agreement**”) of <<<Agreement Effective Date>>>. Xerox and Customer are each also referred to herein as a “Party” and collectively as the “Parties.”

1. This Addendum incorporates by reference all of the provisions of the Agreement. From and after the Amendment Effective Date, each reference in the Agreement to “this Agreement”, “this Services Master Agreement”, “herein”, “hereunder”, “hereto” or similar words or phrases, and all references to “the Agreement” in any amendments, related agreements, documents, or other writings shall be deemed to mean the Agreement as amended by this Addendum.
2. All Schedules, Exhibits, Statements of Work and Attachments hereto are hereby incorporated into this Addendum by reference and made a part hereof. If there is any conflict between this Addendum and its Schedules, Exhibits, Statements of Work or Attachments, this Addendum shall control.
3. **CHARGES** – Customer agrees to pay the charges for EDMS – DocuShare® in accordance with the rates set forth in the Capture and Content Services (C&CS) Statement of Work (“SOW”) and to pay the charges for its use of the EDMS – DocuShare® in accordance with the fees set forth in the EDMS – DocuShare® Schedule as applicable, both of which are attached hereto.
4. **TERM** – This Addendum shall commence upon the Addendum Effective Date and, subject to completion of Transition, shall be terminate upon expiration of the applicable Capture and Content Services (C&CS) Statement of Work affixed hereto (the “SOW”).
 - A. **Early Termination:** The EDMS - DocuShare® Schedule is an integral component of the C&CS SOW. Customer termination of the Schedule Services shall constitute termination of the applicable C&CS SOW.
 - B. **Effect of Termination:** Upon termination or expiration of the applicable EDMS - DocuShare® Schedule all rights to access the applicable EDMS - DocuShare® Schedule Services cease.
5. **CHANGES** – Any amendments, modifications, alterations, or other changes to this Addendum must be made in a writing signed by both Parties and upon execution, will be incorporated into this Addendum.
6. **DOCUMENT STORAGE ADDITIONAL TERMS AND CONDITIONS**
 - C. **Definitions.**
 - i. “Authorized User” means Customer employees, employees of Customer Affiliates, and outsourced service providers under contract to and acting solely on behalf of Customer.
 - ii. “Cloud Named User (CNU)” means a single, identified Authorized User who has access to the Service. A CNU may not be accessed by multiple Authorized Users; however, a CNU license may be reassigned from one Authorized User to another, so long as the first Authorized User no longer has access to the CNU license.
 - iii. “Concurrent Use License” means a license based on the number of simultaneous users accessing the DocuShare® Service. A Concurrent Use License may be used by a number Authorized Users logged into the

DocuShare® Service measured at any one point in time that does not exceed the maximum number of Concurrent User Licenses purchased pursuant to the terms of this Schedule, which is detailed in Attachment A of this Schedule.

D. License Grant.

- i. Subject to the terms and conditions of the Agreement, including all Attachments and Schedules and for the duration of the Term, Xerox grants Customer a limited, nonexclusive, nontransferable, non-sublicensable license to access and retrieve content stored by the DocuShare® software program, including all updates, upgrades, modifications and improvements made available by Xerox from time to time hereunder (collectively, “DocuShare® Software”) in a hosted format accessed through a web portal and associated Documentation (together with the DocuShare® Software, the “DocuShare® Service”) and display said content solely for Customer’s internal business operations, via a number of Authorized Users that shall not at any time exceed the number of CNU’s purchased by Customer or the number of Concurrent User Licenses, as applicable. Customer shall cause Authorized Users to be bound by, and is responsible and liable for Authorized Users’ compliance or noncompliance with, the terms of this Attachment B.
- ii. Customer shall not, and shall not authorize any third party to: (i) use or provide the DocuShare® Service on a service bureau, outsourcing, renting, or time-sharing basis, or (ii) copy, modify, create a derivative work of, reverse engineer, reverse assemble, disassemble, or decompile the DocuShare® Service or DocuShare® Software or any part thereof, or otherwise attempt to discover any source code, modify the DocuShare® Service in any manner or form, or use unauthorized modified versions of the DocuShare® Service, including (without limitation) for the purpose of building a similar or competitive product or service or for the purpose of obtaining unauthorized access to the DocuShare® Service or DocuShare® Software. Customer shall not access, or assist any third party to access, the DocuShare® Service by any means other than through the interface and method provided by Xerox.
- iii. Customer acknowledges and agrees that Xerox and its licensors own all right, title and interest in and to all intellectual property rights in the DocuShare® Service and the DocuShare® Software. Without limiting the foregoing, DocuShare® Software contains portions of imaging code owned and copyrighted by Accusoft Corporation, Tampa, FL (all rights reserved). Any rights not expressly granted herein are reserved by Xerox. Except for the limited right to use the DocuShare® Services stated herein, Customer has no right to use any intellectual property of Xerox, including trade names, trademarks, service marks, logos, domain names, or other distinctive brand features.

E. Customer Use.

- i. Customer will not:
 - a. Engage in any activity that interferes with, disrupts or attempts to gain unauthorized access to the DocuShare® Service, other user account, or servers, networks or products connected to or used to provide the DocuShare® Service;
 - b. Submit information or use the DocuShare® Service to engage in conduct that (1) is unlawful, defamatory, libelous, invasive of another’s privacy, threatening, tortious, abusive, harassing, hateful, racially or ethnically offensive, pornographic, obscene or otherwise objectionable; (2) infringes, misappropriates or misuses any patent, trademark, trade secret, copyright, right of publicity, or other proprietary right of any party; or (3) contains software viruses or any

other computer code, files or programs that are designed or intended to disrupt, damage or limit the functioning of any software, hardware, or telecommunications equipment or to damage or obtain unauthorized access to any data or other information of Xerox or any third party;

- c. Use the DocuShare® Service (1) to export Customer Information or any other software or data in violation of applicable laws including U.S. laws; (2) to plan or carry out any illegal activity; or (3) in any other manner that violates any applicable local, state, national, foreign, or international law; or
- d. Remove, obscure, or alter any proprietary rights notices (including copyright and trademark notices) which may be affixed to, contained within, or displayed with the DocuShare® Service or DocuShare® Software.

F. Customer Registration Data and User Account Information.

- ii. Customer represents that it and its Authorized Users have provided accurate, current, and complete information to gain access to the DocuShare® Service ("Registration Data"). Customer shall notify Xerox of any updates to Registration Data at docushare.licenses@xerox.com, Attn: Contracts Manager. Xerox may suspend Customer's account if Xerox has reasonable grounds to believe Registration Data is untrue, inaccurate, incomplete, or not current.
- iii. Customer shall provide and assign unique passwords and user names to each Authorized User for each CNU and each Concurrent Use License purchased ("User Account Information"). Customer acknowledges and agrees that (i) User Account Information will be accurate and up to date and that if Customer learns that incorrect information has been provided, Customer will correct this and update Xerox with the correct details, (ii) Customer is responsible for confidentiality of user passwords and user names, and (iii) Customer will be solely liable to Xerox for all access and use via User Account Information. Customer shall promptly notify Xerox if Customer becomes aware of any unauthorized use of User Account Information.
- iv. Customer acknowledges and agrees that Xerox may disclose Registration Data and User Account Information: (i) to its Affiliates in the course of developing, providing, managing, administering and improving the DocuShare® Service; (ii) when Xerox believes in good faith that disclosure is necessary to protect Xerox' rights under the Agreement or this Schedule, protect the safety of others, investigate fraud or other illegal activity or respond to a government request; (iii) as required by law; and/or (iv) in the event of a merger, acquisition or reorganization of Xerox or a relevant portion of its assets, to the acquiring or surviving entity.

- G. Transmission of Data and Network Security Standards. Customer agrees that all network components, internet connections, and other hardware and software Customer may access in the course of using the DocuShare® Service, including without limitation browser software, shall support the HTTPS protocol, Secure Socket Layer (SSL) protocol and/or such other data security protocol(s) identified in the Documentation. Customer agrees to follow logon procedures that support such protocols. Customer is responsible for the accuracy, adequacy, availability, and security of Customer systems. Customer shall not intentionally interfere with or disrupt Xerox or third party systems. Customer acknowledges that Xerox and third party systems may be located, and User Account Information and Customer Information may be transmitted, stored, and processed, in the United States or any other country in which Xerox and/or its Affiliates maintain facilities. Customer is solely responsible for ensuring the security and backing up of Customer Information. Customer acknowledges that electronic communications may be accessed by

unauthorized parties and that Xerox is not responsible for any Customer Information that may be lost, altered, intercepted, or stored without authorization during transmission over Customer or third party systems. Network security standards are managed and operated by Microsoft Azure. Detailed information can be found at <https://docs.microsoft.com/en-us/azure/security/security-get-started-overview>.

In the event of a conflict between the Agreement, this Addendum, any Exhibits attached hereto and any Order, the order of precedence shall be the Agreement, then this Addendum, then the Order, then Statement of Work, then the DHCPs Schedule.

ENTER CUSTOMER NAME

XEROX CORPORATION

Signature

Name (please print)

Title

Address

Date

Signature

Name

Title

Address

Date



SERVICES MASTER AGREEMENT

THIS SERVICES MASTER AGREEMENT NO. <<Enter 7-digit Contract Number>> is between Xerox Corporation ("**Xerox**"), a New York corporation with offices at 201 Merritt 7, Norwalk, CT 06851-1056, and <<Enter Customer's Legal Name>> ("**Customer**"), a << Enter State >> corporation with offices at << Enter Customer's Full Address >>.

AGREEMENT STRUCTURE

This Agreement serves as a master agreement to enable Xerox and Customer to contract with each other for a range of products and services to be provided to Customer's and its Eligible Affiliates' United States ("U.S.") locations. This Agreement is grouped into Modules. The GENERAL Module applies to all products and services provided hereunder, while the other Modules apply as appropriate to what Xerox is providing to Customer under the applicable Order.

DEFINITIONS MODULE

1. DEFINITIONS

The following definitions (and those found elsewhere in this Agreement) apply unless otherwise specified in an Order.

- a. **Affiliate** means a legal entity that directly or indirectly controls, is controlled by, or is under common control with either party. An entity is considered to control another entity if it owns, directly or indirectly, more than 50% of the total voting securities or other such similar voting rights.
- b. **Agreement** means this Services Master Agreement. This Agreement may also be referred to in ordering and contracting documents as a "Services and Solutions Agreement" or "SSA."
- c. **Amortized Services** means certain services such as consulting and training, the Charges for which are amortized over the term of an Order.
- d. **Application Software** means Xerox-brand software that allows Equipment or Third Party Hardware to perform functions beyond those enabled by its Base Software.
- e. **Base Software** means software embedded, installed, or resident in Equipment that is necessary for operation of the Equipment in accordance with published specifications.
- f. **CPI Adjustment Percentage** means the CPI-U (Consumer Price Index for All Urban Consumers).
- g. **Cartridges** means copy/print cartridges and xerographic modules or fuser modules designated by Xerox as customer-replaceable units for the Equipment.
- h. **Charges** mean the fees payable by Customer for Services, Maintenance Services and/or Products as specified in this Agreement.
- i. **Confidential Information** shall have the meaning set forth in Section 2.10.
- j. **Consumable Supplies.** Consumable Supplies vary depending upon the Equipment model, and include: (i) for black and white Equipment, standard black toner and/or dry ink, black developer, Copy Cartridges, and, if applicable, fuser agent required to make impressions; (ii) for full color Equipment, the items in (i) plus standard cyan, magenta, and yellow toners and dry inks (and their associated developers); and, (iii) for Equipment identified as "Phaser", only, if applicable, black solid ink, color solid ink, imaging units, waste cartridges, transfer rolls, transfer belts, transfer units, belt cleaner, maintenance kits, print Cartridges, drum Cartridges, waste trays and cleaning kits. Unless otherwise set forth in an Order, Consumable Supplies excludes paper and staples.
- k. **Customer Assets** means all hardware, equipment, fixtures, software, assets, networks, work space, facilities, services and other assets owned, leased, rented, licensed or controlled by Customer (including Existing Equipment and Existing Software) that Customer makes available to Xerox to enable Xerox to fulfill its obligations under an Order.
- l. **Customer Facilities** means those facilities controlled by Customer where Xerox performs Services or provides Products.
- m. **Customer Information** means documents, materials, and information (including Private Information) belonging to Customer that Customer provides to Xerox for Xerox to provide Products and Services under an Order.
- n. **Date of Installation** means: (a) for Equipment (or Third Party Hardware) installed by Xerox, the date Xerox determines the Equipment (or Third Party Hardware) to be operating satisfactorily as demonstrated by successful completion of diagnostic routines and is available for Customer's use; and (b) for Equipment (or

Third Party Hardware) designated as “Customer Installable,” the Equipment (or Third Party Hardware) delivery date.

- o. **Description of Services or DOS** means a document attached to an Order which references the applicable Services Contract number and specifies the Products and/or Services provided under such Order.
- p. **Diagnostic Software** means Xerox-proprietary software embedded in or loaded onto Equipment and used by Xerox to evaluate or maintain the Equipment.
- q. **Documentation** means all manuals, brochures, specifications, information and software descriptions, and related materials customarily provided by Xerox to customers for use with certain Products or Services.
- r. **Effective Date** means the date this Agreement is signed by Xerox.
- s. **Eligible Affiliate** means a domestic Customer Affiliate that has met Xerox’s credit requirements for ordering Services, Maintenance Services and/or Products under this Agreement.
- t. **Equipment** means Xerox-brand equipment.
- u. **Excluded Taxes** means (i) taxes on Xerox’s income, capital, and employment, (ii) taxes for the privilege of doing business, and (iii) personal property tax on Equipment rented or leased to Customer under this Agreement.
- v. **Existing Equipment** means devices which are leased, rented or owned by the Customer outside of this Agreement, which are used to provide Services, and which remain subject to the terms and conditions of the agreements under which they were originally acquired.
- w. **Existing Software** means software licensed by the Customer outside of this Agreement and which is used to provide the Services and which remains subject to the terms and conditions of the agreements under which it was originally acquired.
- x. **Feature Releases** means new releases of Software that include new content or functionality.
- y. **Force Majeure Event** means a circumstance beyond a party’s reasonable control, which circumstances include, but are not limited to, the following: act of God (e.g., flood, earthquake, wind); fire; war; act of a public enemy or terrorist; act of sabotage; strike or other labor dispute; riot; misadventure of the sea; inability to secure materials and/or transportation; or a restriction imposed by legislation, an order or a rule or regulation of a governmental entity.
- z. **Funds** means collectively Amortized Services and Third Party Funds.
- aa. **Intellectual Property** means all intellectual property and associated intellectual property rights including patent, trademark, service mark, copyright, trade dress, logo and trade secret rights which exist and belong to a party as of the Effective Date or that may be created by a party after the Effective Date. Xerox’s Intellectual Property includes, without limitation, Software, Remote Product Info and Xerox Tools.
- bb. **Maintenance Releases or Updates** means new releases of Software that primarily incorporate coding compliance updates and error fixes and are designated as “Maintenance Releases” or “Updates.”
- cc. **Maintenance Services** means required maintenance of Equipment to keep the Equipment in good working order.
- dd. **Module** means a specific set of terms and conditions contained in this Agreement that is identified as a “Module.” The Modules under this Agreement are the DEFINITIONS, GENERAL, SERVICES, EQUIPMENT, EQUIPMENT PURCHASE, MAINTENANCE SERVICES and SOFTWARE LICENSE Modules.
- ee. **Monthly Minimum Charge or MMC** means the regular recurring Charge that is identified in an Order and which, along with any additional print/impression charges, covers the cost for the Services, Maintenance Services and/or Products. The MMC may also include lease buyout funds, Funds, monthly equipment component amounts, remaining Customer obligations from previous contracts, and amounts being financed or refinanced. One-time items, recurring separate charges and usage based charges (as such items or charges, as applicable, are defined on an Order) are billed separately from the MMC.
- ff. **Order** means a document that Xerox requires for processing of orders for Services, Maintenance Services and/or Products hereunder, which may specify the contracting parties and location(s) where the foregoing will be provided; Customer’s requested shipment date; the Products that Customer will purchase, lease, rent or license; the Services and/or Maintenance Services that Xerox will provide; the applicable Charges and expenses; the term during which the Services, Maintenance Services and/or Products described therein shall be provided; the Xerox-provided contract number; and any applicable SLAs. An Order must reference the applicable Services Contract number, and may also be in the form of a Services and Solutions Order (“SSO”), a Xerox Order Agreement (“XOA”) (which is used solely for an outright purchase by Customer under the EP

module of this Agreement), an eCommerce Order (which is used solely for electronic ordering through an eCommerce Portal as defined and described in Section **2.16**), or a Customer-issued PO. A Statement of Work may be part of an Order but cannot function as a stand-alone ordering document.

- gg. **Privacy Laws** means laws relating to data privacy and data protection as applicable to Xerox's performance of the Services.
- hh. **Private Information** means Protected Health Information ("PHI") as defined by the Health Insurance Portability and Accountability Act ("HIPAA"), Non-Public Personal Information ("NPI") as defined by the Gramm-Leach Bliley Act ("GLBA") and equivalent categories of protected health and financial information under applicable state Privacy Laws.
- ii. **Products** means Xerox Products and/or Third Party Products supplied by Xerox and provided to Customer pursuant to an Order.
- jj. **Purchase Order or PO** means a document containing the applicable Services Contract number that is issued by Customer to Xerox for Order entry purposes only. Any terms and conditions in a PO at variance with or in addition to the applicable Services Contract are not binding and are of no force or effect.
- kk. **Purchased Equipment** means Equipment or Third Party Hardware that Xerox sells outright to Customer under the EP Module.
- ll. **Residuals** means general ideas, concepts, know-how, methods, processes, technologies, algorithms or techniques related to the Products and/or Services, which are in non-tangible form and retained in the unaided memory of persons who have had access to Confidential Information.
- mm. **Service Level Agreements or SLAs** means the levels of performance for the Services, if applicable, as set out in the applicable Order.
- nn. **Services** means managed services (e.g. copy center and mailroom services), consultative services, and/or professional services, including, but not limited to, assessment, document management, and managed and centralized print services, as more fully described in the applicable Order. Standard back-office administrative and contract support functions, such as billing, contract management and order processing, are not Services, but are included in the pricing provided for the Services hereunder.
- oo. **Services Contract** means the applicable terms and conditions of this Agreement, the first Order having a particular assigned Services Contract number, and each additional Order, if any, with the same Services Contract number.
- pp. **Services Software** means software products used to provide certain Services (both a server component and/or client component to be installed on end user's workstations, mobile devices and/or laptops) that may include one or more of the individual software modules identified on a Statement of Work or Order.
- qq. **Software** means Services Software, Base Software and Application Software.
- rr. **Statement of Work or SOW** means a document which references the applicable Services Contract number and specifies the details of a particular transaction where Customer wishes to acquire Services, Maintenance Services and/or Products from Xerox under this Agreement.
- ss. **Supplier Equipment** means devices which are supplied by Xerox to the Customer during the term of an Order. Supplier Equipment may be Equipment or Third Party Hardware.
- tt. **Taxes** means any and all taxes of any kind or nature, however denominated, imposed or collected by any governmental entity, including but not limited to federal, state, provincial, or local net income, gross income, sales, use, transfer, registration, business and occupation, value added, excise, severance, stamp, premium, windfall profit, customs, duties, real property, personal property, capital stock, social security, unemployment, disability, payroll, license, employee or other withholding, or other tax, of any kind whatsoever, including any interest, penalties or additions to tax or additional amounts in respect of the foregoing.
- uu. **Third Party Funds** means funds Xerox provides to Customer to acquire Third Party Hardware or to license Third Party Software and/or to retire debt on existing Third Party Hardware.
- vv. **Third Party Hardware** means non-Xerox brand equipment.
- ww. **Third Party Products** means, collectively, Third Party Hardware and Third Party Software.
- xx. **Third Party Software** means non-Xerox brand software.
- yy. **Transaction Taxes** means any and all Taxes that are required to be paid in respect of any transaction and resulting Charges under this Agreement and any transaction documents, including but not limited to sales, use, services, rental, excise, transactionally-based gross receipts, and privilege Taxes.

- zz. **Xerox Products** means Equipment, Software and Consumable Supplies acquired pursuant to this Agreement.
- aaa. **Xerox Tools** means certain proprietary tools used by Xerox to provide certain Services, and any modifications, enhancements, improvements thereto and derivative works thereof.

GENERAL MODULE

2. GENERAL

The terms and conditions in this GENERAL Module apply to all Services, Maintenance Services, and Products acquired by Customer under this Agreement.

2.1. Agreement Structure

- a. **General Contract Structure.** The parties intend for this Agreement to serve as a master agreement stating the terms and conditions governing separate transactions between (i) Xerox and Customer, and (ii) Xerox and Eligible Affiliates. Xerox will provide, and Customer will procure, Services, Maintenance Services and/or Products in accordance with the terms and conditions stated in this Agreement, any Services Contract(s), and any applicable Orders.
- b. **Eligible Affiliates.** Only Customer and its Eligible Affiliates may acquire Services, Maintenance Services and Products under this Agreement. If an Eligible Affiliate establishes a Services Contract by signing an Order, it will be the "Customer" for the purposes of such Services Contract. If Customer divests an Eligible Affiliate, such divested entity is no longer eligible to establish any new Services Contracts or to submit any additional Orders under an existing Services Contract; however, Products installed and Services being provided at such divested entity under an existing Order shall retain the pricing and terms and conditions thereof.
- c. **Orders and Services Contracts.**
 - i. Xerox may accept Orders either by its signature or by commencing performance. Xerox reserves the right to review and approve Customer's credit, or in the case of an Order by an Eligible Affiliate, such Eligible Affiliate's credit, prior to acceptance of an Order and the entity placing the Order hereby authorizes Xerox or its agent to obtain credit reports from commercial credit reporting agencies for this purpose.
 - ii. Orders for Services, Maintenance Services, and/or Products are grouped into Services Contracts. Each separate Services Contract will be established when the first Order is placed that bears a new Services Contract number assigned by Xerox and Xerox accepts that Order. Each Services Contract will be assigned its own Services Contract number that will consist of this Agreement's number followed by a three-digit extension. Each Services Contract constitutes a separate contract under this Agreement. Customer may add Services, Maintenance Services or Products to an existing Services Contract by submitting additional Orders referencing the applicable Services Contract number. Each Services Contract will consist of the terms and conditions of this Agreement, the first Order under the Services Contract number and each additional Order with the same Services Contract number.
 - iii. Unless Customer provides notice in writing at least 30 days before the end of the term of an Order of its intention not to renew, the Order will renew automatically on a month-to-month basis on the same terms and at the same price.
 - iv. Orders may be submitted by hard copy or electronic means and those submitted electronically will be considered: (a) a "writing" or "in writing;" (b) "signed" by the Customer; (c) an "original" when printed from electronic records established and maintained in the ordinary course of business; and (d) valid and enforceable.

2.2. CHARGES, PAYMENT AND DEFAULT

- a. **Charges.** Charges for the particular Services, Maintenance Services, and/or Products will be set forth in an Order and are exclusive of any and all Transaction Taxes. Xerox's then current overtime rates will apply to Services requested and performed outside Customer's standard working hours. If Customer has any special or customized invoicing requirements, Xerox reserves the right to charge Customer a customization fee of \$100 per invoice.
- b. **Payment.** Customer agrees to pay Xerox all undisputed amounts due under each invoice via check, Automated Clearing House debit, Electronic Funds Transfer, or direct debit from Customer's bank account within 30 days after the invoice date. Restrictive covenants submitted for or with payment to indicate that it

is in full satisfaction of an invoice will not operate as an accord and satisfaction to reduce Customer's payment obligations if it is not, in fact, full payment. For any payment not received by Xerox as of the due date, Xerox may charge, and Customer agrees to pay, a late charge of the greater of \$25 or 5% of the amount overdue (not to exceed the maximum amount permitted by applicable law) as reasonable collection costs. If Customer disputes any amount included in an invoice, then (i) Customer must notify Xerox of the dispute in writing, (ii) such notice shall include a description of the items Customer is disputing and the reason such items are being disputed; and (iii) Customer shall promptly exercise its best efforts to work with Xerox to resolve such dispute. Pending resolution of such disputed amount, Customer shall pay any and all undisputed amounts within 30 days of invoice date, including the MMC which Customer agrees shall not be subject to dispute at any time.

- c. **Default.** Customer will be in default if Xerox does not receive any payment within 15 days after the date it is due, or if Customer breaches any other obligation under this Agreement, any Services Contract, or any other agreement with Xerox. If Customer defaults, Xerox, in addition to its other remedies (including cessation of Services, Maintenance Services and/ or Consumable Supplies), may require immediate payment of (1) all amounts then due, plus interest on all amounts due from the due date until paid at the rate of 1.5% per month (or the maximum rate or amount allowed under applicable law), and (2) any early termination charges set forth in this Agreement or in the applicable Services Contract and/or Order(s). Customer will pay all reasonable costs, including attorneys' fees, incurred by Xerox to enforce any Services Contract.

2.3. Taxes

Customer will be responsible for all Transaction Taxes. Transaction Taxes will be included in Xerox's invoice unless Xerox receives proof of Customer's tax-exempt status. Customer shall not be responsible for Excluded Taxes.

2.4. Customer Responsibilities

Customer agrees to perform its responsibilities under this Agreement in support of the Services, Maintenance Services, or Products in a timely manner. Customer agrees:

- a. that Products acquired hereunder are ordered for Customer's (or its Affiliates') own internal business use (rather than resale, license and/or distribution outside of Customer's organization) and will not be used for personal, household or family purposes;
- b. to (1) provide Xerox and its agents with timely and sufficient access, without charge, to Customer Facilities required by Xerox to perform Services and Maintenance Services and/or provide Products, and (2) ensure that Customer Facilities are suitable for the Services, Maintenance Services and/or Products, safe for Xerox personnel, and fully comply with all applicable laws and regulations, including without limitation any federal, state and local building, fire and safety codes;
- c. to provide Xerox and its agents with timely and sufficient use of and access, without charge, to Customer Assets required by Xerox to perform Services and Maintenance Services and/or provide Products, and to grant Xerox and its agents sufficient rights to use, access and, if agreed, modify the same;
- d. to acquire or continue maintenance, repair and software support services, without charge to Xerox, for all Customer Assets that Customer permits Xerox to use or access;
- e. to maintain the manufacturer's maintenance agreement for any Third Party Products;
- f. to provide Xerox with access to appropriate members of Customer personnel, as reasonably requested by Xerox, in order for Xerox to perform the Services and Maintenance Services and/or provide Products;
- g. to respond to and provide such documentation, data and other information as Xerox reasonably requests in order for Xerox to perform the Services and Maintenance Services and/or provide Products;
- h. to contract for the minimum types and quantities of Equipment and Consumable Supplies required by Xerox to perform the Services and Maintenance Services;
- i. that, as between Xerox and Customer, Customer alone is responsible for backing up its data and content and Xerox shall not be responsible for Customer's failure to do so;
- j. that as between Xerox and Customer, Customer alone is responsible for determining whether content and materials provided to Xerox (i) is libelous, defamatory or obscene, or (ii) may be duplicated, scanned or imaged without violating a third party's intellectual property rights; and
- k. to provide contact information for Equipment such as name and address of Customer contact.

2.5. Warranties

- a. **Mutual Warranties.** Each party represents and warrants to the other, as an essential part of this Agreement, that:

- i. it is duly organized and validly existing and in good standing under the laws of the state or country of its incorporation or formation;
- ii. this Agreement and the Orders hereunder have been duly authorized by all appropriate corporate action for signature; and
- iii. the individual signing this Agreement, and all Orders (where applicable), is duly authorized to do so.

b. Xerox Warranties.

- i. Services Performance. Xerox agrees to perform the Services in a professional manner, consistent with applicable industry standards. Xerox will re-perform any Services not in compliance with this representation and brought to Xerox's attention in writing within 30 days after such Services are performed, which shall be the exclusive remedy for such non-compliance.
- ii. Equipment Warranty. Any Equipment warranty to which Customer is entitled shall commence upon the Date of Installation. Use by Customer of consumables not approved by Xerox that affect the performance of the Equipment may invalidate any applicable warranty.
- iii. Third Party Product Warranty. Where Xerox in its sole discretion selects and supplies Third Party Products, Xerox warrants they will operate substantially in conformance with applicable SLAs or other requirements in the Order. Customer's sole remedy for breach of this warranty is to return the Third Party Product to Xerox and then receive a refund of any fees paid for such non-conforming Third Party Product, less a reasonable usage fee. If Customer requests a specific Third Party Product, Xerox will pass-through as permitted any third party warranties.
- iv. Exclusions. Xerox shall not be responsible for any delay or failure to perform the Services or provide Products, including achieving any associated SLAs or other requirements in the applicable SOWs, DOSs or Orders, to the extent that such delay or failure is caused by:
 - (a) Customer's failure or delay in performing its responsibilities under this Agreement;
 - (b) reasons outside Xerox's reasonable control, including Customer Assets, Customer's content or materials, or delays or failures by Customer's agents, suppliers or providers of maintenance and repair services for Customer Assets; or
 - (c) unauthorized modifications to Equipment, Software or Third Party Hardware.

- c. **Disclaimer.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND XEROX DISCLAIMS AND CUSTOMER WAIVES ALL OTHER WARRANTIES INCLUDING ANY WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. FOR CLARITY, FOR ANY EQUIPMENT LEASED TO CUSTOMER BY XEROX UNDER THIS AGREEMENT OR ANY ORDER HEREUNDER, SUCH LEASE AND/OR ORDER SHALL BE CONSTRUED AS A "FINANCE LEASE" UNDER ARTICLE 2A OF THE UNIFORM COMMERCIAL CODE AND, EXCEPT AS EXPRESSLY PROVIDED HEREIN AND AS PERMITTED BY APPLICABLE LAW, CUSTOMER WAIVES ALL RIGHTS AND REMEDIES CONFERRED UPON A LESSEE BY ARTICLE 2A OF THE UNIFORM COMMERCIAL CODE.

The warranties set forth in this Agreement are expressly conditioned upon the use of the Services and Products for their intended purposes in the systems environment for which they were designed and shall not apply to any Services or Products which have been subject to misuse, accident or alteration or modification by Customer or any third party.

2.6. Intellectual Property

- a. Xerox Tools may be used by Xerox to provide certain Services, as set forth in an Order or a Statement of Work. Xerox and its licensors will at all times retain all right, title and interest in and to Xerox Tools including without limitation, all intellectual property rights therein, and, except as expressly set forth herein or as set forth in an SOW where limited access to the Xerox Device Manager (XDM) may be granted for a specific purpose, no rights to use, access or operate the Xerox Tools are granted to Customer. Xerox Tools will be installed and operated only by Xerox or its authorized agents. Customer will not decompile or reverse engineer any Xerox Tools, or allow others to engage in same. Customer will have access to Remote Product Info and reports generated by the Xerox Tools and stored in a provided database as set forth in the applicable SOW. Xerox may remove Xerox Tools at any time in Xerox's sole discretion, provided that the removal of Xerox Tools will not affect Xerox's obligations to perform Services, and Customer shall reasonably facilitate such removal.

- b. Each party will retain ownership of its Intellectual Property. Each party grants the other a limited, non-exclusive, royalty-free right and license to use the other party's Intellectual Property (excluding the Xerox Tools) in the U.S. only to the extent necessary for such party and its designees to receive the benefit of, and/or, fulfill its obligations under this Agreement. Neither party will (i) distribute, copy, modify, create derivatives of, decompile, or reverse engineer the Intellectual Property of the other or, (ii) allow others to engage in same, except as permitted by applicable law or as expressly permitted under this Agreement or the applicable SOW.
- c. The parties acknowledge and agree that no Intellectual Property will be created or transferred under this Agreement. If the scope of the parties' relationship changes to include creation or transfer of Intellectual Property, that activity will be addressed in a separate written agreement.
- d. If the Products or Services are configured to provide output (excluding Remote Product Info), including modification or transformation of Customer Information, Customer shall be the sole owner of any such output in any format or media obtained by use of the Products or Services and may freely use and disclose such output to any third party. Examples of output include scans and printed output of Customer Information processed by Equipment.

2.7. Indemnification

- a. **Mutual Indemnification.** Each party (and its Affiliates), if promptly notified by the other and given the right to control the defense, shall indemnify, defend and hold harmless the other party, its Affiliates, and their respective officers, directors, employees, agents, successors and assigns, from and against all claims by a third party for losses, damages, costs or liability of any kind (including expenses and reasonable legal fees) that a court finally awards such party ("Claims") for bodily injury (including death) and damage to real or tangible property, to the extent proximately caused by the negligent acts or omissions, or willful misconduct of the indemnifying party (or its Affiliates) in connection with this Agreement.
- b. **Xerox Indemnification.** Xerox shall, if promptly notified by Customer (or its Affiliate(s)) and given the right to control the defense, indemnify, defend and hold harmless Customer, its Affiliates and their respective officers, directors, employees, agents, successors and assigns, for all Claims that Xerox Products or Customer's use of the Services provided by Xerox under this Agreement infringe a U.S. patent, copyright or other intellectual property right. Notwithstanding anything to the contrary herein, Xerox shall have no obligation under this Section **2.7(b)** to the extent any Claim is based on or arises out of any (i) Services performed using Customer Assets, Customer Information or other materials provided to Xerox by Customer for which Customer failed to provide sufficient rights to Xerox; (ii) infringement by Services resulting from Customer's direction, specification or design; (iii) modification or alteration to such Xerox Products or Services not approved in writing by Xerox; (iv) any combination or use of the Xerox Products or Services not approved in writing by Xerox; (v) use of the Xerox Products or Services not in accordance with the applicable Documentation; or (vi) Customer's failure to use corrections or enhancements to the Xerox Products provided by Xerox. If a Claim is made or appears likely to be made pursuant to this Section **2.7(b)**, Customer agrees to permit Xerox, at Xerox' sole option and expense, to obtain the right to enable Customer to continue to use such Xerox Products, to make them non-infringing or to replace them with items that are at least functionally equivalent. If Xerox determines that none of these alternatives is reasonably available, Customer agrees to return such Xerox Products to Xerox upon Xerox' written request. Xerox will then give Customer a refund equal to the amount Customer paid Xerox for such Xerox Products less a reasonable usage fee.
- c. **Customer Indemnification.** Customer shall, if promptly notified by Xerox (or its Affiliate(s)) and given the right to control the defense, indemnify, defend and hold harmless Xerox, its Affiliates, and their respective officers, directors, employees, agents, successors and assigns, for all Claims for intellectual property infringement to the extent such Claim is based on (i) Xerox's use of Customer Assets, Customer Information or customer's content or materials used in performing Services or providing Products under this Agreement or any Order entered into hereunder; (ii) Customer's use of the Products or Services not in accordance with this Agreement or the applicable Documentation; and (iii) Claims arising out of or related to Section **2.7(b)(i)-(vi)** or Customer's failure to perform its responsibilities under Section **2.4(j)**.
- d. The indemnifying party is not responsible for any litigation expenses of the indemnified party or any settlements unless it pre-approves them in writing.

2.8. Limitation of Liability

Except as prohibited by law, the following limitations apply:

- a. **NO CONSEQUENTIAL DAMAGES.** SUBJECT TO SECTION **2.8(c)**, IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS BE

LIABLE TO THE OTHER PARTY OR ITS AFFILIATES OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS FOR ANY INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, AND EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

- b. **LIMITATION ON RECOVERY.** SUBJECT TO SECTION 2.8(c), THE TOTAL AGGREGATE LIABILITY OF EITHER PARTY (AND ITS AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS) FOR DIRECT DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, WILL BE LIMITED TO AN AMOUNT EQUAL TO THE AMOUNT OF ALL CHARGES PAID BY CUSTOMER TO XEROX UNDER THE ORDER UNDER WHICH THE CLAIM AROSE (LESS PASS THROUGH EXPENSES SUCH AS, WITHOUT LIMITATION, POSTAGE) IN THE TWENTY-FOUR (24) MONTHS PRIOR TO THE DATE UPON WHICH THE CLAIM AROSE. THE EXISTENCE OF MULTIPLE CLAIMS OR SUITS UNDER OR RELATED TO THIS AGREEMENT AND ANY ORDERS HEREUNDER WILL NOT ENLARGE OR EXTEND THIS LIMITATION OF DAMAGES. NOTWITHSTANDING THE FOREGOING, NOTHING SET FORTH IN THIS SECTION 2.8(b) SHALL LIMIT CUSTOMER'S OBLIGATION TO PAY XEROX ALL CHARGES AND EXPENSES FOR PRODUCTS AND SERVICES PROVIDED UNDER THIS AGREEMENT.
- c. **EXCEPTIONS.** THE LIMITATIONS SET FORTH IN SECTION 2.8 SHALL NOT APPLY WITH RESPECT TO:
 - i. THE SPECIFIC INDEMNITY OBLIGATIONS SET OUT IN THIS AGREEMENT;
 - ii. EITHER PARTY'S WILLFUL MISCONDUCT, GROSS NEGLIGENCE OR FRAUD;
 - iii. BODILY INJURY OR DEATH CAUSED BY A PARTY'S NEGLIGENCE OR WILLFUL MISCONDUCT OR THAT OF ITS EMPLOYEES, AGENTS OR SUBCONTRACTORS; OR
 - iv. A PARTY EXCEEDING ITS RIGHTS, IF ANY, TO THE OTHER PARTY'S INTELLECTUAL PROPERTY OR MISAPPROPRIATING OR INFRINGING THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS AS GRANTED UNDER THIS AGREEMENT.

2.9. Term and Termination

This Agreement shall commence on the Effective Date and shall continue for a term of <<Enter Term>> months, and continue on a month-to-month basis thereafter until expressly renewed by mutual written agreement or terminated by either party upon 30 days' written notice. Upon termination, Customer shall permit Xerox to enter Customer Facilities for purposes of removing the Products owned by Xerox and/or Xerox Tools. Each Order hereunder shall have its own term, which shall be stated in the Order. In the event the Agreement is terminated, each Services Contract in effect at such time shall remain in full force and effect until the expiration or termination of all Orders constituting such Services Contract (including any extensions or renewals thereof) and shall at all times be governed by, and be subject to, the terms and conditions of this Agreement as if this Agreement were still in effect. Termination of any Order shall not affect this Agreement or any other Orders then in effect. Notwithstanding any other provision in the Agreement to the contrary, should an Order be terminated prior to expiration for any reason or a unit of Third Party Hardware or any Third Party Software for which Third Party Funds have been provided is removed or replaced prior to expiration, Customer agrees to pay to Xerox, in addition to any other amounts owed under said Order, an amount equal to the remaining principal balance of the Funds together with a 15% disengagement fee, for loss of bargain and not as a penalty.

2.10. Confidentiality

- a. **Obligations.** Information exchanged under this Agreement will be treated as confidential if it is identified as confidential at disclosure or if the circumstances of disclosure would indicate to a reasonable person that the information should be treated as confidential. The terms and conditions of this Agreement, all Services Contracts and Orders, and any attachments and exhibits thereto, are Confidential Information of Xerox and Customer, and each party agrees not to disclose any of the foregoing without the other party's prior written consent. Any services procedures manuals and Xerox's Intellectual Property are Xerox Confidential Information. Private Information is Customer's Confidential Information. Confidential Information may only be used for the purposes of receiving the benefit of or fulfilling obligations under this Agreement, and shared with employees, agents or contractors with a need to know such information to support the foregoing purposes. Confidential Information will be protected using a reasonable degree of care to prevent unauthorized use or disclosure for 3 years from the termination or expiration of this Agreement or the Order under which such Confidential Information was disclosed, whichever occurs later. The duration of

confidentiality obligations with respect to Private Information shall be governed by applicable Privacy Laws. These obligations of confidentiality will not apply to any Confidential Information that: (1) was in the public domain prior to, at the time of, or subsequent to the date of disclosure through no fault of the receiving party; (2) was rightfully in the receiving party's possession or the possession of any third party free of any obligation of confidentiality; (3) was developed by the receiving party's employees independently of and without reference to any of the other party's Confidential Information; or (4) where disclosure is required by law or a government agency; provided, however, as to a requirement to disclose Confidential Information per clause (4), that party will (x) notify the disclosing party of the obligation to make such disclosure, and (y) reasonably cooperate with the disclosing party if the disclosing party seeks a protective order, but any costs incurred by the receiving party will be reimbursed by the disclosing party, except for costs of the receiving party's employees.

- b. **Residual Rights.** Each party understands that the other party shall be free to use for any purpose the Residuals resulting from access to Confidential Information as a result of the performance of its obligations under an Order, provided that such party shall maintain the confidentiality of such Confidential Information as provided herein. Neither party shall pay royalties for the use of Residuals. However, the foregoing shall not be deemed to grant either party a license under the other party's copyrights or patents.

2.11. Data Protection/Privacy

- a. To the extent that Privacy Laws are applicable to Customer and Xerox in connection with the performance of Services, each party agrees to comply with the applicable provisions of such Privacy Laws.
- b. Xerox has adopted reasonable physical, technical and organizational safeguards designed to prevent accidental, unauthorized or unlawful loss, disclosure, access, transfer or use of Private Information. Xerox will promptly notify Customer in the event of any known unauthorized or unlawful loss, disclosure, access, transfer or use of Private Information.

2.12. GOVERNING LAW AND JURISDICTION

- a. This Agreement, each respective Order, and any dispute or claim arising out of or in connection with this Agreement or such Order, shall be governed by and construed in accordance with the laws of New York without regard to its conflict of laws provisions and submitted to the exclusive jurisdiction of the federal and state courts of New York.
- b. In any action to enforce this Agreement or any Order hereunder, the parties agree to waive their right, if any, to a jury trial.

2.13. Force Majeure

Except for Customer's absolute and unconditional obligation to make all required payments of any amounts not properly disputed under this Agreement, neither Customer nor Xerox shall be liable to the other party during any period in which its performance is delayed or prevented, in whole or in part, by a Force Majeure Event. If such a circumstance occurs, the party whose performance is delayed or prevented shall undertake reasonable action to notify the other party thereof.

2.14. Compliance with Laws and Policies

Xerox and Customer shall comply with all applicable laws and regulations in the performance of their respective obligations under this Agreement. Xerox agrees to comply with Customer's internal policies regarding security and safety at Customer Facilities that are reasonable and customary under the circumstances and which do not conflict with the terms of this Agreement. Customer agrees to provide Xerox with reasonable prior written notice of such policies and any changes to such policies. If a change in Customer policy results in incremental costs to Xerox, Xerox may, upon providing notice to Customer, pass such costs on to Customer.

2.15. Miscellaneous

- a. **Copies of Agreement.** Except as required by law, both parties agree that any reproduction of this Agreement made by reliable means (for example, photocopy or facsimile) shall be considered an original. Xerox may retain a hardcopy, electronic image, photocopy or facsimile of this Agreement and each Order hereunder, which shall be considered an original and shall be admissible in any action to enforce said Agreement or Order.
- b. **Amendment.** All changes to this Agreement must be made in a writing signed by Customer and Xerox. Any amendment of this Agreement shall not affect the obligations of either party under any then-existing Orders, which shall continue in effect unless the amendment expressly states that it applies to such existing Orders. An amendment to a Services Contract shall reference the number of the Services Contract that it amends.

- c. **No Waiver; Severability; Survival.** The failure by Customer or Xerox to insist upon strict performance of any of the terms and conditions in this Agreement or to exercise any rights or remedies will not be construed as a waiver of the right to assert those rights or to rely on that term or condition at any time thereafter. If any provision is held invalid by any arbitrator or any court under applicable law, such provision shall be deemed to be restated as nearly as possible to reflect the original intention of the parties in accordance with applicable law. The remainder of this Agreement shall remain in full force and effect. Any terms and conditions of this Agreement or any Order which by their nature extend beyond the termination or expiration of the Agreement or Order will survive such termination or expiration.
- d. **Independent Contractors.** Xerox shall perform all Services hereunder in the capacity of independent contractor and not as Customer's employee, agent or representative. Xerox employees shall not be entitled to privileges of employment that Customer may provide to Customer's employees, and Xerox shall be responsible for payment of all unemployment, social security, federal (state and local, as necessary) and other payroll taxes in regard to its employees involved in the performance of the Services. Neither of the parties, nor their respective employees or Affiliates, shall be authorized to conclude contracts in the name of the other party, or to act or appear as a representative of the other, whether in performing the Services or otherwise.
- e. **No Hiring.** During the term of an Order under which Xerox is providing Services and for a period of 1 year thereafter, Customer and Xerox each agree not to hire, solicit, or employ any of the other's personnel who have been engaged in the provision of services or the performance of this Agreement, unless prior written consent is obtained from the other party. Such prohibition shall not apply to hiring as a result of general public solicitations of employment. Should one of the parties hire the other party's personnel in violation of this Agreement, the violating party shall immediately pay to the other, as liquidated damages and as the sole remedy for such violation, an amount equal to such personnel's then current annual compensation (or the amount paid to such person during the previous 12 months in the case of an independent contractor).
- f. **Assignment.** Xerox may assign or otherwise transfer this Agreement or any part hereof (including some or all of its rights or obligations hereunder) without prior notice to or consent of Customer. If Xerox assigns only its rights (or certain of its rights) hereunder to an assignee then: (a) such assignee of Xerox shall have all the rights assigned to it but none of the obligations of Xerox hereunder; (b) such assignee shall not be liable to Customer for any reason whatsoever; (c) Customer shall continue to look to Xerox for performance of Xerox's obligations and hereby waives and releases such assignee from any such claim; (d) all information obtained by Xerox relating to Customer may be disclosed to such assignee; (e) Customer shall not assert any defense, counterclaim or setoff Customer may have against such assignee; and (f) Customer will remit payments in accordance with instructions of such assignee. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding on the successors and permitted assigns of the parties hereto. Neither the rights nor obligations of Customer under this Agreement are assignable by Customer without prior written consent of Xerox. In the event Xerox consents to an assignment, Customer will pay the applicable costs related to the assignment and documentation change, which will not exceed \$500.
- g. **Communication Authorization.** Customer authorizes Xerox or its agents to communicate with Customer by any electronic means (including cellular phone, email, automatic dialing and recorded messages) using any phone number (including cellular) or electronic address that Customer provides to Xerox.
- h. **Limitation on Charges.** In no event will Xerox charge or collect any amounts in excess of those allowed by applicable law. Any part of an Order that would, but for this Section, be construed to allow for a charge higher than that allowed under any applicable law, is limited and modified by this Section to limit the amounts chargeable under such Order to the maximum amount allowed by law. If, in any circumstances, an amount in excess of that allowed by law is charged or received, such charge will be deemed limited to the amount legally allowed and the amount received by Xerox in excess of that legally allowed will be applied to the payment of amounts owed or will be refunded to Customer.
- i. **Order of Precedence; Entire Agreement.** This Agreement, including all schedules, attachments, exhibits and amendments hereto and the Services Contract(s) hereunder, constitutes the entire agreement between the parties as to the subject matter and supersedes all prior and contemporaneous oral and written agreements regarding the subject matter hereof and neither party has relied on or is relying on any other information, representation, discussion or understanding in entering into and completing the transactions contemplated in this Agreement. The parties agree that except as expressly set forth in this Agreement, in the event of any conflict between terms and conditions, the order of precedence shall be this Agreement, the applicable Orders under the Services Contract (excluding Customer POs), and the SOW or DOS, as applicable. If a term in this Agreement expressly provides for a term in an Order to take precedence, such

provision in the Order shall prevail to the extent of any conflict. Notwithstanding the foregoing, provisions in the General Module of this Agreement related to: (1) Section **2.6** (Intellectual Property); (2) Section **2.7** (Indemnification); (3) Section **2.8** (Limitation of Liability); (4) Section **2.10** (Confidentiality); and (5) Section **2.3** (Taxes), will prevail over conflicting provisions in any other contractual document.

2.16. eCommerce Portal

Xerox and Customer agree to establish one or more eCommerce portals (each, an “eCommerce Portal”) to be used by Customer to select certain models of Equipment and supplies identified in such eCommerce Portals and, upon meeting the conditions set forth below, to submit Orders for the delivery of such Equipment and supplies. During the ordering process in the eCommerce Portal, Customer will be prompted to electronically accept certain terms and conditions that are in addition to those terms and conditions in this Agreement and which would otherwise print out on an SSO:

- (a) If Customer accepts such terms and conditions, Xerox will accept and process such order submitted through the eCommerce Portal as an Order (an “eCommerce Order”) without any requirement for Customer to execute and deliver an SSO or any other Order form.
- (b) If Customer declines such terms and conditions, then (i) Xerox will not accept the submission as an Order and (ii) Customer will need to execute and deliver to Xerox, an SSO presented by Xerox that identifies such Equipment or supplies, the term thereof, the pricing associated therewith and any applicable additional terms and conditions related thereto.

Notwithstanding the foregoing, an eCommerce Order cannot be used for certain types of transactions including, but not limited to, transactions involving Equipment subject to waiver dollars and/or flexibility, involving trade-in units, specific high-end Equipment and Equipment subject to a pooled volume minimum.

SERVICES MODULE

3. TERMS AND CONDITIONS SPECIFIC TO SERVICES

In addition to the terms and conditions in the GENERAL Module, the following terms and conditions apply to Xerox’s performance of Services.

3.1. Scope of Services

Subject to the terms and conditions of this Agreement, Services will be performed by Xerox and/or its Affiliates in accordance with the requirements set forth in an Order. If Customer fails to perform or is delayed in performing any of its responsibilities under this Agreement, such failure or delay may prevent Xerox from being able to perform any part of the Services or Xerox-related activities. Xerox shall be entitled to an extension or revision of the applicable term of the Order (which may include setting a new expected date for commencement of Services) or to an equitable adjustment in performance metrics associated with such failure or delay. Xerox grants Customer a non-exclusive, non-transferable, non-sublicensable right and license to access and use the Services only for the purpose of such Customer and its designees receiving the benefit of the Services set forth in the applicable SOW.

3.2. Charges for Services

Charges for Services are set forth in the applicable Order. Charges are based upon information exchanged between Customer and Xerox, which is assumed to be complete and accurate, and also depend upon other factors such as the timely performance by Customer of its responsibilities. If: (a) such information should prove to be incomplete or inaccurate in any material respect; or (b) there is a failure or delay by the Customer in performing its responsibilities under this Agreement or an Order which results in Xerox incurring a loss or additional cost or expense, then the charges shall be adjusted to reflect proportionately the impact of such materially incomplete or inaccurate information or such failure or delay. Charges that are indicated in an Order as being fixed are not subject to an annual percentage escalation for the initial term of such Order; otherwise, Xerox may increase Charges for Services annually by an amount no greater than the CPI Adjustment Percentage. If Xerox provides Services partially or early (for example, prior to the start of the initial term of an Order), Xerox will bill Customer on a pro rata basis, based on a 30 day month, and the terms and conditions of this Agreement will apply.

3.3. Use of Subcontractors

Xerox may, when it reasonably deems it appropriate to do so, subcontract any portion of the Services. Xerox shall remain responsible for any Services performed by subcontractors retained by Xerox to the same extent as if such Services were performed by Xerox.

3.4. Services Scope Changes

Except as otherwise set forth in an Order, either party may propose to modify the then-existing Services that are described in an Order, or to add new Services under a Services Contract. If Xerox determines such changes are feasible, Xerox will prepare and propose to Customer an Order incorporating the requested changes and any related impact to the Charges or terms. Once Customer executes and Xerox accepts the Order, Xerox will promptly proceed with the new and/or revised Services in accordance with the terms of the Order and this Agreement.

3.5. Early Termination of Services and Labor

Except as otherwise set forth in a Services Contract, upon 90 days prior written notice, Customer may terminate or reduce any Services or labor provided pursuant to an Order without incurring early termination charges except as set forth in the next sentence. Notwithstanding the foregoing, if any such Services or labor provided under an Order are terminated (a) by Xerox due to Customer's default or (b) by Customer and Customer acquires similar services from another supplier within 6 months of the termination of such Services or labor, Customer shall pay all amounts due as of the termination date, together with the early termination charges, for loss of bargain and not as a penalty, stated in the Order or, if not specifically stated therein, an amount equal to the then current MMC for said terminated or reduced Services or labor multiplied by the number of months remaining in the term of the related Order, not to exceed 6 months.

EQUIPMENT MODULE

4. TERMS AND CONDITIONS SPECIFIC TO EQUIPMENT & THIRD PARTY HARDWARE

In addition to the terms and conditions in the GENERAL Module, the following terms and conditions apply to Equipment and Third Party Hardware provided to Customer.

4.1. Term and Date of Installation

The term for each unit of Equipment shall be the term stated on the applicable Order, with the commencement date based upon the actual Date of Installation. If the Date of Installation for a unit of Equipment is prior to the applicable Order start date, Xerox will bill the Customer for such Equipment on a pro rata basis, based on a 30-day month, and the terms and conditions of this Agreement and the applicable Services Contract will apply as of the Date of Installation.

4.2. Delivery and Removal and Suitability of Customer Facilities

Xerox will be responsible for all standard delivery charges for Equipment and Third Party Hardware. Customer will be responsible for (a) all removal charges for Equipment and Third Party Hardware and (b) any non-standard delivery charges. The suitability of Customer Facilities for installation of Equipment or Third Party Hardware, including compliance with state and local building, fire and safety codes and any non-standard state or local installation requirements, is Customer's responsibility.

4.3. Equipment Status

Unless Customer is acquiring previously installed equipment, Equipment will be either: (a) "Newly Manufactured," which may contain some recycled components that are reconditioned; (b) "Factory Produced New Model" which is manufactured and newly serialized at a Xerox factory, adds functions and features to a product previously disassembled to a Xerox predetermined standard, and contains new components and recycled components that are reconditioned; or (c) "Remanufactured," which has been factory produced following disassembly to a Xerox predetermined standard and contains both new components and recycled components that are reconditioned. Xerox makes no representations as to the status of any Third Party Hardware that Xerox may provide under any Order.

4.4. Consumable Supplies

If specified in an Order, Xerox will provide Consumable Supplies for related Equipment. Xerox may charge a shipping fee for Consumable Supplies. Consumable Supplies are Xerox's property until used in the Equipment for which they are provided. Upon expiration or termination of the applicable Order, Customer will either return any unused Consumable Supplies to Xerox at Xerox's expense when using Xerox-supplied shipping labels, or destroy them in a manner permitted by applicable law. Xerox reserves the right to charge Customer for any Consumable Supplies usage that exceeds Xerox's published yields by more than 10%. In such a case, Xerox will notify Customer of the excess usage. If such excess usage does not cease within 30 days after notice, Xerox may charge Customer for the excess usage. If Xerox provides paper under a Services Contract, upon 30 days' notice, Xerox may adjust paper pricing or either party may terminate the provision of paper.

4.5. Use and Relocation

For any Equipment or Third Party Hardware provided by Xerox, with the exception of Purchased Equipment for which Customer has paid in full, Customer agrees that: (a) the Equipment or Third Party Hardware shall remain personal

property; (b) Customer will not attach any of the Equipment or Third Party Hardware as a fixture to any real estate; (c) Customer will not pledge, sub-lease or part with possession of the Equipment or Third Party Hardware or file or permit to be filed any lien against the Equipment or Third Party Hardware; and (d) Customer will not make any permanent alterations to the Equipment or Third Party Hardware. While Equipment or Third Party Hardware is subject to an Order, Customer must provide Xerox prior written notice of all Equipment or Third Party Hardware relocations and Xerox may arrange to relocate the Equipment or Third Party Hardware at Customer's expense. While Equipment or Third Party Hardware is being relocated, Customer remains responsible for making all payments to Xerox required under the applicable Order. All parts or materials replaced, including as part of an upgrade, will become Xerox's property. Equipment or Third Party Hardware cannot be relocated outside of the U.S. until Customer has paid in full for the Equipment or Third Party Hardware and has received title thereto. Notwithstanding anything to the contrary in the foregoing, to the extent the Equipment contains any Software, any relocation of such Equipment is subject to the terms and conditions set forth in the Software License Module of this Agreement.

4.6. Supplier Equipment Provided

In the event Xerox provides Supplier Equipment to Customer, the following terms shall apply unless otherwise specified in an Order:

- a. Unless Supplier Equipment is purchased by Customer, Xerox (or the applicable third party vendor) shall at all times retain title to the Supplier Equipment. If for any reason whatsoever, this transaction is re-characterized as a secured financing, you are deemed to have granted to Xerox a first priority security interest in the Supplier Equipment in order to secure your performance under this Agreement. Customer hereby authorizes Xerox or its agents to file financing statements necessary to protect Xerox's rights to the Supplier Equipment. Xerox reserves the right to charge Customer for any filing fees and administrative costs for the filing of such financing statements, not to exceed \$75.
- b. Customer will promptly notify Xerox, in writing, of any change in ownership, or if it relocates its principal place of business or changes the name of its business. The risk of loss or damage to the Supplier Equipment shall pass to Customer upon delivery to the site where Xerox performs the Services and/or Maintenance Services and/or provides Products, as applicable. Customer will insure the Supplier Equipment against loss or damage and the policy will name Xerox as loss payee.
- c. Customer agrees to use the Supplier Equipment in accordance with, and to perform, all operator maintenance procedures for the Supplier Equipment described in the applicable Documentation made available or provided by Xerox. The Customer shall not (unless the Supplier Equipment is Purchased Equipment, and then only with Xerox's prior consent):
 - i. sell, charge, let or part with possession of the Supplier Equipment;
 - ii. remove the Supplier Equipment from Customer Facilities in which it is installed; or
 - iii. make any changes or additions to the Supplier Equipment.
- d. **Early Termination.** Equipment is provided for a minimum order term (as specified in the applicable Order per 4.1 above). If Equipment is terminated for any reason before the end of its minimum order term, the termination charges set forth in the applicable Order or Services Contract for such Equipment shall apply.

4.7. Data Security

Certain models of Equipment can be configured to include a variety of data security features. There may be an additional cost associated with certain data security features. The selection, suitability and use of data security features are solely Customer's responsibility. Upon request, Xerox will provide additional information to Customer regarding the security features available for particular Equipment models. Obligations regarding removal of Customer's Confidential Information that may be stored on hard drives on Equipment owned by Xerox, if any, and any costs associated with such removal will be set forth in the applicable Order.

4.8. Remote Services for Equipment

Certain models of Equipment are supported and serviced using product information that is automatically collected by Xerox or transmitted to or from Xerox by the Equipment or Third Party Products ("Remote Product Info") via electronic transmission to or from a secure off-site location (such transmission is "Remote Transmission"). Examples of Remote Product Info include product registration, meter read, supply level, equipment configuration and settings, software version, and problem/fault code information. Remote Product Info may also be collected by the Xerox Tools and certain Services Software as set forth in the applicable SOW. Remote Transmission also enables Xerox to transmit to Customer Maintenance Releases or Updates for software or firmware and to remotely diagnose and modify Equipment to repair or correct malfunctions. All Remote Product Info will be transmitted to and from Customer in a secure manner mutually agreeable to the parties. The Remote Transmission capability will not include any Customer Confidential

Information nor allow Xerox to read, view or download any Customer data, documents or other information residing on or passing through the Equipment, Third Party Hardware or Customer's information management systems. Customer grants the right to Xerox, without charge, to establish and maintain Remote Transmission for the purposes described above. Upon Xerox's request, Customer will (a) provide contact information for Equipment such as name and address of Customer contact and IP and physical addresses/locations of Equipment, and (b) ensure that any Maintenance Release or Update released by Xerox to provide security patches, releases and/or certificates for the Remote Transmission and/or Software is promptly enabled by Customer upon notification by Xerox or by the Equipment or when otherwise made available on xerox.com. Customer will enable Remote Transmission via a method mutually agreeable to the parties, and Customer will provide Xerox with reasonable assistance to allow Xerox to have Remote Transmission. Unless Xerox deems Equipment incapable of Remote Transmission, Customer will ensure that Remote Transmission is maintained at all times Maintenance Services are being performed. If Customer is unable to maintain Remote Transmission, or if Xerox disables Remote Transmission from any Equipment at Customer's request, or if Customer disables Remote Transmission from any Equipment, Xerox reserves the right to charge Customer a per device fee for such affected Equipment due to the increased service visits that will be required in order to: (x) obtain such information, (y) provide such transmissions, and (z) provide such Maintenance Services and Consumable Supplies that otherwise would have been provided remotely and/or proactively.

4.9. Removal of Hazardous Waste

Customer agrees to take responsibility for legally disposing of all hazardous wastes generated from the use of Third Party Hardware or supplies.

EQUIPMENT PURCHASE MODULE

5. TERMS AND CONDITIONS SPECIFIC TO EQUIPMENT PURCHASE

In addition to the terms and conditions in the GENERAL Module, the following terms and conditions apply to the acquisition of Purchased Equipment:

5.1. Order

Orders for an outright purchase of Purchased Equipment shall include the unique Xerox-provided contract number and the number of this Agreement on all applicable ordering documents.

5.2. Title and Risk of Loss

Title and risk of loss or damage to the Purchased Equipment will pass to Customer upon delivery to the applicable Customer Facilities.

5.3. Default

If Customer defaults under a XOA for Purchased Equipment, Xerox, in addition to its other remedies (including the cessation of Maintenance Services if applicable), may require immediate payment of all amounts then due, plus all Transaction Taxes and applicable interest on all amounts due from the due date until paid. Customer shall also pay all reasonable costs, including attorney's fees, incurred by Xerox to enforce this Agreement.

5.4. Maintenance Services for Purchased Equipment

If Customer elects to receive Maintenance Services for Purchased Equipment, Customer shall do so under a separate Order under the Agreement for such Maintenance Services.

5.5. Agreement Provision Exclusions

The following Agreement provisions do not apply to Orders for an outright purchase of Purchased Equipment: Sections 2.1(c)(ii) - (iii); 2.4(b)-(j); 2.5(b)(i); 2.9; 4.4; and 4.6.

MAINTENANCE SERVICES MODULE

6. TERMS AND CONDITIONS SPECIFIC TO MAINTENANCE SERVICES

In addition to the terms and conditions in the GENERAL Module, and except as otherwise set forth in an Order, the following terms and conditions apply to provision of Maintenance Services.

6.1. Maintenance Services

As part of an Order for (a) stand-alone Maintenance Services related to Purchased Equipment, or (b) Maintenance Services related to Equipment to which Xerox does not hold title, or as a mandatory part of an Order for Equipment (other than Purchased Equipment) that includes Maintenance Services, Xerox or a designated service provider will provide the following Maintenance Services for Equipment. If Customer is acquiring Equipment for which Xerox does

not offer Maintenance Services, such Equipment will be designated as “No Svc.” This Module does not apply to maintenance of Third Party Hardware. Maintenance that Xerox provides on Third Party Hardware will be provided in accordance with the terms of the applicable Order.

The provision of Maintenance Services is contingent upon Customer facilitating timely and efficient resolution of Equipment issues by: (i) utilizing Customer-implemented remedies provided by Xerox; (ii) replacing Cartridges; and (iii) providing information to and implementing recommendations provided by Xerox telephone support personnel in those instances where Xerox is not providing on-site Equipment support personnel. If an Equipment issue is not resolved after completion of (i) through (iii) above, Xerox will provide on-site support as provided in the applicable Order.

6.2. Repairs and Parts

- a. Xerox will make repairs and adjustments necessary to keep the Equipment in good working order and operating in accordance with its written specifications (including such repairs or adjustments required during initial installation). Maintenance Services shall cover repairs and adjustments required as a result of normal wear and tear or defects in materials or workmanship. Parts required for repair may be new, reconditioned, reprocessed or recovered.
- b. If Xerox is providing Maintenance Services for Equipment that uses Cartridges, Customer will use only unmodified Cartridges purchased directly from Xerox or its authorized resellers. Failure to use such Cartridges will void any warranty applicable to such Equipment. Cartridges packed with Equipment or furnished by Xerox as Consumable Supplies will meet Xerox's new Cartridge performance standards and may be new, remanufactured or reprocessed and contain new and/or reprocessed components. To enhance print quality, Cartridges for many models of Equipment have been designed to cease functioning at a predetermined point. Many Equipment models are designed to function only with Cartridges that are newly manufactured original Xerox Cartridges or with Cartridges intended for use in the U.S.

6.3. Hours and Exclusions

Unless otherwise set forth in an Order, Maintenance Services will be provided in areas accessible for repair services during Xerox's standard working hours. Maintenance Services excludes repairs due to: (a) misuse, neglect or abuse; (b) failure of the installation site or the PC or workstation used with the Equipment to comply with Xerox's published specifications; (c) use of options, accessories, or other products not serviced by Xerox; (d) non-Xerox alterations, relocation, service or supplies; and (e) failure to perform operator maintenance procedures identified in operator manuals. Customer agrees to furnish all referenced parts, tools, and supplies needed to perform those procedures that are described in the applicable manuals and instructions.

6.4. Installation Site and Meter Readings

In order to receive Maintenance Services for Equipment requiring connection to a PC or workstation, Customer must utilize a PC or workstation that either (a) has been provided by Xerox or (b) meets Xerox's published specifications. The Equipment installation site must conform to Xerox's published requirements. If applicable, unless otherwise set forth in an Order, Customer agrees to provide meter readings in the manner prescribed by Xerox. If Customer does not provide Xerox with meter readings as required, for Equipment not capable of Remote Transmission, or if Remote Transmission is interrupted, Xerox may estimate them and bill Customer accordingly.

6.5. Remedy

As Customer's exclusive remedy for Xerox's failure to provide Maintenance Services, Xerox will, for 5 years after the installation date of the initial unit or the initial term of the Order, whichever is longer, replace the Equipment with an identical product or, at Xerox's option, another model with comparable features and capabilities. If replacement Equipment is provided pursuant to this Section, there shall be no additional charge for its provision by Xerox during the initial term of the Order and it shall be subject to the terms and conditions of this Agreement and the applicable Order(s). Customer's use of non-Xerox approved consumables that affect the performance of the Equipment may invalidate this remedy. If Xerox is unable to keep a unit of Equipment in good working order after the period noted above, either party may terminate Maintenance Services for that unit without any penalties or early termination charges upon not less than 30 days' written notice to the other party.

6.6. End of Service

Xerox has no obligation to maintain or replace Equipment beyond the “End of Service” for that particular model of Equipment. End of Service (“EOS”) means the date announced by Xerox after which Xerox will no longer offer Maintenance Services for a particular Equipment model. An EOS Equipment List is available upon request.

SOFTWARE LICENSE MODULE

7. TERMS AND CONDITIONS SPECIFIC TO SOFTWARE

In addition to the terms and conditions in the GENERAL Module the following terms and conditions apply to the license and use of Software and its associated Documentation.

7.1. Software License

Xerox may provide Software to Customer pursuant to an Order hereunder. The following license applies to Software provided hereunder, unless such Software is accompanied by a click-wrap or shrink-wrap license agreement or otherwise provided subject to a separate license agreement.

- a. Xerox grants Customer a non-exclusive, non-transferable, non-assignable (by operation of law or otherwise) license to use in the U.S.: (i) Base Software only on or with the Equipment with which (or within which) it was delivered; and (ii) Application Software only on any single unit of Equipment, subject to Customer remaining current in the payment of any indicated applicable Software license fees (including any annual renewal fees). For Services Software, Xerox grants Customer a non-exclusive, non-transferable, non-assignable (by operation of law or otherwise) license in the U.S. to install the Services Software on a host computer(s) or server(s) or, if applicable, on Equipment or Third Party Hardware, and, further, if applicable, on the number of workstations, laptops and mobile devices specified in the Order, and to use the Services Software only for the purpose of receiving the applicable Services. Customer has no other rights to the Software. Customer will not and will not allow its employees, agents, contractors or vendors to: (i) distribute, copy, modify, create derivatives of, decompile, or reverse engineer Software except as permitted by applicable law; (ii) activate Software delivered with or within the Equipment in an un-activated state; or, (iii) access or disclose Diagnostic Software for any purpose. Title to Software and all copyrights and other intellectual property rights in Software will reside solely with Xerox and its licensors (who, if required by the terms of the third party license agreement with Xerox, will be considered third party beneficiaries of this Agreement's software and limitation of liability provisions).
- b. The Base Software license will terminate, as applicable: (i) if Customer no longer uses or possesses the Equipment with which the Base Software was provided; or (ii) upon the expiration or termination of any Order under which Customer has acquired the Equipment with which the Base Software was provided (unless Customer has exercised an option to purchase the Equipment, where available, in which case the license to Base Software is perpetual and transferrable with purchase of the Equipment by Customer).
- c. Software may contain code to prevent its unlicensed use and/or transfer. If Customer does not permit Xerox periodic access to such Software, this code may impair the Equipment's and/or Software's functionality.
- d. Xerox does not warrant that the Software will be free from errors or that its operation will be uninterrupted.

7.2. Software Support

Software support will be provided by Xerox or a designated service provider as follows. For Base Software, Software support will be provided during the initial term of the applicable Order and any renewal period, but not longer than 5 years after Xerox stops taking orders for the subject model of Equipment. For Application Software, Software support will be provided as long as Customer is current in the payment of all applicable software license, annual renewal and "support only" fees. For Services Software, support will be provided in accordance with the terms of the applicable Statement of Work or Order.

- a. Xerox will maintain a web-based or toll-free hotline during Xerox's standard working hours to report Software problems and answer Software-related questions. Xerox, either directly or with its vendors, will make reasonable efforts to: (i) assure that Software performs in material conformity with its Documentation; (ii) provide available workarounds or patches to resolve Software performance problems; and (iii) resolve coding errors for (1) the current release and (2) the previous release for a period of 6 months after the current release is made available to Customer. Xerox will not be required to provide Software support if Customer has modified the Software.
- b. Xerox may make available new releases of the Software that are designated as "**Maintenance Releases**" or "**Updates**." Maintenance Releases or Updates are provided at no charge and must be implemented within 6 months after being made available to Customer. Each Maintenance Release or Update shall be considered Software governed by these terms. Feature Releases will be subject to additional license fees at Xerox's then-current pricing and shall be considered Software governed by these terms and conditions (unless otherwise noted in an Order). Implementation of a Maintenance Release, Update or Feature Release may require Customer to procure, at its expense, additional hardware and/or software from Xerox or another entity.

Upon installation of a Maintenance Release, Update or Feature Release, Customer will return or destroy all prior Maintenance Releases, Updates or Feature Releases.

- c. Xerox may increase Software license fees and support fees for Application Software annually by an amount no greater than the CPI Adjustment Percentage.

7.3. Diagnostic Software

Diagnostic Software and method of entry or access to it constitute valuable trade secrets of Xerox. Title to the Diagnostic Software shall at all times remain solely with Xerox and Xerox's licensors. Xerox does not grant Customer a license or right to use the Diagnostic Software. Customer will not use, reproduce, distribute, or disclose the Diagnostic Software for any purpose (or allow third parties to do so). Customer will allow Xerox reasonable access to the Equipment during Customer's normal business hours to remove or disable Diagnostic Software if Customer is no longer receiving Maintenance Services from Xerox.

7.4. Third Party Software

Third Party Software is subject to license and support terms provided by the applicable Third Party Software vendor.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth below intending it to become effective on the Effective Date and thereby agreeing to its terms.

<<ENTER CUSTOMER'S LEGAL
NAME>>

XEROX CORPORATION

Signature

Signature

Name (please print)

Name

Title

Title

Address

Address

Date

Date

Region 4 ESC MPS Contract #R191104

Xerox App Gallery Enterprise Price List

1/10/2023

App	Description	List Price	Contract Price	% Discount	Subscription Type (Fair Usage)
Xerox Translate & Print	Provides instant, machine translations via your Xerox multifunction printer (MFP). Simply scan the document and receive a translation print in one of 44 languages.	\$17 per month, per device (1000 scans per year)	\$3.50 per month, per device	79%	Fixed Service Charge per Single Device per month for agreed contract duration. Transaction allowance: 100 per contracted license per month
Connect for Concur	Connector app linking users directly to the Concur service from the Xerox Multifunction Printer to streamline the expense reporting process. Scan multiple receipts at once then preview the scan before submitting into the Concur expense system.	\$58.25 per month (10,000 scans) - unlimited devices	\$3.50 per month, per device	93%	Fixed Service Charge per Single Device per month for agreed contract duration. Transaction allowance: 1500 per contracted license per month
Connect for DocuSign	Connector app linking users directly to the DocuSign service from the Xerox Multifunction Printer to help eliminate approval bottlenecks, speed up your paper processes, and keep essential agreements moving forward.	\$14 per month, per device	\$3.50 per month, per device	75%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for Exchange Online	Quickly digitize hard-copy documents at your Xerox ConnectKey enabled multifunction printer. Easily select recipients from the global or personal address book and send the scanned document as an attachment through your Exchange account	\$5 per month, per device	\$3.50 per month, per device	30%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for NetSuite	Connector app linking users directly to the NetSuite service from the Xerox Multifunction Printer help optimize how you work with documents. Whether capturing hardcopy documents for human resources or printing those invoices from the accounting software, this app helps keep your company running as efficiently as your NetSuite business management software.	\$10 per month, per device	\$3.50 per month, per device	65%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for Sage Accounting	Connector app linking users directly to the Sage Accounting service from the Xerox Multifunction Printer to alleviate the manual processing, multiple steps, and errors that can slow you down. Make it easier than ever to scan invoices and payments directly into desired ledgers within your Sage account.	\$75 per month (2,000 scans) - unlimited devices	\$3.50 per month, per device	95%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for Sage Intacct	Connector app linking users directly to the Sage Intacct service from the Xerox Multifunction Printer to alleviate the manual processing, multiple steps, and errors that can slow you down. Make it easier than ever to scan bills and payments directly into desired ledgers within your Sage Intacct account.	\$75 per month (2,000 scans) - unlimited devices	\$3.50 per month, per device	95%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for Salesforce	Connector app linking users directly to the Salesforce platform from the Xerox Multifunction Printer. Reduce the need to manually enter data into your CRM by instantly digitizing and organizing your most important client documents for timely review and follow-up. Use this app to easily access and search documents within your Salesforce account for printing or scan hardcopy documents into account folders right at the device.	\$10 per month, per device	\$3.50 per month, per device	65%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for SignNow	Connector app linking users directly to the SignNow service from the Xerox Multifunction Printer. Helps eliminate approval bottlenecks, speed up your e-signature processes, and keep essential agreements moving forward. Save time and money by signing your documents right at the panel of your Connect Key enabled device.	\$5 per month, per device	\$3.50 per month, per device	30%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect 2.0 for Box	Connect 2.0 for Box [®] is a Xerox [®] connector app to the Box [®] cloud storage service. Use this app to easily print from or scan to an individual or shared Box [®] account. As more organizations and workers are leveraging the convenience of cloud storage services, this app makes it easier to digitize documents, collaborate and work on the go.	\$10 per month, per device	\$3.50 per month, per device	65%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for Google Drive	The Xerox Connect for Google Drive™ app makes it safe and intuitive to digitize documents. With this app and your ConnectKey [®] enabled device, easily print from or scan to an individual or shared Google Drive™ account.	\$10 per month, per device	\$3.50 per month, per device	65%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions

Connect for OneDrive	The Xerox Connect for Microsoft® OneDrive app makes it safe and intuitive to digitize documents. With this app and your ConnectKey® enabled device, easily print from or scan to an individual or shared Microsoft® OneDrive account.	\$10 per month, per device	\$3.50 per month, per device	65%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for Microsoft 365	The Xerox Connect for Microsoft® 365 app makes it safe and intuitive to digitize documents. With this app and your ConnectKey® enabled device, easily print from or scan to an individual or shared Microsoft® 365/Sharepoint account.	\$10 per month, per device	\$3.50 per month, per device	65%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for Evernote	With the Xerox® Connect for Evernote on your Xerox® ConnectKey® Technology-enabled multifunction printer (MFP), you can securely scan and print directly to and from your Evernote account. Storing and sharing your notes has never been simpler.	\$10 per month, per device	\$3.50 per month, per device	65%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for RMail	For customers needing a comprehensive and secure email solution, the RMail® service delivers HIPAA and GDPR compliant security integrated with the popular email systems. The Xerox® Connect for RMail App along with your ConnectKey® enabled device links directly with the RMail secure email service.	\$10 per month, per device	\$3.50 per month, per device	65%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for Blackboard	Connect for Blackboard is a Xerox® connector app to Blackboard Learn™, the popular learning management system for higher education. Teachers and students can accelerate collaboration and simplify the process for uploading and storing documents into Blackboard for their classes. Use this app to scan hardcopy course materials such as assignments and handouts into course folders right at the device.	\$10 per month, per device	\$3.50 per month, per device	65%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for Moodle	The Xerox Connect App for Moodle helps by easily digitizing hardcopy documents. Conveniently authenticate at the printer once and access a Moodle account, browse a Moodle folder structure, and upload coursework, assignments, notes and more. With the helpful print feature, users can lower costs by printing on demand.	\$10 per month, per device	\$3.50 per month, per device	65%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for Remark Test Grading	Connect for Remark Test Grading is a Xerox® connector app to Gravic's powerful cloud-based test grading service. Now teachers can spend less time grading and more time teaching. Teachers can access the Remark Test Grading Service at the MFP and print bubble tests for their class, scan in the completed answer sheets, and generate instant results.	\$14 per month, per device	\$3.50 per month, per device	75%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Xerox Note Converter	With Xerox® Note Converter and your Xerox® Connect Key enabled device, quickly convert your notes into an MS Word document or text file sent to you digitally. Easily edit and share your notes with everyone in that important meeting you just left, saving you precious time.	\$5 per month, per device	\$3.50 per month, per device	30%	Fixed Service Charge per Single Device per month for agreed contract duration. Transaction allowance: 1500 per contracted license per month
Connect for Clio	With Xerox® Connect App for Clio, extend the reach of Clio's leading cloud-based software for legal practice management. Quickly digitize hard-copy case files and other legal documents at your multifunction printer. Or browse and print files from your Clio account.	\$10 per month, per device	\$3.50 per month, per device	65%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for iManage	With Xerox® Connect App for iManage, optimize the power of iManage, a robust document and email management software for law firms, corporate legal departments, and professional services firms. Use this powerful tool to help digitize hard-copy files and print important documents from any Xerox® ConnectKey® Technology-enabled MFP.	\$10 per month, per device	\$3.50 per month, per device	65%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Xerox Auto Redaction	Xerox® Auto-Redaction takes advantage of cutting-edge AI technology in Google's Data Loss Prevention (DLP) software, that allows for you to select preset Personally Identifiable Information (PII), or custom words and phrases, then automatically redact it.	\$69.00	\$3.50 per month, per device	95%	Fixed Service Charge per Single Device per month for agreed contract duration. Transaction allowance: 2000 scan pages per contracted license per month

Capture and Content	Simplify and automate tasks, ensuring documents are sent directly to the systems your business relies on. With the Xerox® Capture & Content App, scan your documents into the Xerox® Capture & Content Services platform, integrating into centrally managed workflows. Xerox® Capture & Content Services delivers intelligent capture capabilities and enables the classification of documents, the automated extraction of data, as well as routing and integration of information into downstream line of business systems and content management platforms. After receiving the documents, our Global Capture Platform combines the scanned pages from the MFP with documents coming from other sources (including ad-hoc scanning, batch scanning, on- and off- site scan centers and/or electronic documents) transforming, processing, managing and delivering important data and metadata directly into the business processes that need it. The Capture & Content App requires a Xerox® Capture & Content Services account with the distributed workflow pre-configured by a site administrator and works on Xerox® AltaLink and VersaLink devices with scanners only.	Free	Free	n/a	Free
Connect for XMPiE	With the Xerox Connect app for XMPiE you can have instant access to over 50 beautiful templates, through which you can experience the power of XMPiE and create personalized content. Holiday cards, Birthday Cards, Calendars and so much more are just one touch away on your ConnectKey enabled device. Please enjoy the Xerox Connect app for XMPiE for free to access templates and personalize them for immediate print.	Free	Free	n/a	Free
Quickbooks Online	Connect for QuickBooks Online is a Xerox® connector app, linking users directly to the service to streamline the expense reporting process. Eliminate hassles and inefficiencies in the expense reporting process with a few simple steps at the MFP. Use this app to scan multiple receipts at once, preview the receipts, edit the data fields, submit, and even notify the approver right at the device. Users must have an existing QuickBooks Online account and access to a computer to link the app to their QuickBooks Online account via the Xerox® Connect for QuickBooks Online portal. The portal to link the two can be found at https://login.xeroxreceipts.com	\$20.00	\$3.50	83%	Fixed service charge per single Device per month for agreed contract duration. Subscription Allowance: 100 receipts per contracted license per month
Scanning App for DocuShare	This v2.0 update enables easy installation of a DocuShare® Flex or DocuShare® pre-configured workflow button onto a Xerox multifunction printer, from inside or outside a company firewall, to enable scanning of documents into business workflows. Requires an existing account on a DocuShare Flex or DocuShare server with workflow buttons pre-configured by a site administrator. Minimum supported server versions are DocuShare 7 with ConnectKey for DocuShare 1.5.10 and higher, or DocuShare Flex 2.5 and higher. Note: DocuShare 6.6.1 is not supported in this release. See the Xerox® Scanning App for DocuShare® Software Quick Start Guide for further details.	Free	Free	n/a	Free
Xerox Content Hub	The Content Hub App is part of the Xerox Content Hub service. It provides organizations with a simple way to create a cloud-based repository of documents that can be securely accessed 24/7 from wherever employees are and wherever they need to print from. Documents can be selected, customized and printed directly from any Xerox ConnectKey-enabled printer or remotely via a desktop or mobile device. Learn more at https://help.xmpie.com/ContentHub/index.htm .	Free	Free	n/a	Free

Xerox ID Checker	ID fraud is real, and manual detection can lead to failure rates of up to 50%. The Xerox® ID Checker App makes protecting businesses from ID fraud easy. Now staff can check the validity of an ID document in seconds. Captured data can be automatically exported for custom onboarding workflows. Manual steps are eliminated, so risks of error are reduced. And you can relax, knowing your business is safe. Xerox® ID Checker can help prevent fraud and make it easier than ever to scan global ID documents. Allows the scanning of typical ID documents like drivers' licenses, passports and country IDs. Review the scan with a clear scan preview, both front and back. Receive instant feedback right from the Xerox ConnectKey enabled device. Email or Print the Certificates of Authenticity. Instantly verify IDs with the Xerox ID Checker App. Trial the Xerox ID Checker App No Charge for 30 days or 15 verifications. A subscription can be purchased via the subscribe button once the trial period ends.	\$99.00	\$50.00	49%	Fixed service charge per single Device per month for agreed contract duration. Subscription Allowance: 100 verifications per contracted license per month
Connect for DocuShare Go	With Xerox® Connect App for DocuShare® Go users can connect Xerox® ConnectKey® Technology-enabled multifunction printers directly and securely to their DocuShare® Go account. Using this app, you'll be able to quickly navigate to find files or folders allowing you to print or scan documents in just a few clicks. Utilizing the Intelligent Capture Recognition / Optical Character Recognition (ICR / OCR) of DocuShare® Go, scanned documents can be tagged with key metadata, even handwritten text can be recognized and tagged for easy retrieval automatically. Printing is secure, on-demand and from any location where the Connect App for DocuShare® Go has been installed, helping you to print only when and what is needed yet avoiding sensitive documents being left on output trays. Key App features - Directly connect ConnectKey enabled MFP securely to DocuShare® Go accounts. - Easy navigation to find documents to print or folders to scan in to. - Preview files before submitting for print or scan, helping to avoid wasted prints or incorrect scans being sent. - Supports Single Sign On convenience authentication when paired with a supported authentication solution*. Supported file formats for Print: Microsoft® Office, PDF, Apache™ OpenOffice™, TIFF, JPEG, PNG, GIF, TXT, RTF, EML, XPS, PS and PCL® Supported output file formats for Scan: PDF, PDF/A, XPS, TIFF, JPEG, DOCX, XLSX, PPTX	Free	Free	n/a	Free

Connect for Dropbox	Organizations and workers are leveraging the convenience of cloud storage services. The Xerox Connect for Dropbox™ app makes it safe and intuitive to digitize documents. With this app and your ConnectKey® enabled device, easily print from or scan to an individual or shared Dropbox™ account. Xerox Connect for Dropbox™ can: Use your company's Exchange credentials at login. Navigate your folder structure and then easily scan your hardcopy document. Quickly print one or multiple documents. This connector supports single sign on authentication when using a supported authentication solution*.	\$10.00	\$3.50	65%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Scan to Cloud Email	Xerox® Scan to Cloud Email A free app that provides a simple and secure alternative to multifunction printer (MFP) email capabilities. Easily install this app in minutes to scan hardcopy documents and send to one or multiple email addresses. A simple easy to use app that is made for your Xerox® ConnectKey® enabled device at home, or in the office. With Xerox Scan to Cloud Email, you can: Send to one or multiple email recipients. Save and edit up to 50 recipients within the app. Edit the name of your scan and add date and time with one touch. Easily add a reply address so your recipients know where to reply. Type an email message at the device user interface.	Free	Free	n/a	Free
Clean Hands Reminder	Need to remind yourself or others about the importance of washing hands? The "Clean Hands Reminder" screen saver style app is now available for most Xerox Printers and Multifunction devices. This simple and non-intrusive app reminds users of the importance of hygiene in the workplace. The app displays when the device is inactive. When the user touches any portion of the screen or button, the app exits to the home screen. This app is freely available and applicable to VersaLink, PrimeLink and most AltaLink models. The app will not work on Xerox i-Series or older. To maximize the benefit of the Clean Hands Reminder app ensure you have: 1. Set the app to be the default service on the device (example: Entry Screen Default, Walkup Screen Setting) 2. Set the user interface timeout to the minimum. (example: touch user interface system timeout, system timeout for the device control panel) 3. Set Energy Saver to the longest possible setting (example: Power Saver, Low Power Setting at 60 minutes) Please consult your device's specific user guide for specific details.	Free	Free	n/a	Free

Share Patient Information	The Xerox® Share Patient Information App enables your practice to intelligently share patient information with millions of other healthcare professionals, including the ability to scan and store patient information directly to a patient's chart, depending on the capabilities of your EHR. Using the latest healthcare standards for communication, the Share Patient Information App transforms any compatible Xerox® ConnectKey® Technology-enabled device into a HIPAA-compliant, interoperable Healthcare MFP. The Xerox Healthcare MFP is engineered for Healthcare. The Share Patient Information app is Kno2 Connected™. Transform paper into healthcare formatted documents to be sent/stored digitally. Integrated search to accurately identify the patient. * Scan and store information to the patient's chart in your EHR. * Select recipients from the National Provider Directory. Supports fax for healthcare, allowing document exchange with providers still requiring fax. ** Dedicated, streamlined workflow for faxing non-patient information. Supports single sign on authentication. *Dependent on the capabilities of your EHR. **Kno2 fax for healthcare is an optional feature of Kno2's Interoperability as a Service.™	Free	Free	n/a	Free
@PrintByXerox	The @PrintByXerox app enables easy printing from email. Submit an email to Print@PrintByXerox.com with any attachments that you wish to print. New users will receive an email confirmation containing a password. Use your password at a Xerox device running the @PrintByXerox app to release your job(s). For a list of compatible products, please check Xerox.com.	Free	Free	n/a	Free
Touchless Access	Touchless technology helping make the workplace safer for everyone. The Xerox® Touchless Access App enables your Xerox office multifunction device to be accessed from your smart phone – without having to connect to the local network. This app is available No Charge of charge and applicable to all VersaLink and AltaLink devices. When the user scans the QR code with their smart phone, a simple mobile web portal opens to allow the user to access core services of copy, scan and print. To achieve touchless workflow, set your Touchless Access App as the default service on the device. To optimize the Touchless Access App's user experience: Set your device's Energy Saver to the longest possible settings and Configure Scan to Email on your device. Please consult the Touchless Access App's Quick Start Guide from the Documentation link below and your device's specific user guides for setup details and instructions.	Free	Free	n/a	Free
Auto Copy	Would you like to automatically copy documents without interaction with the touch screen? The Xerox® Auto Copy App saves time by producing copies when you place your documents in the document feeder. With this app and a simple setting, the Xerox® Auto Copy App can be your default screen, making it easy to create copies. Auto Copy features: Set Auto Copy as the default screen, for repeated copying. Copying will start after 7 seconds of placing originals in document feeder. Authenticated users can customize personal copy defaults easily within the app. Please see the Quick Start Guide for further details in the support documentation below.	Free	Free	n/a	Free

Quick Link	Every business is unique with a myriad of IT related requirements and processes. The Xerox® Quick Link App is self-support made simple. Easy to connect. Fast to print. With the Xerox® Quick Link App on your Xerox® ConnectKey® Technology enabled devices, you can quickly connect to your laptop, desktop computer or mobile device through a simple email or QR code scan.	Free	Free	n/a	Free
Scan with Print	Maximize your productivity with Xerox® Scan with Print by combining common multi-function printing tasks into one, easy to use app. Simply save presets to perform multiple tasks in a single scan, such as scanning to a location and receiving a print simultaneously on a Xerox ConnectKey enabled device. Xerox® Scan with Print can speed up multi-step document processes with features like: Perform various processes once without having to scan multiple times. Scan your original document to a location and simultaneously receive a print. Choose single or multiple destinations: scan to email, SMB, and SFTP network locations. Split large documents by any number of pages with the job splitting feature. Save time with the Preset feature by storing the frequently used combination that works for you. Simple configuration: Once and then done, with no confusing settings or steps. Speed up document-centric processes and gain productivity with Xerox® Scan with Print app. Trial the Xerox Scan with Print app No Charge for 30 days. A subscription can be purchased via the subscribe button once the trial period ends.	\$5.00	\$3.50	30%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Summarizer	There is an immense amount of text and data generated in news articles, social media articles, blog posts, etc. Creating summaries can be extremely time-consuming, therefore the need to automatically summarize information is on the rise. Xerox® Summarizer App creates a summary of documents for viewing, printing, and emailing, right on a Xerox® ConnectKey® enabled device. With the help of artificial intelligence (AI), Xerox® Summarizer condenses dozens or even hundreds of pages by reducing the original scanned document to a percentage of the original or can create a short and concise interpretation of the source text. A quick and useful way to summarize textual data to reduce reading time, help with research, or identify the main idea of material for a relevant and fast uptake of information. With Xerox® Summarizer, you can: Easily preview your summary on the fly at the user interface. Email the result in PDF or Microsoft Word format. Print a copy of the summary right from the device. Summarize 2 different ways.	\$49.00	\$3.50	93%	Fixed service charge per single Device per month for agreed contract duration. Subscription Allowance: 100 credits per contracted license per month
Support Assistant 3.3	Help customers gain insight into open service and supplies incidents at the device UI. Users see simplified, friendly messages relating to open tickets in XSM, thereby reducing calls to operations teams. Supported scenarios include open and closed service incidents, as well as open, closed, monitoring, and shipped supplies incidents. Note: This application is only supported for Xerox Managed Print Services Accounts.	Free	Free	n/a	Free
Xerox App Gallery	The Xerox App Gallery is your gateway to a growing collection of downloadable apps designed to transform the way you handle documents and data. Apps from the Xerox App Gallery simplify repetitive or complex processes and extend your printer's capabilities. With these easy-to-use apps, your Xerox® ConnectKey® Technology-enabled printer or MFP (multifunction printer) transforms into a well-connected, always-accessible workplace assistant. With this app, you have immediate access to a growing collection of apps right at the device.	Free	Free	n/a	Free

NOTE: Custom quote (Added charge) required if Xerox Professional Services is utilized to install and deploy app(s)

Addendum
Region 4 ESC NO. R191104

THIS ADDENDUM (this "Addendum") amends the terms and conditions of the order identified by WU# <<INSERT 6-DIGIT WORKUP #>> to which it is attached under Services Contract # <<INSERT 7-DIGIT CONTRACT NUMBER>>-<<INSERT 3-DIGIT ORDER EXTENSION #>> (the "Order"), by and between <<INSERT CUSTOMER NAME>> ("Customer") and Xerox Corporation ("Xerox").

1. **Selected Application(s):** Please select the Application(s) and license quantities you, as the Customer, are ordering in Attachment A to this Addendum, which are available in the Xerox App Gallery located at: <https://appgallery.services.xerox.com>. Customer's acquisition of these applications is subject to the terms and conditions of the Xerox App Gallery Addendum signed by Customer on the order identified by WU # <<INSERT WORKUP # FROM ORDER THAT INCLUDED THE FULL APP GALLERY ADDENDUM FORM # 52629>>.
2. The effective date of this Addendum is the effective date of the Order to which this Addendum is attached. In the event of a conflict between the terms and conditions of the Agreement or Order and this Addendum, this Addendum will control. Unless otherwise defined herein, capitalized terms shall be as defined in the Agreement. Except as specified in this Addendum, all other terms and conditions of the Agreement shall remain in effect as stated.



Addendum
Region 4 ESC NO. R191104

Attachment A

CK Apps with Subscription Fee and Unlimited Volume

App Name	Subscription Type	Device License Quantity
Add Name	Fixed service charge per single Device per month for agreed contract duration.	Device licenses
Add Name	Fixed service charge per single Device per month for agreed contract duration.	Device licenses

Addendum
Region 4 ESC NO. R191104

Attachment A (continued)

CK Apps with Subscription Fee and Defined Volume

App Name	Subscription Type	Device License Quantity
Add Name	Fixed service charge per single Device per month for agreed contract duration. Subscription Allowance: 1500 receipts per contracted license per month	Device licenses
Add Name	Fixed service charge per single Device per month for agreed contract duration. Subscription Allowance: 100 invoices per contracted license per month	Device licenses

Workflow Central Platform with Subscription Fee and Defined Volume

Name	Subscription Type	Check the "Selected" box for the desired Subscription Type (only choose one)
Add Name	Fixed service charge for unlimited Devices per month for agreed contract duration. Subscription Allowance: 15,000 credits per month	☐ Selected
Add Name	Fixed service charge for unlimited Devices per month for agreed contract duration. Subscription Allowance: 25,000 credits per month	☐ Selected

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Request for Contract Update Details:

- 1) Xerox is requesting to add the Xerox Capture and Content Services (CCS) to the Region 4 ESC Contract #R191104. The Xerox Capture & Content Services provides advanced multichannel capture and process automation to help members throughout the capture/digitize, transform, process, manage and delivery stages. See the attached CCS Description of Services for additional information.

The attached five documents include:

- A detailed Capture and Content Description of Services.
- The Capture and Content Services rate card pricing.
- The following Xerox Order-Time Documents will be provided at order time to the end user procuring these services. They consist of:

1. The EDMS DocuShare Addendum. This solution requires an order-time Addendum which includes the unique terms and conditions for the Services.
2. The Xerox CCS Statement of Work, developed and provided to the end user based on the solution being offered. It provides all of the specifications, implementation and unique SLA's of the offer.
3. The Xerox Services Master Agreement.

- 2) Xerox is also requesting to add our Xerox App Gallery to the Region 4 ESC R191104 contract. This collection of easily downloadable apps extends the capabilities of our MFD's. On the technology enabled devices, users get instant access to an array of apps that improve workflow, user experience and augment your printer's ability to print, scan and fax.

The attached two documents include:

- The Xerox App Gallery Enterprise Price List, for Services Orders only, includes a the list and Region 4 ESC contract price for all of the available Apps.
- Xerox App Gallery order-time Addendum which will be provided to the end user procuring these services.

Capture & Content Services

Xerox Capture & Content Services provides advanced multichannel capture and process automation to help you throughout the capture/digitize, transform, process, manage and delivery stages.

- Capture information systematically from multiple sources
- Digitize multichannel information to feed downstream business processes
- Automate repetitive tasks to integrate with appropriate ERP, CRM, and third-party systems
- Manage storage, retrieval and retention of documents and encrypted data
- Make information available at the point of need

An extensive portfolio delivers a unified approach to tackling complex business challenges with powerful A.I. Robotic Process Automation and machine learning to help organizations harness critical business data. Xerox Capture and Content Services streamline processes and improve cycle times by digitizing and automating complex business workflows.

Services can be provided on-site or off-site. The service will deliver all images or documents as searchable PDF with document classification and indexing.

Capture & Content Services Capabilities

- Digitization of multichannel data and information
- Integrated electronic and hard copy information
- Data classification and indexing
- Automation of repetitive tasks through workflow automation
- Management storage, retrieval and retention of documents, and encrypted data
- Integration with downstream with business processes such as ERP, CRM and third-party systems
- Role-based access to data with auditable workflows supporting regulatory compliance

Capture & Content Services Benefits

- Speed up processing time for intake/capture and processing of paper documents
- Improvement of the accuracy of information delivered downstream, avoiding errors, wrong delivery, and rework
- Improve access to information

- Reduction of costs in human labor, floor space, paper-handling, management, and non-conformance
- Reduction of manual intervention, processing errors, redundant tasks, and associated costs
- Ability to extract insight and gain control through automated classification
- Enablement of corporate digital migration efforts through digital content management and processing such as faster processing of incoming correspondence (improved turnaround time), and accelerated business workflow process through digitization
- Integration of electronic and hard copy information, helping to streamline processes and automate workflows
- Quality Assurance/Quality Control audit reporting for compliance monitoring (i.e., HIPAA and SOX)

Region 4 ESC Copier Printer Contract #R191104
Capture and Content Services Rate Card
12/15/2022

Document Scanning	Unit of Measure	List Price	Region 4 ESC Contract Discounted Price	Comments/Notes
Standard Scanning¹	Per Image			¹Standard: Paper Sizes: Legal 8.5"x14"; Tabloid 11"x17"; Ledger 17"x11"; Letter 8.5"x11"; A3 11.7"x 16.5"; A4 8.27"x11.7"; A5 - ½ A4 Scanning: Up to 300 DPI, Duplex Scanning; up to 300 DPI Image Quality Control sampling at 10%; Standard Preparation - Where Xerox shall apply effort (no more than five (5) seconds) to fix a Document to allow it to be Scanned on the bulk scanner. This may include applying sticky tape to fix a small tear which does not render the Document in two (2) parts, limited to a percentage of 1% of total processed volume. Remove Bindings found connected/attached to Documents. (e.g. es, paper clips, plastic sleeves, elastic bands, Document clips.) limited to 10% of the pages. ²Wide Format :Short side of Page is wider than A3 or Tabloid; Long Format - Long side of Page is longer than A3, but short side is the same as A4 or Long side of Page is longer than Tabloid, but short side is the same as Letter. Note: Image files shall be named utilizing an automatically generated unique document identification or control number.
Scanned Images – Black and White	Images per year			
	12M+	Custom Quote	Custom Quote	
	>3M-12M	\$ 0.0495	\$ 0.0446	
	>1M-3M	\$ 0.0611	\$ 0.0550	
	>500K-1M	\$ 0.0803	\$ 0.0723	
	>100K-500K	Custom Quote	Custom Quote	
	0-100K	Custom Quote	Custom Quote	
Scanned Images – Color / Grayscale	Images per year			
	12M+	Custom Quote	Custom Quote	
	>3M-12M	\$ 0.0500	\$ 0.0450	
	>1M-3M	\$ 0.0618	\$ 0.0557	
	>500K-1M	\$ 0.0825	\$ 0.0742	
	>100K-500K	Custom Quote	Custom Quote	
	0-100K	Custom Quote	Custom Quote	
Scanned Images – Wide Format Documents²	Images per year			
Scanned Images – Wide Format Documents – Black and White	Images per year			
	12M+	Custom Quote	Custom Quote	
	>3M-12M	Custom Quote	Custom Quote	
	>1M-3M	Custom Quote	Custom Quote	
	>500K-1M	Custom Quote	Custom Quote	
	>100K-500K	\$ 1.8462	\$ 1.6615	
	0-100K	Custom Quote	Custom Quote	
Scanned Images – Wide Format Documents – Color / Grayscale	Images per year	Custom Quote	Custom Quote	
Scanned Images – Long Format Documents	Images per year			
Scanned Images – Long Format Documents – Black and White	Images per year	Custom Quote	Custom Quote	

Region 4 ESC Contract #R191104

Scanned Images – Long Format Documents – Color / Grayscale	Images per year	Custom Quote	Custom Quote	
Scanned Images – Flatbed Scanning	Images per year	Custom Quote	Custom Quote	
Ingested Images (e.g., inbound Email)	Images per year	Custom Quote	Custom Quote	
Document Preparation & Re-prep	Unit of Measure	List Price	Region 4 ESC Contract Discounted Price	Comments/Notes
Non Standard Document Preparation. Removal of documents from their respective envelopes. Removal of any staples, paper-clips et al, unfolding creased documents or edges of documents, taping documents to backing sheets, insertion of bar coded targets and any other prep required to enable scanning.	Per Hour	\$ 35.1385	\$ 31.6246	
Non-Standard Media	Unit of Measure	List Price	Region 4 ESC Contract Discounted Price	Comments/Notes
Microfiche	Per Image	Custom Quote	Custom Quote	
Aperture Cards	Per Image	Custom Quote	Custom Quote	
Microfilm 16MM	Per Image	Custom Quote	Custom Quote	
Microfilm 35MM	Per Image	Custom Quote	Custom Quote	
Document Typing	Unit of Measure	List Price	Region 4 ESC Contract Discounted Price	Comments/Notes
Creation of document type group	Doc Type	Custom Quote	Custom Quote	
Document Type Indexing (keywords)	Unit of Measure	List Price	Region 4 ESC Contract Discounted Price	Comments/Notes
Indexing of alphanumeric characters	Per Character	Custom Quote	Custom Quote	
Indexing of numeric characters	Per Character	Custom Quote	Custom Quote	
Indexing of handwritten characters	Per Character	Custom Quote	Custom Quote	
Packaged Service - Invoice Indexing - W/O line items	Unit of Measure	List Price	Region 4 ESC Contract Discounted Price	Comments/Notes

Region 4 ESC Contract #R191104

Indexing of 14 pre-defined invoice fields	Per Invoice	Custom Quote	Custom Quote	
Additional pre-defined tax fields	Per Invoice	Custom Quote	Custom Quote	
Additional 6 pre-defined fields	Per Invoice	Custom Quote	Custom Quote	
Labor/Service per hour (Make sure these meet the federal wage determination guidelines)	Unit of Measure	List Price	Region 4 ESC Contract Discounted Price	Comments/Notes
Project Manager	Per Hour	\$ 92.3077	\$ 83.0769	
Solution Architect Implements and maintains smooth operation and physical design of solution.	Per Hour	\$ 167.6923	\$ 150.9231	
Solutions Delivery Manager (SDM) Manages client-site locations. Responsible for the day-to-day operations and support of onsite staff. Ensures staff is trained and all resources are well utilized. Coaches team to provide superior customer satisfaction, which may include utilizing multiple feedback mechanisms. Provides communication and reporting to client team.	Per Hour	\$ 126.1538	\$ 113.5385	
Team Leader Assigns and oversees the work of team. Oversee work task assignment Delivers documents to various departments, prepares paper documents for conversion to digital format, scans documents, enhances digital images, performs data entry, and reviews work for accuracy.	Per Hour	\$ 67.6923	\$ 60.9231	
On Site Associate Performs a variety of routine administrative/clerical tasks in such functional areas as finance, purchasing, or human resources or for a specific project/business/technical unit. Gathers, collects, records, tracks and verifies data and information from multiple sources. Compiles, reviews and analyzes data. Uses personal computer and commercial software packages, and/or proprietary software for functional area, to compile and generate reports, statistics, timelines, tables, graphs, correspondence and presentations. May design processes to enhance workflow.	Per Hour	\$ 53.8462	\$ 48.4615	

Region 4 ESC Contract #R191104

Associate Documentation Technician Performs a variety of routine administrative/clerical tasks in such functional areas as finance, purchasing, or human resources or for a specific project/business/technical unit. Gathers, collects, records, tracks and verifies data and information from multiple sources. Compiles, reviews and analyzes data. Uses personal computer and commercial software packages, and/or proprietary software for functional area, to compile and generate reports, statistics, timelines, tables, graphs, correspondence and presentations. May design processes to enhance workflow. Provides data and information to others on functional unit processes and procedures.	Per Hour	\$ 81.5385	\$ 73.3846	
Data Entry Gathers, collects, records, tracks and verifies data and information from multiple sources. Compiles, reviews and analyzes data. Uses personal computer and commercial software packages, and/or proprietary software for functional area, to compile and generate reports, statistics, timelines, tables, graphs, correspondence and presentations. May design processes to enhance workflow.	Per Hour	\$ 81.5385	\$ 73.3846	
Quality Assurance Manager Synthesizes customer contractual needs and requirements into system test solutions that acknowledge technical, schedule and cost constraints. Coordinates integrated testing activities with affected program and outside organizations. Reviews and evaluates test requirements to insure completeness of test program. Performs analysis of test results and prepares comprehensive system level evaluation reports which verify and validate system performance.	Per Hour	\$ 81.5385	\$ 73.3846	
Training Specialist	Per Hour	\$ 53.8462	\$ 48.4615	
Miscellaneous Items	Unit of Measure	List Price	Region 4 ESC Contract Discounted Price	Comments/Notes
Cherished (Special) Document Handling Charge	Per Document	Custom Quote	Custom Quote	
Currency or Negotiable Documents Handling Charge, including Checks	Per Document	Custom Quote	Custom Quote	
Expedited Scan Charge	Per Image	Custom Quote	Custom Quote	
Document Retrieval Charge	Per Document	Custom Quote	Custom Quote	

Region 4 ESC Contract #R191104

Rescans (excludes Document Retrieval charges)	Per Image	Custom Quote	Custom Quote	
Incremental End User Access Request	Per End User	Custom Quote	Custom Quote	
Non-Simple Binding Removal	Per bind	Custom Quote	Custom Quote	
Document Storage – On-Site at C&CS Facility (following Image Availability Period)	Per Box per month	Custom Quote	Custom Quote	
Document Storage – Off-Site from C&CS Facility (following Image Availability Period)	Per Box per month	Custom Quote	Custom Quote	
Document Destruction	Per Box	Custom Quote	Custom Quote	
Manually count hardcopy Pages before Scanning	Per Page	Custom Quote	Custom Quote	
Document Refile	Per Document	Custom Quote	Custom Quote	
Exception handling fee	Per Exception	Custom Quote	Custom Quote	
		Custom Quote	Custom Quote	
Note: Covers any exceptions not outlined in Section 4: Service Operations		Custom Quote	Custom Quote	
Repair (requires more than Light Repair activities)	Per Item	Custom Quote	Custom Quote	
Manual rotation of Images during Quality Assurance (QA)	Per Image	Custom Quote	Custom Quote	

Capture and Content Services Statement of Work



IMPORTANT — You must read these instructions when configuring the SOW, and prior to Customer presentation of the Statement of Work! Remove these instruction pages from this SOW before Customer presentation.

NOTE: THIS SOW IS NOT INTENDED FOR USE IN CAP DEALS. This SOW must be written under its own extension under the Agreement.

This SOW describes the scope and scale of the operational Capture and Content Services (C&CS) that we provide to our Customers. It describes what Xerox and the Customer will do to implement and enable ongoing operations. This SOW should be completed by the appropriate personnel working with the Business Development Director (BDD), Capture and Content Services Consultants (CCSC), Client Manager (CM), or appropriate personnel. The SOW should be reviewed with the Services Delivery Manager (SDM), Delivery Consultant (DC), and SOW Negotiation Manager (if applicable).

The language used in this SOW has been carefully written to describe Xerox and Customer responsibilities for C&CS. Editing of text is to be avoided if at all possible. Text that is added, deleted, or changed must be reviewed and agreed to by the appropriate parties (SOW Negotiation Manager (if applicable), BDD, CCSC, local Services Delivery, and finance) for:

- 1. Xerox's ability to operationally deliver the service as described, considering operational risks
- 2. Xerox's ability to deliver the expected financial performance in light of the changes.

In addition, Accounting will review SOW's for **signings incentives**, service level agreement credits, etc. **Requests to pre-review SOW changes should be sent to the XBS Language Pre Review email box at: (XBSLanguagePreReview@xerox.com)** prior to SOW submission to Customer.

Blue denotes instructions that must be adhered to when editing the document, the text should either be updated per instructions or removed prior to submission to Customer.

Red Text indicates areas that need to be updated or customized per engagement. Fill in this area with appropriate items and change text to black.

Note: Highlights in a header means the entire section below the header has the same context as the highlight

Note: This SOW must be attached to a "signed" Order. The Customer cannot just sign the SOW, if you add a "Signature" section to this SOW. A signed Order is required that has charges and references this SOW.

Remove these instruction pages from this SOW before Customer presentation.



Account Team: Title Page

If your C&CS SOW is supporting an HRA solution, insert "FOR HEALTH RECORDS AUTOMATION (HRA)" below CAPTURE AND CONTENT SERVICES and align it to the center

If your C&CS SOW is supporting a Digital Mail Light solution, insert "FOR DIGITAL MAIL" below CAPTURE AND CONTENT SERVICES and align it to the center

If your C&CS SOW is supporting an Accounts Payable Light solution, insert "FOR ACCOUNTS PAYABLE" below CAPTURE AND CONTENT SERVICES and align it to the center

CAPTURE AND CONTENT SERVICES

STATEMENT OF WORK

FOR

[CUSTOMER NAME GOES HERE]

Xerox Services Contract Number

xxxxxxx-xxx

DRAFT

SOW Version Date

xx/xx/xxxx



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EXHIBIT B: SCANNER SETTINGS [4041](#)

EXHIBIT C: INDEXING SPECIFICATIONS [4142](#)

EXHIBIT D: GOOD QUALITY IMAGE REVIEW REQUIREMENTS [4344](#)

EXHIBIT E: DOCUMENT PROCESS TYPE WORKFLOW [4445](#)

EXHIBIT F: STANDARD DOCUMENT PREPARATION ACTIVITIES [4546](#)

EXHIBIT G: METADATA OUTPUT [4647](#)



1 DESCRIPTION OF SERVICES

1.1 Executive Summary

This Statement of Work ("SOW") is made by and between Xerox Corporation ("Xerox") and [Customer name] ("Customer") which shall collectively be known as the "Parties" pursuant to the terms and conditions in Xerox Contract Number [insert 7-digit Contract #] ("Agreement") the Parties.

1.2 Objectives

This SOW presents the description of Capture and Content Services ("Services") that Xerox shall provide to the Customer for Scanning and digitization services. The Agreement is the governing document, and this SOW describes the Customer's requirements for this project. This SOW may only be changed via the Change Control Process.

1.3 Key Dates

- The effective date of this SOW shall be the effective date of the Order to which this SOW is attached ("Effective Date")
- The Term of this SOW is the term of the Order (# of months) to which this SOW is attached, including any extensions thereto as mutually agreed upon by the Parties. The Term shall commence upon the activation of Services
- Xerox shall notify Customer in writing of the completion of the activation of Services and the Charges in the applicable Order and the SOW shall begin being invoiced
- SLAs shall become effective upon the completion of the activation of Services

Customer has identified Documents that require Capture and Content Services (C&CS). Capture and Content Services (C&CS) simplifies the process path, from Document Capture, Scanning, Data Extraction and Indexing, Quality Assurance, Exception Request Handling, Data Delivery, and Archiving. All Image and metadata files, if applicable, shall be delivered to the Customer via an Electronic Document Management System (EDMS).

Xerox agrees to provide the Capture and Content Services during Business Days/Hours at the designated C&CS Facilities as outlined in this SOW. During the development of this Statement of Work, the Customer has provided Xerox with a complete list of any rules and/or requirements related to all aspects of the Services (e.g.: Document preparation, Scanning, etc.) which have formed the basis of the assumptions of the Services described herein. If any requirements as described above are not specifically called out in the Services described within this Statement of Work, then those requirements are considered out-of-scope but can be added to the Services via the Change Control Process.

1.4 In-Scope Summary of Services

Account Team: In-Scope Summary of Services

If any of the Services outlined below take place On-Site, Customer **must** provide C&CS Facility security training

Note: For Accounts Payable Light (AP) opportunities, the default selection is "Off-Site". Exception approval is required if Customer is requiring/requesting On-Site. Engage the Solution Architect (SA) to escalate the request.

For Accounts Payable (Light), Electronic Document Submission – SFTP is not available, you must select "No" and select "Yes" to Electronic Document Submission – Email

C&CS Overview	On-Site	Off-Site
Services		
Document Capture	[Yes or No, default is No]	[Yes or No, default is Yes]
Electronic Document Submission – Secure File Transfer Protocol ("SFTP")	[Yes or No, default is No]	[Yes or No, default is No]
Electronic Document Submission – Email	[Yes or No, default is No]	[Yes or No, default is No]
Electronic Document Submission – Xerox® Capture and Content App	[Yes or No, default is No]	[Yes or No, default is No]
Scanning	[Yes or No, default is No]	[Yes or No, default is Yes]

Capture and Content Services Statement of Work



C&CS Overview	On-Site	Off-Site
Indexing	[Yes or No, default is No]	[Yes or No, default is Yes]
Scanning and Indexing Quality Control	[Yes or No, default is No]	[Yes or No, default is Yes]
Data Export and Release	[Yes or No, default is No]	[Yes or No, default is Yes]
Original Document Disposition	[Yes or No, default is No]	[Yes or No, default is Yes]
Service Request and Incident Management	[Yes or No, default is No]	[Yes or No, default is Yes]
C&CS Facility		
Customer to provide C&CS Facility security training to Xerox in order access the Customer designated Site and provide the Services	Yes	No
Responsible for C&CS Facility security	Customer	Xerox

1.5 C&CS Facility and Document Storage Locations

The C&CS Facility address where the Services, unless otherwise outlined above, shall take place and the address of where the original Documents shall be stored, are as follows:

Location Name	Address	City	State	Zip Code
C&CS Facility				
Document Storage				

1.5.1.1 C&CS Facility Security

The C&CS Facility shall maintain administrative, technical and physical safeguards designed to protect against threats or hazards: (a) to the privacy, confidentiality or integrity of information; (b) from unauthorized or unauthenticated access to information; and (c) from unauthorized disclosure, destruction, loss or alteration of information. The C&CS Facility shall be in a secure area with restricted access to a limited set of Xerox personnel.



2 DEFINITIONS

Account Team: Definitions

If SLAs are not In-Scope to this SOW, delete the definition "Service Level Agreements (SLA)" and other references to SLAs throughout this SOW.

Terms defined in the Agreement and used herein shall have the meaning set forth in the Agreement unless expressly defined below or elsewhere within this SOW.

- Ad Hoc Request** – A request by Customer for any services that are not a part of this SOW.
- Box** – A container that contains no more than two (2) cubic feet with a maximum capacity of 3,000 Pages.
- Business Day / Hours** – The hours during which Xerox shall perform the Services, which are Monday through Friday, 8:00 AM to 5:00 PM, local C&CS Facility time, excluding Xerox and Customer’s holidays.
- C&CS** – Capture and Content Services.
- C&CS Facility** – The location where Xerox shall conduct the Scanning services.
- Capture and Content Services Dashboard** – A Xerox hosted website that provides Scanning analytics.
- Change Control Process** – A systematic approach to managing all changes made to the Services supported under this SOW. All changes shall be made via a change control document (SOW amendment or an Order) agreed to by the Parties, prior to implementation of such changes.
- Cherished Documents** – Documents classified by Customer as containing Personal Data or other information that requires special handling according to Customer requirements (i.e., identification and subsequent return to Customer).
- Comma Separated Value (or “CSV”)** – Comma separated values which is a data format that specifies how Xerox and/or Customer shall receive metadata.
- CRT** – Customer Requirements-based Testing.
- Currency** – A system of money in general use in a particular country.
- Customer Caused Delay** – Customer, or Customer’s agents’, failure to perform or facilitate completion of the Customer accountable Transition activities outlined in this SOW, which result in elongating the Transition project schedule as documented in the Project Plan.
- Document** – A Customer provided piece of written or printed matter, that is considered In-Scope. Documents may include one (1) or more Pages and are outlined in Exhibit A: Services Scope Assumptions.
- Dots per Inch (or “DPI”)** – Dots per Inch details the level of Scanned Image quality.
- Electronic Document Management System (or “EDMS”)** – A software system for organizing and storing different kinds of electronic files (i.e. Images, etc.)
- Electronic Document Submission** – The process of obtaining and importing files and/or Images into the Xerox Tools.
- Email** – Messages distributed by electronic means from one (1) computer user to one (1) or more recipients via a network including attachments.
- End User** – Customer employees or any other individuals identified by the Customer as being authorized to receive Scanned Images and associated metadata from Xerox.
- Flatbed Scanning** – A Document that cannot be Scanned using a high speed scanner for any reason (i.e., damaged documents, using the high speed scanner would damage the original Document, Documents that cannot be removed from a book or binding as designated by Customer, books or require hand to glass, thermal paper, etc.)
- Good Quality Image(s)** – Images where the original(s) are found to be of sufficient quality to produce a serviceable quality on-screen Image. See Exhibit D: Good Quality Image Review Requirements.
- Grayscale** – A range of gray shades from white to black, as used in a monochrome display or printout.
- Image (or “Image File”)** – The electronic rendering of a single side of a Page.
- Image Output** – The export of an Image out of the Scanning system ready for transfer to the Customer.

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Incremental Monthly Volume – The monthly transaction volume that exceeds the Minimum Monthly Volume.

Index(ing) – The capture of metadata and its assignment to an Image so that it can be searched on and found in the future.

In-Scope – Documents which have been agreed to receive the Services provided by Xerox under this SOW.

Light Repair – Where Xerox shall apply effort (no more than five (5) seconds) to fix a Document to allow it to be Scanned on the bulk scanner. This may include applying sticky tape to fix a small tear which does not render the Document in two (2) parts.

Long Format Document – A Customer provided piece of written or printed matter that is longer than a Document as defined in this section and is considered In-Scope.

Manifest – A listing of all Boxes, contained in a delivery to the C&CS Facility, by unique identifier (i.e., pallet number and/or box number) and accurately detailing the contents of each Box.

Master Data – Structured list of data that enables validating Indexing content.

Minimum Monthly Volume – The monthly baseline transaction volume that shall incur charges on a monthly basis.

Negotiable Document(s) – A signed document that promises a sum of payment to a specified person or the assignee.

Non-Simple Bindings – Bindings found connected/attached to Documents (e.g., folder, plastic wallet, etc.), types of permanent binding that require specialist removal (i.e., glue-bound Documents), bindings requiring removal by guillotine, or where Xerox is not able to remove a binding due to the potential compromise of the Document's integrity.

Page – The physical single sheet of paper. A Page generates two (2) digitized Images, the front, and the back of a Page.

PDF – Portable Document Format.

Poor Quality – Documents that are not found to be of sufficient quality to produce a serviceable quality on-screen Image.

Post Office Box (or "PO Box") – A box at a post office where mail is delivered.

Production Environment – IT and operational systems that undertake the live processing of Customer work.

Project Plan – Xerox and Customer shall develop this operational document containing the specific activities and schedules to be conducted and followed in accordance with the terms of this SOW.

Rescan (or "Rescanning" or "Rescanned") – To Scan again.

Retrieval – The retrieval of hard copy Document(s) upon request by Customer.

Scan (or "Scanning" or "Scanned") – The digitization of a piece of Paper into an electronic Image.

Services – The combination of software, technology, people, and processes provided to digitize all Documents as defined in this SOW.

Service Incident(s) – An individual occurrence or event that requires Xerox and/or Customer approval.

Service Incident Management – The management of Service Incidents from the point of request to resolution including, tracking the status of Service Incidents, and reporting on Service performance levels as set forth in this SOW.

Service Level Agreement (or "SLA") – Performance standards and the associated metrics used to measure Xerox's achievement of Service performance levels.

Service Request – A request from Customer's authorized representative that initiates a service action which has been agreed as a normal part of Service delivery as detailed within this SOW.

Simple Binding(s) – Bindings found connected/attached to Documents. (e.g., staples, paper clips, plastic sleeves, elastic bands, Document clips.)

On-Site – That which takes place, or is situated, at a Site.

Site – Customer or eligible affiliate location.

Staging Environment – IT and operational systems used to develop and test the systems and processes prior to code/configurations/processes being promoted to the Production Environment and ready for live processing.

TIF (or "TIFF") – Tag Image File or Tag Image File Format.

Transition – A period of time required to design, procure, build and test the solution for the Services.

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Wide Format Document – A Customer provided piece of written or printed matter that is wider than a Document as defined in Exhibit A: Services Scope Assumptions and is considered In-Scope.

XML – Extensible Mark-up Language.



3 TRANSITION

3.1 Project Management

ID	Activity	Accountable
1.	The Parties shall each provision a Project Manager to deliver the Services and be the main points of contact for coordination of appropriate resources throughout Transition, or until an agreed upon time during Transition.	Xerox and Customer
2.	Provision of other resources to work with Xerox to ensure that the Services and processes shall be enabled during Transition	Customer
3.	Develop the Project Plan based on the assumptions in Exhibit A: Services Scope Assumptions	Xerox and Customer
4.	Provide final Project Plan to Customer. This plan shall detail the timeline, obligations of the Parties and activities	Xerox
5.	Execute the Project Plan activities as defined	Xerox and Customer
6.	Conduct Transition project review meetings Such meetings shall include: - Status on roll-out plan - Status on action and issues logged - Decisions that need to be made - Risks assessed - Communication plan and any other relevant subjects	Xerox and Customer
7.	Attend regular Transition project review meetings	Xerox and Customer
8.	Communicate to Customer the Service Request processes	Xerox
9.	Provide escalation protocol detailing contact names and escalation flow	Customer

3.2 Xerox Tools

The appropriate Xerox Tools shall be selected, implemented, and administered solely by Xerox for the delivery of the Services. Xerox shall host some Xerox Tools in a secure off-Site environment which shall communicate directly with the On-Site Xerox Tools when deployed within the Customer's network. All Xerox Tools shall be remotely accessible by Xerox personnel. The On-Site Xerox Tools must be accessible via the Customer network and the internet.

Xerox Tools Server(s)	Accountable
Hardware and network administration by	[Xerox or Customer]
Provide ongoing server maintenance and backup	[Xerox or Customer]
Provide and maintain data backup	[Xerox or Customer]

3.2.1 Hosted Xerox Tools Deployment

Where appropriate, portions of the Xerox Tools shall be hosted for the delivery of the Services.

ID	Activity	Accountable
1.	Implement and configure Xerox Tools to be hosted	Xerox
2.	Provide Xerox the list of End Users to be granted log in credentials to access the Xerox Tools	Customer

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ID	Activity	Accountable
3.	Provide Customer appropriate End User login credentials to the Xerox Tools Note: See Exhibit A: Services Scope Assumptions for the number of End User logins supported	Xerox

3.2.2 On-Site Xerox Tools Deployment

Where required, portions of the Xerox Tools shall be deployed On-Site for the delivery of the Services.

ID	Activity	Accountable
1.	Provide required Xerox Tools software and hardware, server, database, network, and firewall specifications to Customer IT group	Xerox
2.	Assist in the implementation of the Xerox On-Site Tools by providing required network information such as the appropriate server access credentials, and other required data and settings as provided by Xerox	Customer
3.	Provide Xerox with administrative rights to the server during the implementation of the Xerox Tools and during Xerox Tools maintenance (if applicable)	Customer
4.	Install and configure the appropriate portions of the On-Site Xerox Tools	Xerox
5.	Perform application data backup test	Customer
6.	Support application data backup test	Xerox

3.2.3 Xerox Tools Update(s)

Upon implementation of the On-Site Xerox Tools, Xerox shall provide on-going maintenance and update(s) of the Xerox Tools, as necessary.

ID	Activity	Accountable
1.	Provide notification of On-Site Xerox Tools updates that must be performed	Xerox
2.	Schedule updates with Customer's team with reasonable notification of not less than thirty (30) days, unless otherwise required and agreed upon by the Parties	Xerox
3.	Updates that can be completed remotely, without On-Site Xerox assistance, shall be coordinated with Customer during the notification and planning of such updates	Xerox
4.	Provide access and enable Xerox to update the Xerox Tools as required	Customer
5.	Provide the most current available version of the Xerox Tools as required to perform the Services, as determined by Xerox, during the Term	Xerox
6.	Prior to any update of the Xerox Tools, ensure appropriate backup of data and application servers, or other supporting applications	Customer

3.2.4 Backup and Support for On-Site Xerox Tools Servers

ID	Activity	Accountable
1.	Provide advance notification to Xerox of all maintenance and upgrades to any Customer Software and third party software that may affect the proper operation of Xerox Tools	Customer
2.	Back up all Customer Software applications installed on the servers hosting the Xerox Tools and MS SQL on at least a monthly basis	Customer
3.	Back up all databases associated with the Xerox Tools	Customer

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ID	Activity	Accountable
	Conduct daily incremental and (weekly or monthly) full backups of all data tables and data associated with the Xerox Tools database installation on MS SQL Server. Verify that backups can be read and installed	
4.	Conduct application and service monitoring (with notifications to Xerox) for Xerox defined applications and services	Customer
5.	Hardware and system software maintenance of servers hosting the On-Site Xerox Tools or Xerox Tools data on the Customer network	Customer
6.	Provide appropriate and sufficient virus protection for the servers hosting the On-Site Xerox Tools or Xerox Tools data on the Customer network	Customer

Account Team: Engage Xerox Legal (OGC)

The following paragraph is a requirement by Xerox for C&CS SOW's. If the Customer requests changes and/or deletions to this language, engage your applicable Xerox legal representative supporting your opportunity

To the extent that Customer utilizes a third party provider for the support and maintenance of its information technology infrastructure, including the servers hosting the Xerox Tools and MS SQL, or otherwise has access to such, the Customer agrees that it shall, pursuant to the "Confidentiality" provision(s) of the Agreement, require all such third party providers to execute written obligations of confidentiality, in regards to Xerox's Confidential Information, including, but not limited to the Xerox Tools, which are no less restrictive than those set forth in the Agreement and this SOW.

3.2.5 Electronic Document Submission

ID	Activity	Accountable
1.	Establish an inbound (Customer to Xerox) SFTP site (separate from EDMS) (if applicable)	Xerox
2.	Establish inbound Email address(es) (if applicable)	Xerox
3.	Enable Xerox® Capture and Content App integration (if applicable)	Xerox
4.	Provide electronic access, including access rights, to the Xerox provided inbound SFTP site to Customer	Xerox
5.	Provide the rules for file submission, including file structure and directory structure specification for the submission	Xerox

Account Team: Xerox® Capture and Content App

Delete 3.2.5.1 Xerox® Capture and Content App content if it is not part of the scope of the C&CS Solution.

3.2.5.1 Xerox® Capture and Content App

Xerox® Capture and Content App provides the ability to Scan Documents from multi-function printers (print, copy, scan, fax) (MFPs) into the EDMS. End Users may submit Documents from Xerox® Capture and Content App Authorized Equipment (Xerox® VersaLink® and AltaLink® MFPs) registered by Xerox under the C&CS SOW.

The following are requirements to enable Xerox® Capture and Content App to be configured on Xerox® Capture and Content App Authorized Equipment:

- Xerox® Capture and Content App Authorized Equipment must support the Xerox® Extensible Interface Platform® (EIP) (or Base Software) version 3.5 or higher. Xerox® Extensible Interface Platform® (EIP) (or Base Software) update deployment may incur additional charges.
- Customer must configure the Xerox® Capture and Content App Authorized Equipment multi-function printers (MFPs) (print, copy, scan, fax) to:

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- o Allow the Xerox® Capture and Content App to be installed
- o Enable SNMP Web Services setting

Enable and configure the proxy setting, if the Xerox® Capture and Content App Authorized Equipment is on a network that uses a proxy to access the internet.

ID	Activity	Accountable
1.	Identify and provide make, models, serial numbers, and physical address of the Xerox® Capture and Content App Authorized Equipment on which the Xerox® Capture and Content App is to be deployed	Customer
2.	Remotely deploy the Xerox® Capture and Content App Note: Customer must allow remote access by Xerox to the Xerox® Capture and Content App Authorized Equipment	Xerox
3.	Submit test Documents via the Xerox® Capture and Content App for CRT	Customer
4.	Upon completion of CRT, submit Documents via the Xerox® Capture and Content App	Customer
5.	Update and maintain Xerox® Capture and Content App Authorized Equipment during Service Operations	Xerox and Customer

3.2.6 Capture and Content Services Dashboard (Reporting)

The Capture and Content Services Dashboard ("C&CS Dashboard") provides End Users with convenient and simple-to-use access to Scanning analytics. The C&CS Dashboard displays the raw data that is collected during the Scanning process. Such raw data may not align with reports and invoices provided to Customer.

ID	Activity	Accountable
1.	Configure Xerox hosted C&CS Dashboard	Xerox

3.2.6.1 Capture and Content Services Dashboard Terms of Use:

Access to the C&CS Dashboard is via username and password. Customer shall: (a) advise Xerox as soon as reasonably practicable of any known or reasonably suspected unauthorized use of any password or account on the C&CS Dashboard or any other known or reasonably suspected breach of security; (b) use commercially reasonable efforts to ensure that Customer's use of the C&CS Dashboard shall at all times comply with all applicable laws.

3.2.6.2 Capture and Content Services Dashboard General Assumptions

Account Team: Capture and Content Service Dashboard Terms of Use

If including additional languages, beyond the standard for the applicable country/countries, to be supported by the C&CS Dashboard, ensure applicable costs are included in the Business Case. Delivery has approved and update the paragraph below to include the languages to be supported

Any Scanning volumes displayed in the C&CS Dashboard are raw Scanning volumes and not invoiced Scanning volumes. The C&CS Dashboard is implemented to display information commonly to all End Users in English. Requests for additional languages may be quoted upon request and documented via the Change Control Process.

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3.2.7 Electronic Document Availability

Account Team: Electronic Document Availability

If ID #1 is Customer, keep ID #1, #2, #3, and #4, delete the "Note" regarding the EDMS Schedule in ID #1

If ID #1 is Xerox, delete ID #2 and #3, and attach the applicable EDMS Schedule to the C&CS SOW

ID	Activity	Accountable
1.	Establish the EDMS for which the data shall be imported into Note: See the EDMS Schedule attached to this SOW	[Xerox or Customer]
2.	Provide electronic access, including access rights, to Customer's SFTP site to Xerox (if applicable)	Customer
3.	Provide folder for Xerox to import Image Files (data), sub-folders, if applicable	Customer
4.	Place all Image Files (i.e., PDF, TIF, etc.) and associated metadata (if applicable) into the EDMS Note: Utilize the file naming convention in accordance with Exhibit A: Services Scope Assumptions.	Xerox

3.3 Customer Requirements-based Testing (CRT)

ID	Activity	Accountable
1.	Develop a Project Plan for the Customer Requirements-based Testing (CRT)	Xerox and Customer
2.	Provide Xerox with a representative sample set of Documents for CRT. This representative sample set shall cover all Document Process Types that Xerox shall be responsible for Scanning Note: This representative sample shall act as the baseline for any future Document quality and / or Image quality related queries between the Parties Note: Additional charges may apply, and shall be documented via the Change Control Process, if Customer submits to Xerox additional Document and/or Document Process Types, as part of the original CRT representative sample set documented in this SOW	Customer
3.	Retain Customer provided CRT documents resulting from testing	Xerox
4.	Conduct CRT on representative samples of the source material as provided by the Customer against parameters and specifications of this SOW	Xerox
5.	Present results of CRT to Customer	Xerox
6.	Agrees to CRT completion and signs off on migration from the Staging Environment to the Production Environment	Customer

3.3.1 Customer Requirements-based Testing (CRT) Acceptance Criteria

Xerox shall submit an Acceptance Signoff document to Customer for review and approval (signature) at the completion of CRT for each Document Process Type. Acceptance of the completion of CRT for each Document Process Type shall be acknowledged by the signature of an Acceptance Signoff document by the Customer. The Acceptance Signoff document

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shall be considered approved if Customer has not responded to the request for signature of the Acceptance Signoff document within **ten (10)** Business Days.

3.4 Change Management

Change Management is a communication process that enables the Customer to inform and prepare their End Users for the introduction of new technology and processes related to the Services. A communication plan shall be mutually agreed upon by the Parties, developed and implemented by the Customer throughout Transition.

ID	Activity	Accountable
1.	Advise Customer in support of Customer's change management efforts	Xerox
2.	Develop and produce content and distribution methods of all communications	Customer

3.5 Transition Delay

Account Team: Transition Delay

If SLAs are not In-Scope to the scope of this SOW, delete "or the SLAs" in first sentence of the first paragraph below

Change **[insert timeframe]** to align with the scope, timeline, and identified risks associated with the scope of this SOW. An example of the format is as follows: two (2) months, or thirty (30) days, or two (2) weeks, etc.

Any other changes to the language in the Transition Delay section required written approval of the responsible Delivery Controller and VP of Delivery Operations

Xerox shall not be liable for failure to meet the Project Plan or the SLAs where Xerox is unable to establish the Services aligned to the assumptions in Exhibit A: Services Scope Assumptions, due to a Customer Caused Delay. A Customer Caused Delay may result in Transition Delay charges as listed in the Section 6 Pricing.

If there is more than a **[insert timeframe]** delay in the Transition Project Plan due to a Customer Caused Delay, the Parties agree to revise the Project Plan. Transition Delay charges, if applicable, shall be processed via a change control document agreed to by the Parties in writing. Customer acceptance of the change control document shall not be unreasonably withheld.

4 SERVICE OPERATIONS

4.1 Governance and Performance

The Parties shall meet on a regular basis to enable timely and accurate communication; allow for planning and alignment with Customer's objectives and requirements as set forth in this SOW; and provide timely resolution of issues. Meetings may include On-Site, web conferencing, and/or teleconference meetings.

ID	Activity	Accountable
1.	Provide a representative to lead and monitor the provision of the Services and be the main point of contact for coordination during Service Operations	Xerox and Customer
2.	Document meeting minutes and distribute to all attendees	Xerox
3.	Ensure appropriate personnel are available for meetings, including IT contact and Executive Sponsor	Customer

4.1.1 Operational Reviews

Xerox shall schedule joint communication and status review meetings with the Customer's designated focal point as required. Xerox recommends a monthly operations review. Topics discussed may include:

- Open issues and progress toward resolution
- Proposed /impending changes
- Status of special projects
- Customer support requirements
- Customer management support
- Communication needs
- Performance Reporting

4.1.2 Quarterly Business Reviews

A formal management meeting to discuss the Services and their relationship to the Customer's strategic business goals shall be conducted on a mutually agreed upon schedule. Xerox recommends a quarterly business review where applicable. Topics discussed may include:

- Review of the SLA reports and trends for the quarter
- Review of overall Services
- Review of the progress of the resolution of previously discussed open issues
- Innovation proposals and opportunities
- Major business and technology changes affecting the Services

4.2 Document Capture

Account Team: Document Transportation and Receipt

If you change ID #2 you must change ID #4 to match

4.2.1 Document Transportation and Receipt

ID	Activity	Accountable
1.	Schedule delivery, collection points, shipment sizes, and all other transportation related matters	Xerox and Customer
2.	Responsible and liable for the logistics handling and transportation of all Documents to and from the C&CS Facility, including all associated costs Note: When providing Documents to Xerox for Scanning, provide a Manifest, in a similar format to the table below, that includes a detailed accounting of the Boxes	Customer

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ID	Activity	Accountable
	Note: If transporting multiple Boxes, said Boxes shall be shrink-wrapped and securely loaded onto pallets, prior to transportation to the C&CS Facility	
3.	Reconcile the delivery against the Manifest and notify Customer of any discrepancies (if applicable)	Xerox
4.	Resolve discrepancies between the delivery and the Manifest (if applicable)	Customer

An example of the Manifest format is provided below, for illustrative purposes only:

Manifest Assumptions (Example)

e.g: Pallet Number	e.g: Box Number	e.g: Document Process Type	e.g: Reference Number	e.g: Date
e.g: 12	e.g: 365	e.g: Invoice	e.g: INV000098	e.g: 05262018

4.2.2 Mail Transportation and Receipt

ID	Activity	Accountable
1.	Establish PO Boxes for the C&CS Facility Note: Customer shall be responsible for any applicable PO Box charges.	Customer
2.	Assist Customer with establishing dedicated PO Boxes for the C&CS Facility	Xerox
3.	Work with the applicable postal mail service to redirect 'day-forward' physical postal deliveries to dedicated PO Boxes for the C&CS Facility	Customer

4.2.3 Electronic Document Submission

ID	Activity	Accountable
1.	Submit electronic Documents to Xerox utilizing the inbound (Customer to Xerox) SFTP site (separate from EDMS), Xerox® Capture and Content App (where applicable), and/or Email address to required specification as provided by Xerox	Customer

4.2.4 Document Preparation**Account Team: Document Preparation**

Update/edit the bulleted list of examples in ID #1 based on the scope of the solution for your customer.

ID	Activity	Accountable
1.	If requested by Customer, perform verification step on Documents to be Scanned that is applicable to the context of the Scanning activity. Additional charges may apply and shall be documented via the Change Control Process. Examples: - Document to be Scanned is the Customer's invoice - Document to be Scanned is a Customer patient record Note: See Exhibit F: Standard Document Preparation Activities.	Xerox

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ID	Activity	Accountable
2.	If requested by Customer, remove any Documents that are not required to be Scanned. Note: Additional charges may apply and shall be documented via the Change Control Process	Xerox
3.	Remove Simple Bindings from the hardcopy Documents	Xerox
4.	Remove Non-Simple Bindings Note: Additional charges may apply and shall be documented via the Change Control Process. Note: Where Xerox is not able to remove a binding due to the potential compromise of the Document integrity then it shall be raised to the Customer as an exception through the Service Request Management process. Note: Xerox shall photocopy any folder/plastic wallet/etc. found within the Document container (i.e., file/folder/ envelope) containing information relating to the contents of said Document.	Xerox
5.	Documents contained within envelopes shall be opened and both the Documents and the envelopes shall be scanned	Xerox
6.	Identify and mark Poor Quality Documents or Cherished Documents prior to Scanning	Xerox
7.	Complete Light Repair on Documents	Xerox
8.	Group Documents and submit for Scanning	Xerox

4.3 Scanning

4.3.1 Document Scan Process

Account Team: Document Scan Process

If Customer requests to delete the Note: in ID #1, exception approval is required. The team will need to engage OGC and Service Delivery

ID	Activity	Accountable
1.	Convert Documents into Images Note: Xerox is not liable for Scanning Documents, provided by Customer to Xerox, which are considered confidential, proprietary and/or other legal determination by Customer or Customer's customer nor actions of Customer stemming from the use of the Image.	Xerox
2.	Apply unique name to each file	Xerox

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ID	Activity	Accountable
3.	Perform automated Image clean up but shall not be adjusted on an Image-by-Image basis. The following automated Image cleanup shall be applied: - Auto De-skew - Auto Black Border Removal Note: Characteristics of Images or quality of the source paper may deteriorate the effectiveness of the automated cleanup tools Note: Manual correction of anomalies may be required, and additional charges may apply and shall be documented via the Change Control Process.	Xerox

4.3.2 Currency or Negotiable Documents Scan Process

ID	Activity	Accountable
1.	Log Currency and Negotiable Documents for audit purposes	Xerox
2.	Send Currency and Negotiable Documents to Customer at Customer's expense	Xerox

4.4 Indexing

ID	Activity	Accountable
1.	Provide the Master Data format and structure specification	Xerox
2.	Provide upload instructions and rules to Customer	Xerox
3.	Provide Master Data or electronic access (i.e., access to Customer's Active Directory, etc.) of Indexing specifications to Xerox as per the Xerox provided instructions	Customer
4.	Utilize the Exhibit C: Indexing Specifications, Index attribute data	Xerox

4.5 Quality Assurance

ID	Activity	Accountable
1.	Provide Image and Indexing quality assurance - See Exhibit D: Good Quality Image Review Requirements Note: Customer is responsible for the quality of the Image where the original Documents received for processing contain faint or illegible information, or where the Document contains information that has not been recorded in either black or blue ink.	Xerox
2.	Recheck Pages where Image quality fails the above review and Rescan - If the Image is identified as Poor Quality and optionally marked as best available source, Xerox shall not be required to Rescan	Xerox

4.6 Data Export and Release

ID	Activity	Accountable
1.	Images and associated metadata shall be exported and released into the applicable EDMS	Xerox

Capture and Content Services Statement of Work



4.7 Original Document Disposition

4.7.1 Document Storage

ID	Activity	Accountable
1.	Store the hardcopy Documents as outlined in Exhibit A: Services Scope Assumptions Note: Documents set for destruction shall incur Document storage charges, as outlined in the "Pricing" section below, following Image Availability Period to Customer.	Xerox
2.	Request access to the physical documents.	Customer

4.7.2 Document Return

ID	Activity	Accountable
1.	Schedule delivery, collection points, shipment sizes, and all other transportation related matters	Xerox and Customer
2.	Responsible and liable for the logistics handling and transportation of all Documents from the C&CS Facility back to Customer Note: Customer is responsible for all associated transportation costs. Note: When returning Documents to Customer, provide a Manifest, in a similar format to the Manifest Assumptions table under Document Transportation and Receipt section, that includes a detailed accounting of the Boxes. Note: If transporting multiple Boxes, said Boxes shall be shrink-wrapped and securely loaded onto pallets, prior to transportation to Customer.	Xerox
3.	Return hardcopy Documents, per Exhibit A: Services Scope Assumptions, to Customer designated location at the Customer's expense	Xerox
4.	Reconcile the delivery against the Manifest and notify Xerox of any discrepancies	Customer
5.	Resolve discrepancies between the delivery and the Manifest	Xerox

4.7.3 Original Document Destruction

ID	Activity	Accountable
1.	All original Documents associated with the applicable Images shall be destroyed upon completion of the Image Availability Period and Email Availability Period	Xerox
2.	Certificate(s) of destruction shall be provided to the Customer upon completion of the destruction process, if requested by Customer	Xerox

Capture and Content Services Statement of Work



4.8 Service Request and Incident Management

4.8.1 Service Request Management

ID	Activity	Accountable
1.	Utilizing the Xerox provided process, submit the Service Request to Xerox Note: Xerox shall reject any Service Requests that do not follow the documented process Note: All Customer requested Service Requests shall be charged as outlined in the Pricing section unless otherwise quoted	Customer
2.	If Service Requests (which may include but are not limited to Rescan, Expedited Scan and/or original Document Requests) are rejected by Xerox, respond to the Customer by Email, providing the reason for the rejection	Xerox
3.	If desired, request that the rejected Service Request be completed by notifying Xerox	Customer
4.	Complete Service Requests per the processes outlined below	Xerox

4.8.1.1 Rescan Requests

ID	Activity	Accountable
1.	Retrieve the physical Document(s)	Xerox
2.	Complete the following activities: - Review the quality of the original Document(s), if this is deemed Poor Quality it shall be marked 'Poor Quality Original' - Photocopy the original Document(s) and place the copy of the original Document in place of the original(s) noting the date Rescanned Note: Xerox shall only be able to Rescan Documents that are not destroyed, returned to Customer or moved to long term storage. Documents in long term storage to be Rescanned shall be charged as outlined in the Pricing section	Xerox
3.	Scan the Document as a Rescan Document Process Type	Xerox
4.	The Xerox shall confirm the new unique identifier and the Rescan date	Xerox

4.8.1.2 Expedited Scan Process

ID	Activity	Accountable
1.	Utilizing best effort, process remaining steps in the Document Scan Process	Xerox

4.8.1.3 Original Document Request

ID	Activity	Accountable
1.	Retrieve the physical Document(s)	Xerox
2.	Ship original Documents to Customer Note: Xerox shall only mail original Documents that are in Document storage managed by Xerox	Xerox

4.8.1.4 Xerox Tools User Access Request

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ID	Activity	Accountable
1.	Request End User access to Xerox Tools Note: If request for End User access to Xerox Tools exceeds the number of included End User log in credentials outlined in Exhibit A, additional charges shall apply as outlined in the Pricing section below	Customer
2.	Evaluate request for End User access to Xerox Tools	Xerox
3.	Update and provide Xerox Tools system End User access to Customer, if applicable	Xerox

4.8.2 Service Incident Management

Customer may create a Service Incident via one of the means noted in the Service Request Management section above. If a Service Incident reported to Xerox is identified as an issue that the Customer is responsible for resolving, including without limitation, End User access to Xerox Tools solution (if applicable), passwords to EDMS solution (if applicable) are expired, etc., then the Xerox shall send the Service Incident to the Customer for closure/resolution, along with any available problem identification information that was provided to Xerox.

Account Team: Standard Service Elements

Standard Support Hours can be modified if they are different from the Scanning Hours.

Note: This is not a central point of contract (i.e. a help desk). The hours of support and language supported are determined/approved by Service Delivery

4.8.2.1 Standard Service Elements

ID	Service Elements	Accountable
1.	Standard Support Hours: Business Hours	Xerox
2.	Language(s) Supported: English. Other languages may be available at additional cost	Xerox

4.8.2.2 Service Incident Process

ID	Activity	Accountable
1.	Customer identifies and initiates a Service Incident utilizing the Xerox provided support process	Customer
2.	Evaluate submitted Service Incident. Where Xerox is responsible, perform resolution activities	Xerox
3.	Notify Customer upon completion of Service Incident resolution	Xerox



5 SERVICE LEVEL AGREEMENTS

5.1 SLA Metrics

Each Service Level Agreement (SLA) described in this section is the standard against which Xerox’s performance shall be measured. The measurement of any SLA under this SOW excludes any out-of-scope services including, but not limited to any Ad Hoc Requests. The SLAs are based on the reasonable achievement of and staying within the specifications outlined in Exhibit A: Services Scope Assumptions. Any metrics shown/outlined in the Xerox Tools, reporting, etc., but not listed in this section, are not considered Service Level Agreements below and simply used as Key Performance Indicators (KPIs). Key Performance Indicators are intended by the Parties to be another set of metrics to measure the performance of the Services outlined under this SOW. However, in no event shall failure to meet SLAs and/or KPIs be considered a breach by Xerox of its obligations under this SOW.

Except as otherwise specified, all references to hours shall be on the Business Days/Hours of the C&CS Facility as outlined in this SOW.

Account Team: SLA Metrics

Any changes to the SLAs must be reviewed and approved by Service Delivery.

Document Process Type SLAs are by exception and must be reviewed and approved by Service Delivery. Document Process Type SLAs can only exist in the SLA table if Document Process Type is outlined in the Pricing Section of this SOW.

If Document Process Type is not selected in the Pricing Section, delete the Document Process Type SLA row in the table below

If the Customer requires heavy or time consuming Indexing, consider incremental Business Days to the SLAs below where applicable

Capture and Content Services SLAs			
Service Level Agreement (SLA)	SLA Measurement Criteria	Service Level Agreement	SLA Attainment
Image Turnaround Time	Percent of Images made available in the EDMS within the SLA monthly Note: Excludes all specified Document Process Type Image Turn Around Time SLAs (if applicable)	Next Business Day	95%
Image Turnaround Time – [insert Document Process Type X]	Percent of [insert Document Process Type X] Images made available in the EDMS within the SLA monthly	Next Business Day	95%
Index Accuracy	Percent of accurate Index fields within the SLA	Monthly Index Accuracy	98%
Image Quality	Percent of Good Quality Images within the SLA monthly	Image Quality	95%
Rescan Image Turnaround Time	Percent of Rescanned Images made available in the EDMS within the SLA monthly	Three (3) Business Days	95%

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5.2 SLA Measurement

Image Turnaround Time	
SLA Definition	The duration in time required to convert a Document to an Image and make the Image available within the EDMS each calendar month. Image Turnaround Time is measured from the time Xerox begins the Scanning process to the time the Document, as converted into an Image, is available in the EDMS. For the purpose of this Service Level, any Document received after 10:00am shall be treated as if it were received on the following Business Day.
Measurement Basis	Basis: The % of Images made available in the EDMS within the SLA performance specification.
Measurement Computation	Image Turnaround Time = % of Images made available within the EDMS within the SLA performance specification for a given calendar month divided by the total number of Scanned Images in that same calendar month. Example: January = 19,876 Images made available in the EDMS within the SLA / 20,000 Scanned Images in the same calendar month = 99.3% achievement Note: Other unplanned outages not included in the computation include, but are not limited to power failure, network failure, virus or other Customer limitation, Force Majeure event, misuse, abuse, operational exceptional event, or Customer-caused failure.
Index Accuracy	
SLA Definition	The percentage of Index fields verified to be accurate in accordance with Exhibit C: Indexing Specifications. Accuracy, for purposes of this Service Level Agreement, means that the Index fields captured by Xerox and delivered to the Customer match the Image from the original Document provided by the Customer.
Measurement Basis	Basis: The % of accurate Index fields made available in the EDMS within the SLA performance specification.
Measurement Computation	Index Accuracy = % of Index fields, without defects, made available in the EDMS within the SLA performance specification for a given calendar month, divided by the total quantity of Index fields made available in the EDMS in that same calendar month. Defects, for the purposes of this Service Level Agreement, means defects within the Index fields identified and reported by Customer and verified and accepted by Xerox. Example: January = 19,876 accurate Index fields made available in the EDMS within the SLA / 20,000 Index fields made available in the EDMS in the same calendar month = 99.3% achievement
Image Quality	
SLA Definition	The number of Scanned Images verified to be correct against the original Document in accordance with the Good Quality Image specification listed below: - at the agreed resolution in DPI - uncropped reproduction of the Page - with skew under 10% from the original Document - contrast between text and background consistent with original Document - characters reproduced at the same size/proportion as the original Document - absence of darkened borders at Page edges, except if they are in the original Document - absence of wavy or distorted text, except if they are in the original Document - no missing Pages

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Measurement Basis	Basis: The % of Scanned Good Quality Images made available in the EDMS within the SLA performance specification.
Measurement Computation	Image Quality = % of Scanned Good Quality Images made available within the EDMS within the SLA performance specification for a given calendar month divided by the total number of Scanned Images made available in the EDMS in that same calendar month. Defects are identified and reported by the Customer and then verified and accepted by Xerox. Example: January = 19,876 Scanned Good Quality Images made available in the EDMS within the SLA / 20,000 Scanned Images made available in the EDMS in the same calendar month = 99.3% achievement.
Rescan Request Turnaround Time	
SLA Definition	The duration in time required to convert a Document to an Image(s) and make the Image(s) available within the EDMS; starting from the time Xerox receives a Rescan request to the time the Document, as converted into an Image(s), is made available in the EDMS.
Measurement Basis	Basis: The % of Rescanned Images made available in the EDMS within the SLA performance specification.
Measurement Computation	Rescan Request Image Turnaround Time = % of Rescanned Images made available within the EDMS within the SLA performance specification for a given calendar month divided by the total number of Rescanned Images in that same calendar month. Example: January = 19,876 Rescanned Images made available in the EDMS within the SLA / 20,000 Rescanned Images in the same calendar month = 99.3% achievement. Note: Other unplanned outages not included in the computation include, but are not limited to power failure, network failure, virus or other Customer limitation, force majeure event, misuse, abuse, operational exceptional event, or Customer-caused failure.

5.3 Excusable Events

Achievement of the SLAs as outlined above is based on reasonable achievement and that the total process volume aligns with the assumptions outlined in Exhibit A: Service Scope Assumptions. If any of the following events occur, such events shall be excused from the SLA calculations:

- Customer willful misconduct
- Customer violations of law
- The failure of [insert Customer or Customer's service providers name] (not under contract to Xerox) to deliver its Services in a timely manner, which caused Xerox to not achieve an SLA; for clarity, this excuse for non-performance does not apply if a Xerox contractor or subcontractor caused the non-achievement of an SLA
- Customer's failure to meet any Customer responsibilities as outlined in this SOW
- The total processing volume in a month being one hundred and twenty percent (120%) more than the total number of Expected Monthly Volume of Scanned Images, see Exhibit A: Services Scope Assumptions



6 PRICING

6.1 Pricing Overview

The charges for various Services (“Price” or “Pricing”) included in this SOW are detailed in this section and excludes all applicable taxes per the Agreement. Pricing for the Service Charges are set forth in the signed Order to which this SOW is attached and invoiced upon the activation of Services. Transactional, Incremental and Ad Hoc Request charges shall be invoiced as incurred. Pricing is contingent upon the assumptions in Exhibit A: Services Scope Assumptions. Xerox reserves the right to amend the Pricing if the actual volumes/assumptions vary from Exhibit A: Services Scope Assumptions, via the Change Control Process.

6.2 Scanning Volume Ramp Up Timeline

Customer shall deliver Documents in line with the Scanning volume ramp up timeline outlined in Exhibit A: Services Scope Assumptions. The Scanning volume ramp up timeline is subject to change based on additional opportunities and/or changes in the assumptions outlined in this SOW and mutually agreed to by the Parties, via the Change Control Process.

6.3 Service Charges

Account Team: Service Charges

Remove the Setup Charge row in the table below (future option not available currently)

Note: If this pricing models is not viable for an opportunity, escalate and engage the Sales and Delivery Controllers for alternate pricing options (if available)

Item	Description	Unit of Measure	Per Unit of Measure Charge
Setup Charge	A one-time setup charge to initiate Services	One-time	See Order to which this SOW is attached
Monthly Service Charge	Ongoing monthly charges for Services; may include a minimum monthly volume as outlined in Section 6.4 below Note: If the actual monthly volume for a given Standard Transactional line item exceeds the Minimum Monthly Volume in a given month, Customer shall be invoiced for the Incremental Monthly Volume as detailed in Section 6-4 below Note: Excludes Standard Transactional, Incremental Transactional, Incremental Processing and Ad Hoc Charges	Monthly	See Order to which this SOW is attached



6.4 Standard Transactional Charges

Account Team: Standard Transactional Charges

Select Scenario #1, #2, or #3 and delete the other two (including their applicable examples) and the Table headers for "Scenario "X" as well.

Insert the prices and minimum monthly volume number from the Evaluation Tool.

If no Minimum Monthly Volume is included within the Monthly Service Charge, insert "zero (0)" in the Minimum Monthly Volume.

Scenario #1

Item	Unit of Measure (UOM)	Charge per UOM above Minimum Monthly Volume	Minimum Monthly Volume
Scanned Images	Per Image	[insert price]	[insert volume]
Scanned Images – Flatbed Scanning	Per Image	[insert price]	[insert volume]
Ingested Images (e.g., inbound Email)	Per Image	[insert price]	[insert volume]

Standard Transaction Charges Calculation Example

Scan activity using the table above would be calculated as following:

- 1 When over the Minimum Monthly Volume:

a. (Scanned Images Charge per UOM) x (Incremental Monthly Volume)

Scenario #2

Account Team: Standard Transactional Charges – Scenario #2

If you are proposing Scenario #2 with an Accounts Payable solution, delete the following rows in the table below as they are not supported under an Accounts Payable solution:

Scanned Images – Wide Format Documents – Black and White
Scanned Images – Wide Format Documents – Color / Grayscale
Scanned Images – Long Format Documents – Black and White
Scanned Images – Long Format Documents – Color / Grayscale

Item	Unit of Measure (UOM)	Charge per UOM above Minimum Monthly Volume	Minimum Monthly Volume
Scanned Images – Black and White	Per Image	[insert price]	[insert volume]
Scanned Images – Color / Grayscale	Per Image	[insert price]	[insert volume]
Scanned Images – Wide Format Documents – Black and White	Per Image	[insert price]	[insert volume]

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Item	Unit of Measure (UOM)	Charge per UOM above Minimum Monthly Volume	Minimum Monthly Volume
Scanned Images – Wide Format Documents – Color / Grayscale	Per Image	[insert price]	[insert volume]
Scanned Images – Long Format Documents – Black and White	Per Image	[insert price]	[insert volume]
Scanned Images – Long Format Documents – Color / Grayscale	Per Image	[insert price]	[insert volume]
Scanned Images – Flatbed Scanning	Per Image	[insert price]	[insert volume]
Ingested Images (e.g., inbound Email)	Per Image	[insert price]	[insert volume]

Standard Transaction Charges Calculation Example

Scan activity using the table above would be calculated as following:

- 1 When over the Minimum Monthly Volume
- a. (Scanned Images Charge – Black and White Charge per UOM) x (Incremental Monthly Volume)

Scenario #3

Account Team: Standard Transactional Charges – Scenario 3

If the proposed pricing solution requires fewer than 4 Document Process Types, delete the rows as necessary.

If the proposed solution requires more than 4 Document Process Types, add additional rows

Document Type examples are: Invoice Profile 1, Claim, Contract, etc.

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Item	Document Type	Unit of Measure (UOM)	Charge per UOM above Minimum Monthly Volume	Minimum Monthly Volume
Document Process Type 1	Generic	Per Document	[insert price]	[insert volume]
Document Process Type 2	[Insert Type]	Per Document	[insert price]	[insert volume]
Document Process Type 3	[Insert Type]	Per Document	[insert price]	[insert volume]
Document Process Type 4	[Insert Type]	Per Document	[insert price]	[insert volume]
Box Scanning		Per Box	[insert price]	[insert volume]

Standard Charges Calculation Example

Scan activity using the table above would be calculated as following

- 1 When over the Minimum Monthly Volume:
- a. (Document Process Type 1 Charge per UOM) x (Incremental Monthly Volume)



6.5 Incremental Transactional Charges

Account Team: Incremental Transactional Charges

Delete rows that do not apply to your proposed solution. You must have an Index Charge for each Document Type listed in Exhibit A: Services Scope Assumptions

If Scenario #3 includes a Document Process Type for Cherished Document Handling and/or Currency or Negotiable Documents Charge, including Checks, then delete those rows in the table below.

If, under Exhibit A: Services Scope Assumptions, Processing, Required to count hardcopy Pages is "no", delete/remove the "Count hardcopy Pages" row from the table

Note: The charges listed in the table below are incremental to the charges in the table above.

Item	Unit of Measure	Per Unit of Measure Charge
Cherished Document Handling Charge	Per Document	[insert price]
Currency or Negotiable Documents Handling Charge, including Checks	Per Document	[insert price]
Expedited Scan Charge	Per Image	[insert price]
Document Retrieval Charge	Per Document	[insert price]
Rescans (excludes Document Retrieval charges)	Per Image	See the applicable charge in Section 6.4 Standard Transactional Charges
Incremental End User Access Request	Per End User	[insert price]
Non-Simple Binding Removal	Per bind	[insert price]
Document Storage – On-Site at C&CS Facility (following Image Availability Period)	Per Box per month	[insert price]
Document Storage – Off-Site from C&CS Facility (following Image Availability Period)	Per Box per month	[insert price]
Document Destruction	Per Box	[insert price]
Manually count hardcopy Pages before Scanning	Per Page	[insert price]
Document Refile	Per Document	[insert price]
Exception handling fee	Per Exception	[insert price]
Note: Covers any exceptions not outlined in Section 4: Service Operations		
Repair (requires more than Light Repair activities)	Per Item	[insert price]
Manual rotation of Images during Quality Assurance (QA)	Per Image	[insert price]

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Incremental Transaction Charges Calculation Example

Activity using the table above would be calculated as following:

Note: Sample Document charges calculation assumes a single Document of a single Image and is a Cherished Document that the Customer has requested, for their own purposes, a Rescan.

- 1 Original Scan of the example above would be calculated as:

a. Per Image = (Standard Transactional Charges as calculated in Section 6.4 above) + (Cherished Document Handling Charge)

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- 2
- Customer requested Rescan of the example above, when each of the individual activities are re-performed, they would be calculated as:

a. (Document Retrieval Charge) + (Standard Transactional Charges as calculated in Section 6.4 above) + (Cherished Document Handling Charge)

6.6 Incremental Processing Charges

Account Team: Incremental Processing Charges

The Document Types are found in the Evaluation Tool

Item	Document Type	Unit of Measure	Per Unit of Measure Charge
Index Charge – Document Process Type 1	Generic	Per Document	[insert price]
Index Charge – Document Process Type 2	[Insert Type]	Per Document	[insert price]
Index Charge – Document Process Type 3	[Insert Type]	Per Document	[insert price]
Index Charge – Document Process Type 4	[Insert Type]	Per Document	[insert price]
Optical Character Recognition (OCR) - Searchable PDF		Per Image	[insert price]

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Incremental Processing Charges Calculation Example

Activity using the table above would be calculated as following: sample Document charges calculation assumes a single Document of a single Image and is a Cherished Document that the Customer has requested, for their own purposes, a Rescan. This Document is a Document Process Type 1 and also includes an Index Charge.

- 1
- Original Scan of the example above would be calculated as:

a. Per Image = (Standard Transaction Charges as calculated in Section 6.4 above) + (Cherished Document Handling Charge) + (Index Charge – Document Process Type 1)
- 2
- Customer requested Rescan of the example above, when each of the individual activities are re-performed, they would be calculated as:

a. (Document Retrieval Charge) + (Standard Transaction Charges as calculated in Section 6.4 above) + (Cherished Document Handling Charge) + (Index Charge – Document Process Type 1)

6.7 Ad Hoc Request Charges

Account Team: Ad Hoc Request Charges

If the Evaluation Tool does not provide a Per Unit of Measure Charge for an item below, the Solution Architect shall identify the cost and assist in pricing.

If a solution doesn't require a line item in the table below, delete it. If additional line items are required, add to the list below, then engage the Solution Architect for escalation and exception approval.

Ad Hoc Request charges shall be applicable for the following Services.

-
- The following Ad Hoc Request activities, but not limited to, are chargeable events and are not included in the Services outlined in this SOW based on the then Xerox current rates.

Item	Unit of Measure (UOM)	Per Unit of Measure Charge
Pickup	Per Shipment from agreed location	Quoted upon per Request
Shipment to Customer	Per Shipment to agreed location	Quoted upon per Request
Images delivered via removable media	Per removable media	Quoted upon per Request

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Item	Unit of Measure (UOM)	Per Unit of Measure Charge
Additional or Alternate Reports	Per report	Quoted upon per Request
Box supply	Per Box	[insert price]
Paper supply	Per sheet	[insert price]
Envelope supply	Per C5 envelope	[insert price]
PO Box Setup	Per PO Box	[insert price]
Manifest validation	Per line item on a Manifest	[insert price]
Box Retrieval	Per Box	[insert price]
Microfilm Conversion 16MM	Per Image	[insert price]
Microfilm Conversion 35MM	Per Image	[insert price]
Microfiche Conversion	Per Image	[insert price]
Aperture Cards Conversion	Per Image	[insert price]
Box Refile	Per Box	[insert price]
eSeal - Electronic Seal	Per eSeal	[insert price]
Email address set up (Electronic Document Submission)	Per Mailbox	[insert price]
Mailstop Master Data uploads	Per Upload	[insert price]

Ad Hoc Request Charges Calculation Example

Activity using the table above would be calculated as following:

- 1
- When activity occurs:
- a.
- (Box supply charge per UOM) x (monthly UOM volume)

6.8 Transition Delay Charges

Account Team: Transition Delay Charges

Insert the Delay Charge as outlined in the Evaluation Tool

The following charges shall be processed via a change control document agreed to by the Parties in writing as indicated in the Transition sections of this SOW.

Delay Charges		
Item	Charges	Notes
Transition Delay charges resulting from Customer Caused Delays	\$(charge) Monthly	Additional Transition support, implementation and management services due to Project Plan reschedule resulting in a delay to the Transition project schedule.



7 TERMINATION

Account Team: Termination

Exception approval is required from the Sales and Delivery Finance Controllers to delete all of Section 7 Termination. Which would leave the scope of Termination to what is outlined in the Agreement.

7.1 Termination Overview

This SOW shall remain in force for its full Term until terminated either by Customer or by Xerox upon giving to the other written notice of termination, subject to the termination provisions of the Agreement. Except as otherwise expressly stated below, any termination hereunder shall be a complete termination of the SOW (not partial), unless otherwise mutually agreed upon by the Parties in writing. Any Services not terminated in accordance with this Section shall continue until the end of the remainder of the Term of the SOW.

7.2 Termination for Material Breach

Either Party may terminate this SOW, by written notice, if the other Party shall have committed a material breach of this SOW or the Agreement and such breach shall have remained uncured for sixty (60) days following written notice from the Party alleging such breach. In the event of termination by Customer for Xerox’s uncured material breach, Xerox shall waive any Early Termination Charges (ETCs) as outlined below. In the event of termination by Xerox for an uncured material breach by Customer, Xerox shall not be required to provide any termination assistance and Customer shall be responsible for ETC’s, outlined in the Early Termination Charges table below.

7.3 Termination for Convenience

If Customer terminates this SOW for convenience during the Term of the SOW, by providing ninety (90) days’ prior written notice to Xerox, Customer agrees to pay all amounts due and owing, and the Early Termination Charges (ETCs) listed in the table below shall be used to identify the applicable ETC.

Early Termination Charges

Account Team: Early Termination Charges

The numbers shown in the Early Termination Charges table below are placeholders only and SHOULD NOT BE USED for your specific engagement. See the Evaluation Tool.

Month from the Effective Date	ETCs Due	Month	ETCs Due	Month	ETCs Due	Month	ETCs Due	Month	ETCs Due
Month 1	[\$0.00]	Month 13	[\$0.00]	Month 25	[\$0.00]	Month 37	[\$0.00]	Month 49	[\$0.00]
Month 2	[\$0.00]	Month 14	[\$0.00]	Month 26	[\$0.00]	Month 38	[\$0.00]	Month 50	[\$0.00]
Month 3	[\$0.00]	Month 15	[\$0.00]	Month 27	[\$0.00]	Month 39	[\$0.00]	Month 51	[\$0.00]
Month 4	[\$0.00]	Month 16	[\$0.00]	Month 28	[\$0.00]	Month 40	[\$0.00]	Month 52	[\$0.00]
Month 5	[\$0.00]	Month 17	[\$0.00]	Month 29	[\$0.00]	Month 41	[\$0.00]	Month 53	[\$0.00]
Month 6	[\$0.00]	Month 18	[\$0.00]	Month 30	[\$0.00]	Month 42	[\$0.00]	Month 54	[\$0.00]
Month 7	[\$0.00]	Month 19	[\$0.00]	Month 31	[\$0.00]	Month 43	[\$0.00]	Month 55	[\$0.00]
Month 8	[\$0.00]	Month 20	[\$0.00]	Month 32	[\$0.00]	Month 44	[\$0.00]	Month 56	[\$0.00]
Month 9	[\$0.00]	Month 21	[\$0.00]	Month 33	[\$0.00]	Month 45	[\$0.00]	Month 57	[\$0.00]
Month 10	[\$0.00]	Month 22	[\$0.00]	Month 34	[\$0.00]	Month 46	[\$0.00]	Month 58	[\$0.00]
Month 11	[\$0.00]	Month 23	[\$0.00]	Month 35	[\$0.00]	Month 47	[\$0.00]	Month 59	[\$0.00]
Month 12	[\$0.00]	Month 24	[\$0.00]	Month 36	[\$0.00]	Month 48	[\$0.00]	Month 60	[\$0.00]



EXHIBIT A: SERVICES SCOPE ASSUMPTIONS

Account Team: Scope Assumptions

Include all stated Assumptions from the Solution Design Document.

You can insert your own numbers or use the default numbers provided.

If pricing is based on a per Image, delete the rows associated with Document Scanning - Box

If pricing is based on a per Box, Delete the rows associated with Document Scanning below and keep those associated with Document Scanning - Box

Delete those solution columns in the table(s) below that do not apply to the solution you are proposing/deploying for your Customer.

Note: For the avoidance of doubt, Xerox shall not be liable for any fraudulent items that may be passed on to the Customer.

Assumptions	C&CS Standard	Accounts Payable: Light	Digital Mail: Light
General			
# of authorized End User log in credentials to the Xerox Tools (i.e., Customer Dashboard)	[insert #]	[insert #]	[insert #]
Documents that are Indexed/OCR'd where applicable shall be in the following languages	[insert languages]	[insert languages]	[insert languages]
# of Email addresses (mailboxes) setup for Electronic Document Submission	[insert #]	[insert #]	[insert #]
# mailstop Master Data uploads	[insert #]	[insert #]	[insert #]
Xerox® Capture and Content App – number of licenses Note: Incremental licenses may incur additional charges via the Change Control Process	[insert #]	[insert #]	[insert #]
Onshore Data Entry only	[Yes or No]	N/A	[Yes or No]
% of Pages that are double-sided (i.e., Duplex)	[insert %]	50%	[insert %]
% of any Long Format Documents	[insert %]	N/A	[insert %]
% of any Wide Format Documents	[insert %]	N/A	[insert %]
Average # of Pages per Document	[insert quantity]	N/A	[insert quantity]

Capture and Content Services Statement of Work



Assumptions	C&CS Standard	Accounts Payable: Light	Digital Mail: Light
Percentage of all Document/Pages that require Light Repair	[insert %, default is 1%]	0.5%	[insert %, default is 1%]
% of Pages with Simple Bindings	[insert %, default is 10%]	10%	[insert %, default is 10%]
All Documents are contained in envelopes, folders, binders, Boxes, or plastic wallets ('poly pockets') Note: Loose paper shall not be accepted by Xerox.	Yes	Yes	Yes
Document Scanning			
Expected Monthly Volume of Scanned Images	[insert quantity]	[insert quantity]	[insert quantity]
Average # of Documents per Day	[insert quantity]	[insert quantity]	[insert quantity]
Average Pages per Document	[insert quantity]	2	[insert quantity]
Estimated percentage of Pages that are classified as Currency and Negotiable Documents	[insert %]	0%	[insert %]
Estimated percentage of Pages that are classified as Cherished Documents	[insert %]	0%	[insert %]
The percentage of all Pages that are capable of being processed through standard bulk scanner	[insert %]	100%	[insert %]
Digital imprinting required	[Yes or No, default is No]	[Yes or No, default is No]	[Yes or No, default is No]
Document Scanning - Boxes			
# of Index Fields per Box (Index fields applied to all Documents from the Box)	[insert #, or default is 2]	N/A	[insert #, or default is 2]
Approximate # of Boxes	[insert #] Boxes	N/A	[insert #] Boxes
Average # of Documents per Box	[insert quantity]	N/A	[insert quantity]
Pallets shall be package such that the lower level Boxes are not damaged.	Yes	N/A	Yes
Transportation of Boxes to the C&CS Facility could be carried out as a series of phased deliveries, spread over the course of the Term	Average of [insert quantity] Boxes per [insert week or month]	N/A	Average of [insert quantity] Boxes per [insert week or month]
Processing			

Capture and Content Services Statement of Work



Assumptions	C&CS Standard	Accounts Payable: Light	Digital Mail: Light
File, folders, envelopes, etc. require Scanning	[Yes or No]	No	[Yes or No]
Pages shall be kept in the order they are received	[Yes or No]	No	[Yes or No]
Metadata shall be captured for applicable Document Process Types as an	[.CSV or .XML] file	CSV file	[.CSV or .XML] file
Specialized re-collation of Documents shall be performed Note: Some Documents may not be able to be placed back inside original container (i.e. envelopes)	No [or Specify requirements if different e.g.: re-binding, place Documents back in folders/wallets, etc.]	No	No [or Specify requirements if different e.g.: re-binding, place Documents back in folders/wallets, etc.]
Required to count hardcopy Pages	[insert yes or no, default is no]	No	[insert yes or no, default is no]
Requests for original Documents are limited to no more than	[insert #] per Business Day	1 per Business Day	[insert #] per Business Day
Expedited Box and/or Document Scanning requests are limited to	[insert #] per Business Day	1 per Business Day	[insert #] per Business Day

Indexing

See Exhibit C: Indexing Specifications.

Assumptions	C&CS Standard	Accounts Payable: Light	Digital Mail: Light
Percentage of Index fields that requires data entry Note: All Indexing fields are easily identifiable in a predetermined location, and Xerox shall not be required to read any Documents in order to locate said Indexing data Note: Index fields that require data entry shall be of sufficiently high quality when viewed by the human eye	[insert %]	100%	[insert %]
Percentage of Documents that require Indexing and are handwritten	[insert %, default is .01%]	0.01%	[insert %, default is .01%]
The Index field(s) (e.g.: 'Title') shall be	Clearly visible	Clearly visible	Clearly visible
The Index field(s) values are detailed in and shall conform to	a mixture of alphabetical, alphanumeric and	A mixture of alphabetical, alphanumeric and	A mixture of alphabetical, alphanumeric and

Capture and Content Services Statement of Work



Assumptions	C&CS Standard	Accounts Payable: Light	Digital Mail: Light
EXHIBIT C: INDEXING SPECIFICATIONS	numeric, Optical Mark Recognition (OMR) marks, 2D/3D barcodes	numeric, Optical Mark Recognition ("OMR") marks, 2D/3D barcodes	numeric, OMR marks, 2D/3D barcodes
Xerox shall use the following Index methods to achieve the requested Indexing quality	[single or double key comparison, default is single key]	Single key	[single or double key comparison, default is single key]
Reading of MICR Documents	[Yes or No]	N/A	[Yes or No]
Customer shall provide Master Data in the specified format using the defined structure. Note: See Exhibit C, Table C-2: Master Data Format, if applicable	[Yes or No]	[Yes or No]	[Yes or No]
Customer Master Data Frequency	[Daily, Weekly, Monthly or Other]	Vendor Master Data – [Daily, Weekly, Monthly] Order Master Data – [Daily, Weekly, Monthly] Company extracts – [Daily, Weekly, Monthly]	[Daily, Weekly, Monthly or Other]
Customer Master Data Update Types	[Incremental table or Full table]	Vendor Master Data – Full table Order Master Data – Incremental table with new entries Company extracts – Full Table	[Incremental table or Full table]

Output Formats

Account Team: Output Formats

The metadata file formats selected in the last two (2) rows of the table must match

Output Formats	C&CS Standard	Accounts Payable: Light	Digital Mail: Light
A single multipage PDF per Document shall be provided as	[Image Only or Image and OCR]	[Image Only or Image and OCR]	[Image Only or Image and OCR]
Image File Name structure	[insert file name structure example].PDF	[insert file name structure example].PDF	[insert file name structure example].PDF
Deliver metadata with Images	[Yes or No]	Yes	[Yes or No]
Metadata Format shall be	[XML or CSV] unicode text file	CSV	[XML or CSV] unicode text file

Capture and Content Services Statement of Work



Output Formats	C&CS Standard	Accounts Payable: Light	Digital Mail: Light
Metadata File Name structure	[insert file name structure example].[XML or CSV]	[Xerox defined structure] CSV	[insert file name structure example].[XML or CSV]

Document Process Types

Data delivery shall occur per Document in the following format as described in the table below. The two (2) categories of data to be delivered are Images and Metadata.

Account Team: Document Process Types

Each Document Process Type may include multiple Documents. For example, Accounts Payable may include Invoice, debit note, credit note, etc. All of which would be included in the applicable Document Process Type

Delete additional Document Process Type rows if not including more than the Document Process Type 1 – All Types

If the proposed pricing solution requires fewer than 4 Document Process Types, delete the rows as necessary.

If the proposed solution requires more than 4 Document Process Types, add additional rows

Document Type examples are: Invoice Profile 1, Claim, Contract, etc.

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See Exhibit E: Document Process Type Workflow (if applicable)

Assumptions	Document Type	Disposition
Document Process Type decisions are required	N/A	[yes or no, default is no]
Document Process Type 1	Generic	Document Storage
Document Process Type 2	[Insert Type]	[insert Document Storage, Document Return or original Document Destruction]
Document Process Type 3	[Insert Type]	[insert Document Storage, Document Return or original Document Destruction]
Document Process Type 4	[Insert Type]	[insert Document Storage, Document Return or original Document Destruction]

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Original Document Disposition

Account Team: Original Document Disposition

If selecting Store or Destroy after the Image Availability Period, delete the Document Return rows below

General Assumptions	
Availability Period	
"Image Availability Period"	Thirty (30) day period after Images are made available to Customer
"Email Availability Period"	Thirty (30) day period after Images are made available to Customer
Original Document Disposition	

Capture and Content Services Statement of Work



General Assumptions	
After the Image and/or Email Availability Period(s)	[Store or Destroy or Return] Documents
Approximate sq. ft of storage	[insert #] of sq. ft
Document Return	
Customer Address for Return of Documents	[insert address(es)]
Pages shall be kept in the order they are received	[Yes or No, default is No]
Document Return Activities	Gather loose Pages: - Utilize elastic bands to wrap around each Scanned volume or Documents - Place Scanned volume or Documents into relevant Box - Apply a barcode to Box, if applicable, for audit purposes Not required to: - Provide specialized collation of Documents - Remove any inserted barcode slip sheets or barcode stickers - Rebind, no re-stapling, nor reattaching of paper clips to source Documents - Remove undersized Pages from carrier sheets

Accepted Paper Sizes

	Paper Type	Paper Size	Paper Type	Paper size
Scanned Image	A3	11.7 X 16.5	Legal	8.5 X 14
Scanned Image	A4	8.27 X 11.7	Tabloid	11 X 17
Scanned Image	A5	½ of A4	Ledger	17 X 11
Scanned Image	N/A	N/A	Letter	8.5 X 11
Scanned Images – Wide Format Documents	N/A	Short side of Page is wider than A3	Short side of Page is wider than Tabloid	N/A
Scanned Images – Long Format Documents	N/A	Long side of Page is longer than A3, but short side is the same as A4	Long side of Page is longer than Tabloid, but short side is the same as Letter	N/A

Accepted Emails

Extension	Description
Email Message	Email contents as plain text in Multipurpose Internet Mail Extension (MIME) format, containing the Email header and body, including attachments or compressed ZIP, all Documents must be in one (1) of the Accepted Image File Formats set forth in the table below. Zip files cannot be encrypted or password protected Emails without an attachment shall be processed as a Document For Emails with attachments, only the attachment shall be processed as a Document Each attachment contains only one (1) Document, unless attachment is a ZIP file

Capture and Content Services Statement of Work



Extension	Description
	Total size of the attached files must not exceed twenty megabytes (20 MB) per email Email attachments must be in one (1) of the Accepted Image File Formats Zip files cannot be encrypted, or password protected

Accepted Email Attachment File Formats

Image File Type	Extension	Description	C&CS Standard	Accounts Payable: Light	Digital Mail: Light
Multipage TIF/TIFF File	TIF or TIFF	Accepted types are Image-only TIF/TIFF.	Yes	[Yes or Not Applicable]	[Yes or Not Applicable]
Multipage PDF File	PDF	Accepted types are Image-only PDFs, digitally created PDFs (text PDFs) and Searchable PDFs (Image with Text) or mixed type PDF (digital and Image).	Yes	[Yes or Not Applicable]	[Yes or Not Applicable]
Multi-Document Zip File	ZIP	Accepted ZIP files may only include the Image File formats above	Yes	[Yes or Not Applicable]	[Yes or Not Applicable]

Scanning Volume Ramp Up by Month

Account Team: Scanning Volume Schedule by Month

Fill in estimated Scanning volume per month. This volume should align to the Business case

Scanning Volume ramp up should be between 3 and 8 months as a default position. If more than 8 months or beginning in months 1 and 2, engage Service Delivery

Expected Scanning Volume by Month								
1	2	3	4	5	6	7	8	or 9+



EXHIBIT B: SCANNER SETTINGS

Customer shall not require Xerox to make any adjustments to the scanner settings to accommodate variations in the quality of originals and/or subsequent Image Output.

Scanner Configuration	
Scan Pages in the following formats	See Accepted Paper Sizes
Fixed Resolution of	300 DPI
Scanned with auto deskew software	Double-sided (duplex) mode
Pages Scanned with auto-blank Page deletion	[Yes or No]
Automatic Image rotation Note: If enabled, when documents are set in different directions or many characters using text decorations may not be correct.	[Yes or No]
Black margin removal (auto cropping)	[Yes or No]
Punch hole detection	



EXHIBIT C: INDEXING SPECIFICATIONS

Account Team: Indexing Specifications

Align Table C-1 with the selections specified within the Evaluation Tool and delete all rows that are not required/needed. This table must match the Evaluation Tool used for this opportunity.

If it is Accounts Payable Light then insert Field Definition from the selected Customer Profile (Catalog).

Table C-1: Indexing Value Examples

Index Field Name	Character Length	Index Field Value	Examples	Validation Rules
Claim/Case Number	12 characters	Numeric	108635/2014	Last number is a digit
Forename	6-10 characters	Alphabetical	Herman	Matches Customer provided Master Data list
Surname	6-10 characters	Alphabetical	Pearson	Matches Customer provided Master Data list
Document Type	6 characters	Numeric	ET1, ET3, SupDoc	
Mail Stop			M20, M14, etc.	
First Name			Jane	
Last Name			Doe	
Department			Accounting	
Folder ID				
Document Type				

Table C-2: Master Data Format Specification

Account Team: Master Data Format Specification

Customer to Xerox file format specification.

The "Required Master Data Files" row at the bottom of the table must be removed if you are not proposing an AP Light solution.

Provided by Customer in a Comma Separated Values (CSV) format

Type	Description	Examples
File Name	Unique filename, ending with file extension .csv Start of file name should be YYYYMMDDHHMMSSZZZZZZZZZZ_TYPE.csv YYYY – 4-digit Year MM – 2-digit Month DD – 2-digit day HH – 2-digit hour	202012282133100000000012_VENDOR.csv 202012282133100000000013_EMPLOYEE.csv 202101012133100000000014_CLAIM.csv 202101012133100000000015_Order.csv



Type	Description	Examples
	MM – 2-digit SS – 2-digit ZZZZZZZZZZ – 10-digit sequence number _ - Underscore TYPE – Process Type/Document Type/Index Field Name	202101012133100000000016_Company.csv
Field Names	All lowercase, no space, no numbers, no special characters (exception to underscore _) and accents, easy and understandable, short names no-longer than two words.	employee_name employee_id firstname vendor_id
Field and Value Separator	, comma	"1","231","Name A","7784723849"
Decimal Separator	. period	\$12.12 - twelve dollars and twelve cents = "12.12" 12.1234212 - twelve and one hundred twenty-three thousand two hundred twelve millionths = "12.1234212"
Allowed Escape Sequences	\' single quote \" double quote \\ backslash	
Field Values	Field values to be wrapped in " quotation marks.	"1","231","Name A","7784723849"
1 st Column	First column should always contain sequential line number for the current file.	"line_number","vendor_id","name","fax" "1","231","Name A","7784723849" "2","455","Name B","77234223849" "3","2343","Name C","7784723449" "4","2343","Name D","77847223449"
1 st Line	First Line of the CSV contains field names wrapped in " quotation marks.	"line_number","vendor_id","name","fax" "1","231","Name A","7784723849" "2","455","Name B","77234223849" "3","2343","Name C","7784723449" "4","2343","Name D","77847223449"
Required Master Data Files	For Accounts Payable: – vendor Master Data File – order Master Data File – company extracts Master Data File	YYYYMMDDHHMMSSZZZZZZZZZZ_VENDOR.csv YYYYMMDDHHMMSSZZZZZZZZZZ_ORDER.csv YYYYMMDDHHMMSSZZZZZZZZZZ_EXTRACT.csv

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EXHIBIT D: GOOD QUALITY IMAGE REVIEW REQUIREMENTS

Image quality review requirements for Documents that are not identified as "Poor Quality", include, but are not limited to:

- The Image is a legible reproduction of the original as demonstrated and documented and approved by the Customer during CRT
- The Image is not skewed beyond ten (10) degrees (unless the original Document is skewed beyond ten (10) degrees
- The complete Image is produced, without folds masking the Document or corners being cut-off.
 - o It should be noted that on Poor Quality original Documents where the corners of the Pages have been folded over for a period of time that it may not be possible to "unfold" the corners to the degree that a Good Quality Image Scan shall be achieved.
 - o Xerox shall ensure reasonable endeavors are made to ensure there are no folds in the Documents when Scanned

EXHIBIT E: DOCUMENT PROCESS TYPE WORKFLOW

Account Team: Document Process Type Workflow

Insert the applicable Document Process Type(s), the Index Fields, and Decision(s). Each Document Process Type may have more than one (1) Index Field. Document Process Type(s) without Index Fields, mark the Index Field column with "N/A"

This is an example table only and will need be updated/replaced with Customer specific content

Document Process Type #	Document Process Type	Index Field	Decision
[insert the applicable Document Process Type Number as aligned in Exhibit A: Services Scope Assumptions]	Advertising	[Name].[Index Type].[Length]	Sent by mail to Customer on a daily basis (keep the envelope). Postal costs shall be added at standard rates.
[insert the applicable Document Process Type Number as aligned in Exhibit A: Services Scope Assumptions]	Claims, reminders, statements	[Name].[Index Type].[Length]	Separate and Scan Documents, identifying the Document Process Types Scanned – claims, reminders, or statements.
[insert the applicable Document Process Type Number as aligned in Exhibit A: Services Scope Assumptions]	Audit Requests	[Name].[Index Type].[Length]	Separate and Scan Documents, identifying the Document Process Type in the subject – audit requests.
[insert the applicable Document Process Type Number as aligned in Exhibit A: Services Scope Assumptions]	Invoice P/O which normally has the following structure:	[Name].[Index Type].[Length]	Separate and Scan Documents, identifying the Document Process Types Scanned – invoice with a PO or an invoice without a PO, late archiving (identified with document reference starting by the applicable Document reference). Invoices with copies, the duplicates can be destroyed.
[insert the applicable Document Process Type Number as aligned in Exhibit A: Services Scope Assumptions]	Self-invoices Documents (identified by a Customer layout)	[Name].[Index Type].[Length]	Should not receive self-billing documents – action: Scan and assign it to "Reject folder". Exception: Country A is legally required that supplier sent self-invoice is signed and marked – action: send by mail to Customer on a daily basis to unblock and then shall be returned to Xerox for late archiving Scanning and archive.

**EXHIBIT F: STANDARD DOCUMENT PREPARATION ACTIVITIES**

Type	Preparation Action by Xerox	Comment
Documents that are clipped or stapled together	Metal clips of any kind must be removed using the appropriate tools	It is not permitted to tear off clipped or stapled portions of a Document
Documents that are fastened by pressing them together	Must also be separated using an appropriate tool	It is not permitted to have torn corners
Information that is affixed to the Document	Leave it there unless it is covering up any information – if covering up any information then remove it and affix to another Page	Most importantly do not let the 'affixed' information block any information written onto the Document
Difficult to Scan	These Documents shall be separated into an additional stack, each Document shall be marked on the first Page in a free area with a reference to "Poor Quality"	Customer shall recognize this mark. It shall bypass Indexing
Non Scannable Items	Send back to Customer with explanation at Customer's expense	Customer needs to either manually enter data into their system, or issue a replacement Item



EXHIBIT G: METADATA OUTPUT

Table G-1: Metadata Data Format Specification

Provided by Xerox to the Customer in a Comma Separated Values (CSV) format

Type	Description	Examples
File Name	Unique filename, ending with file extension .csv XX [CCC][YYYY][MM][DD][#####].csv XX = constant (e.g., IN for INVOICE) CCC = 3-character customer code (e.g., ABC) YYYY = 4-digit year (e.g., 2021) MM = 2-digit month (e.g., 09) DD = 2-digit day (e.g., 16) ##### = Sequential number - reset daily (e.g., 00001)	INABC2021091600001.csv
Field Names	All uppercase, no space, no numbers, no special characters (exception to underscore _) and accents, easy and understandable.	EMPLOYEE_NAME EMPLOYEE_ID FIRSTNAME VENDOR_ID
Field and Value Separator	, comma separated. Field values to be wrapped in " quotation marks.	"1","231","Name A","7784723849"
Decimal Separator	. period	\$12.12 - twelve dollars and twelve cents = "12.12" 12.1234212 - twelve and one hundred twenty-three thousand two hundred twelve millionths = "12.1234212"
Allowed Escape Sequences	\' single quote \" double quote \\ backslash	
1 st Column	First column should always contain line type.	INVOICE BANK ACCOUNT

END OF STATEMENT OF WORK FOR CAPTURE AND CONTENT SERVICES

Electronic Document Management System (EDMS) – DocuShare® Schedule Addendum

This Addendum (the “**EDMS – DocuShare® Schedule Addendum**” or “**Addendum**”) is made and entered into by and between Xerox Corporation (“**Xerox**”) and << Enter Customer Name>>> (“**Customer**”) as of the date of the last signature affixed hereto (the “**Addendum Effective Date**”) to add the terms and conditions for the use of the EDMS – DocuShare® Schedule attached to an applicable Capture and Content Services Statement of Work (SOW) to the Services Master Agreement No. << Enter 7 Digit Contract Number from Customer's SMA >>> (“**Agreement**”) of <<<Agreement Effective Date>>>. Xerox and Customer are each also referred to herein as a “Party” and collectively as the “Parties.”

1. This Addendum incorporates by reference all of the provisions of the Agreement. From and after the Amendment Effective Date, each reference in the Agreement to “this Agreement”, “this Services Master Agreement”, “herein”, “hereunder”, “hereto” or similar words or phrases, and all references to “the Agreement” in any amendments, related agreements, documents, or other writings shall be deemed to mean the Agreement as amended by this Addendum.
2. All Schedules, Exhibits, Statements of Work and Attachments hereto are hereby incorporated into this Addendum by reference and made a part hereof. If there is any conflict between this Addendum and its Schedules, Exhibits, Statements of Work or Attachments, this Addendum shall control.
3. **CHARGES** – Customer agrees to pay the charges for EDMS – DocuShare® in accordance with the rates set forth in the Capture and Content Services (C&CS) Statement of Work (“SOW”) and to pay the charges for its use of the EDMS – DocuShare® in accordance with the fees set forth in the EDMS – DocuShare® Schedule as applicable, both of which are attached hereto.
4. **TERM** – This Addendum shall commence upon the Addendum Effective Date and, subject to completion of Transition, shall be terminate upon expiration of the applicable Capture and Content Services (C&CS) Statement of Work affixed hereto (the “SOW”).
 - A. **Early Termination:** The EDMS - DocuShare® Schedule is an integral component of the C&CS SOW. Customer termination of the Schedule Services shall constitute termination of the applicable C&CS SOW.
 - B. **Effect of Termination:** Upon termination or expiration of the applicable EDMS - DocuShare® Schedule all rights to access the applicable EDMS - DocuShare® Schedule Services cease.
5. **CHANGES** – Any amendments, modifications, alterations, or other changes to this Addendum must be made in a writing signed by both Parties and upon execution, will be incorporated into this Addendum.
6. **DOCUMENT STORAGE ADDITIONAL TERMS AND CONDITIONS**
 - C. **Definitions.**
 - i. “Authorized User” means Customer employees, employees of Customer Affiliates, and outsourced service providers under contract to and acting solely on behalf of Customer.
 - ii. “Cloud Named User (CNU)” means a single, identified Authorized User who has access to the Service. A CNU may not be accessed by multiple Authorized Users; however, a CNU license may be reassigned from one Authorized User to another, so long as the first Authorized User no longer has access to the CNU license.
 - iii. “Concurrent Use License” means a license based on the number of simultaneous users accessing the DocuShare® Service. A Concurrent Use License may be used by a number Authorized Users logged into the

DocuShare® Service measured at any one point in time that does not exceed the maximum number of Concurrent User Licenses purchased pursuant to the terms of this Schedule, which is detailed in Attachment A of this Schedule.

D. License Grant.

- i. Subject to the terms and conditions of the Agreement, including all Attachments and Schedules and for the duration of the Term, Xerox grants Customer a limited, nonexclusive, nontransferable, non-sublicensable license to access and retrieve content stored by the DocuShare® software program, including all updates, upgrades, modifications and improvements made available by Xerox from time to time hereunder (collectively, “DocuShare® Software”) in a hosted format accessed through a web portal and associated Documentation (together with the DocuShare® Software, the “DocuShare® Service”) and display said content solely for Customer’s internal business operations, via a number of Authorized Users that shall not at any time exceed the number of CNU’s purchased by Customer or the number of Concurrent User Licenses, as applicable. Customer shall cause Authorized Users to be bound by, and is responsible and liable for Authorized Users’ compliance or noncompliance with, the terms of this Attachment B.
- ii. Customer shall not, and shall not authorize any third party to: (i) use or provide the DocuShare® Service on a service bureau, outsourcing, renting, or time-sharing basis, or (ii) copy, modify, create a derivative work of, reverse engineer, reverse assemble, disassemble, or decompile the DocuShare® Service or DocuShare® Software or any part thereof, or otherwise attempt to discover any source code, modify the DocuShare® Service in any manner or form, or use unauthorized modified versions of the DocuShare® Service, including (without limitation) for the purpose of building a similar or competitive product or service or for the purpose of obtaining unauthorized access to the DocuShare® Service or DocuShare® Software. Customer shall not access, or assist any third party to access, the DocuShare® Service by any means other than through the interface and method provided by Xerox.
- iii. Customer acknowledges and agrees that Xerox and its licensors own all right, title and interest in and to all intellectual property rights in the DocuShare® Service and the DocuShare® Software. Without limiting the foregoing, DocuShare® Software contains portions of imaging code owned and copyrighted by Accusoft Corporation, Tampa, FL (all rights reserved). Any rights not expressly granted herein are reserved by Xerox. Except for the limited right to use the DocuShare® Services stated herein, Customer has no right to use any intellectual property of Xerox, including trade names, trademarks, service marks, logos, domain names, or other distinctive brand features.

E. Customer Use.

- i. Customer will not:
 - a. Engage in any activity that interferes with, disrupts or attempts to gain unauthorized access to the DocuShare® Service, other user account, or servers, networks or products connected to or used to provide the DocuShare® Service;
 - b. Submit information or use the DocuShare® Service to engage in conduct that (1) is unlawful, defamatory, libelous, invasive of another’s privacy, threatening, tortious, abusive, harassing, hateful, racially or ethnically offensive, pornographic, obscene or otherwise objectionable; (2) infringes, misappropriates or misuses any patent, trademark, trade secret, copyright, right of publicity, or other proprietary right of any party; or (3) contains software viruses or any

other computer code, files or programs that are designed or intended to disrupt, damage or limit the functioning of any software, hardware, or telecommunications equipment or to damage or obtain unauthorized access to any data or other information of Xerox or any third party;

- c. Use the DocuShare® Service (1) to export Customer Information or any other software or data in violation of applicable laws including U.S. laws; (2) to plan or carry out any illegal activity; or (3) in any other manner that violates any applicable local, state, national, foreign, or international law; or
- d. Remove, obscure, or alter any proprietary rights notices (including copyright and trademark notices) which may be affixed to, contained within, or displayed with the DocuShare® Service or DocuShare® Software.

F. Customer Registration Data and User Account Information.

- ii. Customer represents that it and its Authorized Users have provided accurate, current, and complete information to gain access to the DocuShare® Service ("Registration Data"). Customer shall notify Xerox of any updates to Registration Data at docushare.licenses@xerox.com, Attn: Contracts Manager. Xerox may suspend Customer's account if Xerox has reasonable grounds to believe Registration Data is untrue, inaccurate, incomplete, or not current.
- iii. Customer shall provide and assign unique passwords and user names to each Authorized User for each CNU and each Concurrent Use License purchased ("User Account Information"). Customer acknowledges and agrees that (i) User Account Information will be accurate and up to date and that if Customer learns that incorrect information has been provided, Customer will correct this and update Xerox with the correct details, (ii) Customer is responsible for confidentiality of user passwords and user names, and (iii) Customer will be solely liable to Xerox for all access and use via User Account Information. Customer shall promptly notify Xerox if Customer becomes aware of any unauthorized use of User Account Information.
- iv. Customer acknowledges and agrees that Xerox may disclose Registration Data and User Account Information: (i) to its Affiliates in the course of developing, providing, managing, administering and improving the DocuShare® Service; (ii) when Xerox believes in good faith that disclosure is necessary to protect Xerox' rights under the Agreement or this Schedule, protect the safety of others, investigate fraud or other illegal activity or respond to a government request; (iii) as required by law; and/or (iv) in the event of a merger, acquisition or reorganization of Xerox or a relevant portion of its assets, to the acquiring or surviving entity.

- G. Transmission of Data and Network Security Standards. Customer agrees that all network components, internet connections, and other hardware and software Customer may access in the course of using the DocuShare® Service, including without limitation browser software, shall support the HTTPS protocol, Secure Socket Layer (SSL) protocol and/or such other data security protocol(s) identified in the Documentation. Customer agrees to follow logon procedures that support such protocols. Customer is responsible for the accuracy, adequacy, availability, and security of Customer systems. Customer shall not intentionally interfere with or disrupt Xerox or third party systems. Customer acknowledges that Xerox and third party systems may be located, and User Account Information and Customer Information may be transmitted, stored, and processed, in the United States or any other country in which Xerox and/or its Affiliates maintain facilities. Customer is solely responsible for ensuring the security and backing up of Customer Information. Customer acknowledges that electronic communications may be accessed by

unauthorized parties and that Xerox is not responsible for any Customer Information that may be lost, altered, intercepted, or stored without authorization during transmission over Customer or third party systems. Network security standards are managed and operated by Microsoft Azure. Detailed information can be found at <https://docs.microsoft.com/en-us/azure/security/security-get-started-overview>.

In the event of a conflict between the Agreement, this Addendum, any Exhibits attached hereto and any Order, the order of precedence shall be the Agreement, then this Addendum, then the Order, then Statement of Work, then the DHCPs Schedule.

ENTER CUSTOMER NAME

XEROX CORPORATION

Signature
Name (please print)
Title
Address
Date

Signature
Name
Title
Address
Date



SERVICES MASTER AGREEMENT

THIS SERVICES MASTER AGREEMENT NO. <<Enter 7-digit Contract Number>> is between Xerox Corporation (“**Xerox**”), a New York corporation with offices at 201 Merritt 7, Norwalk, CT 06851-1056, and <<Enter Customer's Legal Name>> (“**Customer**”), a << Enter State >> corporation with offices at << Enter Customer's Full Address >>.

AGREEMENT STRUCTURE

This Agreement serves as a master agreement to enable Xerox and Customer to contract with each other for a range of products and services to be provided to Customer's and its Eligible Affiliates' United States (“U.S.”) locations. This Agreement is grouped into Modules. The GENERAL Module applies to all products and services provided hereunder, while the other Modules apply as appropriate to what Xerox is providing to Customer under the applicable Order.

DEFINITIONS MODULE

1. DEFINITIONS

The following definitions (and those found elsewhere in this Agreement) apply unless otherwise specified in an Order.

- a. **Affiliate** means a legal entity that directly or indirectly controls, is controlled by, or is under common control with either party. An entity is considered to control another entity if it owns, directly or indirectly, more than 50% of the total voting securities or other such similar voting rights.
- b. **Agreement** means this Services Master Agreement. This Agreement may also be referred to in ordering and contracting documents as a “Services and Solutions Agreement” or “SSA.”
- c. **Amortized Services** means certain services such as consulting and training, the Charges for which are amortized over the term of an Order.
- d. **Application Software** means Xerox-brand software that allows Equipment or Third Party Hardware to perform functions beyond those enabled by its Base Software.
- e. **Base Software** means software embedded, installed, or resident in Equipment that is necessary for operation of the Equipment in accordance with published specifications.
- f. **CPI Adjustment Percentage** means the CPI-U (Consumer Price Index for All Urban Consumers).
- g. **Cartridges** means copy/print cartridges and xerographic modules or fuser modules designated by Xerox as customer-replaceable units for the Equipment.
- h. **Charges** mean the fees payable by Customer for Services, Maintenance Services and/or Products as specified in this Agreement.
- i. **Confidential Information** shall have the meaning set forth in Section 2.10.
- j. **Consumable Supplies.** Consumable Supplies vary depending upon the Equipment model, and include: (i) for black and white Equipment, standard black toner and/or dry ink, black developer, Copy Cartridges, and, if applicable, fuser agent required to make impressions; (ii) for full color Equipment, the items in (i) plus standard cyan, magenta, and yellow toners and dry inks (and their associated developers); and, (iii) for Equipment identified as “Phaser”, only, if applicable, black solid ink, color solid ink, imaging units, waste cartridges, transfer rolls, transfer belts, transfer units, belt cleaner, maintenance kits, print Cartridges, drum Cartridges, waste trays and cleaning kits. Unless otherwise set forth in an Order, Consumable Supplies excludes paper and staples.
- k. **Customer Assets** means all hardware, equipment, fixtures, software, assets, networks, work space, facilities, services and other assets owned, leased, rented, licensed or controlled by Customer (including Existing Equipment and Existing Software) that Customer makes available to Xerox to enable Xerox to fulfill its obligations under an Order.
- l. **Customer Facilities** means those facilities controlled by Customer where Xerox performs Services or provides Products.
- m. **Customer Information** means documents, materials, and information (including Private Information) belonging to Customer that Customer provides to Xerox for Xerox to provide Products and Services under an Order.
- n. **Date of Installation** means: (a) for Equipment (or Third Party Hardware) installed by Xerox, the date Xerox determines the Equipment (or Third Party Hardware) to be operating satisfactorily as demonstrated by successful completion of diagnostic routines and is available for Customer's use; and (b) for Equipment (or

Third Party Hardware) designated as “Customer Installable,” the Equipment (or Third Party Hardware) delivery date.

- o. **Description of Services or DOS** means a document attached to an Order which references the applicable Services Contract number and specifies the Products and/or Services provided under such Order.
- p. **Diagnostic Software** means Xerox-proprietary software embedded in or loaded onto Equipment and used by Xerox to evaluate or maintain the Equipment.
- q. **Documentation** means all manuals, brochures, specifications, information and software descriptions, and related materials customarily provided by Xerox to customers for use with certain Products or Services.
- r. **Effective Date** means the date this Agreement is signed by Xerox.
- s. **Eligible Affiliate** means a domestic Customer Affiliate that has met Xerox’s credit requirements for ordering Services, Maintenance Services and/or Products under this Agreement.
- t. **Equipment** means Xerox-brand equipment.
- u. **Excluded Taxes** means (i) taxes on Xerox’s income, capital, and employment, (ii) taxes for the privilege of doing business, and (iii) personal property tax on Equipment rented or leased to Customer under this Agreement.
- v. **Existing Equipment** means devices which are leased, rented or owned by the Customer outside of this Agreement, which are used to provide Services, and which remain subject to the terms and conditions of the agreements under which they were originally acquired.
- w. **Existing Software** means software licensed by the Customer outside of this Agreement and which is used to provide the Services and which remains subject to the terms and conditions of the agreements under which it was originally acquired.
- x. **Feature Releases** means new releases of Software that include new content or functionality.
- y. **Force Majeure Event** means a circumstance beyond a party’s reasonable control, which circumstances include, but are not limited to, the following: act of God (e.g., flood, earthquake, wind); fire; war; act of a public enemy or terrorist; act of sabotage; strike or other labor dispute; riot; misadventure of the sea; inability to secure materials and/or transportation; or a restriction imposed by legislation, an order or a rule or regulation of a governmental entity.
- z. **Funds** means collectively Amortized Services and Third Party Funds.
- aa. **Intellectual Property** means all intellectual property and associated intellectual property rights including patent, trademark, service mark, copyright, trade dress, logo and trade secret rights which exist and belong to a party as of the Effective Date or that may be created by a party after the Effective Date. Xerox’s Intellectual Property includes, without limitation, Software, Remote Product Info and Xerox Tools.
- bb. **Maintenance Releases or Updates** means new releases of Software that primarily incorporate coding compliance updates and error fixes and are designated as “Maintenance Releases” or “Updates.”
- cc. **Maintenance Services** means required maintenance of Equipment to keep the Equipment in good working order.
- dd. **Module** means a specific set of terms and conditions contained in this Agreement that is identified as a “Module.” The Modules under this Agreement are the DEFINITIONS, GENERAL, SERVICES, EQUIPMENT, EQUIPMENT PURCHASE, MAINTENANCE SERVICES and SOFTWARE LICENSE Modules.
- ee. **Monthly Minimum Charge or MMC** means the regular recurring Charge that is identified in an Order and which, along with any additional print/impression charges, covers the cost for the Services, Maintenance Services and/or Products. The MMC may also include lease buyout funds, Funds, monthly equipment component amounts, remaining Customer obligations from previous contracts, and amounts being financed or refinanced. One-time items, recurring separate charges and usage based charges (as such items or charges, as applicable, are defined on an Order) are billed separately from the MMC.
- ff. **Order** means a document that Xerox requires for processing of orders for Services, Maintenance Services and/or Products hereunder, which may specify the contracting parties and location(s) where the foregoing will be provided; Customer’s requested shipment date; the Products that Customer will purchase, lease, rent or license; the Services and/or Maintenance Services that Xerox will provide; the applicable Charges and expenses; the term during which the Services, Maintenance Services and/or Products described therein shall be provided; the Xerox-provided contract number; and any applicable SLAs. An Order must reference the applicable Services Contract number, and may also be in the form of a Services and Solutions Order (“SSO”), a Xerox Order Agreement (“XOA”) (which is used solely for an outright purchase by Customer under the EP

module of this Agreement), an eCommerce Order (which is used solely for electronic ordering through an eCommerce Portal as defined and described in Section 2.16), or a Customer-issued PO. A Statement of Work may be part of an Order but cannot function as a stand-alone ordering document.

- gg. **Privacy Laws** means laws relating to data privacy and data protection as applicable to Xerox's performance of the Services.
- hh. **Private Information** means Protected Health Information ("PHI") as defined by the Health Insurance Portability and Accountability Act ("HIPAA"), Non-Public Personal Information ("NPI") as defined by the Gramm-Leach Bliley Act ("GLBA") and equivalent categories of protected health and financial information under applicable state Privacy Laws.
- ii. **Products** means Xerox Products and/or Third Party Products supplied by Xerox and provided to Customer pursuant to an Order.
- jj. **Purchase Order or PO** means a document containing the applicable Services Contract number that is issued by Customer to Xerox for Order entry purposes only. Any terms and conditions in a PO at variance with or in addition to the applicable Services Contract are not binding and are of no force or effect.
- kk. **Purchased Equipment** means Equipment or Third Party Hardware that Xerox sells outright to Customer under the EP Module.
- ll. **Residuals** means general ideas, concepts, know-how, methods, processes, technologies, algorithms or techniques related to the Products and/or Services, which are in non-tangible form and retained in the unaided memory of persons who have had access to Confidential Information.
- mm. **Service Level Agreements or SLAs** means the levels of performance for the Services, if applicable, as set out in the applicable Order.
- nn. **Services** means managed services (e.g. copy center and mailroom services), consultative services, and/or professional services, including, but not limited to, assessment, document management, and managed and centralized print services, as more fully described in the applicable Order. Standard back-office administrative and contract support functions, such as billing, contract management and order processing, are not Services, but are included in the pricing provided for the Services hereunder.
- oo. **Services Contract** means the applicable terms and conditions of this Agreement, the first Order having a particular assigned Services Contract number, and each additional Order, if any, with the same Services Contract number.
- pp. **Services Software** means software products used to provide certain Services (both a server component and/or client component to be installed on end user's workstations, mobile devices and/or laptops) that may include one or more of the individual software modules identified on a Statement of Work or Order.
- qq. **Software** means Services Software, Base Software and Application Software.
- rr. **Statement of Work or SOW** means a document which references the applicable Services Contract number and specifies the details of a particular transaction where Customer wishes to acquire Services, Maintenance Services and/or Products from Xerox under this Agreement.
- ss. **Supplier Equipment** means devices which are supplied by Xerox to the Customer during the term of an Order. Supplier Equipment may be Equipment or Third Party Hardware.
- tt. **Taxes** means any and all taxes of any kind or nature, however denominated, imposed or collected by any governmental entity, including but not limited to federal, state, provincial, or local net income, gross income, sales, use, transfer, registration, business and occupation, value added, excise, severance, stamp, premium, windfall profit, customs, duties, real property, personal property, capital stock, social security, unemployment, disability, payroll, license, employee or other withholding, or other tax, of any kind whatsoever, including any interest, penalties or additions to tax or additional amounts in respect of the foregoing.
- uu. **Third Party Funds** means funds Xerox provides to Customer to acquire Third Party Hardware or to license Third Party Software and/or to retire debt on existing Third Party Hardware.
- vv. **Third Party Hardware** means non-Xerox brand equipment.
- ww. **Third Party Products** means, collectively, Third Party Hardware and Third Party Software.
- xx. **Third Party Software** means non-Xerox brand software.
- yy. **Transaction Taxes** means any and all Taxes that are required to be paid in respect of any transaction and resulting Charges under this Agreement and any transaction documents, including but not limited to sales, use, services, rental, excise, transactionally-based gross receipts, and privilege Taxes.

- zz. **Xerox Products** means Equipment, Software and Consumable Supplies acquired pursuant to this Agreement.
- aaa. **Xerox Tools** means certain proprietary tools used by Xerox to provide certain Services, and any modifications, enhancements, improvements thereto and derivative works thereof.

GENERAL MODULE

2. GENERAL

The terms and conditions in this GENERAL Module apply to all Services, Maintenance Services, and Products acquired by Customer under this Agreement.

2.1. Agreement Structure

- a. **General Contract Structure.** The parties intend for this Agreement to serve as a master agreement stating the terms and conditions governing separate transactions between (i) Xerox and Customer, and (ii) Xerox and Eligible Affiliates. Xerox will provide, and Customer will procure, Services, Maintenance Services and/or Products in accordance with the terms and conditions stated in this Agreement, any Services Contract(s), and any applicable Orders.
- b. **Eligible Affiliates.** Only Customer and its Eligible Affiliates may acquire Services, Maintenance Services and Products under this Agreement. If an Eligible Affiliate establishes a Services Contract by signing an Order, it will be the "Customer" for the purposes of such Services Contract. If Customer divests an Eligible Affiliate, such divested entity is no longer eligible to establish any new Services Contracts or to submit any additional Orders under an existing Services Contract; however, Products installed and Services being provided at such divested entity under an existing Order shall retain the pricing and terms and conditions thereof.
- c. **Orders and Services Contracts.**
 - i. Xerox may accept Orders either by its signature or by commencing performance. Xerox reserves the right to review and approve Customer's credit, or in the case of an Order by an Eligible Affiliate, such Eligible Affiliate's credit, prior to acceptance of an Order and the entity placing the Order hereby authorizes Xerox or its agent to obtain credit reports from commercial credit reporting agencies for this purpose.
 - ii. Orders for Services, Maintenance Services, and/or Products are grouped into Services Contracts. Each separate Services Contract will be established when the first Order is placed that bears a new Services Contract number assigned by Xerox and Xerox accepts that Order. Each Services Contract will be assigned its own Services Contract number that will consist of this Agreement's number followed by a three-digit extension. Each Services Contract constitutes a separate contract under this Agreement. Customer may add Services, Maintenance Services or Products to an existing Services Contract by submitting additional Orders referencing the applicable Services Contract number. Each Services Contract will consist of the terms and conditions of this Agreement, the first Order under the Services Contract number and each additional Order with the same Services Contract number.
 - iii. Unless Customer provides notice in writing at least 30 days before the end of the term of an Order of its intention not to renew, the Order will renew automatically on a month-to-month basis on the same terms and at the same price.
 - iv. Orders may be submitted by hard copy or electronic means and those submitted electronically will be considered: (a) a "writing" or "in writing;" (b) "signed" by the Customer; (c) an "original" when printed from electronic records established and maintained in the ordinary course of business; and (d) valid and enforceable.

2.2. CHARGES, PAYMENT AND DEFAULT

- a. **Charges.** Charges for the particular Services, Maintenance Services, and/or Products will be set forth in an Order and are exclusive of any and all Transaction Taxes. Xerox's then current overtime rates will apply to Services requested and performed outside Customer's standard working hours. If Customer has any special or customized invoicing requirements, Xerox reserves the right to charge Customer a customization fee of \$100 per invoice.
- b. **Payment.** Customer agrees to pay Xerox all undisputed amounts due under each invoice via check, Automated Clearing House debit, Electronic Funds Transfer, or direct debit from Customer's bank account within 30 days after the invoice date. Restrictive covenants submitted for or with payment to indicate that it

is in full satisfaction of an invoice will not operate as an accord and satisfaction to reduce Customer's payment obligations if it is not, in fact, full payment. For any payment not received by Xerox as of the due date, Xerox may charge, and Customer agrees to pay, a late charge of the greater of \$25 or 5% of the amount overdue (not to exceed the maximum amount permitted by applicable law) as reasonable collection costs. If Customer disputes any amount included in an invoice, then (i) Customer must notify Xerox of the dispute in writing, (ii) such notice shall include a description of the items Customer is disputing and the reason such items are being disputed; and (iii) Customer shall promptly exercise its best efforts to work with Xerox to resolve such dispute. Pending resolution of such disputed amount, Customer shall pay any and all undisputed amounts within 30 days of invoice date, including the MMC which Customer agrees shall not be subject to dispute at any time.

- c. **Default.** Customer will be in default if Xerox does not receive any payment within 15 days after the date it is due, or if Customer breaches any other obligation under this Agreement, any Services Contract, or any other agreement with Xerox. If Customer defaults, Xerox, in addition to its other remedies (including cessation of Services, Maintenance Services and/ or Consumable Supplies), may require immediate payment of (1) all amounts then due, plus interest on all amounts due from the due date until paid at the rate of 1.5% per month (or the maximum rate or amount allowed under applicable law), and (2) any early termination charges set forth in this Agreement or in the applicable Services Contract and/or Order(s). Customer will pay all reasonable costs, including attorneys' fees, incurred by Xerox to enforce any Services Contract.

2.3. Taxes

Customer will be responsible for all Transaction Taxes. Transaction Taxes will be included in Xerox's invoice unless Xerox receives proof of Customer's tax-exempt status. Customer shall not be responsible for Excluded Taxes.

2.4. Customer Responsibilities

Customer agrees to perform its responsibilities under this Agreement in support of the Services, Maintenance Services, or Products in a timely manner. Customer agrees:

- a. that Products acquired hereunder are ordered for Customer's (or its Affiliates') own internal business use (rather than resale, license and/or distribution outside of Customer's organization) and will not be used for personal, household or family purposes;
- b. to (1) provide Xerox and its agents with timely and sufficient access, without charge, to Customer Facilities required by Xerox to perform Services and Maintenance Services and/or provide Products, and (2) ensure that Customer Facilities are suitable for the Services, Maintenance Services and/or Products, safe for Xerox personnel, and fully comply with all applicable laws and regulations, including without limitation any federal, state and local building, fire and safety codes;
- c. to provide Xerox and its agents with timely and sufficient use of and access, without charge, to Customer Assets required by Xerox to perform Services and Maintenance Services and/or provide Products, and to grant Xerox and its agents sufficient rights to use, access and, if agreed, modify the same;
- d. to acquire or continue maintenance, repair and software support services, without charge to Xerox, for all Customer Assets that Customer permits Xerox to use or access;
- e. to maintain the manufacturer's maintenance agreement for any Third Party Products;
- f. to provide Xerox with access to appropriate members of Customer personnel, as reasonably requested by Xerox, in order for Xerox to perform the Services and Maintenance Services and/or provide Products;
- g. to respond to and provide such documentation, data and other information as Xerox reasonably requests in order for Xerox to perform the Services and Maintenance Services and/or provide Products;
- h. to contract for the minimum types and quantities of Equipment and Consumable Supplies required by Xerox to perform the Services and Maintenance Services;
- i. that, as between Xerox and Customer, Customer alone is responsible for backing up its data and content and Xerox shall not be responsible for Customer's failure to do so;
- j. that as between Xerox and Customer, Customer alone is responsible for determining whether content and materials provided to Xerox (i) is libelous, defamatory or obscene, or (ii) may be duplicated, scanned or imaged without violating a third party's intellectual property rights; and
- k. to provide contact information for Equipment such as name and address of Customer contact.

2.5. Warranties

- a. **Mutual Warranties.** Each party represents and warrants to the other, as an essential part of this Agreement, that:

- i. it is duly organized and validly existing and in good standing under the laws of the state or country of its incorporation or formation;
- ii. this Agreement and the Orders hereunder have been duly authorized by all appropriate corporate action for signature; and
- iii. the individual signing this Agreement, and all Orders (where applicable), is duly authorized to do so.

b. Xerox Warranties.

- i. Services Performance. Xerox agrees to perform the Services in a professional manner, consistent with applicable industry standards. Xerox will re-perform any Services not in compliance with this representation and brought to Xerox's attention in writing within 30 days after such Services are performed, which shall be the exclusive remedy for such non-compliance.
- ii. Equipment Warranty. Any Equipment warranty to which Customer is entitled shall commence upon the Date of Installation. Use by Customer of consumables not approved by Xerox that affect the performance of the Equipment may invalidate any applicable warranty.
- iii. Third Party Product Warranty. Where Xerox in its sole discretion selects and supplies Third Party Products, Xerox warrants they will operate substantially in conformance with applicable SLAs or other requirements in the Order. Customer's sole remedy for breach of this warranty is to return the Third Party Product to Xerox and then receive a refund of any fees paid for such non-conforming Third Party Product, less a reasonable usage fee. If Customer requests a specific Third Party Product, Xerox will pass-through as permitted any third party warranties.
- iv. Exclusions. Xerox shall not be responsible for any delay or failure to perform the Services or provide Products, including achieving any associated SLAs or other requirements in the applicable SOWs, DOSs or Orders, to the extent that such delay or failure is caused by:
 - (a) Customer's failure or delay in performing its responsibilities under this Agreement;
 - (b) reasons outside Xerox's reasonable control, including Customer Assets, Customer's content or materials, or delays or failures by Customer's agents, suppliers or providers of maintenance and repair services for Customer Assets; or
 - (c) unauthorized modifications to Equipment, Software or Third Party Hardware.

- c. **Disclaimer.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND XEROX DISCLAIMS AND CUSTOMER WAIVES ALL OTHER WARRANTIES INCLUDING ANY WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. FOR CLARITY, FOR ANY EQUIPMENT LEASED TO CUSTOMER BY XEROX UNDER THIS AGREEMENT OR ANY ORDER HEREUNDER, SUCH LEASE AND/OR ORDER SHALL BE CONSTRUED AS A "FINANCE LEASE" UNDER ARTICLE 2A OF THE UNIFORM COMMERCIAL CODE AND, EXCEPT AS EXPRESSLY PROVIDED HEREIN AND AS PERMITTED BY APPLICABLE LAW, CUSTOMER WAIVES ALL RIGHTS AND REMEDIES CONFERRED UPON A LESSEE BY ARTICLE 2A OF THE UNIFORM COMMERCIAL CODE.

The warranties set forth in this Agreement are expressly conditioned upon the use of the Services and Products for their intended purposes in the systems environment for which they were designed and shall not apply to any Services or Products which have been subject to misuse, accident or alteration or modification by Customer or any third party.

2.6. Intellectual Property

- a. Xerox Tools may be used by Xerox to provide certain Services, as set forth in an Order or a Statement of Work. Xerox and its licensors will at all times retain all right, title and interest in and to Xerox Tools including without limitation, all intellectual property rights therein, and, except as expressly set forth herein or as set forth in an SOW where limited access to the Xerox Device Manager (XDM) may be granted for a specific purpose, no rights to use, access or operate the Xerox Tools are granted to Customer. Xerox Tools will be installed and operated only by Xerox or its authorized agents. Customer will not decompile or reverse engineer any Xerox Tools, or allow others to engage in same. Customer will have access to Remote Product Info and reports generated by the Xerox Tools and stored in a provided database as set forth in the applicable SOW. Xerox may remove Xerox Tools at any time in Xerox's sole discretion, provided that the removal of Xerox Tools will not affect Xerox's obligations to perform Services, and Customer shall reasonably facilitate such removal.

- b. Each party will retain ownership of its Intellectual Property. Each party grants the other a limited, non-exclusive, royalty-free right and license to use the other party's Intellectual Property (excluding the Xerox Tools) in the U.S. only to the extent necessary for such party and its designees to receive the benefit of, and/or, fulfill its obligations under this Agreement. Neither party will (i) distribute, copy, modify, create derivatives of, decompile, or reverse engineer the Intellectual Property of the other or, (ii) allow others to engage in same, except as permitted by applicable law or as expressly permitted under this Agreement or the applicable SOW.
- c. The parties acknowledge and agree that no Intellectual Property will be created or transferred under this Agreement. If the scope of the parties' relationship changes to include creation or transfer of Intellectual Property, that activity will be addressed in a separate written agreement.
- d. If the Products or Services are configured to provide output (excluding Remote Product Info), including modification or transformation of Customer Information, Customer shall be the sole owner of any such output in any format or media obtained by use of the Products or Services and may freely use and disclose such output to any third party. Examples of output include scans and printed output of Customer Information processed by Equipment.

2.7. Indemnification

- a. **Mutual Indemnification.** Each party (and its Affiliates), if promptly notified by the other and given the right to control the defense, shall indemnify, defend and hold harmless the other party, its Affiliates, and their respective officers, directors, employees, agents, successors and assigns, from and against all claims by a third party for losses, damages, costs or liability of any kind (including expenses and reasonable legal fees) that a court finally awards such party ("Claims") for bodily injury (including death) and damage to real or tangible property, to the extent proximately caused by the negligent acts or omissions, or willful misconduct of the indemnifying party (or its Affiliates) in connection with this Agreement.
- b. **Xerox Indemnification.** Xerox shall, if promptly notified by Customer (or its Affiliate(s)) and given the right to control the defense, indemnify, defend and hold harmless Customer, its Affiliates and their respective officers, directors, employees, agents, successors and assigns, for all Claims that Xerox Products or Customer's use of the Services provided by Xerox under this Agreement infringe a U.S. patent, copyright or other intellectual property right. Notwithstanding anything to the contrary herein, Xerox shall have no obligation under this Section **2.7(b)** to the extent any Claim is based on or arises out of any (i) Services performed using Customer Assets, Customer Information or other materials provided to Xerox by Customer for which Customer failed to provide sufficient rights to Xerox; (ii) infringement by Services resulting from Customer's direction, specification or design; (iii) modification or alteration to such Xerox Products or Services not approved in writing by Xerox; (iv) any combination or use of the Xerox Products or Services not approved in writing by Xerox; (v) use of the Xerox Products or Services not in accordance with the applicable Documentation; or (vi) Customer's failure to use corrections or enhancements to the Xerox Products provided by Xerox. If a Claim is made or appears likely to be made pursuant to this Section **2.7(b)**, Customer agrees to permit Xerox, at Xerox' sole option and expense, to obtain the right to enable Customer to continue to use such Xerox Products, to make them non-infringing or to replace them with items that are at least functionally equivalent. If Xerox determines that none of these alternatives is reasonably available, Customer agrees to return such Xerox Products to Xerox upon Xerox' written request. Xerox will then give Customer a refund equal to the amount Customer paid Xerox for such Xerox Products less a reasonable usage fee.
- c. **Customer Indemnification.** Customer shall, if promptly notified by Xerox (or its Affiliate(s)) and given the right to control the defense, indemnify, defend and hold harmless Xerox, its Affiliates, and their respective officers, directors, employees, agents, successors and assigns, for all Claims for intellectual property infringement to the extent such Claim is based on (i) Xerox's use of Customer Assets, Customer Information or customer's content or materials used in performing Services or providing Products under this Agreement or any Order entered into hereunder; (ii) Customer's use of the Products or Services not in accordance with this Agreement or the applicable Documentation; and (iii) Claims arising out of or related to Section **2.7(b)(i)-(vi)** or Customer's failure to perform its responsibilities under Section **2.4(j)**.
- d. The indemnifying party is not responsible for any litigation expenses of the indemnified party or any settlements unless it pre-approves them in writing.

2.8. Limitation of Liability

Except as prohibited by law, the following limitations apply:

- a. **NO CONSEQUENTIAL DAMAGES.** SUBJECT TO SECTION **2.8(c)**, IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS BE

LIABLE TO THE OTHER PARTY OR ITS AFFILIATES OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS FOR ANY INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, AND EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

- b. **LIMITATION ON RECOVERY.** SUBJECT TO SECTION 2.8(c), THE TOTAL AGGREGATE LIABILITY OF EITHER PARTY (AND ITS AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS) FOR DIRECT DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, WILL BE LIMITED TO AN AMOUNT EQUAL TO THE AMOUNT OF ALL CHARGES PAID BY CUSTOMER TO XEROX UNDER THE ORDER UNDER WHICH THE CLAIM AROSE (LESS PASS THROUGH EXPENSES SUCH AS, WITHOUT LIMITATION, POSTAGE) IN THE TWENTY-FOUR (24) MONTHS PRIOR TO THE DATE UPON WHICH THE CLAIM AROSE. THE EXISTENCE OF MULTIPLE CLAIMS OR SUITS UNDER OR RELATED TO THIS AGREEMENT AND ANY ORDERS HEREUNDER WILL NOT ENLARGE OR EXTEND THIS LIMITATION OF DAMAGES. NOTWITHSTANDING THE FOREGOING, NOTHING SET FORTH IN THIS SECTION 2.8(b) SHALL LIMIT CUSTOMER'S OBLIGATION TO PAY XEROX ALL CHARGES AND EXPENSES FOR PRODUCTS AND SERVICES PROVIDED UNDER THIS AGREEMENT.
- c. **EXCEPTIONS.** THE LIMITATIONS SET FORTH IN SECTION 2.8 SHALL NOT APPLY WITH RESPECT TO:
 - i. THE SPECIFIC INDEMNITY OBLIGATIONS SET OUT IN THIS AGREEMENT;
 - ii. EITHER PARTY'S WILLFUL MISCONDUCT, GROSS NEGLIGENCE OR FRAUD;
 - iii. BODILY INJURY OR DEATH CAUSED BY A PARTY'S NEGLIGENCE OR WILLFUL MISCONDUCT OR THAT OF ITS EMPLOYEES, AGENTS OR SUBCONTRACTORS; OR
 - iv. A PARTY EXCEEDING ITS RIGHTS, IF ANY, TO THE OTHER PARTY'S INTELLECTUAL PROPERTY OR MISAPPROPRIATING OR INFRINGING THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS AS GRANTED UNDER THIS AGREEMENT.

2.9. Term and Termination

This Agreement shall commence on the Effective Date and shall continue for a term of <<Enter Term>> months, and continue on a month-to-month basis thereafter until expressly renewed by mutual written agreement or terminated by either party upon 30 days' written notice. Upon termination, Customer shall permit Xerox to enter Customer Facilities for purposes of removing the Products owned by Xerox and/or Xerox Tools. Each Order hereunder shall have its own term, which shall be stated in the Order. In the event the Agreement is terminated, each Services Contract in effect at such time shall remain in full force and effect until the expiration or termination of all Orders constituting such Services Contract (including any extensions or renewals thereof) and shall at all times be governed by, and be subject to, the terms and conditions of this Agreement as if this Agreement were still in effect. Termination of any Order shall not affect this Agreement or any other Orders then in effect. Notwithstanding any other provision in the Agreement to the contrary, should an Order be terminated prior to expiration for any reason or a unit of Third Party Hardware or any Third Party Software for which Third Party Funds have been provided is removed or replaced prior to expiration, Customer agrees to pay to Xerox, in addition to any other amounts owed under said Order, an amount equal to the remaining principal balance of the Funds together with a 15% disengagement fee, for loss of bargain and not as a penalty.

2.10. Confidentiality

- a. **Obligations.** Information exchanged under this Agreement will be treated as confidential if it is identified as confidential at disclosure or if the circumstances of disclosure would indicate to a reasonable person that the information should be treated as confidential. The terms and conditions of this Agreement, all Services Contracts and Orders, and any attachments and exhibits thereto, are Confidential Information of Xerox and Customer, and each party agrees not to disclose any of the foregoing without the other party's prior written consent. Any services procedures manuals and Xerox's Intellectual Property are Xerox Confidential Information. Private Information is Customer's Confidential Information. Confidential Information may only be used for the purposes of receiving the benefit of or fulfilling obligations under this Agreement, and shared with employees, agents or contractors with a need to know such information to support the foregoing purposes. Confidential Information will be protected using a reasonable degree of care to prevent unauthorized use or disclosure for 3 years from the termination or expiration of this Agreement or the Order under which such Confidential Information was disclosed, whichever occurs later. The duration of

confidentiality obligations with respect to Private Information shall be governed by applicable Privacy Laws. These obligations of confidentiality will not apply to any Confidential Information that: (1) was in the public domain prior to, at the time of, or subsequent to the date of disclosure through no fault of the receiving party; (2) was rightfully in the receiving party's possession or the possession of any third party free of any obligation of confidentiality; (3) was developed by the receiving party's employees independently of and without reference to any of the other party's Confidential Information; or (4) where disclosure is required by law or a government agency; provided, however, as to a requirement to disclose Confidential Information per clause (4), that party will (x) notify the disclosing party of the obligation to make such disclosure, and (y) reasonably cooperate with the disclosing party if the disclosing party seeks a protective order, but any costs incurred by the receiving party will be reimbursed by the disclosing party, except for costs of the receiving party's employees.

- b. **Residual Rights.** Each party understands that the other party shall be free to use for any purpose the Residuals resulting from access to Confidential Information as a result of the performance of its obligations under an Order, provided that such party shall maintain the confidentiality of such Confidential Information as provided herein. Neither party shall pay royalties for the use of Residuals. However, the foregoing shall not be deemed to grant either party a license under the other party's copyrights or patents.

2.11. Data Protection/Privacy

- a. To the extent that Privacy Laws are applicable to Customer and Xerox in connection with the performance of Services, each party agrees to comply with the applicable provisions of such Privacy Laws.
- b. Xerox has adopted reasonable physical, technical and organizational safeguards designed to prevent accidental, unauthorized or unlawful loss, disclosure, access, transfer or use of Private Information. Xerox will promptly notify Customer in the event of any known unauthorized or unlawful loss, disclosure, access, transfer or use of Private Information.

2.12. GOVERNING LAW AND JURISDICTION

- a. This Agreement, each respective Order, and any dispute or claim arising out of or in connection with this Agreement or such Order, shall be governed by and construed in accordance with the laws of New York without regard to its conflict of laws provisions and submitted to the exclusive jurisdiction of the federal and state courts of New York.
- b. In any action to enforce this Agreement or any Order hereunder, the parties agree to waive their right, if any, to a jury trial.

2.13. Force Majeure

Except for Customer's absolute and unconditional obligation to make all required payments of any amounts not properly disputed under this Agreement, neither Customer nor Xerox shall be liable to the other party during any period in which its performance is delayed or prevented, in whole or in part, by a Force Majeure Event. If such a circumstance occurs, the party whose performance is delayed or prevented shall undertake reasonable action to notify the other party thereof.

2.14. Compliance with Laws and Policies

Xerox and Customer shall comply with all applicable laws and regulations in the performance of their respective obligations under this Agreement. Xerox agrees to comply with Customer's internal policies regarding security and safety at Customer Facilities that are reasonable and customary under the circumstances and which do not conflict with the terms of this Agreement. Customer agrees to provide Xerox with reasonable prior written notice of such policies and any changes to such policies. If a change in Customer policy results in incremental costs to Xerox, Xerox may, upon providing notice to Customer, pass such costs on to Customer.

2.15. Miscellaneous

- a. **Copies of Agreement.** Except as required by law, both parties agree that any reproduction of this Agreement made by reliable means (for example, photocopy or facsimile) shall be considered an original. Xerox may retain a hardcopy, electronic image, photocopy or facsimile of this Agreement and each Order hereunder, which shall be considered an original and shall be admissible in any action to enforce said Agreement or Order.
- b. **Amendment.** All changes to this Agreement must be made in a writing signed by Customer and Xerox. Any amendment of this Agreement shall not affect the obligations of either party under any then-existing Orders, which shall continue in effect unless the amendment expressly states that it applies to such existing Orders. An amendment to a Services Contract shall reference the number of the Services Contract that it amends.

- c. **No Waiver; Severability; Survival.** The failure by Customer or Xerox to insist upon strict performance of any of the terms and conditions in this Agreement or to exercise any rights or remedies will not be construed as a waiver of the right to assert those rights or to rely on that term or condition at any time thereafter. If any provision is held invalid by any arbitrator or any court under applicable law, such provision shall be deemed to be restated as nearly as possible to reflect the original intention of the parties in accordance with applicable law. The remainder of this Agreement shall remain in full force and effect. Any terms and conditions of this Agreement or any Order which by their nature extend beyond the termination or expiration of the Agreement or Order will survive such termination or expiration.
- d. **Independent Contractors.** Xerox shall perform all Services hereunder in the capacity of independent contractor and not as Customer's employee, agent or representative. Xerox employees shall not be entitled to privileges of employment that Customer may provide to Customer's employees, and Xerox shall be responsible for payment of all unemployment, social security, federal (state and local, as necessary) and other payroll taxes in regard to its employees involved in the performance of the Services. Neither of the parties, nor their respective employees or Affiliates, shall be authorized to conclude contracts in the name of the other party, or to act or appear as a representative of the other, whether in performing the Services or otherwise.
- e. **No Hiring.** During the term of an Order under which Xerox is providing Services and for a period of 1 year thereafter, Customer and Xerox each agree not to hire, solicit, or employ any of the other's personnel who have been engaged in the provision of services or the performance of this Agreement, unless prior written consent is obtained from the other party. Such prohibition shall not apply to hiring as a result of general public solicitations of employment. Should one of the parties hire the other party's personnel in violation of this Agreement, the violating party shall immediately pay to the other, as liquidated damages and as the sole remedy for such violation, an amount equal to such personnel's then current annual compensation (or the amount paid to such person during the previous 12 months in the case of an independent contractor).
- f. **Assignment.** Xerox may assign or otherwise transfer this Agreement or any part hereof (including some or all of its rights or obligations hereunder) without prior notice to or consent of Customer. If Xerox assigns only its rights (or certain of its rights) hereunder to an assignee then: (a) such assignee of Xerox shall have all the rights assigned to it but none of the obligations of Xerox hereunder; (b) such assignee shall not be liable to Customer for any reason whatsoever; (c) Customer shall continue to look to Xerox for performance of Xerox's obligations and hereby waives and releases such assignee from any such claim; (d) all information obtained by Xerox relating to Customer may be disclosed to such assignee; (e) Customer shall not assert any defense, counterclaim or setoff Customer may have against such assignee; and (f) Customer will remit payments in accordance with instructions of such assignee. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding on the successors and permitted assigns of the parties hereto. Neither the rights nor obligations of Customer under this Agreement are assignable by Customer without prior written consent of Xerox. In the event Xerox consents to an assignment, Customer will pay the applicable costs related to the assignment and documentation change, which will not exceed \$500.
- g. **Communication Authorization.** Customer authorizes Xerox or its agents to communicate with Customer by any electronic means (including cellular phone, email, automatic dialing and recorded messages) using any phone number (including cellular) or electronic address that Customer provides to Xerox.
- h. **Limitation on Charges.** In no event will Xerox charge or collect any amounts in excess of those allowed by applicable law. Any part of an Order that would, but for this Section, be construed to allow for a charge higher than that allowed under any applicable law, is limited and modified by this Section to limit the amounts chargeable under such Order to the maximum amount allowed by law. If, in any circumstances, an amount in excess of that allowed by law is charged or received, such charge will be deemed limited to the amount legally allowed and the amount received by Xerox in excess of that legally allowed will be applied to the payment of amounts owed or will be refunded to Customer.
- i. **Order of Precedence; Entire Agreement.** This Agreement, including all schedules, attachments, exhibits and amendments hereto and the Services Contract(s) hereunder, constitutes the entire agreement between the parties as to the subject matter and supersedes all prior and contemporaneous oral and written agreements regarding the subject matter hereof and neither party has relied on or is relying on any other information, representation, discussion or understanding in entering into and completing the transactions contemplated in this Agreement. The parties agree that except as expressly set forth in this Agreement, in the event of any conflict between terms and conditions, the order of precedence shall be this Agreement, the applicable Orders under the Services Contract (excluding Customer POs), and the SOW or DOS, as applicable. If a term in this Agreement expressly provides for a term in an Order to take precedence, such

provision in the Order shall prevail to the extent of any conflict. Notwithstanding the foregoing, provisions in the General Module of this Agreement related to: (1) Section **2.6** (Intellectual Property); (2) Section **2.7** (Indemnification); (3) Section **2.8** (Limitation of Liability); (4) Section **2.10** (Confidentiality); and (5) Section **2.3** (Taxes), will prevail over conflicting provisions in any other contractual document.

2.16. eCommerce Portal

Xerox and Customer agree to establish one or more eCommerce portals (each, an “eCommerce Portal”) to be used by Customer to select certain models of Equipment and supplies identified in such eCommerce Portals and, upon meeting the conditions set forth below, to submit Orders for the delivery of such Equipment and supplies. During the ordering process in the eCommerce Portal, Customer will be prompted to electronically accept certain terms and conditions that are in addition to those terms and conditions in this Agreement and which would otherwise print out on an SSO:

- (a) If Customer accepts such terms and conditions, Xerox will accept and process such order submitted through the eCommerce Portal as an Order (an “eCommerce Order”) without any requirement for Customer to execute and deliver an SSO or any other Order form.
- (b) If Customer declines such terms and conditions, then (i) Xerox will not accept the submission as an Order and (ii) Customer will need to execute and deliver to Xerox, an SSO presented by Xerox that identifies such Equipment or supplies, the term thereof, the pricing associated therewith and any applicable additional terms and conditions related thereto.

Notwithstanding the foregoing, an eCommerce Order cannot be used for certain types of transactions including, but not limited to, transactions involving Equipment subject to waiver dollars and/or flexibility, involving trade-in units, specific high-end Equipment and Equipment subject to a pooled volume minimum.

SERVICES MODULE

3. TERMS AND CONDITIONS SPECIFIC TO SERVICES

In addition to the terms and conditions in the GENERAL Module, the following terms and conditions apply to Xerox’s performance of Services.

3.1. Scope of Services

Subject to the terms and conditions of this Agreement, Services will be performed by Xerox and/or its Affiliates in accordance with the requirements set forth in an Order. If Customer fails to perform or is delayed in performing any of its responsibilities under this Agreement, such failure or delay may prevent Xerox from being able to perform any part of the Services or Xerox-related activities. Xerox shall be entitled to an extension or revision of the applicable term of the Order (which may include setting a new expected date for commencement of Services) or to an equitable adjustment in performance metrics associated with such failure or delay. Xerox grants Customer a non-exclusive, non-transferable, non-sublicensable right and license to access and use the Services only for the purpose of such Customer and its designees receiving the benefit of the Services set forth in the applicable SOW.

3.2. Charges for Services

Charges for Services are set forth in the applicable Order. Charges are based upon information exchanged between Customer and Xerox, which is assumed to be complete and accurate, and also depend upon other factors such as the timely performance by Customer of its responsibilities. If: (a) such information should prove to be incomplete or inaccurate in any material respect; or (b) there is a failure or delay by the Customer in performing its responsibilities under this Agreement or an Order which results in Xerox incurring a loss or additional cost or expense, then the charges shall be adjusted to reflect proportionately the impact of such materially incomplete or inaccurate information or such failure or delay. Charges that are indicated in an Order as being fixed are not subject to an annual percentage escalation for the initial term of such Order; otherwise, Xerox may increase Charges for Services annually by an amount no greater than the CPI Adjustment Percentage. If Xerox provides Services partially or early (for example, prior to the start of the initial term of an Order), Xerox will bill Customer on a pro rata basis, based on a 30 day month, and the terms and conditions of this Agreement will apply.

3.3. Use of Subcontractors

Xerox may, when it reasonably deems it appropriate to do so, subcontract any portion of the Services. Xerox shall remain responsible for any Services performed by subcontractors retained by Xerox to the same extent as if such Services were performed by Xerox.

3.4. Services Scope Changes

Except as otherwise set forth in an Order, either party may propose to modify the then-existing Services that are described in an Order, or to add new Services under a Services Contract. If Xerox determines such changes are feasible, Xerox will prepare and propose to Customer an Order incorporating the requested changes and any related impact to the Charges or terms. Once Customer executes and Xerox accepts the Order, Xerox will promptly proceed with the new and/or revised Services in accordance with the terms of the Order and this Agreement.

3.5. Early Termination of Services and Labor

Except as otherwise set forth in a Services Contract, upon 90 days prior written notice, Customer may terminate or reduce any Services or labor provided pursuant to an Order without incurring early termination charges except as set forth in the next sentence. Notwithstanding the foregoing, if any such Services or labor provided under an Order are terminated (a) by Xerox due to Customer's default or (b) by Customer and Customer acquires similar services from another supplier within 6 months of the termination of such Services or labor, Customer shall pay all amounts due as of the termination date, together with the early termination charges, for loss of bargain and not as a penalty, stated in the Order or, if not specifically stated therein, an amount equal to the then current MMC for said terminated or reduced Services or labor multiplied by the number of months remaining in the term of the related Order, not to exceed 6 months.

EQUIPMENT MODULE

4. TERMS AND CONDITIONS SPECIFIC TO EQUIPMENT & THIRD PARTY HARDWARE

In addition to the terms and conditions in the GENERAL Module, the following terms and conditions apply to Equipment and Third Party Hardware provided to Customer.

4.1. Term and Date of Installation

The term for each unit of Equipment shall be the term stated on the applicable Order, with the commencement date based upon the actual Date of Installation. If the Date of Installation for a unit of Equipment is prior to the applicable Order start date, Xerox will bill the Customer for such Equipment on a pro rata basis, based on a 30-day month, and the terms and conditions of this Agreement and the applicable Services Contract will apply as of the Date of Installation.

4.2. Delivery and Removal and Suitability of Customer Facilities

Xerox will be responsible for all standard delivery charges for Equipment and Third Party Hardware. Customer will be responsible for (a) all removal charges for Equipment and Third Party Hardware and (b) any non-standard delivery charges. The suitability of Customer Facilities for installation of Equipment or Third Party Hardware, including compliance with state and local building, fire and safety codes and any non-standard state or local installation requirements, is Customer's responsibility.

4.3. Equipment Status

Unless Customer is acquiring previously installed equipment, Equipment will be either: (a) "Newly Manufactured," which may contain some recycled components that are reconditioned; (b) "Factory Produced New Model" which is manufactured and newly serialized at a Xerox factory, adds functions and features to a product previously disassembled to a Xerox predetermined standard, and contains new components and recycled components that are reconditioned; or (c) "Remanufactured," which has been factory produced following disassembly to a Xerox predetermined standard and contains both new components and recycled components that are reconditioned. Xerox makes no representations as to the status of any Third Party Hardware that Xerox may provide under any Order.

4.4. Consumable Supplies

If specified in an Order, Xerox will provide Consumable Supplies for related Equipment. Xerox may charge a shipping fee for Consumable Supplies. Consumable Supplies are Xerox's property until used in the Equipment for which they are provided. Upon expiration or termination of the applicable Order, Customer will either return any unused Consumable Supplies to Xerox at Xerox's expense when using Xerox-supplied shipping labels, or destroy them in a manner permitted by applicable law. Xerox reserves the right to charge Customer for any Consumable Supplies usage that exceeds Xerox's published yields by more than 10%. In such a case, Xerox will notify Customer of the excess usage. If such excess usage does not cease within 30 days after notice, Xerox may charge Customer for the excess usage. If Xerox provides paper under a Services Contract, upon 30 days' notice, Xerox may adjust paper pricing or either party may terminate the provision of paper.

4.5. Use and Relocation

For any Equipment or Third Party Hardware provided by Xerox, with the exception of Purchased Equipment for which Customer has paid in full, Customer agrees that: (a) the Equipment or Third Party Hardware shall remain personal

property; (b) Customer will not attach any of the Equipment or Third Party Hardware as a fixture to any real estate; (c) Customer will not pledge, sub-lease or part with possession of the Equipment or Third Party Hardware or file or permit to be filed any lien against the Equipment or Third Party Hardware; and (d) Customer will not make any permanent alterations to the Equipment or Third Party Hardware. While Equipment or Third Party Hardware is subject to an Order, Customer must provide Xerox prior written notice of all Equipment or Third Party Hardware relocations and Xerox may arrange to relocate the Equipment or Third Party Hardware at Customer's expense. While Equipment or Third Party Hardware is being relocated, Customer remains responsible for making all payments to Xerox required under the applicable Order. All parts or materials replaced, including as part of an upgrade, will become Xerox's property. Equipment or Third Party Hardware cannot be relocated outside of the U.S. until Customer has paid in full for the Equipment or Third Party Hardware and has received title thereto. Notwithstanding anything to the contrary in the foregoing, to the extent the Equipment contains any Software, any relocation of such Equipment is subject to the terms and conditions set forth in the Software License Module of this Agreement.

4.6. Supplier Equipment Provided

In the event Xerox provides Supplier Equipment to Customer, the following terms shall apply unless otherwise specified in an Order:

- a. Unless Supplier Equipment is purchased by Customer, Xerox (or the applicable third party vendor) shall at all times retain title to the Supplier Equipment. If for any reason whatsoever, this transaction is re-characterized as a secured financing, you are deemed to have granted to Xerox a first priority security interest in the Supplier Equipment in order to secure your performance under this Agreement. Customer hereby authorizes Xerox or its agents to file financing statements necessary to protect Xerox's rights to the Supplier Equipment. Xerox reserves the right to charge Customer for any filing fees and administrative costs for the filing of such financing statements, not to exceed \$75.
- b. Customer will promptly notify Xerox, in writing, of any change in ownership, or if it relocates its principal place of business or changes the name of its business. The risk of loss or damage to the Supplier Equipment shall pass to Customer upon delivery to the site where Xerox performs the Services and/or Maintenance Services and/or provides Products, as applicable. Customer will insure the Supplier Equipment against loss or damage and the policy will name Xerox as loss payee.
- c. Customer agrees to use the Supplier Equipment in accordance with, and to perform, all operator maintenance procedures for the Supplier Equipment described in the applicable Documentation made available or provided by Xerox. The Customer shall not (unless the Supplier Equipment is Purchased Equipment, and then only with Xerox's prior consent):
 - i. sell, charge, let or part with possession of the Supplier Equipment;
 - ii. remove the Supplier Equipment from Customer Facilities in which it is installed; or
 - iii. make any changes or additions to the Supplier Equipment.
- d. **Early Termination.** Equipment is provided for a minimum order term (as specified in the applicable Order per 4.1 above). If Equipment is terminated for any reason before the end of its minimum order term, the termination charges set forth in the applicable Order or Services Contract for such Equipment shall apply.

4.7. Data Security

Certain models of Equipment can be configured to include a variety of data security features. There may be an additional cost associated with certain data security features. The selection, suitability and use of data security features are solely Customer's responsibility. Upon request, Xerox will provide additional information to Customer regarding the security features available for particular Equipment models. Obligations regarding removal of Customer's Confidential Information that may be stored on hard drives on Equipment owned by Xerox, if any, and any costs associated with such removal will be set forth in the applicable Order.

4.8. Remote Services for Equipment

Certain models of Equipment are supported and serviced using product information that is automatically collected by Xerox or transmitted to or from Xerox by the Equipment or Third Party Products ("Remote Product Info") via electronic transmission to or from a secure off-site location (such transmission is "Remote Transmission"). Examples of Remote Product Info include product registration, meter read, supply level, equipment configuration and settings, software version, and problem/fault code information. Remote Product Info may also be collected by the Xerox Tools and certain Services Software as set forth in the applicable SOW. Remote Transmission also enables Xerox to transmit to Customer Maintenance Releases or Updates for software or firmware and to remotely diagnose and modify Equipment to repair or correct malfunctions. All Remote Product Info will be transmitted to and from Customer in a secure manner mutually agreeable to the parties. The Remote Transmission capability will not include any Customer Confidential

Information nor allow Xerox to read, view or download any Customer data, documents or other information residing on or passing through the Equipment, Third Party Hardware or Customer's information management systems. Customer grants the right to Xerox, without charge, to establish and maintain Remote Transmission for the purposes described above. Upon Xerox's request, Customer will (a) provide contact information for Equipment such as name and address of Customer contact and IP and physical addresses/locations of Equipment, and (b) ensure that any Maintenance Release or Update released by Xerox to provide security patches, releases and/or certificates for the Remote Transmission and/or Software is promptly enabled by Customer upon notification by Xerox or by the Equipment or when otherwise made available on xerox.com. Customer will enable Remote Transmission via a method mutually agreeable to the parties, and Customer will provide Xerox with reasonable assistance to allow Xerox to have Remote Transmission. Unless Xerox deems Equipment incapable of Remote Transmission, Customer will ensure that Remote Transmission is maintained at all times Maintenance Services are being performed. If Customer is unable to maintain Remote Transmission, or if Xerox disables Remote Transmission from any Equipment at Customer's request, or if Customer disables Remote Transmission from any Equipment, Xerox reserves the right to charge Customer a per device fee for such affected Equipment due to the increased service visits that will be required in order to: (x) obtain such information, (y) provide such transmissions, and (z) provide such Maintenance Services and Consumable Supplies that otherwise would have been provided remotely and/or proactively.

4.9. Removal of Hazardous Waste

Customer agrees to take responsibility for legally disposing of all hazardous wastes generated from the use of Third Party Hardware or supplies.

EQUIPMENT PURCHASE MODULE

5. TERMS AND CONDITIONS SPECIFIC TO EQUIPMENT PURCHASE

In addition to the terms and conditions in the GENERAL Module, the following terms and conditions apply to the acquisition of Purchased Equipment:

5.1. Order

Orders for an outright purchase of Purchased Equipment shall include the unique Xerox-provided contract number and the number of this Agreement on all applicable ordering documents.

5.2. Title and Risk of Loss

Title and risk of loss or damage to the Purchased Equipment will pass to Customer upon delivery to the applicable Customer Facilities.

5.3. Default

If Customer defaults under a XOA for Purchased Equipment, Xerox, in addition to its other remedies (including the cessation of Maintenance Services if applicable), may require immediate payment of all amounts then due, plus all Transaction Taxes and applicable interest on all amounts due from the due date until paid. Customer shall also pay all reasonable costs, including attorney's fees, incurred by Xerox to enforce this Agreement.

5.4. Maintenance Services for Purchased Equipment

If Customer elects to receive Maintenance Services for Purchased Equipment, Customer shall do so under a separate Order under the Agreement for such Maintenance Services.

5.5. Agreement Provision Exclusions

The following Agreement provisions do not apply to Orders for an outright purchase of Purchased Equipment: Sections 2.1(c)(ii) - (iii); 2.4(b)-(j); 2.5(b)(i); 2.9; 4.4; and 4.6.

MAINTENANCE SERVICES MODULE

6. TERMS AND CONDITIONS SPECIFIC TO MAINTENANCE SERVICES

In addition to the terms and conditions in the GENERAL Module, and except as otherwise set forth in an Order, the following terms and conditions apply to provision of Maintenance Services.

6.1. Maintenance Services

As part of an Order for (a) stand-alone Maintenance Services related to Purchased Equipment, or (b) Maintenance Services related to Equipment to which Xerox does not hold title, or as a mandatory part of an Order for Equipment (other than Purchased Equipment) that includes Maintenance Services, Xerox or a designated service provider will provide the following Maintenance Services for Equipment. If Customer is acquiring Equipment for which Xerox does

not offer Maintenance Services, such Equipment will be designated as “No Svc.” This Module does not apply to maintenance of Third Party Hardware. Maintenance that Xerox provides on Third Party Hardware will be provided in accordance with the terms of the applicable Order.

The provision of Maintenance Services is contingent upon Customer facilitating timely and efficient resolution of Equipment issues by: (i) utilizing Customer-implemented remedies provided by Xerox; (ii) replacing Cartridges; and (iii) providing information to and implementing recommendations provided by Xerox telephone support personnel in those instances where Xerox is not providing on-site Equipment support personnel. If an Equipment issue is not resolved after completion of (i) through (iii) above, Xerox will provide on-site support as provided in the applicable Order.

6.2. Repairs and Parts

- a. Xerox will make repairs and adjustments necessary to keep the Equipment in good working order and operating in accordance with its written specifications (including such repairs or adjustments required during initial installation). Maintenance Services shall cover repairs and adjustments required as a result of normal wear and tear or defects in materials or workmanship. Parts required for repair may be new, reconditioned, reprocessed or recovered.
- b. If Xerox is providing Maintenance Services for Equipment that uses Cartridges, Customer will use only unmodified Cartridges purchased directly from Xerox or its authorized resellers. Failure to use such Cartridges will void any warranty applicable to such Equipment. Cartridges packed with Equipment or furnished by Xerox as Consumable Supplies will meet Xerox's new Cartridge performance standards and may be new, remanufactured or reprocessed and contain new and/or reprocessed components. To enhance print quality, Cartridges for many models of Equipment have been designed to cease functioning at a predetermined point. Many Equipment models are designed to function only with Cartridges that are newly manufactured original Xerox Cartridges or with Cartridges intended for use in the U.S.

6.3. Hours and Exclusions

Unless otherwise set forth in an Order, Maintenance Services will be provided in areas accessible for repair services during Xerox's standard working hours. Maintenance Services excludes repairs due to: (a) misuse, neglect or abuse; (b) failure of the installation site or the PC or workstation used with the Equipment to comply with Xerox's published specifications; (c) use of options, accessories, or other products not serviced by Xerox; (d) non-Xerox alterations, relocation, service or supplies; and (e) failure to perform operator maintenance procedures identified in operator manuals. Customer agrees to furnish all referenced parts, tools, and supplies needed to perform those procedures that are described in the applicable manuals and instructions.

6.4. Installation Site and Meter Readings

In order to receive Maintenance Services for Equipment requiring connection to a PC or workstation, Customer must utilize a PC or workstation that either (a) has been provided by Xerox or (b) meets Xerox's published specifications. The Equipment installation site must conform to Xerox's published requirements. If applicable, unless otherwise set forth in an Order, Customer agrees to provide meter readings in the manner prescribed by Xerox. If Customer does not provide Xerox with meter readings as required, for Equipment not capable of Remote Transmission, or if Remote Transmission is interrupted, Xerox may estimate them and bill Customer accordingly.

6.5. Remedy

As Customer's exclusive remedy for Xerox's failure to provide Maintenance Services, Xerox will, for 5 years after the installation date of the initial unit or the initial term of the Order, whichever is longer, replace the Equipment with an identical product or, at Xerox's option, another model with comparable features and capabilities. If replacement Equipment is provided pursuant to this Section, there shall be no additional charge for its provision by Xerox during the initial term of the Order and it shall be subject to the terms and conditions of this Agreement and the applicable Order(s). Customer's use of non-Xerox approved consumables that affect the performance of the Equipment may invalidate this remedy. If Xerox is unable to keep a unit of Equipment in good working order after the period noted above, either party may terminate Maintenance Services for that unit without any penalties or early termination charges upon not less than 30 days' written notice to the other party.

6.6. End of Service

Xerox has no obligation to maintain or replace Equipment beyond the “End of Service” for that particular model of Equipment. End of Service (“EOS”) means the date announced by Xerox after which Xerox will no longer offer Maintenance Services for a particular Equipment model. An EOS Equipment List is available upon request.

SOFTWARE LICENSE MODULE

7. TERMS AND CONDITIONS SPECIFIC TO SOFTWARE

In addition to the terms and conditions in the GENERAL Module the following terms and conditions apply to the license and use of Software and its associated Documentation.

7.1. Software License

Xerox may provide Software to Customer pursuant to an Order hereunder. The following license applies to Software provided hereunder, unless such Software is accompanied by a click-wrap or shrink-wrap license agreement or otherwise provided subject to a separate license agreement.

- a. Xerox grants Customer a non-exclusive, non-transferable, non-assignable (by operation of law or otherwise) license to use in the U.S.: (i) Base Software only on or with the Equipment with which (or within which) it was delivered; and (ii) Application Software only on any single unit of Equipment, subject to Customer remaining current in the payment of any indicated applicable Software license fees (including any annual renewal fees). For Services Software, Xerox grants Customer a non-exclusive, non-transferable, non-assignable (by operation of law or otherwise) license in the U.S. to install the Services Software on a host computer(s) or server(s) or, if applicable, on Equipment or Third Party Hardware, and, further, if applicable, on the number of workstations, laptops and mobile devices specified in the Order, and to use the Services Software only for the purpose of receiving the applicable Services. Customer has no other rights to the Software. Customer will not and will not allow its employees, agents, contractors or vendors to: (i) distribute, copy, modify, create derivatives of, decompile, or reverse engineer Software except as permitted by applicable law; (ii) activate Software delivered with or within the Equipment in an un-activated state; or, (iii) access or disclose Diagnostic Software for any purpose. Title to Software and all copyrights and other intellectual property rights in Software will reside solely with Xerox and its licensors (who, if required by the terms of the third party license agreement with Xerox, will be considered third party beneficiaries of this Agreement's software and limitation of liability provisions).
- b. The Base Software license will terminate, as applicable: (i) if Customer no longer uses or possesses the Equipment with which the Base Software was provided; or (ii) upon the expiration or termination of any Order under which Customer has acquired the Equipment with which the Base Software was provided (unless Customer has exercised an option to purchase the Equipment, where available, in which case the license to Base Software is perpetual and transferrable with purchase of the Equipment by Customer).
- c. Software may contain code to prevent its unlicensed use and/or transfer. If Customer does not permit Xerox periodic access to such Software, this code may impair the Equipment's and/or Software's functionality.
- d. Xerox does not warrant that the Software will be free from errors or that its operation will be uninterrupted.

7.2. Software Support

Software support will be provided by Xerox or a designated service provider as follows. For Base Software, Software support will be provided during the initial term of the applicable Order and any renewal period, but not longer than 5 years after Xerox stops taking orders for the subject model of Equipment. For Application Software, Software support will be provided as long as Customer is current in the payment of all applicable software license, annual renewal and "support only" fees. For Services Software, support will be provided in accordance with the terms of the applicable Statement of Work or Order.

- a. Xerox will maintain a web-based or toll-free hotline during Xerox's standard working hours to report Software problems and answer Software-related questions. Xerox, either directly or with its vendors, will make reasonable efforts to: (i) assure that Software performs in material conformity with its Documentation; (ii) provide available workarounds or patches to resolve Software performance problems; and (iii) resolve coding errors for (1) the current release and (2) the previous release for a period of 6 months after the current release is made available to Customer. Xerox will not be required to provide Software support if Customer has modified the Software.
- b. Xerox may make available new releases of the Software that are designated as "**Maintenance Releases**" or "**Updates**." Maintenance Releases or Updates are provided at no charge and must be implemented within 6 months after being made available to Customer. Each Maintenance Release or Update shall be considered Software governed by these terms. Feature Releases will be subject to additional license fees at Xerox's then-current pricing and shall be considered Software governed by these terms and conditions (unless otherwise noted in an Order). Implementation of a Maintenance Release, Update or Feature Release may require Customer to procure, at its expense, additional hardware and/or software from Xerox or another entity.

Upon installation of a Maintenance Release, Update or Feature Release, Customer will return or destroy all prior Maintenance Releases, Updates or Feature Releases.

- c. Xerox may increase Software license fees and support fees for Application Software annually by an amount no greater than the CPI Adjustment Percentage.

7.3. Diagnostic Software

Diagnostic Software and method of entry or access to it constitute valuable trade secrets of Xerox. Title to the Diagnostic Software shall at all times remain solely with Xerox and Xerox's licensors. Xerox does not grant Customer a license or right to use the Diagnostic Software. Customer will not use, reproduce, distribute, or disclose the Diagnostic Software for any purpose (or allow third parties to do so). Customer will allow Xerox reasonable access to the Equipment during Customer's normal business hours to remove or disable Diagnostic Software if Customer is no longer receiving Maintenance Services from Xerox.

7.4. Third Party Software

Third Party Software is subject to license and support terms provided by the applicable Third Party Software vendor.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth below intending it to become effective on the Effective Date and thereby agreeing to its terms.

<<ENTER CUSTOMER'S LEGAL
NAME>>

XEROX CORPORATION

Signature

Signature

Name (please print)

Name

Title

Title

Address

Address

Date

Date

Region 4 ESC MPS Contract #R191104

Xerox App Gallery Enterprise Price List

1/10/2023

App	Description	List Price	Contract Price	% Discount	Subscription Type (Fair Usage)
Xerox Translate & Print	Provides instant, machine translations via your Xerox multifunction printer (MFP). Simply scan the document and receive a translation print in one of 44 languages.	\$17 per month, per device (1000 scans per year)	\$3.50 per month, per device	79%	Fixed Service Charge per Single Device per month for agreed contract duration. Transaction allowance: 100 per contracted license per month
Connect for Concur	Connector app linking users directly to the Concur service from the Xerox Multifunction Printer to streamline the expense reporting process. Scan multiple receipts at once then preview the scan before submitting into the Concur expense system.	\$58.25 per month (10,000 scans) - unlimited devices	\$3.50 per month, per device	93%	Fixed Service Charge per Single Device per month for agreed contract duration. Transaction allowance: 1500 per contracted license per month
Connect for DocuSign	Connector app linking users directly to the DocuSign service from the Xerox Multifunction Printer to help eliminate approval bottlenecks, speed up your paper processes, and keep essential agreements moving forward.	\$14 per month, per device	\$3.50 per month, per device	75%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for Exchange Online	Quickly digitize hard-copy documents at your Xerox ConnectKey enabled multifunction printer. Easily select recipients from the global or personal address book and send the scanned document as an attachment through your Exchange account	\$5 per month, per device	\$3.50 per month, per device	30%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for NetSuite	Connector app linking users directly to the NetSuite service from the Xerox Multifunction Printer help optimize how you work with documents. Whether capturing hardcopy documents for human resources or printing those invoices from the accounting software, this app helps keep your company running as efficiently as your NetSuite business management software.	\$10 per month, per device	\$3.50 per month, per device	65%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for Sage Accounting	Connector app linking users directly to the Sage Accounting service from the Xerox Multifunction Printer to alleviate the manual processing, multiple steps, and errors that can slow you down. Make it easier than ever to scan invoices and payments directly into desired ledgers within your Sage account.	\$75 per month (2,000 scans) - unlimited devices	\$3.50 per month, per device	95%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for Sage Intacct	Connector app linking users directly to the Sage Intacct service from the Xerox Multifunction Printer to alleviate the manual processing, multiple steps, and errors that can slow you down. Make it easier than ever to scan bills and payments directly into desired ledgers within your Sage Intacct account.	\$75 per month (2,000 scans) - unlimited devices	\$3.50 per month, per device	95%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for Salesforce	Connector app linking users directly to the Salesforce platform from the Xerox Multifunction Printer. Reduce the need to manually enter data into your CRM by instantly digitizing and organizing your most important client documents for timely review and follow-up. Use this app to easily access and search documents within your Salesforce account for printing or scan hardcopy documents into account folders right at the device.	\$10 per month, per device	\$3.50 per month, per device	65%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for SignNow	Connector app linking users directly to the SignNow service from the Xerox Multifunction Printer. Helps eliminate approval bottlenecks, speed up your e-signature processes, and keep essential agreements moving forward. Save time and money by signing your documents right at the panel of your Connect Key enabled device.	\$5 per month, per device	\$3.50 per month, per device	30%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect 2.0 for Box	Connect 2.0 for Box [®] is a Xerox [®] connector app to the Box [®] cloud storage service. Use this app to easily print from or scan to an individual or shared Box [®] account. As more organizations and workers are leveraging the convenience of cloud storage services, this app makes it easier to digitize documents, collaborate and work on the go.	\$10 per month, per device	\$3.50 per month, per device	65%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for Google Drive	The Xerox Connect for Google Drive™ app makes it safe and intuitive to digitize documents. With this app and your ConnectKey [®] enabled device, easily print from or scan to an individual or shared Google Drive™ account.	\$10 per month, per device	\$3.50 per month, per device	65%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions

Connect for OneDrive	The Xerox Connect for Microsoft® OneDrive app makes it safe and intuitive to digitize documents. With this app and your ConnectKey® enabled device, easily print from or scan to an individual or shared Microsoft® OneDrive account.	\$10 per month, per device	\$3.50 per month, per device	65%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for Microsoft 365	The Xerox Connect for Microsoft® 365 app makes it safe and intuitive to digitize documents. With this app and your ConnectKey® enabled device, easily print from or scan to an individual or shared Microsoft® 365/Sharepoint account.	\$10 per month, per device	\$3.50 per month, per device	65%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for Evernote	With the Xerox® Connect for Evernote on your Xerox® ConnectKey® Technology-enabled multifunction printer (MFP), you can securely scan and print directly to and from your Evernote account. Storing and sharing your notes has never been simpler.	\$10 per month, per device	\$3.50 per month, per device	65%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for RMail	For customers needing a comprehensive and secure email solution, the RMail® service delivers HIPAA and GDPR compliant security integrated with the popular email systems. The Xerox® Connect for RMail App along with your ConnectKey® enabled device links directly with the RMail secure email service.	\$10 per month, per device	\$3.50 per month, per device	65%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for Blackboard	Connect for Blackboard is a Xerox® connector app to Blackboard Learn™, the popular learning management system for higher education. Teachers and students can accelerate collaboration and simplify the process for uploading and storing documents into Blackboard for their classes. Use this app to scan hardcopy course materials such as assignments and handouts into course folders right at the device.	\$10 per month, per device	\$3.50 per month, per device	65%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for Moodle	The Xerox Connect App for Moodle helps by easily digitizing hardcopy documents. Conveniently authenticate at the printer once and access a Moodle account, browse a Moodle folder structure, and upload coursework, assignments, notes and more. With the helpful print feature, users can lower costs by printing on demand.	\$10 per month, per device	\$3.50 per month, per device	65%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for Remark Test Grading	Connect for Remark Test Grading is a Xerox® connector app to Gravic's powerful cloud-based test grading service. Now teachers can spend less time grading and more time teaching. Teachers can access the Remark Test Grading Service at the MFP and print bubble tests for their class, scan in the completed answer sheets, and generate instant results.	\$14 per month, per device	\$3.50 per month, per device	75%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Xerox Note Converter	With Xerox® Note Converter and your Xerox® Connect Key enabled device, quickly convert your notes into an MS Word document or text file sent to you digitally. Easily edit and share your notes with everyone in that important meeting you just left, saving you precious time.	\$5 per month, per device	\$3.50 per month, per device	30%	Fixed Service Charge per Single Device per month for agreed contract duration. Transaction allowance: 1500 per contracted license per month
Connect for Clio	With Xerox® Connect App for Clio, extend the reach of Clio's leading cloud-based software for legal practice management. Quickly digitize hard-copy case files and other legal documents at your multifunction printer. Or browse and print files from your Clio account.	\$10 per month, per device	\$3.50 per month, per device	65%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Connect for iManage	With Xerox® Connect App for iManage, optimize the power of iManage, a robust document and email management software for law firms, corporate legal departments, and professional services firms. Use this powerful tool to help digitize hard-copy files and print important documents from any Xerox® ConnectKey® Technology-enabled MFP.	\$10 per month, per device	\$3.50 per month, per device	65%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Xerox Auto Redaction	Xerox® Auto-Redaction takes advantage of cutting-edge AI technology in Google's Data Loss Prevention (DLP) software, that allows for you to select preset Personally Identifiable Information (PII), or custom words and phrases, then automatically redact it.	\$69.00	\$3.50 per month, per device	95%	Fixed Service Charge per Single Device per month for agreed contract duration. Transaction allowance: 2000 scan pages per contracted license per month

Capture and Content	Simplify and automate tasks, ensuring documents are sent directly to the systems your business relies on. With the Xerox® Capture & Content App, scan your documents into the Xerox® Capture & Content Services platform, integrating into centrally managed workflows. Xerox® Capture & Content Services delivers intelligent capture capabilities and enables the classification of documents, the automated extraction of data, as well as routing and integration of information into downstream line of business systems and content management platforms. After receiving the documents, our Global Capture Platform combines the scanned pages from the MFP with documents coming from other sources (including ad-hoc scanning, batch scanning, on- and off- site scan centers and/or electronic documents) transforming, processing, managing and delivering important data and metadata directly into the business processes that need it. The Capture & Content App requires a Xerox® Capture & Content Services account with the distributed workflow pre-configured by a site administrator and works on Xerox® AltaLink and VersaLink devices with scanners only.	Free	Free	n/a	Free
Connect for XMPiE	With the Xerox Connect app for XMPiE you can have instant access to over 50 beautiful templates, through which you can experience the power of XMPiE and create personalized content. Holiday cards, Birthday Cards, Calendars and so much more are just one touch away on your ConnectKey enabled device. Please enjoy the Xerox Connect app for XMPiE for free to access templates and personalize them for immediate print.	Free	Free	n/a	Free
Quickbooks Online	Connect for QuickBooks Online is a Xerox® connector app, linking users directly to the service to streamline the expense reporting process. Eliminate hassles and inefficiencies in the expense reporting process with a few simple steps at the MFP. Use this app to scan multiple receipts at once, preview the receipts, edit the data fields, submit, and even notify the approver right at the device. Users must have an existing QuickBooks Online account and access to a computer to link the app to their QuickBooks Online account via the Xerox® Connect for QuickBooks Online portal. The portal to link the two can be found at https://login.xeroxreceipts.com	\$20.00	\$3.50	83%	Fixed service charge per single Device per month for agreed contract duration. Subscription Allowance: 100 receipts per contracted license per month
Scanning App for DocuShare	This v2.0 update enables easy installation of a DocuShare® Flex or DocuShare® pre-configured workflow button onto a Xerox multifunction printer, from inside or outside a company firewall, to enable scanning of documents into business workflows. Requires an existing account on a DocuShare Flex or DocuShare server with workflow buttons pre-configured by a site administrator. Minimum supported server versions are DocuShare 7 with ConnectKey for DocuShare 1.5.10 and higher, or DocuShare Flex 2.5 and higher. Note: DocuShare 6.6.1 is not supported in this release. See the Xerox® Scanning App for DocuShare® Software Quick Start Guide for further details.	Free	Free	n/a	Free
Xerox Content Hub	The Content Hub App is part of the Xerox Content Hub service. It provides organizations with a simple way to create a cloud-based repository of documents that can be securely accessed 24/7 from wherever employees are and wherever they need to print from. Documents can be selected, customized and printed directly from any Xerox ConnectKey-enabled printer or remotely via a desktop or mobile device. Learn more at https://help.xmpie.com/ContentHub/index.htm .	Free	Free	n/a	Free

Xerox ID Checker	ID fraud is real, and manual detection can lead to failure rates of up to 50%. The Xerox® ID Checker App makes protecting businesses from ID fraud easy. Now staff can check the validity of an ID document in seconds. Captured data can be automatically exported for custom onboarding workflows. Manual steps are eliminated, so risks of error are reduced. And you can relax, knowing your business is safe. Xerox® ID Checker can help prevent fraud and make it easier than ever to scan global ID documents. Allows the scanning of typical ID documents like drivers' licenses, passports and country IDs. Review the scan with a clear scan preview, both front and back. Receive instant feedback right from the Xerox ConnectKey enabled device. Email or Print the Certificates of Authenticity. Instantly verify IDs with the Xerox ID Checker App. Trial the Xerox ID Checker App No Charge for 30 days or 15 verifications. A subscription can be purchased via the subscribe button once the trial period ends.	\$99.00	\$50.00	49%	Fixed service charge per single Device per month for agreed contract duration. Subscription Allowance: 100 verifications per contracted license per month
Connect for DocuShare Go	With Xerox® Connect App for DocuShare® Go users can connect Xerox® ConnectKey® Technology-enabled multifunction printers directly and securely to their DocuShare® Go account. Using this app, you'll be able to quickly navigate to find files or folders allowing you to print or scan documents in just a few clicks. Utilizing the Intelligent Capture Recognition / Optical Character Recognition (ICR / OCR) of DocuShare® Go, scanned documents can be tagged with key metadata, even handwritten text can be recognized and tagged for easy retrieval automatically. Printing is secure, on-demand and from any location where the Connect App for DocuShare® Go has been installed, helping you to print only when and what is needed yet avoiding sensitive documents being left on output trays. Key App features - Directly connect ConnectKey enabled MFP securely to DocuShare® Go accounts. - Easy navigation to find documents to print or folders to scan in to. - Preview files before submitting for print or scan, helping to avoid wasted prints or incorrect scans being sent. - Supports Single Sign On convenience authentication when paired with a supported authentication solution*. Supported file formats for Print: Microsoft® Office, PDF, Apache™ OpenOffice™, TIFF, JPEG, PNG, GIF, TXT, RTF, EML, XPS, PS and PCL® Supported output file formats for Scan: PDF, PDF/A, XPS, TIFF, JPEG, DOCX, XLSX, PPTX	Free	Free	n/a	Free

Connect for Dropbox	Organizations and workers are leveraging the convenience of cloud storage services. The Xerox Connect for Dropbox™ app makes it safe and intuitive to digitize documents. With this app and your ConnectKey® enabled device, easily print from or scan to an individual or shared Dropbox™ account. Xerox Connect for Dropbox™ can: Use your company's Exchange credentials at login. Navigate your folder structure and then easily scan your hardcopy document. Quickly print one or multiple documents. This connector supports single sign on authentication when using a supported authentication solution*.	\$10.00	\$3.50	65%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Scan to Cloud Email	Xerox® Scan to Cloud Email A free app that provides a simple and secure alternative to multifunction printer (MFP) email capabilities. Easily install this app in minutes to scan hardcopy documents and send to one or multiple email addresses. A simple easy to use app that is made for your Xerox® ConnectKey® enabled device at home, or in the office. With Xerox Scan to Cloud Email, you can: Send to one or multiple email recipients. Save and edit up to 50 recipients within the app. Edit the name of your scan and add date and time with one touch. Easily add a reply address so your recipients know where to reply. Type an email message at the device user interface.	Free	Free	n/a	Free
Clean Hands Reminder	Need to remind yourself or others about the importance of washing hands? The "Clean Hands Reminder" screen saver style app is now available for most Xerox Printers and Multifunction devices. This simple and non-intrusive app reminds users of the importance of hygiene in the workplace. The app displays when the device is inactive. When the user touches any portion of the screen or button, the app exits to the home screen. This app is freely available and applicable to VersaLink, PrimeLink and most AltaLink models. The app will not work on Xerox i-Series or older. To maximize the benefit of the Clean Hands Reminder app ensure you have: 1. Set the app to be the default service on the device (example: Entry Screen Default, Walkup Screen Setting) 2. Set the user interface timeout to the minimum. (example: touch user interface system timeout, system timeout for the device control panel) 3. Set Energy Saver to the longest possible setting (example: Power Saver, Low Power Setting at 60 minutes) Please consult your device's specific user guide for specific details.	Free	Free	n/a	Free

Share Patient Information	The Xerox® Share Patient Information App enables your practice to intelligently share patient information with millions of other healthcare professionals, including the ability to scan and store patient information directly to a patient's chart, depending on the capabilities of your EHR. Using the latest healthcare standards for communication, the Share Patient Information App transforms any compatible Xerox® ConnectKey® Technology-enabled device into a HIPAA-compliant, interoperable Healthcare MFP. The Xerox Healthcare MFP is engineered for Healthcare. The Share Patient Information app is Kno2 Connected™. Transform paper into healthcare formatted documents to be sent/stored digitally. Integrated search to accurately identify the patient. * Scan and store information to the patient's chart in your EHR. * Select recipients from the National Provider Directory. Supports fax for healthcare, allowing document exchange with providers still requiring fax. ** Dedicated, streamlined workflow for faxing non-patient information. Supports single sign on authentication. *Dependent on the capabilities of your EHR. **Kno2 fax for healthcare is an optional feature of Kno2's Interoperability as a Service.™	Free	Free	n/a	Free
@PrintByXerox	The @PrintByXerox app enables easy printing from email. Submit an email to Print@PrintByXerox.com with any attachments that you wish to print. New users will receive an email confirmation containing a password. Use your password at a Xerox device running the @PrintByXerox app to release your job(s). For a list of compatible products, please check Xerox.com.	Free	Free	n/a	Free
Touchless Access	Touchless technology helping make the workplace safer for everyone. The Xerox® Touchless Access App enables your Xerox office multifunction device to be accessed from your smart phone – without having to connect to the local network. This app is available No Charge of charge and applicable to all VersaLink and AltaLink devices. When the user scans the QR code with their smart phone, a simple mobile web portal opens to allow the user to access core services of copy, scan and print. To achieve touchless workflow, set your Touchless Access App as the default service on the device. To optimize the Touchless Access App's user experience: Set your device's Energy Saver to the longest possible settings and Configure Scan to Email on your device. Please consult the Touchless Access App's Quick Start Guide from the Documentation link below and your device's specific user guides for setup details and instructions.	Free	Free	n/a	Free
Auto Copy	Would you like to automatically copy documents without interaction with the touch screen? The Xerox® Auto Copy App saves time by producing copies when you place your documents in the document feeder. With this app and a simple setting, the Xerox® Auto Copy App can be your default screen, making it easy to create copies. Auto Copy features: Set Auto Copy as the default screen, for repeated copying. Copying will start after 7 seconds of placing originals in document feeder. Authenticated users can customize personal copy defaults easily within the app. Please see the Quick Start Guide for further details in the support documentation below.	Free	Free	n/a	Free

Quick Link	Every business is unique with a myriad of IT related requirements and processes. The Xerox® Quick Link App is self-support made simple. Easy to connect. Fast to print. With the Xerox® Quick Link App on your Xerox® ConnectKey® Technology enabled devices, you can quickly connect to your laptop, desktop computer or mobile device through a simple email or QR code scan.	Free	Free	n/a	Free
Scan with Print	Maximize your productivity with Xerox® Scan with Print by combining common multi-function printing tasks into one, easy to use app. Simply save presets to perform multiple tasks in a single scan, such as scanning to a location and receiving a print simultaneously on a Xerox ConnectKey enabled device. Xerox® Scan with Print can speed up multi-step document processes with features like: Perform various processes once without having to scan multiple times. Scan your original document to a location and simultaneously receive a print. Choose single or multiple destinations: scan to email, SMB, and SFTP network locations. Split large documents by any number of pages with the job splitting feature. Save time with the Preset feature by storing the frequently used combination that works for you. Simple configuration: Once and then done, with no confusing settings or steps. Speed up document-centric processes and gain productivity with Xerox® Scan with Print app. Trial the Xerox Scan with Print app No Charge for 30 days. A subscription can be purchased via the subscribe button once the trial period ends.	\$5.00	\$3.50	30%	Fixed Service Charge per Single Device per month for agreed contract duration. Unlimited volume of allowable transactions
Summarizer	There is an immense amount of text and data generated in news articles, social media articles, blog posts, etc. Creating summaries can be extremely time-consuming, therefore the need to automatically summarize information is on the rise. Xerox® Summarizer App creates a summary of documents for viewing, printing, and emailing, right on a Xerox® ConnectKey® enabled device. With the help of artificial intelligence (AI), Xerox® Summarizer condenses dozens or even hundreds of pages by reducing the original scanned document to a percentage of the original or can create a short and concise interpretation of the source text. A quick and useful way to summarize textual data to reduce reading time, help with research, or identify the main idea of material for a relevant and fast uptake of information. With Xerox® Summarizer, you can: Easily preview your summary on the fly at the user interface. Email the result in PDF or Microsoft Word format. Print a copy of the summary right from the device. Summarize 2 different ways.	\$49.00	\$3.50	93%	Fixed service charge per single Device per month for agreed contract duration. Subscription Allowance: 100 credits per contracted license per month
Support Assistant 3.3	Help customers gain insight into open service and supplies incidents at the device UI. Users see simplified, friendly messages relating to open tickets in XSM, thereby reducing calls to operations teams. Supported scenarios include open and closed service incidents, as well as open, closed, monitoring, and shipped supplies incidents. Note: This application is only supported for Xerox Managed Print Services Accounts.	Free	Free	n/a	Free
Xerox App Gallery	The Xerox App Gallery is your gateway to a growing collection of downloadable apps designed to transform the way you handle documents and data. Apps from the Xerox App Gallery simplify repetitive or complex processes and extend your printer's capabilities. With these easy-to-use apps, your Xerox® ConnectKey® Technology-enabled printer or MFP (multifunction printer) transforms into a well-connected, always-accessible workplace assistant. With this app, you have immediate access to a growing collection of apps right at the device.	Free	Free	n/a	Free

NOTE: Custom quote (Added charge) required if Xerox Professional Services is utilized to install and deploy app(s)

Addendum
Region 4 ESC NO. R191104

THIS ADDENDUM (this "Addendum") amends the terms and conditions of the order identified by WU# <<INSERT 6-DIGIT WORKUP #>> to which it is attached under Services Contract # <<INSERT 7-DIGIT CONTRACT NUMBER>>-<<INSERT 3-DIGIT ORDER EXTENSION #>> (the "Order"), by and between <<INSERT CUSTOMER NAME>> ("Customer") and Xerox Corporation ("Xerox").

1. **Selected Application(s):** Please select the Application(s) and license quantities you, as the Customer, are ordering in Attachment A to this Addendum, which are available in the Xerox App Gallery located at: <https://appgallery.services.xerox.com>. Customer's acquisition of these applications is subject to the terms and conditions of the Xerox App Gallery Addendum signed by Customer on the order identified by WU # <<INSERT WORKUP # FROM ORDER THAT INCLUDED THE FULL APP GALLERY ADDENDUM FORM # 52629>>.
2. The effective date of this Addendum is the effective date of the Order to which this Addendum is attached. In the event of a conflict between the terms and conditions of the Agreement or Order and this Addendum, this Addendum will control. Unless otherwise defined herein, capitalized terms shall be as defined in the Agreement. Except as specified in this Addendum, all other terms and conditions of the Agreement shall remain in effect as stated.



Addendum
Region 4 ESC NO. R191104

Attachment A

CK Apps with Subscription Fee and Unlimited Volume

App Name	Subscription Type	Device License Quantity
Add Name	Fixed service charge per single Device per month for agreed contract duration.	Device licenses
Add Name	Fixed service charge per single Device per month for agreed contract duration.	Device licenses



Addendum
Region 4 ESC NO. R191104

Attachment A (continued)

CK Apps with Subscription Fee and Defined Volume

App Name	Subscription Type	Device License Quantity
Add Name	Fixed service charge per single Device per month for agreed contract duration. Subscription Allowance: 1500 receipts per contracted license per month	Device licenses
Add Name	Fixed service charge per single Device per month for agreed contract duration. Subscription Allowance: 100 invoices per contracted license per month	Device licenses

Workflow Central Platform with Subscription Fee and Defined Volume

Name	Subscription Type	Check the "Selected" box for the desired Subscription Type (only choose one)
Add Name	Fixed service charge for unlimited Devices per month for agreed contract duration. Subscription Allowance: 15,000 credits per month	☐ Selected
Add Name	Fixed service charge for unlimited Devices per month for agreed contract duration. Subscription Allowance: 25,000 credits per month	☐ Selected



Request for Contract Update

Pursuant to the terms of contract number R191104 for Xerox Contractor must notify and receive approval from Region 4 ESC when there is an update in the contract. No request will be officially approved without the prior authorization of Region 4 ESC. Region 4 ESC reserves the right to accept or reject any request.

Xerox
(Contractor) hereby provides notice of the following update on
this date 1/5/2023.

Instructions: Contractor must check all that may apply and shall provide supporting documentation. Requests received without supporting documentation will be returned. This form is not intended for use if there is a material change in operations, such as assignment, bankruptcy, change of ownership, merger, etc. Material changes must be submitted on a "Notice of Material Change to Vendor Contract" form.

☐ **Authorized Distributors/Dealers**

____ Addition

____ Deletion

____ Supporting Documentation

☒ **Products/Services**

X New Addition

____ Update Only

____ Supporting Documentation

☐ **States/Territories**

____ Supporting Documentation

☐ **Price Update**

____ Supporting Documentation

☐ **Discontinued Products/Services**

____ Supporting Documentation

☐ **Other** _____

____ Supporting Documentation

Notes: Contractor may include other notes regarding the contract update here: (attach another page if necessary).

Xerox Everyday Toner is a line of toner supplies for specific non-Xerox printers that provides savings, safety and reliability with the confidence of the Xerox brand and solid performance. Xerox is requesting approval to add the Xerox Everyday Toner supplies to the Region 4 ESC R191104 contract. The Everyday Toner solution is available for members who wish to purchase Everyday Toner on an ongoing basis via a portal which shall be created by the Xerox eCommerce team.

The attached Region 4 ESC Everyday Toner price list includes the non-Xerox printers' supply item description, the List Price and the Region 4 ESC Contract Price.

Submitted By: Rachael Jones Turner

Title: Director, SLED Cooperative Contracts

Email Address: Rachael.Jones@Xerox.com

☐ **Approved by Email:** Date 1/12/2023 | 9:19 AM CST

☐ **Denied by Email:** Date _____

DocuSigned by:
Region 4 ESC: Robert Engelmann
0B1D33BB0130490...

Region 4 ESC Copier Printer Contract #R191104

11/14/2022

Item	OEM	OEM Part(s)	Color	OEM Yield	Xerox Yield	Where Used	Omnia Price	List Price
006R03624	HP	CC364X	Mono	24000	24000	HP LaserJet P4515, HP LaserJet P4015	\$74.07	\$187.11
						HP LaserJet P4515, HP LaserJet P4015 Chipped for FMAudit		
006R03625	HP	CC364X	Mono	N/A	35000	Software	\$94.64	\$239.09
006R03626	HP	CC364X	Mono	N/A	35000	HP LaserJet P4515, HP LaserJet P4015	\$73.91	\$186.74
006R03627	HP	CE255A CRG-324	Mono	6000	6000	Canon imageCLASS MF515, HP LaserJet P3015, Canon LaserShot LBP6750	\$48.00	\$121.28
006R03628	HP	CE255X CRG-324II	Mono	12500	12500	Canon imageCLASS MF515, Canon imageCLASS LBP6780, HP LaserJet P3015, Canon LaserShot LBP6750	\$46.79	\$118.21
006R03629	HP	CE255X	Mono	N/A	18000	HP LaserJet P3015, HP LaserJet Pro M521	\$67.20	\$169.79
006R03630	HP	CE278A CRG-126 CRG-128	Mono	2100	2100	Canon imageCLASS MF4770, Canon imageCLASS LBP6200, Canon imageCLASS MF4412, Canon imageCLASS MF4550, Canon imageCLASS MF4580, Canon FAXPHONE L190, Canon imageCLASS D550, HP LaserJet M1536 MFP, Canon imageCLASS MF4450, HP LaserJet P1566, Canon imageCLASS MF4570, Canon imageCLASS MF4890, Canon imageCLASS MF4420, HP LaserJet P1606, Canon imageCLASS MF4880, Canon imageCLASS D530	\$20.58	\$51.98
006R03632	HP	CE390A	Mono	10000	10000	HP LaserJet 600 M601, HP LaserJet M4555 MFP, HP LaserJet 600 M603, HP LaserJet 600 M602	\$54.86	\$138.60
006R03633	HP	CE390X	Mono	24000	24000	HP LaserJet M4555 MFP, HP LaserJet 600 M603, HP LaserJet 600 M602	\$55.83	\$141.06
006R03636	HP	CE505X CRG-119II GPR-41	Mono	N/A	10000	Canon imageCLASS MF416, Canon imageCLASS LBP251, Canon imageCLASS LBP6670, Canon imageRUNNER LPB3470, Canon imageCLASS MF414, Canon imageCLASS MF5960, Canon imageCLASS LBP6650, Canon imageCLASS LBP253, Canon imageCLASS MF6180, Canon imageCLASS MF5880, Canon imageCLASS MF5850, Canon imageCLASS MF5950, Canon imageRUNNER LPB3480, Canon LASER CLASS 650i, Canon imageCLASS LBP6300, Canon imageCLASS MF6160, HP LaserJet P2055	\$45.26	\$114.35
006R03637	HP	CF217A	Mono	1600	1600	HP LaserJet Pro M130, HP LaserJet Pro M102	\$26.06	\$65.84
006R03638	HP	CF226A CRG-052	Mono	3100	3100	Canon imageCLASS LBP215, Canon imageCLASS LBP214, Canon imageCLASS LBP424, HP LaserJet Pro M402, Canon imageCLASS LBP426, Canon imageCLASS LBP429, HP LaserJet Pro M426	\$45.26	\$114.35

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Item	OEM	OEM Part(s)	Color	OEM Yield	Xerox Yield	Where Used	Omnia Price	List Price
006R03639	HP	CF226X CRG-052H	Mono	9,000 / 9,200	9000	Canon imageCLASS LBP215, Canon imageCLASS LBP214, Canon imageCLASS LBP424, HP LaserJet Pro M402, Canon imageCLASS LBP426, Canon imageCLASS LBP429, HP LaserJet Pro M426	\$60.35	\$152.46
006R03640	HP	CF230A CRG-051	Mono	1,600 / 1,700	1600	HP LaserJet Pro MFP M227, HP LaserJet Pro M203, Canon imageCLASS LBP162	\$30.20	\$76.31
006R03641	HP	CF230X CRG-051H	Mono	3,500 / 4,000	3500	HP LaserJet Pro MFP M227, HP LaserJet Pro M203, Canon imageCLASS LBP162	\$47.29	\$119.46
006R03642	HP	CF237A	Mono	11000	11000	HP LaserJet Enterprise M608, HP LaserJet Enterprise MFP M631, HP LaserJet Enterprise M607, HP LaserJet Enterprise M609, HP LaserJet Enterprise MFP M633, HP LaserJet Enterprise MFP M632	\$95.32	\$240.82
006R03643	HP	CF237X	Mono	25000	25000	HP LaserJet Enterprise MFP M632	\$120.70	\$304.92
006R03644	HP	CF279A	Mono	1000	1000	HP LaserJet Pro M12, HP LaserJet Pro MFP M26	\$29.81	\$75.32
006R03647	HP	CF280X	Mono	13000	13000	HP LaserJet Pro 400 MFP M401/M425	\$43.89	\$110.88
006R03648	HP	CF281A CRG-039	Mono	10500	10500	HP LaserJet M630, HP LaserJet M606, Canon imageCLASS LBP352, Canon imageCLASS LBP351, HP LaserJet M604, HP LaserJet M605	\$49.42	\$124.85
006R03649	HP	CF281X CRG-039H	Mono	25000	25000	HP LaserJet M630, HP LaserJet M606, Canon imageCLASS LBP352, Canon imageCLASS LBP351, HP LaserJet M605	\$59.52	\$150.35
006R03650	HP	CF283A	Mono	1500	1500	HP LaserJet M127, HP LaserJet Pro M202, HP LaserJet M125/M125NW, HP LaserJet M201, HP LaserJet M225, HP LaserJet Pro M128	\$24.69	\$62.37
006R03651	HP	CF283X CRG-137	Mono	2,200 / 2,400	2200	Canon imageCLASS MF227, Canon imageCLASS MF216, Canon imageCLASS MF232, HP LaserJet M201, Canon imageCLASS MF229, Canon imageCLASS MF212, HP LaserJet M225, Canon imageCLASS MF244, Canon imageCLASS MF247, Canon imageCLASS D570, Canon imageCLASS MF236, Canon imageCLASS LBP151	\$27.44	\$69.30
006R03652	HP	CF287A CRG-041 CRG-121	Mono	5,000 / 9,000 / 10,000	9000	HP LaserJet Pro M501, Canon imageCLASS D1620, HP ENTERPRISE M506, Canon imageCLASS MF525, HP LaserJet Enterprise MFP M527, Canon imageCLASS LBP312, Canon imageCLASS D1650	\$60.35	\$152.46
006R03653	HP	CF287X CRG-041H	Mono	18,000 / 20,000	18000	HP LaserJet Pro M501, HP ENTERPRISE M506, Canon imageCLASS MF525, HP LaserJet Enterprise MFP M527, Canon imageCLASS LBP312	\$64.02	\$161.72
006R03657	HP	Q1338A	Mono	12000	12000	HP LaserJet 4200	\$52.13	\$131.67

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Item	OEM	OEM Part(s)	Color	OEM Yield	Xerox Yield	Where Used	Omnia Price	List Price
006R03659	HP	Q2612A CRG-104 FX-9 CRG-103	Mono	2000	2000	Canon LaserShot LBP3000, Canon FAXPHONE L120, HP LaserJet M1005 MFP, HP LaserJet 3015/3020/3030/305x, HP LaserJet 1020/1022, HP LaserJet M1319 MFP, HP LaserJet 1010/1012/1015/1018	\$17.55	\$44.33
006R03662	HP	Q5942A Q1338A	Mono	10,000 / 12,000	10000	HP LaserJet 4240, HP LaserJet 4200, HP LaserJet 4250, HP LaserJet 4350	\$49.95	\$126.19
006R03663	HP	Q5942X Q1339A Q5945A	Mono	18,000 / 20,000	20000	HP LaserJet M4345, HP LaserJet 4300, HP LaserJet 4250, HP LaserJet 4350	\$54.86	\$138.60
006R03664	HP	Q5942X Q1339A Q5945A	Mono	N/A	30000	HP LaserJet 4300, HP LaserJet 4345, HP LaserJet 4250, HP LaserJet 4350	\$66.50	\$168.00
006R03665	HP	Q5949A Q7553A	Mono	2,500 / 3,000	3000	HP LaserJet 1320, HP LaserJet P2015, HP LaserJet P2014, HP LaserJet M2727, HP LaserJet 1160, HP LaserJet 3390, HP LaserJet 3392	\$26.06	\$65.84
006R03666	HP	Q5949X Q7553X	Mono	6,000 / 7,000	6000	HP LaserJet 1320, HP LaserJet P2015, HP LaserJet P2014, HP LaserJet M2727, HP LaserJet 3390, HP LaserJet 3392	\$31.55	\$79.70
006R03679	HP	CF360X CRG-040HBK	Black	12500	12500	Canon imageCLASS LBP712, HP Color LaserJet Enterprise M577, HP Color LaserJet Enterprise M553, Canon i-SENSYS LBP712, Canon iSENSYS LBP710, Canon Satera LBP712, HP Color LaserJet Enterprise M552	\$77.52	\$195.84
006R03680	HP	CF361X CRG-040HC	Cyan	9,500 / 10,000	9500	Canon imageCLASS LBP712, HP Color LaserJet Enterprise M577, HP Color LaserJet Enterprise M553, Canon i-SENSYS LBP712, Canon iSENSYS LBP710, Canon Satera LBP712, HP Color LaserJet Enterprise M552	\$82.30	\$207.90
006R03681	HP	CF362X CRG-040HY	Yellow	9,500 / 10,000	9500	Canon imageCLASS LBP712, HP Color LaserJet Enterprise M577, HP Color LaserJet Enterprise M553, Canon i-SENSYS LBP712, Canon iSENSYS LBP710, Canon Satera LBP712, HP Color LaserJet Enterprise M552	\$82.30	\$207.90
006R03682	HP	CF363X CRG-040HM	Magenta	9,500 / 10,000	9500	Canon imageCLASS LBP712, HP Color LaserJet Enterprise M577, HP Color LaserJet Enterprise M553, Canon i-SENSYS LBP712, Canon iSENSYS LBP710, Canon Satera LBP712, HP Color LaserJet Enterprise M552	\$82.30	\$207.90
006R03688	HP	CF400A CRG-045BK	Black	1500	1500	HP Color LaserJet Pro M274, Canon imageCLASS LBP612, Canon imageCLASS MF634, HP Color LaserJet Pro M252, Canon imageCLASS MF632, HP Color LaserJet Pro M277	\$37.03	\$93.56
006R03689	HP	CF401A CRG-045C	Cyan	1400	1400	HP Color LaserJet Pro M274, Canon imageCLASS LBP612, Canon imageCLASS MF634, HP Color LaserJet Pro M252, Canon imageCLASS MF632, HP Color LaserJet Pro M277	\$38.41	\$97.02

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Item	OEM	OEM Part(s)	Color	OEM Yield	Xerox Yield	Where Used	Omnia Price	List Price
006R03690	HP	CF402A CRG-045Y	Yellow	1,300 / 1,400	1400	HP Color LaserJet Pro M274, Canon imageCLASS LBP612, Canon imageCLASS MF634, HP Color LaserJet Pro M252, Canon imageCLASS MF632, HP Color LaserJet Pro M277	\$38.41	\$97.02
006R03691	HP	CF403A CRG-045M	Magenta	1,300 / 1,400	1400	HP Color LaserJet Pro M274, Canon imageCLASS LBP612, Canon imageCLASS MF634, HP Color LaserJet Pro M252, Canon imageCLASS MF632, HP Color LaserJet Pro M277	\$38.41	\$97.02
006R03692	HP	CF400X CRG-045HBK	Black	2800	2800	HP Color LaserJet Pro M274, Canon imageCLASS LBP612, Canon imageCLASS MF634, HP Color LaserJet Pro M252, Canon imageCLASS MF632, HP Color LaserJet Pro M277	\$45.26	\$114.35
006R03693	HP	CF401X CRG-045HC	Cyan	2,200 / 2,300	2300	HP Color LaserJet Pro M274, Canon imageCLASS LBP612, Canon imageCLASS MF634, HP Color LaserJet Pro M252, Canon imageCLASS MF632, HP Color LaserJet Pro M277	\$53.49	\$135.14
006R03694	HP	CF402X CRG-045HY	Yellow	2,200 / 2,300	2300	HP Color LaserJet Pro M274, Canon imageCLASS LBP612, Canon imageCLASS MF634, HP Color LaserJet Pro M252, Canon imageCLASS MF632, HP Color LaserJet Pro M277	\$53.49	\$135.14
006R03695	HP	CF403X CRG-045HM	Magenta	2,200 / 2,300	2300	HP Color LaserJet Pro M274, Canon imageCLASS LBP612, Canon imageCLASS MF634, HP Color LaserJet Pro M252, Canon imageCLASS MF632, HP Color LaserJet Pro M277	\$53.49	\$135.14
006R03696	HP	CF410A CRG-046BK	Black	2,200 / 2,300	2300	HP Pro M452, Canon imageCLASS MF731, HP Color LaserJet Pro MFP M477, Canon imageCLASS MF733, HP LaserJet Pro MFP M377, Canon imageCLASS MF735, Canon imageCLASS LBP654	\$50.75	\$128.21
006R03697	HP	CF411A CRG-046C	Cyan	2300	2300	HP Pro M452, Canon imageCLASS MF731, HP Color LaserJet Pro MFP M477, Canon imageCLASS MF733, HP LaserJet Pro MFP M377, Canon imageCLASS MF735, Canon imageCLASS LBP654	\$53.49	\$135.14
006R03698	HP	CF412A CRG-046Y	Yellow	2300	2300	HP Pro M452, Canon imageCLASS MF731, HP Color LaserJet Pro MFP M477, Canon imageCLASS MF733, HP LaserJet Pro MFP M377, Canon imageCLASS MF735, Canon imageCLASS LBP654	\$53.49	\$135.14
006R03699	HP	CF413A CRG-046M	Magenta	2300	2300	HP Pro M452, Canon imageCLASS MF731, HP Color LaserJet Pro MFP M477, Canon imageCLASS MF733, HP LaserJet Pro MFP M377, Canon imageCLASS MF735, Canon imageCLASS LBP654	\$53.49	\$135.14
006R03700	HP	CF410X CRG-046HBK	Black	6,300 / 6,500	6500	HP Pro M452, Canon imageCLASS MF731, HP Color LaserJet Pro MFP M477, Canon imageCLASS MF733, HP LaserJet Pro MFP M377, Canon imageCLASS MF735, Canon imageCLASS LBP654	\$61.72	\$155.93

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Item	OEM	OEM Part(s)	Color	OEM Yield	Xerox Yield	Where Used	Omnia Price	List Price
006R03701	HP	CF411X CRG-046HC	Cyan	5000	5000	HP Pro M452, Canon imageCLASS MF731, HP Color LaserJet Pro MFP M477, Canon imageCLASS MF733, HP LaserJet Pro MFP M377, Canon imageCLASS MF735, Canon imageCLASS LBP654	\$61.72	\$155.93
006R03702	HP	CF412X CRG-046HY	Yellow	5000	5000	HP Pro M452, Canon imageCLASS MF731, HP Color LaserJet Pro MFP M477, Canon imageCLASS MF733, HP LaserJet Pro MFP M377, Canon imageCLASS MF735, Canon imageCLASS LBP654	\$61.72	\$155.93
006R03703	HP	CF413X CRG-046HM	Magenta	5000	5000	HP Pro M452, Canon imageCLASS MF731, HP Color LaserJet Pro MFP M477, Canon imageCLASS MF733, HP LaserJet Pro MFP M377, Canon imageCLASS MF735, Canon imageCLASS LBP654	\$61.72	\$155.93
006R03704	HP	CF500X	Black	3200	3200	HP LaserJet MFP M281, HP LaserJet Pro M254, HP LaserJet MFP M280	\$52.13	\$131.67
006R03705	HP	CF501X	Cyan	2500	2500	HP LaserJet MFP M281, HP LaserJet Pro M254, HP LaserJet MFP M280	\$53.49	\$135.14
006R03706	HP	CF502X	Yellow	2500	2500	HP LaserJet MFP M281, HP LaserJet Pro M254, HP LaserJet MFP M280	\$53.49	\$135.14
006R03707	HP	CF503X	Magenta	2500	2500	HP LaserJet MFP M281, HP LaserJet Pro M254, HP LaserJet MFP M280	\$53.49	\$135.14
006R03708	HP	CB435A CB436A CE285A CRG-125	Mono	1,500 / 1,600 / 2,000	2000	HP LaserJet P1102/P1102W, Canon imageCLASS D1620, Canon imageCLASS MF3010, HP LaserJet P1505, Canon imageCLASS LBP6000, HP LaserJet M1522 MFP, HP LaserJet M1120, HP LaserJet P1002/P1003/P1004/P1005/P1006/P1009, Canon imageCLASS D1650, Canon i-SENSYS LBP6000, Canon imageCLASS LBP6030, HP LaserJet M1130, Canon i-SENSYS LBP6030	\$26.06	\$65.84
006R03710	HP	CC364A	Mono	10000	10000	HP LaserJet P4515, HP LaserJet P4014, HP LaserJet P4015	\$48.78	\$123.23
006R03711	HP	CC364A	Mono	N/A	20000	HP LaserJet P4515, HP LaserJet P4014, HP LaserJet P4015	\$64.47	\$162.86
006R03712	Brother	TN221BK	Black	2500	2500	Brother MFC-9330, Brother MFC-9130, Brother HL-3180, Brother HL-3140, Brother MFC-9340, Brother HL-3170	\$31.55	\$79.70
006R03713	Brother	TN221C	Cyan	1400	1400	Brother MFC-9330, Brother MFC-9130, Brother HL-3180, Brother HL-3140, Brother MFC-9340, Brother HL-3170	\$31.55	\$79.70
006R03714	Brother	TN221M	Magenta	1400	1400	Brother MFC-9330, Brother MFC-9130, Brother HL-3180, Brother HL-3140, Brother MFC-9340, Brother HL-3170	\$31.55	\$79.70
006R03715	Brother	TN221Y	Yellow	1400	1400	Brother MFC-9330, Brother MFC-9130, Brother HL-3180, Brother HL-3140, Brother MFC-9340, Brother HL-3170	\$31.55	\$79.70

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Item	OEM	OEM Part(s)	Color	OEM Yield	Xerox Yield	Where Used	Omnia Price	List Price
006R03723	Brother	TN-450	Mono	2600	2600	Brother HL-2275DW, Brother HL-2270DW, Brother FAX-2840, Brother HL-2220, Brother DCP-7060D, Brother MFC-7240, Brother HL-2240/HL-2240D, Brother HL-2230, Brother DCP-7065DN, Brother HL-2280DW, Brother MFC-7360N/7460DN/7860DW, Brother FAX-2940	\$18.29	\$46.19
006R03726	Brother	TN-660	Mono	2600	2600	Brother MFC-L2705DW, Brother DCP-L2520, Brother HL-L2360, Brother HL-L2300, Brother MFC-L2700, Brother HL-2380DW, Brother HL-L2340, Brother MFC-L2720, Brother HL-2320D, Brother HL-2305SW, Brother DCP-L2540	\$24.69	\$62.37
006R03727	Brother	TN-750	Mono	8000	8000	Brother MFC-8510/8510DN, Brother MFC-8950/8950DW/8950DWT, Brother MFC-8710, Brother DCP-8150, Brother MFC-8910, Brother DCP-8110/8110DN, Brother HL-5440/HL-5450/HL-5470, Brother MFC-8810, Brother HL-6180DW/6180DWT, Brother DCP-8155	\$27.19	\$68.68
006R03786	Brother	TN210BK	Black	2200	2200	Brother MFC-9320CN, Brother HL-3045CN, Brother MFC-9120CN, Brother MFC-9325CW, Brother DCP-9010CN, Brother MFC-9125CN, Brother HL-3040CN/HL-3070CW, Brother HL-3075CW, Brother HL-3070	\$23.67	\$59.80
006R03787	Brother	TN210M	Magenta	1400	1400	Brother MFC-9320CN, Brother HL-3045CN, Brother MFC-9120CN, Brother MFC-9325CW, Brother DCP-9010CN, Brother MFC-9125CN, Brother HL-3040CN/HL-3070CW, Brother HL-3075CW, Brother HL-3070	\$22.92	\$57.92
006R03788	Brother	TN210Y	Yellow	1400	1400	Brother MFC-9320CN, Brother HL-3045CN, Brother MFC-9120CN, Brother MFC-9325CW, Brother DCP-9010CN, Brother MFC-9125CN, Brother HL-3040CN/HL-3070CW, Brother HL-3075CW, Brother HL-3070	\$22.92	\$57.92
006R03789	Brother	TN210C	Cyan	1400	1400	Brother MFC-9320CN, Brother HL-3045CN, Brother MFC-9120CN, Brother MFC-9325CW, Brother DCP-9010CN, Brother MFC-9125CN, Brother HL-3040CN/HL-3070CW, Brother HL-3075CW, Brother HL-3070	\$22.92	\$57.92
006R03790	Brother	TN-760	Mono	3000	3000	Brother DCP-L2550, Brother HL-2390, Brother HL-2370, Brother HL-L2350, Brother MFC-2710, Brother HL-2395, Brother MFC-L2750	\$27.75	\$70.10
006R03791	Brother	TN-780	Mono	12000	12000	Brother MFC-8950/8950DW/8950DWT, Brother HL-6180	\$33.01	\$83.40
006R03792	Brother	DR-420	Mono	12000	12000	Brother HL-2275DW, Brother HL-2270DW, Brother FAX-2840, Brother HL-2220, Brother DCP-7060D, Brother MFC-7240, Brother HL-2240/HL-2240D, Brother HL-2230, Brother DCP-7065DN, Brother HL-2280DW, Brother MFC-7360N/7460DN/7860DW, Brother FAX-2940	\$38.39	\$96.99

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Item	OEM	OEM Part(s)	Color	OEM Yield	Xerox Yield	Where Used	Omnia Price	List Price
006R03793	HP	CF360A CRG-040BK	Black	6,000 / 6,300	6000	Canon imageCLASS LBP712, HP Color LaserJet Enterprise M577, HP Color LaserJet Enterprise M553, Canon i-SENSYS LBP712, Canon iSENSYS LBP710, Canon Satera LBP712, HP Color LaserJet Enterprise M552	\$57.25	\$144.62
006R03794	HP	CF361A CRG-040C	Cyan	5,000 / 5,400	5000	Canon imageCLASS LBP712, HP Color LaserJet Enterprise M577, HP Color LaserJet Enterprise M553, Canon i-SENSYS LBP712, Canon iSENSYS LBP710, Canon Satera LBP712, HP Color LaserJet Enterprise M552	\$65.60	\$165.71
006R03795	HP	CF362A CRG-040Y	Yellow	5,000 / 5,400	5000	Canon imageCLASS LBP712, HP Color LaserJet Enterprise M577, HP Color LaserJet Enterprise M553, Canon i-SENSYS LBP712, Canon iSENSYS LBP710, Canon Satera LBP712, HP Color LaserJet Enterprise M552	\$65.60	\$165.71
006R03796	HP	CF363A CRG-040M	Magenta	5,000 / 5,400	5000	Canon imageCLASS LBP712, HP Color LaserJet Enterprise M577, HP Color LaserJet Enterprise M553, Canon i-SENSYS LBP712, Canon iSENSYS LBP710, Canon Satera LBP712, HP Color LaserJet Enterprise M552	\$65.60	\$165.71
006R03797	HP	CE400X	Black	11000	11000	HP Color LaserJet M575, HP Color LaserJet M551, HP Color LaserJet M570	\$82.02	\$207.21
006R03798	HP	CE400A	Black	5500	5500	HP Color LaserJet M575, HP Color LaserJet M551, HP Color LaserJet M570	\$64.37	\$162.64
006R03799	HP	CE401A	Cyan	6000	6000	HP Color LaserJet M575, HP Color LaserJet M551, HP Color LaserJet M570	\$67.61	\$170.81
006R03800	HP	CE402A	Yellow	6000	6000	HP Color LaserJet M575, HP Color LaserJet M551, HP Color LaserJet M570	\$67.61	\$170.81
006R03801	HP	CE403A	Magenta	6000	6000	HP Color LaserJet M575, HP Color LaserJet M551, HP Color LaserJet M570	\$67.61	\$170.81
006R03802	HP	CE410X	Black	4000	4000	HP Color LaserJet M475 MFP, HP LaserJet Pro 400 MFP M401/M425, HP Color LaserJet M375MFP, HP LaserJet Pro 300 M351 , HP Color LaserJet M451	\$29.91	\$75.57
006R03803	HP	CE410A	Black	2200	2200	HP Color LaserJet M475 MFP, HP Color LaserJet M375MFP, HP LaserJet Pro 300 M351 , HP Color LaserJet M451	\$41.15	\$103.95
006R03804	HP	CE411A	Cyan	2600	2600	HP Color LaserJet M475 MFP, HP Color LaserJet M375MFP, HP LaserJet Pro 300 M351 , HP Color LaserJet M451	\$32.04	\$80.95
006R03805	HP	CE412A	Yellow	2600	2600	HP Color LaserJet M475 MFP, HP Color LaserJet M375MFP, HP LaserJet Pro 300 M351 , HP Color LaserJet M451	\$32.04	\$80.95
006R03806	HP	CE413A	Magenta	2600	2600	HP Color LaserJet M475 MFP, HP Color LaserJet M375MFP, HP LaserJet Pro 300 M351 , HP Color LaserJet M451	\$32.04	\$80.95

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Item	OEM	OEM Part(s)	Color	OEM Yield	Xerox Yield	Where Used	Omnia Price	List Price
006R03807	HP	CF210X CB540A CE320A CRG- 116BK CRG- 131BKH	Black	2,000 / 2,200 / 2,300 / 2,400	2400	HP LaserJet Pro CP1525, HP LaserJet Pro 200 M251, HP Color LaserJetCP1518N, Canon imageCLASS MF8050, HP Color LaserJet CM1312 MFP, HP LaserJet Pro 200 MFP M276, Canon imageCLASS MF8280, HP Color LaserJet CM1415, HP Color LaserJet CP1217, Canon imageCLASS MF628, HP Color LaserJetCP1515N, Canon imageCLASS MF8080, HP Color LaserJet CP1215	\$38.41	\$97.02
006R03808	HP	CF210A CRG- 131BK	Black	1,400 / 1,600	1600	HP LaserJet Pro 200 M251, HP LaserJet Pro 200 MFP M276, Canon imageCLASS MF8280, Canon imageCLASS MF628	\$34.29	\$86.63
006R03809	HP	CF211A CB541A CE321A CRG- 116C CRG-131C	Cyan	1,300 / 1,400 / 1,500 / 1,800	1800	HP LaserJet Pro CP1525, HP LaserJet Pro 200 M251, HP Color LaserJetCP1518N, Canon imageCLASS MF8050, HP Color LaserJet CM1312 MFP, HP LaserJet Pro 200 MFP M276, Canon imageCLASS MF8280, HP Color LaserJet CM1415, HP Color LaserJet CP1217, Canon imageCLASS MF628, HP Color LaserJetCP1515N, Canon imageCLASS MF8080, HP Color LaserJet CP1215	\$32.92	\$83.16
006R03810	HP	CF212A CB542A CE322A CRG- 116Y CRG-131Y	Yellow	1,300 / 1,400 / 1,500 / 1,800	1800	HP LaserJet Pro CP1525, HP LaserJet Pro 200 M251, HP Color LaserJetCP1518N, Canon imageCLASS MF8050, HP Color LaserJet CM1312 MFP, HP LaserJet Pro 200 MFP M276, Canon imageCLASS MF8280, HP Color LaserJet CM1415, HP Color LaserJet CP1217, Canon imageCLASS MF628, HP Color LaserJetCP1515N, Canon imageCLASS MF8080, HP Color LaserJet CP1215	\$32.92	\$83.16
006R03811	HP	CF213A CB543A CE323A CRG- 116M CRG- 131M	Magenta	1,300 / 1,400 / 1,500 / 1,800	1800	HP LaserJet Pro CP1525, HP LaserJet Pro 200 M251, HP Color LaserJetCP1518N, Canon imageCLASS MF8050, HP Color LaserJet CM1312 MFP, HP LaserJet Pro 200 MFP M276, Canon imageCLASS MF8280, HP Color LaserJet CM1415, HP Color LaserJet CP1217, Canon imageCLASS MF628, HP Color LaserJetCP1515N, Canon imageCLASS MF8080, HP Color LaserJet CP1215	\$32.92	\$83.16
006R03812	HP	CE340A CE270A CE740A	Black	13,500 / 7,000	13500	HP Color LaserJet CP5525, HP Color LaserJet CP5225, HP Color LaserJet CP5220, HP Color LaserJet Enterprise M750, HP Color LaserJet M775	\$111.92	\$282.74
006R03813	HP	CE341A CE271A CE741A	Cyan	7,300 / 15,000 / 16,000	16000	HP Color LaserJet CP5525, HP Color LaserJet CP5225, HP Color LaserJet CP5220, HP Color LaserJet Enterprise M750, HP Color LaserJet M775	\$118.50	\$299.38
006R03814	HP	CE342A CE272A CE742A	Yellow	7,300 / 15,000 / 16,000	16000	HP Color LaserJet CP5525, HP Color LaserJet CP5225, HP Color LaserJet CP5220, HP Color LaserJet Enterprise M750, HP Color LaserJet M775	\$118.50	\$299.38

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Item	OEM	OEM Part(s)	Color	OEM Yield	Xerox Yield	Where Used	Omnia Price	List Price
006R03815	HP	CE343A CE273A CE743A	Magenta	7,300 / 15,000 / 16,000	16000	HP Color LaserJet CP5525, HP Color LaserJet CP5225, HP Color LaserJet CP5220, HP Color LaserJet Enterprise M750, HP Color LaserJet M775	\$118.50	\$299.38
006R03816	HP	CF380X	Black	4400	4400	HP Color LaserJet M476	\$52.13	\$131.67
006R03817	HP	CF380A	Black	2400	2400	HP Color LaserJet M476	\$41.15	\$103.95
006R03818	HP	CF381A	Cyan	2700	2700	HP Color LaserJet M476	\$46.64	\$117.81
006R03819	HP	CF382A	Yellow	2700	2700	HP Color LaserJet M476	\$46.64	\$117.81
006R03820	HP	CF383A	Magenta	2700	2700	HP Color LaserJet M476	\$46.64	\$117.81
006R03821	HP	CC530A CRG- 118BK GPR- 44BK	Black	3,400 / 3,500	3500	Canon Color imageCLASS MF8580, Canon Color imageCLASS LBP7200, Canon Color imageCLASS MF729, Canon Color imageCLASS MF726, HP Color LaserJet CM2320 MFP, Canon Color imageCLASS MF8380, HP Color LaserJet CP2020/CP2025, Canon Color imageRUNNER LBP5280, Canon Color imageCLASS LBP7660	\$34.29	\$86.63
006R03822	HP	CC531A CRG- 118C GPR-44C	Cyan	2,800 / 2,900	2800	Canon Color imageCLASS MF8580, Canon Color imageCLASS LBP7200, Canon Color imageCLASS MF729, Canon Color imageCLASS MF726, HP Color LaserJet CM2320 MFP, Canon Color imageCLASS MF8380, HP Color LaserJet CP2020/CP2025, Canon Color imageRUNNER LBP5280, Canon Color imageCLASS LBP7660	\$34.29	\$86.63
006R03823	HP	CC532A CRG- 118Y GPR-44Y	Yellow	2,800 / 2,900	2800	Canon Color imageCLASS MF8580, Canon Color imageCLASS LBP7200, Canon Color imageCLASS MF729, Canon Color imageCLASS MF726, HP Color LaserJet CM2320 MFP, Canon Color imageCLASS MF8380, HP Color LaserJet CP2020/CP2025, Canon Color imageRUNNER LBP5280, Canon Color imageCLASS LBP7660	\$34.29	\$86.63
006R03824	HP	CC533A CRG- 118M GRP-44M	Magenta	2,800 / 2,900	2800	Canon Color imageCLASS MF8580, Canon Color imageCLASS LBP7200, Canon Color imageCLASS MF729, Canon Color imageCLASS MF726, HP Color LaserJet CM2320 MFP, Canon Color imageCLASS MF8380, HP Color LaserJet CP2020/CP2025, Canon Color imageRUNNER LBP5280, Canon Color imageCLASS LBP7660	\$34.29	\$86.63
006R03825	HP	CE250X	Black	10500	10500	HP Color LaserJet CM3530 MFP, HP Color LaserJet CP3525	\$82.30	\$207.90
006R03826	HP	CE251A	Cyan	7000	7000	HP Color LaserJet CM3530 MFP, HP Color LaserJet CP3525	\$73.96	\$186.83
006R03827	HP	CE252A	Yellow	7000	7000	HP Color LaserJet CM3530 MFP, HP Color LaserJet CP3525	\$73.96	\$186.83
006R03828	HP	CE253A	Magenta	7000	7000	HP Color LaserJet CM3530 MFP, HP Color LaserJet CP3525	\$73.96	\$186.83
006R03829	HP	CE260X	Black	17000	17000	HP Color LaserJet CP4525	\$84.66	\$213.90
006R03830	HP	CE260A	Black	8500	8500	HP Color LaserJet CP4525, HP Color LaserJet CP4025	\$77.82	\$196.60
006R03831	HP	CE261A	Cyan	11000	11000	HP Color LaserJet CP4525, HP Color LaserJet CP4025	\$75.15	\$189.84

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Item	OEM	OEM Part(s)	Color	OEM Yield	Xerox Yield	Where Used	Omnia Price	List Price
006R03832	HP	CE262A	Yellow	11000	11000	HP Color LaserJet CP4525, HP Color LaserJet CP4025	\$75.15	\$189.84
006R03833	HP	CE263A	Magenta	11000	11000	HP Color LaserJet CP4525, HP Color LaserJet CP4025	\$75.15	\$189.84
006R03834	HP	C9730A	Black	13000	13000	HP Color LaserJet 5550, HP Color LaserJet 5500	\$91.66	\$231.55
006R03835	HP	C9733A	Magenta	12000	12000	HP Color LaserJet 5550, HP Color LaserJet 5500	\$94.08	\$237.68
006R03836	HP	C9731A	Cyan	12000	12000	HP Color LaserJet 5550, HP Color LaserJet 5500	\$94.08	\$237.68
006R03837	HP	C9732A	Yellow	12000	12000	HP Color LaserJet 5550, HP Color LaserJet 5500	\$94.08	\$237.68
006R03838	HP	CE505A CRG-119 GPR-41	Mono	2,100 / 2,300	2300	Canon imageCLASS MF416, Canon imageCLASS LBP251, Canon imageCLASS LBP6670, Canon imageRUNNER LPB3470, Canon imageCLASS MF414, Canon imageCLASS MF5960, Canon imageCLASS LBP6650, Canon imageCLASS LBP253, Canon imageCLASS MF6180, Canon imageCLASS MF5880, Canon imageCLASS MF5850, Canon imageCLASS MF5950, Canon imageRUNNER LPB3480, HP LaserJet P2035, Canon LASER CLASS 650i, Canon imageCLASS LBP6300, Canon imageCLASS MF6160, HP LaserJet P2055	\$28.80	\$72.77
006R03839	HP	CE505X CRG-119II GPR-41	Mono	6,400 / 6,500	6500	Canon imageCLASS MF416, Canon imageCLASS LBP251, Canon imageCLASS LBP6670, Canon imageRUNNER LPB3470, Canon imageCLASS MF414, Canon imageCLASS MF5960, Canon imageCLASS LBP6650, Canon imageCLASS LBP253, Canon imageCLASS MF6180, Canon imageCLASS MF5880, Canon imageCLASS MF5850, Canon imageCLASS MF5950, Canon imageRUNNER LPB3480, Canon LASER CLASS 650i, Canon imageCLASS LBP6300, Canon imageCLASS MF6160, HP LaserJet P2055	\$35.66	\$90.09
006R03840	HP	CF280A	Mono	2700	2700	HP LaserJet Pro 400 MFP M401/M425	\$28.80	\$72.77
006R03841	HP	CF280X	Mono	6900	6900	HP LaserJet Pro 400 MFP M401/M425	\$27.33	\$69.04
006R03853	Canon	CRG-120	Mono	5000	5000	Canon imageCLASS D1370, Canon imageCLASS D1520, Canon imageCLASS D1550, Canon imageCLASS D1180, Canon imageCLASS D1170, Canon imageCLASS D1320, Canon imageCLASS D1150, Canon imageCLASS D1350, Canon imageCLASS D1120	\$30.18	\$76.23
006R04143	Brother	DR-630	Mono	12000	12000	Brother MFC-L2705DW, Brother DCP-L2520, Brother HL-L2360, Brother HL-L2300, Brother MFC-L2700, Brother HL-2380DW, Brother HL-L2340, Brother MFC-L2740, Brother MFC-L2720, Brother HL-2320D, Brother HL-2305SW, Brother DCP-L2540	\$40.20	\$101.57
006R04354	Samsung	MLT-D203L	Mono	5000	5000	Everyday Black Toner compatible with Samsung SU901A (MLT-D203L), High Capacity	\$60.88	\$167.31

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Item	OEM	OEM Part(s)	Color	OEM Yield	Xerox Yield	Where Used	Omnia Price	List Price
006R04355	Samsung	MLT-D203E	Mono	10000	10000	Everyday Black Toner compatible with Samsung SU890A (MLT-D203E), Extra High Capacity	\$67.01	\$184.22
006R04443	Lexmark	12A7462	Mono	21000	21000	Everyday Black Toner compatible with Lexmark 12A7462, High Capacity	\$126.43	\$319.37
006R04444	Lexmark	64015HA X644H11A	Mono	21000	21000	Everyday Black Toner compatible with Lexmark 64015HA, X644H11A, High Capacity	\$128.36	\$324.28
006R04445	Lexmark	64415XA X644X11A	Mono	32000	32000	Everyday Black Toner compatible with Lexmark 64415XA, X644X11A, Extra High Capacity	\$142.60	\$360.22
006R04446	Lexmark	X264H11G	Mono	9000	9000	Everyday Black Toner compatible with Lexmark X264H11G, High Capacity	\$80.03	\$202.16
006R04447	Lexmark	E260A11A	Mono	3500	3500	Everyday Black Toner compatible with Lexmark E260A11A, Standard Capacity	\$70.22	\$177.40
006R04448	Lexmark	E460X11A X463X11G	Mono	15000	15000	Everyday Black Toner compatible with Lexmark E460X11A, X463X11G, Extra High Capacity	\$108.21	\$273.37
006R04449	Lexmark	T650H11A X651H11A	Mono	25000	25000	Everyday Black Toner compatible with Lexmark T650H11A, X651H11A, High Capacity	\$121.33	\$306.52
006R04450	Lexmark	T654X11A X654X11A	Mono	36000	36000	Everyday Black Toner compatible with Lexmark T654X11A, X654X11A, Extra High Capacity	\$169.83	\$429.04
006R04451	Lexmark	50F1H00	Mono	5000	5000	Everyday Black Toner compatible with Lexmark 50F1H00, High Capacity	\$73.06	\$184.58
006R04452	Lexmark	50F1X00 60F1H00	Mono	10000	10000	Everyday Black Toner compatible with Lexmark 50F1X00, 60F1H00, Extra High Capacity	\$99.65	\$251.72
006R04453	Lexmark	50F1U00 60F1X00	Mono	20000	20000	Everyday Black Toner compatible with Lexmark 50F1U00, 60F1X00, Ultra High Capacity	\$131.45	\$332.09
006R04454	Lexmark	52D1H00 62D1H00	Mono	25000	25000	Everyday Black Toner compatible with Lexmark 52D1H00, 62D1H00, High Capacity	\$148.55	\$375.28
006R04455	Lexmark	52D1X00 62D1X00	Mono	45000	45000	Everyday Black Toner compatible with Lexmark 52D1X00, 62D1X00, Extra High Capacity	\$160.51	\$405.49
006R04255	HP	CF460X	Black	27000	27000	HP Color LaserJet Enterprise M652, M653	\$134.41	\$377.29
006R04256	HP	CF461X	Cyan	22000	22000	HP Color LaserJet Enterprise M652, M653	\$133.04	\$373.44
006R04257	HP	CF462X	Yellow	22000	22000	HP Color LaserJet Enterprise M652, M653	\$133.04	\$373.44
006R04258	HP	CF463X	Magenta	22000	22000	HP Color LaserJet Enterprise M652, M653	\$133.04	\$373.44
006R04343	HP	CF450A	Black	12500	12500	HP Color LaserJet Enterprise M652, M653; MFP M681, M682	\$97.00	\$272.26
006R04344	HP	CF451A	Cyan	10500	10500	HP Color LaserJet Enterprise M652, M653; MFP M681, M682	\$96.99	\$272.24
006R04345	HP	CF452A	Yellow	10500	10500	HP Color LaserJet Enterprise M652, M653; MFP M681, M682	\$96.99	\$272.24
006R04346	HP	CF453A	Magenta	10500	10500	HP Color LaserJet Enterprise M652, M653; MFP M681, M682	\$96.99	\$272.24
006R04347	HP	CF470X	Black	28000	28000	HP Color LaserJet Enterprise MFP M681, M682	\$134.08	\$376.37
006R04348	HP	CF471X	Cyan	23000	23000	HP Color LaserJet Enterprise MFP M681, M682	\$132.71	\$372.52
006R04349	HP	CF472X	Yellow	23000	23000	HP Color LaserJet Enterprise MFP M681, M682	\$132.71	\$372.52

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Item	OEM	OEM Part(s)	Color	OEM Yield	Xerox Yield	Where Used	Omnia Price	List Price
006R04350	HP	CF473X	Magenta	23000	23000	HP Color LaserJet Enterprise MFP M681, M682	\$132.71	\$372.52
006R04351	Samsung	MLT-D101S	Black	1500	1500	Samsung ML-2165; SF-760P MFP; SCX-3400, 3405 MFP	\$22.89	\$64.23
006R04352	Samsung	MLT-D104S	Black	1500	1500	Samsung ML-1660, 1665, 1865; SCX-3200, 3205 MFP	\$25.78	\$72.37
006R04353	Samsung	MLT-D111S	Black	1000	1000	Samsung SL-M2022; SL-M2020, M2060, M2070 MFP	\$23.64	\$66.35
006R04416	HP	CF258A	Black	3000	3000	HP LaserJet Pro M404; MFP M428	\$73.99	\$151.33
006R04417	HP	CF258X	Black	10000	10000	HP LaserJet Pro M404; MFP M428	\$123.85	\$203.27
006R04420	HP	CF289A	Black	5000	5000	HP LaserJet Enterprise M507; MFP M528	\$90.43	\$184.97
006R04421	HP	CF289X	Black	10000	10000	HP LaserJet Enterprise M507; MFP M528	\$138.00	\$282.26
006R04422	HP	CF289Y	Black	20000	20000	HP LaserJet Enterprise M507; MFP M528	\$182.62	\$373.55
006R04423	HP	W2020A	Black	2400	2400	HP Color LaserJet Pro M454; MFP M479	\$61.30	\$125.40
006R04424	HP	W2021A	Cyan	2100	2100	HP Color LaserJet Pro M454; MFP M479	\$79.48	\$162.55
006R04425	HP	W2022A	Yellow	2100	2100	HP Color LaserJet Pro M454; MFP M479	\$79.48	\$162.55
006R04426	HP	W2023A	Magenta	2100	2100	HP Color LaserJet Pro M454; MFP M479	\$79.48	\$162.55
006R04427	HP	W2020X	Black	7500	7500	HP Color LaserJet Pro M454; MFP M479	\$99.19	\$159.27
006R04428	HP	W2021X	Cyan	6000	6000	HP Color LaserJet Pro M454; MFP M479	\$135.64	\$215.59
006R04429	HP	W2022X	Yellow	6000	6000	HP Color LaserJet Pro M454; MFP M479	\$135.64	\$215.59
006R04430	HP	W2023X	Magenta	6000	6000	HP Color LaserJet Pro M454; MFP M479	\$135.64	\$215.59
006R04431	HP	W2110A	Black	1350	1350	HP Color LaserJet Pro M255; MFP M282, M283	\$55.49	\$106.40
006R04432	HP	W2111A	Cyan	1250	1250	HP Color LaserJet Pro M255; MFP M282, M283	\$57.22	\$117.04
006R04433	HP	W2112A	Yellow	1250	1250	HP Color LaserJet Pro M255; MFP M282, M283	\$57.22	\$117.04
006R04434	HP	W2113A	Magenta	1250	1250	HP Color LaserJet Pro M255; MFP M282, M283	\$57.22	\$117.04
006R04435	HP	W2110X	Black	3150	3150	HP Color LaserJet Pro M255; MFP M282, M283	\$75.66	\$154.77
006R04436	HP	W2111X	Cyan	2450	2450	HP Color LaserJet Pro M255; MFP M282, M283	\$80.11	\$163.89
006R04437	HP	W2112X	Yellow	2450	2450	HP Color LaserJet Pro M255; MFP M282, M283	\$80.11	\$163.89
006R04438	HP	W2113X	Magenta	2450	2450	HP Color LaserJet Pro M255; MFP M282, M283	\$80.11	\$163.89
006R04439	HP	W2310A	Black	1050	1050	HP Color LaserJet Pro M155; MFP M182, M183	\$41.07	\$83.99
006R04440	HP	W2311A	Cyan	850	850	HP Color LaserJet Pro M155; MFP M182, M183	\$44.58	\$91.19
006R04441	HP	W2312A	Yellow	850	850	HP Color LaserJet Pro M155; MFP M182, M183	\$44.58	\$91.19
006R04442	HP	W2313A	Magenta	850	850	HP Color LaserJet Pro M155; MFP M182, M183	\$44.58	\$91.19
006R03655	HP	C4127X	Mono	10000	10000	HP LaserJet 4000, HP LaserJet 4050	\$33.59	\$84.85
006R03656	HP	C8061X	Mono	10000	10000	HP LaserJet 4100, HP LaserJet 4101 MFP	\$38.18	\$96.46

THIS ADDENDUM (this "Addendum") contains new products that meet the existing scope of work specific to consumables for Contract Number R191104 ("Master Agreement"), between Region 4 Education Service Center (Region 4 ESC) ("Customer") and Xerox Corporation ("Xerox"). In an event of conflict between the terms and conditions of the Master Agreement and this Addendum, the following terms of this Addendum will prevail.

This Addendum incorporates by reference all the provisions of the Master Agreement. From and after the Amendment Effective Date, each reference in the Master Agreement to "this Agreement", "this Services Master Agreement", "herein", "hereunder", "hereto" or similar words or phrases, and all references to "the Agreement" in any amendments, related agreements, documents or other writings shall be deemed to mean the Master Agreement as amended by this Addendum.

Definitions

Xerox® Everyday™ Toner is a line of toner supplies for specific non-Xerox printers that provides savings, safety and reliability with the confidence of the Xerox brand and solid performance.

This solution is only available for customers who wish to purchase Everyday Toner on an ongoing basis via a portal which shall be created for their use by the Xerox eCommerce team.

The parties agree that the Master Agreement is modified as described below:

1. This Addendum shall be effective as of the date signed by the last party ("Effective Date").
2. GEOGRAPHIC SCOPE - All supplies may be delivered to any location within the United States, Puerto Rico, and the Virgin Islands.
3. PRICING - Prices are based on the total quantity of one product type in one shipment delivered to one location. Customer represents that the supplies purchased hereunder are solely for Customer's internal use only within the United States, its territories and possessions, and not for remarketing by Customer. Deliveries from Xerox Distribution Centers are priced based upon the price in effect at the time of receipt of order.
4. DELIVERY - All supplies delivered from Xerox Distribution Centers are shipped F.O.B. Destination, freight prepaid.
5. CHANGES - Prices, terms and conditions are subject to change at any time.
6. PRODUCT WARRANTY - If supplies are defective, Xerox will replace such supplies without charge. Xerox product warranties for Toner/Dry Ink/Dry Imager/Dry Ink Plus; Developer; Copy Cartridges and Fuser Oil/Fuser Agent/Fuser Lubricant are extended only to customers who purchase these supplies directly from Xerox or an Authorized Xerox Dealer, Distributor or Agent. These warranties are not transferable. OTHER THAN THE OBLIGATION OF XEROX EXPRESSLY STATED HEREIN, XEROX DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE FOREGOING CONSTITUTES XEROX' SOLE OBLIGATION WITH RESPECT TO DAMAGES, WHETHER DIRECT, INCIDENTAL OR CONSEQUENTIAL .
7. RETURNS – Xerox Corporation will accept for exchange or credit any Xerox supply product purchased directly from Xerox based upon the reason for the supply return and/or the time elapsed from date of supply invoice as outlined below. Xerox is responsible for return arrangements, pick up, and freight charges for all types of supply returns.
 - a) Supply returns resulting from a Xerox error will be accepted for exchange or credit within 60 days from the date of the supply invoice.
 - b) A 20% restocking fee applies due to customer errors and contract cancellations.
 - c) Supply returns resulting from non-Xerox errors will be accepted for exchange or credit within 60 days from the date of supply invoice.
 - d) Supply products damaged when the customer receives them will be accepted for return within 60 days from date of supply invoice.
 - e) Supply product materials or workmanship that Xerox identifies as defective will be accepted for credit/replacement at any time. Supply products which fail under warranty will be accepted according to the terms of the specific product warranty.



- f) Supply products purchased within the past 12 months that become incompatible for the following reasons will be accepted for return within 60 days.
 - i. when a customer trades to other Xerox equipment
 - ii. when customer outright cancels rental equipment
 - iii. as the result of an equipment sale.
 - iv. due to an equipment term lease expiration
 - g) Discontinued supply products will be accepted for credit in machine exchange situations only.
 - h) Customers must call XEROX CORPORATION to obtain a RETURN AUTHORIZATION NUMBER before returning supply products to Xerox. The number to call is 1-888-339-7887. Xerox will not accept any supply products returned without a RETURN AUTHORIZATION NUMBER or any supply products sent freight collect. All return supply products must be in complete unopened cartons and in good resalable condition.
8. PAYMENT - One invoice will follow each delivery with payment due in accordance with prompt payment laws.

Region 4 ESC

Xerox Corporation

Signature

Name (please print)

Title

Address

Date

Signature

Name

Title

Address

Date

Xerox® Everyday™ Toner

Savings, reliability and safety. No nonsense.

Toner usually comes in one of two extremes. Expensive. Or unreliable. Not anymore.

Xerox® Everyday™ Toner is a new line of toner supplies for non-Xerox® printers that takes a different approach. No exorbitant prices. No hidden costs. Just the confidence of the Xerox brand and solid performance you've come to trust.

SUPERIOR VALUE. FOR MUCH LESS.

Trust your toner to those who know it best. You'll get all the performance, reliability and safety you've come to expect, but without the associated costs of cartridges from original manufacturers.

PLANET FRIENDLY CHOICE.

What's inside counts — Xerox® Everyday Toner is safe for you and the environment. The chemicals in our toner and the plastics in the cartridge meet or exceed industry standards for global safety and environmental compliance. We post the contents of each cartridge on our [website](#) so you can be confident that there's no risk to your health or the environment. Can the cheap clones and no-name bargain brands say that?

Find out more about our commitment to sustainability on [xerox.com](#).

NO RISK LIFETIME WARRANTY.

Unlike no-name bargain brands, we stand behind our product. That's why every cartridge of Xerox® Everyday Toner comes with a lifetime warranty. Should you ever have a problem, simply contact the reseller you purchased it from for a no-hassle exchange.



YOUR ONE-STOP SHOP.

Finally, you can get all your toner from one trusted supplier. The Xerox® Everyday Toner portfolio supports all leading printer brands. To find supplies for your printer, visit [xerox.com/EverydayToner](#).

THE XEROX EVERYDAY TONER PORTFOLIO INCLUDES CARTRIDGES FOR THESE BRANDS:

- Brother
- Canon
- HP
- Konica Minolta
- Kyocera
- Lexmark
- Ricoh
- Sharp
- Toshiba

CERTIFICATIONS

Product Safety & Sustainability



REACH



RoHS



WEEE

ISO 14001:
2015

Product Quality

ISO 9001:
2015

STMC

For more information and a full list of supported printers, visit [xerox.com/EverydayToner](#).

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Managed Print Services (MPS) Price List

U.S. ONLY PRICING

XEROX Managed Print Services (MPS) is a comprehensive print and document management service addressing today’s regulatory and competitive pressures through a unified approach that drives agile workflow, employee productivity and customer satisfaction enhancement. Within the service portfolio there are 6 key capabilities that address:

- **Workplace Assessment and Optimization:** Turning client data and analytical reporting into actionable transformation that optimizes productivity and the integration of workplace technology
- **Smart Fleet Management:** Supporting the changing IT infrastructure and the needs of the virtual worker using cloud-based applications and services; all underpinned by a comprehensive device management program
- **Content and Capture:** Enabling document scanning and conversion from the mobile device, web browser or MFP to extract data and streamline business processes
- **Secure Print Management:** Furthering client needs for regulatory compliance and to safeguard against security breaches while addressing the demands of the mobile employee to work and print anywhere, at anytime
- **Workflow Automation:** Streamlining processes and improving cycle times by digitizing and automating complex business workflows. As a result, organizations can boost productivity, improve security and better serve their customers
- **Content Management:** Delivering a complete digital document management environment made available on premise or in the cloud. We provide a better way to manage paper and digital content from creation to retention to transformation, with content collaboration capabilities to drive enhanced user productivity

Category	Type	Offering Component / Product Code	Offering Description	Price Type	List Price	Region 4 ESC Contract Price	Minimum Discount Offered (%)	Comments
Smart Fleet Management (SFM)	Xerox Print Services (XPS)	Xerox Print Service (XPS) Base	XPS is a small-to-medium sized business solution that includes: - Tool: Xerox Device Agent (XDA) - Device Status Monitoring and Device Discovery - Auto Meter Submission and Supplies Replenishment - Client Portal - Standard Reporting (5 pre-defined reports) - Reactive Break Fix - General Helpdesk (1-800, non-dedicated) - Move/Add/Change/Dispose asset management	<u>MONTHLY MINIMUM</u>	\$550.00	\$500.00	10%	Monthly billing commitment of \$500 required.
Smart Fleet Management (SFM)	Xerox Print Services (XPS)	Black/White Networked Laser Non-Xerox devices	Black and White printed impressions for networked laser printers	<u>PRICE PER IMPRESSION</u>	\$0.0171	\$0.0155	10%	Xerox Print Service Base required.
Smart Fleet Management (SFM)	Xerox Print Services (XPS)	Color Networked Laser Non-Xerox devices	Color printed impressions for networked laser printers.	<u>PRICE PER IMPRESSION</u>	\$0.149	\$0.135	10%	Xerox Print Service Base required.
Smart Fleet Management (SFM)	Xerox Print Services (XPS)	Black/White Non-Networked devices	Black and White Laser printers that are directly connected to a computing device (PC).	<u>MONTHLY PRICE PER DEVICE</u>	\$27.50	\$25.00	10%	Xerox Print Service Base required.
Smart Fleet Management (SFM)	Xerox Print Services (XPS)	XPS Color Non-Networked devices	Color Laser printers that are directly connected to a computing device (PC).	<u>MONTHLY PRICE PER DEVICE</u>	\$49.50	\$45.00	10%	Xerox Print Service Base required.
Smart Fleet Management (SFM)	Xerox Print Services (XPS)	Xerox Phasers and Xerox MFDs	The additional monthly cost for Management services to be added to Xerox MFP devices purchased off of the contract.	<u>MONTHLY PRICE PER DEVICE</u>	\$11.00	\$10.00	10%	Xerox Print Service Base required.
Smart Fleet Management (SFM)	EPS	Xerox Enterprise Print Services (EPS) BASE	EPS is a <u>enterprise-focused</u> print management solution that includes: - Tool: Xerox Device Manager (XDM) and Xerox Services Manager (XSM) - Proactive Device Status Monitoring and Device Discovery - Proactive Auto Meter Submission and Supplies Replenishment - Expanded Client Portals (Xerox Service Portal option, MPS Advanced Analytics - Enhanced Reporting (Monthly reporting, quarterly business reviews, customized requests) - Proactive Break Fix and ticket tracking - Dedicated Helpdesk - Move/Add/Change/Dispose asset management	<u>MONTHLY PRICE PER DEVICE</u>	\$13.00	\$11.75	10%	Enterprise Print Services (EPS). EPS is a more advanced offering that is designed to support larger enterprise fleets and offers greater flexibility with respect to pricing options and contract terms. EPS also provides additional services offerings related to Managed Print such as onsite DocuCare Associates, Xerox Print Awareness Tool , etc. EPS can be offered on a fixed price basis or a cost per page basis.
Smart Fleet Management (SFM)	EPS - Optional	EPS for NETWORKED Printers	Xerox Managed Print Services for NETWORKED printers service is an optional component under the EPS Services offer from Xerox to support your NETWORKED Xerox and non-Xerox A4 printer fleet. Includes Consumables and Technical service (Break-Fix Management) for Xerox devices and non-Xerox printers. Xerox EPS Base is a required.	<u>PRICE PER IMPRESSION</u>	\$0.1480 Color \$0.0385 Black/White	\$0.1350 Color page \$0.035 Black/White	10%	Enterprise Print Services (EPS) BASE offering required.

Category	Type	Offering Component / Product Code	Offering Description	Price Type	List Price	Region 4 ESC Contract Price	Minimum Discount Offered (%)	Comments
Smart Fleet Management (SFM)	EPS - Optional	EPS for Non-Networked LASER Printers	Xerox Managed Print Services for LOCALLY CONNECTED LASER printers is an optional component under the EPS Services offer from Xerox. Xerox Managed Print Services is a set of deliverables to support your NON-networked Xerox and non-Xerox A4 printer fleet. Includes Help Desk support, Managing supplies, Asset tracking pertaining to Move, Add, Change, and Dispose activities done by the customer, Technical service (Break-Fix Management) for Xerox devices and non-Xerox printers.	<i>MONTHLY PRICE PER DEVICE</i>	\$50.00 Color \$29.00 Black/White	\$46.00 Color \$26.00 Black/White	10%	Enterprise Print Services (EPS) BASE offering required.
Workplace Assessment and Optimization	EPS - Optional	Optimization of the Print Environment	Price Per Device, One-Time Charge. Optional EPS Component. Includes Asset Mapping, End-User Survey, Detailed Recommendation/Future State Design, Analysis and Plan Design. Service price based on an example of 300 assets in three different locations, assuming each site has more than 20 devices. Actual pricing will be determined on a per project basis, not to exceed this amount unless scope is greater than that stated above. Xerox will utilize EXISTING (On-site Support / DocuCare Required) resources to perform the inventory at the client's location. On-site Support / DocuCare Required.	<i>PER DEVICE PER EVENT</i>	\$71.00	\$64.35	10%	Enterprise Print Services (EPS) BASE offering required.
Smart Fleet Management (SFM)	EPS - Optional	Xerox Consulting Services	Xerox Consulting Services are optional Xerox EPS Services components. Xerox Consulting Services provide two levels of support: Sr. Consultant Level – This is to provide senior, strategic and/or management level services associated with delivery of Managed Print Solutions. These include project management, transition management, change management, implementation management and services management. Consultant Level – This is to provide first line services including data collection, transition services, asset coordination, and implementation execution.	<i>NOT-TO-EXCEED PRICE-PER HOUR</i>	\$165 - Sr. Consultant \$94 - Consultant	\$125 - Sr. Consultant \$55 - Consultant	25%	Enterprise Print Services (EPS) BASE offering required.
Smart Fleet Management (SFM)	EPS - Optional	On-site Support / DocuCare	On-site Support / DocuCare is an optional component under the EPS Services offer from Xerox. Onsite first point of contact for Help Desk issues, Download and install printer drivers on end-user equipment, Perform printer mapping to PC as required, Escalate printer network issues to appropriate resource, Perform Advanced Customer Training (ACT) or DocuCare maintenance and diagnosis functions., Manage and maintain on-site parts inventory using PM4, Ensure SLAs are adhered to per SOW, Physical device management and control, Device Configuration (Enter IP address, scanning templates, User access levels. Scan to File/Email, etc...), Monitor/apply current patches, Non-Xerox device management as required, Perform remote device monitoring and remote solve (Xerox Device Management), Identify and promote Xerox Office solutions, may also include Provide leadership, coaching & feedback to help drive successful results to meet operational metrics and account SLA's and could include being responsible for the overall delivery of contracted services at client site. The specific role/responsibility and pricing will vary depending on requirements of client contract. Onsite Xerox associate dedicated to client support for fleet of 125 print devices. Price per Associate is presented as a 'Not to Exceed' pricing. Actual pricing will depend on contracted responsibilities	<i>NOT-TO-EXCEED MONTHLY PRICE PER ASSOCIATE</i>	\$7,685	\$6,920	10%	Enterprise Print Services (EPS) BASE offering required.
Smart Fleet Management (SFM)	EPS - Optional	Xerox Services Portal	Xerox Services Portal is an optional Xerox EPS Services component. The Xerox Services Portal is a secured customer web portal that acts as a primary website for organizations with the Xerox Managed Services program. It presents customer facing pages to provide customers with a single place for all of their Managed Document Output Service needs including, but not limited to Submit and view Help Desk incidents for service or supplies; Read equipment documentation and How Tos; troubleshooting guides; Participate in surveys; view operational reports as csv, xml, pdf or excel formatted documents and Submit meter readings for non-networked devices.	<i>NOT-TO-EXCEED MONTHLY PRICE PER DEVICE</i>	\$4.16	\$3.00	28%	Enterprise Print Services (EPS) BASE offering required.

Category	Type	Offering Component / Product Code	Offering Description	Price Type	List Price	Region 4 ESC Contract Price	Minimum Discount Offered (%)	Comments
Smart Fleet Management (SFM)	EPS - Optional	Enhanced Device Implementation and Pre-Configuration	Enhanced setup, delivery, and installation that includes pre-configuration of equipment to standard configurations prior to installation. Also includes device certification (One device per model family) at a single site.	NOT-TO-EXCEED MONTHLY PRICE PER DEVICE	\$16.20	\$15.00	8%	Enterprise Print Services (EPS) BASE offering required.
Smart Fleet Management (SFM)	EPS - Optional	Enhanced Operations and Service Delivery Management	Operational resource that provides day-to-day escalation management and ongoing reporting, trend analysis, and operational business reviews.	NOT-TO-EXCEED MONTHLY PRICE PER DEVICE	\$25.00	\$25.00	0%	Enterprise Print Services (EPS) BASE offering required. Minimum of \$500 charge per month.
Smart Fleet Management (SFM)	Sustainability - Optional	Xerox Print Awareness Tool	Sustainability tool that uses "Gamification" to show users how their print impacts the environment and cost to the company. Print points can be allocated and utilized each month to minimize unnecessary print and drive better print behavior.	NOT-TO-EXCEED MONTHLY PRICE PER USER	\$2.36	\$2.25	5%	Enterprise Print Services (EPS) BASE offering required.
Secure Print Management	EPS - Optional	Xerox Print Security Audit Service (XPSAS)	Billed Annually. Xerox Print Security Audit Service (XPSAS) is a comprehensive device security solution that incorporates risk mitigation services into an automated software tool. XPSAS brings automated remote configuration to device security. Xerox Print Security Audit Service automates setting device configurations remotely, monitors for compliance and remediates any violators in 3 key areas – firmware upgrades, password management and device settings configuration and management. Automation enables installation and delivery teams to reduce errors, save time and provide higher security levels to clients. Teams can demonstrate alignment to compliance standards using interactive dashboards – a unique advantage that comes only with Xerox. This requires access to Xerox Device Manager (XDM). Xerox Proactive Management Services for NETWORKED Printers is required. This package includes setup of a single XPSAS-defined equipment settings policy, a single password policy, and a single firmware policy.	Setup Fee + ANNUAL PRICE	\$2,690 Per Contract + \$200 Yearly	\$2,420 Per Contract + \$180 Yearly	10%	Enterprise Print Services (EPS) BASE offering required.
Secure Print Management	EPS - Optional	XPSAS Advanced	Billed Annually. XPSAS Advanced adds up to 5 additional XPSAS-defined settings policies, up to 5 additional password policies, and up to 10 additional firmware policies.	Setup Fee + ANNUAL PRICE	\$9,425 Per Contract + \$505 Yearly	\$8,482 Per Contract + \$455 Yearly	10%	Enterprise Print Services (EPS) BASE and Xerox Print Security Audit Service (XPSAS) offering required.
Secure Print Management	EPS - Optional	XPSAS Firmware Management - Additional Policy Packages	Billed Annually. Adds up to 5 additional firmware policies to Xerox Print Security Audit Service (XPSAS).	ANNUAL PRICE	\$1,688.00	\$1,520.00	10%	Enterprise Print Services (EPS) BASE and Xerox Print Security Audit Service (XPSAS) offering required.
Secure Print Management	EPS - Optional	Xerox Workplace Suite	Xerox Workplace Suite (XWS) is a print management solution that delivers authentication, accounting and cost control, print rules, content security and mobile device workflows. XWS is installed On-PREmise for on a server behind your firewall for a private, secure on-site deployment, the flexible modular approach allows you to license the features that fit your business needs, regardless of the number of devices you have.	NOT-TO-EXCEED MONTHLY PRICE PER DEVICE	\$10.00	\$10.00	0%	Enterprise Print Services (EPS) BASE offering required.
Secure Print Management	EPS - Optional	Xerox Workplace Cloud	Xerox Workplace Cloud (XWC) is the cloud version of XWS that offers the same print management solutions to delivery authentication, accounting and cost control, print rules, content security and mobile device workflows in a secure, hosted cloud that is managed by Xerox.	NOT-TO-EXCEED MONTHLY PRICE PER DEVICE	\$8.00	\$8.00	0%	Enterprise Print Services (EPS) BASE offering required.
Secure Print Management	EPS - Optional	Xerox Virtual Print Management Service	Xerox Virtual Print Management is built on the XWC platform and ADDS the benefits of a serverless print environment to more efficiently manage print in the cloud. Eliminate costly print servers and enable cloud print that's trackable, chargeable, and more convenient for end-users.	NOT-TO-EXCEED MONTHLY PRICE PER DEVICE	\$13.65	\$13.00	5%	Enterprise Print Services (EPS) BASE offering required.
Capture, Workflow, and Content Management	Software - Optional	DOCUSHARE EDUCATN	DOCUSHARE EDUCATION	NOT-TO-EXCEED LIST PRICE	\$2,000.00	\$2,000.00	0%	Final pricing based on customized configuration with applicable solution components.
Capture, Workflow, and Content Management	Software - Optional	DOCUSHARE ENTERPRISE	DOCUSHARE ENTERPRISE CONTENT MANAGEMENT. Enable digital transformation with workflow and electronic storage, sharing, and management of documents.	NOT-TO-EXCEED LIST PRICE	\$20,000.00	\$20,000.00	0%	Final pricing based on customized configuration with applicable solution components.
Capture, Workflow, and Content Management	Software - Optional	DOCUSHARE STANDARD	DOCUSHARE STANDARD	NOT-TO-EXCEED LIST PRICE	\$3,000.00	\$3,000.00	0%	Final pricing based on customized configuration with applicable solution components.

Category	Type	Offering Component / Product Code	Offering Description	Price Type	List Price	Region 4 ESC Contract Price	Minimum Discount Offered (%)	Comments
Capture, Workflow, and Content Management	Software - Optional	FLEX20-CU25	Flex Concurrent User - 25 Users - 200 GB	NOT-TO-EXCEED <u>LIST PRICE</u>	\$2,250.00	\$2,250.00	0%	Final pricing based on customized configuration with applicable solution components.
Capture, Workflow, and Content Management	Software - Optional	FLEX20-CU50	Flex Concurrent User - 50 Users - 200 GB	NOT-TO-EXCEED <u>LIST PRICE</u>	\$4,000.00	\$4,000.00	0%	Final pricing based on customized configuration with applicable solution components.
Capture, Workflow, and Content Management	Software - Optional	FLEX20-NU-100GB	Flex Named User - 10 Users - 100 GB	NOT-TO-EXCEED <u>LIST PRICE</u>	\$683.33	\$683.33	0%	Final pricing based on customized configuration with applicable solution components.
Capture, Workflow, and Content Management	Software - Optional	FLEX20-NU-20GB	Flex Named User - 5 Users - 20 GB	NOT-TO-EXCEED <u>LIST PRICE</u>	\$205.00	\$205.00	0%	Final pricing based on customized configuration with applicable solution components.
Capture, Workflow, and Content Management	Software - Optional	FLEX20-NU-250GB	Flex Named User - 20 Users - 250 GB	NOT-TO-EXCEED <u>LIST PRICE</u>	\$1,165.83	\$1,165.83	0%	Final pricing based on customized configuration with applicable solution components.
Capture, Workflow, and Content Management	Software - Optional	FLEX20-NU-50GB	Flex Named User - 10 Users - 50 GB	NOT-TO-EXCEED <u>LIST PRICE</u>	\$490.00	\$490.00	0%	Final pricing based on customized configuration with applicable solution components.
Capture, Workflow, and Content Management	Software - Optional	FLEX-CONN-QBO	DocuShare Connector for QuickBooks Online	NOT-TO-EXCEED <u>LIST PRICE</u>	\$375.00	\$375.00	0%	Final pricing based on customized configuration with applicable solution components.
Capture, Workflow, and Content Management	Software - Optional	FLEX-CONN-SFDC	DocuShare Connector for Salesforce	NOT-TO-EXCEED <u>LIST PRICE</u>	\$375.00	\$375.00	0%	Final pricing based on customized configuration with applicable solution components.
Capture, Workflow, and Content Management	Software - Optional	FLEX-CU-ADD	Single Concurrent User Add	NOT-TO-EXCEED <u>LIST PRICE</u>	\$100.00	\$100.00	0%	Final pricing based on customized configuration with applicable solution components.
Capture, Workflow, and Content Management	Software - Optional	CLD-1000-TIER4	1000 Additional Users Tier 4	NOT-TO-EXCEED <u>LIST PRICE</u>	\$20,000.00	\$20,000.00	0%	Final pricing based on customized configuration with applicable solution components.
Capture, Workflow, and Content Management	Software - Optional	CLD-5-TIER1	5 Additional Users Tier 1	NOT-TO-EXCEED <u>LIST PRICE</u>	\$200.00	\$200.00	0%	Final pricing based on customized configuration with applicable solution components.
Capture, Workflow, and Content Management	Software - Optional	CLD-5-TIER2	5 Additional Users Tier 2	NOT-TO-EXCEED <u>LIST PRICE</u>	\$175.00	\$175.00	0%	Final pricing based on customized configuration with applicable solution components.
Capture, Workflow, and Content Management	Software - Optional	CLD-5-TIER3	5 Additional Users Tier 3	NOT-TO-EXCEED <u>LIST PRICE</u>	\$125.00	\$125.00	0%	Final pricing based on customized configuration with applicable solution components.
Capture, Workflow, and Content Management	Software - Optional	CLD-5-TIER4	5 Additional Users Tier 4	NOT-TO-EXCEED <u>LIST PRICE</u>	\$100.00	\$100.00	0%	Final pricing based on customized configuration with applicable solution components.
Capture, Workflow, and Content Management	Software - Optional	CLD-50-TIER2	50 Additional Users Tier 2	NOT-TO-EXCEED <u>LIST PRICE</u>	\$1,750.00	\$1,750.00	0%	Final pricing based on customized configuration with applicable solution components.
Capture, Workflow, and Content Management	Software - Optional	DS-STD-REMOTE-INST	Basic Remote Installation	NOT-TO-EXCEED <u>LIST PRICE</u>	\$2,000.00	\$2,000.00	0%	Final pricing based on customized configuration with applicable solution components.
Capture, Workflow, and Content Management	Software - Optional	DS-STG-FAILOVER	Incremental Server License for DS	NOT-TO-EXCEED <u>LIST PRICE</u>	\$6,000.00	\$6,000.00	0%	Final pricing based on customized configuration with applicable solution components.
Capture, Workflow, and Content Management	Software - Optional	DS-TUNE-UP	System Tune-Up	NOT-TO-EXCEED <u>LIST PRICE</u>	\$12,250.00	\$12,250.00	0%	Final pricing based on customized configuration with applicable solution components.
Capture, Workflow, and Content Management	Software - Optional	DS7-SMB	SMB Server Bundle v7.0	NOT-TO-EXCEED <u>LIST PRICE</u>	\$9,000.00	\$9,000.00	0%	Final pricing based on customized configuration with applicable solution components.
Capture, Workflow, and Content Management	Software - Optional	DSPN-AS	DocuShare Partner Network Annual Subscription	NOT-TO-EXCEED <u>LIST PRICE</u>	\$1,995.00	\$1,995.00	0%	Final pricing based on customized configuration with applicable solution components.
Capture, Workflow, and Content Management	Software - Optional	EDU-CONT-RULE-ENA	Content Rule Enablement for Education Servers w/10 CPX CALs	NOT-TO-EXCEED <u>LIST PRICE</u>	\$3,000.00	\$3,000.00	0%	Final pricing based on customized configuration with applicable solution components.

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Capture, Workflow, and Content Management	Software - Optional	EDU-CPX-CAL-50	50 Instructor CALs	NOT-TO- EXCEED <u>LIST</u> <u>PRICE</u>	\$10,000.00	\$10,000.00	0%	Final pricing based on customized configuration with applicable solution components.

XEROX AMENDMENT TO
[CUSTOMER NAME]
SERVICES MASTER AGREEMENT
REFERENCE # [7-DIGIT CONTRACT NUMBER]



THIS AMENDMENT (the “Amendment”) amends Agreement number **[7-DIGIT CONTRACT NUMBER]** (the “Agreement”) between **[Customer Name]** (“Customer”) and Xerox.

The parties agree that the Agreement is modified as described below:

- 1. This Amendment is effective (“Effective Date”) as of the date signed by both parties.
- 2. The customer hereby acknowledges the Region 4 ESC Contract number R171406 has now expired and wishes to accept the terms and conditions of the Region 4 ESC Contract number R191104, including Attachment H, between Region 4 ESC and Xerox.

Except as specified in this Amendment, the Agreement shall remain as stated. In the event of a conflict between the terms and conditions of the Agreement and this Amendment, the Amendment will control.

[Customer Name]

XEROX CORPORATION

Name (Please Print)

Name (Please Print)

Signature

Signature

Title

Title

Date

Date



SERVICES MASTER AGREEMENT

THIS SERVICES MASTER AGREEMENT NO. Fill-In is between Xerox Corporation (“**Xerox**”), a New York corporation with offices at 201 Merritt 7, Norwalk, CT 06851-1056, and << Enter Customer's Legal Name >>> (“**Customer**”), a << Enter State >> corporation with offices at << Enter Customer's Full Address >>.

AGREEMENT STRUCTURE

This Agreement serves as a master agreement to enable Xerox and Customer to contract with each other for a range of products and services to be provided to the Customer over time. This Agreement is grouped into Modules. However, it is the intent of the parties that the Products and Services acquired hereunder be acquired under the auspices of the Region 4 ESC Contract #R191104 between Region 4 ESC and Xerox (the “Region 4 ESC Contract”). Therefore, the terms and conditions of the Region 4 ESC Contract are incorporated by reference into this Agreement. Any conflict between the terms and conditions of the Region 4 ESC Contract and this Agreement will be resolved in favor of this Agreement.

The “GEN” Module applies to all products and services provided hereunder, while the other Modules apply as appropriate to what Xerox is providing to Customer under the applicable Order.

DEFINITIONS MODULE

1. DEFINITIONS

The following definitions (and those found elsewhere in this Agreement) apply unless otherwise specified in an Order.

- a. **Affiliate** means a legal entity that directly or indirectly controls, is controlled by, or is under common control with either party. An entity is considered to control another entity if it owns, directly or indirectly, more than 50% of the total voting securities or other such similar voting rights.
- b. **Agreement** means this Services Master Agreement. This Agreement may also be referred to in ordering and contracting documents as a “Services and Solutions Agreement” or “SSA.”
- c. **Amortized Services** means certain services such as consulting and training, the Charges for which are amortized over the term of an Order.
- d. **Application Software** means Xerox-brand software that allows Equipment or Third Party Hardware to perform functions beyond those enabled by its Base Software.
- e. **Base Software** means software embedded, installed, or resident in Equipment that is necessary for operation of the Equipment in accordance with published specifications.
- f. **CPI Adjustment Percentage** means the CPI-U (Consumer Price Index for All Urban Consumers).
- g. **Cartridges** means copy/print cartridges and xerographic modules or fuser modules designated by Xerox as customer-replaceable units for the Equipment.
- h. **Charges** mean the fees payable by Customer for Services, Maintenance Services and/or Products as specified in this Agreement.
- i. **Confidential Information** shall have the meaning set forth in Section 2.10.
- j. **Consumable Supplies.** Consumable Supplies vary depending upon the Equipment model, and include: (i) for black and white Equipment, standard black toner and/or dry ink, black developer, Copy Cartridges, and, if applicable, fuser agent required to make impressions; (ii) for full color Equipment, the items in (i) plus standard cyan, magenta, and yellow toners and dry inks (and their associated developers); and, (iii) for Equipment identified as “Phaser”, only, if applicable, black solid ink, color solid ink, imaging units, waste cartridges, transfer rolls, transfer belts, transfer units, belt cleaner, maintenance kits, print Cartridges, drum Cartridges, waste trays and cleaning kits. Unless otherwise set forth in an Order, Consumable Supplies excludes paper and staples.
- k. **Customer Assets** means all hardware, equipment, fixtures, software, assets, networks, work space, facilities, services and other assets owned, leased, rented, licensed or controlled by Customer (including Existing Equipment and Existing Software) that Customer makes available to Xerox to enable Xerox to fulfill its obligations under an Order.

- l. **Customer Facilities** means those facilities controlled by Customer where Xerox performs Services or provides Products.
- m. **Customer Information** means documents, materials, and information (including Private Information) belonging to Customer that Customer provides to Xerox for Xerox to provide Products and Services under an Order.
- n. **Date of Installation** means: (a) for Equipment (or Third Party Hardware) installed by Xerox, the date Xerox determines the Equipment (or Third Party Hardware) to be operating satisfactorily as demonstrated by successful completion of diagnostic routines and is available for Customer's use; and (b) for Equipment (or Third Party Hardware) designated as "Customer Installable," the Equipment (or Third Party Hardware) delivery date.
- o. **Description of Services or DOS** means a document attached to an Order which references the applicable Services Contract number and specifies the Products and/or Services provided under such Order.
- p. **Diagnostic Software** means Xerox-proprietary software embedded in or loaded onto Equipment and used by Xerox to evaluate or maintain the Equipment.
- q. **Documentation** means all manuals, brochures, specifications, information and software descriptions, and related materials customarily provided by Xerox to customers for use with certain Products or Services.
- r. **Effective Date** means the date this Agreement is signed by Xerox.
- s. **Eligible Affiliate** means a domestic Customer Affiliate that has met Xerox's credit requirements for ordering Services, Maintenance Services and/or Products under this Agreement.
- t. **Equipment** means Xerox-brand equipment.
- u. **Excluded Taxes** means (i) taxes on Xerox's income, capital, and employment, (ii) taxes for the privilege of doing business, and (iii) personal property tax on Equipment rented or leased to Customer under this Agreement.
- v. **Existing Equipment** means devices which are leased, rented or owned by the Customer outside of this Agreement, which are used to provide Services, and which remain subject to the terms and conditions of the agreements under which they were originally acquired.
- w. **Existing Software** means software licensed by the Customer outside of this Agreement and which is used to provide the Services and which remains subject to the terms and conditions of the agreements under which it was originally acquired.
- x. **Feature Releases** means new releases of Software that include new content or functionality.
- y. **Force Majeure Event** means a circumstance beyond a party's reasonable control, which circumstances include, but are not limited to, the following: act of God (e.g., flood, earthquake, wind); fire; war; act of a public enemy or terrorist; act of sabotage; strike or other labor dispute; riot; misadventure of the sea; inability to secure materials and/or transportation; or a restriction imposed by legislation, an order or a rule or regulation of a governmental entity.
- z. **Funds** means collectively Amortized Services and Third Party Funds.
- aa. **Intellectual Property** means all intellectual property and associated intellectual property rights including patent, trademark, service mark, copyright, trade dress, logo and trade secret rights which exist and belong to a party as of the Effective Date or that may be created by a party after the Effective Date. Xerox's Intellectual Property includes, without limitation, Software, Remote Data and Xerox Tools.
- bb. **Maintenance Releases or Updates** means new releases of Software that primarily incorporate coding compliance updates and error fixes and are designated as "Maintenance Releases" or "Updates."
- cc. **Maintenance Services** means required maintenance of Equipment to keep the Equipment in good working order.
- dd. **Module** means a specific set of terms and conditions contained in this Agreement that is identified as a "Module." The Modules under this Agreement are the DEFINITIONS, GENERAL, SERVICES, EQUIPMENT, EQUIPMENT PURCHASE, MAINTENANCE SERVICES and SOFTWARE LICENSE Modules.
- ee. **Monthly Minimum Charge or MMC** means the regular recurring Charge that is identified in an Order and which, along with any additional print/impression charges, covers the cost for the Services, Maintenance Services and/or Products. The MMC may also include lease buyout funds, Funds, monthly equipment component amounts, remaining Customer obligations from previous contracts, and amounts being financed or refinanced. One-time items, recurring separate charges and usage based charges (as such items or charges, as applicable, are defined on an Order) are billed separately from the MMC.
- ff. **Order** means a document that Xerox requires for processing of orders for Services, Maintenance Services and/or Products hereunder, which may specify the contracting parties and location(s) where the foregoing

will be provided; Customer's requested shipment date; the Products that Customer will purchase, lease, rent or license; the Services and/or Maintenance Services that Xerox will provide; the applicable Charges and expenses; the term during which the Services, Maintenance Services and/or Products described therein shall be provided; the Xerox-provided contract number; and any applicable SLAs. An Order must reference the applicable Services Contract number, and may also be in the form of a Services and Solutions Order ("SSO"), a Xerox Order Agreement ("XOA") (which is used solely for an outright purchase by Customer under the EP module of this Agreement), an eCommerce Order (which is used solely for electronic ordering through an eCommerce Portal as defined and described in Section 2.16), or a Customer-issued PO. A Statement of Work may be part of an Order but cannot function as a stand-alone ordering document.

- gg. **Privacy Laws** means laws relating to data privacy and data protection as applicable to Xerox's performance of the Services.
- hh. **Private Information** means Protected Health Information ("PHI") as defined by the Health Insurance Portability and Accountability Act ("HIPAA"), Non-Public Personal Information ("NPI") as defined by the Gramm-Leach Bliley Act ("GLBA") and equivalent categories of protected health and financial information under applicable state Privacy Laws.
- ii. **Products** means Xerox Products and/or Third Party Products supplied by Xerox and provided to Customer pursuant to an Order.
- jj. **Purchase Order or PO** means a document containing the applicable Services Contract number that is issued by Customer to Xerox for Order entry purposes only. Any terms and conditions in a PO at variance with or in addition to the applicable Services Contract are not binding and are of no force or effect.
- kk. **Purchased Equipment** means Equipment or Third Party Hardware that Xerox sells outright to Customer under the EP Module.
- ll. **Remote Data** means data that is automatically collected by Xerox from, or transmitted to or from Xerox by, Equipment or Third Party Products connected to Customer's network. Examples of Remote Data include product registration, meter read, supply level, equipment configuration and settings, software version, and problem/fault code data. Remote Data may also be collected by the Xerox Tools and certain Services Software as set forth in the applicable SOW.
- mm. **Remote Data Access** means electronic transmission of Remote Data to or from a secure offsite location.
- nn. **Residuals** means general ideas, concepts, know-how, methods, processes, technologies, algorithms or techniques related to the Products and/or Services, which are in non-tangible form and retained in the unaided memory of persons who have had access to Confidential Information.
- oo. **Service Level Agreements or SLAs** means the levels of performance for the Services, if applicable, as set out in the applicable Order.
- pp. **Services** means managed services (e.g. copy center and mailroom services), consultative services, and/or professional services, including, but not limited to, assessment, document management, and managed and centralized print services, as more fully described in the applicable Order. Standard back-office administrative and contract support functions, such as billing, contract management and order processing, are not Services, but are included in the pricing provided for the Services hereunder.
- qq. **Services Contract** means the applicable terms and conditions of this Agreement, the first Order having a particular assigned Services Contract number, and each additional Order, if any, with the same Services Contract number.
- rr. **Services Software** means software products used to provide certain Services (both a server component and/or client component to be installed on end user's workstations, mobile devices and/or laptops) that may include one or more of the individual software modules identified on a Statement of Work or Order.
- ss. **Software** means Services Software, Base Software and Application Software.
- tt. **Statement of Work or SOW** means a document which references the applicable Services Contract number and specifies the details of a particular transaction where Customer wishes to acquire Services, Maintenance Services and/or Products from Xerox under this Agreement.
- uu. **Supplier Equipment** means devices which are supplied by Xerox to the Customer during the term of an Order. Supplier Equipment may be Equipment or Third Party Hardware.
- vv. **Taxes** means any and all taxes of any kind or nature, however denominated, imposed or collected by any governmental entity, including but not limited to federal, state, provincial, or local net income, gross income, sales, use, transfer, registration, business and occupation, value added, excise, severance, stamp, premium, windfall profit, customs, duties, real property, personal property, capital stock, social security, unemployment, disability, payroll, license, employee or other withholding, or other tax, of any kind whatsoever, including any interest, penalties or additions to tax or additional amounts in respect of the foregoing.

- ww. **Third Party Funds** means funds Xerox provides to Customer to acquire Third Party Hardware or to license Third Party Software and/or to retire debt on existing Third Party Hardware.
- xx. **Third Party Hardware** means non-Xerox brand equipment.
- yy. **Third Party Products** means, collectively, Third Party Hardware and Third Party Software.
- zz. **Third Party Software** means non-Xerox brand software.
- aaa. **Transaction Taxes** means any and all Taxes that are required to be paid in respect of any transaction and resulting Charges under this Agreement and any transaction documents, including but not limited to sales, use, services, rental, excise, transactionally-based gross receipts, and privilege Taxes.
- bbb. **Xerox Products** means Equipment, Software and Consumable Supplies acquired pursuant to this Agreement.
- ccc. **Xerox Tools** means certain proprietary tools used by Xerox to provide certain Services, and any modifications, enhancements, improvements thereto and derivative works thereof.

GENERAL MODULE

2. GENERAL

The terms and conditions in this GENERAL Module apply to all Services, Maintenance Services, and Products acquired by Customer under this Agreement.

2.1. Agreement Structure

- a. **General Contract Structure.** The parties intend for this Agreement to serve as a master agreement stating the terms and conditions governing separate transactions between (i) Xerox and Customer, and (ii) Xerox and Eligible Affiliates. Xerox will provide, and Customer will procure, Services, Maintenance Services and/or Products in accordance with the terms and conditions stated in this Agreement, any Services Contract(s), and any applicable Orders.
- b. **Eligible Affiliates.** Only Customer and its Eligible Affiliates may acquire Services, Maintenance Services and Products under this Agreement. If an Eligible Affiliate establishes a Services Contract by signing an Order, it will be the "Customer" for the purposes of such Services Contract. If Customer divests an Eligible Affiliate, such divested entity is no longer eligible to establish any new Services Contracts or to submit any additional Orders under an existing Services Contract; however, Products installed and Services being provided at such divested entity under an existing Order shall retain the pricing and terms and conditions thereof.
- c. **Orders and Services Contracts.**
 - i. Xerox may accept Orders either by its signature or by commencing performance. Xerox reserves the right to review and approve Customer's credit, or in the case of an Order by an Eligible Affiliate, such Eligible Affiliate's credit, prior to acceptance of an Order and the entity placing the Order hereby authorizes Xerox or its agent to obtain credit reports from commercial credit reporting agencies for this purpose.
 - ii. Orders for Services, Maintenance Services, and/or Products are grouped into Services Contracts. Each separate Services Contract will be established when the first Order is placed that bears a new Services Contract number assigned by Xerox and Xerox accepts that Order. Each Services Contract will be assigned its own Services Contract number that will consist of this Agreement's number followed by a three-digit extension. Each Services Contract constitutes a separate contract under this Agreement. Customer may add Services, Maintenance Services or Products to an existing Services Contract by submitting additional Orders referencing the applicable Services Contract number. Each Services Contract will consist of the terms and conditions of this Agreement, the first Order under the Services Contract number and each additional Order with the same Services Contract number.
 - iii. Unless Customer provides notice in writing at least 30 days before the end of the term of an Order of its intention not to renew, the Order will renew automatically on a month-to-month basis on the same terms and at the same price.
 - iv. Orders may be submitted by hard copy or electronic means and those submitted electronically will be considered: (a) a "writing" or "in writing," (b) "signed" by the Customer; (c) an "original" when printed from electronic records established and maintained in the ordinary course of business; and (d) valid and enforceable.

2.2. CHARGES, PAYMENT AND DEFAULT

- a. **Charges.** Charges for the particular Services, Maintenance Services, and/or Products will be set forth in an Order and are exclusive of any and all Transaction Taxes. Xerox's then current overtime rates will apply to Services requested and performed outside Customer's standard working hours.
- b. **Payment.** Customer agrees to pay Xerox all undisputed amounts due under each invoice via check, Automated Clearing House debit, Electronic Funds Transfer, or direct debit from Customer's bank account within 30 days after the invoice date. Restrictive covenants submitted for or with payment to indicate that it is in full satisfaction of an invoice will not operate as an accord and satisfaction to reduce Customer's payment obligations if it is not, in fact, full payment. For any payment not received by Xerox as of the due date, Xerox may charge, and Customer agrees to pay, a late charge of the greater of \$25 or 5% of the amount overdue (not to exceed the maximum amount permitted by applicable law) as reasonable collection costs. If Customer disputes any amount included in an invoice, then (i) Customer must notify Xerox of the dispute in writing, (ii) such notice shall include a description of the items Customer is disputing and the reason such items are being disputed; and (iii) Customer shall promptly exercise its best efforts to work with Xerox to resolve such dispute. Pending resolution of such disputed amount, Customer shall pay any and all undisputed amounts within 30 days of invoice date, including the MMC which Customer agrees shall not be subject to dispute at any time.
- c. **Default.** Customer will be in default if Xerox does not receive any payment within 15 days after the date it is due, or if Customer breaches any other obligation under this Agreement, any Services Contract, or any other agreement with Xerox. If Customer defaults, Xerox, in addition to its other remedies (including cessation of Services, Maintenance Services and/ or Consumable Supplies), may require immediate payment of (1) all amounts then due, plus interest on all amounts due from the due date until paid at the rate of 1.5% per month (or the maximum rate or amount allowed under applicable law), and (2) any early termination charges set forth in this Agreement or in the applicable Services Contract and/or Order(s). Customer will pay all reasonable costs, including attorneys' fees, incurred by Xerox to enforce any Services Contract.

2.3. Taxes

Customer will be responsible for all Transaction Taxes. Transaction Taxes will be included in Xerox's invoice unless Xerox receives proof of Customer's tax-exempt status. Customer shall not be responsible for Excluded Taxes.

2.4. Customer Responsibilities

Customer agrees to perform its responsibilities under this Agreement in support of the Services, Maintenance Services, or Products in a timely manner. Customer agrees:

- a. that Products acquired hereunder are ordered for Customer's (or its Affiliates') own internal business use (rather than resale, license and/or distribution outside of Customer's organization) and will not be used for personal, household or family purposes;
- b. to (1) provide Xerox and its agents with timely and sufficient access, without charge, to Customer Facilities required by Xerox to perform Services and Maintenance Services and/or provide Products, and (2) ensure that Customer Facilities are suitable for the Services, Maintenance Services and/or Products, safe for Xerox personnel, and fully comply with all applicable laws and regulations, including without limitation any federal, state and local building, fire and safety codes;
- c. to provide Xerox and its agents with timely and sufficient use of and access, without charge, to Customer Assets required by Xerox to perform Services and Maintenance Services and/or provide Products, and to grant Xerox and its agents sufficient rights to use, access and, if agreed, modify the same;
- d. to acquire or continue maintenance, repair and software support services, without charge to Xerox, for all Customer Assets that Customer permits Xerox to use or access;
- e. to maintain the manufacturer's maintenance agreement for any Third Party Products;
- f. to provide Xerox with access to appropriate members of Customer personnel, as reasonably requested by Xerox, in order for Xerox to perform the Services and Maintenance Services and/or provide Products;
- g. to respond to and provide such documentation, data and other information as Xerox reasonably requests in order for Xerox to perform the Services and Maintenance Services and/or provide Products;
- h. to contract for the minimum types and quantities of Equipment and Consumable Supplies required by Xerox to perform the Services and Maintenance Services;
- i. that, as between Xerox and Customer, Customer alone is responsible for backing up its data and content and Xerox shall not be responsible for Customer's failure to do so;
- j. that as between Xerox and Customer, Customer alone is responsible for determining whether content and materials provided to Xerox (i) is libelous, defamatory or obscene, or (ii) may be duplicated, scanned or imaged without violating a third party's intellectual property rights; and

- k. to provide contact information for Equipment such as name and address of Customer contact.

2.5. Warranties

- a. **Mutual Warranties.** Each party represents and warrants to the other, as an essential part of this Agreement, that:
 - i. it is duly organized and validly existing and in good standing under the laws of the state or country of its incorporation or formation;
 - ii. this Agreement and the Orders hereunder have been duly authorized by all appropriate corporate action for signature; and
 - iii. the individual signing this Agreement, and all Orders (where applicable), is duly authorized to do so.
- b. **Xerox Warranties.**
 - i. Services Performance. Xerox agrees to perform the Services in a professional manner, consistent with applicable industry standards. Xerox will re-perform any Services not in compliance with this representation and brought to Xerox's attention in writing within 30 days after such Services are performed, which shall be the exclusive remedy for such non-compliance.
 - ii. Equipment Warranty. Any Equipment warranty to which Customer is entitled shall commence upon the Date of Installation. Use by Customer of consumables not approved by Xerox that affect the performance of the Equipment may invalidate any applicable warranty.
 - iii. Third Party Product Warranty. Where Xerox in its sole discretion selects and supplies Third Party Products, Xerox warrants they will operate substantially in conformance with applicable SLAs or other requirements in the Order. Customer's sole remedy for breach of this warranty is to return the Third Party Product to Xerox and then receive a refund of any fees paid for such non-conforming Third Party Product, less a reasonable usage fee. If Customer requests a specific Third Party Product, Xerox will pass-through as permitted any third party warranties.
 - iv. Exclusions. Xerox shall not be responsible for any delay or failure to perform the Services or provide Products, including achieving any associated SLAs or other requirements in the applicable SOWs, DOSS or Orders, to the extent that such delay or failure is caused by:
 - (a) Customer's failure or delay in performing its responsibilities under this Agreement;
 - (b) reasons outside Xerox's reasonable control, including Customer Assets, Customer's content or materials, or delays or failures by Customer's agents, suppliers or providers of maintenance and repair services for Customer Assets; or
 - (c) unauthorized modifications to Equipment, Software or Third Party Hardware.
- c. **Disclaimer.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND XEROX DISCLAIMS AND CUSTOMER WAIVES ALL OTHER WARRANTIES INCLUDING ANY WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. EXCEPT AS EXPRESSLY PROVIDED HEREIN AND AS PERMITTED BY APPLICABLE LAW, CUSTOMER WAIVES ALL RIGHTS AND REMEDIES CONFERRED UPON A LESSEE BY ARTICLE 2A OF THE UNIFORM COMMERCIAL CODE.

The warranties set forth in this Agreement are expressly conditioned upon the use of the Services and Products for their intended purposes in the systems environment for which they were designed and shall not apply to any Services or Products which have been subject to misuse, accident or alteration or modification by Customer or any third party.

2.6. Intellectual Property

- a. Xerox Tools may be used by Xerox to provide certain Services, as set forth in an Order or a Statement of Work. Xerox and its licensors will at all times retain all right, title and interest in and to Xerox Tools including without limitation, all intellectual property rights therein, and, except as expressly set forth herein or as set forth in an SOW where limited access to the Xerox Device Manager (XDM) may be granted for a specific purpose, no rights to use, access or operate the Xerox Tools are granted to Customer. Xerox Tools will be installed and operated only by Xerox or its authorized agents. Customer will not decompile or reverse engineer any Xerox Tools, or allow others to engage in same. Customer will have access to Remote Data and reports generated by the Xerox Tools and stored in a provided database as set forth in the applicable SOW. Xerox may remove Xerox Tools at any time in Xerox's sole discretion, provided that the removal of Xerox Tools will not affect Xerox's obligations to perform Services, and Customer shall reasonably facilitate such removal.

- b. Each party will retain ownership of its Intellectual Property. Each party grants the other a limited, non-exclusive, royalty-free right and license to use the other party's Intellectual Property (excluding the Xerox Tools) in the U.S. only to the extent necessary for such party and its designees to receive the benefit of, and/or, fulfill its obligations under this Agreement. Neither party will (i) distribute, copy, modify, create derivatives of, decompile, or reverse engineer the Intellectual Property of the other or, (ii) allow others to engage in same, except as permitted by applicable law or as expressly permitted under this Agreement or the applicable SOW.
- c. The parties acknowledge and agree that no Intellectual Property will be created or transferred under this Agreement. If the scope of the parties' relationship changes to include creation or transfer of Intellectual Property, that activity will be addressed in a separate written agreement.
- d. If the Products or Services are configured to provide output (excluding Remote Data), including modification or transformation of Customer Information, Customer shall be the sole owner of any such output in any format or media obtained by use of the Products or Services and may freely use and disclose such output to any third party. Examples of output include scans and printed output of Customer Information processed by Equipment.

2.7. Indemnification

- a. **Mutual Indemnification.** Each party (and its Affiliates), if promptly notified by the other and given the right to control the defense, shall indemnify, defend and hold harmless the other party, its Affiliates, and their respective officers, directors, employees, agents, successors and assigns, from and against all claims by a third party for losses, damages, costs or liability of any kind (including expenses and reasonable legal fees) that a court finally awards such party ("Claims") for bodily injury (including death) and damage to real or tangible property, to the extent proximately caused by the negligent acts or omissions, or willful misconduct of the indemnifying party (or its Affiliates) in connection with this Agreement.
- b. **Xerox Indemnification.** Xerox shall, if promptly notified by Customer (or its Affiliate(s)) and given the right to control the defense, indemnify, defend and hold harmless Customer, its Affiliates and their respective officers, directors, employees, agents, successors and assigns, for all Claims that Xerox Products or Customer's use of the Services provided by Xerox under this Agreement infringe a U.S. patent, copyright or other intellectual property right. Notwithstanding anything to the contrary herein, Xerox shall have no obligation under this Section **2.7(b)** to the extent any Claim is based on or arises out of any (i) Services performed using Customer Assets, Customer Information or other materials provided to Xerox by Customer for which Customer failed to provide sufficient rights to Xerox; (ii) infringement by Services resulting from Customer's direction, specification or design; (iii) modification or alteration to such Xerox Products or Services not approved in writing by Xerox; (iv) any combination or use of the Xerox Products or Services not approved in writing by Xerox; (v) use of the Xerox Products or Services not in accordance with the applicable Documentation; or (vi) Customer's failure to use corrections or enhancements to the Xerox Products provided by Xerox. If a Claim is made or appears likely to be made pursuant to this Section **2.7(b)**, Customer agrees to permit Xerox, at Xerox' sole option and expense, to obtain the right to enable Customer to continue to use such Xerox Products, to make them non-infringing or to replace them with items that are at least functionally equivalent. If Xerox determines that none of these alternatives is reasonably available, Customer agrees to return such Xerox Products to Xerox upon Xerox' written request. Xerox will then give Customer a refund equal to the amount Customer paid Xerox for such Xerox Products less a reasonable usage fee.
- c. **Customer Indemnification.** Customer shall, if promptly notified by Xerox (or its Affiliate(s)) and given the right to control the defense, indemnify, defend and hold harmless Xerox, its Affiliates, and their respective officers, directors, employees, agents, successors and assigns, for all Claims for intellectual property infringement to the extent such Claim is based on (i) Xerox's use of Customer Assets, Customer Information or customer's content or materials used in performing Services or providing Products under this Agreement or any Order entered into hereunder; (ii) Customer's use of the Products or Services not in accordance with this Agreement or the applicable Documentation; and (iii) Claims arising out of or related to Section **2.7(b)(i)-(vi)** or Customer's failure to perform its responsibilities under Section **2.4(j)**.
- d. The indemnifying party is not responsible for any litigation expenses of the indemnified party or any settlements unless it pre-approves them in writing.

2.8. Limitation of Liability

Except as prohibited by law, the following limitations apply:

- a. **NO CONSEQUENTIAL DAMAGES.** SUBJECT TO SECTION **2.8(c)**, IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS FOR ANY INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE,

SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, AND EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

- b. **LIMITATION ON RECOVERY.** SUBJECT TO SECTION 2.8(c), THE TOTAL AGGREGATE LIABILITY OF EITHER PARTY (AND ITS AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS) FOR DIRECT DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, WILL BE LIMITED TO AN AMOUNT EQUAL TO THE AMOUNT OF ALL CHARGES PAID BY CUSTOMER TO XEROX UNDER THE ORDER UNDER WHICH THE CLAIM AROSE (LESS PASS THROUGH EXPENSES SUCH AS, WITHOUT LIMITATION, POSTAGE) IN THE TWENTY-FOUR (24) MONTHS PRIOR TO THE DATE UPON WHICH THE CLAIM AROSE. THE EXISTENCE OF MULTIPLE CLAIMS OR SUITS UNDER OR RELATED TO THIS AGREEMENT AND ANY ORDERS HEREUNDER WILL NOT ENLARGE OR EXTEND THIS LIMITATION OF DAMAGES. NOTWITHSTANDING THE FOREGOING, NOTHING SET FORTH IN THIS SECTION 2.8(b) SHALL LIMIT CUSTOMER'S OBLIGATION TO PAY XEROX ALL CHARGES AND EXPENSES FOR PRODUCTS AND SERVICES PROVIDED UNDER THIS AGREEMENT.
- c. **EXCEPTIONS.** THE LIMITATIONS SET FORTH IN SECTION 2.8 SHALL NOT APPLY WITH RESPECT TO:
 - i. THE SPECIFIC INDEMNITY OBLIGATIONS SET OUT IN THIS AGREEMENT;
 - ii. EITHER PARTY'S WILLFUL MISCONDUCT, GROSS NEGLIGENCE OR FRAUD;
 - iii. BODILY INJURY OR DEATH CAUSED BY A PARTY'S NEGLIGENCE OR WILLFUL MISCONDUCT OR THAT OF ITS EMPLOYEES, AGENTS OR SUBCONTRACTORS; OR
 - iv. A PARTY EXCEEDING ITS RIGHTS, IF ANY, TO THE OTHER PARTY'S INTELLECTUAL PROPERTY OR MISAPPROPRIATING OR INFRINGING THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS AS GRANTED UNDER THIS AGREEMENT.

2.9. Term and Termination

This Agreement shall commence on the Effective Date and shall continue for a term of _____ months, and continue on a month-to-month basis thereafter until expressly renewed by mutual written agreement or terminated by either party upon 30 days' written notice. Upon termination, Customer shall permit Xerox to enter Customer Facilities for purposes of removing the Products owned by Xerox and/or Xerox Tools. Each Order hereunder shall have its own term, which shall be stated in the Order. In the event the Agreement is terminated, each Services Contract in effect at such time shall remain in full force and effect until the expiration or termination of all Orders constituting such Services Contract (including any extensions or renewals thereof) and shall at all times be governed by, and be subject to, the terms and conditions of this Agreement as if this Agreement were still in effect. Termination of any Order shall not affect this Agreement or any other Orders then in effect. Notwithstanding any other provision in the Agreement to the contrary, should an Order be terminated prior to expiration for any reason or a unit of Third Party Hardware or any Third Party Software for which Third Party Funds have been provided is removed or replaced prior to expiration, Customer agrees to pay to Xerox, in addition to any other amounts owed under said Order, an amount equal to the remaining principal balance of the Funds together with a 15% disengagement fee, for loss of bargain and not as a penalty.

2.10. Confidentiality

- a. **Obligations.** Information exchanged under this Agreement will be treated as confidential if it is identified as confidential at disclosure or if the circumstances of disclosure would indicate to a reasonable person that the information should be treated as confidential. The terms and conditions of this Agreement, all Services Contracts and Orders, and any attachments and exhibits thereto, are Confidential Information of Xerox and Customer, and each party agrees not to disclose any of the foregoing without the other party's prior written consent. Any services procedures manuals and Xerox's Intellectual Property are Xerox Confidential Information. Private Information is Customer's Confidential Information. Confidential Information may only be used for the purposes of receiving the benefit of or fulfilling obligations under this Agreement, and shared with employees, agents or contractors with a need to know such information to support the foregoing purposes. Confidential Information will be protected using a reasonable degree of care to prevent unauthorized use or disclosure for 3 years from the termination or expiration of this Agreement or the Order under which such Confidential Information was disclosed, whichever occurs later. The duration of confidentiality obligations with respect to Private Information shall be governed by applicable Privacy Laws. These obligations of confidentiality will not apply to any Confidential Information that: (1) was in the public domain prior to, at the time of, or subsequent to the date of disclosure through no fault of the receiving party; (2) was rightfully in the receiving party's possession or the possession of any third party free of any obligation

of confidentiality; (3) was developed by the receiving party's employees independently of and without reference to any of the other party's Confidential Information; or (4) where disclosure is required by law or a government agency; provided, however, as to a requirement to disclose Confidential Information per clause (4), that party will (x) notify the disclosing party of the obligation to make such disclosure, and (y) reasonably cooperate with the disclosing party if the disclosing party seeks a protective order, but any costs incurred by the receiving party will be reimbursed by the disclosing party, except for costs of the receiving party's employees.

- b. **Residual Rights.** Each party understands that the other party shall be free to use for any purpose the Residuals resulting from access to Confidential Information as a result of the performance of its obligations under an Order, provided that such party shall maintain the confidentiality of such Confidential Information as provided herein. Neither party shall pay royalties for the use of Residuals. However, the foregoing shall not be deemed to grant either party a license under the other party's copyrights or patents.

2.11. Data Protection/Privacy

- a. To the extent that Privacy Laws are applicable to Customer and Xerox in connection with the performance of Services, each party agrees to comply with the applicable provisions of such Privacy Laws.
- b. Xerox has adopted reasonable physical, technical and organizational safeguards designed to prevent accidental, unauthorized or unlawful loss, disclosure, access, transfer or use of Private Information. Xerox will promptly notify Customer in the event of any known unauthorized or unlawful loss, disclosure, access, transfer or use of Private Information.

2.12. GOVERNING LAW AND JURISDICTION

- a. This Agreement, each respective Order, and any dispute or claim arising out of or in connection with this Agreement or such Order, shall be governed by and construed in accordance with the laws of New York without regard to its conflict of laws provisions and submitted to the exclusive jurisdiction of the federal and state courts of New York.
- b. In any action to enforce this Agreement or any Order hereunder, the parties agree to waive their right, if any, to a jury trial.

2.13. Force Majeure

Except for Customer's absolute and unconditional obligation to make all required payments of any amounts not properly disputed under this Agreement, neither Customer nor Xerox shall be liable to the other party during any period in which its performance is delayed or prevented, in whole or in part, by a Force Majeure Event. If such a circumstance occurs, the party whose performance is delayed or prevented shall undertake reasonable action to notify the other party thereof.

2.14. Compliance with Laws and Policies

Xerox and Customer shall comply with all applicable laws and regulations in the performance of their respective obligations under this Agreement. Xerox agrees to comply with Customer's internal policies regarding security and safety at Customer Facilities that are reasonable and customary under the circumstances and which do not conflict with the terms of this Agreement. Customer agrees to provide Xerox with reasonable prior written notice of such policies and any changes to such policies. If a change in Customer policy results in incremental costs to Xerox, Xerox may, upon providing notice to Customer, pass such costs on to Customer.

2.15. Miscellaneous

- a. **Copies of Agreement.** Except as required by law, both parties agree that any reproduction of this Agreement made by reliable means (for example, photocopy or facsimile) shall be considered an original. Xerox may retain a hardcopy, electronic image, photocopy or facsimile of this Agreement and each Order hereunder, which shall be considered an original and shall be admissible in any action to enforce said Agreement or Order.
- b. **Amendment.** All changes to this Agreement must be made in a writing signed by Customer and Xerox. Any amendment of this Agreement shall not affect the obligations of either party under any then-existing Orders, which shall continue in effect unless the amendment expressly states that it applies to such existing Orders. An amendment to a Services Contract shall reference the number of the Services Contract that it amends.
- c. **No Waiver; Severability; Survival.** The failure by Customer or Xerox to insist upon strict performance of any of the terms and conditions in this Agreement or to exercise any rights or remedies will not be construed as a waiver of the right to assert those rights or to rely on that term or condition at any time thereafter. If any provision is held invalid by any arbitrator or any court under applicable law, such provision shall be deemed to be restated as nearly as possible to reflect the original intention of the parties in accordance with applicable law. The remainder of this Agreement shall remain in full force and effect. Any terms and conditions of this

Agreement or any Order which by their nature extend beyond the termination or expiration of the Agreement or Order will survive such termination or expiration.

- d. **Independent Contractors.** Xerox shall perform all Services hereunder in the capacity of independent contractor and not as Customer's employee, agent or representative. Xerox employees shall not be entitled to privileges of employment that Customer may provide to Customer's employees, and Xerox shall be responsible for payment of all unemployment, social security, federal (state and local, as necessary) and other payroll taxes in regard to its employees involved in the performance of the Services. Neither of the parties, nor their respective employees or Affiliates, shall be authorized to conclude contracts in the name of the other party, or to act or appear as a representative of the other, whether in performing the Services or otherwise.
- e. **No Hiring.** During the term of an Order under which Xerox is providing Services and for a period of 1 year thereafter, Customer and Xerox each agree not to hire, solicit, or employ any of the other's personnel who have been engaged in the provision of services or the performance of this Agreement, unless prior written consent is obtained from the other party. Such prohibition shall not apply to hiring as a result of general public solicitations of employment. Should one of the parties hire the other party's personnel in violation of this Agreement, the violating party shall immediately pay to the other, as liquidated damages and as the sole remedy for such violation, an amount equal to such personnel's then current annual compensation (or the amount paid to such person during the previous 12 months in the case of an independent contractor).
- f. **Assignment.** Except for Xerox's assignment to an Affiliate or to a third party for the purposes of securitizing or factoring, neither party may assign this Agreement and any Order(s) hereunder without the prior written consent of the other party. In the event of a permitted assignment by Xerox, each successive assignee of Xerox will have all of the rights but none of the obligations of Xerox pursuant to this Agreement. Customer will continue to look to Xerox for performance of Xerox's obligations hereunder and Customer hereby waives and releases any assignees of Xerox from any such claim. Customer will not assert any defense, counterclaim or setoff that Customer may have or claim against Xerox against any assignee of Xerox.
- g. **Communication Authorization.** Customer authorizes Xerox or its agents to communicate with Customer by any electronic means (including cellular phone, email, automatic dialing and recorded messages) using any phone number (including cellular) or electronic address that Customer provides to Xerox.
- h. **Limitation on Charges.** In no event will Xerox charge or collect any amounts in excess of those allowed by applicable law. Any part of an Order that would, but for this Section, be construed to allow for a charge higher than that allowed under any applicable law, is limited and modified by this Section to limit the amounts chargeable under such Order to the maximum amount allowed by law. If, in any circumstances, an amount in excess of that allowed by law is charged or received, such charge will be deemed limited to the amount legally allowed and the amount received by Xerox in excess of that legally allowed will be applied to the payment of amounts owed or will be refunded to Customer.
- i. **Order of Precedence; Entire Agreement.** This Agreement, including all schedules, attachments, exhibits and amendments hereto and the Services Contract(s) hereunder, constitutes the entire agreement between the parties as to the subject matter and supersedes all prior and contemporaneous oral and written agreements regarding the subject matter hereof and neither party has relied on or is relying on any other information, representation, discussion or understanding in entering into and completing the transactions contemplated in this Agreement. The parties agree that except as expressly set forth in this Agreement, in the event of any conflict between terms and conditions, the order of precedence shall be this Agreement, the applicable Orders under the Services Contract (excluding Customer POs), and the SOW or DOS, as applicable. If a term in this Agreement expressly provides for a term in an Order to take precedence, such provision in the Order shall prevail to the extent of any conflict. Notwithstanding the foregoing, provisions in the General Module of this Agreement related to: (1) Section 2.6 (Intellectual Property Ownership); (2) Section 2.7 (Indemnification); (3) Section 2.8 (Limitation of Liability); (4) Section 2.10 (Confidentiality); and (5) Section 2.3 (Taxes), will prevail over conflicting provisions in any other contractual document.

2.16. eCommerce Portal

Xerox and Customer agree to establish one or more eCommerce portals (each, an "eCommerce Portal") to be used by Customer to select certain models of Equipment and supplies identified in such eCommerce Portals and, upon meeting the conditions set forth below, to submit Orders for the delivery of such Equipment and supplies. During the ordering process in the eCommerce Portal, Customer will be prompted to electronically accept certain terms and conditions that are in addition to those terms and conditions in this Agreement and which would otherwise print out on an SSO:

- (a) If Customer accepts such terms and conditions, Xerox will accept and process such order submitted through the eCommerce Portal as an Order (an "eCommerce Order") without any requirement for Customer to execute and deliver an SSO or any other Order form.
- (b) If Customer declines such terms and conditions, then (i) Xerox will not accept the submission as an Order and (ii) Customer will need to execute and deliver to Xerox, an SSO presented by Xerox that identifies such Equipment or supplies, the term thereof, the pricing associated therewith and any applicable additional terms and conditions related thereto.

Notwithstanding the foregoing, an eCommerce Order cannot be used for certain types of transactions including, but not limited to, transactions involving Equipment subject to waiver dollars and/or flexibility, involving trade-in units, specific high-end Equipment and Equipment subject to a pooled volume minimum.

SERVICES MODULE

3. TERMS AND CONDITIONS SPECIFIC TO SERVICES

In addition to the terms and conditions in the GENERAL Module, the following terms and conditions apply to Xerox's performance of Services.

3.1. Scope of Services

Subject to the terms and conditions of this Agreement, Services will be performed by Xerox and/or its Affiliates in accordance with the requirements set forth in an Order. If Customer fails to perform or is delayed in performing any of its responsibilities under this Agreement, such failure or delay may prevent Xerox from being able to perform any part of the Services or Xerox-related activities. Xerox shall be entitled to an extension or revision of the applicable term of the Order (which may include setting a new expected date for commencement of Services) or to an equitable adjustment in performance metrics associated with such failure or delay. Xerox grants Customer a non-exclusive, non-transferable, non-sublicensable right and license to access and use the Services only for the purpose of such Customer and its designees receiving the benefit of the Services set forth in the applicable SOW.

3.2. Charges for Services

Charges for Services are set forth in the applicable Order. Charges are based upon information exchanged between Customer and Xerox, which is assumed to be complete and accurate, and also depend upon other factors such as the timely performance by Customer of its responsibilities. If: (a) such information should prove to be incomplete or inaccurate in any material respect; or (b) there is a failure or delay by the Customer in performing its responsibilities under this Agreement or an Order which results in Xerox incurring a loss or additional cost or expense, then the charges shall be adjusted to reflect proportionately the impact of such materially incomplete or inaccurate information or such failure or delay. Charges that are indicated in an Order as being fixed are not subject to an annual percentage escalation for the initial term of such Order; otherwise, Xerox may increase Charges for Services annually by an amount no greater than the CPI Adjustment Percentage. If Xerox provides Services partially or early (for example, prior to the start of the initial term of an Order), Xerox will bill Customer on a pro rata basis, based on a 30 day month, and the terms and conditions of this Agreement will apply.

3.3. Use of Subcontractors

Xerox may, when it reasonably deems it appropriate to do so, subcontract any portion of the Services. Xerox shall remain responsible for any Services performed by subcontractors retained by Xerox to the same extent as if such Services were performed by Xerox.

3.4. Services Scope Changes

Except as otherwise set forth in an Order, either party may propose to modify the then-existing Services that are described in an Order, or to add new Services under a Services Contract. If Xerox determines such changes are feasible, Xerox will prepare and propose to Customer an Order incorporating the requested changes and any related impact to the Charges or terms. Once Customer executes and Xerox accepts the Order, Xerox will promptly proceed with the new and/or revised Services in accordance with the terms of the Order and this Agreement.

3.5. Early Termination of Services and Labor

Except as otherwise set forth in a Services Contract, upon 90 days prior written notice, Customer may terminate or reduce any Services or labor provided pursuant to an Order without incurring early termination charges except as set forth in the next sentence. Notwithstanding the foregoing, if any such Services or labor provided under an Order are terminated (a) by Xerox due to Customer's default or (b) by Customer and Customer acquires similar services from another supplier within 6 months of the termination of such Services or labor, Customer shall pay all amounts due as of the termination date, together with the early termination charges, for loss of bargain and not as a penalty, stated in the

Order or, if not specifically stated therein, an amount equal to the then current MMC for said terminated or reduced Services or labor multiplied by the number of months remaining in the term of the related Order, not to exceed 6 months.

EQUIPMENT MODULE

4. TERMS AND CONDITIONS SPECIFIC TO EQUIPMENT & THIRD PARTY HARDWARE

In addition to the terms and conditions in the GENERAL Module, the following terms and conditions apply to Equipment and Third Party Hardware provided to Customer.

4.1. Term and Date of Installation

The term for each unit of Equipment shall be the term stated on the applicable Order, with the commencement date based upon the actual Date of Installation. If the Date of Installation for a unit of Equipment is prior to the applicable Order start date, Xerox will bill the Customer for such Equipment on a pro rata basis, based on a 30-day month, and the terms and conditions of this Agreement and the applicable Services Contract will apply as of the Date of Installation.

4.2. Delivery and Removal and Suitability of Customer Facilities

Xerox will be responsible for all standard delivery charges for Equipment and Third Party Hardware and, for Equipment or Third Party Hardware for which Xerox holds title, standard removal charges. Non-standard delivery or removal charges (including removal prior to the end of the term for any Equipment) will be at Customer's expense. The suitability of Customer Facilities for installation of Equipment or Third Party Hardware, including compliance with state and local building, fire and safety codes and any non-standard state or local installation requirements, is Customer's responsibility.

4.3. Equipment Status

Unless Customer is acquiring previously installed equipment, Equipment will be either: (a) "Newly Manufactured," which may contain some recycled components that are reconditioned; (b) "Factory Produced New Model" which is manufactured and newly serialized at a Xerox factory, adds functions and features to a product previously disassembled to a Xerox predetermined standard, and contains new components and recycled components that are reconditioned; or (c) "Remanufactured," which has been factory produced following disassembly to a Xerox predetermined standard and contains both new components and recycled components that are reconditioned. Xerox makes no representations as to the status of any Third Party Hardware that Xerox may provide under any Order.

4.4. Consumable Supplies

If specified in an Order, Xerox will provide Consumable Supplies for related Equipment. Xerox may charge a shipping fee for Consumable Supplies. Consumable Supplies are Xerox's property until used in the Equipment for which they are provided. Upon expiration or termination of the applicable Order, Customer will either return any unused Consumable Supplies to Xerox at Xerox's expense when using Xerox-supplied shipping labels, or destroy them in a manner permitted by applicable law. Xerox reserves the right to charge Customer for any Consumable Supplies usage that exceeds Xerox's published yields by more than 10%. In such a case, Xerox will notify Customer of the excess usage. If such excess usage does not cease within 30 days after notice, Xerox may charge Customer for the excess usage. If Xerox provides paper under a Services Contract, upon 30 days' notice, Xerox may adjust paper pricing or either party may terminate the provision of paper.

4.5. Use and Relocation

For any Equipment or Third Party Hardware provided by Xerox, with the exception of Purchased Equipment for which Customer has paid in full, Customer agrees that: (a) the Equipment or Third Party Hardware shall remain personal property; (b) Customer will not attach any of the Equipment or Third Party Hardware as a fixture to any real estate; (c) Customer will not pledge, sub-lease or part with possession of the Equipment or Third Party Hardware or file or permit to be filed any lien against the Equipment or Third Party Hardware; and (d) Customer will not make any permanent alterations to the Equipment or Third Party Hardware. While Equipment or Third Party Hardware is subject to an Order, Customer must provide Xerox prior written notice of all Equipment or Third Party Hardware relocations and Xerox may arrange to relocate the Equipment or Third Party Hardware at Customer's expense. While Equipment or Third Party Hardware is being relocated, Customer remains responsible for making all payments to Xerox required under the applicable Order. All parts or materials replaced, including as part of an upgrade, will become Xerox's property. Equipment or Third Party Hardware cannot be relocated outside of the U.S. until Customer has paid in full for the Equipment or Third Party Hardware and has received title thereto. Notwithstanding anything to the contrary in the foregoing, to the extent the Equipment contains any Software, any relocation of such Equipment is subject to the terms and conditions set forth in the Software License Module of this Agreement.

4.6. Supplier Equipment Provided

In the event Xerox provides Supplier Equipment to Customer, the following terms shall apply unless otherwise specified in an Order:

- a. Unless Supplier Equipment is purchased by Customer, Xerox (or the applicable third party vendor) shall at all times retain title to the Supplier Equipment. Customer hereby authorizes Xerox or its agents to file financing statements necessary to protect Xerox's rights to the Supplier Equipment. Customer will promptly notify Xerox, in writing, of any change in ownership, or if it relocates its principal place of business or changes the name of its business. The risk of loss or damage to the Supplier Equipment shall pass to Customer upon delivery to the site where Xerox performs the Services and/or Maintenance Services and/or provides Products, as applicable. Customer will insure the Supplier Equipment against loss or damage and the policy will name Xerox as loss payee.
- b. Customer agrees to use the Supplier Equipment in accordance with, and to perform, all operator maintenance procedures for the Supplier Equipment described in the applicable Documentation made available or provided by Xerox. The Customer shall not (unless the Supplier Equipment is Purchased Equipment, and then only with Xerox's prior consent):
 - i. sell, charge, let or part with possession of the Supplier Equipment;
 - ii. remove the Supplier Equipment from Customer Facilities in which it is installed; or
 - iii. make any changes or additions to the Supplier Equipment.
- c. **Early Termination.** Equipment is provided for a minimum order term (as specified in the applicable Order per 4.1 above). If Equipment is terminated for any reason before the end of its minimum order term, the termination charges set forth in the applicable Order or Services Contract for such Equipment shall apply.

4.7. Data Security

Certain models of Equipment can be configured to include a variety of data security features. There may be an additional cost associated with certain data security features. The selection, suitability and use of data security features are solely Customer's responsibility. Upon request, Xerox will provide additional information to Customer regarding the security features available for particular Equipment models. Obligations regarding removal of Customer's Confidential Information that may be stored on hard drives on Equipment owned by Xerox, if any, and any costs associated with such removal will be set forth in the applicable Order.

4.8. Remote Services for Equipment

Certain models of Equipment are supported and serviced using Remote Data Access. Remote Data Access also enables Xerox to transmit to Customer Maintenance Releases or Updates for software or firmware and to remotely diagnose and modify Equipment to repair or correct malfunctions. Remote Data will be transmitted to and from Customer in a secure manner specified by Xerox. Remote Data Access will not allow Xerox to read, view or download any Customer data, documents or other information residing on or passing through the Equipment, Third Party Hardware or Customer's information management systems. Customer grants the right to Xerox, without charge, to establish and maintain Remote Data Access for the purposes described above. Upon Xerox's request, Customer will provide contact information for Equipment such as name and address of Customer contact and IP and physical addresses/locations of Equipment. Customer will enable Remote Data Access via a method prescribed by Xerox and Customer will provide Xerox with reasonable assistance to allow Xerox to have Remote Data Access. Unless Xerox deems Equipment incapable of Remote Data Access, Customer will ensure that Remote Data Access is maintained at all times Maintenance Services are being performed.

4.9. Removal of Hazardous Waste

Customer agrees to take responsibility for legally disposing of all hazardous wastes generated from the use of Third Party Hardware or supplies.

EQUIPMENT PURCHASE MODULE

5. TERMS AND CONDITIONS SPECIFIC TO EQUIPMENT PURCHASE

In addition to the terms and conditions in the GENERAL Module, the following terms and conditions apply to the acquisition of Purchased Equipment:

5.1. Order

Orders for an outright purchase of Purchased Equipment shall include the unique Xerox-provided contract number and the number of this Agreement on all applicable ordering documents.

5.2. Title and Risk of Loss

Title and risk of loss or damage to the Purchased Equipment will pass to Customer upon delivery to the applicable Customer Facilities.

5.3. Default

If Customer defaults under a XOA for Purchased Equipment, Xerox, in addition to its other remedies (including the cessation of Maintenance Services if applicable), may require immediate payment of all amounts then due, plus all Transaction Taxes and applicable interest on all amounts due from the due date until paid. Customer shall also pay all reasonable costs, including attorney's fees, incurred by Xerox to enforce this Agreement.

5.4. Maintenance Services for Purchased Equipment

If Customer elects to receive Maintenance Services for Purchased Equipment, Customer shall do so under a separate Order under the Agreement for such Maintenance Services.

5.5. Agreement Provision Exclusions

The following Agreement provisions do not apply to Orders for an outright purchase of Purchased Equipment: Sections 2.1(c)(ii) - (iii); 2.4(b)-(j); 2.5(b)(i); 2.9; 4.4; and 4.6.

MAINTENANCE SERVICES MODULE

6. TERMS AND CONDITIONS SPECIFIC TO MAINTENANCE SERVICES

In addition to the terms and conditions in the GENERAL Module, and except as otherwise set forth in an Order, the following terms and conditions apply to provision of Maintenance Services.

6.1. Maintenance Services

As part of an Order for (a) stand-alone Maintenance Services related to Purchased Equipment, or (b) Maintenance Services related to Equipment to which Xerox does not hold title, or as a mandatory part of an Order for Equipment (other than Purchased Equipment) that includes Maintenance Services, Xerox or a designated service provider will provide the following Maintenance Services for Equipment. If Customer is acquiring Equipment for which Xerox does not offer Maintenance Services, such Equipment will be designated as "No Svc." This Module does not apply to maintenance of Third Party Hardware. Maintenance that Xerox provides on Third Party Hardware will be provided in accordance with the terms of the applicable Order.

The provision of Maintenance Services is contingent upon Customer facilitating timely and efficient resolution of Equipment issues by: (i) utilizing Customer-implemented remedies provided by Xerox; (ii) replacing Cartridges; and (iii) providing information to and implementing recommendations provided by Xerox telephone support personnel in those instances where Xerox is not providing on-site Equipment support personnel. If an Equipment issue is not resolved after completion of (i) through (iii) above, Xerox will provide on-site support as provided in the applicable Order.

6.2. Repairs and Parts

- a. Xerox will make repairs and adjustments necessary to keep the Equipment in good working order and operating in accordance with its written specifications (including such repairs or adjustments required during initial installation). Maintenance Services shall cover repairs and adjustments required as a result of normal wear and tear or defects in materials or workmanship. Parts required for repair may be new, reconditioned, reprocessed or recovered.
- b. If Xerox is providing Maintenance Services for Equipment that uses Cartridges, Customer will use only unmodified Cartridges purchased directly from Xerox or its authorized resellers. Failure to use such Cartridges will void any warranty applicable to such Equipment. Cartridges packed with Equipment or furnished by Xerox as Consumable Supplies will meet Xerox's new Cartridge performance standards and may be new, remanufactured or reprocessed and contain new and/or reprocessed components. To enhance print quality, Cartridges for many models of Equipment have been designed to cease functioning at a predetermined point. Many Equipment models are designed to function only with Cartridges that are newly manufactured original Xerox Cartridges or with Cartridges intended for use in the U.S.

6.3. Hours and Exclusions

Unless otherwise set forth in an Order, Maintenance Services will be provided in areas accessible for repair services during Xerox's standard working hours. Maintenance Services excludes repairs due to: (a) misuse, neglect or abuse; (b) failure of the installation site or the PC or workstation used with the Equipment to comply with Xerox's published specifications; (c) use of options, accessories, or other products not serviced by Xerox; (d) non-Xerox alterations, relocation, service or supplies; and (e) failure to perform operator maintenance procedures identified in operator

manuals. Customer agrees to furnish all referenced parts, tools, and supplies needed to perform those procedures that are described in the applicable manuals and instructions.

6.4. Installation Site and Meter Readings

In order to receive Maintenance Services for Equipment requiring connection to a PC or workstation, Customer must utilize a PC or workstation that either (a) has been provided by Xerox or (b) meets Xerox's published specifications. The Equipment installation site must conform to Xerox's published requirements. If applicable, unless otherwise set forth in an Order, Customer agrees to provide meter readings in the manner prescribed by Xerox. If Customer does not provide Xerox with meter readings as required, for Equipment not capable of Remote Data Access, or if Remote Data Access is interrupted, Xerox may estimate them and bill Customer accordingly.

6.5. Remedy

As Customer's exclusive remedy for Xerox's failure to provide Maintenance Services, Xerox will, for 5 years after the installation date of the initial unit or the initial term of the Order, whichever is longer, replace the Equipment with an identical product or, at Xerox's option, another model with comparable features and capabilities. If replacement Equipment is provided pursuant to this Section, there shall be no additional charge for its provision by Xerox during the initial term of the Order and it shall be subject to the terms and conditions of this Agreement and the applicable Order(s). Customer's use of non-Xerox approved consumables that affect the performance of the Equipment may invalidate this remedy. If Xerox is unable to keep a unit of Equipment in good working order after the period noted above, either party may terminate Maintenance Services for that unit without any penalties or early termination charges upon not less than 30 days' written notice to the other party.

6.6. End of Service

Xerox has no obligation to maintain or replace Equipment beyond the "End of Service" for that particular model of Equipment. End of Service ("EOS") means the date announced by Xerox after which Xerox will no longer offer Maintenance Services for a particular Equipment model. An EOS Equipment List is available upon request.

SOFTWARE LICENSE MODULE

7. TERMS AND CONDITIONS SPECIFIC TO SOFTWARE

In addition to the terms and conditions in the GENERAL Module the following terms and conditions apply to the license and use of Software and its associated Documentation.

7.1. Software License

Xerox may provide Software to Customer pursuant to an Order hereunder. The following license applies to Software provided hereunder, unless such Software is accompanied by a click-wrap or shrink-wrap license agreement or otherwise provided subject to a separate license agreement.

- a. Xerox grants Customer a non-exclusive, non-transferable, non-assignable (by operation of law or otherwise) license to use in the U.S.: (i) Base Software only on or with the Equipment with which (or within which) it was delivered; and (ii) Application Software only on any single unit of Equipment, subject to Customer remaining current in the payment of any indicated applicable Software license fees (including any annual renewal fees). For Services Software, Xerox grants Customer a non-exclusive, non-transferable, non-assignable (by operation of law or otherwise) license in the U.S. to install the Services Software on a host computer(s) or server(s) or, if applicable, on Equipment or Third Party Hardware, and, further, if applicable, on the number of workstations, laptops and mobile devices specified in the Order, and to use the Services Software only for the purpose of receiving the applicable Services. Customer has no other rights to the Software. Customer will not and will not allow its employees, agents, contractors or vendors to: (i) distribute, copy, modify, create derivatives of, decompile, or reverse engineer Software except as permitted by applicable law; (ii) activate Software delivered with or within the Equipment in an un-activated state; or, (iii) access or disclose Diagnostic Software for any purpose. Title to Software and all copyrights and other intellectual property rights in Software will reside solely with Xerox and its licensors (who, if required by the terms of the third party license agreement with Xerox, will be considered third party beneficiaries of this Agreement's software and limitation of liability provisions).
- b. The Base Software license will terminate, as applicable: (i) if Customer no longer uses or possesses the Equipment with which the Base Software was provided; or (ii) upon the expiration or termination of any Order under which Customer has acquired the Equipment with which the Base Software was provided (unless Customer has exercised an option to purchase the Equipment, where available, in which case the license to Base Software is perpetual and transferrable with purchase of the Equipment by Customer).
- c. Software may contain code to prevent its unauthorized use and/or transfer. If Customer does not permit Xerox periodic access to such Software, this code may impair the Equipment's and/or Software's functionality.

- d. Xerox does not warrant that the Software will be free from errors or that its operation will be uninterrupted.

7.2. Software Support

Software support will be provided by Xerox or a designated service provider as follows. For Base Software, Software support will be provided during the initial term of the applicable Order and any renewal period, but not longer than 5 years after Xerox stops taking orders for the subject model of Equipment. For Application Software, Software support will be provided as long as Customer is current in the payment of all applicable software license, annual renewal and "support only" fees. For Services Software, support will be provided in accordance with the terms of the applicable Statement of Work or Order.

- a. Xerox will maintain a web-based or toll-free hotline during Xerox's standard working hours to report Software problems and answer Software-related questions. Xerox, either directly or with its vendors, will make reasonable efforts to: (i) assure that Software performs in material conformity with its Documentation; (ii) provide available workarounds or patches to resolve Software performance problems; and (iii) resolve coding errors for (1) the current release and (2) the previous release for a period of 6 months after the current release is made available to Customer. Xerox will not be required to provide Software support if Customer has modified the Software.
- b. Xerox may make available new releases of the Software that are designated as "**Maintenance Releases**" or "**Updates**." Maintenance Releases or Updates are provided at no charge and must be implemented within 6 months after being made available to Customer. Each Maintenance Release or Update shall be considered Software governed by these terms. Feature Releases will be subject to additional license fees at Xerox's then-current pricing and shall be considered Software governed by these terms and conditions (unless otherwise noted in an Order). Implementation of a Maintenance Release, Update or Feature Release may require Customer to procure, at its expense, additional hardware and/or software from Xerox or another entity. Upon installation of a Maintenance Release, Update or Feature Release, Customer will return or destroy all prior Maintenance Releases, Updates or Feature Releases.
- c. Xerox may increase Software license fees and support fees for Application Software annually by an amount no greater than the CPI Adjustment Percentage.

7.3. Diagnostic Software

Diagnostic Software and method of entry or access to it constitute valuable trade secrets of Xerox. Title to the Diagnostic Software shall at all times remain solely with Xerox and Xerox's licensors. Xerox does not grant Customer a license or right to use the Diagnostic Software. Customer will not use, reproduce, distribute, or disclose the Diagnostic Software for any purpose (or allow third parties to do so). Customer will allow Xerox reasonable access to the Equipment during Customer's normal business hours to remove or disable Diagnostic Software if Customer is no longer receiving Maintenance Services from Xerox.

7.4. Third Party Software

Third Party Software is subject to license and support terms provided by the applicable Third Party Software vendor.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth below intending it to become effective on the Effective Date and thereby agreeing to its terms.

ENTER CUSTOMER NAME

XEROX CORPORATION

Signature

Signature

Name (please print)

Name

Title

Title

Address

Address

Date

Date



October 25, 2022

Ms. Rachael Jones Turner
SLED Cooperative Contracts Manager
Xerox Corporation
201 Merritt 7
Norwalk, CT 06851
Rachael.jones@xerox.com

Re: Renewal Award of Contract #R191104

Dear Ms. Jones Turner:

Per official action taken by the Board of Directors of Region 4 Education Service Center on October 25, 2022, Region 4 ESC is pleased to announce that Xerox Corporation has been awarded an annual contract renewal for the following, based on the sealed proposal submitted to Region 4 on November 19, 2019, and subsequent performance thereafter:

Contract

Copiers and Printers

The contract will expire on May 31, 2024, completing the fourth year of a five-year term contract. The contract is available through OMNIA Partners, Public Sector. Your designated OMNIA Partners, Public Sector contact is Deborah Bushnell, at (713) 554-7348 or deborah.bushnell@omniapartners.com

The partnership between Xerox Corporation, Region 4 and OMNIA Partners, Public Sector can be of great help to participating agencies. Please provide copies of this letter to your sales representative(s) to assist in their daily course of business.

Sincerely,

DocuSigned by:

Robert Zingelmann

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Robert Zingelmann
Chief Financial Officer, Finance and Operations Services



Request for Contract Update

Pursuant to the terms of contract number R191104 for Xerox Contractor must notify and receive approval from Region 4 ESC when there is an update in the contract. No request will be officially approved without the prior authorization of Region 4 ESC. Region 4 ESC reserves the right to accept or reject any request.

Xerox
(Contractor) hereby provides notice of the following update on
this date 5/15/2020.

Instructions: Contractor must check all that may apply and shall provide supporting documentation. Requests received without supporting documentation will be returned. This form is not intended for use if there is a material change in operations, such as assignment, bankruptcy, change of ownership, merger, etc. Material changes must be submitted on a "Notice of Material Change to Vendor Contract" form.

☐ **Authorized Distributors/Dealers**

_____ Addition

_____ Deletion

_____ Supporting Documentation

☐ **Products/Services**

_____ New Addition

_____ Update Only

_____ Supporting Documentation

☐ **States/Territories**

_____ Supporting Documentation

☐ **Price Update**

_____ Supporting Documentation

☐ **Discontinued Products/Services**

_____ Supporting Documentation

☒ **Other** Add the Installment Purchase Terms and Conditions

_____ Supporting Documentation

Notes: Contractor may include other notes regarding the contract update here: (attach another page if necessary).

Xerox is requesting to add the Installment Purchase Terms and Conditions to the R191104 Copiers & Printers Contract.

The Installment Purchase Terms and Conditions will supplement the Cash Purchase, Lease and Rental Terms and Conditions.

Submitted By: Rachael Jones Turner

Title: SLED Cooperative Contracts Manager

Email Address: Rachael.Jones@Xerox.com

☒ **Approved by Email:** Date 5/18/2020 | 1:07 PM PDT

☐ **Denied by Email:** Date _____

DocuSigned by:
Robert Zingelmann
Region 4 ESC: 0B1D33BB0130490...

Installment Sale Agreement**SOLUTIONS/SERVICES:**

1. **PRODUCTS.** "Products" means the equipment ("Equipment"), Software and supplies identified in this Agreement. You agree the Products are for your business use (not resale) in the United States and its territories and possessions ("U.S.") and will not be used for personal, household or family purposes.
2. **CONSUMABLE SUPPLIES.** Consumable Supplies vary depending upon the Equipment model. If "Consumable Supplies" is identified in Maintenance Plan features, Consumable Supplies include: (i) for black and white Equipment, standard black toner and/or dry ink, black developer, Copy Cartridges, and, if applicable, fuser agent required to make impressions; (ii) for full color Equipment, the items in (i) plus standard cyan, magenta, and yellow toners and dry inks (and their associated developers); and, (iii) for Equipment identified as "Phaser", only, if applicable, black solid ink, color solid ink, imaging units, waste cartridges, transfer rolls, transfer belts, transfer units, belt cleaner, maintenance kits, print Cartridges, drum Cartridges, waste trays and cleaning kits. Unless otherwise set forth herein, Consumable Supplies exclude paper and staples. Xerox may charge a shipping fee for Consumable Supplies. Consumable Supplies are Xerox's property until used by you, and you will use them only with the Equipment for which "Consumable Supplies" is identified in Maintenance Plan Features. If Consumables Supplies are furnished with recycling information, Customer will return the used item to Xerox for remanufacturing. Shipping information is available at Xerox.com/GWA. Upon expiration of this Agreement, Customer will include any unused Consumable Supplies with the Equipment for return to Xerox at the time of removal. If your use of Consumable Supplies exceeds Xerox's published yield by more than 10%, Xerox will notify you of such excess usage. If such excess usage does not cease within 30 days after such notice, Xerox may charge you for such excess usage. Upon request, you will provide current meter reads and/or an inventory of Consumable Supplies in your possession.
3. **MAINTENANCE SERVICES.** This Section applies only if Customer has contracted with Xerox for the provision of Maintenance Services. Except for Equipment identified as "No Svc.", Xerox (or a designated servicer) will keep the Equipment in good working order ("Maintenance Services"). The provision of Maintenance Services is contingent upon Customer facilitating timely and efficient resolution of Equipment issues by: (a) utilizing Customer-implemented remedies provided by Xerox; (b) replacing Cartridges; and (c) providing information to and implementing recommendations provided by Xerox telephone support personnel. If an Equipment issue is not resolved after completion of (a) through (c) above, Xerox will provide on-site support as provided herein. Maintenance Services will be provided during Xerox's standard working hours in areas open for repair service for the Equipment. Maintenance Services excludes repairs due to: (i) misuse, neglect or abuse; (ii) failure of the installation site or the PC or workstation used with the Equipment to comply with Xerox's published specifications; (iii) use of options, accessories or products not serviced by Xerox; (iv) non-Xerox alterations, relocation, service or supplies; or (v) failure to perform operator maintenance procedures identified in operator manuals. Replacement parts may be new, reprocessed or recovered and all replaced parts become Xerox's property. Xerox will, as your exclusive remedy for Xerox's failure to provide Maintenance Services, replace the Equipment with an identical model or, at Xerox's option, another model with comparable features and capabilities. There will be no additional charge for the replacement Equipment during the remainder of the initial Term. If meter reads are a component of your Maintenance Plan, you will provide them using the method and frequency identified by Xerox. If you do not provide a meter reading for Equipment not capable of Remote Data Access, or if Remote Data Access is interrupted, Xerox may estimate the reading and bill you accordingly.

PRICING PLAN/OFFERING SELECTED:

4. **COMMENCEMENT & TERM.** This Agreement is valid when accepted by Xerox. Time periods applicable for each unit of Equipment will commence upon: (a) delivery of customer-installable Equipment; or (b) installation of Xerox-installable Equipment. If Xerox is providing Maintenance Services for the Equipment, the initial Term for Maintenance Services will expire on the final day of the last full calendar month identified on the face of this Agreement. Unless either party provides notice at least 30 days before the end of the initial Term of its intention not to renew Maintenance Services for a unit of Equipment, it will renew automatically on the same terms and conditions for successive terms of the same number of months as the initial Term. Pricing for each renewal term will be Xerox's then-current published pricing.
5. **PAYMENT.** If the invoice displays a due date, payment must be received by Xerox on or before the due date. If the invoice does not display a due date, payment must be received by Xerox within 30 days after the invoice date. All invoice payments under this Agreement shall be made via check, Automated Clearing House debit, Electronic Funds Transfer,

Installment Sale Agreement

or direct debit from Customer's bank account. Restrictive covenants on payment instruments will not reduce your obligations.

6. **PREPAYMENT.** You may prepay the remaining principal balance on the installment purchase of Equipment, thereby eliminating future finance charges.
7. **PRICE INCREASES.** Xerox may annually increase the maintenance component of the Minimum Payment and Print Charges. For Application Software, Xerox may annually increase the software license or support fees.
8. **DELIVERY, REMOVAL & RELOCATION.** Equipment prices include standard delivery charges and, for Xerox-owned Equipment, standard removal charges. Charges for non-standard delivery or removal and for any Equipment relocation are your responsibility. Relocation of Xerox-owned Equipment must be arranged (or approved in advance) by Xerox and may not be to a location outside of the U.S.
9. **DEFAULT & REMEDIES.** If you default or breach an individual Installment Purchase Agreement, Xerox, If you default, Xerox, in addition to its other remedies (including the cessation of Basic Services), may require immediate payment, as liquidated damages for loss of bargain and not as a penalty, of (a) all amounts then due, plus interest on all amounts due as allowed under law; from the due date until paid at the rate of one and one-half percent (1.5%) per month, not to exceed the maximum amount permitted by State law); and (b) the remaining Installment Sale Payments in the Installment Purchase Individual Agreement term less any unearned finance charges (as reflected on Xerox's books and records); (c) the lesser of the remaining Minimum Periodic Base Charge in the Agreement's term or six (6) such payments for one-year agreements and twelve (12) such payments for multi-year agreements), and, (d) all applicable Taxes.

ADDITIONAL TERMS:

10. **TRADE-IN EQUIPMENT.** You warrant that you have the right to transfer title to the equipment you are trading in as part of this Agreement ("Trade-In Equipment") and that the Trade-In Equipment is in good working order and has not been modified from its original configuration (other than by Xerox). Title and risk of loss to the Trade-In Equipment will pass to Xerox when Xerox removes it from your premises. You will maintain the Trade-In Equipment at its present site and in substantially its present condition until removed by Xerox. You will pay all accrued charges for the Trade-In Equipment (up to and including payment of the final principal payment number) and all applicable maintenance, administrative, supply and finance charges until Xerox removes the Trade-In Equipment from your premises.

GENERAL TERMS & CONDITIONS:

11. **NON-CANCELABLE AGREEMENT.** THIS AGREEMENT CANNOT BE CANCELED OR TERMINATED EXCEPT AS EXPRESSLY PROVIDED HEREIN. YOUR OBLIGATION TO MAKE ALL PAYMENTS, AND TO PAY ANY OTHER AMOUNTS DUE OR TO BECOME DUE, IS ABSOLUTE AND UNCONDITIONAL AND NOT SUBJECT TO DELAY, REDUCTION, SET-OFF, DEFENSE, COUNTERCLAIM OR RECOUPMENT FOR ANY REASON WHATSOEVER, IRRESPECTIVE OF XEROX'S PERFORMANCE OF ITS OBLIGATIONS HEREUNDER. ANY CLAIM AGAINST XEROX MAY BE ASSERTED IN A SEPARATE ACTION AND SOLELY AGAINST XEROX.
12. **PROTECTION OF XEROX'S RIGHTS.** You authorize Xerox or its agent to file, by any permissible means, financing statements necessary to protect Xerox's rights as lessor of the Equipment. You will promptly notify Xerox of a change in ownership, or if you relocate your principal place of business or change the name of your business.
13. **State and Local Government Terms and Conditions.**

- A) Tax Treatment (applicable to Fixed Purchase Option Leases). Xerox has accepted this Agreement based on your representation that Xerox may claim any interest paid by you as exempt from federal income tax under Section 103(c) of the Internal Revenue Code ("Code"). You will comply with the information reporting requirements of Section 149(e) of the Code. Such compliance includes the execution of 8038-G or 8038-GC Information Returns. You appoint Xerox as your agent to maintain, and Xerox will maintain, or cause to be maintained, a complete and accurate record of all assignments of this Agreement in form sufficient to comply with the book entry requirements of Section 149(a) of the Code and the regulations thereunder from time to time. Should Xerox lose the benefit of this exemption as a result of your failure to comply with or be covered by Section 103(c) the Code or the regulations thereunder, then, subject to the availability of funds and upon demand by Xerox, you will pay Xerox an amount equal to its loss in this regard. You shall provide Xerox with a properly prepared and executed copy of US Treasury Form 8038 or 8038-GC.



Request for Contract Update

Pursuant to the terms of contract number R191104 for Xerox Contractor must notify and receive approval from Region 4 ESC when there is an update in the contract. No request will be officially approved without the prior authorization of Region 4 ESC. Region 4 ESC reserves the right to accept or reject any request.

Xerox hereby provides notice of the following update on
(Contractor)
this date 6/26/2020.

Instructions: Contractor must check all that may apply and shall provide supporting documentation. Requests received without supporting documentation will be returned. This form is not intended for use if there is a material change in operations, such as assignment, bankruptcy, change of ownership, merger, etc. Material changes must be submitted on a "Notice of Material Change to Vendor Contract" form.

☐ **Authorized Distributors/Dealers**

____ Addition

____ Deletion

____ Supporting Documentation

☐ **Products/Services**

____ New Addition

____ Update Only

____ Supporting Documentation

☐ **States/Territories**

____ Supporting Documentation

☐ **Price Update**

____ Supporting Documentation

☐ **Discontinued Products/Services**

____ Supporting Documentation

☒ **Other** Contract Update

____ Supporting Documentation

Notes: Contractor may include other notes regarding the contract update here: (attach another page if necessary).

Region 4 ESC approved an amendment on 5/18/2020 to add the Xerox Instalment Purchase Terms and Conditions to the contract. On an installment sale, the title transfers to the customer upon installation. That language was erroneously missing on the amendment submitted. The attached updated amendment clarifies for the customer that they have title.

Submitted By: Rachael Jones Turner

Title: SLED Cooperative Contracts Manager

Email Address: Rachael.Jones@Xerox.com

☒ **Approved by Email:** Date 7/6/2020 | 7:13 AM PDT

☐ **Denied by Email:** Date _____

DocuSigned by:
Robert Engelmann
Region 4 ESC: 081033800130490...

**INSTALLMENT SALE AGREEMENT
GENERAL AMENDMENT**



THIS AMENDMENT (the “Amendment”) amends Installment Sale Agreement Terms and Conditions for Contract Number **R191104** (the “Agreement”) between Region 4 Education Service Center (ESC) (“Customer”) and Xerox.

The parties agree that the Installment Sale Agreement Terms and Conditions are modified as described below:

- 1. The following Language shall be added to the agreement:
“**14. TITLE AND RISK.** Title to the Equipment passes to Customer upon delivery. Risk of loss or damage to the Products passes to Customer upon delivery. Until the Products are paid for in full, Customer will insure the Products against loss or damage and the policy will name Xerox as Loss Payee.”

Except as specified in this Amendment, the Agreement shall remain as stated. In the event of a conflict between the terms and conditions of the Agreement and this Amendment, the Amendment will control.

Region 4 Education Service Center (ESC)

XEROX CORPORATION

Name (Please Print)

Name (Please Print)

Signature

Signature

Title

Title

Date

Date



To: Deborah Bushnell
Contract Manager

From: Robert Zingelmann
Chief Financial Officer, Finance and Operations Services

Date: February 25, 2020

Subject: Approval of Contract Award

Per official action taken by the Board of Directors of Region 4 Education Service Center (ESC) on February 25, 2020 the following contract was approved as presented:

➤ **Copiers and Printers**

- Konica Minolta Business Solutions U.S.A. Inc.
- Kyocera Document Solutions America, Inc.
- Toshiba America Business Solutions, Inc.
- Xerox Corporation

Contract is effective June 1, 2020. If you have any questions, please let me know.



To: Board of Directors
From: Robert Zingelmann
Date: February 25, 2020
Subject: Recommendation of Contract Award

Region 4 ESC held a RFP opening on October 2, 2019 for RFP #19-11 for **Copiers and Printers**. There were five (5) proposals submitted:

- Konica Minolta Business Solutions U.S.A. Inc.
- Kyocera Document Solutions America, Inc.
- Sharp Electronics Corporation
- Toshiba America Business Solutions, Inc.
- Xerox Corporation

After careful review of all proposals, the Evaluation Team has determined that four(4) companies demonstrated the ability to provide the products and services outlined in the solicitation while offering competitive pricing to the members.

CONSIDERATION

Award of annual contract in compliance with the bid laws of the State of Texas is recommended.

RECOMMENDATION

The Evaluation Team recommends the following companies for award based on their response:

Contract	Vendor	Term of Contract
Copiers and Printers	Konica Minolta Business Solutions U.S.A. Inc. Kyocera Document Solutions America, Inc. Toshiba America Business Solutions Inc. Xerox Corporation	Three (3) years with option of two (2) one year renewals

Support documentation has been attached for your reference.

Enclosure: Bid Tab Summary



To: Dr. Pam Wells
Executive Director

From: Robert Zingelmann
Chief Financial Officer, Finance and Operations Services

Date: February 25, 2020

Re: Copiers & Printers Multi-Award Justification; RFP # 19-11

The Evaluation Committee has reviewed the responses and recommend that the following companies be awarded:

- Konica Minolta Business Solutions U.S.A. Inc.
- Kyocera Document Solutions America, Inc.
- Toshiba America Business Solutions, Inc.
- Xerox Corporation

The recommended vendors submitted offers that were determined to be most advantageous to OMNIA Partners, Public Sector members, based upon their submitted proposal and the bid tabulation. All the recommended respondents were determined to be competitively priced and strong for the specified products and services outlined in the RFP.

We believe all recommended vendors demonstrate the ability to provide and perform the services requested in the proposal. We will monitor their performance and determine at the end of each year if they are eligible for renewal with each new term.

This multiple award is recommended as most advantageous as it limits contract awards to the least number of suppliers necessary to meet the requirements of OMNIA Partners, Public Sector members. In order to serve the entire nation, a multiple award is recommended to provide any governmental agency with complete coverage of commodities, services and any other offering within the scope of proposal.

Please let me know if you have any questions.



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 at the Negotiated Amount (Staff Contact: Jared Hernandez, Chief of Police, 408-586-2406)
Category:	Consent Calendar-Public Safety
Meeting Date:	6/4/2024
Recommendation:	Approve the purchase of a police vehicle, find the procurement to be in the best interest of the City consistent with Milpitas Municipal Code section I-2-3.03, and authorize the City Manager to execute any documents necessary to effectuate the purchase at the negotiated amount.

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 (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.

As part of the FY 2023-24 Adopted Budget approved by Council on June 6, 2023, one (1) unmarked Police Department vehicle was approved to be replaced through the Capital Outlay process. This vehicle is one of nine (9) vehicles currently utilized by the eleven (11) staff members assigned to the Special Operations Division. Without replacement of this vehicle, there would be insufficient vehicles available for Detectives to effectively perform their duties.

Municipal Code Section I-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". There is an immediate need to replace this unmarked Police Department vehicle, and the vehicle cannot be obtained through the competitive procurement process as a result of the scarcity of vehicles available on the market.

ANALYSIS:

Typically, the City purchases vehicles using a 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 affected by the current supply shortage of vehicles in the automobile market, resulting in an extended delivery period. There are currently no vehicles available for government wholesale purchase through NAFG. While NAFG has limited inventory for patrol vehicles, NAFG has no inventory for unmarked vehicles suitable for police fleet. Furthermore, NAFG also has very limited vehicle availability for retail purchase. The majority of retail vehicles are sold before delivered to the dealership due to a backlog of orders. Retail vehicles are not available to the City through the existing cooperative agreement with NAFG.

Staff 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 to meet contractual obligations to replace police vehicles, in support of effective police operations.

POLICY ALTERNATIVE(S):

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 effective operations.

Reason for Not Recommending: The replacement of this vehicle has already been approved by Council through the FY 2023-24 budget adoption and capital outlay process. 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 purchase would be at the negotiated amount. The FY2023-24 adopted budget appropriated a total of \$52,536, with an equipment replacement fund allocation (\$40,604) and general fund allocation (\$11,932) for the purchase of one (1) unmarked Police vehicle.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The action being requested is not a project as defined by CEQA (CEQA Guidelines exemption 15378(b)(2)).

RECOMMENDATION:

Approve the purchase of a police vehicle, find the procurement to be in the best interest of the City consistent with Milpitas Municipal Code section 1-2-3.03, and authorize the City Manager to execute any documents necessary to effectuate the purchase at the negotiated amount.

ATTACHMENT(S):

N/A



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Award IFB 24-091 and Authorize the City Manager to Execute the Purchase Order with Core and Main, LP for Valve Parts in the Amount of \$129,320.60 for Sunnyhills Turnout Rehabilitation Project, Project No. 7149 (Staff: Christian Di Renzo, Public Works Director, 408-586-2602; and Michael Silveira, City Engineer, 408-586-3303)
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	6/4/2024
Recommendation:	Award IFB 24-091 and authorize the City Manager to execute the purchase order with Core and Main, LP for the purchase of valve parts in the amount of \$129,320.60 for Sunnyhills Turnout Rehabilitation Project, Project No. 7149.

Background:

The Sunnyhills Turnout Rehabilitation Project, Project No. 7149 ("Project"), is included in the adopted FY2025-2029 Capital Improvement Program. The Project provides for the design and replacement of the turnout's equipment, piping and vault lid that is near the end of its service life.

The City receives potable water from San Francisco Public Utilities Commission (SFPUC) and Santa Clara Valley Water wholesalers supplied through five turnouts which are an integral part of the City's water distribution system. Sunnyhills turnout, located at 405 Washington Drive, is critical to the SFPUC service as it supplies water to SF1 and SF2 pressure zones with a capacity of 10.1 million gallons per day. The water is supplied from the SFPUC 96-Inch Bay Division Pipeline number 4 through an adjacent vault owned by SFPUC which was upgraded in 2010.

The Sunnyhills turnout was constructed in 1971 and consists of a combination of welded steel, ductile iron, and cast-iron piping and isolation gate, pressure reducing and pressure relief and sustaining valves in a partially buried concrete vault. An assessment completed by MNS Engineering in 2021 concluded the equipment, piping, and vault lids are in poor condition and require replacement.

The City contracted with MNS Engineering to complete the design drawings and specifications for the turnout rehabilitation by the end of 2024. The pressure reducing valves for the Project are anticipated to require up to 26 weeks for fabrication and delivery following purchase order submittal. Due to the extended lead time, pre-purchasing the pressure reducing valves ahead of bidding the Project will expedite the schedule of construction.

Analysis:

On April 4, 2024, the Purchasing Division released an Invitation for Bid (IFB) 24-091 for the purchase of two pressure reducing valves for the Project. The IFB was publicly noticed in accordance with the City's municipal code and advertised on the City's website. Email notifications were sent to companies registered with the City via ProcureNow.com, the City's eProcurement system, and a bid notification placed on PublicPurchase.com. Upon release 17 vendors downloaded the IFB documents and the Purchasing Division received two proposals by the deadline of May 2, 2024. The Summary of Bid Results is as follows:

Bidder	Base Bid
Core & Main, LP	\$117,564.16
Underground Republic Water Works, Inc	\$119,761.38

Core and Main, LP was the lowest responsible bidder submitting a responsive bid of \$117,564.16. Staff recommends the City Council authorize the City Manager to execute a purchase order with Core and Main for the purchase of valve parts in the amount of \$129,320.60 (includes a 10% purchase contingency). There is sufficient funding available in the Project budget to award this purchase order and no additional funding appropriation is required.

Policy Alternatives:

Alternative 1: Do not award IFB No. 24-091 to Core and Main for the purchase of valve parts.

Pros: None.

Cons: If the purchase of valve parts is not awarded to Core and Main, the replacement of these assets will be delayed.

Reason not recommended: The timeline for the replacement of the pressure reducing valves would be delayed at the Sunnyhills turnout. The current lead time for procuring the two pressure reducing valves is approximately 26 weeks.

Fiscal Impact:

Adequate funds are available in the Project budget and no additional funding appropriation is required. As part of the adopted FY2025-2029 Capital Improvement Program, City Council approved the Sunnyhills Turnout Rehabilitation Project, Project No. 7149, with a budget appropriation of \$1,165,000 from the Water Capital Surcharge Fund available on July 1, 2024, at the start of the new fiscal year.

California Environmental Quality Act:

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

Award IFB 24-091 and authorize the City Manager to execute the purchase order with Core and Main, LP for the purchase of valve parts in the amount of \$129,320.60 for the Sunnyhills Turnout Rehabilitation Project, Project No. 7149.

Attachment:

- (a) Bid Tab IFB 24-091
- (b) Bid Proposal
- (c) Purchase Order Terms and Conditions



PURCHASING DIVISION

**IFB FOR: Purchase of Valves for Sunnyhills
Turnout Repair**

IFB NO: 24-091

DUE DATE: May 2, 2024

BUYER: S. Pietrobono

**Core & Main, Branch 280
1240 N. 13th Street
San Jose, CA 95112**

**Underground Republic Water
Works
1175 Campbell Ave.
San Jose, CA 95126**

	1	2	3	4	5	6	7
Base Bid (if applicable)	\$117,564.16	\$119,761.38					
* Disqualified – Reason							

****BID AWARD IN PROGRESS** City Council Date: (June 4, 2024)**

AWARD TO: (Core & Main) Lowest Most Responsive, Responsible Bidder Meeting Specifications

CODE KEY: INA = Information Not Available NS = Not Stated NB = No Bid DY = Days WK = Weeks HR = Hours



1830 Craig Park Court
St. Louis Mo 63146
T: 314-432-4700
F: 314-432-8481

May 7, 2024

To the city of Milpitas: S106-PR-SM-420-SPI 8" SINGER Estimated have a comprehensive system, the SPI insertion meter is integrated into the valve by being inserted into the inlet port as a complete unit. The Rosemount transmitters are included in the total pricing of the valve. The singer pricing encompasses all these components as part of the assembled unit. Since the city of Milpitas is tax-exempt, there are no taxes applicable. Shipping is fully covered under freight allowed, making that cost zero as well.

S106-PR-SM-420-SPI 8" SINGER	EA 53,743.62	Total 107,487.24
SPI-MV (included in S106 price)	EA \$0	Total \$0
Rosemount 2088 G 3 S (Included in S106 Price)	EA \$0	Total \$0
Shipping (FFA)	EA \$0	Total \$0
Sales Tax 9.375%	EA \$5,038.46	Total \$117,564.16

VALVE PRESSURE REDUCING VALVE WITH INTERGAL BACK UP MODEL S106-PR-SM-420-SPI 12# FLAGED SST SEAT AND STEM SST PILOT STRAINER MODEL 160 PR PRIMARY 20-200 SPRING CHAMBER @ PSI420-DC/AC AUTOMATED PILOT CONTROL (2M CABLECONVERTER BOX,FACTORY SET RANGE 40-90 PSI) X156-4-20 MA POSITION INDICATOR INDICATOR PRIMARY CHAMBER MODEL MODEL 81--RP PILOT SECONDARY CHAMBER @ PSI X129 LIMIT SWITCH SWITCH SECONDARY CHAMBER SPI INSERTION MAG METER (24V DC MODBUS FEEDBACK 100 CORD GROUNDING RINGS LOCAL CONVERTER CAN BE MOUNTED IN PANEL (2) (2) ROSEMOUNT PRESSURE TRANSMITTERS INLET AND OUTLET PRESSURE SSTFASTNERS FUSION BON BONDED EPOXY IN AND OUT .

Thank you,

PURCHASE ORDER TERMS AND CONDITIONS FOR EQUIPMENT AND MATERIALS

1. Acceptance. This purchase order for equipment and materials issued by the City of Milpitas ("CITY") to the Vendor designated in the purchase order must be promptly accepted and acceptance is expressly limited to the terms of this order. Any additions or different terms in the Vendor's forms are hereby deemed to be material alterations and notice of objection to them and rejection of them is hereby given. Vendor's shipment of goods in response to this order shall be considered acceptance by the Vendor.

2. Entire Agreement. Unless Vendor and CITY have entered into a separate written contract covering the purchase of the goods described herein, the entire contract between the parties consists of this order and the Vendor's acceptance as above stipulated, and said contract shall not be changed or added to except in writing signed by authorized representatives of each party.

3. Price. The price invoiced for the goods on this purchase order shall be no higher than the price stated on the front of this purchase order unless prior notification is received from Vendor prior to shipment and the change is accepted by CITY. If the Vendor's established price for any item upon the date of delivery shall be lower than the price shown on this purchase order, CITY shall have the benefit of such lower price. Vendor shall deliver to CITY all invoices within 30 days of shipping or service delivery.

4. Payment. Payments will be made net 30 days unless otherwise specified as per agreements regarding discount terms. The period of computation will commence on the date of receipt of a correctly completed invoice. Payment may be withheld, in whole or in part, due to deficiencies in Vendor's performance. Payment of an invoice by CITY shall be without prejudice to any and all claims CITY may have against Vendor in connection with such goods. Invoices are paid on a weekly basis and such practice may result in minor deviations from payment terms otherwise cited herein.

5. Time of the Essence. Time is of the essence on this order. If delivery is not made in the quantity or quantities and at the time or times specified, CITY shall have the right, at its option, to cancel the entire order or that part of same not so delivered. If CITY accepts delayed delivery the time of payment shall be extended accordingly.

6. Delivery and Acceptance. Vendor expressly warrants that any article, material or work is free and clear of all liens and encumbrances whatsoever, and that Vendor has good and marketable title to same. Unless otherwise specified, all goods are to be shipped prepaid, F.O.B. destination. No charge will be allowed for packing, crating, freight, express or other carrier's charges, or cartage, unless specifically agreed to by CITY. Title to equipment and materials purchased hereunder shall pass to Vendor at the designated F.O.B. point, subject to Vendor's right to inspect and reject or revoke acceptance.

7. Warranty. Vendor warrants for a period of 12 months following start of use or 18 months from receipt, whichever occurs first, that the goods described herein will be free of defects in workmanship, design, materials, and title, and notwithstanding anything herein to the contrary, will conform to all applicable proposals, specifications, instructions, drawings, data, descriptions, and samples, and will be of good and merchantable quality and fit and sufficient for the purpose intended. Vendor shall obtain and provide to CITY Material Safety Data Sheets (MSDS) for each product that contains hazardous substances as defined by CalOSHA. ..

8. Rejection of Goods. CITY shall have the right, at its option, to reject or revoke acceptance of any goods which do not conform to these warranties or to the specifications. In case of such rejection or revocation of acceptance, transportation of the rejected goods, both to and from CITY, shall be at the expense of Vendor, said rejected goods are not to be replaced except upon specific instruction from CITY, and CITY shall have the right at its option to cancel the remainder, if any, of the order, by notice to Vendor at the time notice is given of rejection or revocation of acceptance. Vendor shall be liable to CITY for all damages proximately caused by breach of any of the foregoing warranties, including incidental damages but excluding special or consequential damages.

9. Returns. CITY reserves the right to return for full credit any excess over quantity called for in any order or orders. Vendor to bear the cost of transportation both ways.

10. Force Majeure. Vendor shall not be held responsible for failure or delay in shipping nor CITY for failure or delay in accepting goods described herein if such failure or delay is due to act of God, war, federal or state legislation or any regulations or orders, fire, accident, or other causes, either similar or dissimilar to the foregoing, beyond their control. In the event of any such excused interference with shipments, CITY shall have the option either to reduce the quantity provided for in the order accordingly or to exercise its right of cancellation as set forth in these terms and conditions.

11. Additional Fees. Unless otherwise required by law or provided herein, Vendor assumes exclusive liability for, and shall pay before delinquency, all sales, use, excise and other taxes, charges or contributions of any kind now or hereafter imposed on or with respect to, or measured by the article sold or material or work furnished hereunder on the wages, salaries or other remunerations paid to persons employed in connection with performance of this order.

12. No Waiver. No exercise by CITY of its rights hereunder shall constitute a waiver of any rights it may have for breach of contract. CITY's waiver of or failure to enforce its rights on account of Vendor's failure or delay in performing any obligation of Vendor hereunder, or on account of Vendor's breach of contract in any respect, shall not constitute a waiver of any subsequent failure, delay or breach.

13. Compliance with Law. Vendor shall comply with all applicable laws and regulations of the federal, state and local government. CITY shall assist Vendor, as requested, in obtaining and maintaining all permits required of Vendor by Federal, State and local regulatory agencies. Vendor is responsible for all costs of clean up and/or removal of hazardous and toxic substances spilled as a result of his or her Work. Vendor is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. If the Work is being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Vendor agrees to fully comply with such Prevailing Wage Laws. Vendor shall defend, indemnify and hold CITY, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. Any stop orders issued by the Department of Industrial

Relations against Vendor or any subcontractor that affect Vendor's performance of services, including any delay, shall be Vendor's sole responsibility and Vendor shall indemnify CITY from liability arising out of the same. It shall be mandatory upon the Vendor and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815), contractor registration (Labor Code Sections 1725.5 and 1771.1) and debarment of contractors and subcontractors (Labor Code Sections 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 and to be registered with the Department of Industrial Relations shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1771.4, 1725.5 and 1771.1.

14. Insurance. Vendor shall take out and maintain: A. Commercial General Liability Insurance, of at least \$1,000,000 per occurrence/ \$2,000,000 aggregate for bodily injury, personal injury and property damage, at least as broad as Insurance Services Office Commercial General Liability most recent Occurrence Form CG 00 01; B. Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, of at least \$1,000,000 per accident for bodily injury and property damage, at least as broad as most recent Insurance Services Office Form Number CA 00 01 covering automobile liability, Code 1 (any auto); C. Workers' Compensation in compliance with applicable statutory requirements and Employer's Liability Coverage of at least \$1,000,000 per occurrence; and D. Pollution Liability Insurance of at least \$1,000,000 per occurrence and \$2,000,000 aggregate shall be provided by those Vendors transporting hazardous materials. Insurance carriers shall be licensed to do business in California and maintain an agent for process within the state. Such insurance carrier shall have not less than an "A:VII" rating according to the latest Best Key Rating unless otherwise approved by CITY. VENDOR SHALL ENSURE THAT THIRD PARTY SHIPPERS CONTRACTED BY VENDOR HAVE ADEQUATE INSURANCE COVERAGE. If attached, Vendor shall refer to Exhibit "A" – Insurance Requirements, for further insurance requirements applicable to Vendor.

15. Indemnification. The Vendor shall indemnify and hold harmless CITY, its officials, officers, agents and employees from and against any and all claims, liabilities, expenses or damages, including attorneys' fees, for injury or death of any person, or damage to property, or interference with use of property, or patent infringement or fees for use of patented items, or any claim of the Vendor or sub-contractors for wages or benefits which arise in connection with the sale, delivery and/or installation of equipment or materials, except to the extent caused or resulting from the negligence or willful misconduct of CITY. The foregoing indemnity includes, but is not limited to, the cost of prosecuting or defending such action with legal counsel acceptable to CITY and CITY's attorneys' fees incurred in such an action.

16. Substitutions, Changes and Cancellation. No substitutions are acceptable unless expressly accepted in writing by CITY. CITY may make changes in the general scope of this order by giving written notice to Vendor. If any such change affects the cost of or time to deliver or perform under this order, an adjustment in price, delivery or both will be made as CITY determines to be equitable. Vendor may request changes; however, no such change shall be effective

unless accepted in writing by CITY. CITY may cancel this order in whole or in part at any time before acceptance of the equipment and materials due to Vendor's breach or for CITY's convenience.

17. Laws, Venue, and Attorneys' Fees. This purchase order shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this purchase order, the action shall be brought in a state or federal court situated in the County of Santa Clara, State of California. In the event of any such litigation between the parties, the prevailing party shall be entitled to recover all reasonable costs incurred, including reasonable attorney's fees, as determined by the court.

18. Contract Terms. Nothing herein shall be construed to give any rights or benefits to anyone other than CITY and the Vendor. The unenforceability, invalidity or illegality of any provision(s) of this purchase order shall not render the other provisions unenforceable, invalid or illegal. Notice may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to the parties to the addresses set forth in the purchase order. Vendor shall not assign, sublet, or transfer this purchase order, or any rights under or interest in this purchase order, without the written consent of CITY, which may be withheld for any reason. Vendor is retained as an independent contractor and is not an employee of CITY. No employee or agent of Vendor shall become an employee of CITY. This is an integrated agreement/purchase order representing the entire understanding of the parties as to those matters contained herein, and supersedes and cancels any prior oral or written understanding or representations with respect to matters covered hereunder. This Contract may not be modified or altered except in writing signed by both parties hereto.

19. Damage to City Facilities. Damage to CITY or public facilities or private property caused by the Vendor or by its subcontractors during delivery or installation shall be repaired and/or replaced in kind at no cost to the CITY.

20. Site Safety and Cleanup. The delivery and installation site shall be kept clean and free of hazards at all times during delivery and installation. After and installation is completed at the site, as applicable, Vendor shall clean the surrounding area to the condition prior to delivery and installation.

21. Installation. If the Vendor is responsible for providing installation services, finished installation work and/or equipment shall be subject to final inspection and acceptance or rejection by the CITY.

22. Wage Theft Prevention. Vendor, and any subcontractor it employs to complete work under this purchase order, 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. By entering into this purchase order, Vendor 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 the date of this purchase order that Vendor or its subcontractor(s) has violated any applicable wage and hour laws. Vendor 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, Vendor 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 Vendor or its subcontractor(s) are in compliance with

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

exhausted or the time period to appeal has expired. Relevant investigatory government agencies include: the United States Department of Labor, the California Division of Labor Standards Enforcement, the CITY, or any other governmental entity or division tasked with the investigation and enforcement of wage and hour laws. Failure to comply with any part of this provision constitutes a material breach of this purchase order. Such breach may serve as a basis for immediate termination of this purchase order and/or any other remedies available under this purchase order and/or law. Notice provided to the CITY shall be addressed to: Attention: Finance Director, 455 E. Calaveras Blvd., Milpitas, CA 95035. The notice provisions of this paragraph are separate from any other notice provisions in this purchase order and, accordingly, only notice provided to the above address satisfies the notice requirements in this provision.

***OPTIONAL TERMS:** Check box if applicable

- ☐ Custom Design: If the goods are produced by Vendor in accordance with designs, drawings or blueprints provided by CITY, Vendor shall return same to CITY upon completion or cancellation of this order. Any materials, equipment, tools, artwork, designs or other property furnished by or specifically paid for by CITY shall be CITY's property.



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution to Approve Project Plans & Specifications; Award the Construction Contract to Preston Pipelines Infrastructure, LLC; and Authorize Design Services Agreement Amendment No. 1 with MNS Engineers, Inc. for Fire Station No. 1 Pressure Reducing Stations Relocation, Project No. 7133 (Staff Contact: Christian Di Renzo, Public Works Director, 408.586.2602, and Michael Silveira, City Engineer, 408.586.3303)
Category:	Consent Calendar-Community Services and Sustainable Infrastructure
Meeting Date:	6/4/2024
Recommendation:	Adopt a resolution to approve project plans & specifications; award the construction contract to the lowest responsive, responsible bidder, Preston Pipelines Infrastructure, LLC, in a total amount of \$999,240; authorize the City Manager to execute the construction contract with Preston Pipelines Infrastructure, LLC.; authorize the Public Works Director to negotiate and execute contract change order(s) in an aggregate amount not to exceed \$150,000; and approve and authorize the City Manager to execute Amendment No. 1 to the Design Services Agreement with MNS Engineers in the amount of \$156,524 for Fire Station 1 Pressure Reducing Station Reconstruction, Project No. 7133.

BACKGROUND:

The Fire Station No. 1 Pressure Reducing Stations Reconstruction, Project No. 7133 ("Project"), is included in the adopted FY2025-2029 Capital Improvement Program. The Project provides for the design and reconstruction of the existing underground 12-inch and 16-inch pressure reducing stations (PRS) to above ground facilities along Curtis Ave. on the property of the Fire Station No. 1. These PRS are a critical component of the City water distribution system in maintaining regular pressure throughout the City. Each underground PRS reduces pressure from City Water Zone SC2 (operating at 140 PSI) and discharges to Zone SC1 (operating at 77 PSI).

In January 2023, a surge event occurred within the system that damaged the existing 16-inch pressure reducing valve. The damaged valve was beyond repair due to the age and location; however, the damaged valve is isolated and the remaining valves in the zone are holding consistent pressure for the time being. On March 29, 2023, the City entered into a Design Service Agreement with MNS Engineers, Inc. in an amount not-to-exceed \$99,128.00 to assess the existing system and provide design services for the reconstruction of the PRSs.

The underground locations of the PRS affects the long-term condition of the valve components and poses safety issues for staff to maintain the valves in an underground confined space. Based on these factors, reconstructing the PRS above ground would provide sufficient space for staff to access and maintain facilities and easily connect to the City SCADA system for control and monitoring. Due to the 6-to-8-month lead time for the delivery of valves, City Council approved the purchase of these valves with Core and Main on May 2, 2023, ahead of bidding the Project to expedite the schedule of construction.

The Engineer's Construction Estimate for the Project is \$1,999,935. The Project Plan title sheet (Attachment b) is included in the Council agenda packet, and the complete full-size set of plans and specifications are available electronically upon request to the City Engineer.

ANALYSIS:

The Project was advertised on digital construction trade publications on March 29, 2024, and in the *Milpitas Post* on March 29 and April 5, 2024, in accordance with the bidding requirements of the Uniform Public Construction Cost Accounting Act. Bid opening was held on May 1, 2024 and four sealed bids were received which ranged in bid prices from \$999,240 to \$2,292,070. The Summary of Bid Results is as follows and is included in the agenda (Attachment c).

Bidder	Location	Bid
<i>Engineer's Estimate</i>		<i>\$1,999,935.00</i>
Preston Pipelines Infrastructure, LLC	Milpitas, CA	\$999,240.00
Devaney Engineering, Inc	San Francisco, CA	\$1,537,986.90
Casey Construction, Inc	Emerald Hills, CA	\$1,733,000.00
Pacific Underground Construction, Inc	San Jose, CA	\$2,292,070.00

The bid pricing submitted varies between 50% under to 15% over the Engineer's Estimate. The range of variation in bid pricing from the Engineer's Estimate is likely due to the current construction market. The lowest responsible submitting a responsive bid is Preston Pipelines Infrastructure, LLC in the amount of \$999,240. No bid protests were filed with the City in regards to this Project.

Staff recommends the City Council adopt a Resolution (Attachment a) to approve plans and specifications for the Project and award a construction contract to Preston Pipelines Infrastructure, LLC., for a total contract amount not to exceed \$999,240.00. There is sufficient funding available in the Project budget to award this contract and no additional funding appropriation is required.

The recommended construction contingency for this Project is \$150,000 which is 15% of the total contract value to address any unforeseen conditions that may arise during construction. Consistent with prior Council action for the successful completion of projects with tight completion schedules, staff is requesting the use of the same change order policy used for previous projects (Attachment d). This policy allows for a timely completion of the Project, while addressing the need to respond swiftly to construction conditions and approve necessary change orders to limit potential claims or risks to the City. The change order authority will not be exceeded without prior City Council approval.

Staff also recommends the approval of Amendment No. 1 to the Design Services Agreement with MNS Engineers, Inc. (Attachment e) to provide construction support services. The services include construction management and inspection; reviewing and responding to change order requests, request for information, and material submittals from the contractor; address minor design changes due to unforeseen conditions; and project closeout. Staff has negotiated a scope and fee for Amendment No. 1 for a fee not to exceed \$156,524 which will increase compensation of the agreement from \$99,128 to \$255,652. No additional funding appropriation is required for Amendment No. 1.

POLICY ALTERNATIVE(S):

Alternative 1: Deny approval of project plans and specifications and award of the construction award.

Pros: None.

Cons: A denial would cause delay in completing the needed repairs to the damaged 16" PRV which is currently out of service.

Reason not Recommended: Delay in award of construction contract will delay project completion, prolong construction activities through the rainy season, and potentially result in higher total construction costs.

Additionally, the current 12" PRS may fail in the event of another surge event as there is no backup PRS in service.

FISCAL IMPACT:

Adequate funds are available in the Project budget and no additional funding appropriation is required. Funding source comes from Water Capital Surcharge and Water Line Extension Fund. As of 05/22/2024, the balance in CIP 7133 is \$2,371,824.

As of 05/22/2024 the uncommitted balance for this Projects is as follows:

CIP 7133	\$2,371,824
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Summary of Estimated Construction Cost:

Construction Contract Award	\$999,240
15% Construction Contingency	\$150,000
Administration and Inspection	\$50,000
MNS Engineer Amendment No. 1	\$156,524
Total	\$1,355,764

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The Project entails replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced, will have substantially the same purpose and capacity as the structure replaced and is exempt from CEQA pursuant to Cal. Code Regs., tit. 14, § 15302.

RECOMMENDATION:

Adopt a resolution to approve project plans & specifications; award the construction contract to the lowest responsive, responsible bidder, Preston Pipelines Infrastructure, LLC, in a total amount of \$999,240; authorize the City Manager to execute the construction contract with Preston Pipelines Infrastructure, LLC.; authorize the Public Works Director to negotiate and execute contract change order(s) in an aggregate amount not to exceed \$150,000; and approve and authorize the City Manager to execute Amendment No. 1 to the Design Services Agreement with MNS Engineers in the amount of \$156,524 for Fire Station 1 Pressure Reducing Station Reconstruction, Project No. 7133.

ATTACHMENT(S):

- (a) Resolution
- (b) Title Sheet
- (c) Summary of Bid Results
- (d) Change Order Policy
- (e) MNS Engineers Amendment No. 1

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS APPROVING PROJECT PLANS & SPECIFICATIONS; AWARDING THE CONSTRUCTION CONTRACT TO THE LOWEST RESPONSIBLE BIDDER SUBMITTING A RESPONSIVE BID, PRESTON PIPELINES INFRASTRUCTURE, LLC IN THE AMOUNT OF \$999,240; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONSTRUCTION CONTRACT WITH PRESTON PIPELINES INFRASTRUCTURE, LLC; AUTHORIZING THE PUBLIC WORKS DIRECTOR TO NEGOTIATE AND EXECUTE CONTRACT CHANGE ORDER(S) IN AN AGGREGATE AMOUNT NOT TO EXCEED \$150,000; AND APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 1 TO THE DESIGN SERVICES AGREEMENT WITH MNS ENGINEERS INC., IN THE AMOUNT OF \$156,524 FOR FIRE STATION 1 PRESSURE REDUCING STATION RECONSTRUCTION, PROJECT NO. 7133

WHEREAS, the Fire Station No. 1 Pressure Reducing Stations Reconstruction, Project No. 7133 (“Project”) is included in the adopted 2025-2029 Capital Improvement Program; and

WHEREAS, the Project consists of reconstruction of the existing underground 12-inch and 16-inch pressure reducing stations to above ground facilities along Curtis Ave. on the property of the Fire Station No. 1; and

WHEREAS, the Project was advertised on digital construction trade publications on March 29, 2024, and in the Milpitas Post on March 29 and April 5, 2024, in accordance with the bidding requirements of the Uniform Public Construction Cost Accounting Act; and

WHEREAS, the Engineer’s Estimate for the project base bid items is \$1,999,935; and

WHEREAS, on May 1, 2024, four sealed bid proposals were received. The bid pricing ranged from \$999,240 to \$2,292,070; and

WHEREAS, the lowest responsible bidder submitting a responsive bid is Preston Pipelines Infrastructure, LLC, in the base bid amount of \$999,240; and

WHEREAS, staff recommends the City Council award a construction contract to Preston Pipelines, the lowest responsible bidder submitting a responsive bid for the Project, and authorize the City Manager to execute a contract in the amount of \$999,240 in accordance with State law; and

WHEREAS, sufficient funds are available in the Project budget to award the Base Bid items under Preston Pipeline’s bid in the amounts of \$999,240; and

WHEREAS, staff recommends the City Council authorize the Public Works Director to negotiate and execute change order(s) in an amount not to exceed \$150,000; fifteen percent (15%) of the total contract value, due to the Project’s tight completion schedule and staff’s capability to respond swiftly to unanticipated construction conditions to limit potential claims or risk to the City; and

WHEREAS, staff recommends the City Council authorize the City Manager to execute Amendment No. 1 to the Design Services Agreement with MNS Engineers, Inc. in the amount not to exceed \$156,524.

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

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City Council hereby approves the Project Plans and Specifications.
3. The City Council hereby awards the construction contract to and authorizes the City Manager to execute the contract and related documents with the lowest responsible bidder submitting a responsive bid, Preston Pipelines Infrastructure, LLC in the amount of \$999,240 for the Project.
4. The Public Works Director is hereby authorized to negotiate and execute contract change order(s) in an aggregate amount not to exceed \$150,000 for the Project.
5. The City Manager is hereby authorized to execute Amendment No. 1 to the design services agreement with MNS Engineers, Inc. for the amount not to exceed \$156,524.

PASSED AND ADOPTED this _____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

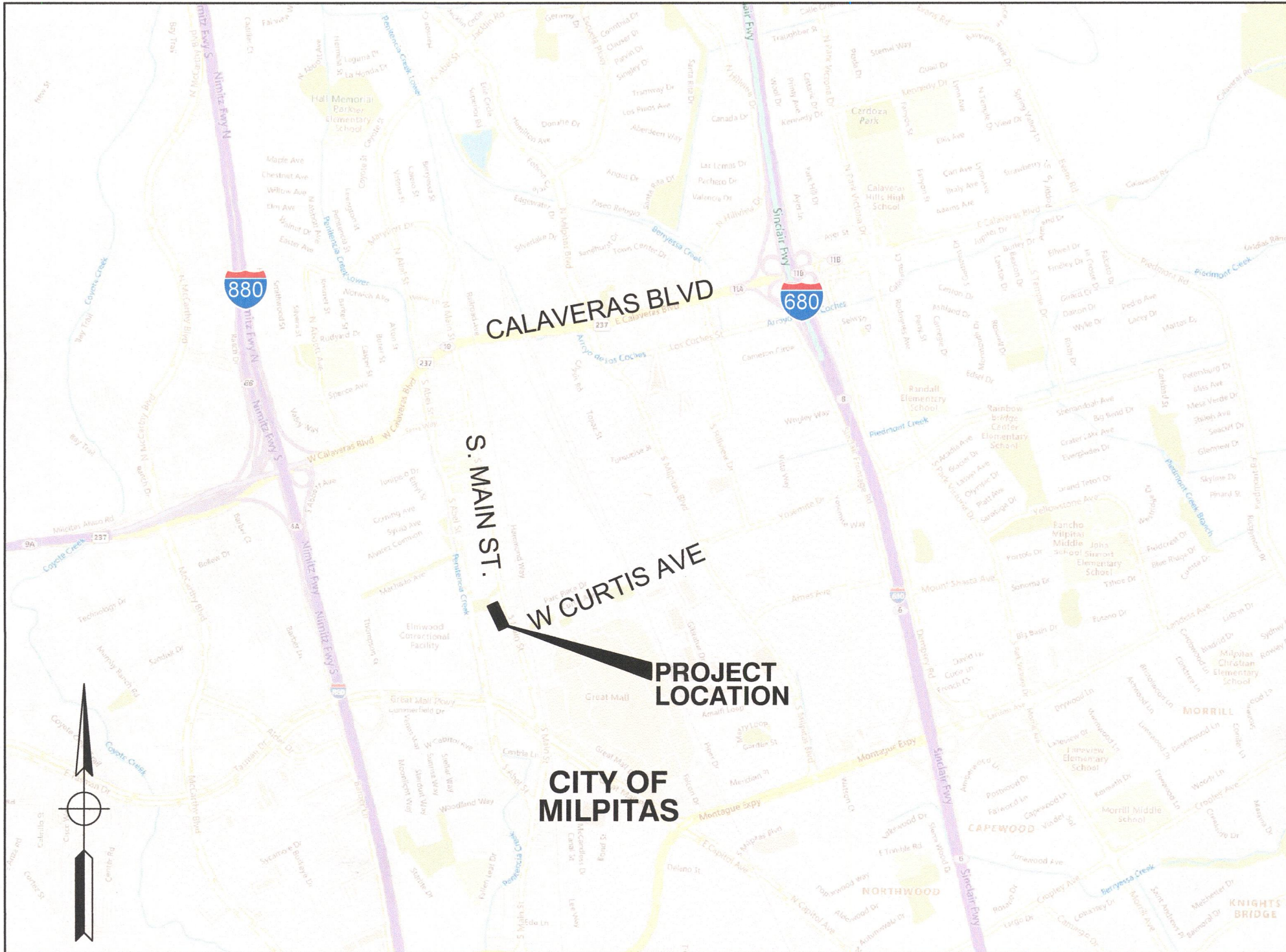
Michael Mutalipassi, City Attorney

CITY OF MILPITAS

FIRE STATION NO.1 PRESSURE REDUCING VALVES REPLACEMENT PROJECT

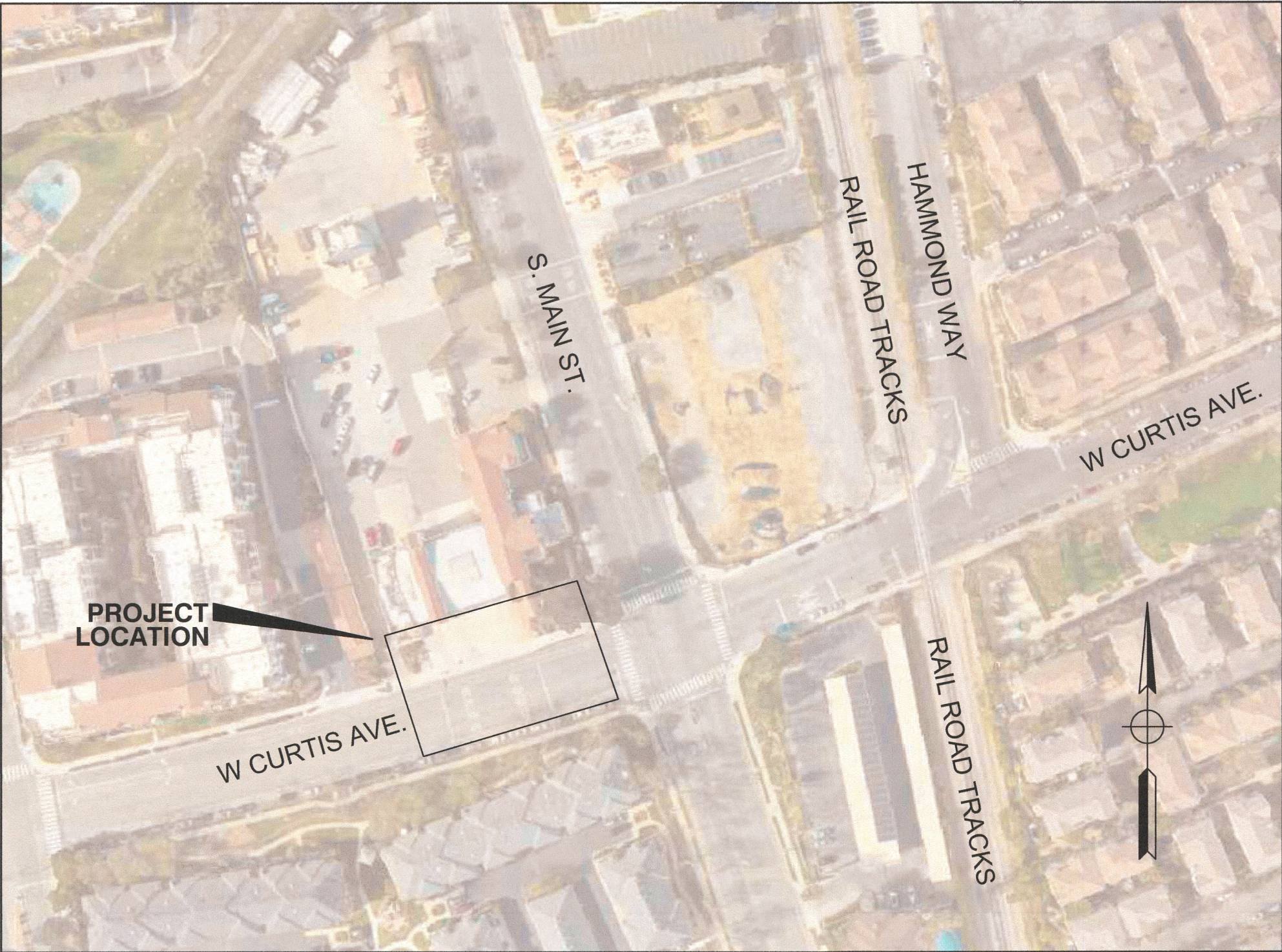


JANUARY 2024



VICINITY MAP
N.T.S.

SHEET INDEX		
SHEET NO.	DRAWING NO.	TITLE
1	G-1	TITLE SHEET, VICINITY MAP, LOCATION MAP, & SHEET INDEX
2	G-2	GENERAL NOTES
3	G-3	BASIS OF BEARING, BENCHMARK, NOTES, ABBREVIATIONS, & LEGEND
4	G-4	SHEET INDEX
5	C-1	EXISTING SITE PLAN
6	D-1	DEMOLITION PLAN 12" PRESSURE REDUCING VALVE VAULT
7	D-2	DEMOLITION PLAN 16" PRESSURE REDUCING VALVE VAULT
8	M-1	12" PRV SITE PLAN
9	M-2	16" PRV SITE PLAN
10	M-3	16" WATER MAIN PLAN AND PROFILE
11	M-4	16" WATER MAIN CONNECTION & PIPE SUPPORT DETAILS
12	M-5	12" WATER MAIN CONNECTION DETAIL
13	M-6	MISCELLANEOUS DETAILS
14	M-7	CITY STANDARD DETAILS - 1
15	M-8	CITY STANDARD DETAILS - 2
16	S-1	STRUCTURAL NOTES
17	S-1.1	SPECIAL INSPECTION
18	S-2	(E) 12"PRESSURE REDUCING VALVE-VAULT DEMOLITION AND (N) PAD
19	S-3	(E) 16"PRESSURE REDUCING VALVE-VAULT DEMOLITION AND (N) PAD
20	S-4	TYPICAL CONSTRUCTION DETAILS
21	E-1	STANDARD ELECTRICAL SYMBOLS, LEGENDS, AND ABBREVIATIONS
22	E-2	ELECTRICAL ONELINE WIRING DIAGRAM
23	E-3	ELECTRICAL SITE PLAN
24	E-4	ELECTRICAL DETAILS - 1



LOCATION MAP
N.T.S.

Designer Stamp:



Record Drawings

Designer: _____ Date: _____
Public Works Inspector: _____ Date: _____
Utility/Facility Dept. Head: _____ Date: _____
Project Engineer: _____ Date: _____
Public Improvements Initially Accepted by
the City Council on: _____ Res. No. _____

Drawn By: HLL Date: _____
Checked By: TNH Date: _____
Designed By: NAB Date: _____

Revisions

Num.	Description	Engr. Aprv.	Date



CITY OF MILPITAS
ENGINEERING DIVISION

FIRE STATION NO. 1 PRESSURE REDUCING
VALVES REPLACEMENT PROJECT

TITLE SHEET, VICINITY MAP, LOCATION MAP, & SHEET INDEX

RECOMMENDED FOR BIDDING BY: DATE: 3/18/2024
Harris Siddiqui, P.E., Principal Engineer

APPROVED FOR BIDDING BY: DATE: 3.18.24
Christian Di Renzo, Public Works Director

PROJECT NO. _____
Rec. Dwg No. _____
DRAWING NO. _____
G-1
SCALE: _____
SHEET 1 OF 24



CITY OF MILPITAS
ENGINEERING DIVISION
BID SUMMARY

Project Name: Fire Station 1 PRV Project
Project No. : 7133
Bid Date: 1-May-24

			Lowest, Responsive Bidder				
BASE BID			Engineer's Estimate	Preston Pipelines Infrastructure, LLC	Devaney Engineering, Inc	Casey Construction, Inc	Pacific Underground Construction, Inc
ITEM	DESCRIPTION		Cost	Cost	Cost	Cost	Cost
1	Mobilization and Demobilization (Not to Exceed 5% of construction cost)	LS	\$138,177.00	\$27,900.00	\$70,000.00	\$84,000.00	\$113,000.00
2	Traffic Control	LS	\$87,270.00	\$40,000.00	\$50,000.00	\$150,000.00	\$73,000.00
3	Erosion and Sediment Control Plan	LS	\$29,090.00	\$23,100.00	\$10,000.00	\$10,000.00	\$5,000.00
4	Sheeting, Shoring, and Bracing	LS	\$29,090.00	\$27,100.00	\$150,000.00	\$14,000.00	\$30,000.00
5	Utility Potholing	LS	\$33,453.00	\$47,500.00	\$30,000.00	\$10,000.00	\$106,000.00
6	Dewatering	LS	\$94,542.00	\$13,800.00	\$15,000.00	\$13,000.00	\$25,000.00
7	Demolish 16" Pressure Reducing Station and Repair Fire Station Driveway Section	LS	\$43,635.00	\$17,800.00	\$50,000.00	\$42,000.00	\$72,143.00
8	Abandon 16" Water Line In Place	LS	\$14,545.00	\$9,240.00	\$15,000.00	\$10,000.00	\$30,000.00
9	Demolish Two (2) 16" Gate Valves, Add Two (2) Blind Flange Connections	LS	\$43,635.00	\$17,720.00	\$25,000.00	\$42,000.00	\$30,000.00
10	Protect Existing Trees (2)	LS	\$2,909.00	\$1,210.00	\$2,500.00	\$8,000.00	\$1,500.00
11	Install Two (2) 16" Water Line Connections to 18" Main Line	LS	\$29,090.00	\$75,200.00	\$75,000.00	\$72,000.00	\$165,300.00
12	Install Two (2) Buried 16" Gate Valves	LS	\$58,180.00	\$35,200.00	\$50,000.00	\$40,000.00	\$39,727.00
13	Install Buried 16" DIP Water Line	LS	\$552,710.00	\$312,480.00	\$500,000.00	\$500,000.00	\$510,000.00
14	Install Above Grade 16" DIP Water Line, Butterfly Valves (2), Pressure Reducing Valve and Equipment, Concrete Pad and Supports	LS	\$145,450.00	\$97,900.00	\$100,000.00	\$220,000.00	\$153,100.00
15	Install Fencing and Gate for 16" Pressure Reducing Station	LS	\$87,270.00	\$21,330.00	\$35,000.00	\$30,000.00	\$120,000.00
16	Demolish 12" Pressure Reducing Station	LS	\$58,180.00	\$12,400.00	\$25,000.00	\$36,000.00	\$85,800.00
17	Demolish Two Buried (2) 12" Gate Valves and Install Two (2) New 12" Gate Valves	LS	\$87,270.00	\$35,400.00	\$35,000.00	\$56,000.00	\$18,400.00
18	Install Two (2) 12" Water Line Connections to 12" Water Line and Buried 12" Piping	LS	\$43,635.00	\$19,540.00	\$25,000.00	\$40,000.00	\$41,100.00
19	Install Above Grade 12" DIP Water Line, Butterfly Valves (2), Pressure Reducing Valve and Equipment, Concrete Pad and Supports	LS	\$130,905.00	\$67,700.00	\$75,000.00	\$210,000.00	\$127,000.00
20	Install Fencing and Gate for 12" PRS	LS	\$87,270.00	\$12,220.00	\$35,000.00	\$20,000.00	\$120,000.00
21	Demolish 12" PRS AR/AV and BO Valve Assemblies and Replace with New and Relocated Assemblies	LS	\$21,817.00	\$12,800.00	\$25,000.00	\$30,000.00	\$35,000.00
22	Electrical Services and Facility Start Up Services	LS	\$123,632.00	\$66,160.00	\$19,000.00	\$80,000.00	\$241,000.00
23	Locate, Remove/Relocate, and Repair Existing Recycled Irrigation Piping and Landscaping w/ Mulch	LS	\$58,180.00	\$5,540.00	\$10,000.00	\$16,000.00	\$150,000.00
	BASE CONTRACT WORK		\$1,999,935.00	\$999,240.00	\$1,426,500.00	\$1,733,000.00	\$2,292,070.00

List of Sub-Contractors				
Description	Preston Pipelines Infrastructure, LLC	Devaney Engineering, Inc	Casey Construction, Inc	Pacific Underground Construction, Inc
Pipe Abandonment			Cell-Crete	Cell-Crete Corporation
Electrical		Liffey Electric	Bay Tech Engineering Inc.	Blocka Construction, Inc
Site Fencing	A-1 Fence, Inc.			
Site Concrete	Joseph J. Albanese, Inc.			

Attachment 4

Construction Change Order Policy for Fire Station 1 Pressure Reducing Station Reconstruction, Project No. 7133

2024 City Council Approved Construction Change Order Policy

Construction Award <u>Award Amount</u>	Individual Administrative <u>Change Order Authority</u>	Cumulative <u>Change Order Authority</u>
Less than \$100,000	\$10,000	\$15,000
Over \$100,000	10% of Award or \$20,000 whichever is less	15% of Award or \$40,000 whichever is smaller

Fire Station 1 Pressure Reducing Station Reconstruction Project Change Order Policy

Construction Award <u>Award Amount</u>	Individual Administrative <u>Change Order Authority</u>	Cumulative <u>Change Order Authority</u>
\$999,240	N/A	\$150,000

Attachment 5

Project No.: CP 7133

Project Name: Fire Station 1 PRV Project

AMENDMENT NO. 1 **TO THE DESIGN SERVICES AGREEMENT BETWEEN CITY OF MILPITAS AND** **MNS ENGINEERS, INC.**

This Amendment is entered into this 4th day of June 2024 by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "CITY") and MNS Engineers, Inc., a California Corporation (hereafter referred to as "CONSULTANT"). City and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Amendment No. 1.

RECITALS

WHEREAS, on March 29, 2023, the parties entered into an Agreement entitled "Design Services Agreement between the City of Milpitas and MNS Engineers, Inc." ("Agreement") for design services in the total amount of \$99,128.00; and

WHEREAS, the parties now desire to amend the Agreement to increase the compensation by \$156,524.00 to allow CONSULTANT to provide construction support services for Fire Station 1 PRV as described in Exhibit A-1, attached hereto, for a new total amount of \$255,652.00; and

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

1. Section 3.10.1, entitled "Designer's Compensation for Basic Services," the first line is hereby amended to read as follows:

"City shall pay to Designer, for the performance of all Services rendered under this Agreement, the total not-to-exceed amount of Two Hundred Fifty-Five Thousand Six Hundred and Fifty-Two Dollars (**\$255,652.00**) (Total Compensation).

2. **Exhibit A-1**, attached hereto and incorporated herein by this reference, are hereby added to the Agreement.
3. The Consultant agrees to maintain and pay for all insurance policies as stated in Section 3.3.3, entitled "Standards and Insurance" of the Agreement dated March 29, 2023. The Consultant shall provide the City with renewal certificates of the current policies upon the expiration of the current policies.
4. Section 5. Term is deleted and replaced in its entirety with the following:

The term of this Agreement shall be from April 1, 2023, to December 31, 2025, unless earlier terminated as provided herein. The City reserves the right to review the Consultant's performance at the end of each year and cancel all or part of the Agreement.

Consultant shall perform its services in a prompt and timely manner and shall commence performance upon the Effective Date.

5. Except as amended by this Amendment No. 1, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 1, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement as amended by this Amendment No. 1.
6. The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 1.
7. If any provision of this Amendment No. 1 shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Amendment No. 1 unless elimination of such provision materially alters the rights and obligations set forth herein.

[SIGNATURES ON FOLLOWING PAGE]

**SIGNATURE PAGE FOR AMENDMENT NO. 1
TO DESIGN SERVICES AGREEMENT BETWEEN THE CITY OF MILPITAS AND
MNS ENGINEERS, INC.**

This Amendment No. 1 is executed as of the date first written above.

APPROVED BY:

CITY OF MILPITAS

CONSULTANT
MNS Engineers Inc.

APPROVED BY:

Ned Thomas, City Manager

By:_____
Nicholas Boswell, Supervising
Engineer

Date

Date

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney

APPROVED

Luz Cofresi-Howe, Finance Director

APPROVED AS TO CONTENT:

Christian Di Renzo, Public Works Director

May 21, 2024

Ms. Elaine Marshal
Deputy Public Works Director
1265 N. Milpitas Avenue
Milpitas, CA 95035

**SUBJECT: Proposal for Construction Management and Inspection Services –
Station No.1 Pressure Reducing Stations Replacement Project**

Dear Ms. Marshal,

MNS Engineers, Inc. (MNS) appreciates the opportunity to submit this proposal to provide construction management and inspection services for the Fire Station No.1 Pressure Reducing Stations Replacement Project (Project). We offer our highly qualified team to provide services for this Project.

Background and Project Understanding

The City of Milpitas (City) Public Works Department (Public Works) operates and maintains the City's infrastructure and facilities, including street maintenance, utility engineering, utility operations and maintenance, and environmental compliance and sustainability, as well as other services.

A surge event occurred within the City's water distribution system that damaged infrastructure including an existing 16-inch pressure reducing valve at the City's Curtis Pressure Reducing Station (PRS) located at the City's Fire Station No.1 at 777 South Main Street, Milpitas CA. Due to the critical nature of the valve, the City desires to expedite replacement.

At the Project site, there is an 18-inch water line within Curtis Avenue. Two PRSs are located on the Fire Station No.1 property. Each underground PRS reduces pressure from City Water Zone SC2 (which operates at 130 to 140 PSI) and discharges to Zone SC1 (which operates at 77 PSI). The two PRSs are designed in a lead-lag configuration and include separate West and East connections.

The West PRS was constructed in 1998 and includes an underground vault with access hatch, 12-inch water line and pressure reducing valve, lighting, submersible pump to remove nuisance water, and ship ladder to access the vault. Pressure gages and transmitters are installed on the upstream and downstream piping to the valve. The vault is approximately 9 ft wide x 9 ft long x 7 ft deep and is located west of the fire station driveway in a landscaped area.

The East PRS was constructed in 1970 and includes an underground vault with manhole cover access, a 16-inch water line, and pressure reducing valve with

MNS DETAILS

LEGAL NAME

MNS Engineers, Inc.

**FIRM OWNERSHIP
TYPE**

C-Corporation

**YEAR FIRM
ESTABLISHED**

1962

**CALIFORNIA
DEPARTMENT OF
INDUSTRIAL
RELATIONS**

DIR No. 1000003564

CORPORATE OFFICE201 N. Calle Cesar Chavez,
Suite 300

Santa Barbara, CA 93103

805.692.6921 Office/Fax

mnsengineers.com**LOCAL OFFICE**811 El Capitan Way #130, San
Luis Obispo, CA 93401

(805) 787-0326

PROJECT CONTACT

Megan Panofsky, PE, CCM

Construction Manager

(805) 331-4860

mpanofsky@mnsengineers.com**AUTHORIZED
SIGNATURE**

Greg Chelini, PE

Vice-President and Principal
Construction Manager

(805) 896-9474

gchelini@mnsengineers.com

lighting. Pressure gages and transmitters are installed on the upstream and downstream piping to the valve and an air relief valve is installed on the 16-inch PRV discharge piping. The vault is approximately 4 ft wide x 9 ft long x 4 ft deep and is in the fire station's concrete driveway. The East PRS was the facility recently damaged and is currently out of service.

The City recently contracted with MNS Engineers, Inc. to provide Plans, Specifications and Estimate (PS&E) documents for issuance for competitive bid and construction. The Project includes installation of roughly 140 feet of 16-inch DIP, one 12-inch PRS in approximately the same location as the existing West PRS, one 16-inch PRS, and demolition of the existing 16-inch PRS. MNS is currently finalizing the PS&E documents, anticipating to be out to bid by **March 2024**, with construction estimated to start in August 2024.

The City has also proceeded with procurement of the 12-and 16-inch Pressure Reducing Valves to expedite the construction schedule. The contractor will be responsible to pick up the valves from the City. MNS will carefully document condition and handover of the valves.

MNS's extensive experience with both waterline replacement and paving makes us well qualified to provide construction management and inspection of the proposed improvements.

Scope of Work

MNS staff will support the City by providing construction management and daily full-time inspection in accordance with the contract documents for the PRS replacement project per the following tasks.

Task 1 – Construction Management

Subtask 1.1: Pre-Construction Conference

MNS will organize and conduct a pre-construction meeting. The Construction Manager (CM) will prepare and distribute an agenda prior to the meeting. At the pre-construction conference, we will discuss the roles and responsibilities of the Project team (City, Design Engineer, Construction Manager, Contractor, etc.) as well as establish the protocol to be used throughout the project. The meeting will set the tone of cooperation for the project and elaborate on contract requirements and concerns. MNS will distribute meeting minutes to all parties in attendance.

One important point of conversation will be regarding maintained access for the Fire Department throughout construction. 24/7 access to the Fire House is critical.

Subtask 1.2: Contract Administration/Document Control

MNS will develop an administration system to assure all elements of the actual construction are furnished, installed, and constructed in accordance with the contract documents and applicable standards, providing organization of files and computer-generated forms and spreadsheets to assist in tracking correspondence, submittals, requests for information (RFIs), contract change orders (CCOs), and progress payments.

Contract administration includes:

- Daily diaries
- Labor compliance review
- Logs for submittals, RFIs, CCOs, and materials testing results
- Correspondence, permits, and agreements

- Progress schedule/Weekly Statement of Working Days (WSWDs)
- Progress pay estimates and quantities
- Potential claims
- Safety
- Material verification
- Weekly meetings agenda and minutes

Subtask 1.3: Site Documentation

MNS will take pre-construction site photos to document the existing condition of the Project limits prior to construction. MNS will document construction throughout the life of the Project. Photos will be filed in the Project files.

Subtask 1.4: Project Communication and Coordination

The CM will oversee project communication and coordination between the City, Design Engineer, Fire Department, and contractor throughout the construction phase. Weekly updates will be provided to the City, specifically identifying anticipated public impacts for the upcoming week. Progress meetings will be held weekly. The CM will distribute an agenda prior to the meeting and record meeting minutes.

Subtask 1.5: Project Schedule Adherence

The CM will review and approve the contractor's baseline schedule at the start of the Project. The CM will require and review three-week-look-ahead schedules from the contractor on a weekly basis. The contractor will be issued weekly summary of working days (WSWDs) to document the progress of the work and the number of working days expended.

Subtask 1.6: Cost Control

The Project's document control system will track and monitor the actual Project construction costs. The tracking of contract item payments and quantities is incorporated into the progress payment spreadsheet. Contract change order (CCO) payments, extra work, and item overruns and underruns will also be tracked. The project contingency balance will be verified as part of the monthly progress pay estimate review and submittal.

Subtask 1.7: Progress Pay Estimate

MNS will track each contract item and review the quantity to be paid for each progress pay estimate. The Construction Inspector will track any extra work and supplemental work costs to be compared against the authorized change order amounts. We will review the contractor's monthly request for payment and recommend approval for payment to the City.

Subtask 1.8: Submittals/RFIs

MNS will perform a timely review of submittals and RFIs; all submittals and RFIs will be reviewed for completeness, logged, and distributed as appropriate. MNS will monitor the log to verify responses are submitted in a timely manner.

Subtask 1.9: CCO and Claims Management

Prior to beginning any contract work, we will coordinate with the City to define the CCO process. All CCOs must define the project scope of work and limits and comply with the project documents. MNS will be proactive in identifying actual and potential problems and work towards a timely and cost-effective solution. The CM will:

- Determine the validity and justification for all CCOs
- Notify the City if CCOs are needed
- Negotiate costs with the contractor
- Prepare CCO documentation for City authorization
- Track all CCOs against project contingency balance

The CM will work closely with the City, Design Engineer, and the contractor to resolve CCOs and/or disputes.

Subtask 1.10: Commissioning

MNS will coordinate commissioning of the pipeline and PRSs, including pressure testing, disinfection, sampling, and tie-ins. MNS will emphasize tie-in plans to limit service interruption to City customers.

Subtask 1.11: Final Punchlist

The CM will prepare and submit a final punch list of outstanding contract items to the contractor. MNS will conduct a final inspection in the presence of the City representatives and the contractor.

Subtask 1.12: Red Line As-Builts

MNS will track and maintain as-built drawings in accordance with the contract requirements and ensure they are complete to the extent feasible. The CM will hold regular meetings with the contractor to monitor the status of the as-built drawing set, which is often made a contingency for approval of the monthly pay request.

Subtask 1.13: Closeout

Once the contractor provides the required documentation, MNS will submit an acceptance recommendation report with the final pay request for payment. MNS will submit job files and final reports to the City upon completion of the contract.

Task 2 – Construction Inspection**Subtask 2.1: Construction Inspection**

The Construction Inspector will be onsite daily to observe the work with the goal of verifying it is performed safely and in accordance with the contract documents. The Construction Inspector's responsibilities will also include:

- **Daily Inspection.** Inspect the construction for compliance with the plans and specifications.
- **Quality Assurance.** Assure the contractor's overall Quality Control (QC) is implemented in a manner consistent with the Projects' Special Provisions.
- **Traffic Control/No Parking Zones.** Inspect the contractor's daily traffic control per approved standards. Notify the contractor of any perceived unsafe conditions.

- **Daily Reports.** Prepare daily inspection reports, daily quantities, note any safety issues, and include an accurate description of the work, labor, and equipment. Note any extra work or changes to the plans. Maintain photographic record of construction.
- **Materials.** Verify approved materials are incorporated into the project.
- **Acceptance/Performance Testing.** Coordinate acceptance and performance testing in conformance with the contract documents.
- **Punch List.** Prepare punch list and inspect for completion of punch list work items.

Subtask 2.2: Safety

The contractor has sole responsibility for compliance with safety requirements on the construction contract, but MNS will monitor compliance with their safety program and advise the City of observed deficiencies. The contractor's Safety Plan, Traffic Control Plan, and Cal/OSHA Construction Safety Orders will guide our inspectors in monitoring the contractor's work.

Subtask 2.3: Permit Management

MNS will monitor the construction to assure all items of work are performed in accordance with encroachment permits, and stormwater pollution control requirements.

Subtask 2.4: Final Punchlist

The Inspector will participate in preparation of a final punch list of outstanding contract items to the contractor and re-inspect the completed work. MNS will also conduct a final inspection in the presence of the City representatives and the contractor.

Task 3 – Construction Closeout

Once the contractor provides the required documentation, MNS will submit an acceptance recommendation report with the final pay request for payment. MNS will coordinate delivery of any maintenance and warranty documentation. MNS will submit job files and final reports to the City upon completion of the contract.

Project Team

Our highly qualified project team is available to provide the City with high quality construction management, inspection, and quality assurance for a project delivered in accordance with the plans and specification. The following is the proposed CM team.

Construction Manager – Ryuun Ernst

Mr. Ernst will be responsible for overall construction management of the Project. Ryuun is a seasoned construction industry professional with 18 years of experience on various water projects, including the planning, design, construction, operation, and maintenance of facilities and systems throughout the San Francisco Bay Area. Having managed projects from conception through construction, Ryuun has the ability to identify risks to successful project completion early in the process. He specializes in complete project delivery, construction management, program management, and contract management. He is also a certified T2 Water Treatment Operator and has experience in water pipeline installation, pressure testing, and chlorination.

Construction Inspector – Peter Testa

Mr. Testa has over 32 years of experience in the civil engineering industry with a focus on projects within the public works sector. Recently Peter has worked with the City on the Main Lift Odor Emission Control Facility, which included demolition of existing piping, concrete pads, and asphalt concrete, as well as installation of a trickling biofilter with associated duct work, piping, anchors, mechanical equipment, control panels, etc. His extensive experience in the industry has allowed him to be successful in numerous project roles from management to inspection and will make him a valuable on-site asset for the City's project.

Backup Construction Inspector – Bill Smith

Mr. Smith has over 36 years of experience in the civil engineering field and project delivery, with experience that includes municipal projects, Caltrans, and project management for the US Air Force. Bill brings with him a great deal of expertise and a well-rounded background, paired with an enthusiasm for problem solving, Bill is well qualified to provide inspection on the City's project.

Project Schedule

MNS understands it is the intention of the City to be in construction as soon as possible after receipt of the 100 % Plans, Specifications & Estimate (PS&E) package. MNS has assumed the following schedule, a Notice to Proceed (NTP) date of July 1, 2024, and a construction period of 2.5 months.

Project Bid Period	March 1, 2024 – April 30, 2024
Contract Award	April 30, 2024 – June 15, 2024
Insurance & Bonds	June 15, 2024 – July 1, 2024
NTP	July 1, 2024
Submittals/Procurement	July 1, 2024 – July 31, 2024
Construction	August 1, 2024 – October 15, 2024

Assumptions/Exclusions

- No nightwork, weekend, or holiday work is anticipated.
- Full-time inspection is assumed over a 2.5 month period.
- Materials testing has not been included in this proposal.

Compensation

A detailed fee spreadsheet is provided herein. All fees are in accordance with the 2024 MNS Standard Fee Schedule and escalation rate.

Closing

Thank you for the opportunity to submit this proposal. We are excited and look forward to working with the City. Please feel free to contact me with any questions you may have at 805.331.4860 or mpanofsky@mnsengineers.com. Thank you for your consideration.

Sincerely,
MNS Engineers, Inc.



Megan Panofsky, PE, CCM
Construction Manager

Attachments: MNS Standard Fee Schedule
Fee Estimate Spreadsheet

**Construction Management and Inspection Services
Fire Station No.1 Pressure Reducing Valves Replacement Project
City of Milpitas**



Project Schedule									
PHASE		2024							
		June	July	Aug	Sept	Oct			
Pre-Construction	Fire Station No.1 Pressure Reducing Valves Replacement Project								
Procurement/Construction									
Project Closeout									

PHASE							TOTAL HOURS	HOURLY RATE	TOTAL COST
		2024						2024	
Role	Staff	June	July	Aug	Sept	Oct			
TASK 1 CONSTRUCTION MANAGEMENT									
Resident Engineer	Ryuun Ernst	16	32	40	40	24	152	270.00	\$ 41,040.00
SUB-TOTAL		16	32	40	40	24	152		\$ 41,040.00
TASK 2 CONSTRUCTION INSPECTION									
Senior Inspector	TBD	8	40	172	172	80	472	198.00	\$ 93,456.00
Office Administrator	TBD		12	16	16	12	56	135.00	\$ 7,560.00
SUB-TOTAL		8	52	188	188	92	528		\$ 101,016.00
TASK 3 PROJECT CLOSEOUT									
Resident Engineer	Ryuun Ernst					24	24	270.00	\$ 6,480.00
Senior Inspector	TBD					16	16	198.00	\$ 3,168.00
Office Administrator	TBD					32	32	135.00	\$ 4,320.00
SUB-TOTAL		0	0	0	0	72	72		\$ 13,968.00
TOTALS		24	84	228	228	188	752		\$ 156,024.00

Direct Expenses	TOTAL COST
	\$ 500.00
DIRECT EXPENSES SUB-TOTAL	\$ 500.00

CONSTRUCTION MANAGEMENT AND INSPECTION TOTAL	\$ 156,524.00
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Notes:

1. Durations based on a 2.5 month construction period.
2. Hours and costs are an estimate only; actual hours and costs will be based on contractor's schedule.
3. Overtime not included in this cost estimate. Any OT would be billed per MNS Standard Fee Schedule.
4. Construction Inspector's rate subject to adjustment if DIR Prevailing Wage rates are applicable.



2024 STANDARD SCHEDULE OF FEES

PROJECT/PROGRAM MANAGEMENT

Principal-In-Charge.....	\$340
Senior Project/Program Manager.....	325
Project/Program Manager	275
Assistant Project/Program Manager	255
Senior Project Coordinator	195
Project Coordinator	165

ENGINEERING

Principal Engineer	\$305
Lead Engineer	270
Supervising Engineer	255
Senior Project Engineer	235
Project Engineer.....	210
Associate Engineer	190
Assistant Engineer.....	175

SURVEYING

Principal Surveyor	\$280
Lead Surveyor	270
Supervising Surveyor	230
Senior Project Surveyor	210
Project Surveyor.....	185
Associate Project Surveyor.....	175
Assistant Project Surveyor.....	160
Party Chief (PW).....	190
Chainperson (PW)	160
One-Person Survey Crew (PW).....	225

TECHNICAL SUPPORT

CADD Manager	\$210
Supervising Technician	180
Senior Technician	170
Engineering Technician	130

DIRECT EXPENSES

Use of outside consultants as well as copies, blueprints, survey stakes, monuments, computer plots, telephone, travel (out of area) and all similar charges directly connected with the work will be charged at cost plus fifteen percent (15%). Mileage will be charged at the current federal mileage reimbursement rate.

PREVAILING WAGE RATES

Rates shown with Prevailing Wage "(PW)" annotation are used for field work on projects subject to federal or state prevailing wage law and are subject to increases per DIR.

ANNUAL ESCALATION

Standard fee rates provided for each classification are subject to 5% annual escalation or the most recent US Bureau of Labor Statistics Consumer Price Index, whichever is higher.

OVERTIME

Overtime for non-exempt employees will be charged at 1.5 x hourly rate; overtime for exempt employees and other classifications will be charged at 1 x hourly rate.

CONSTRUCTION MANAGEMENT

Principal Construction Manager	\$335
Senior Construction Manager.....	290
Senior Resident Engineer.....	280
Resident Engineer	270
Structure Representative.....	260
Construction Manager	230
Assistant Resident Engineer.....	215
Sr. Construction Inspector (PW)	198
Construction Inspector (PW)	188
Office Administrator.....	135

PLANNING

Planning Director	\$235
City Planner/Planning Manager	220
Principal Planner	205
Senior Planner	190
Associate Planner	160
Assistant Planner	135
Planning Technician	115

ADMINISTRATIVE SUPPORT

Senior Management Analyst.....	\$195
Management Analyst.....	165
IT Technician.....	150
Graphics/Visualization Specialist	160
Administrative Assistant.....	105

GOVERNMENT SERVICES

City Engineer	\$265
Deputy City Engineer	235
Assistant City Engineer.....	225
Plan Check Engineer.....	185
Permit Engineer.....	175
City Inspector	175
Senior City Inspector (PW)	198
City Inspector (PW)	188
Principal Stormwater Specialist.....	190
Senior Stormwater Specialist.....	180
Stormwater Specialist.....	170
Stormwater Technician	150
Building Official.....	250
Senior Building Inspector.....	200
Building Inspector	175
Senior Grant Writer.....	190
Grant Writer	180
Associate Grant Writer	160
Assistant Grant Writer	145



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve the Improvement Agreement with Chevron U.S.A., Inc. for the Completion of Offsite Public Improvements Located at 1490 South Park Victoria Drive. (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; and Michael Silveira, City Engineer, 408-586-3303)
Category:	Consent Calendar-Community Development
Meeting Date:	6/4/2024
Recommendation:	Approve and authorize the City Manager to execute the Improvement Agreement between the City and Chevron U.S.A. Inc. for the completion of the offsite public improvements located at 1490 South Park Victoria Drive.

BACKGROUND:

The City of Milpitas Planning Commission conditionally approved a Developer's application at 1490 South Park Victoria Drive (APN 086-36-010) ("Project") for a Conditional Use Permit (P-UP18-0013), Conditional Use Permit Amendment (P-UA18-0015), and Minor Site Development Permit (P-MS18-0205) to remodel the existing gas station convenience store building, trash enclosure, and associated site improvements on June 12, 2019, and conditionally approved a Time Extension (P-TE21-0003) for the aforementioned permits on August 11, 2021. The Project will be required to construct various offsite public improvements including, but not limited to curb, gutter, sidewalk, driveways, irrigation water service, and other miscellaneous items of work identified as shown on the public improvement plans for the benefit of the Project and public.

ANALYSIS:

The Developer, Chevron U.S.A. Inc., has agreed to enter into an Improvement Agreement (Attachment 1) with the City for construction of the Project's offsite public improvements which will be accepted by the City upon completion. The offsite public improvements will be completed within one (1) year from the date of the Agreement, and the work is guaranteed by bonds or similar security to be posted by the Developer in the amount of \$35,375. The City Engineer has reviewed the public improvement plans (2-1446) and recommends the City Council approve the Improvement Agreement to allow the construction of the offsite public improvements to proceed.

POLICY ALTERNATIVE(S):

Alternative 1: Deny approval Improvement Agreement for the installation of offsite public improvements.

Pros: None

Cons: The denial of approval of the Improvement Agreement will cause construction of the offsite public improvements to be delayed, and will prevent the owner and new tenants from occupying the newly remodeled building.

Reason for Not Recommending: The offsite public improvements are to benefit the Project and public. Staff recommends the City Council approve the Improvement Agreement to guarantee the offsite public improvements are constructed as shown on the public improvement plans within one-year of the executed agreement.

FISCAL IMPACT:

The Developer has reimbursed the City for the costs associated with plan review, permitting and construction inspection of the offsite public improvements. The City will have perpetual ownership and maintenance responsibilities for the improvements following the completion of the construction and acceptance of the Project. The Public Works Department provides funding for future maintenance of newly accepted City infrastructure through their operating budget.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

CEQA review was performed by the Planning Division, and the Milpitas Planning Commission determined on June 12, 2019, that the Project is exempt from environmental review under CEQA, pursuant to CEQA Guidelines Section 15303(c) (New Construction or Conversion of Small Structures), and, as a separate and independent basis, determined that the proposed Project is exempt from CEQA review pursuant to CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan or Zoning).

RECOMMENDATION:

Approve and Authorize the City Manager to Execute the Improvement Agreement between the City and Chevron U.S.A. Inc. for the completion of the Offsite Public Improvements located at 1490 South Park Victoria Drive.

ATTACHMENT(S):

- a) Improvement Agreement

RECORDING REQUESTED BY:
WHEN RECORDED RETURN TO:

CITY OF MILPITAS
455 E. Calaveras Blvd
MILPITAS, CA 95035
ATTN: Engineering Department

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Exempt from recording fee, per Government Code
Section 6103

CITY OF MILPITAS, CALIFORNIA

By: _____
City Clerk

AGREEMENT FOR COMPLETION OF PUBLIC IMPROVEMENTS

1490 SOUTH PARK VICTORIA DRIVE

**between
CITY OF MILPITAS**

a California municipal corporation

**and
CHEVRON U.S.A. INC.**

a Pennsylvania corporation

**AGREEMENT FOR COMPLETION OF PUBLIC IMPROVEMENTS
CHEVRON C-STORE, 1490 SOUTH PARK VICTORIA DRIVE**

I. PARTIES AND DATE.

This Agreement for the Completion of Public Improvements (“Agreement”) is entered into as of this __ day of _____, 2024 by and between the City of MILPITAS, a California municipal corporation (“City”) and Chevron U.S.A. Inc., a Pennsylvania corporation with its principal office located at 6001 Bollinger Canyon Road, San Ramon, CA 94583 (“Developer”). City and Developer are sometimes hereinafter individually referred to as “Party” and hereinafter collectively referred to as the “Parties.”

II. RECITALS.

A. On October 23, 2018, Developer submitted to City an application for approval of a Conditional Use Permit (P-UP18-0013), Conditional Use Permit Amendment (P-UA18-0015), and Minor Site Development Permit (P-MS18-0205) for the remodel of a gas station convenience store building and associated site improvements for Chevron C-Store (the “Project”) for real property located within City, a legal description of which is attached hereto as Exhibit “A” (“Property”).

B. On June 12, 2019, the MILPITAS PLANNING COMMISSION conditionally approved Developer’s application for a Conditional Use Permit (P-UP18-0013), Conditional Use Permit Amendment (P-UA18-0015), and Minor Site Development Permit (P-MS18-0205) for the Project. On August 11, 2021, the MILPITAS PLANNING COMMISSION conditionally approved Developer’s application for a Time Extension (P-TE21-0003) for the aforementioned permits.

C. Developer has not completed all of the work or made all of the public improvements required by Title X, Chapter 1, Section 8 of the City’s Municipal Code, the conditions of approval for the Project, or other ordinances, resolutions, or policies of City requiring construction of public improvements in conjunction with the subdivision of land.

D. Pursuant to Title X, Chapter 1, Section 8 of the City’s Municipal Code, Developer and City enter into this Agreement for the timely construction and completion of the public improvements and the furnishing of the security therefor, acceptable to the City Engineer and City Attorney, for the Project.

E. Developer’s execution of this Agreement and the provision of the security are made in consideration of City’s approval of the Project.

III. TERMS.

1.0 Effectiveness. This Agreement shall not be effective unless and until the following conditions are satisfied: (a) Developer provides City with security of the type and in the amounts required by this Agreement, as provided in Section 13.0 below and (b) Developer executes and records this Agreement in the Recorder's Office of the County of SANTA CLARA. If the above described conditions are not satisfied within 60 days after the entry date of this Agreement, this Agreement shall automatically terminate without need of further action by either City or Developer. The date upon which the conditions set forth in this Section 1.0 are satisfied may be referred to herein as the "Effective Date".

2.0 Public Improvements. Developer shall construct or have constructed at its own cost, expense, and liability all improvements required by City as part of the approval of the Project, including, but not limited to, all grading, roads, paving, curbs and gutters, pathways, storm drains, sanitary sewers, utilities, drainage facilities, traffic controls, landscaping, street lights, and all other required facilities as shown in detail on the plans, profiles, and specifications which have been prepared by or on behalf of Developer for the Project ("Public Improvements"). The Public Improvements are more specifically described in Exhibit "B," which is attached hereto and incorporated herein by this reference, and as shown on the City-approved Improvement Plan No. 2-1446 on file with the City. Construction of the Public Improvements shall include any transitions and/or other incidental work deemed necessary for drainage or public safety. The Developer shall be responsible for the replacement, relocation, or removal of any component of any irrigation water system in conflict with the construction or installation of the Public Improvements. Such replacement, relocation, or removal shall be performed to the complete satisfaction of the City Engineer and the owner of such water system. Developer further promises and agrees to provide all equipment, tools, materials, labor, tests, design work, and engineering services necessary or required by City to fully and adequately complete the Public Improvements.

2.1 Prior Partial Construction of Public Improvements. Where construction of any Public Improvements has been partially completed prior to this Agreement, Developer agrees to complete such Public Improvements or assure their completion in accordance with this Agreement.

2.2 Permits; Notices; Utility Statements. Prior to commencing any work, Developer shall, at its sole cost, expense, and liability, obtain all necessary permits and licenses and give all necessary and incidental notices required for the lawful construction of the Public Improvements and performance of Developer's obligations under this Agreement. Developer shall conduct the work in full compliance with the regulations, rules, and other requirements contained in any permit or license issued to Developer. Prior to commencing any work, Developer shall file a written statement with the City Clerk and the City Engineer, signed by Developer and each utility which will provide utility service to the Property, attesting that Developer has made all deposits legally required by each utility for the extension and provision of utility service to the Property.

2.3 Pre-approval of Plans and Specifications. Developer is prohibited from commencing work on any Public Improvement until all plans and specifications for such Public Improvement have been submitted to and approved by the City Engineer, or his or her designee. Approval by the City Engineer shall not relieve Developer from ensuring that all Public Improvements conform with all other requirements and standards set forth in this Agreement.

2.4 Quality of Work; Compliance With Laws and Codes. The construction plans and specifications for the Public Improvements shall be prepared in accordance with all applicable federal, state and local laws, ordinances, regulations, codes, standards, and other requirements. The Public Improvements shall be completed in accordance with all approved maps, plans, specifications, standard drawings, and special amendments thereto on file with City, as well as all applicable federal, state, and local laws, ordinances, regulations, codes, standards, and other requirements applicable at the time work is actually commenced.

2.5 Standard of Performance. Developer and its contractors, if any, shall perform all work required to construct the Public Improvements under this Agreement in a skillful and workmanlike manner, and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Developer represents and maintains that it, or its contractors shall be skilled in the professional calling necessary to perform the work. Developer warrants that all of its employees, and contractors shall have sufficient skill and experience to perform the work assigned to them, and that they shall have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the work, and that such licenses, permits, qualifications and approvals shall be maintained throughout the term of this Agreement.

2.6 Alterations to Improvements. The Public Improvements in Exhibit "B", and as shown on the City-approved Improvement Plan No. 2-1446 on file with the City, are understood to be only a general designation of the work and improvements to be done, and not a binding description thereof. All work shall be done and improvements made and completed as shown on approved plans and specifications, and any subsequent alterations thereto. If during the course of construction and installation of the Public Improvements it is determined that the public interest requires alterations in the Public Improvements, Developer shall undertake such design and construction changes as may be reasonably required by City. Any and all alterations in the plans and specifications and the Public Improvements to be completed may be accomplished without giving prior notice thereof to Developer's surety for this Agreement.

3.0 Maintenance of Public Improvements and Landscaping. City shall not be responsible or liable for the maintenance or care of the Public Improvements until City approves and accepts them. City shall exercise no control over the Public Improvements until accepted by City pursuant to Section 11.0. Any use by any person of the Public Improvements, or any portion thereof, shall be at the sole and exclusive risk of the Developer at all times prior to City's acceptance of the Public Improvements. Developer shall maintain all the Public Improvements in a state of good repair until they are completed by Developer and approved and accepted by City, and until the security for the performance of this Agreement is released. Maintenance shall include, but shall not be limited to, repair of pavement, curbs, gutters, sidewalks, signals, parkways, water mains, and sewers; maintaining all landscaping in a vigorous and thriving condition reasonably acceptable to City; removal of debris from sewers and storm drains; and sweeping, repairing, and maintaining in good and safe condition all streets and street improvements. It shall be Developer's responsibility to initiate all maintenance work, but if it shall fail to do so, it shall promptly perform such maintenance work when notified to do so by City. If Developer fails to properly prosecute its maintenance obligation under this Section 3.0, City may do all work necessary for such maintenance and the cost thereof shall be the responsibility of Developer and its surety under this Agreement. City shall not be responsible or liable for any damages or injury of any nature in any way related to or caused by the Public Improvements or their condition prior to acceptance.

4.0 Construction Schedule. Unless extended pursuant to this Section 4.1 of this Agreement, Developer shall fully and adequately complete or have completed the Public Improvements within one (1) year of the Effective Date of this Agreement (“Outside Completion Date”), unless extended pursuant to Section 4.1.

4.1 Extensions. City may, in its sole and absolute discretion, provide Developer with additional time within which to complete the Public Improvements. It is understood that by providing the security required under Section 13.0 et seq. of this Agreement, Developer and its surety consent in advance to any extension of time as may be given by City to Developer, and waives any and all right to notice of such extension(s). Developer’s acceptance of an extension of time granted by City shall constitute a waiver by Developer and its surety of all defense of laches, estoppel, statutes of limitations, and other limitations of action in any action or proceeding filed by City following the date on which the Public Improvements were to have been completed hereunder. In addition, as consideration for granting such extension to Developer, City reserves the right to review the provisions of this Agreement, including, but not limited to, the construction standards, the cost estimates established by City, and the sufficiency of the improvement security provided by Developer, and to require adjustments thereto when warranted according to City’s reasonable discretion.

4.2 Accrual of Limitations Period. Any limitations period provided by law related to breach of this Agreement or the terms thereof for abandoning or otherwise not completing required or agreed upon Public Improvements shall not accrue until Developer has provided the City Engineer with written notice of Developer’s intent to abandon or otherwise not complete required or agreed upon Public Improvements.

5.0 Grading. Developer agrees that any and all grading done or to be done in conjunction with construction of the Public Improvements shall conform to all federal, state, and local laws, ordinances, regulations, and other requirements, including City’s grading regulations. In order to prevent damage to the Public Improvements by improper drainage or other hazards, the grading shall be completed in accordance with the time schedule for completion of the Public Improvements established by this Agreement, and prior to City’s approval and acceptance of the Public Improvements and release of the Security as set forth in Sections 11.0 and 13.0 et seq. of this Agreement.

6.0 Utilities. Developer shall provide utility services, including water, power, gas, and telephone service to serve each parcel, lot, or unit of land within the Project in accordance with all applicable federal, state, and local laws, rules, and regulations, including, but not limited to, the regulations, schedules and fees of the utilities or agencies providing such services. Except for commercial or industrial properties, Developer shall also provide cable television facilities to serve each parcel, lot, or unit of land in accordance with all applicable federal, state, and local laws, rules, and regulations, including, but not limited to, the requirements of the cable company possessing a valid franchise with City to provide such service within City’s jurisdictional limits. All utilities shall be installed underground.

7.0 Fees and Charges. Developer shall, at its sole cost, expense, and liability, pay all fees, charges, and taxes incurred by it arising out of construction of the Public Improvements, including, but not limited to, all plan check, design review, engineering, inspection, and other service fees, and any impact or connection fees established by City ordinance, resolution,

regulation, or policy, or as established by City relative to the Project.

8.0 City Inspection of Public Improvements. Developer shall, at its sole cost, expense, and at all times during construction of the Public Improvements, maintain reasonable and safe facilities and provide safe access for inspection by City of the Public Improvements and areas where construction of the Public Improvements is occurring or will occur.

9.0 Default; Notice; Remedies.

9.1 Notice. If Developer neglects, refuses, or fails to fulfill or timely complete any obligation, term, or condition of this Agreement, or if City determines there is a violation of any federal, state, or local law, ordinance, regulation, code, standard, or other requirement, City may at any time thereafter declare Developer to be in default or violation of this Agreement and make written demand upon Developer or its surety, or both, to immediately remedy the default or violation ("Notice"). Developer shall substantially commence the work required to remedy the default or violation within ten (10) days of the Notice. If the default or violation constitutes an immediate threat to the public health, safety, or welfare, City may provide the Notice verbally, and Developer shall substantially commence the required work within twenty-four (24) hours thereof. Immediately upon City's issuance of the Notice, Developer and its surety shall be liable to City for all costs of construction and installation of the Public Improvements and all other administrative costs expenses as provided for in Section 10.0 of this Agreement.

9.2 Failure to Remedy; City Action. If the work required to remedy the noticed default or violation is not diligently prosecuted to a completion acceptable to City within the time frame contained in the Notice, City may complete all remaining work, arrange for the completion of all remaining work, and/or conduct such remedial activity as in its sole and absolute discretion it believes is required to remedy the default or violation. All such work or remedial activity shall be at the sole and absolute cost, expense, and liability of Developer and its surety, without the necessity of giving any further notice to Developer or surety. City's right to take such actions shall in no way be limited by the fact that Developer or its surety may have constructed any, or none of the required or agreed upon Public Improvements at the time of City's demand for performance. In the event City elects to complete or arrange for completion of the remaining work and improvements, City may require all work by Developer or its surety to cease in order to allow adequate coordination by City. Notwithstanding the foregoing, if conditions precedent for reversion to acreage can be met and if the interests of City will not be prejudiced thereby, City may also process a reversion to acreage and thereafter recover from Developer or its surety the full cost and expense incurred.

9.3 Other Remedies. No action by City pursuant to Section 9.0 *et seq.* of this Agreement shall prohibit City from exercising any other right or pursuing any other legal or equitable remedy available under this Agreement or any federal, state, or local law. City may exercise its rights and remedies independently or cumulatively, and City may pursue inconsistent remedies. City may institute an action for damages, injunctive relief, or specific performance.

10.0 Administrative Costs. If Developer fails to construct and install all or any part of the Public Improvements within the time required by this Agreement beyond the applicable notice and cure period, or if Developer fails to comply with any other obligation contained herein beyond the applicable notice and cure period, Developer and its surety shall be jointly and severally liable to City for all administrative expenses, fees, and costs, including reasonable attorney's fees

and costs, incurred in obtaining compliance with this Agreement or in processing any legal action or for any other remedies permitted by law.

11.0 Acceptance of Improvements by City Council; As-Built or Record Drawings. If the Public Improvements are properly completed by Developer and approved by the City Engineer, and if they comply with all applicable federal, state and local laws, ordinances, regulations, codes, standards, and other requirements, the City Council shall be authorized to accept the Public Improvements. The City Council may, in its sole and absolute discretion, accept fully completed portions of the Public Improvements prior to such time as all of the Public Improvements are complete and reduce the requirement Security amount pursuant to Section 13.0 et seq., which shall not release or modify Developer's obligation to complete the remainder of the Public Improvements within the time required by this Agreement. Upon the total or partial acceptance of the Public Improvements by City, Developer shall file with the Recorder's Office of the County of SANTA CLARA a notice of completion for the accepted Public Improvements in accordance with California Civil Code section 9204, at which time the accepted Public Improvements shall become the sole and exclusive property of City without payment therefor. Issuance by City of occupancy permits for any buildings or structures located on the Property shall not be construed in any manner to constitute City's acceptance or approval of any Public Improvements. Notwithstanding the foregoing, City may not accept any Public Improvements unless and until Developer provides one (1) set of "as-built" or record drawings or plans to the City Engineer for all such Public Improvements. The drawings shall be certified and shall reflect the condition of the Public Improvements as constructed, with all changes incorporated therein.

12.0 Warranty and Guarantee. Developer hereby warrants and guarantees all Public Improvements against any defective work or labor done, or defective materials furnished in the performance of this Agreement, including the maintenance of all landscaping within the Property in a vigorous and thriving condition reasonably acceptable to City, for a period of one (1) year following completion of the Public Improvements and acceptance of them by the City Council ("Warranty"). During the Warranty, Developer shall repair, replace, or reconstruct any defective or otherwise unsatisfactory portion of the Public Improvements, in accordance with the current ordinances, resolutions, regulations, codes, standards, or other requirements of City, and subject to the approval of the City Engineer. All repairs, replacements, or reconstruction during the Warranty shall be at the sole cost, expense, and liability of Developer and its surety. As to any Public Improvements which have been repaired, replaced, or reconstructed during the Warranty, Developer and its surety hereby agree to extend the Warranty for an additional one (1) year period following the City's acceptance of the repaired, replaced, or reconstructed Public Improvements. Nothing herein shall relieve Developer from any other liability it may have under federal, state, or local law to repair, replace, or reconstruct any Public Improvement following expiration of the Warranty or any extension thereof. Developer's warranty obligation under this section shall survive the expiration or termination of this Agreement.

13.0 Improvement Security; Surety Bonds. Prior to this Agreement taking effect as set forth in Section 1.0 above, Developer shall provide City with surety bonds in the amounts and under the terms set forth below ("Security"). The amount of the Security shall be based on the City Engineer's approximation of the actual cost to construct the Public Improvements, including the replacement cost for all landscaping ("Estimated Costs"). If City determines, in its sole and absolute discretion, that the Estimated Costs have changed, Developer shall adjust the Security in the amount requested by City. Developer's compliance with this provision (Section 13.0 et seq.)

shall in no way limit or modify Developer's indemnification obligation provided in Section 16.0 of this Agreement.

13.1 Performance Bond. To guarantee the faithful performance of the Public Improvements and all the provisions of this Agreement, including the maintenance of all landscaping in a vigorous and thriving condition, to protect City if Developer is in default as set forth in Section 9.0 et seq. of this Agreement, and to secure Developer's one-year guarantee and warranty of the Public Improvements, Developer shall provide City a faithful performance bond in the amount of Thirty Five Thousand Three Hundred and Seventy Five dollars (\$35,375.00), which sum shall be not less than one hundred percent (100%) of the Estimated Costs. The City Council may, in its sole and absolute discretion and upon recommendation of the City Engineer, partially release a portion or portions of the security provided under this section as portions of the Public Improvements are completed and accepted by the City Council, provided that Developer is not in default (beyond any applicable notice and cure period) on any provision of this Agreement or condition of approval for the Project, and the total remaining security is not less than twenty-five percent (25%) of the Estimated Costs. All security provided under this section shall be released at the end of the Warranty period, or any extension thereof as provided in Section 12.0 of this Agreement, provided that Developer is not in default on any provision of this Agreement or condition of approval for the Project (beyond any applicable notice and cure period).

13.2 Labor & Material Bond. To secure payment to the contractors, subcontractors, laborers, material men, and other persons furnishing labor, materials, or equipment for performance of the Public Improvements and this Agreement, Developer shall provide City a labor and materials bond in the amount of Thirty Five Thousand Three Hundred Dollars and Seventy Five dollars (\$35,375.00), which sum shall not be less than one hundred percent (100%) of the Estimated Costs. The security provided under this section may be released by written authorization of the City Engineer after six (6) months from the date City accepts the final Public Improvements. The amount of such security shall be reduced by the total of all stop notice or mechanic's lien claims of which City is aware, plus an amount equal to twenty percent (20%) of such claims for reimbursement of City's anticipated administrative and legal expenses arising out of such claims.

13.3 Additional Requirements. The surety for any surety bonds provided as Security shall have a current A.M. Best's rating of no less than A:VIII, shall be licensed to do business in California, and shall be satisfactory to City. As part of the obligation secured by the Security and in addition to the face amount of the Security, the Developer or its surety shall secure the costs and reasonable expenses and fees, including reasonable attorney's fees and costs, incurred by City in enforcing the obligations of this Agreement. The Developer and its surety stipulate and agree that no change, extension of time, alteration, or addition to the terms of this Agreement, the Public Improvements, or the plans and specifications for the Public Improvements shall in any way affect its obligation on the Security.

13.4 Evidence and Incorporation of Security. Evidence of the Security shall be provided on the forms set forth in Exhibit "C," unless other forms are deemed acceptable by the City Engineer and the City Attorney, and when such forms are completed to the satisfaction of City, the forms and evidence of the Security shall be attached hereto as Exhibit "C" and incorporated herein by this reference.

14.0 RESERVED.

15.0 Lien. To secure the timely performance of Developer's obligations under this Agreement, including those obligations for which security has been provided pursuant to Sections 13 et seq. and 14 of this Agreement, Developer hereby creates in favor of City a lien against all portions of the Property not dedicated to City or some other governmental agency for a public purpose. As to Developer's default on those obligations for which security has been provided pursuant to Sections 13 et seq. and 14 of this Agreement, City shall first attempt to collect against such security prior to exercising its rights as a contract lienholder under this section.

16.0 Indemnification. Developer shall defend, indemnify, and hold harmless City, its elected officials, officers, employees, and agents from any and all actual or alleged claims, demands, causes of action, liability, loss, damage, or injury, to property or persons, including wrongful death, whether imposed by a court of law or by administrative action of any federal, state, or local governmental body or agency, arising out of or incident to any acts, omissions, negligence, or willful misconduct of Developer, its personnel, employees, agents, or contractors in connection with or arising out of construction or maintenance of the Public Improvements, or performance of this Agreement. This indemnification includes, without limitation, the payment of all penalties, fines, judgments, awards, decrees, attorneys fees, and related costs or expenses, and the reimbursement of City, its elected officials, officers, employees, and/or agents for all legal expenses and costs incurred by each of them. This indemnification excludes only such portion of any claim, demand, cause of action, liability, loss, damage, penalty, fine, or injury, to property or persons, including wrongful death, which is caused solely and exclusively by the negligence or willful misconduct of City as determined by a court or administrative body of competent jurisdiction. Developer's obligation to indemnify shall survive the expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by City, its elected officials, officers, employees, or agents.

16.1 Public Works Determination. Developer has been alerted to the requirements of California Labor Code section 1770 et seq., including, without limitation S.B. 975, which require the payment of prevailing wage rates and the performance of other requirements if it is determined that this Agreement constitutes a public works contract. It shall be the sole responsibility of Developer to determine whether to pay prevailing wages for any or all work required by this Agreement. As a material part of this Agreement, Developer agrees to assume all risk of liability arising from any decision not to pay prevailing wages for work required by this Agreement.

17.0 Insurance.

17.1 Types; Amounts. Developer shall procure and maintain, and shall require its contractors to procure and maintain, during construction of any Public Improvement pursuant to this Agreement, insurance of the types and in the amounts described below ("Required Insurance"). If any of the Required Insurance contains a general aggregate limit, such insurance shall apply separately to this Agreement or be no less than two times the specified occurrence limit.

17.1.1 General Liability. Developer and its contractors shall procure and maintain occurrence version general liability insurance, or equivalent form, with a combined single limit of not less than \$1,000,000 per occurrence for bodily injury, personal injury, and property damage.

17.1.2 Business Automobile Liability. Developer and its contractors shall procure and maintain business automobile liability insurance, or equivalent form, with a combined single limit of not less than \$1,000,000 per occurrence. Such insurance shall include coverage for the ownership, operation, maintenance, use, loading, or unloading of any vehicle owned, leased, hired, or borrowed by the insured or for which the insured is responsible.

17.1.3 Workers' Compensation. Developer and its contractors shall procure and maintain workers' compensation insurance with limits as required by the Labor Code of the State of California and employers' liability insurance with limits of not less than \$1,000,000 per occurrence, at all times during which insured retains employees.

17.1.4 Professional Liability. For any consultant or other professional who will engineer or design the Public Improvements, liability insurance for errors and omissions with limits not less than \$1,000,000 per occurrence, shall be procured and maintained for a period of five (5) years following completion of the Public Improvements. Such insurance shall be endorsed to include contractual liability.

17.2 Deductibles. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either: (a) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its elected officials, officers, employees, agents, and volunteers; or (b) Developer and its contractors shall provide a financial guarantee satisfactory to City guaranteeing payment of losses and related investigation costs, claims, and administrative and defense expenses.

17.3 Additional Insured; Separation of Insureds. The Required Insurance shall name City, its elected officials, officers, employees, agents, and volunteers as additional insureds with respect to work performed by or on behalf of Developer or its contractors, including materials, parts, or equipment furnished in connection therewith. The Required Insurance shall contain standard separation of insureds provisions, and shall contain no special limitations on the scope of its protection to City, its elected officials, officers, employees, agents, and volunteers.

17.4 Primary Insurance; Waiver of Subrogation. The Required Insurance shall be primary with respect to any insurance or self-insurance programs covering City, its elected officials, officers, employees, agents, and volunteers. All policies for the Required Insurance shall provide that the insurance company waives all right of recovery by way of subrogation against City in connection with any damage or harm covered by such policy.

17.5 Certificates; Verification. Developer and its contractors shall furnish City with original certificates of insurance and endorsements effecting coverage for the Required Insurance. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by City before work pursuant to this Agreement can begin. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

17.6 Term; Cancellation Notice. Developer and its contractors shall maintain the Required Insurance for the term of this Agreement and shall replace any certificate, policy, or endorsement which will expire prior to that date. All policies shall be endorsed to provide that the Required Insurance shall not be suspended, voided, reduced, canceled, or allowed to expire except

on 30 days prior written notice to City.

17.7 Insurer Rating. Unless approved in writing by City, all Required Insurance shall be placed with insurers licensed to do business in the State of California and with a current A.M. Best rating of at least A:VIII.

17.8 Self-Administration of Claims. In lieu of purchasing insurance, Developer may cover said obligation through its financial resources and satisfy the requirements of said insurance through a self-administered claims program. If Developer elects to self-administer claims, City will have the same benefits and protections as if Developer carried insurance with a third-party insurance company to the extent of the requirements of this Agreement. In lieu of a certificate of insurance, upon request, Developer may satisfy evidence of its self-administered claim program with a letter of self-insurance.

18.0 Signs and Advertising. Developer understands and agrees to City's ordinances, regulations, and requirements governing signs and advertising structures. Upon 24-hour notice to Developer, Developer hereby agrees with and consents to the removal by City of all signs or other advertising structures erected, placed, or situated in violation of any City ordinance, regulation, or other requirement. Removal shall be at the expense of Developer and its surety. Developer and its surety shall indemnify and hold City free and harmless from any claim or demand arising out of or incident to signs, advertising structures, or their removal.

19.0 Relationship Between the Parties. The Parties hereby mutually agree that neither this Agreement nor any other related entitlement, permit, or approval issued by City for the Property shall operate to create the relationship of partnership, joint venture, or agency between City and Developer. Developer's contractors and subcontractors are exclusively and solely under the control and dominion of Developer. Nothing herein shall be deemed to make Developer or its contractors an agent or contractor of City.

20.0 General Provisions.

20.1 Authority to Enter Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority make this Agreement and bind each respective Party.

20.2 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate, or convenient to attain the purposes of this Agreement.

20.3 Construction; References; Captions. It being agreed the Parties or their agents have participated in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days, or period for performance shall be deemed calendar days and not work days. All references to Developer include all personnel, employees, agents, and subcontractors of Developer, except as otherwise specified in this Agreement. All references to City include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

20.4 Notices. All notices, demands, invoices, and written communications shall be in writing and delivered to the following addresses or such other addresses as the Parties may designate by written notice:

CITY OF MILPITAS
455 E. Calaveras Blvd
MILPITAS, CA 95035
Attn: Michael Silveira

City Engineer

DEVELOPER:
Chevron U.S.A. Inc.
6001 Bollinger Canyon Rd.
SAN RAMON, CA 94583
Attn: Property Manager, Chevron Products

With a Copy to:
USRetailProperty@chevron.com

Depending upon the method of transmittal, notice shall be deemed received as follows: by facsimile, as of the date and time sent; by messenger, as of the date delivered; and by U.S. Mail first class postage prepaid, as of 72 hours after deposit in the U.S. Mail.

20.5 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

20.6 Waiver. City's failure to insist upon strict compliance with any provision of this Agreement or to exercise any right or privilege provided herein, or City's waiver of any breach of this Agreement, shall not relieve Developer of any of its obligations under this Agreement, whether of the same or similar type. The foregoing shall be true whether City's actions are intentional or unintentional. Developer agrees to waive, as a defense, counterclaim or set off, any and all defects, irregularities or deficiencies in the authorization, execution or performance of the Public Improvements or this Agreement, as well as the laws, rules, regulations, ordinances or resolutions of City with regards to the authorization, execution or performance of the Public Improvements or this Agreement.

20.7 Assignment or Transfer of Agreement. Developer shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without prior written consent of City. Any attempt to do so shall be null and void, and any assignee, hypothecatee, or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation, or transfer. Unless specifically stated to the contrary in City's written consent, any assignment, hypothecation, or transfer shall not release or discharge Developer from any duty or responsibility under this Agreement.

20.8 Binding Effect. Each and all of the covenants and conditions shall be binding on and shall inure to the benefit of the Parties, and their successors, heirs, personal representatives, or assigns. This section shall not be construed as an authorization for any Party to assign any right or obligation.

20.9 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

20.10 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

20.11 Consent to Jurisdiction and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of California. Any legal action or proceeding brought to interpret or enforce this Agreement, or which in any way arises out of the Parties' activities undertaken pursuant to this Agreement, shall be filed and prosecuted in the appropriate California State Court in the County of SANTA CLARA, California. Each Party waives the benefit of any provision of state or federal law providing for a change of venue to any other court or jurisdiction including, without limitation, a change of venue based on the fact that a governmental entity is a party to the action or proceeding, or that a federal right or question is involved or alleged to be involved in the action or proceeding. Without limiting the generality of the foregoing waiver, Developer expressly waives any right to have venue transferred pursuant to California Code of Civil Procedure Section 394.

20.12 Counterparts. This Agreement may be executed in counterpart originals, which taken together, shall constitute one and the same instrument.

20.13 Release of Agreement. Upon the acceptance of the completed Public Improvements by the City and following the expiration of the Warranty, the City shall sign and have acknowledged a termination of this Agreement in a form acceptable to the City for recordation with the County of SANTA CLARA Recorder's Office in order to confirm the release and termination of this Agreement.

(signature page follows)

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

CITY OF MILPITAS

CHEVRON U.S.A. INC.

By: _____
(signature)
Ned Thomas
City Manager
City of MILPITAS

By: 
(signature)

Harpreet K. Tiwana

Assistant Secretary

APPROVED AS TO FORM:

By: _____
(signature)
Michael Mutalipassi
City Attorney
City of MILPITAS

APPROVED AS TO CONTENT:

By: _____
(signature)
Luz Cofresi-Howe
Finance Director/Risk Manager
City of MILPITAS

APPROVED AS TO CONTENT:

By: _____
(signature)
Michael Silveira, PE
City Engineer
City of MILPITAS

NOTE: DEVELOPER'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO DEVELOPER'S BUSINESS ENTITY.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

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

STATE OF CALIFORNIA)
)
COUNTY OF CONTRA COSTA)

On April 23, 2024 before me, A. Freschi, Notary Public, Personally Appeared HARPREET K. TIWANA 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.

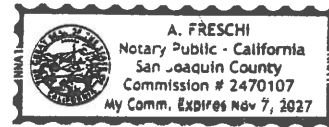
WITNESS my hand and official seal.

Signature



Signature of Notary Public

My Commission Expires: November 7, 2027



Place Official Notary Seal here.

All Capacity Acknowledgment

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

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory

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

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

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- ☐ Individual
☐ Corporate Officer

- ☐ Partner (s)
☐ Limited
☐ General
☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

Title or Type of Document

Number of Pages

Date of Document

Signer(s) Other Than Named Above

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

CHEVRON C-STORE, 1490 SOUTH PARK VICTORIA DRIVE

LEGAL DESCRIPTION

Real property in the City of Milpitas, County of Santa Clara, State of California, described as follows:

PARCEL 2, AS SHOWN ON THE PARCEL MAP FILED DECEMBER 9, 1970 IN BOOK 276 OF MAPS, PAGE 24, IN THE OFFICE OF THE SANTA CLARA COUNTY RECORDER.

APN: 088-36-010

EXHIBIT “B”

LIST OF PUBLIC IMPROVEMENTS

CHEVRON C-STORE, 1490 SOUTH PARK VICTORIA DRIVE

Engineering Opinion of Probable Construction Costs (Chevron Milpitas)

Date Updated:	26-Sep-23
Project Name:	Chevron Milpitas
Project #:	SNR22-0036-00

ROAD INFRASTRUCTURE

Item	Description	Unit	Quantity	Unit Price	Amount
1	Saw cut Existing Pavement/Concrete	LF	265	\$1.00	\$265.00
2	Concrete & AC Removal	SF	1310	\$2.50	\$3,275.00
3	Install 6" Curb and gutter	LF	95	\$10.0	\$950.00
4	Concrete Sidewalk	SF	910	\$8.00	\$7,280.00
5	28' wide Driveway Repacement	SF	430	\$8.00	\$3,440.00
6	Asphalt Concrete	SF	120	\$4.50	\$540.00
7	Adjust PG&E & other ertility boxes	LS	1	\$3,000	\$3,000.00
8	Install Irrigation lateral	LF	15	\$45	\$675.00
9	Install Irrigation Back Flow Preventer	EA	1	\$3,000	\$3,000.00
10	Install SD Trench Drain	LF	40	\$65	\$2,600.00
11	fine grading	SF	910	\$0.35	\$318.50
12	Trenching, backfill, surface restoration	SF	120	\$15.00	\$1,800.00
13	Irrigation WM purchase and installation	EA	1	\$600.00	\$600.00
14	Irrigation BFP purchase and installation	EA	1	\$500.00	\$500.00
				Unit Price	\$28,300.00

Unit Price

SUB TOTAL	\$28,300.00
------------------	--------------------

	%	
Contingency = 20%	20%	\$5,660.00
Construction Engineering = 5%	5%	\$1,415.00

TOTAL	\$35,375.00
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EXHIBIT "C"

SURETY BONDS AND OTHER SECURITY

CHEVRON C-STORE, 1490 SOUTH PARK VICTORIA DRIVE

As evidence of understanding the provisions contained in this Agreement, and of the Developer's intent to comply with same, the Developer has submitted the below described security in the amounts required by this Agreement, and has affixed the appropriate signatures thereto:

PERFORMANCE BOND PRINCIPAL AMOUNT: \$35,375.00

Surety: Liberty Mutual Insurance Company

Attorney-in-fact: Lupe Tyler, Attorney-in-Fact

Address: 175 Berkeley Street, Boston, MA 02116

MATERIAL AND LABOR BOND PRINCIPAL AMOUNT: \$35,375.00

Surety: Liberty Mutual Insurance Company

Attorney-in-fact: Lupe Tyler, Attorney-in-Fact

Address: 175 Berkeley Street, Boston, MA 02116

BOND NO. 070221816
INITIAL PREMIUM: \$100.00
SUBJECT TO RENEWAL

CITY OF MILPITAS

CHEVRON C-STORE, 1490 SOUTH PARK VICTORIA DRIVE IMPROVEMENTS

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS the City of MILPITAS, California ("City") and Chevron U.S.A. Inc., a Pennsylvania corporation ("Principal"), have executed an agreement for work consisting of, but not limited to, the furnishing all labor, materials, tools, equipment, services, and incidentals for all grading, roads, paving, curbs and gutters, pathways, storm drains, sanitary sewers, utilities, drainage facilities, traffic controls, landscaping, street lights, and all other required facilities for the remodel of a gas station convenience store building and associated site improvements for Chevron C-Store ("Public Improvements");

WHEREAS, the Public Improvements to be performed by Principal are more particularly set forth in that certain Agreement for Completion of Pubic Improvements dated _____, _____ ("Improvement Agreement");

WHEREAS, the Improvement Agreement is hereby referred to and incorporated herein by reference; and

WHEREAS, Principal is required by the Improvement Agreement to provide a good and sufficient bond for performance of the Improvement Agreement, and to guarantee and warranty the Public Improvements constructed thereunder.

NOW, THEREFORE, Principal and Liberty Mutual Insurance Company ("Surety"), a corporation organized and existing under the laws of the State of Massachusetts, and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto City in the sum of Thirty Five Thousand Three Hundred and Seventy Five dollars (\$35,375.00), said sum being not less than one hundred percent (100%) of the total cost of the Public Improvements as set forth in the Improvement Agreement, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such, that if Principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, agreements, guarantees, and warranties in the Improvement Agreement and any alteration thereof made as therein provided, to be kept and performed at the time and in the manner therein specified and in all respects according to their intent and meaning, and to indemnify and save harmless City, its officers, employees, and agents,

as stipulated in the Improvement Agreement, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

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

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Improvement Agreement, or to any plans, profiles, and specifications related thereto, or to the Public Improvements to be constructed thereunder, shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition.

This bond is executed and filed to comply with Section 66499 et seq. of the Government Code of California as security for performance of the Improvement Agreement and security for the one-year guarantee and warranty of the Public Improvements.

IN WITNESS WHEREOF, the seal and signature of the Principal is hereto affixed, and the corporate seal and the name of the Surety is hereto affixed and attested by its duly authorized Attorney-in-Fact at Houston, TX, this 9th day of May, 2024.

(Corporate Seal)

Chevron U.S.A. Inc.

Principal

By

Title Gina A Rodriguez, Attorney-in-Fact

(Corporate Seal)

Liberty Mutual Insurance Company

Surety

By

Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Title Lupe Tyler, Attorney-in-Fact

The rate of premium on this bond is \$1.25 per thousand. The total amount of premium charges is \$ 100.00 MP

(The above must be filled in by corporate attorney.)

THIS IS A REQUIRED FORM

Any claims under this bond may be addressed to:

(Name and Address of Surety)

Liberty Mutual Insurance Company

175 Berkeley Street

Boston, MA 02116

(Name and Address of Agent or Representative for service of process in California, if different from above)

Liberty Mutual Insurance Company

1340 Treat Blvd., Suite 400

Walnut Creek, CA 94597

(Telephone number of Surety and Agent or Representative for service of process in California)

415-537-2502

type text here

LIMITED POWER OF ATTORNEY

CHEVRON U.S.A. INC., a corporation duly incorporated and existing under the laws of Pennsylvania, with offices at 5001 Executive Parkway, Suite 200, San Ramon, California 94583 ("**Company**"), appoints **AON RISK SERVICES COMPANIES, INC.** ("**Aon Surety**"), as its true and lawful attorney-in-fact, authorized and directed to do the following on behalf of the Company, subject to the limitations under this document:

Execute and deliver on behalf of the Company, one or more surety bonds with a face amount not to exceed Five Million and No/100 United States Dollars (\$5,000,000.00) (each a "**Surety Bond**"), which Surety Bonds are issued under executed Work Orders (as defined in the MSA) for Services (as defined in the MSA) pursuant to that certain Master Professional Services Contract, effective as of June 1, 2018, between Chevron U.S.A. Inc. and Aon Risk Insurance Services West, Inc. (as amended, restated, supplemented or otherwise modified from time to time, the "**MSA**").

Signing authority on behalf of Aon Surety under this Limited Power of Attorney shall be restricted solely to the following individuals, each in their capacity as an Aon Surety employee:

Name	Email
Terri L Morrison	Terri.Morrison@aon.com
Gina A. Rodriguez	Gina.Rodriguez@aon.com
Lupe Tyler	Lupe.Tyler@aon.com
Misty Wright	Misty.Wright@aon.com
Tracy Aston	Tracy.Aston@aon.com
Sandy Winsted	Sandy.Winsted@aon.com
Francesca Kazmierczak	Francesca.Kazmierczak@aon.com
Sara Owens	Sara.Owens@aon.com
Jennifer L. Jakaitis	Jennifer.Jakaitis@aon.com

The attorney-in-fact cannot delegate or substitute to others the powers granted under this Limited Power of Attorney.

All parties dealing with Aon Surety, in its capacity as attorney-in-fact hereunder, in connection with the undersigned parties' affairs as described herein, may fully rely upon the power and authority of Aon Surety, in its capacity as attorney-in-fact hereunder, to act for the undersigned and on the undersigned parties' behalf and in the undersigned parties' names, and may accept and rely upon the documents and agreements entered into by, executed by, sent, delivered, recorded, and/or filed by Aon Surety, in its capacity as attorney-in-fact hereunder.

This Limited Power of Attorney will remain in full force and effect for the period commencing May 1, 2024, and automatically terminating on April 30, 2025, unless earlier revoked or terminated by the Company upon receipt of the Company's written direction. Upon expiration, revocation, or other termination of this Limited Power of Attorney, the attorney-in-fact and representative shall return to the

Company this Limited Power of Attorney. The failure to return this Limited Power of Attorney to the Company will not prevent its expiration, revocation, or termination.

Aon Surety shall not be liable for any loss arising out of any surety bond signed by Aon Surety pursuant to this Limited Power of Attorney except to the extent such loss is caused by or arises out of Aon Surety's fraud, negligence or willful misconduct. To the extent permitted by law and excluding fraud and willful misconduct, Aon Surety's liability to the Company, in total, for the duration of this appointment for any and all damages, including costs, expenses and attorneys' fees, for negligence in connection with or related to Aon Surety's services hereunder (including a failure to provide a service) shall be limited to a total aggregate amount of Fifteen Million and No/100 United States Dollars (\$15,000,000.00), unless otherwise agreed by the parties in writing.

Executed this 23rd day of April, 2024, by a duly authorized officer of the Company.

CHEVRON U.S.A. INC.

By: Wayne P. Borduin

Name: Wayne P. Borduin

Title: Assistant Treasurer

ACKNOWLEDGMENT

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

STATE OF CALIFORNIA

COUNTY OF Contra Costa

§
§
§

On April 23, 2024 before me, Carmel Cosentino, a Notary Public personally appeared Wayne Borduin who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity on behalf of which the person 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.

Carmel Cosentino



(Seal)



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: **8211228-022011**

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Vanessa Dominguez, Amanda George, Michael J. Herrod, Terri L. Morrison, Andrea M. Penaloza, Gina A. Rodriguez, Lupe Tyler, Lisa A. Ward, Donna L. Williams, Misty Wright

all of the city of Houston state of TX each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 18th day of January, 2024.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By:

David M. Carey
David M. Carey, Assistant Secretary

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 18th day of January, 2024 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at Plymouth Meeting, Pennsylvania, on the day and year first above written.



Commonwealth of Pennsylvania - Notary Seal
Teresa Pastella, Notary Public
Montgomery County
My commission expires March 28, 2025
Commission number 1126044
Member, Pennsylvania Association of Notaries

By:

Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV – OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII – Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation – The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization – By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 9 day of May, 2024



By:

Renee C. Llewellyn
Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

For bond and/or Power of Attorney (POA) verification inquiries, please call 610-832-8240 or email HOSUR@libertymutual.com.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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

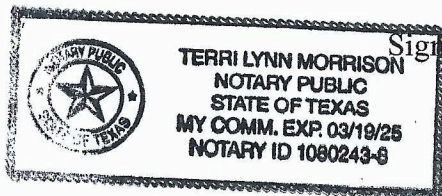
State of TEXAS

County of HARRIS

On May 9, 2024 before me, Terri Lynn Morrison, Notary Public personally appeared Gina A. Rodriguez 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 Texas that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature

Signature of Notary Public
Terri Lynn Morrison
My Commission Expires: 3/19/2025
Notary ID: 1080243-8

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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

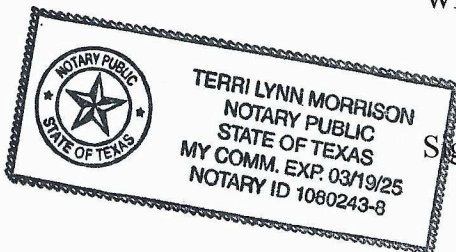
State of Texas

County of Harris

On May 9, 2024 before me, Terri Lynn Morrison, Notary Public personally appeared Lupe Tyler, Attorney-in-Fact 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 Texas that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature

Signature of Notary Public
Terri Lynn Morrison
My Commission Expires: 3/19/2025
Notary ID: 1080243-8

BOND NO. 070221816
INITIAL PREMIUM: \$100.00
SUBJECT TO RENEWAL

CITY OF MILPITAS
CHEVRON C-STORE, 1490 SOUTH PARK VICTORIA DRIVE IMPROVEMENTS
LABOR AND MATERIAL BOND

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS the City of MILPITAS, California ("City") and Chevron U.S.A. Inc., a Pennsylvania corporation ("Principal"), have executed an agreement for work consisting of, but not limited to, the furnishing all labor, materials, tools, equipment, services, and incidentals for all grading, roads, paving, curbs and gutters, pathways, storm drains, sanitary sewers, utilities, drainage facilities, traffic controls, landscaping, street lights, and all other required facilities for the remodel of a gas station convenience store building and associated site improvements for Chevron C-Store ("Public Improvements");

WHEREAS, the Public Improvements to be performed by Principal are more particularly set forth in that certain Agreement for Completion of Pubic Improvements dated _____, _____ ("Improvement Agreement");

WHEREAS, the Improvement Agreement is hereby referred to and incorporated herein by reference; and

WHEREAS, Principal is required to furnish a bond in connection with the Improvement Agreement providing that if Principal or any of its subcontractors shall fail to pay for any materials, provisions, or other supplies, or terms used in, upon, for, or about the performance of the Public Improvements, or for any work or labor done thereon of any kind, or for amounts due under the provisions of Title 3 (commencing with section 9000) of Part 6 of Division 4 of the California Civil Code, with respect to such work or labor, that the Surety on this bond will pay the same together with a reasonable attorney's fee in case suit is brought on the bond.

NOW, THEREFORE, Principal and Liberty Mutual Insurance Company ("Surety"), a corporation organized and existing under the laws of the State of Massachusetts, and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto City and to any and all contractors, subcontractors, material suppliers, persons, companies or corporations furnishing materials, provisions, and other supplies used in, upon, for or about the performance of the Public Improvements, and all persons, companies or corporations renting or hiring teams, or implements or machinery, for or contributing to the Public Improvements to be done, and all persons performing work or labor upon the same and all persons supplying both work and materials as aforesaid excepting the Principal, the sum of Thirty Five Thousand Three Hundred and Seventy Five dollars, (\$35,375.00), said sum being not less than

100% of the total cost of the Public Improvements under the terms of the Improvement Agreement, we bind ourselves, our heirs, executors and administrators, successors and assigns jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if the Principal, his or its subcontractors, heirs, executors, administrators, successors, or assigns, shall fail to pay for any materials, provisions, or other supplies or machinery used in, upon, for or about the performance of the Public Improvements, or for work or labor thereon of any kind, or fail to pay any of the persons named herein, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the contractor and his subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor, and all other applicable laws of the State of California and rules and regulations of its agencies, then said Surety will pay the same in or to an amount not exceeding the sum specified herein.

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

This bond is executed and filed to comply with Section 66499 et seq. of the California Government Code as security for payment to contractors, subcontractors, and persons furnishing labor, materials, or equipment for construction of the Public Improvements or performance of the Improvement Agreement. It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the California Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Improvement Agreement, or to any plans, profiles, and specifications related thereto, or to the Public Improvements to be constructed thereunder, shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition.

IN WITNESS WHEREOF, the seal and signature of the Principal is hereto affixed, and the corporate seal and the name of the Surety is hereto affixed and attested by its duly authorized Attorney-in-Fact at Houston, TX, this 9th day of May, 2/9/2024

(Corporate Seal)

Chevron U.S.A. Inc.

Principal

By

Title Gina A Rodriguez, Attorney-in-Fact

(Corporate Seal)

Liberty Mutual Insurance Company

Surety

By

Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Title Lupe Tyler, Attorney-in-Fact

The rate of premium on this bond is \$1.25 per thousand. The total amount of premium charges is \$ 100.00.
(The above must be filled in by corporate attorney.)

THIS IS A REQUIRED FORM

Any claims under this bond may be addressed to:

(Name and Address of Surety)

Liberty Mutual Insurance Company

175 Berkeley Street

Boston, MA 02116

(Name and Address of Agent or Representative for service of process in California, if different from above)

Liberty Mutual Insurance Company

1340 Treat Blvd., Suite 400

Walnut Creek, CA 94597

(Telephone number of Surety and Agent or Representative for service of process in California)

415-537-2502

LIMITED POWER OF ATTORNEY

CHEVRON U.S.A. INC., a corporation duly incorporated and existing under the laws of Pennsylvania, with offices at 5001 Executive Parkway, Suite 200, San Ramon, California 94583 ("**Company**"), appoints **AON RISK SERVICES COMPANIES, INC.** ("**Aon Surety**"), as its true and lawful attorney-in-fact, authorized and directed to do the following on behalf of the Company, subject to the limitations under this document:

Execute and deliver on behalf of the Company, one or more surety bonds with a face amount not to exceed Five Million and No/100 United States Dollars (\$5,000,000.00) (each a "**Surety Bond**"), which Surety Bonds are issued under executed Work Orders (as defined in the MSA) for Services (as defined in the MSA) pursuant to that certain Master Professional Services Contract, effective as of June 1, 2018, between Chevron U.S.A. Inc. and Aon Risk Insurance Services West, Inc. (as amended, restated, supplemented or otherwise modified from time to time, the "**MSA**").

Signing authority on behalf of Aon Surety under this Limited Power of Attorney shall be restricted solely to the following individuals, each in their capacity as an Aon Surety employee:

Name	Email
Terri L Morrison	Terri.Morrison@aon.com
Gina A. Rodriguez	Gina.Rodriguez@aon.com
Lupe Tyler	Lupe.Tyler@aon.com
Misty Wright	Misty.Wright@aon.com
Tracy Aston	Tracy.Aston@aon.com
Sandy Winsted	Sandy.Winsted@aon.com
Francesca Kazmierczak	Francesca.Kazmierczak@aon.com
Sara Owens	Sara.Owens@aon.com
Jennifer L. Jakaitis	Jennifer.Jakaitis@aon.com

The attorney-in-fact cannot delegate or substitute to others the powers granted under this Limited Power of Attorney.

All parties dealing with Aon Surety, in its capacity as attorney-in-fact hereunder, in connection with the undersigned parties' affairs as described herein, may fully rely upon the power and authority of Aon Surety, in its capacity as attorney-in-fact hereunder, to act for the undersigned and on the undersigned parties' behalf and in the undersigned parties' names, and may accept and rely upon the documents and agreements entered into by, executed by, sent, delivered, recorded, and/or filed by Aon Surety, in its capacity as attorney-in-fact hereunder.

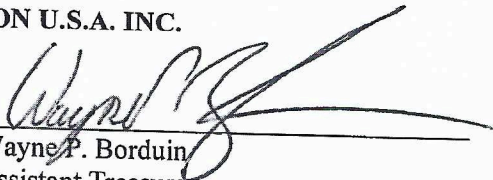
This Limited Power of Attorney will remain in full force and effect for the period commencing May 1, 2024, and automatically terminating on April 30, 2025, unless earlier revoked or terminated by the Company upon receipt of the Company's written direction. Upon expiration, revocation, or other termination of this Limited Power of Attorney, the attorney-in-fact and representative shall return to the

Company this Limited Power of Attorney. The failure to return this Limited Power of Attorney to the Company will not prevent its expiration, revocation, or termination.

Aon Surety shall not be liable for any loss arising out of any surety bond signed by Aon Surety pursuant to this Limited Power of Attorney except to the extent such loss is caused by or arises out of Aon Surety's fraud, negligence or willful misconduct. To the extent permitted by law and excluding fraud and willful misconduct, Aon Surety's liability to the Company, in total, for the duration of this appointment for any and all damages, including costs, expenses and attorneys' fees, for negligence in connection with or related to Aon Surety's services hereunder (including a failure to provide a service) shall be limited to a total aggregate amount of Fifteen Million and No/100 United States Dollars (\$15,000,000.00), unless otherwise agreed by the parties in writing.

Executed this 23rd day of April, 2024, by a duly authorized officer of the Company.

CHEVRON U.S.A. INC.

By: 
Name: Wayne P. Borduin
Title: Assistant Treasurer

ACKNOWLEDGMENT

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

STATE OF CALIFORNIA

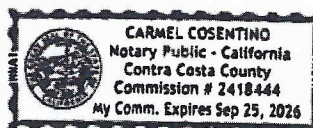
§
§
§

COUNTY OF Contra Costa

On April 23, 2024 before me, Carmel Cosentino, a Notary Public personally appeared Wayne Borduin who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity on behalf of which the person 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.





(Seal)



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: **8211228-022011**

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Vanessa Dominguez, Amanda George, Michael J. Herrod, Terri L. Morrison, Andrea M. Penaloza, Gina A. Rodriguez, Lupe Tyler, Lisa A. Ward, Donna L. Williams, Misty Wright

all of the city of Houston state of TX each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 18th day of January, 2024.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By:

David M. Carey
David M. Carey, Assistant Secretary

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 18th day of January, 2024 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at Plymouth Meeting, Pennsylvania, on the day and year first above written.



Commonwealth of Pennsylvania - Notary Seal
Teresa Pastella, Notary Public
Montgomery County
My commission expires March 28, 2025
Commission number 1126044
Member, Pennsylvania Association of Notaries

By:

Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 19 day of May, 2024



By:

Renee C. Llewellyn
Renee C. Llewellyn, Assistant Secretary

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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

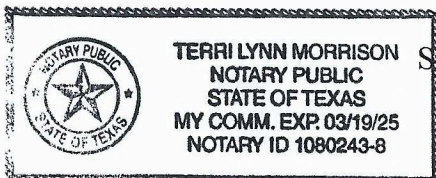
State of TEXAS

County of HARRIS

On May 9, 2024 before me, Terri Lynn Morrison, Notary Public personally appeared Gina A. Rodriguez 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 Texas that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature

Signature of Notary Public
Terri Lynn Morrison
My Commission Expires: 3/19/2025
Notary ID: 1080243-8

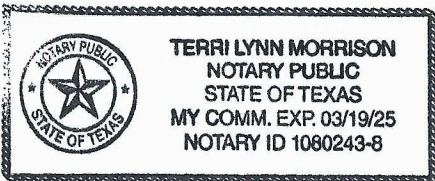
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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

State of Texas

County of Harris

On May 9, 2024 before me, Terri Lynn Morrison, Notary Public personally appeared Lupe Tyler, Attorney-in-Fact 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 Texas that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

A handwritten signature in blue ink, appearing to be "Terri Lynn Morrison", written over a horizontal line.

Signature of Notary Public
Terri Lynn Morrison
My Commission Expires: 3/19/2025
Notary ID: 1080243-8



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Conduct a Public Hearing and Adopt Resolutions to Approve the Fiscal Year 2024-25 Proposed Operating Budget for the City of Milpitas and the Milpitas Housing Authority, Approve the Fiscal Year 2024-25 Gann Appropriations Limit, Authorize Various Financial Actions, Fiscal Policies and Budget Guidelines, and Amend the Classification Plan for Alignment with the FY 2024-25 Proposed Operating Budget, the Minimum Wage Increase, and Salary Schedules Consistent with Previous Council Action (Staff Contact: Luz Cofresí-Howe, Finance Director, 408-586-3111)
Category:	Public Hearings-Leadership and Support Services
Meeting Date:	6/4/2024
Recommendation:	(1) Conduct a public hearing; and (2) Adopt the following Resolutions: (a) Joint Resolution of the City Council and Milpitas Housing Authority to approve the Fiscal Year 2024-25 Proposed Operating Budget for the City of Milpitas and the Milpitas Housing Authority, approve the Fiscal Year 2024-25 Gann Appropriations Limit, Fiscal Policies and Budget Guidelines and authorizing various financial actions by the City Manager, including Approving and Authorizing the Execution of Various Contracts and Payments over \$100,000; (b) Amending Resolution No. 1626, the Classification Plan, to authorize additional positions and amend budgeted allocated positions; (c) Amending Resolution No. 1626, the Classification Plan, to adjust the hourly rate ranges for classifications due to a minimum wage increase pursuant to Ordinance No. 292; (d) Amending Resolution No. 1626, the Classification Plan of Unrepresented Management Employees and Authorizing Fringe Benefits; and (e) Amending Resolution No. 1626, the Classification Plan, to adjust the Salary Schedules for various classifications to align with current memorandums of understandings (MOUs)

Background:

The [FY 2024-25 Proposed Operating Budget](#) (Proposed Budget) is the product of months of collaboration, discussion and deliberation, resulting in a Proposed Budget developed with the leadership and engagement of the City of Milpitas Council (City Council), City management, staff and the Milpitas community at large. On May 10, 2024, the City Manager released the FY 2024-25 Proposed Operating Budget. On May 14, 2024, the City Council held a [Special Meeting](#) (Study Session) where the Proposed Operating Budget, including the General Fund 10-Year Forecast and FY 2024-25 Budget Proposals, was formally presented to City Council and the public, and subsequently reviewed and discussed. The requisite public hearing notices related to the adoption of the Proposed Budget as well as the FY 2024-25 Gann Appropriations Limit were published timely.

Analysis:

The Agenda Report transmits the Proposed Budget as released and documents changes to the Proposed Budget as reviewed and discussed at the May 14, 2024 Study Session. The Agenda Report also includes the various required resolutions related to the adoption of the Proposed Budget.

May 14, 2024 Study Session

Staff formally presented the \$248.4 million Proposed Budget, including a proposed increase of full-time equivalent (FTE) employees from 452.0 FTEs in FY 2023-24 to 455.0 FTEs to the City Council at the May 14, 2024 Study Session for review and discussion. The Proposed Budget as presented did not include the action taken by City Council at its May 7, 2024 meeting [approving the Memorandum of Understanding \(MOU\) between the City of Milpitas and Milpitas Police Officers Association](#) (MPOA) due to timing of the City Council action approving the MOU. The term of the MOU is retroactive to January 1, 2024, and will remain in effect through December 31, 2026. The major terms of the MOU are:

- 1) Three-year contract with the following wage adjustments:
 - a) 6.5% base salary increase for Sworn and Non-Sworn employees retroactive to the first full pay period in January 2024.
 - b) 5.0% base salary increase for Sworn employees and a 3.0% base salary increase for Non-Sworn employees effective the first full pay period in January 2025.
 - c) 4.0% base salary increase for Sworn employees and a 3.0% base salary increase for Non-Sworn employees effective the first full pay period in January 2026.
- 2) New incentive pay for eligible sworn employees for Crisis Intervention Training (CIT):
 - a) Effective the first full pay period in January 2024, all sworn employees who meet the following criteria shall receive 2.5% of the employee's base pay:
 - i) California POST Crisis Intervention Training (Basic) Certification; or
 - ii) California POST Hostage (Crisis) Negotiation Training (Basic) Certification; or
 - b) Minimum 24 hours of relevant training as determined by the Police Department's Training Unit, including courses in crisis intervention, de-escalation, strategic communication, and other topics relative to promoting positive, non-biased, non-use of force interactions with the community.

This MOU increases General Fund salary and benefits by \$2.2 million in FY 2024-2025. To balance the Proposed Budget, staff implemented the following strategies:

MPOA General Fund Salary and Benefits Effect	\$ 2.2M
Increase Budgetary Vacancy Savings factor from 3% to 4% (Reduce Expenditures)	(.9M)
Access Public Employees Retirement System (PERS) Rate Stabilization Reserve	(1.3M)

In summary, the \$2.2 million of additional MPOA salary and benefits is offset by \$0.9M in budgetary vacancy savings, leaving a balance of \$1.3 million, which is funded by a transfer from the City of Milpitas Public Employees' Retirement System (PERS) rate stabilization reserve. The PERS rate stabilization reserve was established to pay down unfunded pension liabilities and/or to reduce the length of pension cost amortization schedules with the California Public Employees' Retirement System. This reserve is funded by General Fund annual operating surplus after General Fund Contingency Reserve and Budget Stabilization Reserve requirements have been met. As of June 30, 2023, the audited PERS rate stabilization reserve balance was \$6.1 million.

FY 2024-25 Citywide Budget Summary (All Funds)

Incorporating the above change, the Proposed Budget across all funds is \$249.8 million, with staffing of 455.0 funded permanent FTEs. The variance between the May 14, 2024 presentation and the budget being presented for adoption by the City Council is demonstrated below:

Proposed Budget	May 14, 2024 Study Session			June 4, 2024 City Council Meeting			Variance +/-(-)		
	General Fund	Other & CIP Funds	Total	General Fund	Other & CIP Funds	Total	General Fund	Other & CIP Funds	Total
(in \$millions)									
Revenues (including all Funding Sources)	\$ 137.2	\$ 111.2	\$ 248.4	\$ 138.5	\$ 111.3	\$ 249.8	\$ 1.3	\$ 0.1	\$ 1.4
Expenditures	(137.2)	(111.2)	(248.4)	(138.5)	(111.3)	(249.8)	(1.3)	(0.1)	(1.4)
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

The Proposed Budget includes an additional 3.0 FTEs, as demonstrated below:

Departments	FY 2023-24 Adopted Budget	Proposed Changes	FY 2024-25 Proposed Budget
City Council	5.0		5.0
City Attorney	3.0		3.0
City Clerk	3.0		3.0
City Manager	6.0	(1.0)	5.0
Office of Economic Development & Strategic Initiatives	4.0		4.0
Office of Housing	3.0		3.0
Office of Building Safety	24.0	(2.0)	22.0
Finance	29.0	1.0	30.0
Fire	82.0		82.0
Human Resources	7.0	1.0	8.0
Information Technology	14.0		14.0
Planning	12.0		12.0
Police	128.0		128.0
Public Works	114.0	4.0	118.0
Recreation & Community Services	18.0		18.0
Total	452.0	3.0	455.0

The revised General Fund 10-Year Forecast, which incorporates the changes above, is presented below:

						Excludes Measure F Revenues					
	FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28	FY 2028-29	FY 2029-30	FY 2030-31	FY 2031-32	FY 2032-33	FY 2033-34
Revenues	\$ 129.5	\$ 138.5	\$ 141.0	\$ 147.2	\$ 149.1	\$ 152.3	\$ 151.1	\$ 156.1	\$ 161.1	\$ 166.2	\$ 172.1
Expenditures	(129.5)	(138.5)	(141.0)	(147.2)	(153.2)	(161.1)	(167.6)	(175.0)	(180.7)	(187.9)	(194.7)
Surplus/ (Deficit)	\$ 0.0	\$ 0.0	\$ 0.0	\$ 0.0	(\$ 4.0)	(\$ 8.9)	(\$ 16.5)	(\$ 18.9)	(\$ 19.6)	(\$ 21.7)	(\$ 22.5)

Measure F Expires
End of March 2029



Citywide Organizational Charts

Certain Department organizational charts have been updated to reflect the organizational structural changes in the Proposed Budget, with the transition of the Office of Building Safety and Office of Housing to the City Manager's Office, and the Code Enforcement division moving under Planning Department. The revised organizational charts for Citywide, City Manager's Office, Office of Building Safety, Office of Housing, and Planning Department are included in the Proposed Budget.

Enabling Resolutions

The FY 2024-25 Proposed Operating Budget and related recommendations are approved by various resolutions as discussed below.

Joint Budget Resolution

With the adoption of the attached Joint Resolution of the City Council and Milpitas Housing Authority, the City Council will approve the FY 2024-25 Proposed Operating Budget for the City of Milpitas and the Milpitas Housing Authority as amended in this Agenda Report per previous City Council direction. Further through the joint resolution, the City Council will approve the Gann Appropriations Limit, fiscal policies and authorizes various financial actions, including authorizing the City Manager to execute certain contracts in amounts above \$100,000 during FY 2024-25. The [Agenda Report for the May 14, 2024 Study Session](#) details the fiscal policy and budget guidelines and City Manager authority recommendations.

An attachment to the joint budget resolution identifies a list of contracts with an estimated not-to-exceed amount above the City Manager's contract approval authority of \$100,000 as well as annual payments in

excess of \$100,000 for insurance and utilities. Funding for these contracts has been incorporated into the proposed budget and/or the [FY 2025-29 Capital Improvement Program](#). As part of the adoption of this budget, staff is seeking authority to award these contracts and make certain payments. The list includes annual routine contracts (e.g.: PLAN JPA insurance premiums), contracts with specific funding items related to this budget (e.g.: Valley Water wholesale water purchase), and contracts related to capital improvement projects.

The Gann Appropriations Limit

Article XIIIB of the California State Constitution, more commonly referred to as the Gann Initiative or Gann Appropriations Limit, was approved by California voters in November 1979 and placed limits on the amount of proceeds of taxes that state and local governmental agencies can receive and spend each year. If an agency receives more revenue than the Appropriations Limit, the excess revenue must be returned to the taxpayers through a tax reduction or refund within the next two years. Alternatively, the agency can increase its Appropriations Limit through voters' approval.

Based on the attached analysis, using the population and per capita personal income change factors provided by the State of California, the City's Appropriations Limit for FY 2024-25 has been computed to be \$140,254,073. Appropriations subject to the limitation in FY 2024-25 budget total \$102,105,622 which is \$38,148,451 less than the computed limit. The City has not exceeded its annual Appropriations Limit in any fiscal year since this requirement was approved by the voters in 1979.

Personnel Related Resolutions

Based on the Proposed Budget as amended in this Agenda Report based on Council direction, staff is bringing forward several personnel-related resolutions to amend the classification plan for all employees as it relates to authorized positions, changes to hourly rate ranges for certain classifications due to an increase in the City's minimum wage, and salary schedule amendments based on previous Council direction consistent with MOUs for the respective bargaining groups.

Authorized positions – This resolution aligns the number of positions on the Authorized Position List and amends specific budgeted positions consistent with the Proposed Budget by adding 3.0 net additional budgeted FTEs.

Minimum Wage Adjustments – This resolution adjusts the hourly rate ranges upwards for various classifications with the bottom of the hourly range set at the new minimum wage and compacted supervisory positions effective July 1, 2024. Consistent with the City Council approved ordinance, the minimum wage is scheduled to increase by \$0.50 from \$17.20 to \$17.70 by July 1, 2024 based on the February 2024 annual Consumer Price Index (CPI) increase for the San Francisco-Oakland-Hayward Metropolitan Statistical Area.

Salary Schedules for Council Approved Wage Increases – This resolution is required per the California Code of Regulations §570.5. Per State law, the City is required to bring all pay schedules before the governing board for review and approval. The updated salary schedule reflects the respective increases for the following bargaining groups except the International Association of Firefighters (IAFF) and related Unrepresented Fire employees wage increases. These two groups' increases will be updated at a later time once MOU negotiations have concluded.

Bargaining Group	Wage Percentage Increase	Effective Date
Mid-Management and Confidential Unit (Mid-Con)	3.0%	Effective the first full pay period in July 2024
Unrepresented Miscellaneous and Unrepresented Management Employees (Unrep Misc)*	3.0%	Effective the first full pay period in July 2024
Professional Technical (Pro-Tech)	4.0%	Effective the first full pay period in July 2024
Milpitas Employee Association (MEA)	4.0%	Effective the first full pay period in July 2024

Bargaining Group	Wage Percentage Increase	Effective Date
Unrepresented Police Employees (Unrep Police)**	6.5%	Retroactive to the first full pay period in January 2024
Unrepresented Police Employees (Unrep Police)**	5.0%	Effective the first full pay period in January 2025
Milpitas Police Officers Association – Sworn	5.0%	Effective the first full pay period in January 2025
Milpitas Police Officers Association – Non-Sworn	3.0%	Effective the first full pay period in January 2025

* To address any potential internal salary compaction issues, Unrepresented Police Employees' increases align with MPOA per City Council action on March 3, 2020.

**To address any potential internal salary compaction issues, Unrepresented Employees increases align with MidCon, per City Council action on June 18, 2019.

Fiscal Impact:

Upon adoption, the FY 2024-25 Budget for the City of Milpitas and the Milpitas Housing Authority, for all funds including debt service, will be \$249.8 million.

Recommendations:

- 1) Conduct a public hearing; and
- 2) Adopt the following Resolutions:
 - a) Joint Resolution of the City Council and Milpitas Housing Authority to approve the Fiscal Year 2024-25 Proposed Operating Budget for the City of Milpitas and the Milpitas Housing Authority, approve the Fiscal Year 2024-25 Gann Appropriations Limit, Fiscal Policies and Budget Guidelines and authorizing various financial actions by the City Manager, including Approving and Authorizing the Execution of Various Contracts and Payments over \$100,000;
 - b) Amending Resolution No. 1626, the Classification Plan, to authorize additional positions and amend budgeted allocated positions;
 - c) Amending Resolution No. 1626, the Classification Plan, to adjust the hourly rate ranges for classifications due to a minimum wage increase pursuant to Ordinance No. 292;
 - d) Amending Resolution No. 1626, the Classification Plan of Unrepresented Management Employees and Authorizing Fringe Benefits; and
 - e) Amending Resolution No. 1626, the Classification Plan, to adjust the Salary Schedules for various classifications to align with current memorandums of understandings (MOUs)

Attachments:

- a) Joint Resolution of the City Council and Milpitas Housing Authority to approve the Fiscal Year 2024-25 Proposed Operating Budget the City of Milpitas and the Milpitas Housing Authority, approve the Appropriations Limit, Fiscal Policies and Budget Guidelines and authorizing various financial actions by the City Manager, including Approving and Authorizing the Execution of Various Contracts and Payments over \$100,000.
- b) Joint Resolution Exhibit 1 FY 2024-25 Gann Appropriations Limit
- c) Amending Resolution No. 1626, the Classification Plan, to authorize additional positions and amend budgeted allocated positions
- d) Amending Resolution No. 1626, the Classification Plan, to adjust the hourly rate ranges for classifications due to a minimum wage increase pursuant to Ordinance No. 292
- e) Amending Resolution No. 1626, the Classification Plan of Unrepresented Management Employees and Authorizing Fringe Benefits
- f) Resolution Exhibit A Unrepresented Management Benefit Matrix
- g) Amending Resolution No. 1626, the Classification Plan, to adjust the Salary Schedules for various classifications to align with the current memorandums of understandings (MOUs).

RESOLUTION NO. ____

A JOINT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AND THE HOUSING AUTHORITY COMMISSION OF THE CITY OF MILPITAS APPROVING THE FY 2024-25 OPERATING BUDGET FOR THE CITY OF MILPITAS AND THE MILPITAS HOUSING AUTHORITY, THE APPROPRIATIONS LIMIT FOR FISCAL YEAR 2024-25, FISCAL POLICIES, AND BUDGET GUIDELINES, AND AUTHORIZING VARIOUS FINANCIAL ACTIONS BY THE CITY MANAGER, INCLUDING APPROVING AND AUTHORIZING THE EXECUTION OF VARIOUS CONTRACTS AND PAYMENTS OVER \$100,000

WHEREAS, the City Manager has submitted a FY 2024-25 Proposed Budget and Financial Plan; and

WHEREAS, on June 4, 2024, a public hearing on the Proposed Budget and Financial Plan was opened where all interested persons were heard; and

WHEREAS, the City Council and Milpitas Housing Authority Commission (“Authority”) reviewed the City Manager’s FY 2024-25 Proposed Budget and Financial Plan; and

WHEREAS, the first year, or FY 2024-25, of the CIP is a part of the 2024-25 Proposed Budget and Financial Plan; and

WHEREAS, Article XIII B, Section 1, of the Constitution of the State of California requires that total annual appropriations subject to limitation of the City of Milpitas shall not exceed the appropriations limit of the City for the prior year adjusted for changes in the cost of living and population except as otherwise provided, also referred to as the Gann Appropriations Limit; and

WHEREAS, this Article became effective July 1, 1980, as amended, which requires the City to establish its appropriations limit by resolution each year at a regularly scheduled meeting or a noticed special meeting, commencing after the beginning of each fiscal year; and

WHEREAS, the appropriations base for 1978-79 had been determined and since adjusted by the changes in population, cost of living, and transfers of financial responsibility, establishing an appropriations limit for fiscal year 2024-25 of \$140,254,073; and

WHEREAS, the calculations for the appropriations limit are included as part of the budget document materials being considered and approved by the City Council as part of this Resolution; and

WHEREAS, documentation used in determining the appropriations limit has been made available to the public for a period of not less than fifteen (15) days prior to City Council consideration of this Resolution; and

WHEREAS, the budget document contains fiscal policies that the City Council has reviewed and approved and which are updated from time to time, as follows: General Financial Goals, Operating Budget Policies, Revenue and Expenditure Policies, Utility Rates and Fees, Capital Budget Policies, Debt Policies, Reserve Policies, Investment Policies, and Accounting/Auditing and Financial Reporting Policies; and

WHEREAS, the budget document contains budget guidelines that the City Council has reviewed and approved and which are updated from time to time, as follows: Basis of Budgeting; Budget Calendar requirements; form and content of the City Manager's Proposed Budget; adoption of the Budget by June 30th; the City Manager’s budget authority; requirement that budget amendments be approved by the City Council; budget transfers and modification procedures; automatic adjustments and re-appropriations; budget monitoring and reporting; and reserve requirements for all funds.

NOW, THEREFORE, the City Council of the City of Milpitas and the Milpitas Housing Authority Commission hereby find, determine, and resolve as follows:

- 1.** The City Council and Authority have considered the full record before them, 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 them. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
- 2.** The annual Budget and Financial Plan, as attached in the City Council meeting packet, inclusive of capital improvement appropriations, for the City of Milpitas for fiscal year 2024-25 is hereby affirmed and adopted totaling \$248,371,138 for all appropriated funds.
- 3.** The amounts shown as “Appropriations” and estimated fund balances are hereby approved for the various purposes designated in the 2024-2025 Adopted Budget.
- 4.** The budgets for all departments for the period July 1, 2024 through June 30, 2025, inclusive, contained in this 2024-25 Adopted Budget, are approved as the operating budget for those departments for fiscal 2024-25.
- 5.** The appropriations limit for fiscal year 2024-2025 shall be \$140,254,073 as shown in **Exhibit 1**.
- 6.** Pursuant to Government Code Section 7910, no judicial action or proceeding to attack, review, set aside, void, or annul the action of the City Council in establishing the appropriations limit for fiscal year 2024-2025 shall be brought unless such action or proceeding shall have been commenced within forty-five (45) days of the date of adoption of this Resolution.
- 7.** Any unused non-salary and benefits-related appropriations at the end of fiscal 2023-2024 may be re-appropriated for continued use in fiscal year 2024-25 subject to the approval of the City Manager. Furthermore, any outstanding contract and/or purchase order obligations (or encumbrances) remaining at the end of FY 2023-2024 are subject to carry-over into FY 2024-25.
- 8.** Subject to any grant restrictions, unspent appropriations that are authorized and funded by grant revenues from prior fiscal year will automatically be carried over to current year’s budgets. Unspent City funded grant appropriations from prior fiscal year will automatically be carried over to the current year’s budgets.
- 9.** As part of year-end closing of the budget, previously appropriated capital project funds will be automatically carried forward to the next fiscal year for the same capital project until the project is closed out.
- 10.** No office, department, or agency shall expend any amount or incur any liability or enter into any contract, which by its terms involves expenditures of money for any purpose in excess of the amounts appropriated for the particular departments, and funds set forth herein.
- 11.** The City Manager may authorize, when in his or her judgment such action is consistent with the purposes and intent of the 2024-2025 Adopted Budget as approved, budget revisions subject to the following conditions:

Prior Council Approval Not Required. Prior approval of the City Council is not required under the following circumstances:

- i.** When revisions involve transfers from the Unanticipated Expenditure Reserve less than or equal to the aggregate amount adopted within the budget in any one fiscal year (\$1,300,000 in FY 2024-25), provided that the Council is notified in writing of the revision, giving the reason, the amount of the revision and the year-to-date total amount of revisions as part of the quarterly financial reports.

ii. When revisions involve transfers from the appropriated leave cash-out account less than or equal to the aggregate amount adopted within the budget in any one fiscal year (\$700,000 in FY 2024-25) to the various departments for cash-outs when employees leave City service.

iii. When revisions involve transfers, or reallocations, within any one fund among the various departments or projects, provided that the amount of transfer in any single instance does not exceed \$100,000.

iv. When revisions involve reasonable deviation from the budgeted personnel allocation schedule, provided that at no time the number of permanent funded positions authorized by the City Council is exceeded.

v. When revisions involve hiring full-time employees in overstrength positions for no more than one year as long as appropriations are not exceeded to ensure adequate staffing levels for sworn positions, facilitate training of new employees by the outgoing incumbent or respond to urgent staffing needs.

vi. When revisions involve adding/deleting positions or moving positions between departments to respond to organizational needs, as long as the number of permanent funded positions and the approved personnel cost appropriations remain the same.

vii. When revisions involve allocating, redistributing and/or appropriating monies between department and non-department divisions so as to reflect budgetary savings in one or more departments.

viii. For Police goods and services to be purchased from Asset Seizure funds, the City Manager or his/her designee, has the authority to purchase such goods or services if the expenditures of such goods and services do not exceed the amount designated from Asset Seizure funds as approved by the City Council during the Budget hearing.

ix. To use judgment to modify citywide administrative financial policies and procedures from time to time that are consistent with municipal government best practices unless those policies would otherwise be in conflict with the budget provisions incorporated in this Resolution or the City's Municipal Code.

x. **Exhibit 2** lists contracts and payments that are specifically identified in the budget document and materials enclosed herein. None of these contracts require a formal, public bidding process. The list of contracts and payments is hereby approved and the City Manager is authorized to execute and enter into these contracts and make these payments during fiscal year 2024-25 up to the amounts listed by contract or payment in **Exhibit 2**.

12. Prior Council Approval Required. Prior approval of the City Council is required for revisions to the 2024-2025 Final Budget as adopted if any of the following are involved:

i. An increase in overall appropriation level within any one Fund.

ii. The transfers or reallocation of appropriations greater than \$100,000 between different Funds, except not for reallocations between subfunds within one Fund.

iii. Changes providing for increases or decreases in funded permanent personnel counts in the adopted Budget.

iv. Contract change orders which would cause the aggregate contract amount to exceed \$100,000 and/or exceed prior approved appropriation levels for the subject contract.

- v.** Transfers from Unanticipated Expenditure Reserve, which would cause the aggregate amount of \$1,300,000 during fiscal year 2024-25, to be exceeded.
- vi.** Result in changes not consistent with the purpose and intent of the Budget as adopted.
- vii.** Require an appropriation action from any unassigned fund balances or reserves.

13. Information establishing the current budget situation and steps to be taken to present balanced City Budgets have been presented during the public hearing on this meeting June 4, 2024, and in prior budget presentations.

14. The approval of the 2024-25 Adopted Budget, including the authority to enter into any contract, make payments, or undertake other actions, does not commit the City to any action that may have significant effect on the environment. This is because the actions are financial or administrative and do not directly impact the environment or the environmental impacts of any action would be speculative to analyze at this time. As a result, there is no potential impact on the environment from this action per Section 15061(b) (3) of the California Environmental Quality Act (“CEQA”) Guidelines and this action does not constitute a project under CEQA per CEQA Guidelines Section 15378(b)(4). Although the budget does authorize certain types of contracts to be entered into, none are anticipated to have any environmental impact at the time of entering into the contract, and if ultimately leading to a project that could impact the environment, the impacts of that action will be analyzed once the project is designed and the analysis is no longer speculative.

PASSED AND ADOPTED this _____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney

Approval of FY 2024-2025 Budget Contracts/Payments over \$100,000

1. FY 2024-25 Operating Budget

Department Name	Contractor Name (If known) or Type of Contract	Description of Contract/Payment	Estimated Amount	Funds
City Manager	Kiley & Associates, LLC	Legislative Consultant Contract	\$110,000	General Fund Affordable Housing Community Benefit Fund Solid Waste Services Fund Water Fund Sewer Fund
Building Safety	City of San Jose	San Jose Animal Services Contract	\$551,616	General Fund
City Attorney	Meyers Nave, a Professional Corporation	Contracted Outside Legal Services	\$175,000	General Fund
Finance	PLAN JPA	Liability/Cyber Insurance	\$3,440,322	General Fund Water Fund Sewer Fund Housing Authority Fund Equipment Fund
Finance	PLAN JPA	Attorney Fees for Claims/Lawsuits	\$391,500	General Fund Water Fund Sewer Fund
Finance	PG&E	Utility - Electric	\$2,800,000	General Fund Sewer Fund Water Fund
Finance	Chandler	Investment Portfolio Management	\$166,000	General Fund
Finance	Integrays	Utility - Gas	\$226,300	General Fund Water Fund Sewer Fund
Finance	Brown & Brown	Excess Workers' Compensation Insurance	\$400,000	General Fund
Housing	Housekeys	BMR Home Ownership Program Administration	\$200,000	Housing Authority Fund
Housing	TBD	Homeless Outreach	\$193,336	Affordable Housing Community Benefit

Housing	WeHOPE (Dignity on Wheels)	Mobile Shower & Laundry Services for Unhoused Individuals (3 years)	\$150,000	Assemblymember Alex Lee's State Funding
Human Resource	Sedgwick	Third Party Administrator for Worker's Compensation	\$147,016	General Fund
Information Technology (Finance)	Cayenta	Cayenta Software Maintenance	\$298,073	General Fund
Information Technology	CDW-G	Microsoft Office 365 Licensing	\$167,000	General Fund
Information Technology	Central Square	VisiCAD Software Maintenance	\$142,000	General Fund
Information Technology	OpenGov, Inc.	Open Town Hall/Budget and Performance Software/Consolidation of the Management Reporting	\$155,444	General Fund
Information Technology	Mark43	Police Records Management System	\$167,890	General Fund
Police	Vehicle Purchases** (Cooperative Purchase Agreements/Mission Valley Ford)	Purchase of new and replacement vehicles for aging fleet	\$273,346	General Fund Equipment Replacement Fund
Police	County of Santa Clara	Crime Lab Major Case Evidence Examination	\$159,674	General Fund
Police	Silicon Valley Regional Interoperability Authority	Silicon Valley Regional Communications Systems (SVRCS) - Annual Operations and Maintenance for Digital Radio System	\$122,820	General Fund
Police	County of Santa Clara	Cal-ID	\$156,263	General Fund
Police	Axon Enterprise, Inc.	Police Body Worn Cameras / Tasers / Cloud Storage	\$211,063	General Fund
Police	All City Management Services	Crossing Guard Services	\$827,591	General Fund
Public Works	SFPUC	Wholesale Water Purchase	\$15,871,456	Water Fund
Public Works	City of San Jose	O&M for Treatment Plant	\$9,185,800	Sewer Fund
Public Works	Valley Water	Wholesale Water Purchase	\$7,105,901	Water Fund
Public Works	City of San Jose	Recycled Water Purchase	\$2,627,196	Water Fund
Public Works	Brightview	Park Maintenance Services	\$1,392,119	General Fund / CFD
Public Works	Equipment/Vehicle Purchases** (Cooperative Purchase Agreements/Mission Valley Ford)	Purchase of new and replacement equipment and vehicles for aging Public Works fleet	\$441,092	General Fund Water Fund Sewer Fund Equipment Fund

Public Works	Merrimac Petroleum Inc.	Diesel & Unleaded Fuel	\$575,620	Equipment Replacement Fund
Public Works	TBD	Tree Maintenance Services	\$480,000	General Fund / CFD
Public Works	Imperial Maintenance Services Inc.	Janitorial Services	\$488,133	General Fund
Public Works	Bay Area Water Supply and Conservation Agency	BAWSCA Membership	\$212,921	Water Fund
Public Works	Enterprise FM Trust	Fleet Lease Agreement	\$168,000	General Fund
Public Works	City of Sunnyvale	Santa Clara Valley Urban Runoff Pollution Prevention Program	\$169,475	General Fund
Public Works	Brightview	Facilities Landscape Maintenance	\$125,200	General Fund
Public Works	Tucker	Encampment Clean-Up	\$100,000	General Fund
Recreation	County of Santa Clara "SNP"	Senior Nutrition Program	\$103,066	GT1007-162-4226
Recreation	TBD	Activity Guide Printing Summer 2025 – Spring 2028	\$100,000	General Fund
City-wide	Staples Business Advantage	City-wide Departmental Supplies	\$150,000	General Fund

* Contract with West Coast Arborist ends 6/30/24. Estimated amount for FY25 may need to be adjusted depending on who gets awarded the new contract.

** Includes 15% contingency. Budgeted amounts were estimates and actual costs may be higher.

2. FY 2024-25 Capital Improvement Program (CIP) Budget

Department Name	CIP Project No. & Name	Description of Contract	Estimated Amount	Funds
Community Improvement	CIP 3465 - Fire Station No. 1 Modular Building	Design/Professional Services Agreement to obtain a consultant to provide design services for the replacement of modular building and improvements at Fire Station No.1. Vendor selection of the modular building and improvements at Fire Station No.1 is anticipated to start in Spring 2024 and construction is anticipated to be completed in 2025.	\$250,000	General Gov. CIP Fund
Storm Drain Improvement	CIP 3724 - Main Street Flood Study	New Design/Professional Services Agreement to obtain a consultant to provide an assessment and alternative improvements for the flooding occurring on S. Main Street near the City's library	\$400,000	Storm Drain Fund
Street Improvement	CIP 4302 - Calaveras Landslide Repair Project	New Design/Professional Services Agreement to obtain a consultant to provide design services for the repair of landslide and roadway improvements on Calaveras Road	\$400,000	Street Improvement Fund
Park Improvement	CIP 2005 - Lower Penitencia Creek Pedestrian Bridge	Amendment No. 1 to Design/Professional Services Agreement with Biggs Cardosa Associates, Inc. to provide addition design services and construction support for a new pedestrian bridge at Delano Manongs Park over Pentiencia Creek	\$200,000	TASP Impact Fees Developer Fees
Community Improvements	CIP 3422 & 3485 - Community Center Roof Renovation	New Design/Professional Services Agreement to obtain a consultant to provide design services for the replacement of the roof and mechanical equipment at Milpitas Community Center	\$400,000	General Gov. CIP Fund
Community Improvements	CIP 3470 - City Hall Fountain & Landscape Renovation	New Design/Professional Services Agreement to obtain a consultant to provide mastering planning and conceptual design services for the renovation of the landscape areas and fountains, pond, and water fall areas at City Hall campus	\$200,000	General Gov. CIP Fund

Park Improvements	CP3471 & CIP 3501- Sinnott Park Playground Design	Amendment No. 2 to Design/Professional Services Agreement with Callandar Associates Landscape Architects, Inc. to complete construction drawings and provide construction support for Sinnott Park playground improvements	\$200,000	General Gov. CIP Fund Park Improvement Fund
Street Improvements	CIP 4304 & 4305 - Street Resurfacing 2024 Project	Amendment No. 1 to Design/Professional Services Agreement with Kimley-Horn & Associates, Inc. to provide additional design services and construction support for additional pavement rehabilitation project in 2025	\$500,000	Gas Tax Fund, Measure B, SB1 RMRA, Vehicle Registration Fee
Street Improvements	CIP 4300 & 4305 - Street Resurfacing 2025 & 2026 Project	New Design/Professional Services Agreement to obtain a consultant to provide design services and construction supports for the street resurfacing projects in 2025 and 2026	\$600,000	Gas Tax Fund, Measure B, SB1 RMRA, Vehicle Registration Fee
Street Improvements	CIP 4288 - Traffic Safety Improvement	New Design/Professional Services Agreement to obtain a consultant to provide grant, planning, and design services for traffic safety improvements throughout the City according to the adopted "Citywide Traffic Safety report"	\$100,000	Gas Tax Fund, Street Improvement Fund
Sewer Improvement	CIP 6137 - Force Main "A" Project	New Design/Professional Service Agreement to obtain a consultant to provide an assessment, planning, and design services of the City's sewer force main "A" from Milpitas Main Sewer Lift Station to San Jose/Santa Clara Regional Wastewater Facility	\$2,500,000	Sewer Infrastructure Fund
Street Improvement	CIP 4299 - Bicycle Improvement Project	New Design/Professional Services Agreement to obtain a consultant to provide design services and construction support for bike facilities improvements on Able St., Marylinn Dr., Main St., and Milpitas Blvd.	\$250,000	Grant
Water Improvement	CIP 7076 - Well Upgrade Project (McCandless Well)	Amendment No. 1 to Design/Professional Services Agreement with West Yost & Associates, Inc. to provide additional	\$800,000	Water Capital Surcharge

		design services and construction support, and construction management service for the installation of new potable water well facilities at Delano Manongs Park		
Water Improvement	CIP 7118 - Dempsey Water Line Replacement	Amendment No. 1 to Design/Professional Services Agreement with HydroScience Engineers, Inc. to provide construction support service for the replacement of the water main on Dempsey Road	\$200,000	Water Capital Surcharge
Water Improvement	CIP 7133 - Minor Water Projects	Amendment No. 1 to Design/Professional Services Agreement with MNS Engineers, Inc. to provide additional design services and construction support for Gibraltar Pump Station Suction Piping Repair and Valves Replacement	\$100,000	Water Capital Surcharge
Water Improvements	CIP 7141 - Asset Renewal & Replacement Program	New Design/Professional Service Agreement to obtain a consultant to provide design services for the replacement of the water main along Los Coches St. and Topaz St.	\$500,000	Water Capital Surcharge
Water Improvements	CIP 7147 - Pinewood Well Facility Rehabilitation Project	Amendment No. 1 to Design/Professional Services Agreement with MNS Engineers, Inc. to provide additional assessment and construction drawings for the Pinewood Well improvements or conversion to a full-time production well	\$400,000	Water Capital Surcharge
Water Improvements	CIP 7148 - Pressure Reducing Valve Station Relocation Project	New Design/Professional Services Agreement to obtain a consultant to provide design services and construction support for the improvements of pressure reducing facilities at California Circle, McCarthy, Montague, Live Oak, and Junipero stations	\$465,000	Water Capital Surcharge
Water Improvements	CIP 7149 - Sunnyhills Turnout Rehabilitation Project	New Design/Professional Services Agreement to obtain a consultant to provide design services and construction supports for the rehabilitation of pressure reducing facilities at Sunnyhill Turnout	\$200,000	Water Capital Surcharge

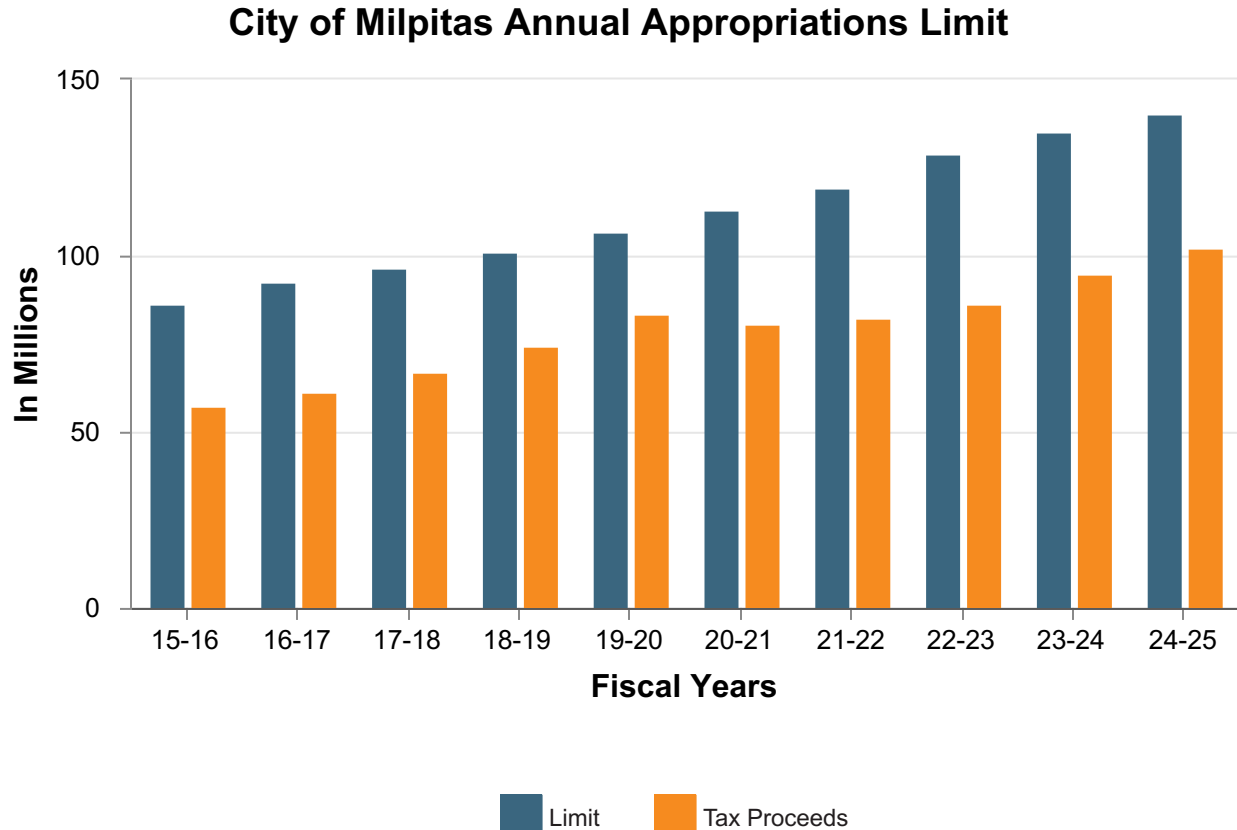
Sewer Improvement	CIP 6118 – City of San Jose - SC Regional Wastewater Facility	City of Milpitas cost share amount with City of San Jose for rehab improvements to RWF	\$4,314,300	Sewer Infrastructure Fund, Sewer Treatment Fund
Sewer Improvement	CIP 6124 - Sewer Pump Station Rehabilitation Program	Amendment No. 1 to Design/Professional Services Agreement with MNS Engineers, Inc. to provide construction drawings and construction support for the Main Lift Station Wet Well Grease Management Project	\$200,000	Sewer Infrastructure Fund
Sewer Improvement	CIP 6124 - Sewer Pump Station Rehabilitation Program	Amendment No. 1 to Design/Professional Services Agreement with MNS Engineers, Inc. to provide construction drawings and construction support of the Main Lift Station Flow Meters Replacement project	\$250,000	Sewer Infrastructure Fund
Storm Improvement	CIP 3714 - Flap Gate Replacement	New Design/Professional Service Agreement to obtain a consultant to provide design services and construction supports for Main Lift Station Vector Truck Disposal Facility Project	\$400,000	Storm Drain Fund
Storm Improvement	CIP 3715 - Storm Drain System Rehabilitation	Amendment No. 1 to Design/Professional Services Agreement with MNS Engineers, Inc. to provide additional design services and construction support for Dixon Prudential Drainage Ditch Lining Project	\$400,000	Storm Drain Fund General Fund
Public Safety	CIP 3459 - ALPRs and Security Cameras	ALPRs and Security Cameras - Flock Safety	\$127,500	General Government CIP Fund, Grants/ Reimb./Developer Fees
Community Improvement	CIP 3503 - Landmark Policy - Historic Resource Master Plan Update and Marker Program	Professional Services Agreement to manage Master Plan update and new marker program	\$200,000	General Government CIP Fund
Community Improvement	CIP 3489 - Public Art Program	Public Art Contract for Park Markers Project	\$100,000	Public Art Fund

Gann Appropriations Limit Analysis

Article XIII B of the California State Constitution, more commonly referred to as the Gann Initiative or Gann Appropriations Limit, was approved by California voters in November 1979 and placed limits on the amount of proceeds of taxes that state and local governmental agencies can receive and spend each year. If an agency receives more revenue than the Appropriations Limit, the excess revenue must be returned to the taxpayers through a tax reduction or refund within the next two years. Alternatively, the agency can increase its Appropriations Limit through voters' approval.

Each year's limit is based on the amount of tax proceeds that were authorized to be spent in Fiscal Year 1978-79 in each agency, modified for changes in inflation and population in each subsequent year. The City Council must adopt, by resolution, an Appropriations Limit for the following year. Using the population and per capita personal income change factors provided by the State of California, the City's Appropriations Limit for FY2024-25 has been computed to be \$140,254,073. Appropriations subject to the limitation in FY2024-25 budget total \$102,105,622 that is \$38,148,451 less than the computed limit.

The following chart shows the annual Appropriations Limit and the tax proceeds received since Fiscal Year 2015-16. The amounts for Tax Proceeds have been restated to exclude Franchise Fees, which were inadvertently included in the past, which is inconsistent with the law. The City has not exceeded its annual Appropriations Limit in any single fiscal year. The City has been under 80% of the limitation and should not be impacted by the Appropriations Limit.



*In prior years, Franchise Fees were inadvertently included in the calculation of the tax proceeds, which is inconsistent with the law. This chart has been corrected to show only tax proceeds subject to the limit.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING RESOLUTION NO. 1626, THE CLASSIFICATION PLAN, TO AUTHORIZE ADDITIONAL POSITIONS, AND AMEND BUDGETED ALLOCATED POSITIONS

WHEREAS, the City of Milpitas has a Classification Plan adopted as Resolution No. 1626 on December 17, 1968, which has been amended from time to time, and which is in accordance with the Personnel Rules and Regulations of the City of Milpitas (Resolution No. 792 as amended); and

WHEREAS, amendments to the Classification Plan are necessary to account for changes within the organization, transfer of duties, new job responsibilities, and adjustments to salary ranges;

WHEREAS, the annual budget process necessitates changes in position authorizations that result from modifications made to the Classification Plan.

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

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. Resolution No. 1626, as amended, is hereby further amended effective July 1, 2024 as set forth below. If any of the below-mentioned groups or classifications receive a cost-of-living adjustment separate from the adoption of the 2024-25 budget, that same percentage amount and effective date will be applied accordingly pursuant to the applicable bargaining unit agreement(s) for the below-listed classification salary ranges by further Resolution.

A. AUTHORIZE THE FOLLOWING POSITIONS:

Add One (1) FTE Management Analyst – Public Works Department
Add Two (2) FTE Water Systems Operator – Public Works Department
Add One (1) FTE Equipment Maintenance Worker III – Public Works Department
Add One (1) FTE Buyer – Finance Department
Add One (1) FTE Human Resources Analyst I/II - Human Resources Department

B. RECLASSIFY THE FOLLOWING BUDGETED ALLOCATED POSITIONS:

Reclassify One (1) FTE Economic Development Director to Director of Economic Development and Strategic Initiatives – City Manager’s Office
Reclassify One (1) FTE Housing Authority Administrator to Housing Official – City Manager’s Office

C. DELETE/DEFUND THE FOLLOWING BUDGETED ALLOCATION POSITIONS:

Defund One (1) FTE Deputy City Manager
Delete One (1) FTE Building Safety and Housing Director
Delete One (1) FTE Building Inspector

PASSED AND ADOPTED this _____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING RESOLUTION NO. 1626, THE CLASSIFICATION PLAN, TO ADJUST HOURLY RATE RANGES FOR CLASSIFICATIONS DUE TO A MINIMUM WAGE INCREASE PURSUANT TO ORDINANCE NO. 292

WHEREAS, the City of Milpitas has a Classification Plan adopted as Resolution No. 1626 on December 17, 1968, which has been amended from time to time, and which is in accordance with the Personnel Rules and Regulations of the City of Milpitas (Resolution No. 792 as amended); and

WHEREAS, salary increases granted to temporary classifications pursuant to changes in Resolution No. 6598, the Resolution providing compensation for unrepresented part-time temporary employees, have been incorporated into Resolution No. 1626, the Classification Plan.

WHEREAS, amendments to the Classification Plan are necessary to account for changes within the organization, transfer of duties, new job responsibilities, and adjustments to salary ranges; and

WHEREAS, the City of Milpitas local minimum wage ordinance, Ordinance No. 292, established the minimum wage hourly rate effective July 1, 2023 as \$17.20 per hour; and

WHEREAS, the City of Milpitas updated its minimum wage ordinance effective July 1, 2024; and

WHEREAS, the City must update its hourly rate for certain classifications currently below the \$17.70 hourly rate in conformance with Ordinance No. 292.

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

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The table below contains hourly wage adjustments for classifications that are currently below the minimum wage of \$17.70 per hour and all other hourly range classifications that required adjustments in order to address compaction.
3. Resolution No. 1626, as amended, is hereby further amended to adjust the hourly rate ranges for the below listed classifications effective July 1, 2024, as follows:

Title	From		To	
	Step A	Top Step	Step A	Top Step
Lifeguard	\$17.20	\$22.88	\$17.70	\$22.88
Assistant Pool Manager	\$22.16	\$27.70	\$22.16	\$28.55
Pool Manager	\$23.22	\$28.15	\$23.22	\$29.90
Recreation Administrative Assistant	\$17.20	\$23.96	\$17.70	\$24.66
Recreation Attendant	\$17.20	\$23.96	\$17.70	\$24.66
Recreation Leader	\$17.20	\$23.96	\$17.70	\$24.66
Staff Assistant	\$17.20	\$26.62	\$17.70	\$27.39
Student Intern	\$17.20	\$26.62	\$17.70	\$27.39

4. These adjusted hourly rate ranges will be included in the All Job Classifications/Salary Table attached to the June 4, 2024 Resolution of the City Council of the City of Milpitas amending Resolution No. 1626, the Classification Plan, to Adjust the Salary Schedules for all MEA, ProTech, MidCon, and Miscellaneous Unrepresented and Police Unrepresented Classifications.

PASSED AND ADOPTED this _____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING THE
CLASSIFICATION PLAN OF UNREPRESENTED MANGEMENT EMPLOYEES AND AUTHORIZING
FRINGE BENEFITS**

WHEREAS, the City of Milpitas Unrepresented Management Employees are not organized or represented for the purposes of meeting and conferring with the City in the areas of salary, benefits, and working conditions; and

WHEREAS, on December 17, 1968, the City of Milpitas established a Classification Plan adopted as Resolution No. 1626, which has been amended from time to time and which is in accordance with the Personnel Rules and Regulations of the City of Milpitas (Resolution No. 792, as amended); and

WHEREAS, amendments to the Classification Plan are necessary to account for changes within the organization, including transfer of duties, new job responsibilities, and adjustments to salary ranges; and

WHEREAS, on July 7, 1981, the City Council of the City of Milpitas adopted Resolution No. 3558 to authorize compensation and fringe benefits for all exempt employees and City Council; and

WHEREAS, on May 17, 2022, the City Council amended the fringe benefits for Unrepresented Management Employees; and

WHEREAS, from time to time, the City Council amends Unrepresented Management Employee titles, which are now reflected in the attached **Exhibit A**; and

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

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City Council adjust the salary ranges for Unrepresented Management Employees, as set out in the All Job Classifications / Salary Table attached to the June 4, 2024 Resolution of the Milpitas City Council amending Resolution No. 1626, the Classification Plan, to Adjust the Salary Schedules for all MEA, ProTech, MidCon, and Miscellaneous Unrepresented and Police Unrepresented Classifications.
3. The City Council hereby authorizes the revised fringe benefits listed in **Exhibit A**, attached hereto, for Unrepresented Management Employees.

PASSED AND ADOPTED this _____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney

EXHIBIT A
UNREPRESENTED MANAGEMENT
BENEFITS PACKAGE
Effective July 1, 2024

MISCELLANEOUS EXEMPT CLASSIFICATIONS:

UNREPRESENTED EXECUTIVE STAFF - Assistant City Manager, Deputy City Manager, City Clerk, Director of Economic Development and Strategic Initiatives, Director of Finance, Human Resources Director, Information Technology Director, Planning Director, Public Works Director, and Recreation and Community Services Director

UNREPRESENTED MANAGEMENT STAFF - Assistant City Attorney*, Assistant Finance Director*, Assistant Director Recreation and Community Services*, Building Official*, City Engineer*, Deputy City Attorney, Deputy Information Technology Director*, Deputy Public Works Director*, Human Resources Manager*, Finance Manager, Housing Official*, Planning Manager*, Plan Review Manager, Police Support Services Manager, Public Information Officer*, Public Works Manager, Public Works Division Manager - Engineering, Public Works Division Manager - Operations, Public Works Division Manager - Utilities

POLICE EXEMPT CLASSIFICATIONS:

UNREPRESENTED EXECUTIVE STAFF - Police Chief **UNREPRESENTED MANAGEMENT STAFF** - Assistant Police Chief* and Police Captain

FIRE EXEMPT CLASSIFICATIONS:

UNREPRESENTED EXECUTIVE STAFF - Fire Chief **UNREPRESENTED MANAGEMENT STAFF** - Deputy Fire Chief*, Chief Fire Enforcement Officer, and Assistant Fire Marshal

***2nd in charge**

BENEFITS	DESCRIPTION	ELIGIBLE
MERIT INCREASES	Employees are eligible for merit-based salary increases annually, provided they are not at the maximum of their compensation range. The City manager will have the authority to recommend the amount of the merit increase.	All
HEALTH PLANS	The City provides CalPERS medical coverage. City paid premium is capped at the Kaiser rates for each level of coverage. Only active employees who have eligible dependents enrolled in the plan are eligible for City-paid premium above the single plan rate.	All
HEALTH PLAN WAIVER	Employees who are covered as an eligible dependent under another health insurance plan may waive health coverage and receive a total of \$250 per month in lieu of medical plan coverage with appropriate documentation. (no change since 1999)	All
LIFE INSURANCE	\$50,000 for full-time employees	All
SHORT TERM DISABILITY	City provides a plan similar to State Disability Insurance	Miscellaneous
	Police: Covered under the MPOA Trust Fund	Police Captains Only
	Fire: None (See Family Leave provision)	Fire
LONG TERM DISABILITY	After the first 60 days, coverage at 60% of base salary up to \$1,500 per month. Additional buy-up options are available.	Miscellaneous
	Coverage for Police is provided through California Law Enforcement Association (CLEA).	Police
	Coverage for Fire is provided through California Association of Professional Firefighters (CAPFF).	Fire
DENTAL--Misc and Fire	City provides a self-funded Delta Dental plan with graduated benefits based on years of service, including preventative, routine, major, and orthodontia.	Miscellaneous and Fire
DENTAL--Police	City provides Delta Dental coverage.	Police
VISION	City provides a vision plan for eye examination, lenses and frames.	All
TRUST FUND	\$50 per month contribution into the MPOA Trust Fund for spousal/dependent coverage and Short Term Disability coverage	Police Captains Only
DEFERRED COMPENSATION--SECTION 457 PLAN	City provides \$900 per year toward deferred compensation (no change since 1999), with contributions being pro-rated per pay period (approximately \$34.62 per pay period). Employees are eligible to voluntarily participate in the plan.	Unrepresented Management Staff
DEFERRED COMPENSATION--SECTION 457 PLAN	Employees are eligible to voluntarily participate in the plan.	Unrepresented Executive Staff

401a	The City provides a 401a plan with a 1% employee contribution upon initial enrollment, increasing by 0.25% each subsequent July 1, up to a maximum of 5% employee contribution. Enrolled participants shall have the value of vacation accruals over 260 hours put into their 401a effective the pay period including June 1 of each year. Upon separation enrolled participants shall have one-half of vacation pay put into the plan. City contributes \$900 per year into the 401a plan, with contributions being pro-rated per pay period (approximately \$34.62 per pay period).	Unrepresented Executive Staff
FLEXIBLE SPENDING PLAN	City offers employees who wish to participate a pre-tax deduction for an IRS Section 125 plan for medical expenses, premiums; child or elder care expenses; or traffic and vanpooling.	All

BENEFITS	DESCRIPTION	ELIGIBLE
EMPLOYEE ASSISTANCE PROGRAM (EAP)	City offered plan: 5 visits per incident per calendar year for Unrepresented Miscellaneous & Fire employees.	Miscellaneous & Fire
	City offered plan: 15 visits per calendar year for Unrepresented Police employees.	Police
VACATION LEAVE ACCRUALS	40 hour employees: <u>Years of Service</u> <u>Yearly Accruals</u>	All
	0-4 16 Days	
	5-9 21 Days	
	10-14 26 Days	
	15-19 31 Days	
	20 + 36 Days	
VACATION CARRYOVER RATE	Maximum number of hours that can be carried over is 260 hours for 40 -hour employees. Accruals in excess of maximum will be cashed out at the end of the pay period including June 1.	Unrepresented Management & Fire
	Maximum number of hours that can be carried over is 260 hours. Accruals in excess of the maximum will be cashed out effective the end of the pay period including June 1. The value of accruals in excess of the maximum will be deposited into the 401a plan effective the end of the pay period including June 1.	Unrepresented Executive Staff
	336 hours for Police Management employees. Hours over maximum will be cashed out at the end of the pay period including June 1.	Police
	City Manager may authorize approval to carry over vacation hours in excess of the maximum.	Unrepresented Management
VACATION CASH-OUT PER IRS CONSTRUCTIVE RECEIPT	Unrepresented Employees may elect to cash out up to 80 hours of accrued vacation hours each calendar year.	Unrepresented Management & Fire
VACATION CASH-OUT PER IRS CONSTRUCTIVE RECEIPT	Unrepresented Executive Employees may elect to cash out any hours above 260 or up to 80 hours of accrued vacation hours each calendar year, whichever is greater.	Unrepresented Executive Staff
VACATION ACCRUAL	Accrual tier will be based on total years of public service.	All
VACATION USE	No minimum waiting period for use of accrued vacation.	All
MANAGEMENT INCENTIVE PAID (MIP) LEAVE	Eligible employees will accrue 5 hours of Management Incentive Paid Leave (MIP) for each full pay period worked. Maximum carryover is 260 hours. Hours cannot be cashed out during employment, or at separation.	Executive Staff & 2nd in charge
MANAGEMENT LEAVE	Eligible employees will receive 40 hours of Management Leave added to their Floating Holiday Bank on the pay period following December 31. Employees appointed mid-year will receive pro-rated amount based on date of hire/promotion. Hours can be taken in any increment. There is no annual carryover and hours cannot be cashed out during employment, or at separation. An additional 40 hours of Management Leave can be earned with Department Head recommendation and City Manager approval upon annual evaluation for past performance.	Unrepresented Staff Only (Staff that receive MIP are not eligible for Management Leave)
SICK LEAVE ACCRUALS	12 work days per year. 8 hours = 1 work day	All
SICK LEAVE PAY-OFF--Separating Employees (Not Retiring)	Employees hired prior to July 18, 1999, with 5 years of service, separating in "good standing" as determined by the City Manager may elect to cash in sick leave using this formula: 2.5% x Yrs. of Service x highest hourly rate x sick leave hours accrued.	Miscellaneous
	Employees hired after January 1, 1995, with 5 years of service, separating in "good standing" as determined by the City Manager may use this formula:	Fire
	After 4th year: .25%/year x hourly rate x accrued sick leave	
	After 9th year: .50%/year x hourly rate x accrued sick leave	
	After 14th year: .75%/year x hourly rate x accrued sick leave	
	After 19th year: 1.0%/year x hourly rate x accrued sick leave	Police
	Employees hired after July 18, 1999, with 5 years of service, separating in "good standing" as determined by the City Manager may use this formula:	
	After 4th year: .25%/year x hourly rate x accrued sick leave	
	After 9th year: .50%/year x hourly rate x accrued sick leave	
	After 14th year: .75%/year x hourly rate x accrued sick leave	
	After 19th year: 1.0%/year x hourly rate x accrued sick leave	

BENEFITS	DESCRIPTION	ELIGIBLE
SICK LEAVE CASH OUT PER IRS CONSTRUCTIVE RECEIPT	In January, an employee with 5 years of service may elect sick leave cash-out in accordance with the terms in Sick Leave Pay-Off above.	Fire
	For employees hired on or before 7/17/99, each November, an employee with 5 or more years of service may elect to cash out accrued sick leave. Payout shall be in accordance with appropriate pay out formulas. The maximum annual amount shall not exceed 50% of employees sick leave balance. Employees eligible for this benefit shall at all times maintain a sick leave balance of at least 240 hours .	Miscellaneous & Police
HOLIDAYS	The City observes 12 holidays: January 1 (New Years), Third Monday in January (Dr. Martin Luther King's Birthday), Third Monday in February (Washington's Birthday), March 31, Cesar Chavez Day, Last Monday in May (Memorial Day), July 4, First Monday in September (Labor Day), November 11 (Veterans Day), Thanksgiving Day, Day After Thanksgiving, Christmas Eve, Christmas Day.	All
FLOATING HOLIDAY	Each calendar year 8 hours of floating holiday to be used by December 31 of each year otherwise it will be lost.	All
FITNESS PROGRAM	Offers employees free access to City-sponsored sports and fitness programs.	All
TUITION & TRAINING	City provides reimbursement for education up to \$3,000 per year. Work related training not including transportation and lodging expenses	All
MILEAGE REIMBURSEMENT	Use of personal vehicle for City business will be reimbursed at the IRS established rate. Not eligible for Mileage Reimbursement if receiving a car allowance.	All
CAR ALLOWANCE	\$550 per month	Unrepresented Executive Staff
CALPERS RETIREMENT	2.7% at 55 Retirement Plan including the final year compensation amendment for those employed before 10/9/2011. (Employee pays 8% contribution rate).	Miscellaneous
	Tier 2 (Classic): 2% at 60 Retirement Plan including the final three-year compensation average for those Classic employees hired on or after 10/9/2011. (Employee pays 7% contribution rate).	Miscellaneous
	Tier 3 (PEPRA): 2% at 62 Retirement Plan including the final three-year average compensation for employees hired on or after 01/01/2013. (Employee contribution rate as stated in CalPERS actuarial report).	Miscellaneous
	3.0% at 50 Plan, The 1959 Survivors Benefit in full force and effect. (Fire pays 12%; Police pays 9%).	Police & Fire
	Tier 2 (Classic): 3.0% at 55 Plan, Effective 4/8/2012. Including three-year compensation average; The 1959 Survivors Benefit in full force and effect. (Police pays 9%; Fire pays 12%).	Police & Fire
	Tier 3 (PEPRA): 2.7% at 57 Plan, Effective 1/1/2013. Including three-year compensation average; The 1959 Survivors Benefit in full force and effect. (Employee contribution rate as stated in CalPERS actuarial report).	Police & Fire
PERS ENHANCEMENTS	Military Service Buy-back (GC 21024)	All
	PERS Credit for Unused Sick Leave (GC 20965)	All
	Death Benefit (GC 21620)	All
	Prior Service Credit (GC20055)	All
	1959 Survivor's Benefit (GC21573)	All
EYEGLOSS REIMBURSEMENT	Reimbursement up to \$175 per fiscal year for eyeglasses and \$200 for bifocals when prescribed by a physician for use at a video display terminal provided the glasses are not covered by health or vision plan first.	All
SAFETY EQUIPMENT	The City shall furnish appropriate safety equipment, the employee shall maintain in good order, and is the City's property.	Fire
UNIFORM ALLOWANCE	\$1,000 per year for 40 hour employees plus one pair of safety shoes every 2 years.	Fire
	\$1,350 per year for 40 hour employees.	Police
FAMILY LEAVE	Up to 80 hours of sick leave to care for a family member including: mother, father, spouse, registered domestic partner, brother, sister, son/daughter, grandparents, or domestic partner, whether the immediate family member is of the employee's or spouse's family, including step or adopted relatives. It also includes concurrent use of sick leave accruals for self or other accruals for eligible family members under FMLA or CRFA.	All
	Fire personnel may use 14 days of accrued sick leave (without medical note) for birth or adoption of a child.	Fire

BENEFITS	DESCRIPTION	ELIGIBLE
FAMILY LEAVE (continued)	Fire Unrep may use available sick leave for family medical purposes including same members as above. The use of family leave shall be limited to 80 hours per calendar year. Family medical purposes shall mean illness, accident, medical appointments or other related occurrences. Fire Unrep may take up to four months unpaid family or medical leave within a 24 month period, unless they qualify for FMLA/CFRA and this benefit is greater, for the following: Birth, adoption, or serious illness of a child; self, parent, spouse, or registered domestic partner of an employee. City will provide benefit coverage for up to 4 months and employee may elect to continue benefits at his/her own expense for up to an additional 18 months. Available leave balances must be exhausted first prior to leave without pay.	Fire
COMPASSIONATE LEAVE	City provides up to 40 hours of paid leave in the event of the death of an eligible family member (same family members as in Family Leave).	All
MILITARY LEAVE	Paid military leave is provided for active and temporary duty in accordance with City policy and provisions of the State and Federal Laws.	All
JURY LEAVE	City provides paid time upon jury summons if called to duty.	All
LEAVE OF ABSENCE	An unpaid personal leave of absence is available upon approval of the City Manager.	All
FMLA/CFRA	Employees may take up to 12 weeks paid/unpaid family or medical leave under Family Medical Leave Act (FMLA) or California Family Rights Act (CFRA) within a 12 month period for the following: birth or adoption; serious illness of a child, self, parent or spouse; or baby bonding. Employee must exhaust available leave balances to qualify for leave without pay. Benefits will be covered during FMLA/CFRA leave.	All
WORKERS COMPENSATION	First 80 hours of lost work time is covered at 100% pay; next 240 hours at 80% pay. Sworn Police and Fire employees are eligible for up to one year paid workers' compensation leave per labor code 4850.	All Sworn Police and Fire
MEDICARE	Both City and employee contribute, if hired after March 31, 1986.	All
SEVERANCE PAY	If employee is terminated for reasons other than "for cause" employee would be eligible for up to 16 weeks of salary plus benefits, depending on date of hire. For additional details, see Muni Code section VI-3-4.00 - Severance Payments for Specified At-Will Positions.	All
RETIREMENT BENEFITS		
ELIGIBILITY CRITERIA	Eligibility for retiree benefits is predicated upon retirement from CalPERS Retirement System.	All
SICK LEAVE CASH-OUT	Upon retirement, disability retirement, or death, for those employees who were hired on or before 7/17/99, and who had at least 5 years of service, the City shall pay retiree or estate for unused accrued sick leave using this formula: 2.5% x years of service x highest hourly rate x sick leave hours. Upon retirement, disability retirement, or death, for those employees who were hired on or before 1/1/95, and who had at least 5 years of service, the City shall pay retiree or estate for unused accrued sick leave using this formula: 2.5% x years of service x highest hourly rate x sick leave hours. Employees hired after January 1, 1995, with 5 years of service, separating in "good standing" as determined by the City Manager may use this formula: After 4th year: .25%/year x hourly rate x accrued sick leave After 9th year: .50%/year x hourly rate x accrued sick leave After 14th year: .75%/year x hourly rate x accrued sick leave After 19th year: 1.0%/year x hourly rate x accrued sick leave Employees hired after July 18, 1999, with 5 years of service, separating in "good standing" as determined by the City Manager may use this formula: After 4th year: .25%/year x hourly rate x accrued sick leave After 9th year: .50%/year x hourly rate x accrued sick leave After 14th year: .75%/year x hourly rate x accrued sick leave After 19th year: 1.0%/year x hourly rate x accrued sick leave	Miscellaneous and Police Fire Fire Police
SICK LEAVE CREDIT	Upon retiring with PERS, all employees shall be eligible for the PERS Credit for Unused Sick Leave provision (20965). Employees hired prior to July 17, 1999 may choose a cash out or Credit for Unused Sick Leave.	All
RETIREMENT MEDICAL COVERAGE	See Unrepresented Employee Benefit Handbook	All

BENEFITS	DESCRIPTION	ELIGIBLE
DISABILITY RETIREMENT	For Medical Coverage: employees on disability retirement who had at least 5 years of full-time or equivalent service with the City and retired after June 30, 2003, the City agrees to contribute up to "the retiree cap amount" or until the retiree is re-employed.	Police
RETIREE DENTAL	Benefits may be continued at the retiree's expense 50% of City's Premium.	Miscellaneous and Fire
	Benefits may be continued at the retiree's expense.	Police
RETIREE VISION	Benefits may be continued at the retiree's expense.	All
RETIREE SPOUSAL/ DEPENDENT MEDICAL PLAN	1% of payroll plus benefits contributed to a specific fund to assist in paying for spousal/dependent medical premiums for each of the following groups: Miscellaneous Unrep, Police Unrep and Fire Unrep. If fund is depleted, reimbursement will end for FY.	All
	See Dependent Benefits Grid	
SAFETY EQUIPMENT	Upon retirement, the city shall give a command officer his/her service weapon and holsters without charge if either (1) the Milpitas Police Chief endorses an identification certificate approving the officer carrying a concealed and loaded firearm or (2) a hearing board determines that, under Penal Code section 12027.1, at the time the officer retired from the Milpitas Police Department, the employee had a right to a certificate permitting the carrying of a concealed and loaded firearm.	Police

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING THE
CLASSIFICATION PLAN TO ADJUST SALARY RANGES FOR SELECT CLASSIFICATIONS AND
AMENDING THE SALARY SCHEDULES FOR VARIOUS CLASSIFICATIONS TO ALIGN WITH THE
CURRENT MEMORANDUMS OF UNDERSTANDING (MOUs)**

WHEREAS, the City of Milpitas has a Classification Plan adopted as Resolution No. 1626 on December 17, 1968, which has been amended from time to time, and which is in accordance with the Personnel Rules and Regulations of the City of Milpitas (Resolution No. 792 as amended); and

WHEREAS, amendments to the Classification Plan are necessary to account for changes within the organization, transfer of duties, new job responsibilities, and adjustments to salary ranges;

WHEREAS, the annual budget process necessitates changes in position authorizations that result from modifications made to the Classification Plan.

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

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

Title	Annual Salary Range:
Director of Economic Development and Strategic Initiatives	\$179,647.74 - \$251,996.85
Housing Official	\$151,794.66 - \$212,517.78

3. Resolution No. 1626, as amended, is hereby further amended effective July 14, 2024, as follows:

The City Council hereby adopts the salary schedule attached hereto as **Exhibit A** ("All Job Classifications/Salary Table Effective July 14, 2024"), which includes updated salary ranges for the following classifications:

- a. New salary ranges for classifications summarized in the preceding section of this resolution.
- b. All classifications represented by Milpitas Employees Association (MEA), Professional and Technical Unit (ProTech), and Mid-Management and Confidential Unit (MidCon) in accordance with the following Memorandums of Understanding (MOUs):
 - Milpitas Employees Association MOU dated July 1, 2023 – June 30, 2025
 - Professional and Technical Unit MOU dated July 1, 2023 – June 30, 2025
 - Mid-Management and Confidential Unit MOU dated July 1, 2019 – June 30, 2023, extended by side letter through June 30, 2025
- c. All classifications included in the Unrepresented Miscellaneous group and the Unrepresented Police group, in accordance with the following:
 - Unrepresented Management Employees Salary increase of three percent (3%) to align with Mid-Management and Confidential Unit (MidCon) per this Council resolution
 - Unrepresented Police Employees Salary increase of six and half percent (6.5%) retroactive to January 14, 2024 to align with MPOA per Council action on March 3, 2020.

PASSED AND ADOPTED this _____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Certifying Election Results and Adding the Properties Located at 675 Trade Zone Blvd and 1951 Tarob Court into Community Facilities District No. 2008-1 (Annexation No. 26) (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602 and Michael Silveira, City Engineer, 408-586-3355)
Category:	Public Hearings-Community Development
Meeting Date:	6/4/2024
Recommendation:	Following receipt of election results from the City Clerk, adopt a resolution certifying election results and adding the properties located at 675 Trade Zone Blvd and 1951 Tarob Court into Community Facilities District No. 2008-1 (Annexation No. 26).

BACKGROUND:

On February 27, 2023, the City Council approved a Site Development Permit (SD22-0006), Conditional Use Permit (UP22-0002), Vesting Tentative Map (MT22-0002), Density Bonus Permit (DB22-0001), Tree Removal Permit (TR22-0006) and Environmental Assessment (EA22-0003), to allow the construction of 78 townhome condominiums and twelve (12) accessory dwelling units consisting of thirteen (13) multi-family residential buildings on 4.1 acres located within the Transit Area Specific Plan / Milpitas Metro Specific Plan Area at 675 Trade Zone Boulevard and 1951 Tarob Court ("Project") to be constructed by Toll West Coast, LLC ("Developer").

ANALYSIS:

The Project is comprised of:

- Parcel One: Parcel 2 as shown on the parcel map filed September 20, 1993 in book 650 of maps, pages 25 and 26 in the office of the Recorder of the County of Santa Clara, State of California; and
- Parcel Two: Parcel 3 as shown on that certain map entitled, "Parcel Map", which map was filed for record in the office of the recorder of the County of Santa Clara, State of California on November 28, 1978 in book 431 of maps, page(s) 2 and 3)

The Project is subject to annexation into Community Facilities District No. 2008-1 (CFD 2008-1). The City has on file a Certificate of Registrar of Voters from the County of Santa Clara certifying there are zero (0) registered voters within the boundaries of the proposed CFD 2008-1 – Annexation No. 26 for this development. On May 30, 2024, the property owners voted on agree the proposed Annexation No. 26. The proposed resolution attached hereto, depending on the results of the election to be determined at the hearing, documents the anticipated results of the election on annexation into CFD 2008-1 which is subject to the provisions of the Mello-Roos Community Facilities Act of 1982, commencing with Section 53311 of the Government Code. While the Act has several requirements for annexation and imposition of the special tax, the Developer (as the sole landowner within the annexation territory) has agreed to waive many of the formalities. A copy of the waiver executed by the Developer is on file with the City Clerk.

POLICY ALTERNATIVE(S):

Alternative 1: Deny Annexation of the Project to CFD 2008-1.

Pros: None

Cons: Denying the Annexation of the Project into the CFD No. 2008-1 would prevent the City from funding necessary public services through levying special taxes on these parcels.

Reason for Not Recommending: Staff recommends adopting a resolution certifying the election results and adding the Project to CFD 2008-1 to adequately fund the perpetual maintenance of improvements and services within Annexation No. 26.

FISCAL IMPACT:

Adding the Project to the CFD No. 2008-1 would allow the City to levy special taxes on this parcel to fund public services to support the development.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

This project is covered under the scope of activities approved under the Transit Area Specific Plan Environmental Impact Report, SCH2006032091, which was certified by City Council on June 3, 2008. On February 7, 2023, the City Council found that the project is exempt from further environmental review pursuant to CEQA Guidelines Section 15183.3(b) (Residential Infill) in that the project is located in an urban area that has either been previously developed or that adjoins existing qualified urban uses on at least 75 percent of the site's perimeter; satisfies the performance standards provided in CEQA Guidelines Appendix M; and is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy.

Furthermore, there is no reasonable possibility the project will have a significant effect on the existing environment due to unusual circumstances, no substantial changes with respect to residential infill in the immediate area have occurred since community-level environmental review was certified (June 3, 2008), no new information has become available regarding any residential infill project, and could not have been known at the time that community-level environmental review was certified and adopted. As a separate and independent basis, the Project is also exempt from further environmental review pursuant to CEQA Guidelines Section 15182 (Projects Pursuant to a Specific Plan).

RECOMMENDATION:

Following receipt of the election results from the City Clerk, adopt a resolution certifying election results and adding 675 Trade Zone Boulevard and 1951 Tarob Court to Community Facilities District No. 2008-1 (Annexation No. 26).

ATTACHMENT(S):

(a) Resolution

RESOLUTION NO. ____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS CERTIFYING THE RESULTS OF
AN ELECTION AND ADDING TERRITORY TO COMMUNITY FACILITIES DISTRICT NO. 2008-1
(PUBLIC SERVICES)**

(Annexation No. 26)

WHEREAS, the City Council of the City of Milpitas (the "City Council") has previously formed Community Facilities District No. 2008-1 (Public Services) ("CFD No. 2008-1") pursuant to the Mello-Roos Community Facilities Act of 1982 (the "Act"), as amended, for the purpose of financing certain Public Services; and

WHEREAS, acting pursuant to the Act, the City Council also authorized by the adoption of Resolution No. 8601 (the "Resolution Authorizing Future Annexation") the annexation in the future of territory to CFD No. 2008-1, such territory designated as Future Annexation Area, Community Facilities District No. 2008-1 (the "Future Annexation Area"); and

WHEREAS, at this time the unanimous consent to the annexation of certain territory located within the Future Annexation Area to CFD No. 2008-1 has been received from the property owner of such territory, and such territory has been designated as Annexation No. 26 (the "Territory"); and

WHEREAS, less than twelve (12) registered voters have resided within the Territory for each of the ninety (90) days preceding the election date established for the Territory, therefore, pursuant to the Act the qualified elector of the Territory shall be the "landowner," as such term is defined in Government Code Section 53317(f), of such Territory and such landowner who is the owner of record as of the applicable election date, or the authorized representative thereof, shall have one vote for each acre or portion of an acre of the parcel of land that landowner owns within such Territory; and

WHEREAS, the time limit specified by the Act for conducting an election to submit the levy of the special taxes on the Territory to the qualified elector thereof and the requirements for impartial analysis and ballot arguments have been waived with the unanimous consent of the qualified elector of the Territory; and

WHEREAS, the City Clerk of the City of Milpitas has caused a ballot to be distributed to the qualified elector of the Territory, has received and canvassed such ballot and made a report to the City Council regarding the results of such canvass, a copy of which is attached as **Exhibit A** hereto and incorporated herein by this reference; and

WHEREAS, at this time the measure voted upon and such measure did receive the favorable vote of the qualified elector of the Territory, and the City Council desires to declare the results of the election; and

WHEREAS, a map showing the Territory and designated as Annexation Map No. 26 (the "Annexation Map"), a copy of which is attached as **Exhibit B** hereto and incorporated herein by this reference, has been submitted to this legislative body.

NOW, THEREFORE, the City Council of the City of Milpitas, California, acting as the legislative body of Community Facilities District No. 2008-1, hereby finds, determines and resolves as follows:

1. **Recitals.** The above recitals are true and correct.
2. **Findings.** This legislative body does hereby further determine as follows:
 - A. The unanimous consent as described in the recitals hereto to the annexation of the Territory to CFD No. 2008-1 has been given by the owner of the Territory and such consent shall be kept on file in the Office of the City Clerk of the City of Milpitas.
 - B. Less than twelve (12) registered voters have resided within the Territory for each of the ninety (90) days preceding the election date established for the each of the parcels located within the

Territory, therefore, pursuant to the Act the qualified elector for the Territory shall be the "landowner" of the Territory as such term is defined in Government Code Section 53317(f).

- C. The qualified elector of the Territory has voted in favor of the levy of special taxes on the Territory upon its annexation to CFD No. 2008-1.
3. Territory. The boundaries and parcels of property within the Territory and on which special taxes will be levied in order to pay for the costs and expenses of authorized Public Services are shown on the Annexation Map as submitted to and hereby approved by this legislative body.
4. Declaration of Annexation. This legislative body does hereby determine and declare that the Territory, and each parcel therein, is now added to and becomes a part of CFD No. 2008-1. The City Council, acting as the legislative body of CFD No. 2008-1, is hereby empowered to levy the authorized special tax within the Territory.
5. Notice. Immediately upon adoption of this Resolution, notice shall be given as follows:
- A. A copy of the Annexation Map as approved shall be filed in the Office of the County Recorder no later than fifteen (15) days after the date of adoption of this Resolution.
- B. An Amendment to the Notice of Special Tax Lien (Notice of Annexation) shall be recorded in the Office of the County Recorder no later than fifteen (15) days after the date of adoption of this Resolution.
6. Effective Date. This Resolution shall become effective upon its adoption.

PASSED AND ADOPTED this ____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney

CERTIFICATE OF ELECTION OFFICIAL AND STATEMENT OF VOTES CAST

The undersigned, ELECTION OFFICIAL OF THE CITY OF MILPITAS, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, DOES HEREBY CERTIFY that pursuant to the provisions of Section 53326 of the Government Code and Division 12, commencing with Section 17000 of the Elections Code of the State of California, I did canvass the returns of the votes cast at the

I FURTHER CERTIFY that this Statement of Votes Cast shows the whole number of votes cast in the area proposed to be annexed to Community Facilities District No. 2008-1 for or against the Measure are full, true and correct.

WITNESS my hand this _____ day of _____, 20__.

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EXHIBIT B
ANNEXATION MAP

ANNEXATION MAP NO. 26 AND UPDATE OF ANNEXATION MAP NO. 25 OF CITY OF MILPITAS
COMMUNITY FACILITIES DISTRICT NO. 2008-1 (PUBLIC SERVICES), COUNTY OF SANTA CLARA
STATE OF CALIFORNIA AS RECORDED IN BOOK 53 PAGE 31 OF MAPS OF ASSESSMENT AND
COMMUNITY FACILITIES DISTRICTS, O.R., SANTA CLARA COUNTY

Location of Initial Formation
(Assessor Parcel No.
08632033, 08632034,
08632035, 08632036)

Boundary of CFD 2008-1
Annexation No.

Scale: 1"=500'

4

5

9

16

25

26

19

17

20

12

8

22

6

2

24

1

3

10

11

15

23

7

13

21

18

City of Milpitas
ENGINEERING DIVISION

Approved:

City Engineer
Michael Sienra, P.E.
Recommended for approval:

Principal Civil Engineer
Arthur Salazar, P.E.
Drawn By: A.T.L.

Date

Date

Date

File No. CFD 2008-1
Sheet 1 of 1

Filed this _____ day of _____, 2024, at the hour of _____ o'clock _____ m., in Book _____ of Maps of Assessment and Community Facilities Districts at Page _____ in the office of the County Recorder in the County of Santa Clara, State of California.

City Clerk, City of Milpitas

I hereby certify that the within map showing proposed boundaries of Annexation Map No. 26 of City of Milpitas Community Facilities District No. 2008-1 (Public Services), County of Santa Clara, State of California, was approved by the City Council of the City of Milpitas at a regular meeting thereof, held on the _____ day of _____, 2024, by its Resolution No. _____.

City Clerk, City of Milpitas

County Recorder, Regina Alcomendras
County of Santa Clara

The boundary of Community Facilities District No. 2008-1 is co-terminous with the boundary of the City of Milpitas in _____, 2024.

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

The territory included in the Community Facilities District shall include only Santa Clara County Assessor's for the following Annexation Maps:

Initial Formation C.F.D. 2008-1: 08632033, 08632034, 08632035, 08632036

Map No. 1: 08641020, 08641021, 08641022

Map No. 2: 08636043

Map No. 3: 08633094, 08633095, 08633098, 08633099

Map No. 4: 08632044

Map No. 5: 08632045, 08632046

Map No. 6: 08636003, 08636004, 08636005, 08636006

Map No. 7: 08633092

Map No. 8: 08637019, 08637037, 08637038

Map No. 9: 08632029, 08632070

Map No. 10: 08633089, 08633107, 08633108

Map No. 11: 08641009, 08641032, 08641033, 08641034

Map No. 12: 08637039, 08637040

Map No. 13: 08633105

Map No. 14: 08636040

Map No. 15: 08633111

Map No. 16: 09208077

Map No. 17: 08636039

Map No. 18: 08336003

Map No. 19: 08636038

Map No. 20: 08636013

Map No. 21: 08336006, 08336007

Map No. 22: 08633115

Map No. 23: 08633115

Map No. 24: 08641010, 08641011

Map No. 25: 08636034

Map No. 26: 08660033, 08636045

and all publicly owned areas in the City of Milpitas landscaped or capable of being landscaped, such as parks, parkways, street medians, interchange areas, light rail areas, open space and all similar areas. All other areas depicted on this map indicate territory that may be annexed to the Community Facilities District in the future.

Exhibit B

Page 582 of 1026



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Conduct a Public Hearing and Adopt a Resolution Confirming the Assessment and Ordering the Levy for the Landscaping and Lighting Maintenance Assessment District No. 95-1 - McCarthy Ranch for Fiscal Year 2024-25 (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; Michael Silveira, City Engineer, 408-586-3303)
Category:	Public Hearings-Community Development
Meeting Date:	6/4/2024
Recommendation:	(1) Open the public hearing, receive any comments, and move to close the hearing following any testimony; and (2) Adopt a Resolution confirming the assessment and ordering the levy for Landscaping and Lighting Maintenance Assessment District No. 95 -1 - McCarthy Ranch for Fiscal Year 2024-25.

BACKGROUND:

Landscaping and Lighting Maintenance Assessment District No. 95 -1 - McCarthy Ranch (LLMD 95-1 McCarthy Ranch) provides for the maintenance and improvement of public landscaping, irrigation systems, pedestrian lighting, gateway columns and entry signs along portions of North McCarthy Boulevard and the Ranch Drive gateway between State Route 237 and Dixon Landing Road in the areas as shown on the attached location map (Attachment 3).

ANALYSIS:

On May 7, 2024, the City Council adopted Resolution No. 9319 approving the Annual Engineer's Report and Resolution No. 9320 declaring its intention to levy and collect an assessment for Fiscal Year 2024-25 for the LLMD 95-1 McCarthy Ranch.

An annual public hearing is necessary to adopt a resolution confirming the assessment and ordering the levy for the LLMD 95 -1 - McCarthy Ranch for Fiscal Year 2024-25 (Attachment 1), and the Annual Engineer's Report (Attachment 2) to provide funds for the district. The total assessment for Fiscal Year (FY) 2024-25 is \$0.0381 per lot square foot, with an assessment rate not exceeding the maximum rate per square foot of \$0.0550. The FY 2024-25 rate is approximately 4.38% higher than the previous year's rate of \$0.0365.

POLICY ALTERNATIVE(S):

Alternative 1: Not approve the Resolution for LLMD 95-1 McCarthy Ranch.

Pros: None.

Cons: If the City Council does not adopt the Resolution according to the Landscaping and Lighting Act of 1972, the City will be unable to collect assessments for LLMD 95-1 McCarthy Ranch.

Reason not recommended: Staff recommends approving the Resolution confirming the assessment and ordering the levy for FY 2024-25 to allow for the continued maintenance and servicing of LLMD 95 -1 - McCarthy Ranch.

FISCAL IMPACT:

The levy and collection of assessments provides the City with the needed resources for the maintenance and the servicing of improvements. The FY 2024-25 maintenance cost budget for the LLMD 95 -1 - McCarthy Ranch is estimated to be \$462,838.00. The LLMD is also required to maintain an operating reserve.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

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

RECOMMENDATION:

1. Open the public hearing, receive any comments, and move to close the hearing following any testimony.
2. Adopt a Resolution confirming the assessment and ordering the levy for Landscaping and Lighting Maintenance Assessment District No. 95 -1 - McCarthy Ranch for Fiscal Year 2024-25.

ATTACHMENT(S):

- a) Resolution Confirming the Assessment and Ordering the Levy
- b) Engineer's Report for LLMD 95 -1 - McCarthy Ranch
- c) Location Map

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS CONFIRMING THE
ASSESSMENT AND ORDERING THE LEVY FOR THE LANDSCAPING AND LIGHTING MAINTENANCE
ASSESSMENT DISTRICT NO. 95-1 FOR FISCAL YEAR 2024-25**

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

WHEREAS, the City Council has retained NBS for the purpose of assisting with the annual levy of the Assessment District, and the preparation and filing of an Annual Report; and

WHEREAS, the City Council has, by previous resolution, declared its intention to hold a Public Hearing concerning the levy and collection of assessments within the Assessment District; and

WHEREAS, a Public Hearing has been held and concluded and notice thereof was duly given in accordance with Section 22626 of the Act; and

WHEREAS, at the time and place specified in the Resolution of Intention the City Council conducted such hearing and considered all objections to the assessment.

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

1. Confirmation of Assessment and Diagram: The City Council hereby confirms the assessment and the diagram as is described in full detail in the Annual Report on file with the City Clerk.
2. Levy of Assessment: Pursuant to Section 22631 of the Act, the adoption of this Resolution shall constitute the levy of an assessment for the fiscal year commencing July 1, 2024 and ending June 30, 2025.
3. Ordering of the Levy: The City Council hereby orders NBS to prepare and submit the levy of assessments to Santa Clara County for placement on the Fiscal Year 2024-25 secured property tax roll.

PASSED AND ADOPTED this ____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney

CITY OF MILPITAS

Fiscal Year 2024/25 Annual Report For:

Landscaping and Lighting Maintenance Assessment District No. 95-1

April 2024

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

CITY COUNCIL

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

CITY STAFF

Michael Silveira, PE, City Engineer
Luz Cofresi-Howe, Finance Director/Risk Manager
Christian Di Renzo, Public Works Director

NBS

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

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1. ENGINEER'S LETTER

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

WHEREAS, the City Council has directed NBS to prepare and file a report for Fiscal Year 2024/25 in accordance with Chapter 1, Article 4 of the Act presenting plans and specifications describing the general nature, location, and extent of the improvements to be maintained; an estimate of the costs to maintain, operate, and service the improvements for the District for the referenced fiscal year; a diagram for the District showing the area and properties to be assessed; and an assessment of the estimated costs to maintain and service the improvements, stating the net amount to be assessed upon all assessable lots or parcels within the District in proportion to the special benefit received.

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

District	Parcels	2024/25 Maximum Assessment Rate per Lot Sq. Ft. ⁽¹⁾	2024/25 Actual Assessment Rate per Lot Sq. Ft.	2024/25 Net Amount to be Assessed ⁽²⁾⁽³⁾
LLMAD 95-1	45	\$0.0550	\$0.0381	\$448,957

⁽¹⁾ The April 1, 2024 Consumer Price Index (CPI) provided by the U.S. Bureau of Labor Statistics was not available at the time of writing of this report. The Fiscal Year 2024/25 CPI increase was estimated using the February 1, 2024 CPI.

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

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

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

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

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

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


Michael Silveira, City Engineer



2. PLANS AND SPECIFICATIONS

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

2.1 Location of Improvements

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

2.2 Landscaping Improvements

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

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

2.2.1 N. MCCARTHY BOULEVARD

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

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

2.2.2 MILPITAS ENTRY SIGN

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

2.2.3 RANCH DRIVE

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

2.3 Capital Improvements

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

2.4 Overhead

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

3. ESTIMATE OF COSTS

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

3.1 District Budget

The Fiscal Year 2024/25 estimated cost budget for the maintenance and servicing of the improvements is as follows:

Description	Fiscal Year 2024/25 Budget
Maintenance Staff and Contract Services ⁽¹⁾	\$280,485
Capital Equipment	0
Supplies	38,053
Utilities (Water, Electricity)	69,300
Reserve Fund	0
Capital Improvement Program	75,000
Maintenance Costs	\$462,838
NBS	\$5,000
City Staff District Administration	400
County Auditor-Controller Fee ⁽²⁾	4,046
District Specific Costs	\$9,446
Total District Costs	\$472,284
General Benefit Contribution ⁽³⁾	(23,327)
Operating Reserve Contribution	0
Net Amount to be Assessed	\$448,957
Total District Square Footage⁽⁴⁾	11,794,540
Rate per Square Foot⁽⁵⁾⁽⁶⁾	\$0.0381
Maximum Rate Per Square Foot – 2024/25⁽⁷⁾	\$0.0550

⁽¹⁾ Fiscal Year 2024/25 Landscape Maintenance Contract Services includes Terracare and Irvine Company.

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

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

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

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

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

⁽⁷⁾ The April 1, 2024 CPI was not available at the time of writing of this report. The Fiscal Year 2024/25 CPI increase was estimated by using the February 1, 2024 CPI.

3.1.1 OPERATING RESERVE

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

Estimated Fiscal Year Ending 6/30/2024 Operating Reserve Cash Balance	\$260,586
Operating Reserve Collection for Fiscal Year 2024/25	0
Estimated Fiscal Year Ending 6/30/2025 Operating Reserve Cash Balance	\$260,586

3.1.2 CAPITAL IMPROVEMENT BUDGET

The City completed the replacement of the irrigation controllers and repairs of the irrigation system on N. McCarthy Blvd. (between State Route 237 and Dixon Landing Road) and a portion of Ranch Drive. The City also installed planting in the median on Ranch Drive at the intersection of N. McCarthy Blvd. In 2024, The City is planning to make improvements to the gateway entry sign, tower, and pedestrian pathway lighting. Planting renovations will continue in 2025/2026. As of March 31, 2024, the balance available for the Capital Improvement Project is \$433,000. The City will utilize these funds, along with an annual collection of \$75,000 via the District from Fiscal Year 2024/25 to Fiscal Year 2028/29, to finance the work.

4. SPECIAL AND GENERAL BENEFIT

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

4.1 Identification of Benefit

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

4.2 Special Benefits Identified

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

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

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

² Ibid.

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

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

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

4.3 General Benefits Identified

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

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

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

4.4 Quantification of Benefit

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

¹⁰ Ibid.

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

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

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

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

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

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

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

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

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

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

4.5 Special Benefit Trips

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

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

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

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

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

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

(4) Pump Station trips are an estimate.

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

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

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

5. METHOD OF ASSESSMENT

5.1 Introduction

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

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

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

5.2 Method of Assessment Spread

The amount of assessment levied on each Benefited Parcel in the District, for Fiscal Year 2024/25, is \$0.0381 per square foot. The assessment rate was determined by taking the Fiscal Year 2024/25 Net Amount to be assessed (\$448,957) divided by the total net square footage of the District (11,794,540 sq. ft.).

The maximum assessment rate for Fiscal Year 2024/25 is approximately \$0.0550, which is a preliminary number. Each year the maximum assessment rate per square foot is increased by the percentage change from April 1st of the prior year to April 1st of the current year in the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Indexes, Pacific Cities and U.S. City Average, San Francisco-Oakland-Hayward. The April 1, 2024 CPI was not available at the time of writing of this report. For purposes of this report, the CPI increase was estimated by using the February 1, 2024 CPI.

5.3 Maximum Assessment Rates

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

Fiscal Year	CPI	Percentage Increase ⁽¹⁾	Assessment Rate Range ⁽²⁾	
2001/02	189.1	N/A	\$0.0120	\$0.0300
2002/03	193.0	2.06%	0.0122	0.0306
2003/04	197.3	2.23%	0.0125	0.0313
2004/05	198.3	0.51%	0.0126	0.0315
2005/06	202.5	2.12%	0.0129	0.0321
2006/07	208.9	3.16%	0.0133	0.0331
2007/08	215.842	3.32%	0.0137	0.0342
2008/09	222.074	2.89%	0.0141	0.0352
2009/10	223.854	0.80%	0.0142	0.0355
2010/11	227.697	1.72%	0.0144	0.0361
2011/12	234.121	2.82%	0.0149	0.0371
2012/13	238.985	2.08%	0.0152	0.0379
2013/14	244.675	2.38%	0.0155	0.0388
2014/15	251.495	2.79%	0.0160	0.0399
2015/16	257.622	2.44%	0.0163	0.0409
2016/17	264.565	2.70%	0.0168	0.0420
2017/18	274.589	3.79%	0.0174	0.0436
2018/19	283.422	3.22%	0.0180	0.0450
2019/20	294.801	4.01%	0.0187	0.0468
2020/21	298.074	1.11%	0.0189	0.0473
2021/22	309.419	3.81%	0.0196	0.0491
2022/23	324.878	5.00%	0.0206	0.0515
2023/24	338.496	4.19%	0.0215	0.0537
2024/25	345.151	2.37% ⁽³⁾	0.0220	0.0550

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

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

⁽³⁾ The April 1, 2024 CPI was not available at the time of writing of this report. The Fiscal Year 2024/25 CPI increase was estimated using the February 1, 2024 CPI.

5.4 Appeals

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

6. ASSESSMENT DIAGRAM

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

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

Mary Lavell
City Clerk of the City of Milpitas

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

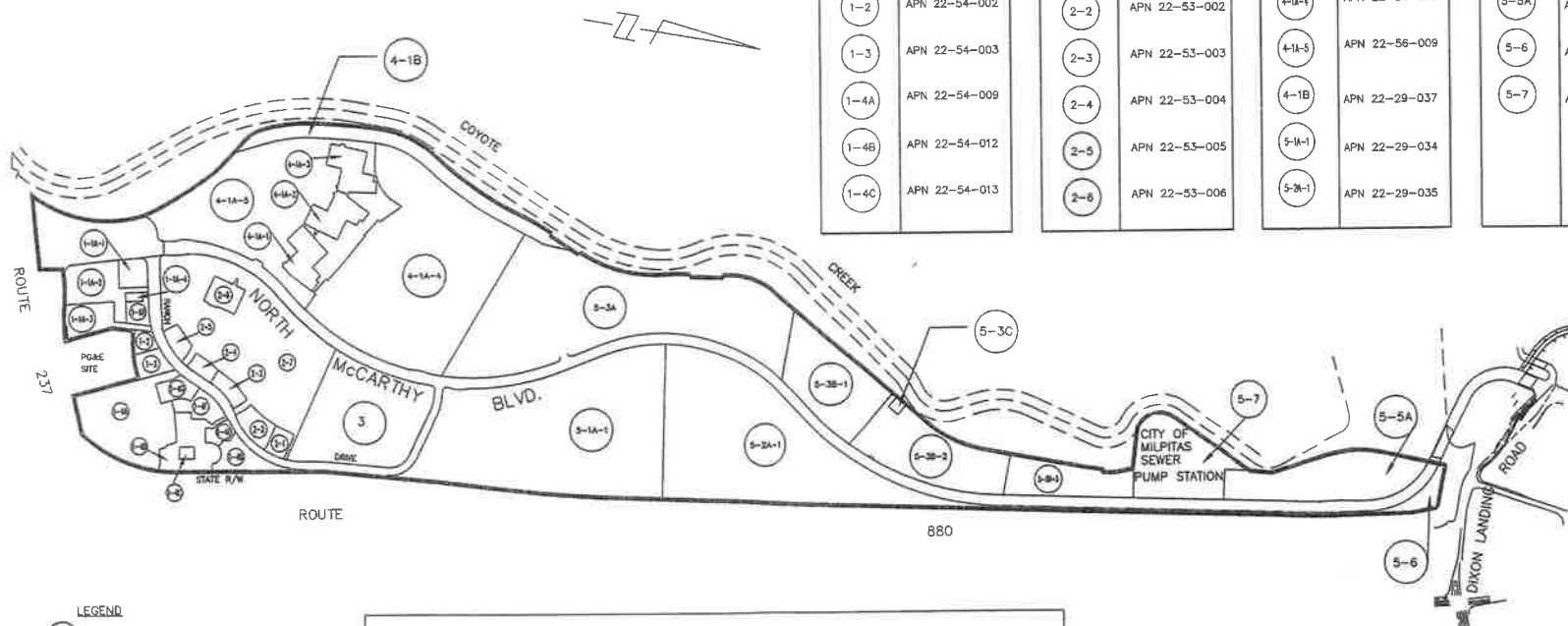
Mary Lavell
City Clerk of the City of Milpitas

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

[Signature]
Superintendent of Streets
City of Milpitas

Figure 1

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



LEGEND
 6 ASSESSMENT NO.
 — BOUNDARY DISTRICT
 — ASSESSMENT LIMIT

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

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

7. ASSESSMENT ROLL

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

A listing of assessor's parcels assessed within the District for Fiscal Year 2024/25, along with the assessment amounts, is on file in the office of the City Clerk and incorporated herein by reference. Based on County Assessor's secured roll data, current assessor's parcels, including corrected and/or new assessor's parcels, will be submitted and/or resubmitted to the Santa Clara County Auditor/Controller. The annual assessment amount to be levied and collected for the resubmitted parcel(s) shall be determined in accordance with the method of apportionment and assessment rate approved in this report. Therefore, if a single assessor's parcel has a status change in development, other land use change, or subdivides into multiple assessor's parcels, the assessment amounts applied to each of the new assessor's parcels shall be recalculated and applied according to the approved method of apportionment and assessment rate rather than a proportionate share of the original assessment amount.

City of Milpitas

LLMAD No. 95-1

Final Billing Detail Report for Fiscal Year 2024/25

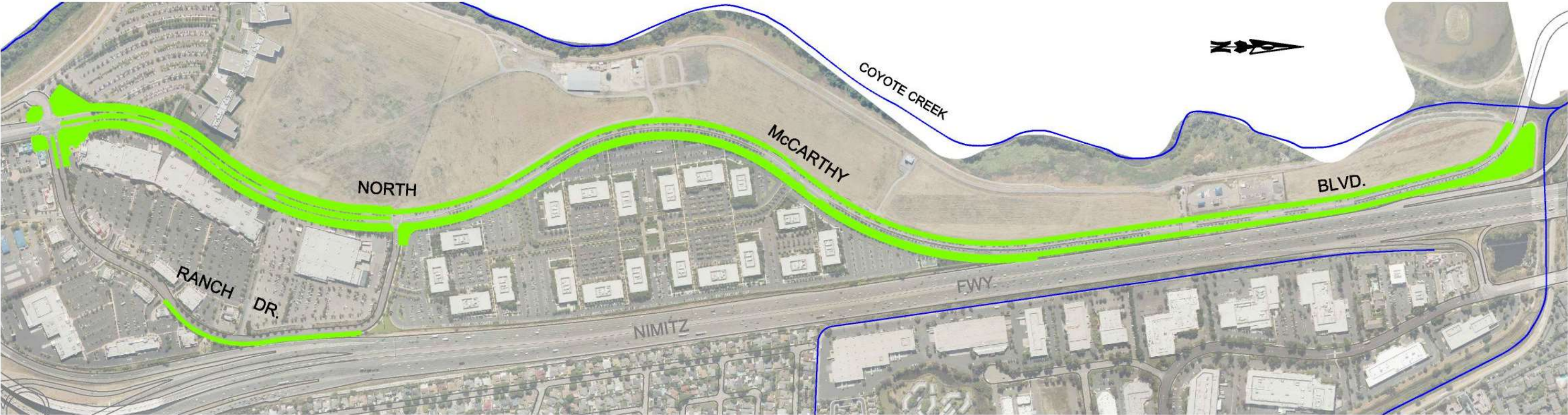
APN	Situs Address	Net Square Foot	Fiscal Year 2024/25 Levy
022-29-016	301 RANCH DR	634,234	\$24,141.98
022-29-034	430 N MCCARTHY BLVD	1,589,504	60,504.18
022-29-035	820 N MCCARTHY BLVD	1,363,864	51,915.20
022-29-037	565 N MCCARTHY BLVD	0	0.00
022-29-040	407N N N MCCARTHY BLVD	677,532	25,790.12
022-29-041	507N N N MCCARTHY BLVD	43,691	1,663.06
022-29-042	607N N N MCCARTHY BLVD	302,350	11,508.88
022-29-043	707 N MCCARTHY BLVD	320,732	12,208.60
022-29-044	807 N MCCARTHY BLVD	336,545	12,810.50
022-30-035		4,138	157.50
022-30-038		435,600	16,581.02
022-30-039	1207 N MC CARTHY BLVD	217,800	8,290.50
022-30-049		78,626	2,992.86
022-30-054	907 N MCCARTHY BLVD	245,330	9,338.42
022-30-055	1645 N MCCARTHY BLVD	243,936	9,285.36
022-30-056	1605 N MCCARTHY BLVD	25,875	984.90
022-30-057	1585 N MCCARTHY BLVD	137,040	5,216.38
022-30-058		0	0.00
022-30-059		0	0.00
022-53-001	275 RANCH DR	32,670	1,243.56
022-53-002	179 RANCH DR	53,579	2,039.46
022-53-003	125 RANCH DR	33,106	1,260.14
022-53-004	81 RANCH DR	26,136	994.86
022-53-005	41 RANCH DR	32,234	1,226.98
022-53-006	63 RANCH DR	51,836	1,973.14
022-53-007	11 RANCH DR	954,835	36,345.62
022-54-002	74 RANCH DR	25,265	961.68
022-54-003	84 RANCH AVE	44,431	1,691.26
022-54-008	50 RANCH DR	33,977	1,293.32
022-54-009	120 RANCH DR	368,953	14,044.12
022-54-010	110 RANCH DR	44,867	1,707.84
022-54-011	170 RANCH DR	57,064	2,172.10
022-54-012	200 RANCH DR	131,551	5,007.46
022-54-013	212 RANCH DR	10,019	381.36
022-54-014	190 RANCH DR	27,878	1,061.18
022-54-015	260 RANCH DR	77,537	2,951.42
022-54-016	12 RANCH DR	46,174	1,757.58
022-54-017	30 RANCH RD	143,312	5,455.16
022-54-018	40 RANCH DR	100,624	3,830.20
022-54-019		8,276	315.02
022-56-005	115 N MCCARTHY BLVD	88,427	3,365.94
022-56-006	135 N MCCARTHY BLVD	89,734	3,415.68

Slight variances may occur due to rounding

City of Milpitas
LLMAD No. 95-1
Final Billing Detail Report for Fiscal Year 2024/25

APN	Situs Address	Net Square Foot	Fiscal Year 2024/25 Levy
022-56-007	155 N MCCARTHY BLVD	90,169	3,432.26
022-56-010	205 N MCCARTHY BLVD	1,489,899	56,712.72
022-56-011		1,075,192	40,926.98
45 Accounts		11,794,540	\$448,956.50

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



 2024-2025 FISCAL YEAR LANDSCAPE AREA FUNDED FOR MAINTENANCE



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Conduct a Public Hearing and Adopt a Resolution Confirming the Assessment and Ordering the Levy for the Landscaping and Lighting Maintenance Assessment District No. 98 -1 - Sinclair Horizon for Fiscal Year 2024-25 (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602; Michael Silveira, City Engineer, 408-586-3303; and Roberto Alonzo, Public Works Manager – Engineering, 408-586-3316)
Category:	Public Hearings-Community Development
Meeting Date:	6/4/2024
Recommendation:	(1) Open the public hearing, receive any comments, and move to close the hearing following any testimony; and (2) Adopt a Resolution confirming the assessment and ordering the levy for Landscaping and Lighting Maintenance Assessment District No. 98 -1 - Sinclair Horizon for Fiscal Year 2024-25.

BACKGROUND:

The Landscaping and Lighting Maintenance Assessment District No. 98 -1 - Sinclair Horizon (LLMD 98-1 Sinclair Horizon), provides for the maintenance and improvement of public landscaping, irrigation systems, and pedestrian walking paths adjacent to Sinclair Frontage Road, and Los Coches Creek abutting the Sinclair Horizon residential subdivision in the areas as shown on the attached location map (**Attachment 3**).

ANALYSIS:

On May 7, 2024, the City Council adopted Resolution No. 9321 approving the Annual Engineer's Report and Resolution No. 9322 declaring its intention to levy and collect an assessment for Fiscal Year (FY) 2024-25 for the LLMD 98 -1 Sinclair Horizon.

An annual public hearing is necessary to adopt a resolution confirming the assessment and ordering a levy for the LLMD 98 -1 - Sinclair Horizon for FY 2024-25 (**Attachment 1**) and the Annual Engineer's Report (**Attachment 2**) to provide funds for the district. The total assessment for FY 2024-25 is \$538.42 per lot, with an assessment rate not exceeding the maximum rate per lot which is \$567.75. The FY 2024-25 rate is approximately 4.26% higher than the previous year's rate of \$516.44.

POLICY ALTERNATIVE(S):

Alternative 1: Not approve the Resolution for LLMD 98-1 Sinclair Horizon.

Pros: None.

Cons: If the City Council does not adopt the Resolution according to the Landscaping and Lighting Act of 1972, the City will be unable to collect assessments for the LLMD 98 -1 - Sinclair Horizon.

Reason not recommended: Staff recommends approving the Resolution confirming the assessment and ordering the levy for FY 2024-25 to allow for the continued maintenance and servicing of 98 -1 - Sinclair Horizon.

FISCAL IMPACT:

The levy and collection of assessments provides the City with the needed resources for the maintenance and the servicing of the improvements. The FY 2024-2025 maintenance cost budget for the LLMD 98 -1 - Sinclair Horizon is estimated to be \$70,183.00. The LLMD is also required to maintain an operating reserve, not to exceed the estimated maintenance costs prior to December 10th of the fiscal year, or when it expects to receive its apportionments of special assessments from the County, whichever comes first.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

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

RECOMMENDATION:

1. Open the public hearing, receive any comments, and move to close the hearing following any testimony.
2. Adopt a Resolution confirming the assessment and ordering the levy for the Landscaping and Lighting Maintenance Assessment District No. 98 -1 - Sinclair Horizon for Fiscal Year 2024-25.

ATTACHMENT(S):

- a) Resolution Confirming the Assessment and Ordering the Levy
- b) Engineer's Report for LLMD No. 98 -1 - Sinclair Horizon.
- c) Location Map

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS, CONFIRMING THE
ASSESSMENT AND ORDERING THE LEVY FOR THE LANDSCAPING AND LIGHTING MAINTENANCE
ASSESSMENT DISTRICT NO. 98-1 FOR FISCAL YEAR 2024-25**

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

WHEREAS, the City Council has retained NBS for the purpose of assisting with the annual levy of the Assessment District, and the preparation and filing of an Annual Report; and

WHEREAS, the City Council has, by previous resolution, declared its intention to hold a Public Hearing concerning the levy and collection of assessments within the Assessment District; and

WHEREAS, a Public Hearing has been held and concluded and notice thereof was duly given in accordance with Section 22626 of the Act; and

WHEREAS, at the time and place specified in the Resolution of Intention the City Council conducted such hearing and considered all objections to the assessment.

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

1. Confirmation of Assessment and Diagram: The City Council hereby confirms the assessment and the diagram as is described in full detail in the Annual Report on file with the City Clerk.
2. Levy of Assessment: Pursuant to Section 22631 of the Act, the adoption of this resolution shall constitute the levy of an assessment for the fiscal year commencing July 1, 2024, and ending June 30, 2025.
3. Ordering of the Levy: The City Council hereby orders NBS to prepare and submit the levy of assessments to Santa Clara County for placement on the Fiscal Year 2024-25 secured property tax roll.

PASSED AND ADOPTED this ____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney

CITY OF MILPITAS

Fiscal Year 2024/25 Annual Report For:

Landscaping and Lighting Maintenance Assessment District No. 98-1

April 2024

Prepared by:



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

CITY COUNCIL

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

CITY STAFF

Michael Silveira, PE, City Engineer
Luz Cofresi-Howe, Finance Director/Risk Manager
Christian Di Renzo, Public Works Director

NBS

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

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1. ENGINEER'S LETTER

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

WHEREAS, the City Council has directed NBS to prepare and file a report for Fiscal Year 2024/25 in accordance with Chapter 1, Article 4 of the Act presenting plans and specifications describing the general nature, location, and extent of the improvements to be maintained; an estimate of the costs to maintain, operate, and service the improvements for the District for the referenced fiscal year; a diagram for the District showing the area and properties to be assessed; and an assessment of the estimated costs to maintain and service the improvements, stating the net amount to be assessed upon all assessable lots or parcels within the District in proportion to the special benefit received.

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

District	Parcels	2024/25 Maximum Assessment Rate per Lot ⁽¹⁾	2024/25 Actual Assessment Rate per Lot	2024/25 Net Amount to be Assessed ⁽²⁾⁽³⁾
LLMAD 98-1	98	\$567.75	\$538.42	\$52,763.20

⁽¹⁾ The April 1, 2024 Consumer Price Index (CPI) provided by the U.S. Bureau of Labor Statistics was not available at the time of writing of this report. The Fiscal Year 2024/25 CPI increase was estimated using the February 1, 2024 CPI.

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

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

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

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

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

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


Michael Silveira, City Engineer



2. PLANS AND SPECIFICATIONS

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

2.1 Location of Improvements

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

2.2 Landscaping Improvements

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

2.2.1 BERRYESSA CREEK

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

2.2.2 LOS COCHES CREEK

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

2.3 Capital Improvements

In 2023, the City completed the replacement of the irrigation controller and repairs of the irrigation system along portions of Los Coches Street and Sinclair Frontage Road. The City is planning to continue planting renovations in 2025/2026..

2.4 Overhead

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

3. ESTIMATE OF COSTS

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

3.1 District Budget

The Fiscal Year 2024/25 estimated cost budget for the maintenance and servicing of the improvements is as follows:

Description	Fiscal Year 2024/25 Budget
Maintenance Staff ⁽¹⁾	\$32,085
Capital Equipment	0
Supplies	2,898
Utilities (Water, Electricity)	11,800
Reserve Fund	0
<u>Capital Improvement Program</u>	<u>23,400</u>
Maintenance Costs	70,183
NBS	\$4,000
City Staff District Administration	400
<u>County Auditor-Controller Fee⁽²⁾</u>	<u>500</u>
District Specific Costs	\$4,900
Total District Costs	\$75,083
General Benefit Contribution ⁽³⁾	(22,318)
Operating Reserve Contribution	0
<u>Capital Improvement Fund Contribution</u>	<u>0</u>
Net Amount to be Assessed	\$52,765
Total District Lots	98
Rate per Lot⁽⁴⁾	\$538.42
Maximum Rate Per Lot – 2024/25⁽⁵⁾	\$567.75

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

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

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

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

⁽⁵⁾ The April 1, 2024 CPI was not available at the time of writing of this report. The Fiscal Year 2024/25 CPI increase was estimated by using the February 1, 2024 CPI.

3.1.1 OPERATING RESERVE

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

Estimated Fiscal Year Ending 6/30/2024 Operating Reserve Cash Balance	\$109,925
Operating Reserve Collection for Fiscal Year 2024/25	0
Estimated Fiscal Year Ending 6/30/2025 Operating Reserve Cash Balance	\$109,925

3.1.2 CAPITAL IMPROVEMENT BUDGET

The City completed the replacement of the irrigation controller and repairs of the irrigation system along portions of Los Coches Street and Sinclair Frontage Road in 2023. The City is planning to continue planting renovations in 2025/2026. As of March 31, 2024, the balance available for the Capital Improvement Project was \$98,000. The City will utilize these funds, along with an annual collection of \$23,4000 via the District from Fiscal Year 2024/25 to Fiscal Year 2028/29, to finance the project.

4. SPECIAL AND GENERAL BENEFIT

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

4.1 Introduction

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

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

4.2 Special Benefits Identified

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

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

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

² Ibid.

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

4.3 General Benefits Identified

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

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

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

4.4 Quantification of Benefit

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

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

Los Coches Creek and Berryessa Creek

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

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

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

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

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

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

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

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

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

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

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

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

⁷ Ibid.

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

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

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

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

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

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

Los Coches Street and Sinclair Frontage Road

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

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

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

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

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

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

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

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

All Locations and Landscaping Improvements – Residential Pass-thru Benefit

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

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

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

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

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

Public at Large General Benefit

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

4.4.1 COLLECTIVE DISTRICT-WIDE GENERAL BENEFIT

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

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

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

5. METHOD OF ASSESSMENT

5.1 Method of Assessment Spread

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

The preliminary maximum assessment rate for Fiscal Year 2024/25 is \$567.75. The actual assessment rate levied on each taxable parcel for Fiscal Year 2024/25 is \$538.42.

Each year the maximum assessment rate shall be increased by the percentage change from April 1st of the prior year to April 1st of the current year by the U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Indexes, Pacific Cities and U.S. City Average, San Francisco-Oakland-Hayward. The April 1, 2024 CPI was not available at the time of writing of this report. For purposes of this report, the CPI increase was estimated by using the February 1, 2024 CPI.

5.2 Maximum Assessment Rates

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

Fiscal Year	CPI	Percentage Increase ⁽¹⁾	Maximum Rate
2000/01	178.7	N/A	\$292.803
2001/02	189.1	5.82%	309.844
2002/03	193.0	2.06%	316.234
2003/04	197.3	2.23%	323.280
2004/05	198.3	0.51%	324.918
2005/06	202.5	2.12%	331.800
2006/07	208.9	3.16%	342.286
2007/08	215.842	3.32%	353.661
2008/09	222.074	2.89%	363.872
2009/10	223.854	0.80%	366.789
2010/11	227.697	1.72%	373.086
2011/12	234.121	2.82%	383.611
2012/13	238.985	2.08%	391.581
2013/14	244.675	2.38%	400.904
2014/15	251.495	2.79%	412.079
2015/16	257.622	2.44%	422.118
2016/17	264.565	2.70%	433.494
2017/18	274.589	3.79%	449.919
2018/19	283.422	3.22%	464.392
2019/20	294.801	4.01%	483.037
2020/21	298.074	1.11%	488.400
2021/22	309.419	3.81%	506.988
2022/23	324.878	5.00%	532.318
2023/24	338.496	4.19%	554.632
2024/25	345.151	2.37% ⁽²⁾	567.755

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

⁽²⁾ The April 1, 2024 CPI was not available at the time of writing of this report. The Fiscal Year 2024/25 CPI increase was estimated using the February 1, 2024 CPI.

5.3 Appeals

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

6. ASSESSMENT DIAGRAM

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

ASSESSMENT DIAGRAM NUMBER	ASSESSMENT PARCEL NUMBER	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100												
1	86-48-001	86-48-002	86-48-003	86-48-004	86-48-005	86-48-006	86-48-007	86-48-008	86-48-009	86-48-010	86-48-011	86-48-012	86-48-013	86-48-014	86-48-015	86-48-016	86-48-017	86-48-018	86-48-019	86-48-020	86-48-021	86-48-022	86-48-023	86-48-024	86-48-025	86-48-026	86-48-027	86-48-028	86-48-029	86-48-030	86-48-031	86-48-032	86-48-033	86-48-034	86-48-035	86-48-036	86-48-037	86-48-038	86-48-039	86-48-040	86-48-041	86-48-042	86-48-043	86-48-044	86-48-045	86-48-046	86-48-047	86-48-048	86-48-049	86-48-050	86-48-051	86-48-052	86-48-053	86-48-054	86-48-055	86-48-056	86-48-057	86-48-058	86-48-059	86-48-060	86-48-061	86-48-062	86-48-063	86-48-064	86-48-065	86-48-066	86-48-067	86-48-068	86-48-069	86-48-070	86-48-071	86-48-072	86-48-073	86-48-074	86-48-075	86-48-076	86-48-077	86-48-078	86-48-079	86-48-080	86-48-081	86-48-082	86-48-083	86-48-084	86-48-085	86-48-086	86-48-087	86-48-088	86-48-089	86-48-090	86-48-091	86-48-092	86-48-093	86-48-094	86-48-095	86-48-096	86-48-097	86-48-098	86-48-099	86-48-100

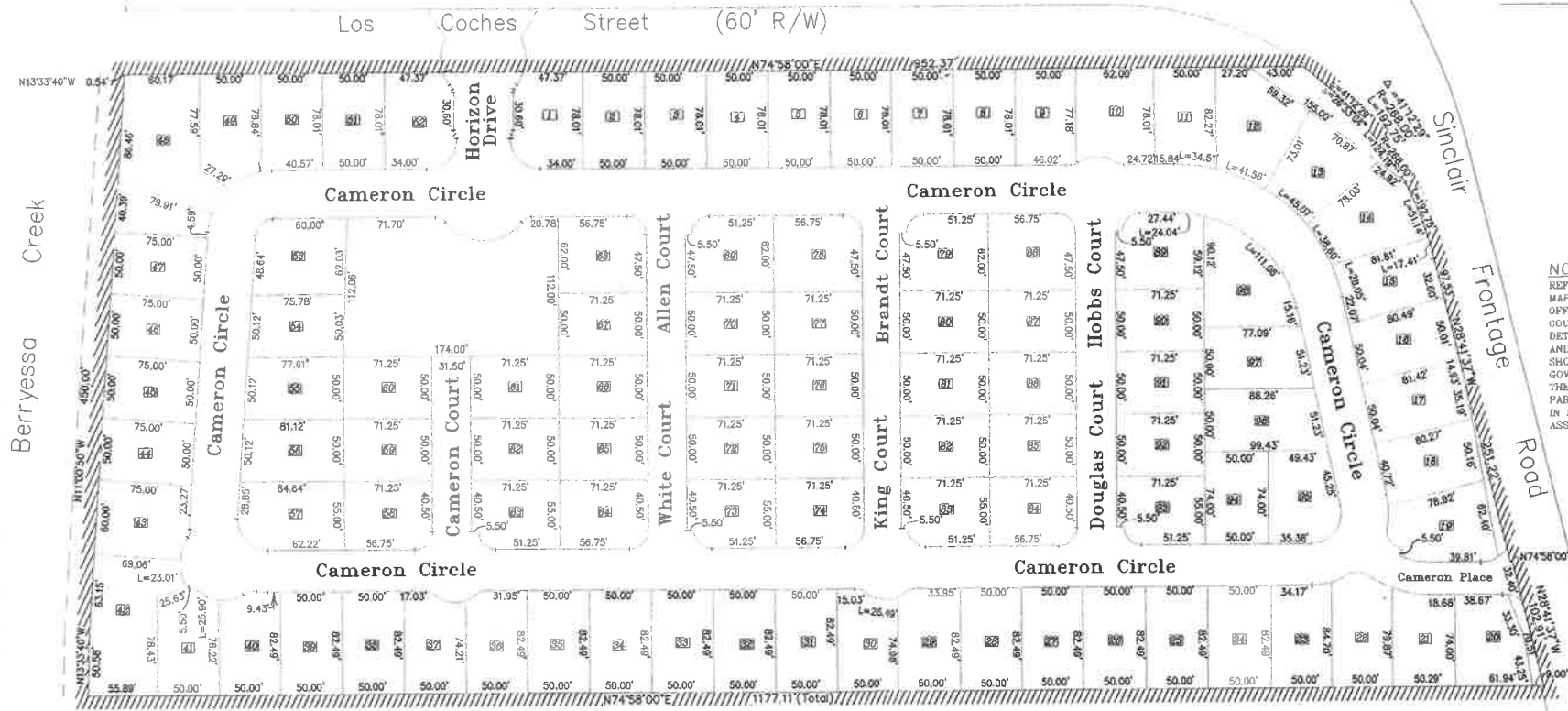
74	86-48-074	89	86-48-089
75	86-48-075	90	86-48-090
76	86-48-076	91	86-48-091
77	86-48-077	92	86-48-092
78	86-48-078	93	86-48-093
79	86-48-079	94	86-48-094
80	86-48-080	95	86-48-095
81	86-48-081	96	86-48-096
82	86-48-082	97	86-48-097
83	86-48-083	98	86-48-098
84	86-48-084		
85	86-48-085		
86	86-48-086		
87	86-48-087		
88	86-48-088		

LEGEND
 [K] Assessment Parcel Numbers
 District Boundary
 Assessment Limits



NOT TO SCALE

NOTE:
 REFERENCE IS HEREBY MADE TO THE MAPS AND DEEDS OF RECORD IN THE OFFICE OF THE ASSESSOR OF THE COUNTY OF SANTA CLARA FOR A DETAILED DESCRIPTION OF THE LINES AND DIMENSIONS OF ANY PARCELS SHOWN HEREIN. THOSE MAPS SHALL GOVERN FOR ALL DETAILS CONCERNING THE LINES AND DIMENSIONS OF SUCH PARCELS. EACH PARCEL IS IDENTIFIED IN SAID MAPS BY ITS DISTINCTIVE ASSESSORS PARCEL NUMBER.



An assessment was levied by the City Council of the City of Milpitas, County of Santa Clara, State of California on the lots, pieces and parcels of land shown on this assessment diagram. Said assessment was levied on the 3rd day of June 2014, said assessment diagram and the assessment roll were recorded in the Office of the Superintendent of Streets of said City on the 3rd day of June 2014. Reference is made to the assessment roll recorded in the Office of the Superintendent of Streets for the exact amount of each assessment levied against each parcel of land shown on this assessment diagram.

Mary Lavell
 City Clerk of the City of Milpitas

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

Mary Lavell
 City Clerk of the City of Milpitas

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

[Signature]
 Superintendent of Streets
 City of Milpitas

PART F
 ASSESSMENT DIAGRAM
 LANDSCAPING AND LIGHTING
 MAINTENANCE ASSESSMENT DISTRICT
 NO. 98-1
 MILPITAS

June 2011

1

1

Figure 1

7. ASSESSMENT ROLL

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

A listing of assessor's parcels assessed within the District for Fiscal Year 2024/25, along with the assessment amounts, is on file in the office of the City Clerk and incorporated herein by reference. Based on County Assessor's secured roll data, current assessor's parcels, including corrected and/or new assessor's parcels, will be submitted and/or resubmitted to the Santa Clara County Auditor/Controller. The annual assessment amount to be levied and collected for the resubmitted parcel(s) shall be determined in accordance with the method of apportionment and assessment rate approved in this report. Therefore, if a single assessor's parcel has a status change in development, other land use change, or subdivides into multiple assessor's parcels, the assessment amounts applied to each of the new assessor's parcels shall be recalculated and applied according to the approved method of apportionment and assessment rate rather than a proportionate share of the original assessment amount.

City of Milpitas
LLMAD No. 98-1
Final Billing Detail Report for Fiscal Year 2024/25

APN	Assessment ID	Situs Address	Fiscal Year 2024/25 Levy
086-48-001	1	872 CAMERON CIR	\$538.40
086-48-002	2	868 CAMERON CIR	538.40
086-48-003	3	864 CAMERON CIR	538.40
086-48-004	4	860 CAMERON CIR	538.40
086-48-005	5	856 CAMERON CIR	538.40
086-48-006	6	852 CAMERON CIR	538.40
086-48-007	7	848 CAMERON CIR	538.40
086-48-008	8	844 CAMERON CIR	538.40
086-48-009	9	840 CAMERON CIR	538.40
086-48-010	10	836 CAMERON CIR	538.40
086-48-011	11	832 CAMERON CIR	538.40
086-48-012	12	828 CAMERON CIR	538.40
086-48-013	13	824 CAMERON CIR	538.40
086-48-014	14	820 CAMERON CIR	538.40
086-48-015	15	816 CAMERON CIR	538.40
086-48-016	16	812 CAMERON CIR	538.40
086-48-017	17	808 CAMERON CIR	538.40
086-48-018	18	804 CAMERON CIR	538.40
086-48-019	19	800 CAMERON CIR	538.40
086-48-020	20	1004 CAMERON PL	538.40
086-48-021	21	1000 CAMERON PL	538.40
086-48-022	22	996 CAMERON PL	538.40
086-48-023	23	992 CAMERON CIR	538.40
086-48-024	24	988 CAMERON CIR	538.40
086-48-025	25	984 CAMERON CIR	538.40
086-48-026	26	980 CAMERON CIR	538.40
086-48-027	27	976 CAMERON CIR	538.40
086-48-028	28	972 CAMERON CIR	538.40
086-48-029	29	968 CAMERON CIR	538.40
086-48-030	30	964 CAMERON CIR	538.40
086-48-031	31	960 CAMERON CIR	538.40
086-48-032	32	956 CAMERON CIR	538.40
086-48-033	33	952 CAMERON CIR	538.40
086-48-034	34	948 CAMERON CIR	538.40
086-48-035	35	944 CAMERON CIR	538.40
086-48-036	36	940 CAMERON CIR	538.40
086-48-037	37	936 CAMERON CIR	538.40
086-48-038	38	932 CAMERON CIR	538.40
086-48-039	39	928 CAMERON CIR	538.40
086-48-040	40	924 CAMERON CIR	538.40
086-48-041	41	920 CAMERON CIR	538.40
086-48-042	42	916 CAMERON CIR	538.40

Slight variances may occur due to rounding

City of Milpitas

LLMAD No. 98-1

Final Billing Detail Report for Fiscal Year 2024/25

APN	Assessment ID	Situs Address	Fiscal Year 2024/25 Levy
086-48-043	43	912 CAMERON CIR	538.40
086-48-044	44	908 CAMERON CIR	538.40
086-48-045	45	904 CAMERON CIR	538.40
086-48-046	46	900 CAMERON CIR	538.40
086-48-047	47	896 CAMERON CIR	538.40
086-48-048	48	892 CAMERON CIR	538.40
086-48-049	49	888 CAMERON CIR	538.40
086-48-050	50	884 CAMERON CIR	538.40
086-48-051	51	880 CAMERON CIR	538.40
086-48-052	52	876 CAMERON CIR	538.40
086-48-053	53	899 CAMERON CIR	538.40
086-48-054	54	903 CAMERON CIR	538.40
086-48-055	55	907 CAMERON CIR	538.40
086-48-056	56	911 CAMERON CIR	538.40
086-48-057	57	915 CAMERON CIR	538.40
086-48-058	58	211 CAMERON CT	538.40
086-48-059	59	203 CAMERON CT	538.40
086-48-060	60	195 CAMERON CT	538.40
086-48-061	61	200 CAMERON CT	538.40
086-48-062	62	208 CAMERON CT	538.40
086-48-063	63	216 CAMERON CT	538.40
086-48-064	64	207 WHITE CT	538.40
086-48-065	65	199 WHITE CT	538.40
086-48-066	66	191 WHITE CT	538.40
086-48-067	67	183 ALLEN CT	538.40
086-48-068	68	175 ALLEN CT	538.40
086-48-069	69	180 ALLEN CT	538.40
086-48-070	70	188 ALLEN CT	538.40
086-48-071	71	196 WHITE CT	538.40
086-48-072	72	204 WHITE CT	538.40
086-48-073	73	212 WHITE CT	538.40
086-48-074	74	203 KING CT	538.40
086-48-075	75	195 KING CT	538.40
086-48-076	76	187 KING CT	538.40
086-48-077	77	179 BRANDT CT	538.40
086-48-078	78	171 BRANDT CT	538.40
086-48-079	79	176 BRANDT CT	538.40
086-48-080	80	184 BRANDT CT	538.40
086-48-081	81	192 KING CT	538.40
086-48-082	82	200 KING CT	538.40
086-48-083	83	208 KING CT	538.40
086-48-084	84	199 DOUGLAS CT	538.40

Slight variances may occur due to rounding

City of Milpitas
LLMAD No. 98-1
Final Billing Detail Report for Fiscal Year 2024/25

APN	Assessment ID	Situs Address	Fiscal Year 2024/25 Levy
086-48-085	85	191 DOUGLAS CT	538.40
086-48-086	86	183 DOUGLAS CT	538.40
086-48-087	87	175 HOBBS CT	538.40
086-48-088	88	167 HOBBS CT	538.40
086-48-089	89	174 HOBBS CT	538.40
086-48-090	90	182 HOBBS CT	538.40
086-48-091	91	190 DOUGLAS CT	538.40
086-48-092	92	198 DOUGLAS CT	538.40
086-48-093	93	206 DOUGLAS CT	538.40
086-48-094	94	991 CAMERON CIR	538.40
086-48-095	95	995 CAMERON CIR	538.40
086-48-096	96	811 CAMERON CIR	538.40
086-48-097	97	815 CAMERON CIR	538.40
086-48-098	98	831 CAMERON CIR	538.40

98 Accounts

\$52,763.20

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



 2024-2025 FISCAL YEAR LANDSCAPE AREA FUNDED FOR MAINTENANCE

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CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Conduct a Public Hearing and Adopt a Resolution Approving General Plan Amendment GP24-0002 and an Ordinance Approving Zoning Text and Zoning Map Amendment ZA24-0002 to create the new Business Park Research and Development Zone and Metro Area Zones (Staff Contact: Jay Lee, Planning Director, 408-586-3077)
Category:	Community Development
Meeting Date:	6/4/2024
Recommendation:	Conduct a public hearing and determine that the EIR Addendum adequately analyzes the potential environmental impacts associated with the proposed General Plan and Zoning Amendments and is in compliance pursuant to CEQA Guidelines §15162 and §15164; adopt a resolution approving General Plan Amendment No. GP24-0002; and adopt Ordinance No. 38.855 approving Zoning Text and Zoning Map Amendment No. ZA24-0002 to create the new Business Park Research and Development Zone and Metro Area Zones.

BACKGROUND:

This staff report presents work completed during the first phase of the comprehensive zoning update project, which focuses on the essential updates to the Zoning Ordinance and map needed to implement the land use policies in the recently updated General Plan and adopted Milpitas Metro Specific Plan. This includes creation of new zoning districts (Business Park Research and Development Zone, Metro Area Zones) and updates to the citywide zoning map to bring the zoning of all parcels in the City into consistency with their land use designations in the General Plan and Metro Specific Plan.

In addition to the proposed Zoning Ordinance text amendments and zoning map amendments, work completed during Phase 1 of the zoning update identified several minor amendments that must be made to the General Plan Land Use Element (text and map) to achieve consistency between the General Plan, Zoning Ordinance, and zoning map.

The City of Milpitas recently launched an effort to comprehensively update the Zoning Ordinance (Milpitas Municipal Code Title XI, Chapter 10), which is the primary implementation tool for the City General Plan regarding land use and urban development. Zoning regulations are a tool to implement the vision and goals for growth and preservation of the city by setting forth rules and standards for what may be built, and what types of uses or businesses may be located where. The City Zoning Ordinance addresses topics such as land uses, administration, and procedures for new development, as well as alterations to existing buildings and lots, development standards such as building height and lot coverage, and other important topics such as parking and landscaping.

In 2021, the City completed a comprehensive update to its general plan, titled the Milpitas 2040 General Plan. The adoption of the new General Plan created an opportunity, as well as a legal mandate, to update the Zoning Ordinance (also referred to as the Zoning Code) to ensure the code achieves the type of development that will carry out the vision set forth in the General Plan. The zoning update will ensure the code implements the

policies and actions in the General Plan for land use, community design, economic development, conservation and sustainability, and community health and wellness.

The City and its consultant, Lisa Wise Consulting (LWC), commenced work on the zoning update project in February 2023. The full project will take approximately two and a half years to complete. The first phase of this work focuses on the priority tasks related to General Plan consistency, including the creation of new zoning districts, with related regulations, and updates to the zoning map. The second phase, which is anticipated to be completed in the summer of 2025, will include more extensive revisions to, and the reorganization of, the full Zoning Ordinance.

Project Summary

The following is a summary of all proposed Phase 1 amendments:

General Plan Amendment

- Amend the Land Use Map to change the land use designations for seven (7) parcels throughout the city for consistency with current site conditions and/or existing zoning.
- Amend the Land Use Map to change the land use designation for 287 parcels within the Granada Planned Unit Development (PUD 11) residential subdivision from Medium Density Residential (MDR) to High Density Residential (HDR) for consistency with current site conditions and existing zoning.
- Amend the Land Use Element to change the density range for the Low Density Residential (LDR) Land Use Designation from 3-5 dwelling units per acre (du/a) to 3-7 du/a, and to change the density range for the Medium Density Residential (MDR) Land Use Designation from 6-15 du/a to 7-15 du/a, to align allowable densities in the General Plan and implementing zones.
- Amend the description of the Business Park Research and Development designation in the Land Use Element to remove the word “small” from the term “small warehouses,” thereby allowing larger warehouse facilities within this land use designation.
- Amend Table 1 in the Land Use Element to remove the Neighborhood Commercial (C1) Zone as an implementing zone for the General Commercial (GNC) Land Use Designation, to maintain consistency in the allowable development intensity (floor area ratio) ranges for the GNC designation and its implementing zoning districts.

Zoning Text Amendments

- Create new zoning districts, including the Business Park Research and Development (BPRD) Zone and Metro Area Zones, to implement the land use policies in the Milpitas 2040 General Plan and the Milpitas Metro Specific Plan.
- Amend various sections of the Zoning Ordinance, including Section 2 – Definitions, Section 3 – Zoning Districts, Section 53 – Off-Street Parking Regulations, and Section 56 – Nonconforming Buildings and Uses, to add or clarify definitions, regulations, and standards related to the new Business Park Research and Development Zone and Metro Area Zones.
- Add a New Subsection 54.18 – 2023-2031 Housing Element Sites to codify new requirements included in the recently updated Housing Element.

Zoning Map Amendments

- Change the zoning classification of parcels throughout the City for consistency with their land use designations in the Milpitas 2040 General Plan and Milpitas Metro Specific Plan.
- Remove the Recreation and Entertainment (RE) Overlay Zone from all parcels to be rezoned as Business Park Research and Development (BPRD), Park and Public Open Space (POS), and Institutional (I).

ANALYSIS:

General Plan Amendment

Text Amendment – Land Use Element

LWC and Planning staff conducted an exercise to analyze the consistency of the current zoning of all parcels in Milpitas with the General Plan Land Use Map and the land use designations that went into effect in 2021 with adoption of the updated General Plan. Through this process, a discrepancy was noted between the residential density that is allowed per the Low Density Residential (LDR) designation in the General Plan (3-5 du/a) and some of the variations of the existing R1 Single Family Residential Zone. The R1 zone has several variations with different minimum lot area standards (e.g., R1-2.5 with minimum lot area 2,500 square feet; R1-5 with minimum lot area 5,000 square feet, etc.) (see Table XI-10-4.04-1: Residential Zone Development Standards in the Milpitas Zoning Ordinance).

Most areas of the city with General Plan designation LDR are currently zoned R1-6. Based on the minimum lot area of 6,000 sf, this equates to an allowable density of 7.26 du/a – a higher density than what is allowed per the General Plan land use of LDR. There are also smaller areas (65 parcels in total) that are LDR under the General Plan and are currently zoned R1-5 (min. lot area 5,000 sf and effective max. density 8.71 du/a) or R1-3 (min. lot area 3,000 sf and effective max. density 14.52 du/a).

To correct this discrepancy, prior to adoption of the updated zoning map, staff proposes to make the following amendments to the General Plan Land Use Element:

- ***Low Density Residential (LDR) Designation:*** Amend the General Plan to change the density range from 3-5 du/acre to 3-7 du/acre.
- ***Medium Density Residential (MDR) Designation:*** Amend the General Plan to change the density range from 6-15 du/acre to 7-15 du/acre.

Due to extensive public comment about the proposed BPRD Zone regulations received during the outreach process for Phase 1 of the zoning update project (discussed in detail in the “Key Issues for the BPRD Zone” section on pages 7-8), staff determined warehousing and distribution uses should continue to be allowed in the BPRD area, the majority of which is currently zoned M1-Light Industrial. Because the General Plan description of the BPRD land use designation refers to “small warehouses,” implying only limited warehouse uses that are integrated with other primary uses such as research & development and advanced manufacturing, staff proposed to amend the language describing the BPRD designation to strike the word “small” where it precedes “warehouses.” This would allow larger, stand-alone warehousing and distribution (up to 150,000 square feet) to be a by-right permitted use in the BPRD Zone, and warehouses larger than 150,000 square feet to be allowed with a Conditional Use Permit.

As part of the forthcoming Phase 2 Zoning Ordinance amendments, LWC is recommending the development standards for the Neighborhood Commercial (C1) be amended to increase the maximum floor area ratio (FAR) from 0.35 to 0.75. With that change, under *Table 1: General Plan Designations and Implementing Zoning Districts* (General Plan Land Use Element, page LU-14), the C1 zone would no longer be consistent with the General Commercial (GNC) land use designation, which has a maximum FAR of 0.5. Therefore, Planning staff proposes to amend Table 1 in the Land Use Element to remove C1 as an implementing zone for the GNC designation.

Land Use Map Amendment

During the process of analyzing the consistency of the General Plan Land Use Map with the current zoning map, City staff identified seven miscellaneous (7) parcels that require changes to their General Plan land use designations. These map amendments are needed to accurately reflect existing uses on the properties and to align the General Plan land use with the current zoning. In addition, the 287 parcels that comprise the

residential subdivision known as the Granada Planned Unit Development (PUD) have a General Plan land use designation of Medium Density Residential (MDR) and are zoned R3–Multi-Family High Density Residential. To make the General Plan Land Use, the zoning, and the actual built form/density consistent with one another, the best solution is to change the General Plan land use designation to High Density Residential (HDR).

The table in Attachment 4 – Summary of General Plan Land Use Map Amendment lists the parcels with proposed General Plan map changes and the reason(s) for the changes. The proposed map changes are also illustrated in *Exhibit A: General Plan Map Amendment to Attachment 1: City Council Resolution No. 24-0XX*.

Zoning Ordinance Amendments

The Land Use Element of the Milpitas 2040 General Plan includes a new land use designation that did not exist under the City's previous General Plan: Business Park Research and Development (BPRD). This is an industrial land use designation that is "intended to accommodate business parks, high-intensity office buildings, light manufacturing parks, and light industrial areas that provide for a variety of businesses that support employment opportunities and services for Milpitas and the region."

The Metro Specific Plan focuses on an area of approximately 510 gross acres in the southern end of Milpitas and includes the Milpitas BART station and Transit Center, the Great Mall, and surrounding areas. The plan outlines eight land use classifications and their corresponding zoning districts. The implementing zoning districts listed in the Metro Plan are similar to other zoning districts that currently exist in the City's Zoning Ordinance: High Density Mixed Use (MXD2) and Very High Density Mixed Use (MXD3); Multi-Family High Density Residential (R3), Multi-Family Very High Density Residential (R4), and Urban Residential (R5). In addition, the Metro Plan includes two variations of the new BPRD land use classification and corresponding BPRD zones (BPRD and BPRD-R), with the distinguishing factor being that the latter allows residential uses on a limited basis.

Accordingly, the proposed new zones drafted for Phase 1 of the comprehensive zoning update are:

- Business Park Research and Development (BPRD)
- Metro Multi-Family High Density Residential (R3-Metro)
- Metro Multi-Family Very High Density Residential (R4-Metro)
- Metro Urban Residential (R5-Metro)
- Metro High Density Mixed Use (MXD2-Metro)
- Metro Very High Density Mixed Use (MXD3-Metro)
- Metro Business Park Research and Development (BPRD-Metro)
- Metro Business Park Research and Development, Limited Residential; (BPRD-R-Metro)

The BPRD Zone is being incorporated into the existing Section 7 – Industrial Zones of the code, while the seven Metro Zones are included in a new section, Section 9 – Metro Area Zones. In addition to these base zone regulations, the draft amendments include related changes to the following sections of the Zoning Ordinance:

- **Section 2–Definitions:** New definitions added for new land uses to be included in the use tables for the BPRD and Metro Area Zones; revisions to some existing land use definitions.
- **Section 3–Zones:** Adding new BPRD and Metro Area Zones to the list of all zoning districts in the city.
- **Section 53–Off-Street Parking Regulations:** Adding new off-street vehicle and bicycle parking requirements in the Metro Area Zones, consistent with guidance in the Metro Specific Plan; adding parking requirement ratios for newly added land uses.

- **Section 56–Nonconforming Buildings and Uses:** Adding a new provision stating that approved nonconforming parcels are legal building sites and may be developed.

Lastly, a new **subsection 54.18–Housing Element Sites** has been added to codify new requirements included in the recently updated 2023-2031 Housing Element.

Zoning Map Changes

During the zoning map consistency analysis exercise, staff identified several hundred parcels for which zoning was inconsistent with the General Plan land use designation. The majority of these parcels were expected zoning changes following General Plan adoption to bring zoning into consistency with the Land Use Map. All proposed zoning changes in the city are shown in *Exhibit A: Zoning Map Amendment to Attachment 2: Ordinance No. XX.XXX Zoning Text and Map Amendments*.

For a small number of other parcels, after detailed review staff determined that amendments to the General Plan Land Use Map were more appropriate than zoning changes, generally due to existing site conditions (e.g., actual use or actual density of built structures), unintentional inconsistencies, or overriding policy reasons. These parcels have been previously discussed in the “General Plan Amendments” section.

Public Outreach

Throughout the first phase of the zoning update project, staff and LWC conducted a variety of community engagement activities to invite public input about the draft zoning amendments. These included creation of a dedicated website (www.milpitaszoningupdate.org), use of a project email list to disseminate news and announcements about the project, and periodic press releases and social media posts. A citizens’ Zoning Advisory Group (ZAG) was also formed, comprised of representatives from existing City boards and commissions. The ZAG met on May 23, 2023, and August 24, 2023, to discuss topics related to the first phase of the zoning update work.

Following the release in August 2023 of the initial public review draft of the Phase 1 Zoning Ordinance and zoning map amendments, a virtual community workshop was held on August 24. Planning staff and LWC conducted study sessions at public meetings with the Planning Commission (on August 30) and City Council (on October 3). Staff also gave an informational presentation at the Economic Development and Trade Commission meeting on September 11, 2023.

At the October 3, 2023 City Council meeting, based on comments and concerns from interested parties about the draft BPRD Zone regulations, Councilmembers directed staff to conduct additional, focused public outreach with stakeholders for the future BPRD area. In response, staff began hosting weekly “virtual office hours” for the zoning update project, during which interested parties could meet one-on-one with Planning staff to ask questions and provide feedback.

Staff also organized and facilitated a series of three focus group meetings, held on November 13, 14, and 15. A total of 13 industry stakeholders participated in the focus groups. In addition, an individual meeting was held on November 1 with representatives from Cisco Systems, Inc., which owns several properties in the proposed BPRD area. Planning Director Jay Lee also attended a special meeting with members of the Milpitas Chamber of Commerce on November 16 to discuss the draft BPRD Zone. These outreach activities resulted in a large amount of detailed and high-quality input about how the draft BPRD Zone regulations could be changed to better reflect the current market conditions and the needs of businesses and developers.

Following the focused outreach activities in November, Planning staff continued to follow up via email and live calls with interested stakeholders as revisions to the proposed BPRD Zone regulations were drafted. The current version of the draft BPRD Zone, shown in redline or “track changes” format (Attachment 5), reflects extensive changes as compared to the original draft. These changes are responsive to current economic

realities, market conditions, and rapidly changing high-tech industries. The changes are intended to allow greater flexibility in terms of permitted uses as well as development and design standards.

Key Issues for the BPRD Zone

Most of the public comment received on the Phase 1 zoning amendments has been on the draft BPRD Zone regulations. As noted above, many stakeholders with interests in the future BPRD area and the high-tech/advanced manufacturing/research and development sectors came forward at the October 3 City Council study session and during the following weeks to discuss the proposed BPRD regulations with staff and provide detailed input. These stakeholders included property owners, developers, real estate investors, commercial and industrial leasing brokers, and business representatives. Below is a summary of the stakeholder input received during the focused outreach activities held from November 2023 through April 2024.

- Maximizing flexibility, in terms of both allowed land uses and development and design standards, is essential to attract companies in the advanced manufacturing/ R&D, and emerging technologies sectors.
- The current market demand is for basic, flexible, single-story buildings (e.g., concrete tilt-up industrial buildings) where companies can come in and make whatever tenant improvements are needed to the interior to support their operations.
- Allowing warehousing/distribution by right is essential to give property owners, developers and investors confidence and to minimize the risks involved in property redevelopment.
- Floor Area Ratio (FAR): 0.35 was frequently cited as the typical FAR for advanced manufacturing/ R&D. Focus group participants consistently felt that 0.45 is too high. Many site planning constraints and requirements, parking needs, as well as the irregular street grid (resulting in oddly shaped parcels) in the BPRD area make it difficult to achieve FAR higher than 0.35.
- Many participants felt that 150,000 square feet is a reasonable maximum size threshold for allowing warehouse uses by right in the BPRD area and noted that some nearby local jurisdictions have this as a maximum floor area for warehouses permitted by right. Others commented that a higher floor area threshold for by-right permitted warehousing would be preferable.

The following are key revisions to the draft BPRD Zone regulations that have been made following release of the August 2023 public review draft in response to stakeholder comments. For a full list of changes to the draft Zoning Amendments, please refer to Attachment 6: Errata Sheet.

- Revised definitions of “Advanced Manufacturing” and “Research & Development” to specify that these uses include any amount of storage of raw materials and finished products that actively supports the primary use.
- Revised definition of “Warehousing and Distribution” to clarify that it refers to “passive storage” (i.e., a distinction was made between traditional industrial warehousing and the storage of goods that is directly related to active, employment-generating uses).
- Added and defined other new high-tech land uses, such as data centers.
- In the BPRD Zone, warehousing and distribution facilities (stand-alone ‘passive’ storage) up to 150,000 square feet would be allowed by right, and larger ones would require a Conditional Use Permit. All warehousing and distribution uses would continue to be allowed by right in the other industrial zones (M1, M2, MP) without size restriction.
- Many development and design standards in the previous draft were relaxed or eliminated.

Findings for Approval

A finding is a statement of fact relating to the information that the City Council has considered in making a decision. Findings identify the rationale behind the decision to take a certain action. The following are the required findings for approval of a zoning amendment.

General Plan Amendment

The Introduction section of the Milpitas 2040 General Plan (page IN-8) states the following four standard findings that must be made for a proposed General Plan amendment. These four findings fully encompass, include, and expand upon the findings required for General Plan amendment under Subsection XI-10-57.02(G)(1) of the Milpitas Municipal Code:

1. The amendment is deemed to be in the public interest.

The proposed amendments to the text of the Land Use Element of the City's General Plan, as well as the proposed changes to the General Plan Land Use Map, are necessary to align the permitted land uses and allowed density ranges between the land use designations defined in the General Plan and the zoning districts that implement those designations. Some of the changes to the General Plan Land Use Map are also needed to accurately reflect the existing uses and actual built conditions of certain parcels. These changes are in the public interest because a General Plan map that corresponds to the actual ownership status, uses, and development patterns of land in Milpitas, as well as overall consistency between the General Plan and the zoning ordinance and zoning map, is good public policy, helping to promote orderly development and certainty for property owners and neighbors in terms of land uses, development potential, and protection of open space areas.

2. The amendment is consistent and/or compatible with the rest of the General Plan.

The introduction to the General Plan notes that the document "is not static, but rather is a dynamic and multi-faceted document that defines and addresses the changing needs of the City. It is based on an on-going assessment and understanding of existing and projected community needs" (page IN-8, Milpitas 2040 General Plan). This language reflects the understanding that the General Plan will occasionally require amendments to keep pace with changing circumstances and issues that affect growth, conservation, and quality of life in Milpitas.

The proposed amendments are in keeping with this understanding, instituting changes to the General Plan that reflect current conditions. The proposed land use map changes are intended to match the existing zoning and reflect on-the-ground conditions for select properties in the city. Changing the land use designation for certain parcels to Permanent Open Space will further the goals of the Parks, Recreation, and Open Space Element by protecting open space and natural areas in the city. The proposed amendment to the language in the Land Use Element describing the Business Park Research and Development Zone reflects and supports existing market realities for Milpitas and the broader South Bay area, thereby helping to further the goals of the Economic Development Element.

The proposed minor amendments are related to the Land Use Element and Land Use Map only, and do not affect any other portion of the General Plan. The amendments are consistent with the General Plan as a whole and do not create any internal inconsistencies.

3. The potential impacts of the amendment have been assessed and have been determined not to be detrimental to the public health, safety, or welfare.

The proposed amendments involve changes to the General Plan map and land use designations for a relatively small number of parcels, as well as minor changes to the language of the Land Use Element. These amendments would not be detrimental to public health, safety, or welfare because they would simply bring the General Plan's allowed land uses and development density ranges into consistency with

the corresponding zoning districts, resulting in clearer and more effective land use policies and regulations. In addition, the minor text amendment related to warehouses in the Business Park Research and Development area would not be detrimental to public health, safety, or welfare because it would simply allow larger warehouse uses on properties with that land use designation, which is consistent with current market demands and conducive to the city's economic health and development.

4. *The amendment has been processed in accordance with the applicable provisions of the California Government Code, the California Environmental Quality Act (CEQA), and the City's Municipal Code.*

California Government Code Section 65358 provides guidance for a local jurisdiction to follow in amending its general plan, stating that such an amendment may be initiated if deemed "to be in the public interest" and "shall be initiated in the manner specified by the legislative body" (in this case, the Milpitas City Council). The City's procedure for amending the General Plan is outlined in Milpitas Municipal Code (MMC) Section XI-10-57.02. That procedure includes requirements for a General Plan amendment to be reviewed at a public hearing before the Planning Commission, which shall make a recommendation to the City Council; and then for the City Council to hold a public hearing and make a decision on the proposed amendment. These procedures are being followed for the General Plan amendments in question and are consistent with and fulfill the procedure specified in the Government Code.

The City has also fulfilled all procedural prerequisites of the Government Code and Milpitas Municipal Code. This includes public involvement (Gov. Code, § 65351), referral to other agencies (Gov. Code, § 65352), tribal consultation (Gov. Code, § 65352.3), and all public notices and hearings required.

In conformity with Government Code section 65350.5 and Water Code sections 10910 et seq., the amendments do not substantially change the City's prior analysis and conclusions regarding water systems, water rights, and groundwater sustainability and management or otherwise require amendment of the City's prior determinations in this regard with respect to its General Plan.

The California Government Code also states that a municipality may amend a mandatory element of its general plan (including a land use element) no more than four times per calendar year. This is the City's second proposed amendment to the Milpitas 2040 General Plan Land Use Element in 2024.

The proposed amendments are being processed in accordance with CEQA. As noted above, an EIR Addendum to the previously certified FEIR for the General Plan and SFEIR for the Metro Specific Plan was prepared and concluded that impacts are consistent with those previously analyzed in these environmental documents and no further analysis pursuant to CEQA is required.

Zoning Amendment (Milpitas Municipal Code Section XI-10-57.02(G)(3))

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

The fundamental purpose of the proposed Zoning Ordinance and zoning map amendments is to achieve consistency with the General Plan, as required by state law. This detailed set of Zoning Ordinance and zoning map amendments follows the adoption of the comprehensive update to the City's general plan, titled the Milpitas 2040 General Plan, as well as the adoption of the Metro Specific Plan. The creation of the new Business Park Research and Development Zone and the new Metro Area Zones, along with updates to the zoning classifications of certain parcels throughout the city, accomplish the important objective of bringing the Zoning Ordinance and zoning map into consistency with the General Plan and Metro Specific Plan.

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

The proposed zoning changes serve to implement several of the City's adopted land use and economic development policies that promote the public interest. They would help facilitate new, higher density and transit-oriented development in appropriate areas, which would serve to advance numerous City

goals related to community design, environment, and economic development. They would also provide clear and user-friendly regulatory requirements and standards for new development, improving outcomes for property owners and adjacent residents and businesses. In summary, the proposed zoning amendments would support overall community health and well-being in Milpitas.

Public Comment

Staff conducted consultation regarding the proposed General Plan amendment with local Native American tribes, pursuant to Senate Bill (SB) 18. Consultation letters describing the proposed General Plan amendment were mailed on February 28, 2024 to designated representatives from 12 tribes whose historical territory coincides with the present-day boundaries of Milpitas. As of the publication date of this report, no tribes had requested consultation.

As required under California Government Code §65352, notices of the proposed General Plan amendments were sent to various public agencies, including Santa Clara County, the adjacent Cities of San José and Fremont, the Milpitas Unified School District, regional planning entities (Association of Bay Area Governments and Metropolitan Transportation Commission), the Santa Clara County Local Agency Formation Commission, the State Water Resources Control Board, and others. To date, comments have been received and addressed from two entities, the Santa Clara Valley Water District and the San Francisco Public Utilities Commission.

Staff provided public notice for the proposed General Plan amendment, zoning text amendments, and zoning map amendments in accordance with City and State noticing requirements. The Planning Department published a notice of the City Council hearing in the *Milpitas Post* on May 25, 2024. A public notice was also provided on the City's website, www.milpitas.gov and posted at City Hall, the library, and the Sports Center.

In addition, notice postcards of proposed property rezoning were mailed to owners of 52 parcels in the new BPRD Zone area, and owners of 108 other parcels with proposed zoning changes (including properties to be rezoned to C2-General Commercial, MXD-Mixed Use, and R3-Multi-Family High Density Residential).

Planning Commission Action

At its regular meeting on May 22, 2024, the Planning Commission voted unanimously (7-0) to recommend that the City Council adopt the proposed General Plan Amendment and Zoning Text and Zoning Map Amendments. Planning Commission Resolution No. 24-017 is included as Attachment 7. A member of the public requested the City increase the threshold for a Conditional Use Permit requirement for new warehouse and distribution facilities from 150,000 to 200,000 square feet, however this change was not included in the Planning Commission's recommendation.

POLICY ALTERNATIVE(S):

Alternative 1: Do not adopt the proposed General Plan Amendment and Zoning Amendments.

Pros: None.

Cons: The existing zoning would remain in effect. No changes would be made to the General Plan Land Use Element, the Zoning Ordinance, or the Zoning Map.

Reason not Recommended: The City would lose the opportunity to benefit from the creation of new, modern zoning districts that are intended to encourage significant new residential and mixed-use development in areas well served by public transit, as well as to attract innovative new businesses in the high-tech sector. The City's Zoning Ordinance and Zoning Map would be inconsistent with its adopted General Plan, therefore failing to comply with mandated general plan-zoning consistency under state law.

Alternative 2: Adopt the proposed General Plan Amendment and Zoning Map Amendments and adopt the proposed Zoning Ordinance Amendments with modifications (for example, increase the threshold for by-right

permitted warehousing and distribution in the BPRD Zone from 150,000 square feet to 200,000 square feet, as some stakeholders have requested).

Pros: Allowing larger warehouse facilities in the BPRD Zone, up to 200,000 square feet, would provide greater flexibility for property developers and investors in terms of accommodating larger, “traditional” warehousing and distribution operations.

Cons: Larger warehouse facilities may have greater impacts on surrounding properties (e.g., large truck circulation) and may undermine the intent of the BPRD Zone to generate significant growth in high-tech jobs and businesses.

Reason not Recommended: Allowing warehouse facilities up to 200,000 square feet by right would further the degree of compromise the City has made in terms of accommodating “traditional” warehousing in the BPRD Zone and may serve to undermine the ultimate purpose and intent of this zone, which according to the Milpitas 2040 General Plan, differs from a “traditional” industrial zone and is intended to encourage advanced manufacturing, research & development, and other emerging technologies.

FISCAL IMPACT:

Adoption of the BPRD and Metro Area Zones is expected to bring significant economic benefits to Milpitas. Because of the high-density development that is encouraged in the Metro Area as well as the emerging and innovative technology industries that are allowed in the BPRD area, these zoning districts are anticipated to encourage new development and investment in the city, contributing to the growth of the Milpitas economy. Development of new high-density residential and commercial development in the Metro Area will bring significant property tax and sales tax revenue to the City. The BPRD zoning district will incentivize new development of properties designed for high-tech, advanced manufacturing, and R&D uses, which will bring new high-paying employment opportunities and significant tax revenue to the city. This will benefit not only the local economy of Milpitas, but also the City’s long-term fiscal outlook.

Together, the creation of the BPRD and Metro Area Zones will benefit not only the local economy of Milpitas, but also the City’s long-term fiscal outlook. Therefore, adoption of the BPRD and Metro Area zones will serve to advance Goal ED-2 of the General Plan’s Economic Development Element of achieving fiscal sustainability and maintaining adequate revenues to provide quality and essential public services.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

An Addendum to the Final Environmental Impact Report (EIR) for the Milpitas 2040 General Plan and Subsequent Final Environmental Impact Report (SFEIR) for the Milpitas Metro Specific Plan was prepared and published on April 26, 2024 (see Attachment 3: EIR Addendum). The Addendum finds that the impacts of the proposed project remain consistent with the impacts previously analyzed in the certified General Plan FEIR and Metro Specific Plan SFEIR. The Addendum further concludes that proposed General Plan amendment and zoning ordinance and zoning map amendments do not require any substantial revisions to the General Plan FEIR or Metro Specific Plan SFEIR, and that no new significant information or changes in circumstances surrounding the proposed project have occurred since the certification of the General Plan FEIR or Metro Specific Plan SFEIR. The Addendum demonstrates that the previous analysis completed for the General Plan Update FEIR and Metro Specific Plan SFEIR remain adequate under CEQA; therefore, no further environmental review is required.

RECOMMENDATION:

1. Conduct a public hearing and receive public comments;
2. Determine that the Addendum to the Environmental Impact Report (EIR) for the Milpitas 2040 General Plan (State Clearinghouse No: 2020070348) and Subsequent Final Environmental Impact Report (SFEIR) for the Metro Specific Plan (State Clearinghouse No. 2006032091) adequately analyzes the potential environmental impacts associated with the proposed General Plan and Zoning Amendments, and that the EIR Addendum is in compliance pursuant to CEQA Guidelines §15162 and §15164;

3. Adopt a resolution approving General Plan Amendment GP24-0002;
4. City Attorney shall read aloud title of the Ordinance; and
5. Move to waive the first reading beyond the title and introduce Ordinance No. 38.855 amending Title XI, Chapter 10, Section 2 (Definitions), Section 3 (Zoning Districts), Section 7 (Industrial Zones and Standards), Section 53 (Off-Street Parking Regulations), and Section 56 (Nonconforming Buildings and Uses); and Adding Section 9 (Metro Area Zones and Standards) and Subsection 54.18 (2023-2031 Housing Element Sites); relating to the creation of new zoning districts (Business Park Research and Development Zone, Metro Area Zones); and amending the Zoning Map of the City of Milpitas to change the zoning classifications of certain parcels throughout the city to achieve consistency between the Milpitas 2040 General Plan, Milpitas Metro Specific Plan, Zoning Ordinance, and Zoning Map.

ATTACHMENTS:

Attachment (a) Resolution

Exhibit A: General Plan Map Amendment

Attachment (b) Ordinance No. 38.855

Exhibit A: Zoning Map Amendment

Attachment (c) EIR Addendum

Attachment (d) Summary of General Plan Land Use Map Amendment

Attachment (e) Draft Zoning Ordinance Text Amendments (redline version)

Attachment (f) Errata Sheet for Phase 1 Zoning Ordinance Update – Public Hearing Draft

Attachment (g) Planning Commission Resolution No. 24-017

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS ADOPTING FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AND ADOPTING GENERAL PLAN AMENDMENT NO. GP24-0002 TO AMEND THE LAND USE ELEMENT TEXT AND LAND USE MAP TO ACHIEVE CONSISTENCY BETWEEN THE MILPITAS 2040 GENERAL PLAN, THE ZONING ORDINANCE, AND THE ZONING MAP.

WHEREAS, the City of Milpitas, California (the “City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, California Government Code Section 65800 et seq. authorizes the adoption and administration of zoning laws, ordinances, rules, and regulations by cities as a means of implementing the General Plan; and

WHEREAS, on March 9, 2021, the Milpitas City Council adopted the Milpitas 2040 General Plan, updating and revising the land use policies, goals, and objectives contained in the City’s previous General Plan; and

WHEREAS, California Government Code Section 65860 requires a city’s zoning ordinance to be consistent with its adopted general plan, including any specific plan that has been adopted to establish planning policies for a defined geographic area of the city; and

WHEREAS, the City has prepared a General Plan Amendment and Zoning Text and Zoning Map Amendment (“Amendments”) to implement the land use policies and goals of the Milpitas 2040 General Plan, including the creation of a new Business Park Research and Development Zone, and to ensure overall consistency between the City’s General Plan, Zoning Ordinance, and Zoning Map; and

WHEREAS, on March 9, 2021, a Final Environmental Impact Report (FEIR) was certified for the Milpitas 2040 General Plan in accordance with the California Environmental Quality Act (CEQA); and

WHEREAS, an Addendum to the certified Milpitas 2040 General Plan FEIR (SCH # 2020070348) and Milpitas Metro Specific Plan SFEIR (SCH # 2006032091) was published on April 26, 2024, which concluded that the impacts of the proposed General Plan Amendments and Zoning Text and Zoning Map Amendments remain consistent with the impacts previously analyzed in the Environmental Impact Report, and therefore no further environmental analysis pursuant to CEQA is required; and

WHEREAS, the Planning Commission made and accepted as its own the findings set forth in this resolution; and

WHEREAS, the City Council is the final authority on General Plan, Specific Plan, and Zoning amendments, including amendments to the Land Use Map and Zoning Map; and

WHEREAS, on May 22, 2024, the Planning Commission held a duly noticed public hearing on the subject application, considered evidence presented by City staff and other interested parties, and adopted Resolution 24-017 recommending, among other things, that the City Council approve the General Plan Amendment GP24-0002 and adopt the Comprehensive Zoning Ordinance Update Phase 1 Addendum

to the General Plan FEIR (SCH # 2020070348) and Milpitas Metro Specific Plan SFEIR (SCH # 2006032091) related thereto; and

WHEREAS, on June 4, 2024, the City of Milpitas City Council held a duly noticed public hearing on the proposed General Plan Amendment, considered all written and oral reports of staff and public testimony on the matter, and such other matters as are reflected in the record of this matter.

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

SECTION 1. RECITALS

The City Council has considered the full record before it, which includes, but is not limited to, all published staff reports, oral and written testimony by staff, the Planning Commission, City Council, and the public, and all other relevant materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2. GENERAL PLAN AMENDMENT FINDINGS (SECTION XI-10-57.02)

The City Council finds based upon the full record before it that all findings and prerequisites required for the General Plan amendments proposed have been met, including those set forth in the Government Code, including Sections 65350 et seq., the Milpitas Municipal Code, including Section XI-10-57.02, and page IN-8 of the Milpitas 2040 General Plan itself. The City Council makes the following further and specific findings based on the evidence in the administrative record in support of General Plan Amendment No. GP24-0002:

1. The amendment is deemed to be in the public interest.

The proposed amendments to the text of the Land Use Element of the City's General Plan, as well as the proposed changes to the General Plan Land Use Map, are necessary to align the permitted land uses and allowed density ranges between the land use designations defined in the General Plan and the zoning districts that implement those designations. Some of the changes to the General Plan Land Use Map are also needed to accurately reflect the existing uses and actual built conditions of certain parcels. These changes are in the public interest because a General Plan map that corresponds to the actual ownership status, uses, and development patterns of land in Milpitas, as well as overall consistency between the General Plan and the zoning ordinance and zoning map, is good public policy, helping to promote orderly development and certainty for property owners and neighbors in terms of land uses, development potential, and protection of open space areas.

2. The amendment is consistent and/or compatible with the rest of the General Plan.

The introduction to the General Plan notes that the document "is not static, but rather is a dynamic and multi-faceted document that defines and addresses the changing needs of the City. It is based on an on-going assessment and understanding of existing and projected community needs" (page IN-8, Milpitas 2040 General Plan). This language reflects the understanding that the General Plan will occasionally require amendments to keep pace with changing circumstances and issues that affect growth, conservation, and quality of life in Milpitas.

The proposed amendments are in keeping with this understanding, instituting changes to the General

Plan that reflect current conditions. The proposed land use map changes are intended to match the existing zoning and reflect on-the-ground conditions for select properties in the city. Changing the land use designation for certain parcels to Permanent Open Space will further the goals of the Parks, Recreation, and Open Space Element by protecting open space and natural areas in the city. The proposed amendment to the language in the Land Use Element describing the Business Park Research and Development Zone reflects and supports existing market realities for Milpitas and the broader South Bay area, thereby helping to further the goals of the Economic Development Element.

The proposed minor amendments are related to the Land Use Element and Land Use Map only, and do not affect any other portion of the General Plan. The amendments are consistent with the General Plan as a whole and do not create any internal inconsistencies.

3. *The potential impacts of the amendment have been assessed and have been determined not to be detrimental to the public health, safety, or welfare.*

The proposed amendments involve changes to the General Plan map and land use designations for a relatively small number of parcels, as well as minor changes to the language of the Land Use Element. These amendments would not be detrimental to public health, safety, or welfare because they would simply bring the General Plan's allowed land uses and development density ranges into consistency with the corresponding zoning districts, resulting in clearer and more effective land use policies and regulations. In addition, the minor text amendment related to warehouses in the Business Park Research and Development area would not be detrimental to public health, safety, or welfare because it would simply allow larger warehouse uses on properties with that land use designation, which is consistent with current market demands and conducive to the city's economic health and development.

4. *The amendment has been processed in accordance with the applicable provisions of the California Government Code, the California Environmental Quality Act (CEQA), and the City's Municipal Code.*

California Government Code Section 65358 provides guidance for a local jurisdiction to follow in amending its general plan, stating that such an amendment may be initiated if deemed "to be in the ~~the~~ public interest" and "shall be initiated in the manner specified by the legislative body" (in this case, the Milpitas City Council). The City's procedure for amending the General Plan is outlined in Milpitas Municipal Code (MMC) Section XI-10-57.02. That procedure includes requirements for a General Plan amendment to be reviewed at a public hearing before the Planning Commission, which shall make a recommendation to the City Council; and then for the City Council to hold a public hearing and make a decision on the proposed amendment. These procedures are being followed for the General Plan amendments in question and are consistent with and fulfill the procedure specified in the Government Code.

The City has also fulfilled all procedural prerequisites of the Government Code and Milpitas Municipal Code. This includes public involvement (Gov. Code, § 65351), referral to other agencies (Gov. Code, § 65352), tribal consultation (Gov. Code, § 65352.3), and all public notices and hearings required.

In conformity with Government Code section 65350.5 and Water Code sections 10910 et seq., the amendments do not substantially change the City's prior analysis and conclusions regarding water systems, water rights, and groundwater sustainability and management or otherwise require amendment of the City's prior determinations in this regard with respect to its General Plan.

The California Government Code also states that a municipality may amend a mandatory element of its general plan (including a land use element) no more than four times per calendar year. This is the City's second proposed amendment to the Milpitas 2040 General Plan Land Use Element in 2024.

The proposed amendments are being processed in accordance with CEQA. As noted above, an EIR Addendum to the previously certified FEIR for the General Plan and SFEIR for the Metro Specific Plan was prepared and concluded that impacts are consistent with those previously analyzed in these environmental documents and no further analysis pursuant to CEQA is required.

SECTION 3. AMENDMENT OF MILPITAS GENERAL PLAN 2040 RESIDENTIAL LAND USE DESIGNATIONS

The descriptions of the Low Density Residential (LDR) and Medium Density Residential (MDR) designations on pages LU-4 and LU-5 of the adopted Milpitas 2040 General Plan are hereby amended to read as follows:

LOW DENSITY RESIDENTIAL (LDR). (3 to 7 units per gross acre) All housing units are either on separate lots or as part of a clustered Planned Unit Development. Single-unit detached residences will be the typical housing type in this category.

MEDIUM DENSITY RESIDENTIAL (MDR). (7 to 15 units per gross acre excluding density bonuses). Single-family attached, multi-family, duplexes, or clustered residences would typically be built within this density range.

SECTION 4. AMENDMENT OF MILPITAS GENERAL PLAN 2040 INDUSTRIAL LAND USE DESIGNATIONS

The description of the Business Park Research & Development (BPRD) designation on page LU-7 of the adopted Milpitas 2040 General Plan is hereby amended to read as follows:

BUSINESS PARK RESEARCH & DEVELOPMENT (BPRD) (UP TO 2.5 FAR). The Business Park Research & Development (BPRD) classification is intended to accommodate business parks, high-intensity office buildings, light manufacturing parks, and light industrial areas that provide for a variety of businesses that support employment opportunities and services for Milpitas and the region. The BPRD designation would enable the integration of research and development, office, warehouse and light manufacturing uses in one location, and allows existing firms to grow/expand operations onsite.

Additionally, as manufacturing in the city shifts to more high-tech products and services, the designation will support the consolidation of management, design, and manufacturing uses on a single, integrated site, which can be important for the overall efficiency of business operations and potentially increase creative collisions and local business-to-business transactions. The BPRD designation allows for a FAR up to 2.5.

Additionally, as part of campus-like development, uses that support businesses, including health and fitness centers, restaurants/cafes, limited convenience retail, and day care facilities may be conditionally allowed onsite as a minor use associated with a primary employment-generating use.

SECTION 5. AMENDMENT OF MILPITAS GENERAL PLAN 2040 LAND USE ELEMENT TABLE 1: GENERAL PLAN DESIGNATIONS AND IMPLEMENTING ZONING DISTRICTS

The implementing zones for the General Commercial land use designation in Table 1 at page LU-

14 of the adopted Milpitas 2040 General Plan are hereby amended to read as follows:

General Plan Land Use Designation	Zoning District	Zone Map Symbol
Commercial Uses		
GNC – General Commercial	“C2” General Commercial District “HS” Highway Service District “CO” Administrative and Professional Office District	C2, HS, CO

SECTION 6. AMENDMENT OF MILPITAS GENERAL PLAN 2040 FIGURE LU-1: GENERAL PLAN LAND USE MAP

The General Plan Land Use Map (Figure LU-1) at page LU-11 of the adopted Milpitas 2040 General Plan is hereby amended only as to parcels and changes as shown in Exhibit A.

SECTION 7. CALIFORNIA ENVIRONMENTAL QUALITY ACT

In accordance with the California Environmental Quality Act (CEQA), an Environmental Impact Report (EIR) was prepared for the Milpitas 2040 General Plan. The Final EIR was adopted, along with the updated General Plan, by Resolution No. 9047 on March 9, 2021 (State Clearinghouse No. 2020070348). An Addendum to the Final Environmental Impact Report (FEIR) for the Milpitas 2040 General Plan (State Clearinghouse No: 2020070348) was published on April 26, 2024. The Addendum finds that the impacts of the proposed project remain consistent with the impacts previously analyzed in the certified General Plan FEIR. The Addendum further concludes that proposed project does not require any substantial revisions to the General Plan FEIR, that no new significant information or changes in circumstances surrounding the proposed project have occurred since the certification of the General Plan FEIR, and that the previous analysis completed for the General Plan Update FEIR remains adequate under CEQA. The City Council therefore finds that its actions are consistent with CEQA and State CEQA guidelines and that no additional environmental review is required. The City Council approves and adopts this Addendum as if fully set forth herein.

SECTION 8. SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held incorrect, invalid, illegal, or unenforceable, such decision shall not affect the validity of the remaining portions of this Resolution. The City Council hereby declares that it would have passed each section, subsection, phrase, or clause thereof irrespective of the fact that any one or more sections, subsections, phrases or clauses be declared incorrect, invalid, illegal, or unenforceable.

SECTION 9. CITY COUNCIL APPROVAL

The City Council hereby approves General Plan Amendment No. GP24-0002, based on the above findings.

PASSED AND ADOPTED this _____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

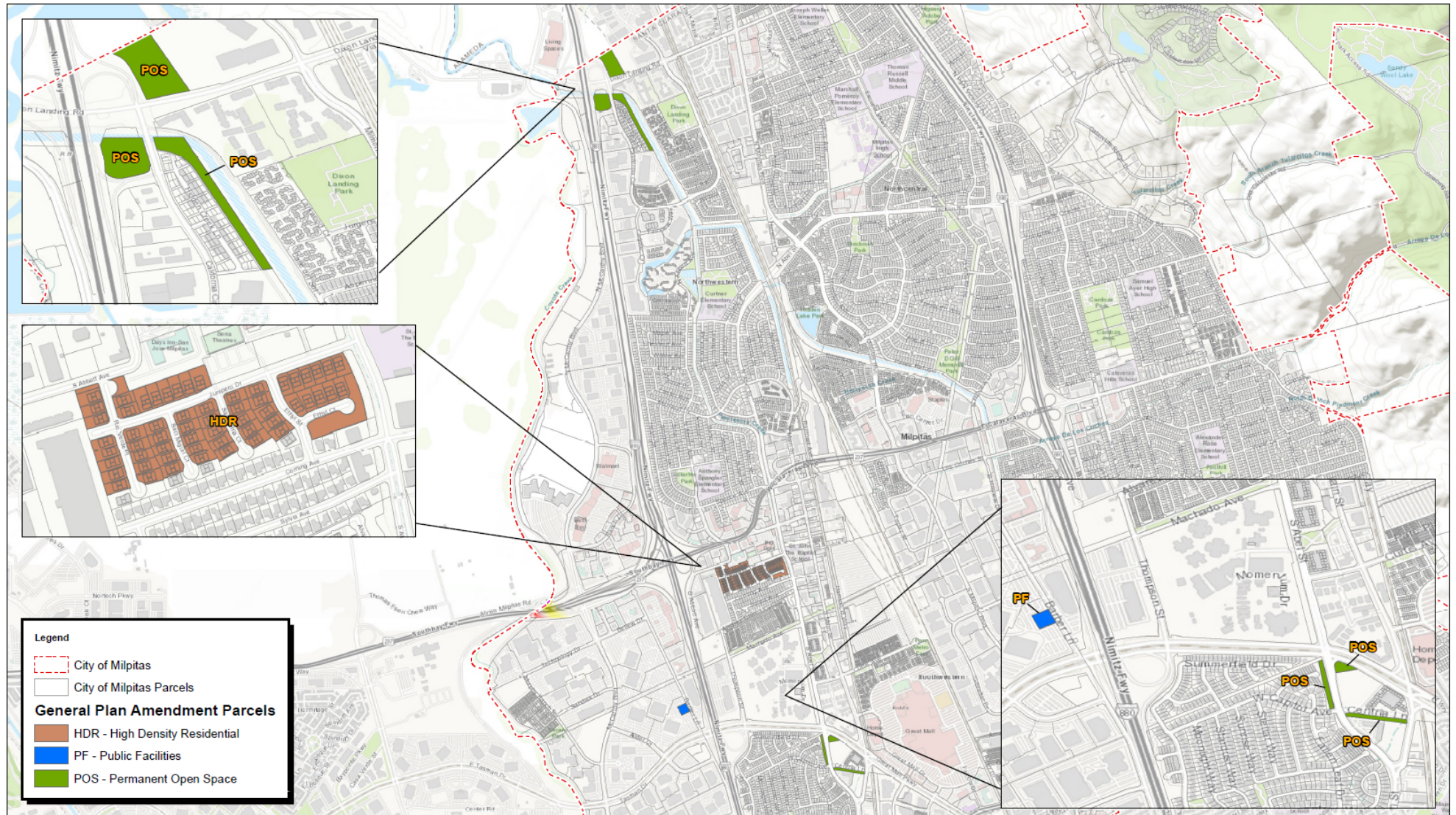
APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney

Attachments:

Exhibit A: General Plan Land Use Map Amendment

Exhibit A: General Plan Land Use Map Amendment



REGULAR

NUMBER: XX.XXX

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING TITLE XI, CHAPTER 10, SECTION 2 (DEFINITIONS), SECTION 3 (ZONING DISTRICTS), SECTION 7 (INDUSTRIAL ZONES AND STANDARDS), SECTION 53 (OFF-STREET PARKING REGULATIONS), AND SECTION 56 (NONCONFORMING BUILDINGS AND USES); AND ADDING SECTION 9 (METRO AREA ZONES AND STANDARDS) AND SUBSECTION 54.18 (2023-2031 HOUSING ELEMENT SITES); RELATING TO THE CREATION OF NEW ZONING DISTRICTS (BUSINESS PARK RESEARCH AND DEVELOPMENT ZONE, METRO AREA ZONES); AND AMENDING THE ZONING MAP OF THE CITY OF MILPITAS TO CHANGE THE ZONING CLASSIFICATIONS OF CERTAIN PARCELS THROUGHOUT THE CITY TO ACHIEVE CONSISTENCY BETWEEN THE MILPITAS 2040 GENERAL PLAN, MILPITAS METRO SPECIFIC PLAN, ZONING ORDINANCE, AND ZONING MAP.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney

RECITALS AND FINDINGS:

WHEREAS, the City of Milpitas, California (the “City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, California Government Code Section 65800 et seq. authorizes the adoption and administration of zoning laws, ordinances, rules, and regulations by cities as a means of implementing the General Plan; and

WHEREAS, Section 3.03 of Chapter 10 Zoning of Title XI of the Milpitas Municipal Code, divides the City into zoning districts; and

WHEREAS, the City Council is the final authority on General Plan, Specific Plan, and Zoning amendments, including amendments to the Zoning Ordinance and Zoning Map; and

WHEREAS, on March 9, 2021, the Milpitas City Council adopted the Milpitas 2040 General Plan, updating and revising the land use policies, goals, and objectives contained in the City’s previous General Plan; and

WHEREAS, on February 7, 2023, the Milpitas City Council adopted the Metro Specific Plan to guide future land use, development, and public and private investment in the area surrounding the Milpitas Transit Center, the Milpitas Bay Area Rapid Transit (BART station), and the Great Mall; and

WHEREAS, California Government Code Section 65860 requires a city’s zoning ordinance to be consistent with its adopted general plan, including any specific plan that has been adopted to establish planning policies for a defined geographic area of the city; and

WHEREAS, the City has prepared a Zoning Text and Zoning Map Amendment (“Amendments”) to implement the land use policies and goals of the Milpitas 2040 General Plan and Metro Specific Plan, including the creation of a new Business Park Research and Development Zone and new Metro Area Zones, and to ensure overall consistency between the City’s General Plan, Metro Specific Plan, Zoning Ordinance, and Zoning Map; and

WHEREAS, pursuant to Milpitas Municipal Code §§ XI-10-57.02(G)(3), the City Council finds the Zoning Amendments set forth herein to be consistent with the General Plan, and specifically with Land Use Element Actions LU-1a (*update the City’s Zoning Map as appropriate to ensure consistency with the land use designations shown on Figure LU-1[Land Use Map]*) and LU-1b (*review the Zoning Ordinance and update as appropriate to reflect Land Use goals, policies, and implementation actions included in this Plan*); and

WHEREAS, per Milpitas Municipal Code § XI-10-57.02(G)(3), the City Council likewise finds that the Zoning Amendments set forth herein will not adversely affect the public health, safety and welfare, in that the proposed changes serve to implement several of the City’s adopted land use and economic development policies by facilitating new, higher-density and transit-oriented development in appropriate areas and attracting new businesses to Milpitas, thereby advancing numerous goals related to community design, environment, and economic development and supporting overall community health and well-being in Milpitas; and

WHEREAS, on March 9, 2021, a Final Environmental Impact Report (FEIR) (SCH # 2020070348) was certified for the Milpitas 2040 General Plan in accordance with the California Environmental Quality Act (CEQA); and

WHEREAS, on February 7, 2023 a Subsequent Final Environmental Impact Report (SFEIR) (SCH # 2006032091) was certified for the Milpitas Metro Specific Plan; and

WHEREAS, an Addendum to the certified Milpitas 2040 General Plan FEIR and Metro Specific Plan SFEIR was published on April 26, 2024, which concluded that the impacts of the proposed Zoning Text and Map Amendments remain consistent with the impacts previously analyzed in the Environmental Impact Reports, and therefore no further environmental analysis pursuant to CEQA is required; and

WHEREAS, on May 22, 2024, the Planning Commission held a duly noticed public hearing on the subject application, considered evidence presented by City staff and other interested parties, and adopted Resolution 24-017 recommending, among other things, that the City Council approve and Zoning Amendment ZA24-0002 and adopt the Comprehensive Zoning Ordinance Update Phase I Addendum to the General Plan FEIR (SCH # 2020070348) and Milpitas Metro Specific Plan SFEIR (SCH # 2006032091) related thereto; and

WHEREAS, all legal prerequisites to the adoption of this ordinance and the City Council's review and approval of the General Plan amendments, Zoning amendments, and CEQA review contained herein have been met.

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. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Based on its review of the entire record, including the staff report, public comments and testimony presented to the Planning Commission and City Council, and the facts outlined below, the City Council hereby finds and determines that the potential environmental effects of the proposed Amendments have been adequately reviewed and analyzed. An Addendum to the Final Environmental Impact Report (FEIR) for the Milpitas 2040 General Plan (State Clearinghouse No: 2020070348) and Subsequent Final Environmental Impact Report (SFEIR) for the Milpitas Metro Specific Plan (State Clearinghouse No: 2006032091) was published on April 26, 2024. The Addendum finds that the impacts of the proposed project remain consistent with the impacts previously analyzed in the certified General Plan FEIR and Metro Specific Plan SFEIR. The Addendum further concludes that proposed project does not require any substantial revisions to the General Plan FEIR or Metro Specific Plan SFEIR, that no new significant information or changes in circumstances surrounding the proposed project have occurred since the certification of the General Plan FEIR or Metro Specific Plan SFEIR, and that the previous analysis completed for the General Plan Update FEIR and Metro Specific Plan SFEIR remains adequate under CEQA. The City Council therefore finds that its actions are consistent with CEQA and State CEQA guidelines and that no additional environmental review is required. The City Council approves and adopts this Addendum as if fully set forth herein.

SECTION 3. ZONING TEXT AND MAP AMENDMENT FINDINGS (XI-10-57.02)

The City Council finds based upon the full record before it that all findings and prerequisites required for the Zoning Text and Zoning Map amendments proposed have been met, including those set forth in the Government Code, including Sections 65850 et seq., and the Milpitas Municipal Code, including Section XI-10-57.02. The City Council makes the following further and specific findings based on the evidence in the public record in support of Zoning Amendment No. ZA24-0002:

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

The fundamental purpose of the proposed Zoning Ordinance and zoning map amendments is to achieve consistency with the General Plan, as required by state law. This detailed set of Zoning Ordinance and zoning map amendments follows the adoption of the comprehensive update to the City's general plan, titled the Milpitas 2040 General Plan, as well as the adoption of the Metro Specific Plan. The creation of the new Business Park Research and Development Zone and the new Metro Area Zones, along with updates to the zoning classifications of certain parcels throughout the city, accomplish the important objective of bringing the Zoning Ordinance and zoning map into consistency with the General Plan and Metro Specific Plan.

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

The proposed zoning changes serve to implement several of the City's adopted land use and economic development policies that promote the public interest. They would help facilitate new, higher density and transit-oriented development in appropriate areas, which would serve to advance numerous City goals related to community design, environment, and economic development. They would also provide clear and user-friendly regulatory requirements and standards for new development, improving outcomes for property owners and adjacent residents and businesses. In summary, the proposed zoning amendments would support overall community health and well-being in Milpitas.

SECTION 4. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10, SECTION 2

Title XI, Chapter 10, Section 2 (Definitions), of the Milpitas Municipal Code is hereby amended to read as follows:

Section 2 - Definitions

XI-10-2.01 Purpose and Intent

The purpose of this chapter is to ensure precision in interpretation of this title. This section provides definitions of terms and phrases used in this Zoning Code that are technical or specialized, or that may not reflect common usage. If any of the definitions in this chapter conflict with definitions in other provisions of the Municipal Code, these definitions shall control for the purposes of this Zoning Code. If a word is not defined in this chapter, or other provisions of the Municipal Code, the most common dictionary definition is presumed to be correct.

XI-10-2.02 General Definitions

- A. The word "shall" is mandatory and not discretionary. The word "may" is permissive and discretionary.
- B. The word "should" indicates a guideline that must be followed in the absence of compelling considerations to the contrary.
- C. In the case of any difference of meaning or implication between the text of any provision and any caption or illustration, the text shall control.
- D. Unless the context clearly indicates to the contrary, words in the present and the future tense are interchangeable, and words in the singular and plural are interchangeable.
- E. Unless the context clearly indicates to the contrary, the following conjunctions shall be interpreted as follows:
 - 1. "And" indicates that all connected items or provisions shall apply;
 - 2. "Or" indicates the connected items or provisions apply singly; and
 - 3. "And/or" indicates the connected items or provisions may apply singly or in any combination; and

4. "Either...or" indicates that the connected items or provisions shall apply singly but not in combination.
- F. The word "used" shall include arranged, designed, constructed, altered, converted, rented, leased, occupied, or intended to be utilized.
- G. The words "Planning Director" shall mean the Planning Director of the City or designee.
- H. The words "Planning Division" shall mean staff representing the City in implementing this chapter, the General Plan, and other regulations affecting land use.
- I. The words "City Engineer" shall mean the City Engineer of the City or designee.
- J. The words "Building Official" shall mean the Building Official of the City or designee charged with the administration and enforcement of the Building Code of the City of Milpitas.
- K. The words "City Manager" shall mean the City Manager of the City or designee.
- L. The words "Planning Commission" or "Commission" shall mean the City Planning Commission.
- M. The word "Council" shall mean the City Council, the governing body of the City.
- N. The word "City" shall mean the City of Milpitas.
- O. The word "County" shall mean the County of Santa Clara.
- P. The word "State" shall mean the State of California.
- Q. The words "Zoning Ordinance" or "this Chapter" or "Zoning Code" shall mean Title XI, Chapter 10 of the Municipal Code of the City.
- R. The words "General Plan" shall mean the General Plan of the City.
- S. The word "code" shall mean the municipal code of the City.
- T. Unless otherwise indicated, reference in this Chapter to whole numbers of sections includes all of the decimal-numbered paragraphs listed under such whole number section; i.e., a reference to Section 1.00 includes Subsections 1.01, 1.01-1 where the same are applicable.
- U. The word "lot" includes "plot".
- V. The word "building" includes "structure" except as specified.
- W. The words "Enforcement Officer" mean that person or persons specifically designated by the City Manager to enforce the provisions of this Chapter.
- X. The words "Zoning Administrator" shall mean the City Zoning Administrator.

XI-10-2.03 Definitions

A

"Abate" shall mean to repair, replace, remove, destroy or otherwise remedy the condition in violation of this Chapter.

"Accessory Building or Use" means a subordinate building or use, whose purpose is clearly incidental to that of the main building or the use of the land, and which shall not contain living or sleeping quarters or storage for commercial vehicles in excess of three-quarter ($\frac{3}{4}$) ton size. Accessory dwelling units, as defined in subsection XI-10-13.08 "Accessory Dwelling Units," are exempted from the prohibition against living and sleeping quarters. An accessory building shall be considered attached to the main building if:

1. It shares a common wall with the main building; or

2. It shares an integral roof structure having the same framing system and roof covering as the main building and is separated from the main structure by no more than ten (10) feet at any given point.

"Accessory Structure" means a structure subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the use of the principal building. An accessory structure is that which an accessory building is not, by definition. Examples include, but are not limited to fences, trellises, covered patios, and porte cocheres.

"Active Use" means a use that attracts walk-in visitors and has a high degree of transparency from the street. Active uses include but are not limited to retail, restaurants, bars, markets, theaters, salons, yoga studios, art studios/galleries, banks, offices, and clinics. Active uses also include ground floor residential shared amenities, such as a lobby, gym, or conference room.

"Adjacent" means having a common border with, or being separated from such a common border by a right-of-way, alley or easement. Properties separated by a street, alley, intersection, or other public right-of-way (other than an elevated interstate freeway), shall be considered abutting when their property lines would touch in any way if drawn to the center line of such street, alleyway, intersection, or other public right-of-way.

"Advanced Manufacturing" means the use of innovative technologies to create existing and new products or to improve products and processes. Advanced manufacturing focuses on the rapid transfer of science and technology into production activities and may incorporate high technology elements such as information, automation, computation, software, sensing, and networking. Advanced manufacturing may include storage space for raw materials and/or finished goods that actively supports the primary use.

"Airport" means any area of land or water designed, used, or intended to be used or set aside for the landing and taking off of aircraft. The term "Airport" includes all necessary taxi-ways, aircraft storage and tie-down area, hangars and other necessary buildings and open spaces.

"Alley" means any public thoroughfare which affords only a secondary means of access to abutting property.

"Alteration, Structural" means any change which would tend to prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

"Amateur Radio Facility" means a wireless communication facility operated by an FCC licensed amateur radio operator within the Amateur Radio Service (USC Title 47, Part 97).

"Amateur Radio Operator" means a person holding written authorization to be the control operator of an Amateur Radio facility. This authorization may be in the form of a license or permit issued by the Federal Communications Commission or a foreign national or multi-national license or permit recognized by treaty as valid in the United States.

"Antenna" means any system of towers, poles, panels, rods, wires, drums, reflecting discs or similar devices used for the transmission or reception of electromagnetic waves. See also "Satellite dish or satellite antenna."

Apartment House. See "Dwelling, Multiple-Family."

Apartment, Efficiency. Efficiency apartment means a dwelling unit in a multi-family building consisting of not more than one (1) habitable room, together with kitchen or kitchenette and sanitary facilities.

"Assembly" see "Places of Assembly."

"Assembly from pre-processed materials" means assembling, packaging, or distributing from previously prepared materials, such as cloth, plastic, paper, leather, precious or semi-precious metals or stones, electric or electronic instruments and devices such as television, radios, and pharmaceutical products. Assembly in the

context of industrial manufacturing is distinct from and unrelated to the definition of "Places of Assembly" involving groups of people.

"Auto" means any motor vehicle requiring a license pursuant to the California Vehicle Code.

"Auto Repair shop" means any shop, building, room, place or space wherein, for compensation, any automobile, other motor vehicle, or any parts thereof, are repaired, remodeled, overhauled, reconditioned, or painted.

"Automobile and Trailer Sales Area" means an open area, other than a street, used for the display, sale or rental of new or used automobiles or trailers, and where no repair work is done except minor incidental repair of automobiles or trailers to be displayed or sold on the premises.

"Automobile Wrecking" means the dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

B

"Bar or nightclub" means a commercial establishment serving alcoholic beverages for consumption on the premises where the service of food is only incidental to the consumption of such beverages. Dancing and live entertainment may also be conducted within the establishment.

"Basement" means a story, partly or wholly, underground. For purposes of height measurements, a basement shall be counted as a story where more than one-half ($\frac{1}{2}$) of its height is above the average level of the adjoining ground.

"Bay Window" means a window or set of windows jutting out from the wall of a building, rising from the ground and forming an alcove which may or may not add additional floor area or a sitting area within.

"Bedroom" means any room which meets the minimum requirements of both the Zoning Ordinance and the Building Code for a Habitable Room, which is constructed in such a manner that less than fifty (50) percent of one (1) wall is open to an adjacent room or hallway and which can be readily used for private sleeping purposes, shall be counted as a bedroom in order to determine parking or other requirements. For the purpose of calculating parking requirements, the following rooms which regularly make up a standard dwelling unit shall not be considered a "bedroom": one (1) kitchen, one (1) living room; one (1) family or recreation room; one (1) dining room; and the customary sanitary facilities. Planning staff shall determine whether or not a room qualifies as one of the above exceptions.

"Billiard Center" means a place for the public to view and participate in cuesports, such as, but not limited to, billiards, pocket billiards (e.g., pool), snooker, and the various forms of carom billiards.

"Billiards" means a "Recreation and Entertainment facility" for the public to view and participate in cue sports, such as but not limited to billiards, pocket billiards (e.g., pool), snooker, and the various forms of carom billiards.

"Block" means that property so designated on an official map of the City, or part of the City, or bounded by streets, or by a street or streets, and railroad right-of-way, canal right-of-way, or unsubdivided acreage.

"Boarding House" means an establishment where lodging is provided for compensation, generally for stays of more than 30 days, for up to 8 persons. Boarding houses typically have individual rooms for guests, shared bathroom facilities and a single common kitchen. Meals may be served for guests and included as part of the cost of lodging.

"Breezeway" means a covered passageway between buildings which does not exceed ten (10) feet in width and which has at least one side open, except for necessary supporting columns.

"Building" means a structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, or chattels. Where a dwelling is separated by a division wall without openings, each portion of such dwelling shall be deemed a separate building.

Building, Height of. "Height of building" means the vertical distance measured from the adjoining curb grade to the highest point of the roof surface, if a flat roof; and to the mean height level between eaves and ridge for a gable, hip or gambrel roof; provided, however, that where buildings are set back from the street line, then the height may be measured from the average elevation of the finished grade along the front of the building.

Building, Main. "Main building" means a building in which is conducted the principal use of the lot on which it is situated. The main building shall contain all area within the interior faces of the building, including enclosed areas that are attached. In any "M" district any dwelling shall be deemed to be the main building on the lot on which the same is situated.

Building, Unit Group. "Unit group building" means two (2) or more buildings (other than dwellings) grouped upon a lot and held under single ownership such as universities, hospitals, institutions and industrial plants.

Business, Retail. "Retail business" means retail sale of any article, substance, or commodity for profit or livelihood conducted within a building, but not including the sale of lumber or other building materials or the sale of used or second-hand goods or materials of any kind.

"Business Support Services" means establishments primarily within structures that provide other businesses with ancillary services that further or facilitate the other businesses' primary activity. This term does not include activities or uses that are specifically listed as a conditionally permitted or prohibited use in the applicable zone. Examples of business support services include but are not limited to:

1. Business equipment repair services (except vehicle repair);
2. Commercial art and design (production);
3. Computer-related services (rental, repair);
4. Copying and quick-printing services;
5. Equipment rental businesses within structures;
6. Heavy equipment repair services where repair occurs;
7. Janitorial services;
8. Mailbox rentals;
9. Mail advertising services (reproduction and shipping);
10. Other "heavy service" business services;
11. Outdoor advertising services;
12. Protective services (other than office related);
13. Rental, repairs and distribution of office or business equipment;
14. Window cleaning.

C

Camp, Trailer. "Trailer camp" means an area or tract of land used or designed to accommodate two (2) or more automobile or house trailers.

"Catering establishment" means an establishment in which the principal use is the preparation of food and meals on the premises, and where such food and meals are delivered to another location for serving and consumption.

"Candidate" means any person, party, referendum, initiative or other ballot measure.

"Cemetery" means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundary of such cemetery.

"Child Care Center" means any child care facility other than a family child care home, in which less than twenty-four (24) hour per day non-medical care and supervision are provided to children in a group setting. It includes infant centers, preschools, and extended child day care facilities, but does not include after school programs.

"Class A Office Space" means a high quality, modern building with large floor plates and amenities that typically attracts rents in the top twenty-five percent (25%) bracket.

"College and University, Private" means a privately owned and operated college, community college, or university giving general academic instruction equivalent to the standards prescribed by the State Board of Education.

"Commercial Athletic Facility" means a building or site equipped for physical training or athletic type games and sports, such as but not limited to, health spas, tennis, gymnasiums, handball courts, racquetball courts; also including ancillary uses when incidental to the primary use, such as but not limited to, steam baths, weight training, aerobic classes, massage, saunas, and the retailing of athletic supplies to be used in the facility.

"Commercial Fueling Facility" means a fueling facility designed for commercial customers which dispenses gasoline, diesel, or similar vehicle fuels, and which is not open to the general public, has no cash sales and provides no personal services on-site, provided that said facility is located not closer than five hundred (500) feet from any residentially zoned district or any area designated on the General Plan as being "residential" or any mobile home park.

"Commercial Laboratory" means a facility for scientific research in technology-intensive fields. Examples include biotechnology, pharmaceuticals, genetics, plastics, polymers, films and fibers.

"Commissary" means a fixed-location kitchen where food is stored and prepared for off-site vending from mobile food vehicles. Commissaries serving mobile food vendors may include shared-use commercial kitchens, private commercial kitchens, restaurant kitchens, and kitchens associated with civic and community organizations such as churches or social clubs; but do not include catering service establishments.

"Community Garden " means an area where neighbors and residents have the opportunity to contribute to and manage the cultivation of plants, herbs, vegetables, and fruits, generally on property under public or non-profit ownership. May consist of individually tended plots on a shared parcel or many be communal on a single plot.

"Condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential, industrial, or commercial building on such real property, such as an apartment, office, or store. A condominium may include in addition a separate interest in other portions of such real property. Such estate may, with respect to the duration of its enjoyment, be either of the following:

1. An estate of inheritance or perpetual estate.
2. An estate of life.
3. An estate for years, such as leasehold or sub-leasehold.

"Condominium Conversion" means a change in the type of ownership of a parcel or parcels of land, together with the existing attached structures, to that defined for a condominium project or a community apartment project regardless of the present or prior use of such land and structures and whether substantial improvements have been made or are to be made to such structures.

"Conference Center" means a facility used for holding conventions, seminars, workshops or similar activities, including dining facilities and lounges for use by participants, as well as compatible accessory facilities such as offices and business centers.

"Continuing Violation" means a violation, infringement or breach of a provision of this chapter that is uninterrupted and lasts for a continuous period in excess of 24 hours.

"Contractor's Shop" means an establishment for specialized business activities related to building construction. This classification includes establishments for trades such as painting, carpentry, plumbing, glassworking, heating, air-conditioning, roofing, landscaping, cabinetmaking, and sign-making.

"Convenience Store" means a retail establishment selling food, beverages, and small convenience items such as personal hygiene products, cigarettes, magazines, etc. Food and beverage products sold primarily consist of packaged and canned goods, prepared foods and hot drinks for immediate consumption, fountain sodas, etc., with less than 10 percent of net retail floor area allocated for the sale of fresh fruits, fresh vegetables, fresh meat and dairy products, and other similar perishable items. Convenience stores are smaller in floor area than supermarkets/grocery stores (typically 4,000 square feet or less) and have long or late hours of operation (open before 7:00 am or after 10:00 pm).

"Court Dwellings" means a residential development in which there are several freestanding single-family or two-family dwellings with separate walls clustered on a single lot. Units are typically arranged to face around a common open space or drive aisle. If subdivided, a maintenance agreement or homeowners association may govern common areas like driveways or open space.

"Court" means an open unoccupied space, other than a yard, on the same lot with a building or buildings, and bounded on two (2) or more sides by a building, or buildings, including the open space in a dwelling group providing access to the units thereof.

"Court Apartment" means one (1), two (2) or three (3) multiple dwellings arranged around two (2) or three (3) sides of a court which opens onto a street, or a place approved by the Commission.

"Curb Grade" means the elevation of the established curb in front of the building measured at the center of such front. Where no curb grade has been established, the City Engineer shall establish such curb grade or its equivalent for the purpose of this Chapter.

"Custom and Artisan Manufacturing" means an establishment primarily engaged in on-site production of goods by hand manufacturing or artistic endeavor, which involves only the use of hand tools or small mechanical equipment and the incidental direct sale to consumers of only those goods produced on site. Typical uses include metalworking, pottery and ceramic studios, film processing, photo finishing, printmaking, lithography, glass furnace, or woodworking.

D

"Data Center" means a facility for the storage of computer systems and associated components.

"District" means a portion of the City within which certain uses of land and buildings are permitted or prohibited and within which certain yards and other open spaces are required and certain height limits are established for buildings, all as set forth and specified in this Chapter.

"Drive Through Uses" means any component or part of a building or structure which attracts or invites persons in motor vehicles to drive their vehicles upon the premises, and which is used to conduct business or used for the purpose of selling merchandise from the inside of said building to the occupants of motor vehicles.

"Dry-Cleaning Plant" means an establishment providing onsite, high-volume laundry and garment cleaning services, typically with the use of volatile solvents, including dry cleaning and garment pressing, diaper services, commercial laundries, and linen supply services. These facilities may include incidental onsite customer pick-up services.

"Dwelling" means a building or portion thereof designed exclusively for residential occupancy, including single-family, two-family and multiple-family dwellings, but not including hotels.

Dwelling, Group. "Group dwelling" means one (1) or more dwellings, other than a tourist court, arranged around two (2) or three (3) sides of a court, which opens onto a street, or a place approved by the commission, including single-family, two-family or multiple-family dwellings and court apartments. Group dwelling include homeless shelters and transitional housing.

Dwelling, Multiple-Family. "Multiple-family dwelling" means a building or portion thereof, designed for occupancy by three (3) or more families living independently of each other.

Dwelling, Single-Family. "Single-family dwelling" means a detached building designed exclusively for occupancy by one (1) family for living purposes and having only one (1) kitchen.

Dwelling, Two-Family. "Two-family dwelling" means a building designed exclusively for occupancy by two (2) families living independently of each other.

"Dwelling Unit" means a habitable room or group of habitable rooms (e.g., living room, bedroom, den, library, recreation, studio, etc.) designed for occupancy by one (1) or more persons living as a family or single household unit with common interior access to all living, kitchen and bathroom areas. No dwelling unit may have more than one (1) kitchen.

E

"EcoPass" means a program offered by the Valley Transportation Agency (VTA) in which employers or property owners purchase annual EcoPass stickers that allow their employees, tenants or residents to ride all VTA bus and light rail vehicles at no cost.

"Electronic Smoking Device" means an electronic and/or battery-operated device, the use of which may resemble smoking that can be used to deliver an inhaled dose of nicotine or other substances. "Electronic Smoking Device" includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, vaporizer or any other product name or descriptor.

"Elevation" means:

1. A scale drawing of the front, rear or side of a building or structure; or
2. A vertical distance above or below a fixed reference level.

Emergency Cache, Community. "Community emergency cache" means a collection of disaster response supplies approved by the City's Office of Emergency Services that would benefit the surrounding community.

"Emergency Shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay as set forth in the California Health and Safety Code Section 50801(e), as may be amended.

"Erosion" means the wear and removal of the material in the earth's crust from one site and the deposition at another.

"Extended Stay Hotel" means a commercial establishment providing lodging for a fee for guests, generally marketed to long-term visitors on a temporary basis, which contain furnishings and facilities for sleeping,

bathing, food preparation and cooking, Kitchen facilities within individual units may include, but are not limited to, counters, refrigerators, stoves, and ovens.

F

"Family" means an individual, or two (2) or more persons related by blood or marriage or legal adoption or joined through a judicial or administrative order of placement or guardianship, or unrelated persons who function together as a single household unit.

"Family Child Care Homes" means a home in which care, protection, and supervision of fourteen (14) or fewer children is regularly provided, in the caregiver's own home, for periods of less than twenty-four (24) hours per day, while the parents or guardians are away. Such homes are licensed by the State of California and include the following:

1. **"Large family child care home"** means a home in which family child care is provided to nine (9) to fourteen (14) children, including children under the age of ten (10) who reside at the home.
2. **"Small family child care home"** means a home in which family day care is provided to eight (8) or fewer children, including children under the age of ten (10) who reside at the home.

"Farmers' Market" means an event offering for sale produce, food items, and related goods and merchandise by certified growers authorized to sell, directly to consumers, products that are produced on land the producer controls or taken in consignment from other producers. Excludes flea markets.

"Floor Area Ratio (FAR)" is defined for nonresidential Zoning Districts as the maximum permitted ratio of gross floor area to site area and is calculated as follows:

$$\text{FAR} = \frac{\text{Total of Gross Floor Area for All Structures on Site}}{\text{Site Area}}$$

"Frontage" means all the property fronting on one side of a street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of dead-end street, or city boundary, measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street which it intercepts.

G

Garage, Private. "Private garage" means a detached accessory building or portion of a main building for the parking or temporary storage of automobiles of the occupants of the premises.

Garage, Public. "Public garage" means a building, other than a private garage, used for the care, repair, or equipment of automobiles, or where such vehicles are parked or stored for remuneration, hire or sale.

Game Machine, Mechanical or Electronic. "Mechanical or electronic game machine" means any machine, apparatus, contrivance, appliance, or device which may be operated or played upon the placing or depositing therein of any coin, check, slug, ball, token, or any other article or device, or by paying therefore either in advance or after use, involving in its use either skill or chance, including, but not limited to tape machine, card machine, pinball machine, bowling game machine, shuffleboard machine, marble game machine, horse racing machine, basketball game machine, baseball game machine, football game machine, electronic video game or any other similar machine or device, exclusive of food, beverage and tobacco vending machine.

Grade, Finished. "Finished grade" means the final elevation of the ground surface after development, as shown on a precise Grading Plan.

"Grocery Store" means any premises wherein any of the following are exposed, offered for sale, or sold by retail: fresh fruits; fresh vegetables; bakery; meat; poultry, or fish products; frozen foods; and processed and pre-packaged food.

"Grocery Store, Small" means any premises less than 15,000 gross square feet in area wherein any of the following are exposed, offered for sale, or sold by retail: fresh fruits; fresh vegetables; bakery; meat; poultry, or fish products; frozen foods; and processed and pre-packaged food.

"Gross Acreage" means the total area within the boundaries of a legal lot or parcel, including any area proposed to be dedicated or reserved for public right-of-way. Adjacent lands already dedicated for public right-of-way, including public roadways, easements or other areas, shall not be included as part of the gross acreage.

"Gross Floor Area" means the total of all floors measured from the interior faces of the building, but not including areas for parking, basements, shaft enclosures, or unroofed inner courts unless any outdoor areas are used for retail purposes.

"Group Living Accommodations" means a building or portion of a building designed for or accommodating a residential use by persons not living together as a household. This use includes dormitories, convents and monasteries, and other types of organizational housing. This use does not include residential care facilities, nursing homes, hotels, single room occupancy residences, or boarding houses. Group living accommodations typically provide shared living quarters without separate kitchen or bathroom facilities for each room or unit.

"Guest House Accessory Building" means a one accessory structure, used for the accommodation of guests. Said guest house shall not contain any kitchen or cooking facilities but may contain one (1) bedroom, one (1) living area and one (1) bathroom, and shall be limited in floor area to a maximum of twenty (20%) percent of the total floor area of the main residence.

H

"Habitable Space" means a room designed for living, sleeping, eating or food preparation, including but not limited to a den, study, library, home office, sewing room or recreational room and excluding such areas as garages.

"Hazardous Material" means a material identified as hazardous by California Health and Safety Code Section 25502(n).

"Head/Smoke/Tobacco Shop" means a retail establishment primarily engaged in the selling of smoking and tobacco products and accessories, and other products, devices and components reasonably assumed to be used for smoking and/or the inhalation or ingestion of any substances. Tobacco products may include but are not limited to cigarettes, cigars, loose leaf tobacco, tobacco pipes, Electronic Smoking Devices and accessories, vaporizers and accessories and any other product, device or component used in the inhalation of tobacco, nicotine or other substance. For the purposes of this definition only, "primarily engaged" means when thirty percent (30%) or more of products sold at the retail establishment are smoking and tobacco products and accessories, and other products, devices and components reasonably assumed to be used for smoking and/or the inhalation or ingestion of any substance.

"Home Occupation" means a business enterprise conducted within a dwelling by the residents of the dwelling and which is incidental and secondary to the use the dwelling for residential purposes.

"Hospital" means an institution that maintains and operates facilities for primarily inpatient medical care, including x-ray, laboratory and surgical, for the diagnosis, care and treatment of human illness, injury and disease (physical or mental).

"Hotel" means a commercial establishment providing lodging accommodations for a fee for transient guests, generally for stays of 30 days or less, with access to rooms or units primarily from interior lobbies, courts

or halls. A hotel may include limited facilities for storage and preparation of food and beverages within individual rooms, such as coffee makers, mini refrigerators and microwave ovens.

I

"Individual Violation" means a noncontinuous condition or occurrence in violation, infringement or breach of a provision of this chapter that does not exceed twenty-four (24) hours in duration. An Individual Violation may be recurrent. Examples of "Individual Violations" for the purposes of this Chapter include, but are not limited to, the illegal outdoor storage of materials, entertainment events, or outdoor seating in violation of a use permit.

"Instruction, group and private" means the provision of instructional services, including but not limited to photography, fine arts, crafts, dance or music studios, driving schools, diet centers, yoga, martial arts studios, after school programs or similar uses. This definition does not include instruction received through trade or vocational schools nor a post-secondary school or child care centers. Private instruction includes fewer than six (6) students or clients at any one time and group instruction includes six (6) or more students or clients at any one time.

"Intensity" means the degree to which land is used, measured by a combination of the type of land used and the amount of land or floor area devoted to that use.

"Intensification of Use" means to alter the character of a use to the extent that the use generates new or different impacts on the health, safety, or welfare of the surrounding neighborhood, including but not limited to the level or amount of traffic, noise, light, smoke, odor, vibration, outdoor storage, or other similar conditions associated with the use.

J

"Junk Yard" means the use of more than one hundred (100) square feet of the area of any lot for the storage of junk, including scrap materials and metals, or wrecked vehicles and machinery, whether or not sale of such junk is made or proposed.

K

"Kennel" means any lot or premises on which four (4) or more dogs, more than four (4) months of age, are kept.

"Kitchen (for residential uses)" means a residential kitchen shall be enclosed and interior to the dwelling unit utilized for the preparation of food and include two (2) or more of each of the following:

1. A sink (typically larger than 14" × 17");
2. A full size refrigerator (typically larger than 24" × 64");
3. A 220-V electrical service outlet (typically used for major cooking appliances such as a stove, oven or cooking range).

L

"Laundromat" means a primarily self-service facility where customers wash and dry clothing and other textiles in on-site machines, and where ancillary full-service laundry services may also be offered.

"Live-Work Unit" means a dwelling unit with a separate living space attached to a work space within the same unit. The work space and the living space must be occupied by the same tenant. Live-work uses allow one non-residential employee, more customers, and a broader range of uses than permitted in Home Occupations. See XI-10-13.12 within Special Uses for Live-Work Unit purpose, intent, and regulations.

Uses permitted or conditionally permitted within the underlining zoning district apply unless otherwise prohibited in Section 10-13.12(E). Additional uses covered by this designation include, but are not limited to:

Art and craft work;
Offices, Business and Professional;
Artists and artisans;
Fashion.

"Loading Area" means an open area, other than a street or alley, used for the loading or unloading of vehicles.

"Loading Space" means an off-street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials, and which abuts upon a street or other appropriate means of access.

"Lot" means land occupied or to be occupied by a building, or unit group of buildings, and accessory buildings, together with such yards and lot area as are required by this Chapter and having its principal frontage upon a street or a place approved by the Commission.

1. **"Corner lot"** means a lot, or portion thereof, not greater than seventy-five (75) feet in width and situated at the intersection of two (2) or more streets.
2. **"Flag lot"** means a lot having access or an easement to a public or private street by a narrow, private right-of-way.
3. **"Interior lot"** means a lot other than a corner lot.
4. **"Key lot"** means a lot with a side line that abuts the rear line of any one (1) or more adjoining lots.
5. **"Reversed corner lot"** means a corner lot the street line of which is substantially a continuation of the front line of the lot to its rear.
6. **"Through lot"** means a lot having frontage on two (2) paralleled or approximately paralleled streets.

"Lot Dimensions."

1. **"Lot Area"** means the total horizontal area within the lot lines of a lot.
2. **"Lot Depth"** means the horizontal distance between the front and rear lot lines, measured along the median between the two (2) side lot lines.
3. **"Lot Lines"** means the lines bounding a lot as defined herein.
 - a. In the case of an irregular shaped lot or a lot with more than four (4) sides where there is question as to which are the front, side, and rear property lines in order to determine setbacks and required yards, there shall be at a minimum of one (1) front property line and one (1) rear property line. The rear property line shall be the lot line directly parallel to the front property line and of a width of at least thirty (30) feet in length. If no such lot line exists, the Director of Planning shall make the final determination as to the rear property line of such lot.
4. **"Lot Width"** means the horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

M

"Manufacturing" means the preparation, making, treatment, or processing of articles as merchandise.

"Massage Establishment" means any establishment having a fixed place of business where any person, firm, association, partnership, corporation or other entity engages in, conducts, or carries on, or permits to be engaged in, conducted or carried on, any massage for compensation. For the purpose of this Chapter, the term

"massage establishment" shall also include, but not be limited to, any business providing off-premises massage services.

"Massage Establishment, Accessory" means an establishment that provides massage which is incidental to the primary business, where the owner of the primary business is responsible for the massage services and conduct of the massage technician(s) employed at the location.

"Medical and Dental Offices" means a building or place where (a) member(s) of the medical profession, dentists, chiropractors, osteopaths, acupuncturists, and physicians or occupational therapists provide diagnosis and treatment to the general public without overnight accommodation and shall include such uses as reception areas, offices, consultation rooms, pharmacy and x-ray providing that all such uses have access only from the interior of the building or structure.

"Medical and Dental Clinics" means the same as Medical and Dental Offices, except they also include minor operating rooms and out-patient surgery with no overnight stay.

"Medical Support Laboratory" means a facility for scientific laboratory analysis of medical resources. The analysis is generally performed for an outside customer, to support the work of that customer.

"Micromobility Device" means a small, lightweight vehicle operating at a speed typically below 15 miles per hour and driven by the individual user, such as bicycles, e-bikes, and electric scooters.

"Mixed Use Development" means a development that consists of vertical or horizontal combination of residential and commercial uses within a single building or site.

"Mobile Fueling" means a commercial service that offers on-demand fueling of motor vehicles at a specified location instead of at a service station. Mobile fueling may be provided to individual customers via the use of a mobile app, with fuel delivered to a home, office, or other location requested by the customer. Mobile fueling may also be provided for operators of fleet vehicles at a fixed, semi-permanent or permanent location.

"Mobile Home" means a transportable structure designed to be used as a dwelling unit when connected to required utilities.

"Mobile Home Accessory Building or Structure" means any awning, portable, demountable or permanent cabana, ramada, storage cabinet, carport, fence, windbreak or porch established for the use of the occupant of the mobile home.

"Mobile Home Lot" means a portion of mobile home park designated or used for the occupancy of one mobile home.

"Mobile Home Park" means any areas or tract of land where mobile home lots are rented or leased or held out for rent or lease to accommodate mobile homes used for human habitation.

"Mobile Home Stand" means the area on which the mobile home is placed when it is stationed on the lot, including the land lying under the mobile home.

"Mobile Recycling Unit" means an automobile, truck, trailer or van, licensed by the Department of Motor Vehicles or bins, boxes or containers transported by a truck, van or trailer, and used for the collection of recyclable materials.

"Motel" means a building or group of attached or detached buildings providing lodging accommodations for a fee for transient guests, generally for stays of 30 days or less, with access to each room or unit through an exterior door. Motels are distinguished from hotels primarily in that the former provide direct independent access to, and adjoining parking for, guest rooms and do not provide 24-hour guest services.

N

"Natural Land Slope" means the average slope of the lot in percent, determined by observation on simple slopes, or more precisely by the formula:

$S = 100 I L A$

Where:

I is the contour interval in feet;

L is the combined length of the contour lines in scale feet; and

A is the net area of the lot in square feet.

"Nonconforming Building" means a building or structure or portion thereof lawfully existing at the time this Chapter became effective, which was designed, erected or structurally altered, for a use that does not conform to the use regulations of the district in which it is located. A nonconforming building shall also mean any building or structure built in compliance with all city land use and zoning laws in existence at the time and which does not comply with current development standards, including but not limited to height, setbacks, floor area ratio, maximum lot coverage, maximum size of residence, front yard paving and impervious surface coverage.

"Nonconforming Use" means a use which lawfully occupied a building or land at the time this Chapter became effective and which does not conform to the use regulations of the district in which it is located.

O

"Occupation" means a principal business, profession or vocation in which one is regularly and habitually engaged for the purpose of compensation for a livelihood.

"Offices, Business and Professional" means offices of firms or organizations providing professional, management, or administrative services, including but not limited to accounting, architectural, business and management consulting, computer and technology, engineering, insurance, interior design, graphic design, real estate, title companies, and legal services. This classification includes co-working spaces designed to accommodate different organizations that provide such services. Does not include medical and dental offices or financial institutions such as retail and commercial banks.

"Open-Air Business" means drive-in business where persons are served in automobiles.

"Outdoor Music" means live music, both acoustic and amplified, including live individual musicians, bands, and disc jockeys (DJs), but not including karaoke, that takes place on a patio or other outdoor space. Outdoor music as defined and regulated in this Chapter shall also include recorded background music played outdoors at a public establishment such as a restaurant, bar, retail store, or other business.

"Owner/Occupant" means any person owning property, as shown on the last equalized assessment roll for City taxes, or the lessee tenant, or other person having control or possession of the property.

P

"Parcel" shall mean a legal lot of record.

"Parcel Hub" means a "last mile" warehouse or similar establishment for the processing and/or redistribution of parcels or products to end-user customers. A Parcel hub's primary function is moving a shipment from one mode of transport to vehicles with rated capacities less than 10,000 pounds, for delivery directly to consumers or end-users primarily within a ten-mile radius.

Parking Area, Private. "Private parking area" means an open area, other than a street or alley, used for the parking of the automobiles of occupants of a building.

Parking Area, Public. "Public parking area" means an open area, other than a private parking area, street or alley, used for the parking of automobiles and available for public or quasi-public use.

Parking Space, Automobile. "Automobile parking space" means a space within a building or a private or public parking area for the parking of one (1) automobile.

"Parking Structure" means a structure or portion thereof composed of one or more levels or floors used exclusively for the parking or storage of motor vehicles. A parking structure may be totally below grade (as in an underground parking garage) or either partially or totally above grade with those levels being either open or enclosed.

"Patio Cover" means a one-story structure, not exceeding twelve (12) feet in height and open on one (1) or more sides (provided, however, that the open sides may be closed with insect or plastic screening that is permeable material and not in any manner that would obstruct the free passage of light or air) used for recreational, outdoor living purposes only and not as carports, storage rooms or habitable rooms.

"Person" means a natural person, his heirs, executors, administrators, or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

"Personal Services" means a commercial establishment which provides services of a personal or aesthetic nature directly to consumers, including but not limited to:

1. Beauty salons and barber shops;
2. Nail salons;
3. Tanning salons;
4. Hair removal salons;
5. Tattoo studios;
6. Body piercing studios.

"Place" means an open, unoccupied space, other than a street or alley, permanently reserved as the principal means of access to abutting property.

"Places of Assembly" means an institution or facility that offers or hosts activities for assembled groups of participants, including but not limited to private and nonprofit clubs; social or fraternal organizations; and churches, temples, synagogues, and other places of worship. This use is distinct from and unrelated to the industrial use "Assembly from pre-processed materials."

"Private Recreational Areas" means any usable open space or recreational facility available for use by all of the site's residents.

"Property" means all real property and fixtures, including, but not limited to, parking lots, sidewalks, gutters, driveways, walkways and any building and structure located on such property.

"Public Right-of-Way" as defined in Section V-500-1.13 of the Milpitas Municipal Code, shall mean the full width of the right-of-way of any street or bicycle pathway, as defined in the California Vehicle Code used by the general public, whether or not such street or path has been accepted as and declared to be part of the City system of streets and paths, including streets forming a part of the State Highway System. "Public right-of-way" also includes easements where the City is the grantee of the easement and property owned by the City of Milpitas or the Milpitas Redevelopment Agency and any public park, trail, or right-of-way within the City of Milpitas.

"Public Safety Use" means facilities for public safety or emergency services, including police and fire protection.

"Public Service Use" means facilities owned and operated by governmental agencies that provide services to the general public, including but not limited to federal, state and municipal administration buildings, courthouses, and post offices.

"Public Use" means a use intended to serve the whole city and/or region and operated by a public institution or entity. Such uses have the purpose primarily of serving the general public and include public schools, recreational facilities, government housing, government clinics, and the like.

"Public Utilities" means facilities for the production, storage, treatment, transmission and/or distribution of electricity, natural gas, water, wastewater, and telecommunications and other similar essential services. Also includes service facilities, electric transmission and distribution substations and public utility service centers.

Q

"Quasi-Public Use" means a use intended to serve the whole city and/or region and are operated by a private, nonprofit, educational, religious, recreational, or charitable, and having the purpose primarily of serving the general public. Such uses include religious facilities, private schools, community theaters, community and club organizations, private hospitals, places of assembly and the like.

R

"Recreation or Entertainment Facility" means a commercial establishment (indoors or outdoors) where patrons can actively participate in entertainment or recreation activities either independently or in conjunction with other uses.

"Recyclable Material" means reusable material including but not limited to metals, glass, plastic and paper, which are intended for reuse, remanufacture, or reconstitution for the purpose of using the altered form. Recyclable material does not include refuse or hazardous materials. Recyclable material may include used motor oil collected and transported in accordance with the California Health and Safety Code.

"Recyclable Processing Facility" means a building or space used for the collection and processing of recyclable materials. Processing means the preparation of material for shipment by such means as baling, briquetting, compacting, flattening, grinding, crushing, sorting, shredding, cleaning and remanufacturing.

"Repair and Cleaning, Small Items" means a commercial establishment that performs cleaning, repair, and alteration of small consumer and household items, such as laundromats (self-service laundries), dry cleaning pick-up stores (where cleaning is done off-site), tailors, shoe repair shops, jewelry and watch repair shops, and locksmiths. Excludes dry-cleaning plants, business equipment and computer repair, heavy equipment and machinery repair, repair and servicing of large and bulky household items such as appliances and furniture, or vehicle repair.

"Research and Development (R and D) Uses" means industrial or scientific research for the design, development, engineering and testing of high technology, clean technology, industrial, or scientific products. Research and development uses may include limited manufacturing as necessary for the production of prototypes, but exclude the full-scale manufacturing of final products. Research and development uses may also include storage space for raw materials and/or finished goods that actively supports the primary use.

"Residential Care Facility" means a facility licensed by the State of California to provide living accommodations, 24-hour care for persons requiring personal services, supervision, protection, or assistance for sustaining the activities of daily living for more than six individuals. Living accommodations are group homes or shared living quarters with or without separate kitchen or bathroom facilities for each room or unit. This classification includes facilities that are operated for profit as well as those operated by public or not-for-profit institutions.

"Restaurant" means an establishment in which the principal use is the preparation and sale of food and non-alcoholic beverages. If approved, the service of alcoholic beverages is incidental to the principal use.

1. **"Drive-in"** means a restaurant that delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off the premises.
2. **"Drive-thru"** means a restaurant which includes one (1) or more drive-through lanes for the ordering and receipt of foods and/or beverages by patrons remaining in their vehicles.

3. **"Fast-food"** means a restaurant that offers quick food service, which is accomplished through a limited menu of items already prepared and held for service, or prepared. Orders are generally not taken at the customer's table, and food is generally served for consumption either on or off the premises. For the purposes of parking requirements, the ordering or take-out area is defined as the counter and the area between the counter and the main entry to the establishment.
4. **"Take-out"** means a restaurant where foods and/or beverages are sold directly to the customer in a ready-to-consume state for consumption off site with no seats onsite. For the purposes of parking requirements, the ordering or take-out area is defined as the counter and the area between the counter and the main entry to the establishment.

"Retail, Limited" means an establishment which offers the sale of a limited line of merchandise that is generally necessary or desirable for everyday living or everyday business activities. Examples include small grocery stores offering primarily prepared or pre-packaged food and beverage items, small drugstores and variety stores, small stationery, office supply stores, shops selling other small household goods, and walk-out retail stores. This classification excludes convenience stores.

"Retail Stores, General Merchandise" means retail trade establishments selling lines of merchandise. This classification excludes convenience stores. Examples of general retail stores and lines of merchandise include but are not limited to:

1. Art supply;
2. Antiques;
3. Bakeries (retail only);
4. Bicycles;
5. Books;
6. Candy stores;
7. Clothing and accessories;
8. Collectables;
9. Fabrics and sewing supplies;
10. Floral;
11. Gifts (novelties and souvenirs);
12. Hobby materials;
13. Jewelry;
14. Luggage and leather goods;
15. Music stores;
16. Office supplies and stationery;
17. Sporting goods and equipment;
18. Toys and games;
19. Tuxedo and formalwear rental;
20. Variety stores;
21. Video rentals and sales.

"Reverse Vending Machine" means an automated mechanical device which accepts at least one or more types of empty beverage containers including, but not limited to aluminum cans, glass and plastic containers, and issues a cash refund or a redeemable credit slip. A reverse vending machine sorts, and processes containers mechanically provided that the entire process is enclosed within the machine. In order to accept and temporarily store all three container types in a proportion commensurate with their relative redemption rates, and to meet the requirements of certification as a recycling facility, multiple grouping of reverse vending machines may be necessary.

A bulk reverse vending machine is a reserve vending machine that is larger than fifty (50) square feet; is designed to accept more than one container at a time; and will pay by weight instead of by container.

S

"Satellite Dish Antenna or Satellite Antenna" means any device incorporating a reflective surface that is solid, open mesh or bar configured to form a shallow dish, cone, horn or cornucopia used to transmit and/or receive electromagnetic signals. This definition includes antennas that are sometimes called "SES," "TVRO," "TVBS," and "DBS."

"School: Elementary, Middle, or High" means an institution which offers instruction in the several branches of learning and study required to be taught in the public schools by the Education Code of the State of California.

"School, trade and vocational" means an establishment where training is received to learn a particular trade or craft that involves skilled labor. Trades and crafts include but are not limited to the various construction trades, auto mechanics, machining, HVAC installation/repair/maintenance and similar trades and crafts.

"Service Station" means any premises used for supplying gasoline and oil at retail, direct to the customer, including minor accessories and services for automobiles, but not including automobile repairs.

Setback. See "Yard."

"Self-Storage or Mini-Storage" means the storage, generally of furniture and/or other household items, in small individual units (typically 400 square feet or less) that are available for rental by the general public.

"Short-Term Rental Unit" or "Short-Term Rental" or "STR" means the use of a dwelling unit, including, without limitation, a single-family, two-family, or multiple-family dwelling unit, mobile home, or any portion of such dwellings, rented for occupancy for dwelling, lodging, or sleeping purposes for a period of 30 or fewer calendar days, counting portions of days as full calendar days.

Signs. For purposes of Section XI-10-24, Sign Regulations, of this Chapter, the following definitions shall apply:

1. **"Abandoned Signs"** means any sign used for advertising or other purposes where the business it advertised or the use or event it supported has ceased operation for or occurred more than ninety (90) days prior to the sign's posting.
2. **"Abate"** means to repair, replace, remove, destroy, or otherwise remedy the condition in violation of this Chapter.
3. **"A-Frame Sign"** means and includes a sign that is portable, is capable of standing without support or attachment, and folds open in the form of an "A" or "sandwich-board".
4. **"Ancillary services sign"** means a sign displaying ancillary services such as smog services, lotto, or that represent trade affiliations, such as credit card services, or other similar services and not for the purpose of displaying products being sold.
5. **"Approved Plastics"** means those materials specified in the U.B.C. Standard No. 52-1 which have a flame spread rating of 225 or less and a smoke density not greater than that obtained from the burning of untreated wood under similar conditions when tested in accordance with U.B.C.

Standard No. 42-1 in the way intended for use. The products of combustion shall be no more toxic than the burning of untreated wood under similar conditions.

6. **"Architectural Sign"** means and includes a sign used for advertising purposes which constitutes an integral part of a roof or marquee and is designed with an intent and purpose to relate to the architectural style of the main building.
7. **"Area Identification Sign"** means and includes a permanent sign which serves to identify an area.
8. **"Awning sign"** means any sign or graphic attached to, painted on or applied to an awning or canopy.
9. **"Balloon Sign"** means and includes any large [over three (3) cubic feet in size] inflatable hot/cold air or helium balloon that is used as an advertising device for any business or promotional event.
10. **"Banner Sign"** means and includes a temporary sign composed of lightweight, flexible, non-rigid material either enclosed or not enclosed in a rigid frame.
11. **"Blade Sign"** means a pedestrian oriented sign, adjacent to a pedestrian walkway or sidewalk, attached to a building wall, marquee, awning, or arcade with the exposed face of the sign in a plane that is perpendicular to the plane of the building wall.
12. **"Building Perimeter"** means the total exterior wall length for any and all buildings intended for human occupancy, as measured at the ground elevation. No second story or subsequent upper story areas shall be considered as a part of this calculation.
13. **Canopy Sign.** See awning sign.
14. **"City Identification Sign"** means and includes a sign placed at the point of entry to the City of Milpitas for the purpose of informing a person that they are entering the City of Milpitas.
15. **"Construction Sign"** means and includes a sign placed on the property where site work, building construction and/or a tenant improvement within an existing building is in progress. The sign may denote that a business will be opening soon, the opening date, names of the architect, engineer, contractor, future business and lending agency.
16. **"Directional Sign"** means a sign which guides and directs motorists to a specified destination in the most direct manner possible.
17. **"Display Surface"** means the area made available by the sign structure of building surface for the purpose of displaying the advertising message.
18. **"Electric Sign"** means any sign containing electrical wiring, but not including signs illuminated by an exterior light source.
19. **"Erect"** means to build, construct, attach, hang, place, suspend or affix.
20. **"Exposed raceway"** means an enclosure or conduit that is used to conceal wiring for a lighted sign and is visible from any elevation, typically located between the sign and the building to which the sign is attached.
21. **"Flag"** means a visual device with no commercial copy, usually rectangular in shape and made of a cloth material suspended by, or attached to, a pole or post and may be raised or lowered.
22. **"Flag sign"** means a visual display device with commercial copy, usually rectangular in shape and made of a cloth material suspended by, or attached to, a post, or pole and may be raised and lowered.
23. **"Freestanding Sign"** means a sign which is supported by one or more uprights, poles, or braces in or upon the ground, or partially supported and attached to any building, other structure, or foundation on the ground.

24. **"Garage Sale Sign"** means a sign used primarily for the purpose of advertising a "garage sale" and/or "yard sale" at a residence.
25. **"Grand Opening Sign"** means and includes banners, pennants, flags, balloons, and similar advertising devices when used only for bona fide grand-opening functions, new ownership, name change, or the reopening of a business that has completely closed for remodeling for at least two weeks.
26. **Graphic Panel, Freestanding.** Freestanding graphic panel means a freestanding sign located within five feet of the main building wall, which relates to the architecture of the building and depends primarily on a graphic image for delivering its advertising message. Graphic panels do not count as freestanding signs. The display area on graphic panels counts towards overall sign area.
27. **"Impact Resistive Plastic"** means any plastic material capable of resisting fifty (50) foot pounds of force as tested in accordance with ANSI/UL 972 Multiple Impact Test or any similar test procedure.
28. **"Information Sign"** means and includes signs providing courtesy information, or direction to the public without advertising the business products, or services such as hours, entrance, exit, self-serve, credit cards, restrooms, telephone drive-up, or which serves to direct motorist and pedestrians on private property.
29. **"Joint Use Sign"** means and includes a freestanding sign for a commercial district under multiple ownerships where freestanding signs for each parcel for which signage is desired is infeasible. The commercial district shall be characterized by close proximity of the businesses and small parcel size. A common parking field and common vehicular circulation are encouraged.
30. **"Logo"** means a trademark, or symbol of an organization which is registered with the federal or State government and consistently used in conducting the business activities of said organization.
31. **"Marquee"** means a permanent roofed structure, attached to, and support by the building and projecting beyond the main building.
32. **"Multi-use Structures"** means any commercial, industrial, quasi-public, or agricultural farm products sales use, containing five or more stores, or businesses on a single parcel of land.
33. **"Mural"** means a display, or illustration painted on a building, or wall within a public view not intended to advertise a product, service, or business, and therefore is not considered a sign.
34. **"Mural sign"** means a display, or illustration painted on a building, or wall intended to advertise a product, service, or business.
35. **"Noncombustible Material"** means any material which will not ignite at, or below a temperature of one thousand two hundred (1,200) degrees during an exposure of five (5) minutes, and which will not continue to burn or glow at that temperature. Tests shall be made as specified in U.B.C. Standard No. 4-1.
36. **"Nonstructural Trim"** means the molding, battens, capping, nailing strips, latticing, cutout, or letters and walkways which are attached to the sign structure.
37. **"Off-site Advertising Display"** means any sign that advertises, or informs about a business organization, event, goods, products, services, or uses not available on the property upon which the sign is located.

The term "Off-site Advertising Sign" does not include Joint Use Sign, Temporary Tract Advertising Signs for subdivisions under construction in the City, Open House Directional Signs, Garage Sale Signs, Off-site Public Information Signs, off-site directional signs for purposes of identifying regional shopping centers, and Temporary Tract Advertising Signs.

38. **"Off-site Directional Sign"** means any sign that provides direction to retail, community, and cultural events not available on the property upon which the sign is located.

The term "Off-site Directional Sign" does not include Garage Sale Signs, Joint Use Signs, Official City or City-sponsored signs, Off-site Directional Signs identifying regional shopping centers, Off-site Public Information Signs, Open House Directional Signs, and Temporary Tract Advertising Signs.

39. **"Off-site Public Information Sign"** means a sign that is placed proximate to a major city entry on privately owned property that is used to provide non-advertising information and/or identification symbols or plaques to the public for civic organizations, service clubs or other quasi-public uses and is erected within the public right-of-way.
40. **"Open House Directional Sign"** means a sign, no larger than six (6) square feet in sign area per side, used primarily for the purpose of directing traffic to a house being offered for sale or lease.
41. **"Other Advertising Structure"** means any device erected or used for the same purpose as a sign, whether erected, or used:
- a. Exclusively for advertising purposes, upon which any poster bill, printing, painting device, or other advertisement or identification of any kind whatsoever may be placed, posted, painted, fastened, or affixed.
 - b. Exclusively for advertising purposes and including any spectacle, display or advertising statuary.
42. **"Permanent Sign"** means every sign except temporary sign as defined herein.
43. **"Political Sign"** means a sign which is designated to influence the action of the voters, and election, or defeat of a candidate for the nomination, or election to any public office, or a measure appearing on the ballot at any national, state, district, or local election.
44. **"Portable"** means an object that is capable of being borne or carried, easily transported, or conveyed without difficulty.
45. **"Portable Sign"** means and includes a sign that is portable and capable of being borne, or carried, easily transported, or conveyed without difficulty, is capable of standing without support or attachment, is unattached to any structure, and is used for advertising purposes.
46. **"Projection"** means the distance by which a sign extends over public property or beyond the building line.
47. **"Projecting Sign"** means a sign other than a wall sign which projects from, and is supported by a wall of a building or structure.
48. **"Public Information Sign"** means a sign erected for the sole purpose of displaying advertising for community activities and/or identification symbols or plaques for civic organizations or service clubs.
49. **"Public Street Frontage"** means a publicly owned street immediately adjacent to the parcel, for purposes of sign area and height calculations. Public streets for which the parcel does not have access rights are not included for purposes of any sign calculations.
50. **Raceway.** See "exposed raceway."
51. **"Regional Shopping Center"** means any commercial development on one (1) or more parcels of land which are contiguous, or across from a right-of-way which contains a gross land area of at least thirty (30) acres or a gross building area of at least 200,000 square feet. Current regional shopping centers are McCarthy Ranch Marketplace, the Town Center shopping center, and the Great Mall and its out-parcels zoned General Commercial.

- 52. **"Roof Sign"** means a sign erected upon or above a roof or a part of a parapet of a building or structure.
- 53. **"Scoreboard Sign"** means a sign located on scoreboard structures located in an adult or youth outdoor playing field on public property and shall be for products or businesses available to persons of all ages.
- 54. **"Shopping Center"** means any commercial development containing five (5) or more stores or businesses on one (1) or more parcels of land operating as an integrated use and having a gross parcel area of five (5) or more acres.
- 55. **"Shopping Center Identification Sign"** means a sign located on the site of a shopping center or regional shopping center that states the name of the shopping center or regional shopping center.
- 56. **"Sign"** means every announcement, declaration, demonstration, display, illustration insignia, surface, or space when erected or maintained out of doors in view of the general public for identification, advertisement or promotion of the interests of any person.
- 57. **"Sign Area"** means the area of a sign to be calculated that includes all lettering, wording, and accompanying designs or symbols, together with any background of a different material or color than the remainder of the wall of the building to which is affixed or upon which it is painted. In the case of a freestanding sign, the supports or uprights on which any sign is supported should not be included in determining the sign area unless such supports or uprights are designed in a manner as to form an integral background of the sign.

Where the sign consists of individual letters or symbols, the area shall be considered to be that of the smallest rectangle, circle, square, or triangle which can be drawn to encompass all of the letters. Provided however, that where such individual type letters or symbols are separated more than thirty-six (36) inches from each other, those letters or symbols shall be calculated separately.

If the sign has more than one (1) advertising surface, the sum of all the areas of all such surfaces shall be the area of the advertising surface of such sign except that, if two (2) surfaces on the same face in opposite directions (i.e., the relative angles between the directions they face is one hundred eighty (180) degrees) and the distance between such two (2) surfaces is not more than twenty-four (24) inches, then the area of only one of the two surfaces (the largest if they are not equal) shall be included in the computation.

- 58. **"Sign Program"** means a specific set of design standards established for the purpose of unifying a variety of signs associated with a multitenant or multiuse project, building or complex of buildings.
- 59. **"Sign Surface"** means the surface of the sign upon, against or through which the message is displayed or illustrated.
- 60. **"Snipe sign"** means temporary or portable signs advertising events that are fastened to fences, trees, utility poles, or other structures or fixtures and also including signs on sticks stuck in the ground and usually found off-site. These do not include real estate, political or open house signs.
- 61. **"Statuary Sign"** means statuary used for advertising purposes or representing the logo of a business.
- 62. **"Temporary Sign"** means any sign, banner, flag, valance, pennant, streamer, whirligig or advertising display, constructed of cloth, canvas, fabric, cardboard, plywood or other light material with or without a frame, whether attached or portable, and designed or intended to be displayed for a short period of time.
- 63. **"Temporary Promotional Sign"** means any temporary Balloon Signs, banners, and similar advertising devices when used only for special promotional events.

64. **"Temporary Tract Advertising Sign"** means a uniformly designed sign which advertises a residential development.
65. **"Vehicle-Mounted Sign"** means a sign, used for the purpose of advertising, larger than three (3) feet by three (3) feet mounted on, attached to or capable of being borne or carried, easily transported or conveyed without difficulty by a vehicle, where that vehicle is parked on public or private property. This definition does not include signs on delivery vehicles in the act of making a delivery or signs on vehicles parked on residential driveways or public streets.
66. **"Wall Sign"** means any sign painted on, attached to or erected against the wall of a building or structure.
67. **"Window Sign"** means any sign painted, attached, glued or otherwise affixed to the interior or exterior surfaces of a window or suspended or located within three (3) feet of the window for the primary purpose of being visible from the exterior of the building.

"Single Household Unit" means the functional equivalent of a traditional family, whose members are a non-transient interactive group of persons jointly occupying a single dwelling unit, including the joint use of common areas which are not compartmentalized, such locked cabinets or doors. A single housekeeping unit shall be limited to one (1) kitchen and shall have permanent internal access to all rooms within the dwelling unit, except as provided for Accessory Dwelling Units.

"Single Room Occupancy (SRO) Residence" means a multi-tenant building consisting of single room dwelling units that are the primary residence of its occupants, containing either individual or shared kitchen and bathroom facilities. These units are small (generally less than 350 square feet), and provide a valuable source of affordable housing for individuals and can serve as an entry point into the housing market for formerly homeless people.

Slope. Same as "Natural Land Slope."

"Specific plan" means a detailed plan for the development of a specific area. Specific plans are a significant tool to implement the General Plan. A specific plan documents the proposed distribution, location, extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, parks and other essential facilities proposed to be located within or needed to support the land uses described in the plan, as well as implementation and financing methods and added benefits to the City as a whole.

Stable, Private. "Private stable" means a detached accessory building for the keeping of horses owned by the occupants of the premises and not kept for remuneration, hire or sale.

Stable, Public. "Public stable" means a stable other than a private stable.

"Story" means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between such floor and ceiling next above it.

Story, Half. "Half story" means a story under a gable, hip or gambrel roof, the wall plates on which on at least two (2) opposite exterior walls are not more than four (4) feet above the floor of such story.

"Street" means a permanently reserved thoroughfare which affords principal means of access to abutting property.

"Structure" means anything constructed or erected, which requires location on the ground or is attached to something having a location on the ground.

"Supportive Housing" means housing with no limit on length of stay, that is occupied by the target population as defined in Section 11302 of Title 42 of the United States Code, as may be amended, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community as defined in the California Health and Safety Code Section 50801(e), as may be amended.

T

"Thrift Store" means any profit or nonprofit business, organization, group or otherwise that engages in or specializes in the sale or resale of previously owned or used goods and merchandise from an area greater than 25 percent of the total floor area devoted to retail sales and whose goods and merchandise are donated or primarily donated. A specialty retail store that sells used goods or merchandise not donated for sale, including but not limited to used record stores, used book stores, used furniture stores, and sports trading card stores, shall not be considered a thrift store for the purpose of this Chapter.

"Townhouses" means dwelling units that are attached at their sides in groups of three or more and are sited on individual lots with vehicular access from driveways. Private rear yards or patios and common open space may be part of a townhouse development.

Trailer, Automobile. "Automobile trailer" means a vehicle without motive power designed to be drawn by a motor vehicle and to be used for human habitation or for carrying persons and property, including a trailer coach or house trailer.

"Transitional Housing" means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months as defined in the California Health and Safety Code Section 50801(e), as may be amended.

"Tri-laminate Asphalt Composition" means an asphalt composition roof material that is comprised of three layers of tile adhered together to create one shingle and when installed overlap with another row of three-layered tile for a total minimum thickness of $\frac{7}{8}$ inches.

"Tutoring Centers" means facilities offering academic instruction to individuals or groups in a classroom setting.

"Two-unit Project" means the development of two primary dwelling units or, if there is already a primary dwelling unit on the lot, the development of a second primary dwelling unit on a legally subdivided lot.

U

"Unreasonable Period of Time" means not less than thirty (30) calendar days following notification by the City to the owner/occupant pursuant to this Chapter that the property is in violation of this Chapter. The City Manager, upon a finding that the violation in question constitutes a threat to the health and safety of any person may designate a time period of thirty (30) calendar days or less upon notice to the owner/occupant to abate the nuisance. Prior notice shall not be required for summary abatement pursuant to this Chapter.

"Urban Lot Split" means the subdivision of an existing, legally subdivided lot into two lots.

"Usable Open Space" means any open space, the smallest dimension of which is at least six (6) feet and which is not used as storage or for movement of motor vehicles. Yards abutting a public street, which are not adequately screened for privacy, in the opinion of the Planning Commission, shall not qualify as usable open space.

"Use" means the purpose for which land or a building is arranged, designed or intended, or for which either land or building is or may be occupied or maintained.

V

"Video Sales and Rental Store" means any place of business which includes the sale or rental of prerecorded video tapes, laser discs, compact discs, or any other medium which projects pictures on a screen.

W

"Warehousing and Distribution" means a facility, primarily within an enclosed building, for the storage of commercial or industrial goods, products and materials and the associated on-site sorting, packing, staging,

shipping, receiving, and distributing of goods to wholesale and retail outlets, including ancillary truck parking and dispatching. Also includes long-term, passive storage of furniture, household goods, or other commercial goods; and of industrial equipment, products, and materials. Warehousing and distribution facilities may include, but are not limited to, wholesale distribution, distribution centers, moving and transfer storage, cross-dock facilities, package handling centers, order fulfillment centers, and logistics centers. Excludes storage of raw materials and/or finished products as part of an active primary use such as General Manufacturing, Advanced Manufacturing, or Research and Development. Excludes Parcel Hubs.

Wireless Communications Facilities Definitions. For the purposes of wireless communications facilities, the following definitions shall apply:

1. **"Commercial Wireless Communication Facility"** means a wireless communication facility operated by a for-profit business or for-profit purposes. See by contrast, "Noncommercial wireless communication facility."
2. **"Noncommercial Wireless Communication Facility"** means a wireless communication facility operated by a government agency, a nonprofit organization, a for-profit business for nonprofit purposes or a private citizen for personal use. It includes all amateur radio facilities. See by contrast, "Commercial wireless communication facility."
3. **"Stealth Wireless Communications Facility"** means any antenna designed to be architecturally integrated into a building that is architecturally consistent with the building design. Examples include a steeple, cupola or tower element on a building and do not include flag poles, monopoles or other structures designed to house antenna and resemble natural features.
4. **"Wireless Communication Facility"** means the equipment and associated structures needed to transmit and/or receive electromagnetic signals. A wireless communication facility typically includes antennas, supporting structures (including, but not limited to, monopoles, utility structures, buildings and accessory structures), enclosures and/or cabinets housing associated equipment, cable, access roads and other accessory development.

"Wholesale Sales" means the selling and/or distributing of merchandise to retailers; industrial, commercial, or institutional buyers; or other wholesalers; or acting as agents or brokers in the buying and selling of merchandise to or for such entities.

Y

"Yard" means an open space, other than a court, on a lot, unoccupied and unobstructed, except by eaves, from the ground upward, except as otherwise provided in this Chapter. Where applicable, yards shall be measured perpendicularly from the property line to the face of the nearest exterior wall of any main building, except as otherwise provided in this Chapter (See Subsection XI-10-55.04-11). Setback shall be synonymous with yard.

Yard, Front. "Front yard" means a yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot.

Yard, Rear. "Rear yard" means a yard extending across the full width of the lot between the most rear main building and the rear lot line; the depth of the required rear yard shall be measured horizontally from the nearest point of the rear lot line toward the nearest exterior wall of the main building.

Yard, Side. "Side yard" means a yard between the main building and the side lot line extending from the front yard, or front lot line where no front yard is required, to the rear yard; the width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest exterior wall of the main building.

Z

Zone. See "district."

SECTION 5. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10, SECTION 3

Title XI, Chapter 10, Section 3 (Zoning Districts) of the Milpitas Municipal Code is hereby amended to read as follows:

Section 3 - Zoning Districts

XI-10-3.01 Districts

In order to carry out the purpose and provisions of this Chapter, the City is hereby divided into districts known as:

Full Name	Short Name
"R1" Single-Family District	"R1" District
"R2" One and Two-Family District	"R2" District
"R3" Multiple-Family District	"R3" District
"R3-Metro" Metro Multi-Family High Density Residential District	"R3-Metro" District
"R4" Multiple Family Very High Density District	"R4" District
"R4-Metro" Metro Multi-Family Very High Density Residential District	"R4-Metro" District
"R5" Urban Residential District	"R5" District
"R5-Metro" Metro Urban Residential District	"R5-Metro" District
"AR" Agricultural Residence District	"AR" District
"CO" Administrative and Professional Office District	"CO" District
"C1" Neighborhood Commercial District	"C1" District
"C2" General Commercial District	"C2" District
"HS" Highway Service District	"HS" District
"TC" Town Center District	"TC" District
"MXD" Mixed Use District	"MXD" District
"MXD2" High Density Mixed Use District	"MXD2" District
"MXD2-Metro" Metro High Density Mixed Use District	"MXD2-Metro" District
"MXD3" Very High Density Mixed Use District	"MXD3" District
"MXD3-Metro" Metro Very High Density Mixed Use District	"MXD3-Metro" District
"M1" Light Industrial District	"M1" District
"M2" Heavy Industrial District	"M2" District
"MP" Industrial Park District	"MP" District
"BPRD" Business Park Research and Development District	"BPRD" District
"BPRD-Metro" Metro Business Park Research and Development District	"BPRD-Metro" District
"BPRD-R-Metro" Metro Business Park Research and Development, Limited Residential District	"BPRD-R-Metro" District
"A" Agricultural District	"A" District
"I" Institutional District	"I" District
"POS" Park and Open Space District	"POS" District

"PD" Planned Development District	"PD" District
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XI-10-3.02 Combining Regulations

In addition to the foregoing district certain combining regulations are established as set forth in this Chapter, said combining regulations being as follows:

Full Name	Short Name
"HR" High Rise Overlay District	"HR" District
"H" Hillside Combining District	"H" District
"MHP" Mobile Home Park Overlay District	"MHP" District
"OO" Gateway Office Overlay District	"OO" District
"RE" Recreation & Entertainment Overlay District	"RE" District
"S" Site and Architectural Overlay District	"S" District
"TOD" Transit Oriented Development Overlay District	"TOD" District
"FC" Freeway Corridor Overlay District	"FC" District

XI-10-3.03 Zoning Map

The districts aforesaid and the boundaries of such districts are shown upon the map attached hereto and made a part of this Chapter, being designated as the "Zoning Map of the City of Milpitas," together with "Sectional District Map of the City of Milpitas" supplementary thereto, consisting of an "Index Map" to sectional district maps numbered consecutively, and said map and all notations, references and other information shown thereon shall be as much a part of this Chapter as if the matters and information set forth by said map were all fully described herein.

XI-10-3.04 Letter Designation Includes All Aspects of the Zone

Whenever the terms "R" District, "C" District or "M" District are used herein, they shall be deemed to refer to all districts containing the same letter in their names; for example, the term "C" District shall include the "C1" and "C2" District.

XI-10-3.05 Most Restrictive and Least Restrictive Zones

The "R1" District is the most restrictive and the "M2" District is the least restricted.

XI-10-3.06 Reference to General Provisions and Exceptions

For "General Provisions" and "Exceptions" pertaining to the following district regulations, see Sections 54 and 55 inclusive.

SECTION 6. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10, SECTION 7

Title XI, Chapter 10, Section 7 (Industrial Zones and Standards) of the Milpitas Municipal Code is hereby amended to read as follows:

Section 7 - Industrial Zones and Standards

XI-10-7.01 Purpose and Intent

- A. Light Industrial (M1) Zone. The M1 Light Industrial District is reserved for the construction, use and occupancy of buildings and facilities for office, research, limited and light manufacturing, and other uses compatible with the district.
- B. Heavy Industrial (M2) Zone. The M2 Heavy Industrial District is reserved for the construction, use, and occupancy of buildings and facilities for office, research, general manufacturing, warehousing and distribution and other uses compatible with the district.
- C. Industrial Park (MP) Zone. The MP District is intended to accommodate, in a park-like setting, a limited group of research, professional, packaging and distribution facilities and uses which may have unusual requirements for space, light, and air, and the operation of which are clean and quiet and which meet the standards set herein.
- D. Business Park Research and Development (BPRD) Zone. The purpose of the BPRD District is to designate specific areas of the city as important employment centers, especially for jobs in the high-tech industry. The BPRD zone is intended to accommodate business parks, high-intensity office buildings, advanced manufacturing, and other light industrial uses, and to enable the integration and growth of research and development, office, warehouse, and light manufacturing uses on consolidated sites with supportive ancillary uses such as restaurants, health/fitness centers, limited retail, and child care facilities.

XI-10-7.02 Industrial Use Regulations

A. Permitted and Conditionally Permitted Uses.

- 1. Primary uses. The uses identified in Table XI-10-7.02-1, Industrial Zone Uses, shall be the primary uses allowed to occur on a property. All uses except for those noted shall be conducted within enclosed structures. The primary uses identified in Table XI-10-7.02-1 shall be permitted or conditionally permitted, as indicated:

P	Where the symbol "P" appears, the use shall be permitted.
MCS	Where the symbol "MCS" appears the use shall be permitted subject to the issuance of a Minor Conditional Use Permit by staff, in accordance with Subsection XI-10-57.04, Conditional Use Permits and Minor Conditional Use Permits, of this Chapter.
C	Where the symbol "C" appears, the use shall be permitted subject to the issuance of a Conditional Use Permit, in accordance with Subsection XI-10-57.04, Conditional Use Permits and Minor Conditional Use Permits, of this Chapter.
MC	Where the symbol "MC" appears, the use shall be permitted subject to the issuance of a Minor Conditional Use Permit by the Zoning Administrator, in accordance with Subsection XI-10-57.04, Conditional Use Permits and Minor Conditional Use Permits, of this Chapter.
O	Where the symbol "O" appears, the use is subject to an alternative review process described in a subsequent footnote.

2. In the BPRD zone, all uses and activities must take place within an enclosed building.
 3. Accessory Uses. The following accessory uses are allowed when incidental to the primary use:
 - a. In M1 and MP zones, incidental services, such as restaurants and recreation facilities for employee use only and when conducted in and entered from within the building or campus.
 - b. Cafeterias may be permitted when ancillary to a primary use and associated with business or industrial uses.
 - c. Banquet halls may be permitted with a Conditional Use Permit, in accordance with Section XI-10-57.04, when ancillary to convention centers, hotels or motels.
 - d. In the BPRD, business support services, convenience retail, commercial athletic facilities, child care centers, and restaurants with or without on-site service of alcohol.
- B. Prohibited Uses. The following uses are prohibited:
1. Uses where the symbol "NP" appears within Table XI-10-7.02-1.
 2. Uses that have been excluded from Table XI-10-7.02-1, unless they are found by the City to be similar to permitted or conditionally permitted uses in accordance with C below.
- C. Other Uses. Any other uses may be considered by the Planning Commission that are similar in accordance with the procedure prescribed in Subsection 10-54.02, Other Uses Permitted by Commission, of this Chapter.

**Table XI-10-7.02-1
Industrial Zone Uses**

Use	M1	M2	MP	BPRD
1. Commercial Uses				
Alcoholic beverage sales	NP	NP	NP	C ¹
Adult businesses ²	P	NP	NP	NP
Business support services	P	NP	P	MCS ¹
Convenience store	C	NP	C	NP
Furniture repair and reupholstery	P	NP	NP	NP
Grocery store	NP	NP	NP	NP
Personal services	C	NP	C	C
Printing (newspaper, blueprint, publishing)	P	NP	C	MC
Repair and cleaning, small items	P	NP	NP	NP
Retail, limited	C	NP	C	MCS ¹
Retail stores, general merchandise	C	NP	C	NP
2. Entertainment and Recreation Uses				
Billiards	C	NP	C	NP
Commercial athletic facilities	C	NP	C	MCS ^{1,3}
3. Health and Veterinarian Uses				
Hospitals	NP	NP	C	NP

Kennel	P	NP	NP	NP
Medical support laboratories	P	NP	P	MC
Medical and dental offices and clinics	P	NP	P	MC
Veterinarian hospital	P	NP	P	NP
4. Industrial Uses				
Use	M1	M2	MP	BPRD
Advanced manufacturing	P	P	P	P
Assembly from pre-processed materials ⁴	P	P	P	P
Auto assembly facility	NP	P	NP	MCS ⁵ /N P
Bottling facility	P	P	NP	NP
Building material sales (equipment rental) ⁶	NP	C	NP	NP
Commercial fueling facility	C	C	NP	NP
Commercial laboratory	P	P	P	P
Contractor's shop ⁶	NP	P	NP	C
Custom and artisan manufacturing	P	MCS	P	MCS
Data centers	P	NP	P	P
Dry-cleaning plant	P	P	NP	NP
Film processing, photo finishing and printing, etching, lithography, printmaking, and other similar creative industries	P	MCS	P	MCS
Freight and trucking yard ⁶	NP	P	NP	NP
Mini-storage or self storage	C	C	NP	NP
Parcel hub	P	MCS	P	C
Plumbing, metalworking, glassworking or woodworking	P	P	NP	C
Plant or facility (assembly of goods, manufacturing, packaging, processing, repairing, etc. or materials, merchandise or products)	P	P	P	MC
Pottery or tile manufacturing	P	P	NP	C
Recycling processing facility	C	C	NP	NP
Research and development	P	MCS	P	P
Soils and materials testing laboratories	P	P	P	P
Warehousing and distribution	P	P	P	P/C ⁷
Wholesale sales	P	P	P	P
5. Lodging Uses				
Hotels/motels	C	NP	C	NP
6. Professional Office Uses				
Offices, business and professional	P	NP	P	P
Financial institutions (banks, savings and loans, etc.)	C	NP	P	NP
7. Public, Quasi-Public and Assembly Uses				

Auditorium ⁸	NP	NP	C	NP
Child care center	NP	NP	C ¹	MCS ¹
Conference center ⁸	NP	NP	C	MCS
College and university, public or private ⁹	NP	NP	NP	C
Vocational school	C	NP	C	C
Farmer's market ¹⁰	NP	NP	C	MC
Use	M1	M2	MP	BPRD
Public utilities ¹¹	P	P	P	NP
Transportation facility (taxi, parcel service, armored car, etc.) ⁶	NP	P	NP	NP
Temporary Public Safety Uses ¹²	C	C	C	NP
Places of assembly ¹³	C	NP	C	NP
8. Residential Uses				
Caretaker's residence	C	C	NP	NP
9. Restaurants or Food Service Uses				
Catering establishment	P	NP	P	MC
Restaurants				
With on-site service of alcohol	C	NP	C	C ¹
Without on-site service of alcohol	C	NP	C	MCS ¹
With live entertainment/dancing	NP	NP	NP	NP
Drive-in or drive-thru	C	NP	C	NP
Mobile Food Vending (individual vehicle) ¹⁴	P	P	P	P
Mobile Food Park	NP	NP	NP	NP
Commissary	P	NP	P	MC
10. Vehicle Related Uses				
Auto junk yard ⁶	NP	C	NP	NP
Auto repair (tire, oil change, smog check, etc.) ¹⁵	C	P	C ¹⁶	NP
Mobile Fueling ¹⁷	P/C	P/C	P/C	P/C
Service stations (with or without repair or retail) ¹⁵	C	C	C	NP
With car wash	NP	C	C	NP
Vehicle sales and rental (auto, RV and truck-new and used in operable condition) ¹⁸	C	C	C ¹⁶	NP
Auto broker (wholesale, no vehicles on site) ¹³	MCS	MCS	MCS	NP

Notes:

¹ Limited to accessory uses that support primary employment-generating uses on the same site. Accessory commercial uses such as restaurants and convenience retail shall be located on the ground floor and in an area of the development where they can be directly accessed by the public.

² In accordance with the Title III, Chapter 4, Adult Business Ordinance and Subsection XI-10-13.04, Adult Businesses, of this Chapter.

³ Maximum 8,000 gross square feet in size.

- ⁴ Assembling, packaging, or distribution from previously prepared materials, such as cloth, plastic, paper, leather, precious or semi-precious metals or stones, electric or electronic instruments and devices such as television, radios, and pharmaceutical products.
- ⁵ Consistent with the intent and purpose of the BPRD Zone to support emerging industries within the high-tech sector, manufacturing and assembling of electric vehicles and other zero-emission vehicles, and/or component parts for such vehicles, may be permitted in this zone through approval of a Minor Conditional Use Permit in accordance with Subsection 57.04 of this Chapter. Manufacturing and assembling of conventional and hybrid vehicles with internal combustion engines, as a higher-intensity industrial use, is not permitted in the BPRD Zone.
- ⁶ When conducted wholly within a completely enclosed building or within an area enclosed on all sides with a solid wall or fence (e.g., chain link with slats) not less than eight feet in height.
- ⁷ Warehousing and distribution facilities up to 150,000 square feet are permitted in the BPRD Zone. Warehousing and distribution facilities that exceed 150,000 square feet may be allowed through the approval of a Conditional Use Permit, in accordance with Subsection 57.04 of this Chapter. In addition to the general required findings for a Conditional Use Permit, the following special finding must be made for approval to be granted for a warehousing and distribution facility greater than 150,000 square feet: That the proposed use will support the continued operations and/or growth of business in the high-tech sector, contributing to economic activity and employment opportunities in the Business Park Research and Development Zone.
- ⁸ Shall be ancillary to the primary use or associated with business or industrial uses.
- ⁹ State has authority over permitting process regarding public facilities.
- ¹⁰ Refer to Subsection XI-10-13.10, Farmers Markets, of this Chapter.
- ¹¹ Includes service facilities, electric transmission and distribution substations and public utility service centers.
- ¹² See Subsection XI-10-13.11(I), Temporary Public Safety Uses.
- ¹³ See Subsection XI-10-7.04(A)(1), Industrial Zone Special Development and Performance Standards.
- ¹⁴ Refer to Subsection XI-10-13.18, Mobile Food Vending, of this Chapter.
- ¹⁵ Entrances to the services bays shall not be open to the street, but shall be so designed to face the rear or interior side property line.
- ¹⁶ Within MP zones, rental and repair may be considered only when ancillary to new auto dealerships.
- ¹⁷ Mobile fueling is permitted when fueling service is ordered by an individual vehicle owner and the amount of fuel dispensed as part of any individual order does not exceed 50 gallons. Mobile fueling for fleet vehicles may be permitted subject to approval of a Conditional Use Permit. Refer also to the California Fire Code as amended by the City of Milpitas Municipal Code, Title V, Chapter 300.
- ¹⁸ Within MP zones, boat and camper sales are prohibited. Dealerships shall be on property at least three acres or greater in area.

XI-10.7.03 Industrial Zone General Development Standards

- A. The following minimum or maximum requirements shall be observed.

**Table XI-10-7.03-1
Industrial Zone Development Standards**

Standard	M1	M2	MP	BPRD
Lot Area, minimum	None	None	Individual sites shall be of such size to that all space requirements in this table are satisfied.	25,000 sq. ft.

Standard	M1	M2	MP	BPRD
Lot Width, minimum	None	None	100 ft.	100 ft.
Front Yard Setback, minimum	Along major street: 35 ft. from face of curb. Along non-major street: 25 ft. from face of curb.	Along major street: 35 ft. from face of curb. Along non-major street: 25 ft. from face of curb.	35 ft.	10 ft.
Side Yard Setback (interior), minimum	None	None	10 ft.	None; 20 ft where abutting an R zone
Street Side Yard Setback, minimum	Same as front yard setback	Same as front yard setback	Same as front yard setback	Same as front yard setback
Rear Yard Setback, minimum	None	None	20 ft.	None; 20 ft where abutting an R zone
Building Height, maximum	None. However, prior to construction of any structure that exceeds three (3) stories or thirty-five (35) feet in height, the Planning Commission must make the following finding: That any such excess height will not be detrimental to the light, air or privacy of any other structure or use currently existing or anticipated.			80 ft/5 stories
Parking Setback from street-facing property line, minimum	None	None	None	Surface parking: 25 ft Truck or bus parking: 40 ft
Parking	Refer to Section 53, Off Street Parking, of this Chapter.			
Floor Area Ratio	0.40 Maximum	0.40 Maximum	0.50 Maximum	Minimum 0.35 Maximum 2.5
Landscaping	Refer to Subsection 7.03(B)			

- B. Areas of Lot Required to be Landscaped. Landscaped areas shall mean any area planted with plant material (trees, shrubs, ground cover, etc.). Landscape areas shall be exclusive of parking and vehicular traffic area (direct driveways excepted) and this shall be shown on the site plan in detail for Planning Commission approval.

The following areas shall be landscaped:

1. Required front yard area.
2. Required street side yard area.

This may be adjusted, by the Planning Commission, if it is found that adequate landscaping adjacent to the building(s) is provided to compensate for a reduction.

- C. Fences, Hedges and Walls. All planting, fencing and walls for new development, including but not restricted to fences and walls along rear and interior side property lines shall be approved by the Planning Commission. Modifications regarding landscaping, fencing and walls at existing developed sites shall be subject to the provisions of Subsection 54.10, Fences and Walls, of this Chapter.
- D. Utilities. All wires, pipes, cables and utility connections shall be placed in underground or subsurface conduits. All above ground transformers and vaults for new development shall be adequately screened to the approval of the Planning Commission. Modifications regarding subsurface conduits or above ground transformers and vaults at existing developed sites shall be subject to the provisions of Subsection 54.16, Trash Enclosures, Equipment and their Screening, of this Chapter.
- E. Areas for Collecting and Loading Recyclable Materials. There shall be provided areas for collecting and loading recyclable materials in accordance with the requirements of Subsection 54.12, Areas for collecting and loading recyclable materials, of this Chapter.
- F. Legal Nonconforming projects. Existing developments lawful at the time of installation or improvements which have been approved and a building permit issued prior to June 17, 1982, and installed in conformance with said approval and permit are considered legal nonconforming projects.

XI-10-7.04 Industrial Zone Special Development and Performance Standards

- A. Performance Standards. For uses requiring approval of a Minor Conditional Use Permit by staff, in accordance with Section XI-10-57.04, Conditional Use Permits and Minor Conditional Use Permits, of this Chapter, the following performance standards shall be met.
 - 1. Auto Brokers. Auto Brokers may be permitted by right if the following standards are met:
 - a. Local Sales and Use Tax. In order to assist the City of Milpitas in its efforts to receive direct distribution of the local tax on materials associated with the project, the California Sales and Use Tax (the "Local Tax") shall be allocated to the project site, to the extent reasonably possible. Evidence of tax allocation or cause as to why such allocation cannot be made shall be submitted at the time of business license submittal.
- B. Special Development Standards in All Industrial Zones.
 - 1. Abutting any R District. Where any Industrial District abuts any R District, there shall be provided 100 feet between any building on an industrially zoned parcel and the nearest property line of any R District. Applicants are advised that mitigating improvements may be needed to eliminate any adverse impacts from the residences and that additional requirements may be imposed on the developer to remedy the situation.
 - 2. Outdoor Storage. Outdoor storage for such things as trash and materials shall be permitted only when said storage areas are suitably screened with a solid wall or tight board fence and are located at least 100 feet from any R District and not within any required front or street side yard. Said location and screening of outdoor storage areas shall be to the approval

of the Planning Commission. Modifications regarding outdoor storage at existing developed sites shall be subject to the provisions of Subsection 54.16, Trash Enclosures, Equipment and their Screening, of this Chapter.

3. Places of Assembly. Places of Assembly are prohibited in the Heavy Industrial (M2) Zone and Business Park Research and Development (BPRD) Zone. When any place of assembly use is established in an M1 or MP zone after the effective date of this Ordinance, such use shall be subject to the following requirements:
 - a. Applicant shall submit a review of potential hazardous site conditions and potential exposure of site users to these conditions. At a minimum, a Phase I Environmental Site Assessment (ESA) shall be performed for each proposed assembly use within the City's Light Industrial (M1), and Industrial Park (MP) zoning districts. Each individual project shall comply with the recommendations of the Phase I Environmental Site Assessment (which may include conducting Phase II sampling and implementing the recommendations of the Phase II ESA that may include cleanup of hazardous materials) and demonstrate that exposure of site users to hazardous materials conditions would be below established thresholds prior to approval of the Conditional Use Permit. In addition, an Accidental Release Assessment (ARA) shall be performed for each proposed assembly use within the City's Light Industrial (M1) and Industrial Park (MP) zoning districts to determine if unacceptable safety risks may result from the proposed change in use. The ARA shall review and evaluate any and all Risk Management Plans prepared for facilities in the vicinity under the California Accidental Release Prevention (CalARP) program. The environmental professional preparing the ARA shall determine, based on Alternative Release Scenarios, whether the proposed new assembly use would result in unacceptable safety risks due to proximity of uses handling or emitting acutely hazardous materials. If unacceptable risks are identified, the proposed use shall not be allowed.
 - b. Applicant shall submit a further noise study. The noise study shall demonstrate that ambient noise conditions within the vicinity of the proposed assembly use do not exceed the City's "normally acceptable" Noise Compatibility Standard of 70 dBA Ldn. In the event that existing conditions exceed the "normally acceptable" standard the proposed assembly use may be required to install noise insulating materials to achieve the interior noise standard. Also as a condition of approval, proposed assembly uses shall be required to sign a disclosure of acknowledgment that they agree to operate within an existing industrial area and may be subject to noise levels that exceed the City of Milpitas's Noise Compatibility Standards for noise-sensitive uses.
 - c. No assembly use shall install or otherwise use exterior public address systems or other noise generating equipment that exceeds the 70 dBA noise standard.
 - d. No new structure shall be construed within the M1 or MP zoning district for use as a place of assembly and no more than 50% of the square footage of any existing structure within the M1 or MP zoning district shall be converted to use as a place of assembly.
 - e. No exterior modifications to any existing structure within the M1 or MP zoning district shall be permitted if such modifications would materially alter the structure's appearance or future use as an industrial building.

C. Special Development Standards in the MP and BPRD zones.

1. Uses in the MP and BPRD zones shall:
 - a. Emit no obnoxious, toxic or corrosive fumes or gases.
 - b. Emit no odors perceptible at the property line.
 - c. Emit no smoke. This does not preclude the use of backup or emergency generators.
 - d. Discharge into the air no dust or other particular matter created by any industrial operations or emanating from any products stored prior or subsequent to processing.
 - e. Produce no heat or glare perceptible beyond the lot boundaries.
 - f. Utilize all lighting in a manner which produces no glare on public streets or on any other parcel.
 - g. Produce no physical vibrations perceptible at or beyond the lot boundaries.
 - h. Produce no electromagnetic radiation or radioactive emission injurious to human beings, animals or vegetation, except under controlled operations being conducted observing standards or methods or operation established by the Nuclear Regulatory Commission. Electromagnetic radiation or radioactive emissions shall not be of an intensity that interferes with the use of any other property.
 - i. Do not engage in the production or storage of any material designed for use as an explosive, or in the use of such material in production.
 - j. Indicate that all industrial uses shall use only gas, electricity, or preheated oil as a fuel; provided, however, that oil-burning equipment may be installed for stand-by emergency use only.

XI-10-7.05 Special Design Standards for the BPRD Zone

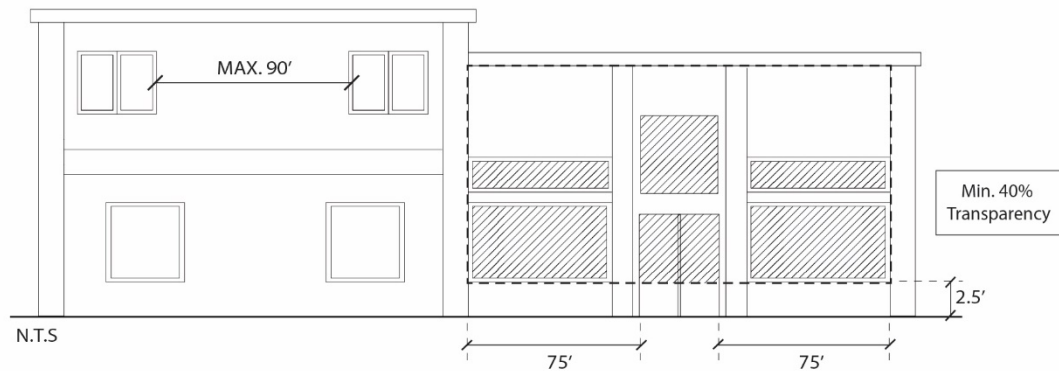
A. Building Entrances.

1. At least one building entrance must be provided along the primary street frontage.
2. The primary building entrance must incorporate a projection, recess, or combination of projection and recess at least 40 square feet in area and with a minimum depth of five feet.

B. Façade Design and Articulation.

1. Facades within 20 feet of a front or street side property line shall include windows, doors, other openings, or glazed areas for at least 40 percent of the building wall area located between 2.5 feet above the level of the sidewalk and the underside of the roof structure for portions of the façade within 75 feet of the street-facing main entry.
2. No street-facing façade may run in a continuous plane for more than 90 feet without an opening.

Figure 7.05-1: Façade Design and Transparency

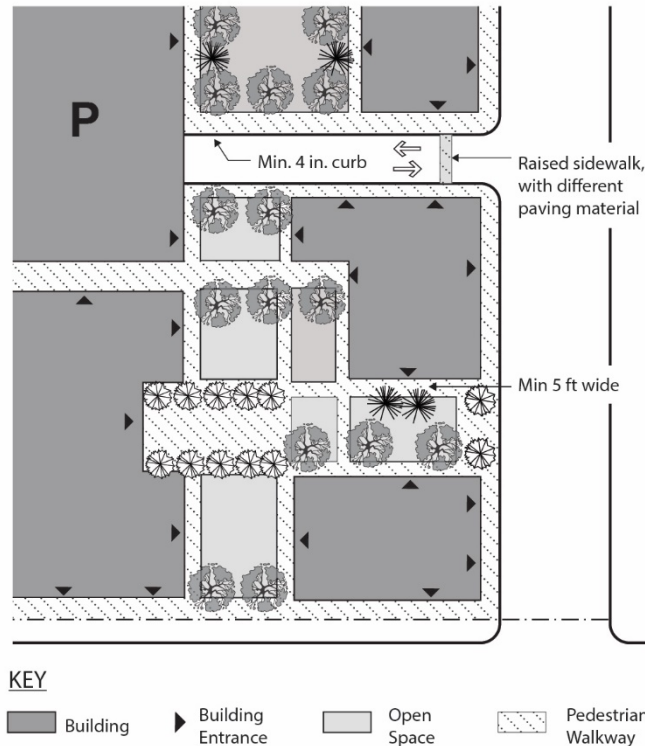


3. All building facades must incorporate window trim and/or window recesses, architectural features, changes in material, changes in texture, or similar design elements that add visual interest to the facade. This includes a varied palette of materials, textures, and colors that emphasize details and changes in plane.

C. Pedestrian and Bicycle Circulation.

1. A system of pedestrian walkways shall connect all primary building entrances on a site to each other, to on-site vehicle and bicycle parking areas, and to any on-site open space areas, pedestrian amenities, and transit stops. Walkways may be located within public utility easement areas provided they are publicly accessible.
2. Walkways between the primary building entrance and sidewalk shall be the shortest practical distance, generally no more than 125 percent of the straight-line distance.
3. Walkways shall be hard-surfaced and paved with materials that are visually distinct from vehicular access areas in terms of composition, texture, and/or color.
4. Where a required walkway crosses a driveway, parking area, or loading area, it must be clearly identifiable through a raised crosswalk, a different paving appearance, material, or similar method.
5. Where a required walkway is parallel and adjacent to a vehicle travel area, it must be raised or separated from the vehicle travel lane by a raised curb at least four inches high, bollards, or other physical barrier.

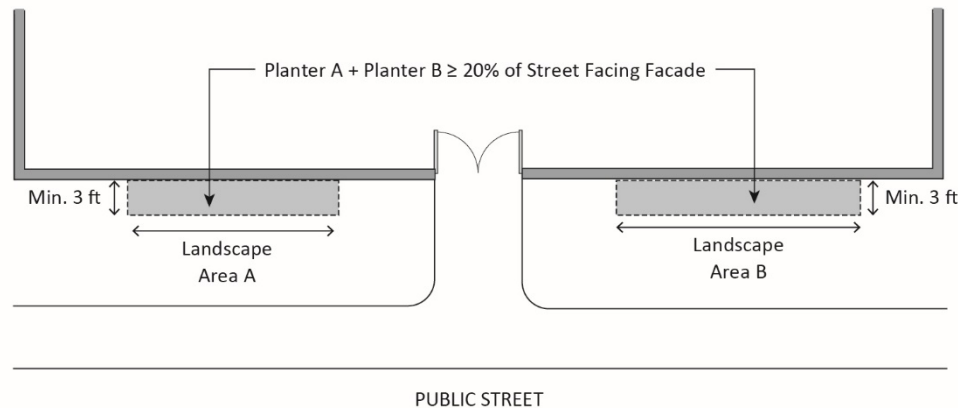
Figure 7.05-2: On-Site Circulation



- D. Site Design for Large Projects. Projects over 80,000 gross square feet must provide the following:
1. Landscaped areas and usable outdoor common open space [see Subsection XI-10-7.05(D)(2)] equal to a cumulative 10 percent of the site area that:
 - a. Provides gathering space or opportunities for active or passive recreation and benches or other seating.
 - b. Provides amenities that enhance the comfort, aesthetics, or usability of the space, including but not limited to trees and other landscaping, shade structures, drinking fountains, water features, or public art.
 - c. Is separated from on-site parking areas by a minimum of 6 feet.
 - d. May include on-site stormwater treatment areas and landscaped areas.
 2. A minimum of 400 square feet of outdoor eating facilities for the use of employees. Outdoor eating areas shall have a minimum dimension of 12 feet and shall include tables, seating and covering to provide protection from sun and weather conditions. Employee eating areas must be contiguous with required on-site public open space or provided in a separate area. This area may be included as part of the open space requirement.
 3. Stormwater detention facilities incorporated into the site landscaping. Refer also to Subsection VIII-5-3, Provisions for New and Rehabilitated Landscapes.
 4. A lighting, landscaping, and signage design concept for common areas. Refer also to Subsection XI-10-54.17 for general lighting standards and to Subsection XI-10-24 for general signs standards.

E. Landscaping.

1. The following areas shall be landscaped and may count toward the total area of site landscaping required by the zoning district standards.
 - a. Street-Facing Setbacks, as required in Section 10-7.03.B of this Chapter.
 - b. Interior Property Lines Abutting Residential Districts. A six-foot-wide landscape buffer yard planted with a mix of trees and shrubs shall be provided along interior property lines. At least one tree of at least 15-gallon size shall be planted per 20 linear feet or as appropriate based on canopy size at maturity to create a tree canopy over the buffer yard. In addition, at least three shrubs shall be planted per 20 lineal feet. At least 10 percent of the required trees shall be 24-inch box size.
 - c. Building Perimeters. The portions of a building that face a public street or parking areas shall have one or more landscape planters, each a minimum of four feet in depth,



installed along a minimum 20 percent of street-facing facades. This 20 percent may include landscape buffers located below windows and other transparent portions of the facade.

Figure 7.05-3: Landscape Planters

- d. **Parking Areas.** A minimum of 10 percent of any parking lot area shall be landscaped in the form of planted islands between rows of parking or between parking stalls. For the purpose of calculating required parking lot landscaping, parking lot areas are deemed to include parking and loading spaces as well as aisles, vehicle entry and exit areas, and any adjacent paved areas. Parking lot area does not include enclosed vehicle storage areas.
 - e. **Unused Areas.** All areas of a project site not intended for a specific use, including areas planned for future phases of a phased development, shall be landscaped or left in a natural state.
2. **Landscaping Materials.** In addition to the standards of Section VIII-5-3, Provisions for New and Rehabilitated Landscapes, the following landscape standards apply.
 - a. **General.** Landscaping must consist of a combination of groundcovers, shrubs, vines, and trees. Landscaping may also include incidental features including stepping stones, benches, fountains, sculptures, decorative stones, or other ornamental features, placed

within a landscaped setting. Landscaped areas may include paved or graveled surfaces, provided they do not cover more than 10 percent of the area required to be landscaped.

- b. Plant selection. Plants must be selected to control erosion and provide protection from wind and summer sun.
- c. Ground Cover Materials. Ground cover shall be of live plant material. Groundcover may include grasses. Non-plant materials including gravel, colored rock, cinder, bark, and similar materials shall not be used to meet the minimum planting area requirements required by this section, except with approval by the Zoning Administrator. Mulch must be confined to areas underneath shrubs and trees and is not a substitute for ground cover plants.
- d. Turf Allowance. The maximum amount of lawn in required landscape areas shall be 20 percent except for turf areas that comprise an essential component of a project (e.g., golf courses or playing fields), which are exempt from this limit. The installation of turf on slopes greater than 25 percent is prohibited.
- e. Size and Spacing. Plant materials shall be grouped in hydrozones in accordance with their respective water, cultural (soil, climate, sun and light) and maintenance needs. Plants shall be of adequate size and spacing at the time of installation to provide ample vegetation coverage. Minimum requirements include:
 - i. Ground Covers. Ground cover plants other than grasses must be at least the four-inch pot size. Areas planted in ground cover plants other than grass seed or sod must be planted at a rate of one per 24 inches on center or less.
 - ii. Shrubs. Shrubs shall be a minimum size of one gallon. When planted to serve as a hedge or screen, shrubs shall be planted with two to four feet of spacing, depending on the plant species.
 - iii. Trees. Tree canopies shall cover a minimum of 30 percent of the total required landscape area. Of the total number of trees provided on site, at least 20 percent shall be of the same species.
 - (a) A minimum of 15 percent of the trees planted shall be 24 inch-box or greater in size. All other trees shall be a minimum of 15 gallons in size with a one-inch diameter at breast height (dbh).
 - (b) Newly planted trees shall be supported with double stakes or guy wires and tree guards per International Society for Arboriculture and American National Standards Institute standards.
 - (c) Any trees planted along a sidewalk shall be 15 gallon trees no more than 30 feet apart on center.
 - (d) Any tree to be planted along a lot line or adjacent to a structure shall be no closer to said lot line or structure than one-half the diameter of the particular species' drip line at maturity, measured from the center of the tree. Any tree that cannot be planted in the ground shall be planted in a planter box at least twice the width and depth of the root ball plus one additional foot in container diameter for every four feet of mature tree height.

F. Parking and Loading.

1. Parking Location.

- a. Required parking spaces shall be located on the same lot as the use they serve.
- b. Parking areas shall be set back from adjacent buildings and streets as follows:
 - i. From Streets. Where parking is located between a building and street, a landscaped setback at least 10 feet wide must be provided between the parking area and adjacent right-of-way.
 - ii. From On-Site Buildings. Parking areas must be separated from the front and side exterior walls of on-site buildings by walkways at least five feet in width.
- c. On-site parking shall not be located within a required setback.

2. Parking Design.

- a. Access. Driveways shall not exceed 35 feet in width, except that driveways providing large truck access to truck bays shall not exceed 40 feet in width. All driveways must be located a minimum of 50 feet from the boundary of an abutting residential or open space zone.
- b. Screening. Parking and loading areas shall be screened from view from public streets and properties in abutting residential, mixed-use, or commercial zones, according to the following standards.
 - i. Height. Screening of parking lots from adjacent public streets shall be a minimum of three feet in height. Screening of parking lots along interior lot lines that abut residential or open space districts shall be a minimum of six feet in height.
 - ii. Design. Screening should generally be opaque, but may have some degree of transparency depending on method used (e.g., plant material), and must consist of one or any combination of the methods listed below:
 - (a) Walls. Low-profile walls consisting of brick, stone, stucco, or other quality durable material and including a decorative cap or top finish as well as edge detail at wall ends.
 - (b) Fences. An open fence of wood, wrought iron or similar high-quality, durable material combined with plant materials. This option does not include the use of chain-link or vinyl fencing.
 - (c) Planting. Plant materials consisting of compact evergreen plants. Such plant materials must achieve a minimum height of two feet within 18 months after initial installation.
 - (d) Berms. Berms planted with grass, ground cover, or other low-growing plant materials.
- 3. Loading Areas. Truck docks, loading areas, and service areas within 100 feet of a public street shall not be visible from the public street. The outermost point of the truck docks, loading, and service areas are not permitted within 50 feet of the boundary of a residential district.

G. Lighting.

1. Fixtures. All exterior lighting fixtures shall be oriented downward, fully shielded, and certified by the International Dark Sky Association to prevent light intrusion into adjacent building buildings and sensitive habitat such as riparian habitat, streams, and wetlands.
2. Controls. All exterior lighting must be capable of accepting controls that enable dimmers, timers motion sensors, or networking to avoid unnecessary lighting and energy use, especially in areas adjacent to sensitive habitat, such as riparian habitat, streams, and wetlands.
3. On-Site Lighting.
 - a. Ground-floor building façades and other areas, including parking lots, driveways, pedestrian and bicycle circulation areas, and recesses, shall be illuminated with lighting fixtures that meet the following minimum standards:
 - i. Open parking lots: One foot-candle at ground level.
 - ii. Pedestrian paths/bike paths: One foot-candle at ground level.
 - iii. Covered parking: Five foot-candles at ground level.
 - b. Electrical elements for exterior building lighting such as wires, conduits, and panel boxes shall be concealed from public view or painted to match the background surface color.
 - c. Parking lot lighting shall be designed and installed so that light and glare is not directed onto residential use areas, adjacent public rights-of-way, or sensitive habitat, such as riparian habitat, streams, and wetlands.
4. Prohibited Lighting. The following types of exterior lighting are prohibited:
 - a. Mercury vapor luminaires;
 - b. Searchlights;
 - c. Sky beams;
 - d. Upward-directed fixtures; and
 - e. Aerial lasers.

XI-10-7.06 Conformance with Specific Plans

Properties located within Specific Plans shall conform to the underlying Specific Plan in accordance with Section XI-10-11.06, Conformance with Specific Plans, of this Chapter.

**SECTION 7. ADOPTION OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10,
SECTION 9**

Title XI, Chapter 10, Section 9 (Metro Area Zones and Standards) of the Milpitas Municipal Code is hereby added as follows:

Section 9 - Metro Area Zones and Standards

XI-10-9.01 Purpose and Intent

- A. Metro Multi-Family High Density Residential ("R3-Metro") Zoning District. The purpose of the R3-Metro zoning district is to create and enhance high-density residential areas (densities in the range of 30 to 40 dwelling units per acre) characterized by a mix of multi-family unit types and small-scale neighborhood businesses where appropriate. The R3-Metro zone implements the Multi-Family High Density Residential (MFH) land use designation as described in the Metro Specific Plan.
- B. Metro Multi-Family Very High Density Residential ("R4-Metro") Zoning District. The purpose of the R4-Metro zoning district is to create and enhance very high-density residential areas (densities in the range of 40 to 85 dwelling units per acre) characterized by low- and mid-rise multi-family residential buildings and compatible commercial uses where appropriate. The "R4" District is intended to provide for higher-density residential "villages" structured around transit stations, streets, creek side open spaces, trails and parks. The R4-Metro zone implements the Multi-Family Very High Density Residential (VHD) land use designation as described in the Metro Specific Plan.
- C. Metro Urban Residential ("R5-Metro") Zoning District. The purpose of the R5-Metro zoning district is to create and enhance very high-density residential areas (densities in the range of 70-120 dwelling units per acre) characterized by high-rise residential buildings and compatible commercial uses structured around transit stations. The R5-Metro zone implements the Urban Residential (URR) land use designation as described in the Metro Specific Plan.
- D. Metro High Density Mixed Use ("MXD2-Metro") Zoning District. The purpose of the MXD2-Metro zoning district is to create and enhance areas with a mix of retail, restaurant, entertainment, and commercial service uses on the ground floor and residential or office uses on upper stories, while maintaining a pedestrian-oriented streetscape (mixed-use FARs in the range of 1.0 to 2.5 and residential densities in the range of 40 to 85 dwelling units per acre). It is intended that the required active ground floor uses will ensure neighborhood-oriented retail and services are provided within walking distance of high-density residential development. The MXD2-Metro zone implements the Residential Retail Mixed Use (RRMU) land use designation as described in the Metro Specific Plan.
- E. Metro Very High Density Mixed Use ("MXD3-Metro") Zoning District. The purpose of the MXD3-Metro zoning district is to create and enhance urban areas characterized by a mix of very-high density housing, retail and employment uses (mixed-use FARs in the range of 2.5 to 5.0 and residential densities in the range of 85 to 250 dwelling units per acre). The MXD3-Metro zone implements the Boulevard Very High Density Mixed Use (BVMU) land use designation as described in the Metro Specific Plan.
- F. Metro Business Park Research and Development, Limited Residential; (BPRD-R-Metro) Zone. The purpose of the BPRD-R-Metro zoning district is to designate specific areas of the city as important employment centers, especially for jobs in the high-tech industry, with limited, integrated residential development (mixed-use FARs in the range of 1.0 to 5.0). The BPRD-R-Metro zone is intended to accommodate business parks, high-intensity office buildings, advanced manufacturing, other light industrial uses, and limited residential uses. It also enables the integration and growth of research

and development, office, and light manufacturing uses on consolidated sites with supportive ancillary uses, typically on the ground floor, such as restaurants, health/fitness centers, limited retail, and child care facilities. The BPRD-R-Metro zone implements the Business Park Research and Development, Limited Residential (BPRD-H) land use designations as described in the Metro Specific Plan.

- G. Metro Business Park Research and Development (BPRD-Metro) Zone. The purpose of the BPRD-Metro zoning district is to designate specific areas of the city as important employment centers, especially for jobs in the high-tech industry (FARs in the range of 1.0 to 2.5, with additional FAR up to 4.0 for properties within 1,000 feet of the Milpitas Transit Center). The BPRD-Metro zone is intended to accommodate business parks, high-intensity office buildings, advanced manufacturing, and other light industrial uses, and to enable the integration and growth of research and development, office, and light manufacturing uses on consolidated sites with supportive ancillary uses, typically on the ground floor, such as restaurants, health/fitness centers, limited retail, and child care facilities. The BPRD-Metro zone implements the Business Park Research and Development (BPRD) land use designation as described in the Metro Specific Plan.

XI-10-9.02 Metro Area General Use Regulations

A. Permitted and Conditionally Permitted Uses.

1. Primary uses. The uses identified in Table XI-10-9.02-1, Metro Area Zone Uses, shall be the primary uses allowed to occur on a property. All uses except for those noted shall be conducted within enclosed structures. The primary uses identified in Table XI-10-9.02-1 shall be permitted or conditionally permitted, as indicated:

P	Where the symbol "P" appears, the use shall be permitted.
MCS	Where the symbol "MCS" appears, the use shall be permitted subject to the issuance of a Minor Conditional Use Permit by staff, in accordance with Subsection XI-10-57.04, Conditional Use Permits and Minor Conditional Use Permits, of this Chapter.
C	Where the symbol "C" appears, the use shall be permitted subject to the issuance of a Conditional Use Permit, in accordance with Subsection XI-10-57.04, Conditional Use Permits and Minor Conditional Use Permits, of this chapter.
MC	Where the symbol "MC" appears, the use shall be permitted subject to the issuance of a Minor Conditional Use Permit by the Zoning Administrator, in accordance with Subsection XI-10-57.04, Conditional Use Permits and Minor Conditional Use Permits, of this Chapter.
O	Where the symbol "O" appears, the use is subject to an alternative review process described in a subsequent footnote.

B. Prohibited Uses. The following uses are prohibited:

1. Uses where the symbol "NP" appears within Table XI-10-9.02-1.
2. The following uses are not permitted in any Metro zone:
 - a. Adult Businesses as defined in Subsection 13.04, Adult Businesses, of this Chapter.
 - b. Disinfecting and extermination business.
 - c. Outdoor storage of vehicles.

- d. Private self-storage facilities.
 - g. Drive through uses (restaurants, pharmacies, etc.).
- C. Mixed Use Development. Where a single parcel is proposed for development with two or more of the land uses listed in Table 9.02-1, Metro Area Zone Uses at the same time, the overall project will be subject to the permit with the highest level of review required by the Table for any individual use.
- D. Residential uses on Activity Streets and Neighborhood Streets. Residential units are not allowed on the ground floor facing any right-of-way designated as an Activity Street or Neighborhood Street by the Metro Specific Plan Figure 4-6, unless allowed by Subsection 9-05.B. Other residential spaces such as lobbies and common areas are permitted on the ground floor facing an Activity Street in accordance with Table XI-10-9.02-1.
- E. Other Uses. Any other uses may be considered by the Planning Commission that are similar in accordance with the procedure, prescribed in Subsection 10-54.02, Other Uses Permitted by Commission, of this Chapter.

**Table XI-10-9.02-1
Metro Area Zone Uses**

Uses	R3 Metro	R4 Metro	R5 Metro	MXD2 Metro	MXD3 Metro	BPRD-R Metro	BPRD- Metro	Additional Regulations
Commercial								
Alcoholic Beverage Sales	C ¹	C ¹	C ¹	C	C	C	C ¹	
Business Support Services	NP	NP	NP	MCS	MCS	MCS ¹	MCS ¹	
Convenience store	MC	MC	MC	MCS	MCS	NP	NP	Refer to Subsection XI-10-9.03(A), Special Uses
Grocery Store	NP	NP	NP	C	C	NP	NP	
Grocery Store, Small	P	P	P	P	P	NP	NP	Refer to Subsection XI-10-9.03(A), Special Uses
Pawnshop	NP	NP	NP	C	C	NP	NP	Refer to Subsection XI-10-9.03(C), Special Uses

Uses	R3 Metro	R4 Metro	R5 Metro	MXD2 Metro	MXD3 Metro	BPRD-R Metro	BPRD- Metro	Additional Regulations
Personal Services	MCS ²	MCS ²	MCS ²	P ²	P ²	C	C	Refer to Subsection XI-10-9.03(A), Special Uses
Pet Shops	NP	NP	NP	MC	MC	NP	NP	
Repair and Cleaning, Small Items	NP	NP	MCS	P	P	NP	NP	Refer to Subsection XI-10-9.03(A), Special Uses
Retail, Limited	C ³	P	P	P	P	P ¹	P ¹	Refer to Subsection XI-10-9.03(A), Special Uses
Retail Stores, General Merchandise	C ³	P	P	P	P	NP	NP	Refer to Subsection XI-10-9.03(A), Special Uses
Thrift Shop								
Retail only	NP	NP	NP	P	P	NP	NP	Refer to Subsection XI-10-9.03(A), Special Uses
<i>With collections</i>	NP	NP	NP	C	C	NP	NP	
Entertainment and Recreation								
Commercial Athletic Facilities	NP	NP	NP	P	P	MCS ¹	MCS ¹	
Golf Course	NP	NP	NP	NP	NP	NP	NP	
Recreation or Entertainment Facility	NP	NP	NP	C	C	NP	NP	
Health and Veterinarian Uses								
Animal Grooming (no boarding)	NP	NP	NP	MC	MC	NP	NP	

Uses	R3 Metro	R4 Metro	R5 Metro	MXD2 Metro	MXD3 Metro	BPRD-R Metro	BPRD-Metro	Additional Regulations
Hospitals or Sanitariums	NP	NP	NP	C	C	NP	NP	Refer to Subsection XI-10-9.03(B), Quasi-Public Uses
Massage Establishment	NP	NP	NP	MC/M CS ⁴	MC/M CS ⁴	C ¹	C ¹	Refer to Title III, Chapter 6 of the Milpitas Municipal Code and to Subsection XI-10-13.16
Medical and Dental Offices and Clinics	NP	NP	NP	P	P	MC	MC	
Medical Support Laboratories	NP	NP	NP	P	P	MC	MC	
Optician and Optometrist Shop	NP	NP	NP	P	P	MC	MC	
Pharmacy or Drug Store	NP	MCS	MCS	P	P	MC	MC	
Veterinary Clinic	NP	NP	NP	P	P	NP	NP	
Industrial Uses								
Advanced Manufacturing	NP	NP	NP	NP	NP	P ⁵	P ⁵	
Agriculture	P ⁶	NP	NP	NP	NP	NP	NP	
Art and Artisan Studio	NP	NP	NP	P	P	MCS	P	
Commercial Laboratory	NP	NP	NP	NP	NP	P	P	
Contractor's Shop	NP	NP	NP	NP	NP	NP	NP	
Custom and Artisan Manufacturing	NP	NP	NP	MCS	MCS	MCS	MCS	
Manufacturing, Assembling, Packaging, and	NP	NP	NP	NP	NP	MCS	MCS	

Uses	R3 Metro	R4 Metro	R5 Metro	MXD2 Metro	MXD3 Metro	BPRD-R Metro	BPRD- Metro	Additional Regulations
Processing Facility								
Parcel hub	NP	NP	NP	NP	NP	NP	MC	
Printing (Newspaper, Blueprint, Publishing)	NP	NP	NP	NP	NP	NP	MC	
Research and Development	NP	NP	NP	NP	NP	P ⁵	P ⁵	
Soils and materials testing laboratories	NP	NP	NP	NP	NP	P	P	
Warehousing and Distribution	NP	NP	NP	NP	NP	NP	NP	
Wholesale Sales	NP	NP	NP	NP	NP	MC	MC	
Lodging Uses								
Bed and Breakfast	P	P	P	P	P	NP	NP	
Boarding Houses	C	C	C	C	C	NP	NP	
Hotels	NP	NP	NP	P	P	P	P	
Motels	NP	NP	NP	NP	NP	NP	NP	
Short-Term Rentals	P	P	P	P	P	NP	NP	Refer to Subsection XI-10-13.17, Short-Term Rentals
Professional Offices Uses								
Offices, Business and Professional	C	C	C	P	P	P	P	
Financial institutions (banks, savings and loans, etc.)	NP	MCS	MCS	P	P	MCS ¹	MCS ¹	
Public, Quasi-Public and Institutional/Assembly Uses								
College and university, private	NP	NP	NP	C	C	P	P	

Uses	R3 Metro	R4 Metro	R5 Metro	MXD2 Metro	MXD3 Metro	BPRD-R Metro	BPRD- Metro	Additional Regulations
Conference Center	NP	NP	NP	NP	NP	C	C	
Community Garden	P	P	P	P	P	P	P	
Day Care Center	MC	MC	P	P	P	P ¹	P ¹	Refer to Subsection XI-10-13.06, Large Family Child Care and Child Care Centers
Farmer's Market	MC	MC	MC	MCS	MCS	MCS	MCS	Refer to Subsection XI-10-13.10, Farmers Markets
Instruction, Group	MC	MC	MC	MCS	MCS	NP	NP	
Instruction, Private	MCS	MCS	MCS	P	P	NP	NP	
Park, Playground or Community Center	O ⁷	O ⁷	O ⁷	O ⁷	O ⁷	O ⁷	O ⁷	
Places of Assembly	MC	MC	MC	MCS	MCS	NP	NP	
Public Utilities	NP	NP	NP	NP	NP	NP	NP	
Schools, private (elementary, middle, high)	C	C	C	C	C	C	C	
Theater (indoor)	NP	NP	NP	C	C	NP	NP	
Trade and Vocational School	NP	NP	NP	C	C	C	C	
Transportation Facilities	C	C	C	C	C	NP	NP	
Residential Uses								
Court Dwellings	P	P	P	P	P	NP	NP	

Uses	R3 Metro	R4 Metro	R5 Metro	MXD2 Metro	MXD3 Metro	BPRD-R Metro	BPRD-Metro	Additional Regulations
Duplex (two dwellings)	NP	NP	NP	NP	NP	NP	NP	
Group Living Accommodations	C	C	C	C	C	C	NP	
Live/Work	C ⁸	C ⁸	C ⁸	MCS	MCS	MCS	NP	
Multi-Family Dwellings	P	P	P	P	P	P	NP	
Residential Care Facility	P	P	P	P	P	P	NP	
Single-Room Occupancy Residences	MC	MC	MC	MC	MC	NP	NP	Refer to XI-10-13.13, Special Uses, Single Room Occupancy Residences
Transitional and Supportive Housing	P	P	P	P	P	P	NP	Refer to CA Government Code Sec. 65582
Restaurants or Food Service								
Bar or Nightclub	NP	NP	NP	C ⁹	C ⁹	NP	NP	
Brewery/Eateries	NP	NP	NP	MCS ⁹	MCS ⁹	NP	NP	
Catering Establishment	NP	NP	NP	C	C	NP	NP	
Commissary	NP	NP	NP	NP	MC	NP	NP	
Mobile Food Park	NP	NP	NP	MC	MC	NP	NP	Refer to Subsection XI-10-13.18, Mobile Food Vending
Mobile Food Vending (individual vehicle)	P	P	P	P	P	P	P	Refer to Subsection XI-10-13.18, Mobile Food Vending
Restaurants								

Uses	R3 Metro	R4 Metro	R5 Metro	MXD2 Metro	MXD3 Metro	BPRD-R Metro	BPRD-Metro	Additional Regulations
With on-site service of alcohol	C ³	C	C	P/C ¹⁰	P/C ¹⁰	C ¹	C ¹	Refer to Subsection (XI-10-9.03(C)(5))
Without on-site service of alcohol	MCS ³	P	P	P/C ¹⁰	P/C ¹⁰	P ¹	P ¹	Refer to Subsection (XI-10-9.03(C)(5))
<i>With music (indoor/outdoor)</i>	NP	NP	NP	P ⁹	P ⁹	NP	NP	Refer to Subsection (XI-10-9.03(C)(5))
With other live entertainment	NP	NP	NP	C ¹¹	C ¹¹	NP	NP	Refer to Subsection (XI-10-9.03(C)(5))
Vehicle Related Uses								
Auto Broker (wholesale, no vehicles on site)	NP	NP	NP	MCS	MCS	NP	NP	
Auto Rental	NP	NP	NP	MC ¹²	MC ¹²	NP	NP	
Auto Sales	NP	NP	NP	NP	NP	NP	NP	
Mobile Fueling ¹³	P/NP	P/NP	P/NP	P/NP	P/NP	P/NP	P/NP	Refer to the California Fire Code as amended by the City of Milpitas Municipal Code, Title V, Chapter 300.
Service Stations	NP	NP	NP	NP	NP	NP	NP	
Auto Repair Shop	NP	NP	NP	NP	NP	NP	NP	
Accessory and Temporary Uses								
Accessory Dwelling Unit	P	P	P	P	P	P	NP	Refer to Subsection XI-10-13.08, Accessory

Uses	R3 Metro	R4 Metro	R5 Metro	MXD2 Metro	MXD3 Metro	BPRD-R Metro	BPRD- Metro	Additional Regulations
								Dwelling Units
Model home complex	P	P	P	P	P	NP	NP	Refer to Subsection XI-10- 13.11(E), Model Home Complexes and Sales Offices
<i>Large family child care home</i>	P	P	P	P	P	P	NP	Refer to Subsection XI-10- 13.06, Large Family Child Care and Child Care Centers
<i>Small family child care home</i>	P	P	P	P	P	P	NP	
Temporary seasonal sales	NP	NP	NP	P	P	NP	NP	Refer to Section 13.11, Temporary Uses and Structures

1. Limited to accessory use that supports primary employment-generating uses on the same site. Accessory commercial uses such as restaurants and limited retail shall be located on the ground floor and in an area of the development where they can be directly accessed by the public.
2. When located on the ground floor, retail sales of products related to the Personal Services provided shall be offered at the front of the premises near the pedestrian entrance and shall comprise at least 10 percent of the floor area of the business establishment.
3. No exterior display or advertising and such activities are conducted in spaces which are integral parts of a main building.
4. Allowed with an MCS when an accessory use to any permitted or conditionally permitted medical office, medical clinic, chiropractor practice, acupuncture practice, physical therapist, fitness and athletic facility, health care facility (such as hospitals, nursing homes and sanitariums), and accredited school, college, and university. Massage services, limited to massage of the head, neck, shoulders, hands and feet may be allowed with an MCS when an accessory use to any permitted or conditionally permitted beauty salon, barbershop, and healing art practices. This section shall not exempt any person or business from complying with all the provisions of Title III, Chapter 6.
5. A Conditional Use Permit is required for storage space that exceeds 25,000 square feet, and in no case may storage space exceed 300,000 square feet.
6. The raising of animals or fowl for commercial purposes and the sale of any products at retail on the premises is not allowed.
7. For uses owned and operated by a government agency. The approval process will require that the site be re-zoned to POS.
8. Allowed non-residential uses to be specified through the Conditional Use Permit process.

9. Indoor or outdoor music is permitted as an accessory use on the same parcel in conjunction with a restaurant or bar that is a principal permitted use or approved conditional use. See also Subsection XI-10-9.03(E)(6) for additional regulations.
10. Permitted when located on the ground floor facing a public street designated as an Activity Street. Requires a Conditional Use Permit when located elsewhere.
11. "Other live entertainment" Includes but is not limited to dancing, stand-up comedy, theatrical shows, magic shows, and karaoke.
12. Bicycle and auto rental agency, excluding commercial vehicles, trucks, buses, vans, boats and RV rentals, must be fully enclosed within a building.
13. Mobile fueling is permitted when fueling service is ordered by an individual vehicle owner and the amount of fuel dispensed as part of any individual order does not exceed 50 gallons. Mobile fueling for fleet vehicles is not permitted.

XI-10-9.03 Metro Area Special Use Regulations

- A. Personal services, convenience stores, grocery stores, retail, repair and cleaning services, private and group instruction, and financial institutions within R3-Metro, R4-Metro and R5-Metro zones may be permitted provided they are:
 1. Less than or equal to 10,000 square feet in gross floor area;
 2. Not open past 10:00 p.m.;
 3. Conducted wholly within a building, except for approved outdoor seating areas;
 4. Not specifically noted in Table XI-10-9.02-1, Metro Zone Uses, of this Chapter, requiring Conditional Use Permit approval; and
 5. Not listed as a prohibited use in Section XI-10-9.02(B), Prohibited Uses, of this Chapter.

If items (1) through (3), above, are not met, then approval of a Conditional Use Permit is required in accordance with Section 10-57.04 of this Chapter.
- B. Quasi-Public Uses. The following uses may be permitted within the MXD2-Metro and MXD3-Metro zones provided their location is first approved by the Planning staff, the Zoning Administrator, or the Planning Commission (as applicable), in accordance with Subsection 57.04, Conditional Use Permits and Minor Conditional Use Permits, of this Chapter, and they are not located within 1,000 feet of the parcel boundary of another quasi-public use listed below. This distance shall be measured from the property line of the parcel where such use is located.
 1. Places of meeting or assembly, such as auditoriums, banquet halls, and fraternal or union halls. Churches and religious institutions are exempt from this spatial requirement.
 2. Private elementary, middle or high schools.
 3. Vocational schools, if not found objectionable due to noise, odor, vibration or other similar health, safety and welfare basis.
- C. Performance Standards for Certain Uses. For uses requiring approval of a Minor Conditional Use Permit by staff, in accordance with Section 10-57.04, Conditional Use Permits and Minor Conditional Use Permits, of this Chapter, the following performance standards below shall be met.
 1. The following uses may not be located within 1,000 feet of another same use listed below. This distance shall be measured from the property line of the parcel where such use is located.
 - a. Vehicle Related Uses.
 - b. Transportation facilities without outdoor storage of vehicles.

- c. Pawnshops.
- 2. Auto Brokers. Auto Brokers are subject to the following standards:
 - a. Local Sales and Use Tax. In order to assist the City of Milpitas in its efforts to receive direct distribution of the local tax on materials associated with the project, the California Sales and Use Tax (the "Local Tax") shall be allocated to the project site, to the extent reasonably possible. Evidence of tax allocation or cause as to why such allocation cannot be made shall be submitted at the time of business license submittal.
- 3. Art and Artisans Studios shall comply with the following standards:
 - a. All operations shall be conducted completely within an enclosed building.
 - b. There shall be no dust, fume, or odor either emitted from the premise.
 - c. The operations shall not create excessive vibrations.
 - d. The operations shall be consistent with the City's noise standards.
- 4. Outdoor Music in the MXD2-Metro and MXD3-Metro zones:
 - 1. Outdoor music as an accessory use in conjunction with a restaurant or bar shall be permitted for the entertainment and enjoyment of customers at the restaurant or bar during regular operating hours. Outdoor music as an accessory use shall be limited to the hours of 9:00 a.m. to 11:00 p.m.
 - 2. Recorded background music may be permitted outdoors on public sidewalks and other public areas subject to the standards of this Chapter and Title V - Public Health, Safety and Welfare, Chapter 213 - Noise Abatement.
 - 3. Noise levels for outdoor music, when permitted as an accessory use to a restaurant or bar, shall not exceed a maximum range of 70 to 90 decibels (dB). See also Title V - Public Health, Safety and Welfare, Subsections V-213-2 and V-213-3, for additional regulations.
 - 4. Larger outdoor music events, both live and recorded music, which are intended for the entertainment and enjoyment of the general public shall not be considered accessory uses and shall require a Special Event Permit pursuant to Section 15, Special Events and Activities, of this Chapter.
 - 5. Minor outdoor music events, both live and recorded music, which are hosted onsite by a business with nine or fewer employees shall be exempt from applicable permit and fee requirements.
- 5. Restaurant Performance Standards. Restaurants shall comply with the following performance standards:
 - a. Outdoor seating is allowed if it has been approved as part of the facility's Minor Site Development Permit or Site Development Permit and is operated in conformance with any conditions of that approval.
 - b. Outdoor dining shall comply with the standards of Section 10-13.19 – Outdoor Dining.
 - c. The restaurant shall comply with the City Council's Guidelines for Recycling Enclosures (Resolution No. 6296).

- d. The restaurant shall incorporate measures to reduce odors to acceptable levels, including, but not limited to, installation of a scrubber, carbon filter or similar equipment, on the roof vent to control odors.
- e. All the facility's floor drains, trash compactors and indoor mat and equipment washing areas shall be drained to the sanitary sewer.
- f. Where applicable, the restaurant shall maintain an active account with a tallow hauling company.
- g. The restaurant shall prepare and implement a program assigning restaurant staff responsibility for complying with the following guidelines which shall be adhered to while the restaurant is in operation:
 - i. Wash all containers and equipment in the kitchen areas so that wash water may drain into the sanitary sewer.
 - ii. Keep garbage dumpsters clean inside and out; replace very dirty dumpsters with new, clean ones.
 - iii. Double bag waste to prevent leaking.
 - iv. Place, do not drop or throw, waste-filled bags, to prevent leaking.
 - v. Keep the ground under and around the garbage dumpsters swept.
 - vi. Sprinkle the ground lightly after sweeping with a mixture of water and a little bleach.
 - vii. Hold training sessions to instruct employees on the proper procedures in the handling and disposal of food items; the general maintenance and use of the compactor and any other procedures that would assist the business in complying with all State and local health and sanitation standards. A record of such training must be kept to prove compliance with this requirement.
 - viii. Post signs (in English and multi-lingual) inside the premises for all employees identifying procedures for food delivery and garbage disposal.
 - ix. All garbage bins shall be stored in the garbage enclosure except for the 12 hours immediately before and after garbage collection.

XI-10-9.04 Metro Area General Development Standards

- A. Standards within the Metro Specific Plan area. For all Metro Area properties, refer to the Metro Specific Plan for development standards. When a standard is not listed within the Metro Specific Plan, the standards listed within the zoning ordinance shall govern.
- B. General Standards. The following requirements shall be observed.

**Table XI-10-9.04-1
Metro Zones Development Standards**

Standard	R3 Metro	R4 Metro	R5 Metro	MXD2 Metro	MXD3 Metro	BPRD-R Metro	BPRD-Metro
<i>Min. Lot Area</i>	8,000 sq ft	none	none	none	none	none	none
<i>Residential Density¹</i>	30-40 units/ac	40-85 units/ac	70-120 du/ac	40-85 units/ac	85-250 units/ac	No min. or max.	n/a

Standard	R3 Metro	R4 Metro	R5 Metro	MXD2 Metro	MXD3 Metro	BPRD-R Metro	BPRD-Metro
<i>FAR</i>	n/a	n/a	n/a	Mixed Use: min. 1.0, max. 2.5	Mixed Use: min. 2.5, max. 5.0	Mixed-Use: min. 1.0, max. 5.0 FAR; non-residential uses: min. 1.0	Min. 1.0, Max. 2.5-4.0 ²
<i>Active Use</i>	none	none	none	Ground floor retail and active uses required on 80% of frontages on any one blockface along any Activity Street as identified on the Metro Specific Plan Figure 4-6: Circulation Network.			none
<i>Front Setback</i>	Min. 20 ft	8 ft min., 20 ft max. from back of sidewalk	12 ft min., 20 ft max. from back of sidewalk	Min. 0 ft, Max. 20 ft	Min. 12 ft, Max. 20 ft	Min. 10 ft, Max. - 20 ft	Min. 0 ft.
<i>Interior Side Setback (min.)</i>	1 story: Each side 5 ft min, total of 12 ft both sides 2-2.5 story: Each side 10 ft min, total 25 ft both sides 3-3.5 story: Each side 12 ft min, total 30 ft both sides	10 ft	15 ft; 20 feet for buildings over 3 stories abutting residential uses	0 ft; 10 ft when abutting residential use and for portions of buildings over 60 ft or 4 stories tall	10 ft; 15 ft when abutting residential ; 20 ft for portions of buildings over 60 ft or 4 stories tall	10 ft	10 ft
<i>Street Side Setback</i>	Min. 10 ft	8 ft min., 15 ft max. from back of sidewalk	12 ft min., 20 ft max. from back of sidewalk	Min. 0 ft	Min. 12 ft, Max. 20 ft	Min. 10 ft, Max. 15 ft	Min. 0 ft

Standard	R3 Metro	R4 Metro	R5 Metro	MXD2 Metro	MXD3 Metro	BPRD-R Metro	BPRD-Metro
<i>Rear Setback (min.)</i>	1 story: 30 ft 2-2.5 story: 35 ft 3-3.5 story: 40 ft	10 ft min.	15 ft; 20 feet for buildings over 3 stories abutting residential uses	10 ft; 15 ft when abutting a R zone; 20 ft for portions of building over 60 ft or 4 stories tall	15 ft; 20 ft when abutting a R zone; 30 ft for portions of building over 60 ft or 4 stories tall	10 ft	10 ft
<i>Creek/ Drainage Channel Setback</i>	25 ft min. from top of bank or from any maintenance road or required setback, whichever is greater.						
<i>Max. Primary Building Height</i>	75 ft	35 ft min., 75 ft max.	75 ft and 6 stories	85 ft ³	275 ft ⁴	275 ft or 18 stories	8 stories
<i>Accessory Building Height</i>	Max. 25 ft or 2.5 stories						
<i>On-Site Open Space</i>	Residential and mixed-use projects: Min. 100 sq ft per residential unit, may be private or common Non-residential projects: Min. 10% of site area						Min. 15% of site area
<i>Private Open Space Dimensions</i>	Min. 4 ft x 6 ft						n/a
<i>Common Open Space</i>	Residential and mixed-use projects: Min. 30% of the total open space provided on-site; Min. dimension 10 ft						Min. dimension 10 ft
<i>Publicly Accessible Open Space</i>	Mixed-use projects: Min. 5% of the total open space provided on-site ⁵ Non-residential projects: Min. 25 contiguous sq ft per 10,000 sq ft non-residential floor area.						Min. 25 contiguous sq ft per 10,000 sq ft non-residential floor area excluding retail, restaurant, or service areas

1. When determining the density of non-traditional housing configurations such as group living accommodations and single-room occupancy residences, three bedrooms may be counted as the equivalent of one unit.
2. Maximum allowed FAR is based on the following sliding scale:
 - 2.5 for properties farther than 3,000 ft from the Milpitas Transit Center;
 - 3.0 for properties within 3,000 ft from the Milpitas Transit Center;
 - 3.5 for properties within 2,000 ft from the Milpitas Transit Center;
 - 4.0 for properties within 1,000 ft from the Milpitas Transit Center.
3. Within 60 feet of adjacent existing residentially zoned parcels, building height shall be stepped down to a maximum of 10 feet higher than the maximum allowed height of the adjacent parcel.
4. A maximum 50% of base footprint may reach 85 feet in height and a maximum 25% of base footprint may reach 275 feet in height.
5. Required publicly accessible open space may include one or more of the following types of public open spaces: park, plaza, garden, public sitting area.

XI-10-9.05 Metro Area Special Development Standards

A. R3-Metro Zone.

1. On-Site Utilities Requirements.
 - a. Where the allowable dwelling units exceed six for a single parcel or the total area to be subdivided exceeds three acres, all on-site utilities are to be placed underground.
 - b. Television antennas are to be centralized for structures of four or more units.
2. Trash and Storage Areas and Areas for Collecting and Loading Recyclable Materials.
 - a. There shall be provided areas for collecting and loading recyclable materials in accordance with the requirements of Section 10-54.12 of this Chapter.
 - b. All outdoor storage and trash areas shall be within a completely enclosed building or behind a solid wall or tight board fence a minimum of six feet in height.

B. 2023-2031 Housing Element Rezone Sites. Rezone sites are listed in the City of Milpitas 2023-2031 Housing Element, Appendix E, Table E-14. Rezone sites within the Metro Specific Plan are sites R-11 to R-29, which all provide lower-income housing capacity (see City of Milpitas 2023-2031 Housing Element Table E-14 and Figures E-4 and E-5). On these rezone sites (sites R-11 to R-29), the following shall apply:

1. Owner-occupied and rental multi-family housing uses shall be allowed by right (i.e., without any discretionary review) when at least 20 percent of the units will be affordable to lower income households.
2. 100 percent residential use is allowed.
3. A minimum of 50 percent of the floor area in mixed-use projects must be occupied by residential use(s).

C. BPRD-Metro and BPRD-R-Metro zones.

1. Fences, Hedges and Walls.
 - a. All planting, fencing and walls for new development, including but not restricted to fences and walls along rear and interior side property lines shall be approved by the review authority. Modifications regarding landscaping, fencing and walls at existing

developed sites shall be subject to the provisions of Subsection 54.10, Fences and Walls, of this Chapter.

- b. Temporary buffers must be installed when residential uses are developed adjacent to existing industrial uses. The buffers, which may be fences, walls, or vegetation, are subject to the provisions of Subsection 54.10, Fences and Walls, of this Chapter and must be reviewed and approved by the City Planning Department. The temporary buffers may be removed if and when an adjacent site is redeveloped as a non-industrial use.
2. Utilities. All wires, pipes, cables and utility connections shall be placed in underground or subsurface conduits. All above ground transformers and vaults for new development shall be adequately screened to the approval of the review authority. Modifications regarding subsurface conduits or above ground transformers and vaults at existing developed sites shall be subject to the provisions of Subsection 54.16, Trash Enclosures, Equipment and their Screening, of this Chapter.
3. Loading dock/doors. A maximum of two loading docks are allowed for any single project and must be located out of view from the primary abutting right-of-way.
4. Areas for Collecting and Loading Recyclable Materials. There shall be provided areas for collecting and loading recyclable materials in accordance with the requirements of Subsection 54.12, Areas for collecting and loading recyclable materials, of this Chapter.
4. Legal Nonconforming projects. Existing developments lawful at the time of installation or improvements which have been approved and a building permit issued prior to June 17, 1982, and installed in conformance with said approval and permit are considered legal nonconforming projects.
5. Uses in the BPRD-Metro and BPRD-R-Metro zones shall:
 - a. Emit no obnoxious, toxic or corrosive fumes or gases.
 - b. Emit no odors perceptible at the property line.
 - c. Emit no smoke.
 - d. Discharge into the air no dust or other particulate matter created by any industrial operations or emanating from any products stored prior or subsequent to processing.
 - e. Produce no heat or glare perceptible beyond the lot boundaries.
 - f. Utilize all lighting in a manner which produces no glare on public streets or on any other parcel.
 - g. Produce no physical vibrations perceptible at or beyond the lot boundaries.
 - h. Produce no electromagnetic radiation or radioactive emission injurious to human beings, animals or vegetation, except under controlled operations being conducted observing standards or methods or operation established by the Nuclear Regulatory Commission. Electromagnetic radiation or radioactive emissions shall not be of an intensity that interferes with the use of any other property.
 - i. Do not engage in the production or storage of any material designed for use as an explosive, or in the use of such material in production.

- j. Indicate that all industrial uses shall use only gas, electricity, or preheated oil as a fuel; provided, however, that oil-burning equipment may be installed for stand-by emergency use only.

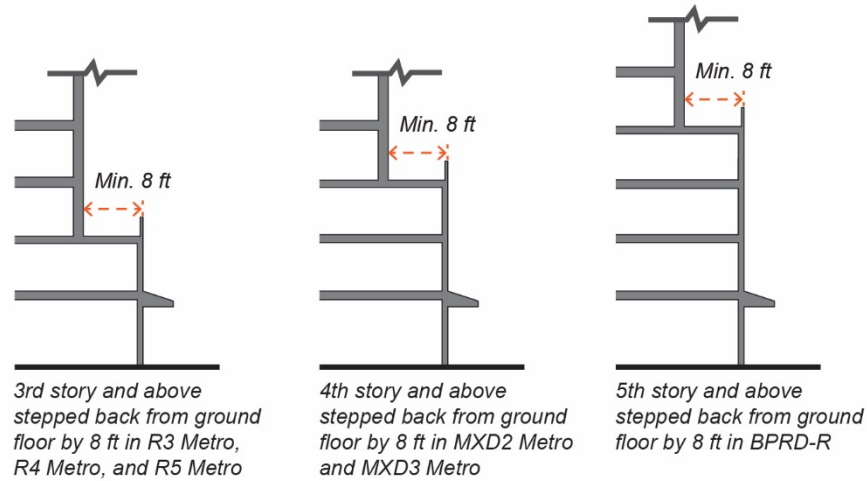
D. Equipment and Screening in all Metro Zones.

- 1. Trash enclosures and utility equipment (mechanical, electrical, and plumbing) may not be located within the front setback. Public utilities are excluded from this requirement.
- 2. All exterior equipment and enclosures shall be screened or incorporated into the design of buildings so as not to be visible from public rights of way or public spaces.
- 3. See also Subsection 54.16 – Trash Enclosures, Equipment and their Screening for standards related to equipment and screening.

XI-10-9.06 Metro Area Special Design Standards

- A. All residential and residential mixed-use development must comply with the Milpitas Residential and Mixed-Use Objective Design Standards in addition to the standards of this Subsection 10-9.06. Where standards of this Subsection conflict with those of the Objective Design Standards, the Objective Design Standards supersede.
- B. All non-residential development in the BPRD-R-Metro, BPRD- Metro zones must comply with the standards of Section 10-7.05, Special Design Standards for the BPRD Zone in addition to the standards of this Subsection 10-9.06. Where standards of this Subsection conflict with those of Section 10-7.05, the more restrictive standard applies.
- C. Block Length.
 - 1. Blocks may not exceed 700 feet in length.
 - 2. Blocks more than 500 feet in length must incorporate a mid-block pedestrian and bicycle through connection.
- D. Building Articulation.
 - 1. In the R3-Metro, R4-Metro and R5-Metro zones, the third floor and above must be stepped-back from the ground-floor street-facing building façade by a minimum of 8 feet.
 - 2. In the MXD2-Metro and MXD3-Metro zones, the fourth floor and above must be stepped-back from the ground-floor street-facing building façade by a minimum of 8 feet.
 - 3. In the BPRD-R Zone, the fifth floor and above must be stepped-back from the ground-floor street-facing building façade by a minimum of 8 feet.

Figure 9.06-1: Building Step-Back



4. Non-residential building façades over 80 feet in length shall break up long street walls through at least two of the following features: recesses a minimum six feet in depth; awnings; colonnades; projections a minimum four feet in depth; step-backs a minimum six feet in depth; window reveals; cornice treatment; and changes in color and material.
 5. Non-residential building height must vary such that the building has at least one change in height of at least one story. This may be achieved through changes in pitch, plane, orientation, a change in the number of stories, differentiated forms, projections and recesses and/or special architectural features such as towers.
- E. Ground Floor Commercial Design Standards. On retail mixed use streets, and in any other areas with ground floor retail, restaurant, and commercial service uses, the following standards apply:
1. Ground floor spaces shall be a minimum of 60 feet in depth for a minimum of 50 percent of the space, and a minimum of 40 feet in depth for any remaining space.
 2. Floor to Ceiling Height.
 - a. Retail: Minimum 18 feet floor-to-floor and a minimum 14 feet clear.
 - b. Office: Minimum 14 feet.
 3. Building Entrances. There shall be at least one entrance per 100 feet of building frontage and the main entrance may not face a parking lot.
 4. Wall Plane Articulation. Windows, doors, columns, and other features shall be recessed or project forward, such that there is a six-inch difference between wall and window surfaces and a total of at least eighteen inches from the window to the outermost plane of a wall or column.
 5. Floor Elevation. Ground floor elevation shall be no more than two feet above or below the sidewalk level.
- F. Building Materials.

1. Ground Floor Materials. All ground floor exterior materials shall be durable, quality materials, such as glass, concrete, precast concrete, aluminum and high quality metal panels, composite panels, stone, and stucco.
2. Non-residential Building Materials. Primary building materials in all non-residential construction shall store carbon (e.g., wood, calcium carbonate-based cementitious substances, synthetic limestone).
3. Glass Materials. Glass types shall be clear glass, frit glass, sandblasted glass, spandrel glass, or channel glass. Glazing should provide a high degree of light transmittance and be non-reflective.
4. Roofing Materials. Roof design and materials shall include vegetated roofs, high-albedo built-up roofs, high albedo single-ply roofing, metal, terracotta tile, concrete tile, composite concrete tile, skylights, solar collectors, and photovoltaics.
4. Window Materials. Vinyl-frame windows and doors are prohibited. Wood-framed windows must have metal or fiberglass cladding on the exterior. Metal-frame windows must be thermally broken.

G. Unit Design.

1. A minimum of 10 percent of units in any single residential project shall be designed to be accessible to all users using the principles of Universal Design.
2. Public plazas shall be constructed with ADA-compliant ramps and tactile warning strips at the crosswalks. Equipment and facilities such as tables, trash cans, restrooms, and drinking fountains should allow for universal access, including people of all ages and ability levels.

H. Landscaping and Site Design.

1. All development projects shall include on-site vegetated stormwater treatment and landscaping and shade trees at a rate of one tree per 5,000 square feet of the residential building footprint and one tree for every 10,000 square feet of developed lot area for non-residential or mixed-use development.
2. Where a creek runs under a site, the applicant must coordinate with the City Planning Department to daylight the waterway as part of the site design.
3. All applicants shall also reference the Santa Clara Valley Urban Runoff Pollution Prevention Program C.3 Stormwater Handbook.

I. Parks and Publicly Accessible Open Spaces.

1. All development projects shall dedicate land for parks if a park is shown on the subject property on Figure 2-16: Existing and Proposed Parks, of the Metro Specific Plan.
2. Privately-owned public open space must remain accessible and open to the public during business hours. Private single-access gates are prohibited.
2. The Recreational Value System as described in the Metro Specific Plan Section 2.8, Parks and Public Spaces Framework, shall be used to ensure park improvements provide a diversity of active, contemplative, and social gathering experiences.

3. Parks must be bordered by a public right-of-way such as a street, trail or railroad, on at least three sides, and must be clearly visible and accessible from all abutting rights-of-way.
4. Small neighborhood-serving parks less than one-quarter acre must be located a minimum 500 feet from Montague Expressway, the Great Mall Parkway, or any rail line.
5. Seating shall be provided in all publicly-accessible open spaces. Seating may include both moveable and fixed seating as well as seat walls, steps, boulders, and other multi-use objects and must be placed along pathways and within or near gathering spaces.

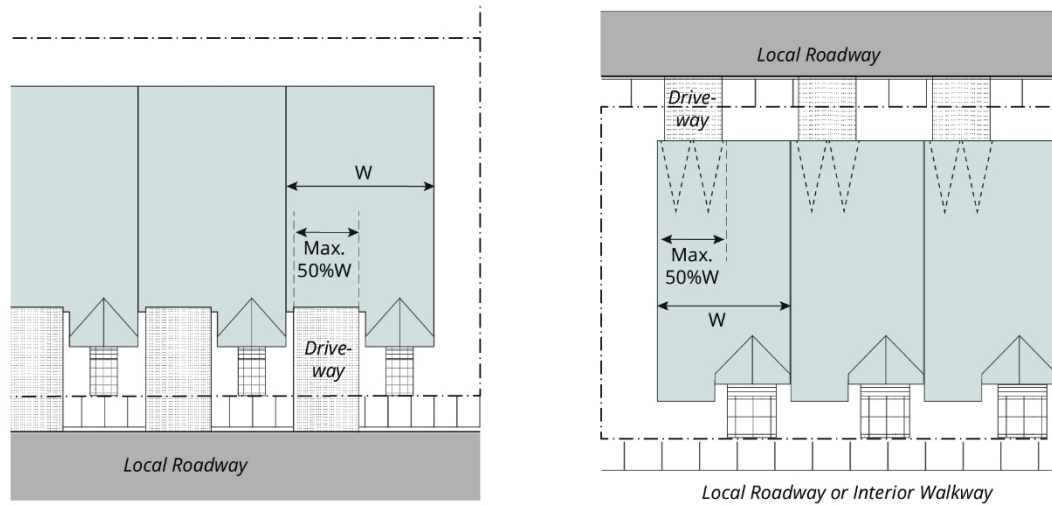
J. Common and Private Open Spaces.

1. Private open spaces may take the form of balconies, patios, gardens, porches, decks, or roof decks.
2. Usable open space surfaces may be any combination of lawn, garden, flagstone, wood planking, concrete, or other dust-free surfacing, and may not exceed 10 percent slope.
2. Universal access shall be provided to all rooftop amenities. An accessible path to a publicly accessible restroom on an adjacent floor or at the rooftop level shall be provided for any common outdoor open space on the rooftop.
3. A minimum of 10 percent of common rooftop open spaces shall be landscaped using green roofs or planters.

K. Parking Design. Where parking is required or proposed, it must comply with the following:

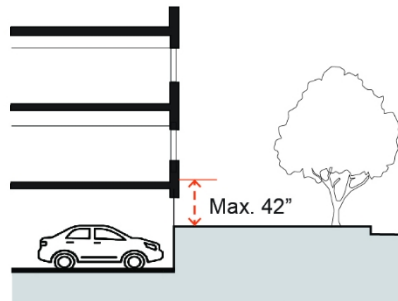
1. Parking location. Off-street parking must be located in:
 - a. Ground-floor “tuck-under” individually secured garages;
 - b. Shared garages (podium or underground); or
 - c. Above-ground structures “wrapped” with habitable uses.
2. Tandem Parking. Tandem parking may be provided in accordance with the following:
 - a. No more than two vehicles may be placed one behind the other.
 - b. Both spaces shall be assigned to a single dwelling unit or to employees of the same non-residential establishment.
 - c. Each tandem parking bay must be a minimum 40 feet in length by 10 feet in width.
3. Ground-level visibility.
 - a. Individually secured garages. Individually secured garages shall be accessed from a shared rear or side drive aisle where such abuts the property. Where individual garages are accessed from the right-of-way, garages shall occupy no more than 50 percent of the frontage of each unit.

Figure 9.06-2: Individual Garages



- b. Structured parking. Structured parking may not be located along the ground-level building frontage unless the parking is:
 - i. Recessed a minimum of four feet from the rest of the building façade and screened with a living wall or textured or decorative screening; or
 - ii. Designed such that the parking area is located in a basement, where the vertical distance from grade to the finished floor directly above the parking area is a maximum of 42 inches.

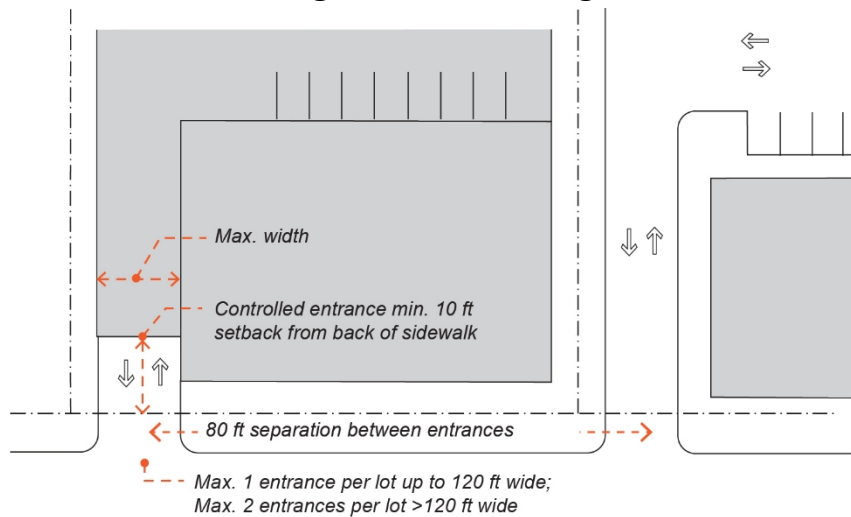
Figure 9.06-3: Structured Parking Ground Level



4. Upper-level visibility. All upper-level street-facing structured parking must be screened from view from the right-of-way by at least one of the following features:
 - a. Regular openings designed to resemble windows of habitable spaces that do not reflect the sloping floor lines of interior parking ramps on the facade;
 - b. A trellis or living wall; or
 - c. Textured or decorative screening.
5. Vehicle access. Parking must comply with the following standards:

- a. A maximum of one driveway to shared parking is permitted on street frontages up to 120 feet in length; a maximum of two shared driveways are permitted on street frontages exceeding 120 feet in length.
- b. Controlled entrances to shared parking facilities (i.e., gates, doors, etc.) shall be located a minimum of 10 feet from the back of sidewalk.
- c. Vehicular entrances to parking areas shall be a minimum of 80 horizontal feet from vehicular entrances to parking areas on adjacent properties.
- d. Mechanical parking lifts are allowed in all structured parking configurations.

Figure 9.06-4: Parking Access



6. Parking separation. Parking for residential units shall be physically separated from parking for non-residential uses through a controlled fence, gate, or other barrier.

L. Pedestrian and Bicycle Circulation.

1. A system of pedestrian walkways shall connect all primary buildings entrances on a site to each other, to on-site automobile and bicycle parking areas, and to any on-site open space areas, pedestrian amenities, and transit stops.
2. Walkways shall be the shortest practical distance between the primary building entrance and sidewalk, generally no more than 125 percent of the straight-line distance.
3. Walkways must link the entrances with on-site open spaces, on-site services, and other internal facilities.
4. Walkways shall be a minimum of five feet wide, hard-surfaced, and paved with permeable materials.
5. Where a required walkway crosses a driveway, parking area, or loading area, it must be clearly identifiable through a raised crosswalk, a different paving material, or similar method.
6. Where a required walkway is parallel and adjacent to a vehicle travel area, it must be raised or separated from the vehicle travel lane by a raised curb at least four inches high, bollards, or other physical barrier.

M. Utilities.

1. Utilities shall be placed in underground or subsurface conduits.
2. All mechanical equipment, ground transformers and meters shall be located and screened to minimize visual impacts.
3. Rooftop mechanical equipment shall be concealed from street level views through roof designs that area architecturally integrated with the building, such as equipment wells and parapets.
4. Public utility distribution meters, vaults and similar installations shall be consolidated in a single area whenever possible and located away from highly visible areas such as street corners and public open spaces.
5. Backflow preventors shall be located within landscaped setback areas and painted black or dark green to minimize visual impact. Where no landscaped setback areas exist the backflow preventors shall be incorporated into the front of the building to minimize visual obtrusiveness.
6. Refuse and recycling containers shall not be visible from a public or private street. Such containers shall be stored either within the parking facility of the building or within a vehicular accessway with screening designed to meet the requirements of this section.
7. Trash enclosure walls shall incorporate building materials and colors that match the architecture of the building and be well landscaped.
8. All telecommunications antennas shall be building facade or roof mounted and screened appropriately.
9. On Main Street only telecommunication facilities that are disguised to appear as a part of the building architecture (i.e., "stealth" antennas) may be used.

XI-10-9.07 Affordable Housing

Affordable housing units should be provided in all new housing projects consistent with Title XII, Chapter 1 (Affordable Housing Ordinance).

XI-10-9.08 Exceptions to Standards

1. Exceptions to all but the use, floor area ratio, density, and park land requirement regulations of this Section may be approved by the Planning Commission through approval of a Conditional Use Permit in accordance with the requirements of Section 57, Conditional Uses Permitted by Commission, of this Chapter.
2. In addition to the required findings under Chapter 57, the Planning Commission must be able to make the following additional findings for such exceptions:
 - a. The exceptions meet the design intent identified within the Zoning District and/or Specific Plan and do not detract from the overall architectural, landscaping and site planning integrity of the proposed development.
 - b. The exceptions allow for a public benefit not otherwise obtainable through the strict application of the specified standard.

- c. The project design in its totality does not adversely impact adjoining properties to a greater degree than a project that complies with all development standards. Impacts to be considered include: access to sunlight, views, shadows on parks and open space, privacy, and noise.

**SECTION 8. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER
10, SECTION 53**

Title XI, Chapter 10, Section 53 (Off-Street Parking Regulations) of the Milpitas Municipal Code is hereby amended to read as follows:

Section 53 - Off-Street Parking Regulations

XI-10-53.01 Purpose and Intent

The following off-street parking requirements are regulations which are established in order to achieve, among others, the following purposes:

1. To establish minimum requirements for the off-street parking of motor vehicles in accordance with the use established on the property;
2. To relieve congestion on streets, and to provide more fully for movement of traffic, maneuvering of emergency vehicles or street maintenance equipment;
3. To protect neighborhoods from vehicular traffic congestion generated by the adjacent nonresidential uses of land; and
4. To promote the general welfare and convenience and prosperity of residential, commercial and manufacturing developments which depend upon the availability of off-street parking facilities.

XI-10-53.03 Applicability

Off-street parking spaces shall be provided in accordance with the schedule in Table 53.09-3, Number of Parking Spaces Required, of this Section and improved as per Section 54.03 as a condition precedent to the occupancy of an institutional, commercial or manufacturing use and in conformance with other provisions of this Chapter:

1. Whenever a building is constructed; or
2. Whenever an existing building or use is altered, resulting in an increase in floor area, seating capacity or other units of measurement specified herein for required parking or loading facilities; or
3. Whenever the use of an existing building is changed to a use requiring fifty percent (50%) or more off-street parking spaces, as determined by the provisions of Table 53.09-3, Number of Parking Spaces Required, of this Section.

XI-10-53.05 Maintenance of Off-Street Parking

- A. Continuation of Off-Street Parking. All off-street parking spaces shall continue unobstructed in operation, shall not be used for vehicle repair work of any kind unless within a building, and shall not be reduced below the required size as long as the primary use remains, unless an equivalent number of spaces is provided for said use in another approved location. This does not apply to those parking spaces which are established on a voluntary basis which are in excess of the requirements of this Chapter.
- B. Temporary Sales, Storage and Advertising. The sale or storage of merchandise in permissive parking areas may be allowed by the Zoning Administrator through the approval of a Minor Site

Development Permit and subject to such reasonable conditions as may be deemed necessary by the Planning Commission to ensure adequate parking, access and circulation.

In no event shall any off-street parking space (permissive or otherwise) or lot be used for the stopping, standing or parking of any vehicle(s) for either the purpose of selling such vehicle (excluding an approved car sales lot), or advertising any other property, services or products on said vehicle.

- C. Maintenance. All parking areas shall be kept clean and free of dirt, oil, mud or trash; pavement and striping shall be maintained in a continuous state of good repair.
- D. Acknowledgment of Parking Spaces in Residential Projects. For new residential tract, multi-family or condominium projects, the amount and type of parking available to each dwelling unit shall be clearly stated within the CC&Rs in large font and bold lettering to the approval of the City Attorney or designee.

XI-10-53.07 Types of Parking Allowed

- A. Standard Parking Spaces. The number of parking spaces required for various land uses shall be as required in Table 53.09-3, Number of Parking Spaces Required. Parking spaces shall be designed as required in Subsection 53.13, Design Standards for Off-Street Parking Facilities, of this Chapter.
- B. Compact Parking Spaces. For parking areas and garages containing ten (10) or more stalls serving the following uses in Subsection 53.07(B)(1), up to forty percent (40%) of the required and non-required stalls may be designed as compact stalls to accommodate compact cars.
 - 1. Applicable uses.
 - a. Commercial uses (CO, C1, C2, HS, TC zones).
 - i. Standards. Compact stalls shall be dispersed throughout the parking lot.
 - b. Industrial uses.
 - i. Research and Development (R and D) facilities.
 - ii. Manufacturing facilities.
 - iii. Warehouse/distribution facilities.
 - iv. Other industrial uses deemed appropriate by the Planning Commission.
 - c. Multi-Family Residential uses.
 - i. Projects within R3, R4, and R5 zones.
 - 2. Design Standards. See Subsection 53.13, Design Standards for Off-Street Parking Facilities, of this Section.
- C. Disabled Accessible Parking Spaces. Parking spaces for the disabled shall comply in all respects with the requirements of the California Code of Regulations (State Building Code) or Federal law, where such prevails over State law.
- D. Tandem Parking Spaces.
 - 1. Applicability. Tandem parking may be allowed with the approval of a Conditional Use Permit, in accordance with Section 57.04, Conditional Use Permits, of this Chapter.

2. Standards.
 - a. Maximum allowed.
 - i. A maximum of seventy-five percent (75%) of parking required for residential uses may be tandem parking in projects with open structured parking facilities (e.g. single level or multi-level parking structures).
 - ii. A maximum of fifty percent (50%) of parking required for residential uses may be tandem parking in projects with private individual garages.
 - b. Tandem parking spaces shall be a maximum of two (2) parking spaces deep.
 - c. When tandem parking spaces are used in private garages or other parking facilities with more than two (2) parking spaces, they shall be assigned and marked for resident use.
- E. Bicycle or Motorcycle Parking Spaces. The number of parking spaces required for various land uses shall be as required in Table 53.09-3, Number of Parking Spaces Required. Parking spaces shall be designed as required in Subsection 53.13, Design Standards for Off-Street Parking Facilities, of this Chapter.

XI-10-53.09 Off-Street Parking Required by Land Use

- A. Enforcement and Interpretation of Parking Requirements.
 1. Number of Off-Street Parking Spaces Required. The number of off-street parking spaces required for the land uses identified in the Permitted and Conditional Use Tables of this Chapter are listed in Table 53.09-3, Number of Parking Spaces Required, except where parking requirements are established in Section 13, Special Uses, of this Chapter, or exceptions to these requirements are granted in accordance with this Section.
 2. Uses not specified. In the case of a use not specifically mentioned in Table 53.09-3, Number of Parking Spaces Required, or elsewhere in this Chapter, the requirements for off-street parking facilities shall be determined by the Planning Commission through the Interpretation process, in accordance with Section 61, Interpretation, of this Chapter, based on uses which create similar demands for off-street parking spaces. The Planning Commission may draw upon the experience of other local cities to make their decision.
 3. New Buildings Without Tenants. If the type of tenants that will occupy a nonresidential building, or the nonresidential portion of a mixed-use building, is not known at the time the new building is being proposed, the number of parking spaces required for the nonresidential uses will be determined through the discretionary review process.
 4. Mixed occupancies and uses. When two or more uses are located in the same lot or parcel of land or within the same building, the number of off-street parking spaces required shall be the sum total of the requirements of the various individual uses computed separately in accordance with the provisions of this Section and Section 13, Special Uses, when applicable.

Exception: For alternative parking computation in accordance with Subsection 53.11, Shared Parking, of this Chapter.

5. Measurement Standards and Definitions. For the purpose of determining off-street parking requirements, the following definitions and standards shall apply:
 - a. Gross Floor Area: The total of all the floors measured from the interior faces of the building, and outdoor areas used for retail purposes.
 - b. Net Floor Area (NFA): Net Floor Area shall mean the Gross Floor Areas less twenty percent (20%).
 - c. Seat: The number of seating units installed or indicated, or each twenty-four (24) lineal inches of benches, pews, or space for loose chairs. For places of meeting or assembly that do not include fixed seating, seven (7) square feet shall equal one (1) seat.
 - d. Employees/students: The maximum number of employees/students on the principal shift or period.
 - e. Fractional Measurements: When units or measurements determining the number of required off-street parking spaces result in a requirement of fractional space, any fraction up to and including (.49) shall be rounded down to the nearest whole number and fractions including and over (.50) shall be rounded up to the nearest whole number. For example, 7.41 would be rounded to 7 and 7.61 would be rounded to 8.
6. More than One Parking Ratio. Where more than one (1) parking ratio is shown for a particular use, the required number of spaces shall be the total of all ratios shown. For example, the parking requirement for hotel is "1 per unit, 2 for the manager's unit." The total parking requirement for a hotel is the sum of the required parking for the units and two (2) spaces for the manager's unit.
- B. Permissive Parking Facilities. Nothing in this Section shall prevent the voluntary establishment of off-street parking facilities in excess of the requirements of this Section to serve any existing use of land or buildings, provided that all regulations herein governing the location, size and access design, improvement and operation of such facilities are adhered to.
- C. Number of Parking Spaces Required. The number of off-street parking spaces required for various land uses shall be as listed in Table 53.09-3, Number of Parking Spaces Required, except for those listed specifically elsewhere in this Chapter. Unless otherwise indicated, the parking requirements are for square feet of gross floor area occupied by the use and, in the case of nonresidential uses, include the parking required for customers and employees.

Exceptions:

1. Where a portion of a structure is used for automobile parking, that portion shall not be counted in calculating the required parking for the structure. If parking is eliminated and the space is occupied by another use, parking shall be required for the use as indicated for the use in this Chapter.
2. Metro Specific Plan Area. Off-street parking requirements and bicycle parking requirements for all uses in the Metro Specific Plan area are as follows:

**Table 53.09-1
Vehicle Parking Requirements in the Metro Zones**

Use	Minimum	Maximum ¹
Residential and lodging uses	None	1.5 spaces per unit
Industrial uses	None	2 spaces per 1,000 square feet
All other non-residential uses	None	1 space per 1,000 square feet

¹ Valet, tandem spaces, and mechanical lift stalls are counted as individual spaces.

**Table 53.09-2
Bicycle Parking Requirements in the Metro Zones**

Use	Minimum, Long-Term Spaces	Minimum, Short-Term Spaces
Multi-family residential uses	0.5 spaces per bedroom	0.1 spaces per bedroom
Retail uses	1 space per 10,000 square feet	1 space per 5,000 square feet
Offices, Business and Professional	1.5 spaces per 10,000 square feet	1 space per 20,000 square feet
All other uses	None	None

**Table 53.09-3
Number of Parking Spaces Required**

Use	Minimum Parking Spaces Required
A. Commercial Uses	
Business Support Services	1 per 350 sq. ft.
Furniture and appliance stores and other bulky item retail; Furniture Repair and Reupholstery	1 per 350 sq. ft.
Retail, Grocery and Convenience uses; Check Cashing	1 per 200 sq. ft.
Mortuary, funeral parlor	1 per 4 seats and 1 per employee
Personal Services	1 per 200 sq. ft.
Plant nursery	1 per 200 sq. ft.
Repair and Cleaning, Small Items	1 per 200 sq. ft.
B. Entertainment and Recreation	
Arcade and amusement	1 per 200 sq. ft.
Billiards	1 per 200 sq. ft.
Bowling Alleys including incidental accessory uses (eating and drinking, billiards, etc.)	6 per alley or lane
Clubs and Lodges	1 per 200 sq. ft.

Commercial Athletic Facility (indoor)	1 per 150 sq. ft.
With outdoor or indoor sports courts	
Small courts (tennis, badminton)	2 per court plus required parking for other uses on site.
Large courts (basketball, volleyball)	5 per court plus required parking for other uses on site.
Golf Course	6 per hole plus parking for ancillary uses
Miniature Golf	1.25 per tee, plus 1 per employee
Motion Picture Theater (indoor)	1 per 3.5 seats
Nightclub	1 per 30 sq. ft.
C. Health and Veterinarian Uses	
Convalescent Homes	1 per 2 beds or 1 per 1,000 sq. ft, whichever is greater
Hospital	1 per bed or 1 per 220 sq. ft., whichever is greater
Kennel, indoor	1 per 1,000
Massage Establishments	Two per treatment room or if no treatment room, one per 2 chairs or 2 tables
Medical and dental Clinic and Office	1 per 225 sq. ft.
Veterinary Clinic and Animal Grooming	1 per 250 sq. ft.
D. Industrial Uses	
Custom and artisan manufacturing, Contractor's shop	1 per 500 sq. ft
Data Centers Manufacturing Processing/Plant (Dry-cleaning plant, photo finishing/printing, etc.) Warehousing and Distribution	1 per 1,500 sq. ft.
Mini Storage	1 per 5,000 sq. ft., plus 1 per resident manager
Parcel hub	1 per 2,000 sq ft plus 1 truck parking space for each delivery vehicle on-site during the peak time. The requirement for delivery truck parking is not intended to accommodate semi trucks delivering products to the site.
Wholesale Sales	1 per 500 sq. ft.
Research and Development Medical Laboratories Soils and Materials Testing Laboratories High employee demand uses	1 per 300 sq. ft.
Office space within an industrial building (to be combined with categories above)	1 per 350 sq. ft.
E. Lodging	

Extended Stay Hotels	0.7 per guest room or unit ⁵
Hotels	0.7 per guest room ⁵
Motels	0.7 per guest room ⁵
F. Professional Offices, Financial Institutions and Related Uses	
Automated Teller Machine (free standing)	2 per machine
Financial institutions (banks, savings and loans, etc.)	1 per 180 sq. ft.
Offices, business and professional	1 per 240 sq. ft.
G. Public, Quasi-Public and Assembly Uses	
Adult Day Care	1 per 500 sq. ft.
Auditoriums and theaters and places of meeting and assembly	1 per 4 seats
<i>Child Care Uses^{2, 3}:</i>	
Day Care School	1 per classroom or 1 per 500 sq. ft., whichever is greater.
Small family child care home	Same as required for underlying residential use
Large Family Child Care Home and Child Care Centers	1 per 1.5 employees
Community Center	1 per 4 fixed seats, or 1 per 6 linear feet of seating, plus 1 per 200 square feet of area without seating but designed for meeting or assembly by guests, plus 1 per 500 sq. ft. of outdoor area developed for recreational purposes
Community Garden	Determined by Planning Director
Museums	1 per 400 sq. ft.
Public Utilities	1 per 400 sq. ft.
Religious Institutions	1 per 5 seats in the main area of assembly plus parking for classrooms and offices in this table. Where there are no seats, then 1 seat equals 7 sq. ft.
<i>Educational Institutions:</i>	
School-elementary (K-8 Private)	1 per classroom, plus 1 per 240 sq. ft. of office
School-secondary (9-12 Private)	1 per classroom, plus 1 per 240 sq. ft. of office, plus 1 per 5 students
Vocational School, including business, professional, technical and trade	1 per 200 sq. ft.
Instructional Studios (Dance, Yoga)	1 per 150 sq. ft.
Private instruction, personal enrichment (tutoring)	1 per instructional area or classroom, whichever is greater. No fewer than 3 spaces.
Stadiums and arenas	1 per 4 seats

H. Restaurants or Food Service		
Banquet facilities		See restaurants below
Bars, Drinking Establishments		1 per 30 sq. ft.
Catering and Commissary		1 per 300 sq. ft. floor area
Drive thru		See "Vehicle Related Uses" section.
<i>Restaurants:</i>		
Sit down:		
Indoor and outdoor:		1 per 39 square feet of dining area.
Take out:		1 per 2.5 seats (indoor/outdoor) plus 1 per 60 sq. ft. GFA for the ordering or take out area.
Mobile food parks		1 per 2.5 seats provide for on-site dining, plus 1 per 60 sq. ft. of lot area dedicated to mobile food vending.
I. Residential Uses		
Single Family and Duplexes:		
3 bedrooms or fewer		2 per unit ⁴
4 or more bedrooms		3 per unit, plus 1 per each additional bedroom ⁴
Multi-Family (R3—R5 zones):		
Studio		1 covered per unit
1 bedroom		1.5 covered per unit
2—3 bedrooms		2 covered per unit
4 or more bedrooms		3 per unit, plus 1 additional space for each additional bedroom (at least two covered). ⁴
Guest parking		
Projects with Parking structures		15% of the total required, may be uncovered
Projects with Private garages		20% of the total required, may be uncovered
Bicycle parking		5% of the total required
Boarding houses, dormitories, sororities and fraternities, group living accommodations		1 per each room rented
Live-Work Units		<i>Single family and duplexes</i> parking requirements shall apply, plus 1.5 for the commercial component
<i>Mixed Use buildings or sites</i>		
Residential use		
Studio		1 covered per unit
1 bedroom		1.5 covered per unit
2—3 bedrooms		2 covered per unit
4 or more bedrooms		3 per unit, plus 1 additional space for each additional bedroom (at least two covered). ⁴
Guest parking		
Projects with Parking structures		15% of the total required, may be uncovered
Projects with Private garages		20% of the total required, may be uncovered
Bicycle parking		5% of total required

Commercial use		
	Ground Floor Retail	1 per 250 sq. ft.
	Office	If building is 1,000 sq. ft. or smaller: 1 per 250 sq. ft. If building is larger than 1,000 sq. ft.: 3.3 per 1,000 sq. ft.
	Short-Term Rentals	1 per unit
	Other uses	Refer to specific uses within this table
	Bicycle parking	5% of total required
	Mobile Homes	Refer to Section 13.07, Mobile Homes
	Residential Care Facility	1 for every three beds
	Senior Housing	1 per unit plus 2 per manager's unit
	Single Room Occupancy (SRO)	1 per unit
J. Vehicle Related Uses		
	Auto rental agency	1 per 400 sq. ft. plus 1 per rental vehicle
	Auto repair (tire, oil change, smog check, etc.)	3 per service bay
	Car Wash	1 per 200 sq. ft. of building area and reservoir space outside of building equal to two (2) times the maximum capacity of facility
<i>Gas & Service Stations:</i>		
	With Retail	1 per 200 sq. ft.
	With Auto Repair	3 per service bay
<i>Auto dealerships:</i>		
	Sale or lease of vehicle	1 per 200 sq. ft. of showroom
	Office	1 per 200 sq. ft.
	With Service Bays	3 per service bay
	Window service or drive-thru in conjunction with any other use	The required parking for primary use (restaurant, or other use providing window service) plus queuing of 5 vehicles which do not interfere with any on-site parking spaces

¹ Refer to Subsection 2.03, Definitions, of this Chapter for a full description of "Commercial Services."

² For loading and unloading: One (1) parking space per six (6) children up to five (5) spaces and thereafter one (1) space per ten (10) children. Driveways, garage aprons and street frontage may be counted if appropriate permits are first received when calculating spaces for child care homes. Tandem spaces are prohibited.

³ Exceptions for Child Care Requirements: The parking and loading/unloading requirements for child care facilities may in the Planning Commission's discretion be reduced, based on an empirical study (provided by the applicant) which establishes no adverse effects will occur as a result. The required number of loading/unloading spaces may be reduced without a study by one (1) space for each employee permanently assigned to load and unload children from vehicles.

⁴ Applicable to new and existing projects being remodeled resulting in additional bedrooms submitted for approval after April 7, 2009. Existing projects or projects either entitled or submitted active planning applications prior to April 7, 2009 shall use the parking regulations in effect at the time of entitlement or application submittal. For R4, R5, MXD/MXD2/MXD3 zones, 15% guest parking is legal and conforming for projects entitled or active planning applications submitted prior to April 7, 2009.

⁵ Refer to Subsection XI-10-53.15, Parking Standards for Hotels and Motels, of this Chapter for allowed reductions to minimum parking requirements.

XI-10-53.11 Shared Parking

- A. Purpose and Intent. Dedicated parking areas for individual uses, especially when provided in new developments, can result in less efficient land usage, lower floor area ratios, and more environmental/water quality impacts.

Shared parking is typically applied when land uses have different parking demand patterns and are able to use the same parking spaces/areas throughout the day. Shared parking is most effective when these land uses have significantly different peak parking characteristics that vary by time of day, day of week, and/or season of the year. In these situations, shared parking strategies will result in fewer total parking spaces needed when compared to the total number of spaces needed for each land use or business separately.

- B. Applicability. Shared parking may be applied in the following situations:

1. In mixed-use developments, which include one or more businesses that are complementary, ancillary, or support other activities. A typical mix of uses includes, but is not limited to: residential, office, restaurants, retail, colleges, churches, cinemas, and special event situations if they can demonstrate that demand patterns vary among uses.
2. In shopping centers, when more than twenty percent (20%) of gross leasable area is occupied by dining and entertainment uses, (not including pad restaurants, unless they are located within 300 feet of the main shopping center building) shared parking may be applied.

- C. Required Review. Shared parking proposals may be allowed with the approval of a Conditional Use Permit, in accordance with Subsection 57.04, Conditional Use Permits, of this Chapter.
- D. Calculation of Parking Spaces Required with Shared Parking. The minimum number of parking spaces for a mixed use development or where shared parking strategies are proposed shall be determined by a study prepared following the procedures of the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other approved procedures. A formal study may be waived for small developments where there is established experience with the land use mix and its impact is expected to be minimal. The actual number of parking spaces required shall be based on well-recognized sources of parking data such as the ULI or ITE reports. If standard rates are not available or limited, the applicant may collect data at similar sites to establish local parking demand rates. If the shared parking plan assumes use of an existing parking facility, then field surveys may be conducted to determine actual parking accumulation. If possible, these surveys should consider the seasonal peak period for the combination of land uses involved.
- E. Location of Shared Parking Spaces. Shared spaces shall be located within three hundred (300) feet of the use entrances they serve. Up to fifty percent (50%) of nonresidential spaces may be provided at greater distances if dedicated shuttle bus or van service is provided. Clear, safe pedestrian connections must be provided.
- F. Captive Market Parking Requirements. For uses that are considered ancillary to a larger business, no additional parking may be required. Examples of this case include a coffee or snack shop within an office or hotel development, a copy/package store within a business park or redevelopment of small retail uses in a large business district. Parking requirements for similar ancillary uses may be reduced to account for the likely cross patronage among the adjacent uses located within a maximum

walking distance of three hundred (300) feet. Parking requirements may be reduced up to ninety percent (90%) as appropriate.

- G. Agreement Between Sharing Property Owners. If a parking facility is to serve two (2) or more separate properties, a legal agreement between property owners guaranteeing access to, use of, and management of designated spaces shall be executed to the satisfaction of the City.
- H. Shared Parking Plan. A shared parking plan shall be submitted to the Planning Division with the following information:
 - 1. Site plan and required parking calculations of parking spaces intended for shared parking and their proximity to land uses that they will serve.
 - 2. A signage plan that directs drivers to the most convenient parking areas for each particular use or group of uses (if such distinctions can be made).
 - 3. A pedestrian circulation plan that shows connections and walkways between parking areas and land uses. These paths should be as direct and short as possible.

XI-10-53.13 Design Standards

A. Location of Parking.

- 1. Location of Parking in Relationship to a Use.
 - a. Residential Uses: Parking required for all residential uses shall conform with all of the following: (i) be located within the same project site as the use; (ii) be less than 300 feet away from the residential unit it serves; and (iii) shall not be located on any public street, public right-of-way or in any other public area.
 - b. Commercial Services and Retail Stores in the Metro or Midtown Specific Plan Areas: Commercial service and retail uses may meet its parking requirements with on-street parking if the project satisfies all of the following conditions: (i) the project site is located within the Metro or Midtown Specific Plan Areas; (ii) the on-street parking space is located along the project site frontage directly serving and adjacent to the use; (iii) no more than 50 percent of the required parking spaces shall be allocated on-street unless the commercial or retail use requires ten or less parking spaces; (iv) the on-street parking space is located less than 300 feet away from the use it serves; and (v) the on-street parking space shall be designated as limited time parking in accordance with the California Vehicle Code.
 - c. Other Uses: Required parking for all other uses shall conform with all of the following: (i) be located within the same project site as the use; (ii) be less than 300 feet away from the use for which the parking is required, as provided for in Table 53.09-3 Number of Parking Spaces Required or Section 13, Special Uses, of this Chapter; and, (iii) shall not be located on any public street, public right-of-way or in any other public area.
- 2. Location of Residential Parking, Permitted. Vehicles on private property used for residential purposes shall be parked only in paved parking spaces or in driveways which comply with the following standards:
 - a. The driveway provides access to required parking spaces; and

- b. The vehicle is not blocking access to parking for other residential units.
- 3. Each automobile parking stall shall be so located that no automobile is required to back onto any public street or sidewalk to leave the parking stall, parking bay or driveway except from a lot in an "R2" or more restrictive zone containing not more than two (2) dwelling units.
- 4. Parking Location for R5, MXD2 and MXD3 projects.
 - a. No parking spaces area allowed within the front or street side setback areas.
 - b. Parking must be located behind buildings to minimize visibility from public streets.
 - c. At least seventy percent (70%) of the street facing perimeter of above-ground parking shall be wrapped with habitable space.

Exception: Exceptions may be allowed through the approval of a Conditional Use Permit, if the design quality of the structure is equivalent to habitable space.

- d. Parking may be partially above grade along the street, provided that no more than four (4) feet of the structure is above grade. The above-grade area must be wrapped with continuous landscaping that screens parking garage openings.
- 5. Parking Structure access for R5, MXD2 and MXD3 projects.
 - a. No more than one curb cut per street frontage is allowed.
 - b. Parking structure entrances shall be no greater than twenty-two (22) feet wide.
 - c. Parking structure access points shall be set back from the curb so that a car can pull up to the entry gate or ticket machine without blocking the sidewalk.

B. Parking Space Size.

- 1. Individual garage.
 - a. Each parking space with a minimum width of ten (10) feet and a minimum length of twenty (20) feet shall be required in residential garages meeting both of the following criteria:
 - i. The individual garage contains four (4) or fewer parking spaces;
 - ii. The individual garage does not include circulation elements such as driveway aisles, but consists primarily of parking spaces.
- 2. Compact Spaces
 - a. Each stall shall be legibly marked "compact stall" or "small car" on the stall surface. Compact stalls may be used only for the above-listed buildings and uses and only within the Industrial zoning district.
 - b. Parking stalls shall be dispersed throughout the parking lot and not concentrated to discourage oversized vehicles from using the stalls.
- 3. Tandem Spaces
 - a. Each residential garage tandem (two parking spaces) shall have a minimum width of ten (10) feet and a minimum length of thirty-eight (38) feet.

4. Bicycle or Motorcycle Spaces. Any existing or proposed parking facility may utilize, on a substitution basis, on-site parking spaces for bicycle or motorcycle spaces.
 - a. Said bicycle spaces shall be raised a minimum of six (6) inches from grade of the adjacent parking facility.
 - b. One parking space may be omitted for each eight (8) bicycle spaces provided.
 - c. One parking space may be omitted for each two (2) motorcycle spaces provided.
 - d. Bicycle spaces shall measure at least two (2) feet by seven (7) feet and shall be located in groups of four (4) and shall be of the following three types:
 - i. A rack which secures the frame, or
 - ii. An enclosed bike locker, or
 - iii. A fenced, covered, locked or guarded bike storage area.
 - e. Motorcycle spaces shall measure four (4) feet by eight (8) feet and shall be provided with adequate unobstructed maneuvering areas to permit easy access to the space.
 - f. In no instance shall credit for motorcycle or bicycle parking or combination thereof exceed five percent (5%) of the total required parking spaces.
- C. Required Improvements. All parking areas and access driveways shall have a smoothly graded, stabilized and dustless surface with adequate drainage so that injury will not be caused to adjacent properties. Bumper guards or curbs shall be provided in order to define parking spaces or limits of paved areas.

Also refer to Section 54.03 of this Chapter for Improvement of Parking Areas.

- D. Screening and Landscaping. All open automobile parking areas which abut upon a public street right-of-way shall provide landscaping to a depth of at least ten (10) feet of said street right-of-way and of any adopted plan line, with openings for walkway or drive purposes. Each landscaped planter in said parking facility shall be contained with a six (6) inch raised concrete curb (extruded curbing not permitted). Installation of an irrigation system shall be provided for in each planter area.
- E. Lighting. All lights used to illuminate a parking area shall be designed, located and arranged so as to reflect the light away from any street and any adjacent premises.
- F. Signs. Directional signs are permitted in parking areas in accordance with the adopted Sign Ordinance.
- G. Fencing. A solid masonry wall a minimum height of six (6) feet shall be required on all common property lines when any parking area is established abutting residentially zoned property or property shown on the adopted General Plan as being Residential. The architectural design of said wall shall be to the approval of the Planning Commission through the Site Development Permit process in accordance with Subsection 57.03, Site Development Permits and Minor Site Development Permits, of this Chapter.
- H. Angles and Dimensions
 1. Vehicle Overhang. Vehicles may overhang two (2) feet into any landscape area or private walkway if the walkway is a minimum six (6) feet in width, but in no event shall the overhang be permitted within any public right-of-way.

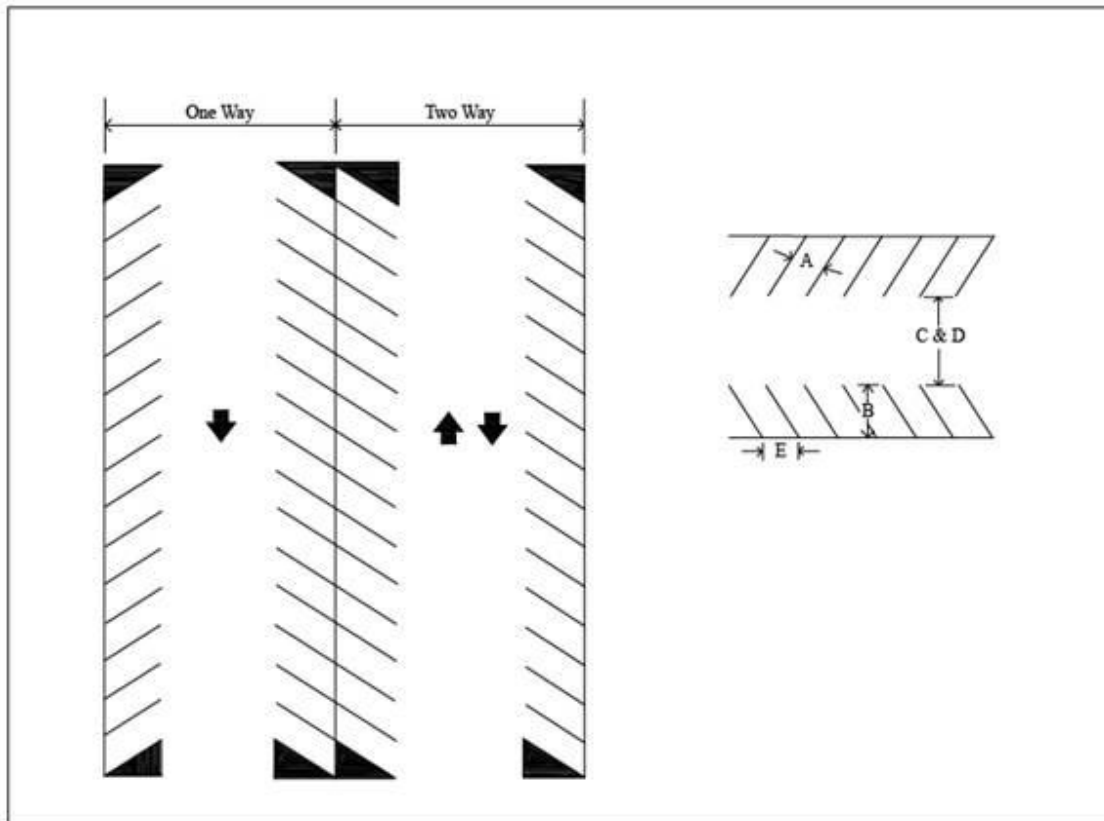
2. Stall and drive aisle dimensions. The stall and drive aisle dimensions shall be as follows:

Table 53.13-1
Parking Stall and Drive Aisle Dimensions

Angle	A ¹ Stall Width	B ¹ Stall Depth	C ¹ Aisle Width 1 Way	D ¹ Aisle Width 2 Way	E ¹ Curb Length per Car
Standard size:					
0°	9'	9'	12'	16'	22'
45°	9'	19.5'	12'	22'	12'
60°	9'	21'	18'	22'	10.5'
90°	9'	18'	24'	24'	9'
Compact size: [See Subsection 53.07(B)]					
0°	7.5'	7.5'	12'	15'	17'
45°	7.5'	16'	13'	20'	8.5'
60°	7.5'	17'	15'	20'	8.5'
90°	7.5'	15'	20'	20'	7.5'

¹ Reference to Figure 53.13-1, Parking Stall and Drive Aisle Dimensions

**Figure 53.13-1
Parking Stall and Drive Aisle Dimensions**



3. Backing Space in Residential Projects. A minimum unobstructed vehicular maneuvering distance of 25 feet measured from the opening of the garage or carport shall be provided, except as otherwise permitted in this section.
4. Parking Structures. The parking stall and drive aisle dimensions for Parking Structures, as defined in this Chapter, may be modified with the approval of a Conditional Use Permit in accordance with Section 57 of this Chapter.

(Ord. No. 38.815, § 2, 9-2-14; Ord. No. 38.785, § 7, 4-7-09)

XI-10-53.15 Allowed Reductions to Required Parking for Lodging Uses

- A. Allowed Reductions to Minimum Required Parking. The required parking for lodging uses, including hotels, motels, and extended stay hotels, may be reduced by up to 30 percent at the discretion of the decision-making authority based on a demonstrated program to reduce demand for on-site parking and maximize the efficient use of parking areas. A reduction in required parking shall be granted based on a point system as described in Subsection XI-10-53.15.C.
- B. An applicant requesting a reduction to the minimum required parking for a lodging use shall submit a written description of all proposed parking demand reduction and site design measures and a written justification of the anticipated reduction in parking demand that would result from implementation of such measures.

- C. Point System for Calculation of Parking Reduction. The decision-making authority may grant a reduction in the required number of parking spaces for lodging uses, as outlined in Table 53.15-1, according to the total number of points scored for implementation of parking demand reduction and site design measures.

Table 53.15-1
Point System for Parking Reduction for Lodging Uses

Total Points	Allowed Parking Reduction
60 points or more	30 percent
40 points or more	20 percent
20 points or more	10 percent

1. Parking Reduction for Lodging Near Fixed Guideway Transit. A parking reduction may be granted for a lodging establishment within one-half (0.5) mile of a fixed guideway transit station. Fixed guideway transit means a public transit facility that uses and occupies a separate right-of-way or rail line for the exclusive use of public transit vehicles (15 points).
2. On-Site Parking Demand Reduction and Site Design Measures for Lodging Uses. Any combination of the following measures may be incorporated into the site plan and operational plan for a hotel, motel, or extended stay hotel to support a reduction in the minimum required on-site parking:
 - a. Shared parking agreement with owners of other property or properties in the vicinity of the lodging establishment pursuant to Subsection XI-10-53.11, Shared Parking, of this Chapter. The shared parking spaces must be located within 0.25 mile of the lodging use (10 points for a number of shared parking spaces totaling between 10 and 20 percent of the base parking space requirement for the lodging use; 15 points for a number of shared parking spaces totaling more than 20 percent of the base parking space requirement for the lodging use).
 - b. Providing free monthly transit passes for employees. To qualify for this measure a lodging use must be located within 0.5 mile of a transit route (bus or rail) with service frequency of every 15 minutes or less between the hours of 7:00 a.m. and 7:00 p.m. (10 points).
 - c. Providing free 24-hour airport guest shuttle service (10 points).
 - d. Providing free guest shuttle service to other key destinations (including but not limited to BART and VTA light rail stations, San Jose Diridon Caltrain Station, Levi's Stadium, and major commercial centers) (5 points for shuttle service serving one or two destinations, 10 points for shuttle service serving three or more destinations).
 - e. Providing free shared cars for guest use with dedicated, permanent on-site parking spaces for the shared cars. To qualify for this measure the lodging use must provide at least one shared car for every 50 guest rooms (when applying this calculation, any fractional number of required shared cars shall be rounded up to the nearest whole number) (10 points).
 - f. Providing on-site, free micromobility devices for guest use. To qualify for this measure the lodging use must provide at least one shared micromobility device for every 50

guest rooms (when applying this calculation, any fractional number of required shared micromobility devices shall be rounded up to the nearest whole number). The operator of the lodging establishment shall obtain approval from the Planning Director or designee for the proposed placement and use of micromobility devices prior to commencing operations. The operator of the lodging establishment shall maintain micromobility devices in good working order at all times (5 points).

- g. Providing valet parking (on-site or at an off-site shared parking location) (5 points for a number of valet parking spaces totaling between 10 and 20 percent of the base parking space requirement for the lodging use; 10 points for a number of valet parking spaces totaling more than 20 percent of the base parking space requirement for the lodging use).
- h. Mechanical lifts for vehicles (if provided, lifts must be operated by staff of the lodging establishment) (5 points for a number of mechanical lift spaces totaling between 10 and 20 percent of the base parking space requirement for the lodging use; 10 points for a number of mechanical lift spaces totaling more than 20 percent of the base parking space requirement for the lodging use).
- i. Charging a daily fee of \$25 or more for on-site parking of guest vehicles (10 points).
- j. Offering prepaid transit cards (Clipper) to guests (5 points).
- k. Featuring public transportation information and links on lodging establishment's website (schedules and route maps for Valley Transportation Authority [VTA] bus and light rail and/or Bay Area Rapid Transit [BART] regional rail) (3 points).
- l. Providing dedicated on-site passenger pickup/dropoff zones (3 points).
- m. Active marketing of guest shuttle services, on-site shared cars, and/or on-site shared micromobility devices, via the lodging establishment's website and other electronic and/or print advertising materials (3 points).
- n. Other measures as proposed by lodging establishment operator (points to be determined by the decision-making authority based on the potential for parking demand reduction of the proposed measure).

SECTION 9. ADOPTION OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10, SUBSECTION 54.18

Title XI, Chapter 10, Section 54 (General Provisions), Subsection XI-10-54.18 (2023-2031 Housing Element Sites) of the Milpitas Municipal Code is hereby added as follows:

XI-10-54.18 - 2023-2031 Housing Element Sites

- A. Reused Sites. Reused sites are opportunity and rezone sites listed in the City of Milpitas 2023-2031 Housing Element, Appendix E, Tables E-13 and E-14 that are identified for lower-income housing capacity and as a 5th Cycle Housing Element site. On these reused sites, owner-occupied and rental multi-family housing uses shall be allowed by right (i.e., without any discretionary review) when at least 20 percent of the units will be affordable to lower income households.
- B. Rezone Sites. Rezone sites are listed in the City of Milpitas 2023-2031 Housing Element, Appendix E, Table E-14 that are identified for lower-income housing capacity. On these rezone sites, the following shall apply:
 - 1. Owner-occupied and rental multi-family housing uses shall be allowed by right (i.e., without any discretionary review) when at least 20 percent of the units will be affordable to lower income households.
 - 2. 100 percent residential use is allowed.
 - 3. A minimum of 50 percent of the floor area in mixed-use projects must be occupied by residential use.

SECTION 10. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10, SECTION 56

Title XI, Chapter 10, Section 56 (Nonconforming Buildings and Uses) of the Milpitas Municipal Code is hereby amended to read as follows:

Section 56 - Nonconforming Buildings, Uses, and Parcels*

XI-10-56.01 Purpose and Intent

The purpose of this chapter is to establish regulations for nonconforming buildings, structures and uses. It is the intent of these regulations to result in the conversion of nonconforming buildings, structures, and uses to conforming buildings, structures and uses. However, the City recognizes that until nonconforming buildings, structures, and uses are converted, improvements to them which promote their compatibility with their neighborhoods, enhance the quality of development, and do not increase nonconformity should be encouraged and allowed.

XI-10-56.02 Repair, Maintenance and Improvements to Nonconforming Buildings and Structures

A nonconforming building or structure may be maintained, except as otherwise provided in this section.

- A. Repair, Maintenance, Aesthetic Improvements. Repairs and alterations may be made to a nonconforming building or structure, provided that no structural alterations shall be made except those required by law or ordinance.
- B. Energy Efficiency and Sustainability Upgrades. Improvements may be made to a nonconforming building or structure related to improving the energy efficiency, reducing the energy usage, and reducing the greenhouse gas emissions impact of the building or structure.
- C. Restoration of Damaged Buildings. A nonconforming building or structure which is damaged or partially destroyed by fire, flood, wind, earthquake, or other calamity or act of God or the public enemy, to the extent of not more than seventy-five (75%) percent of its true value at that time, may be restored and the occupancy or use of such building, structure or part thereof, which existed at the time of such partial destruction, may be continued or resumed, provided the total cost of such restoration does not exceed seventy-five (75%) percent of the true value of the building or structure at the time of such damage and that such restoration is started within a period of one (1) year and is diligently prosecuted to completion.

In the event such damage or destruction exceeds seventy-five (75%) percent of the true value of such nonconforming building or structure, no repairs or reconstruction shall be made unless every portion of such building or structure is made to conform to all regulations for new buildings in the district in which it is located.

Provided, however, that any multistory single-family residence, which is subject to the provisions of the hillside section of this Title (Section XI-10-45), may be rebuilt to its approved height and setbacks and is not subject to the single-story height restrictions or other restrictions in the Zoning Title currently in effect, but shall conform to those regulations in effect at the time the structure was built.

- D. Additions to, Enlargements and Moving of Nonconforming Buildings and Structures.
 - 1. In the R1, R2 and R1-H Districts, a legal nonconforming building or structure shall not be added to or enlarged in any manner unless the addition or enlargement conforms to all development standards and regulations of the district in which it resides, including, but not limited to height, yard setbacks, maximum lot coverage, impervious surface coverage, and maximum size of residence regulations of said district. In addition, a legal nonconforming building or structure shall not be added to or enlarged unless existing front yard paving is brought into conformance.
 - 2. In all districts other than the R1, R2, and R1-H, a legal nonconforming building or structure may be added to or enlarged in a manner consistent with the criteria established in Table XI-10-57.04-1 and if a Conditional Use Permit is obtained.
 - 3. A building or structure lacking adequate automobile parking space in connection therewith may be altered or enlarged provided the required additional automobile parking space is supplied as per Section XI-10-53 for the entire building or use, including the addition or enlargement.

4. A nonconforming building or structure shall not be moved in whole or in part to any other location on the lot unless every portion of such building or structure is made to conform to all regulations of the district in which it is located.

XI-10-56.03 Nonconforming Use of Buildings and Structures

- A. The continuation or change of a nonconforming use of a building or structure shall meet the requirements provided below.
 1. Continuation of Existing Nonconforming Use. A legally established use that is no longer permitted in a particular zoning district because of a modification of this Chapter shall be allowed to continue indefinitely, absent discontinuation of the use for a year or more and failure to comply with the re-establishment provisions of Section XI-10-56.03(B) below.
 2. Discontinuation of Nonconforming Use. The nonconforming use of a building, structure or portion thereof, which is discontinued for a continuous period of one (1) year or more, may be replaced only with a conforming use, absent an approved nonconforming use reestablishment set forth in Section XI-10-56.03(B) below. Nonconforming uses which have been discontinued for a period of less than one (1) year may be replaced, if (1) with a nonconforming use of the same use classification as a matter of right or (2) a nonconforming use of a different use classification, subject to compliance with the findings and procedures set forth Section XI-10-56.03(B).
 3. Changes of Use Within the Same Use Classification. An existing, ongoing nonconforming use may be changed to a different use within the same use classification. For example, a nonconforming auto repair shop use may be changed to a tire shop use, since both uses fall within the same use classification (auto service uses).
 4. Change of Use to a Different Nonconforming Use Classification. An existing, ongoing nonconforming use may be changed to a nonconforming use of a different use classification only if it can be found that the proposed use is equivalent to or more appropriate than the existing nonconforming use at the project location. The proposed use may be allowed only by way of a conditional use permit and only if, in addition, all of the following findings can be made:
 - a. The proposed nonconforming use would not cause a nuisance to the surrounding properties and district (e.g., excessive parking demand, traffic, noise, etc.).
 - b. The proposed nonconforming use would be compatible with the general character of the surrounding neighborhood or district.
 - c. The proposed nonconforming use is necessary to allow gainful economic use of structures or improvements until such structures or improvements can be permanently converted to conforming uses.
- B. Re-establishment of Discontinued Nonconforming Uses Within the Milpitas Metro Specific Plan Area (Sunsetting Provision).
 1. Once discontinued for a year or more, nonconforming uses only within the Milpitas Metro Specific Plan Area may be re-established if all of the following findings can be made:

- a. The proposed re-establishment of a nonconforming use would not cause a nuisance to the surrounding properties and district (e.g., excessive parking demand, traffic, noise, etc.).
- b. The proposed re-establishment of a nonconforming use would be compatible with the existing general character of the surrounding neighborhood or district.
- c. The proposed re-establishment of a nonconforming use is necessary to allow gainful economic use of structures or improvements until such structures or improvements can be permanently converted to conforming uses.

In addition to the above findings, the re-establishment of a discontinued nonconforming use may only be approved by the Planning Commission by way of a conditional use permit, with the above additional findings, if (1) the proposed use lies within 1,000 feet of any residential use or (2) the proposed use would require conditional use permit review under current zoning requirements for the zoning district listed in the zoning map in existence at the time the use became nonconforming. The re-establishment of a discontinued nonconforming use may be approved administratively by Planning Division staff in all other circumstances, contingent on the existence of findings by Planning Division staff that the above listed grounds for re-establishment exist.

- 2. This Section XI-10-56.03(B) shall become inoperative July 1, 2026, and shall be considered repealed on that date, unless a later enacted ordinance that becomes effective on or before July 1, 2026, deletes or extends that date. All other provisions of Section XI-10-56.03 shall be unaffected by this sunset clause.

C. Expansion of Assembly Uses in the Heavy Industrial (M2) Zoning District.

- 1. Assembly uses approved after February 7, 2017, that are rendered legally non-conforming may expand in floor area up to 25 percent of existing floor area until December 31, 2020. Such expansions shall require approval of a Site Development Permit and Conditional Use Permit by the Planning Commission in accordance with the provisions of Section 57 "Applications."

XI-10-56.04 Nonconforming Use of Land

- 1. Continuation of Use. The nonconforming use of land (where no main building is involved), existing at the time the Ordinance codified in this section became effective, may be continued for a period of not more than five (5) years therefrom, provided:
 - a. That no such nonconforming use of land shall, in any way, be expanded or extended either on the same or adjoining property.
 - b. That, if such nonconforming use of land, or any portion thereof, is discontinued or changed, any future use of land shall be in conformity with the provisions of this Chapter.
 - c. That any sign, billboard, commercial advertising structure or statuary, which is lawfully existing and maintained prior to January 26, 1954, may be continued, although such use does not conform with the provisions hereof; provided, however, that no structural alterations are made thereto and provided, further, that all such nonconforming signs, billboards, commercial advertising structures and statuary, and their supporting members, shall be completely removed from the premises not later than five (5) years from the effective date of the Ordinance codified in this section.

2. Nonconforming Due to Reclassification. The foregoing provisions of this section shall also apply to buildings, structures, land, or uses which hereafter become nonconforming due to any reclassification of districts under this Chapter or any subsequent change in the regulations of this Chapter; provided, however, that where a period of years is specified in this section for the removal of nonconforming buildings, structures, or uses, said period shall be computed from the date of such reclassification or change.

XI-10-56.05 Nonconforming Parcels

- A. Legal Building Site. A nonconforming parcel that does not comply with the applicable lot requirements for the zone (e.g., lot area, lot width, etc.) in which it is located shall be considered a legal building site if it meets at least one of the following:
 1. The parcel was created by a recorded subdivision;
 2. The parcel is under one ownership and of record, and was legally created by a recorded deed prior to the effective date of the zoning amendment that made the parcel nonconforming; or
 3. The parcel was approved through a variance procedure or resulted from a lot line adjustment.
- B. Development of Legal Building Sites. A legal building site may be developed provided that any structure or development complies with the standards for the zone unless standards are specifically waived or altered through a variance or as otherwise allowed by the zoning ordinance.
- C. Subdivision or Adjustment of a Nonconforming Parcel. No subdivision or lot line adjustment shall be approved that would increase the nonconformity of an existing parcel.

**SECTION 11. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE XI, CHAPTER 10,
SECTION 3.03**

The Zoning Map of the City of Milpitas, as amended, which was adopted as part of Ordinance No. 38, enacted as Title XI, Chapter 10, Section 3.03 of the Milpitas Municipal Code (“Zoning Map”), is hereby amended by rezoning the land use designation of only those parcels depicted within the depicted map as attached hereto in **Exhibit A**.

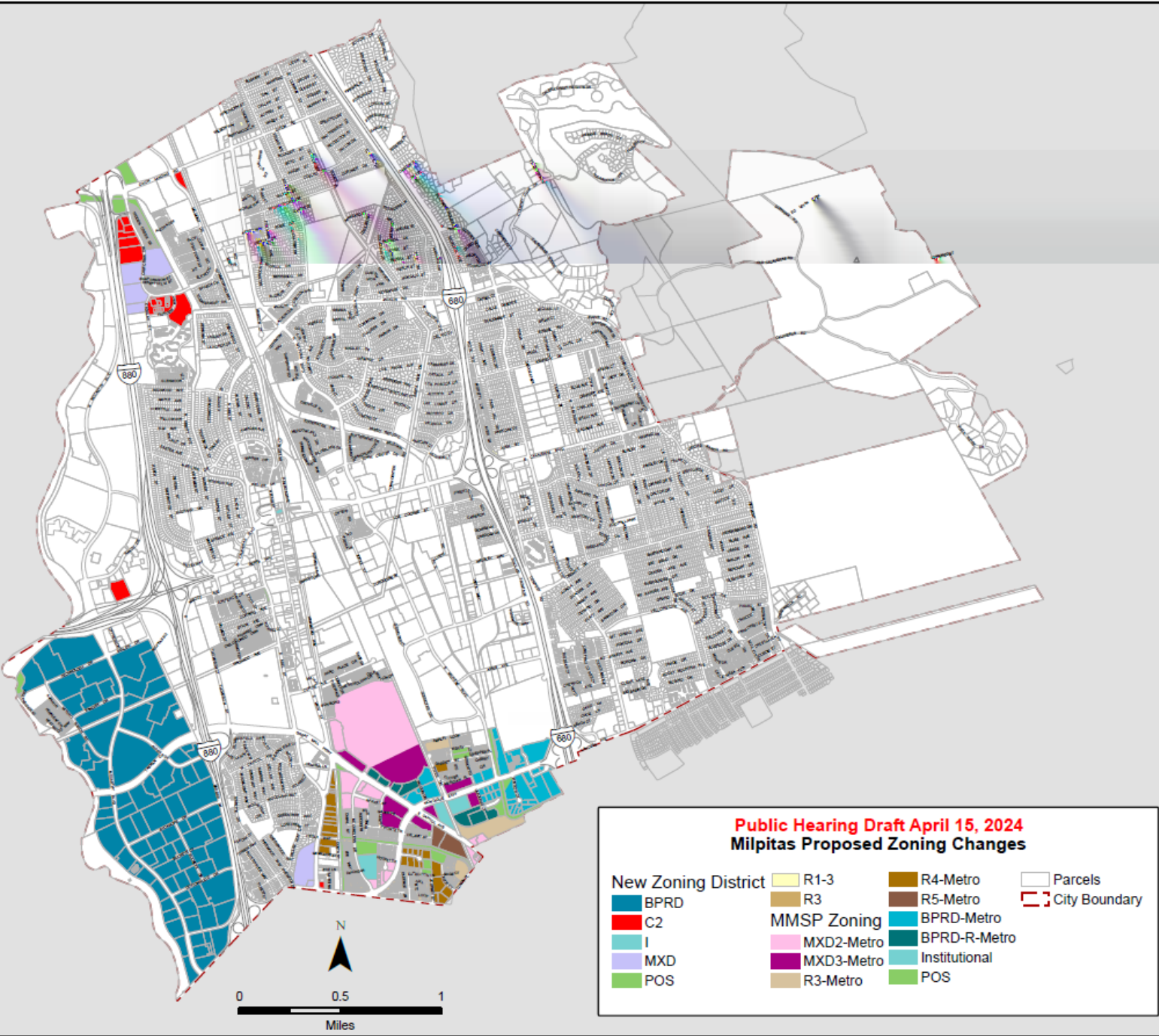
SECTION 12. SEVERABILITY

The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision, or part has no effect on the validity of the remainder.

SECTION 13. EFFECTIVE DATE AND POSTING

In accordance with Section 36937 of the Government Code of the State of California, this Ordinance takes effect 30 days from the date of its passage. The City Council hereby directs the City Clerk to cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.

Exhibit A: Zoning Map Amendments



**Public Hearing Draft April 15, 2024
Milpitas Proposed Zoning Changes**

New Zoning District	R1-3	R4-Metro	Parcels
BPRD	R3	R5-Metro	City Boundary
C2	MMSP Zoning	BPRD-Metro	
I	MXD2-Metro	BPRD-R-Metro	
MXD	MXD3-Metro	Institutional	
POS	R3-Metro	POS	

CEQA Section 15164 Addendum to the City of Milpitas General Plan Update FEIR and the City of Milpitas Metro Specific Plan Subsequent FEIR To Establish Planning Document Consistency and Evaluate Minor Technical General Plan Amendments City of Milpitas, Santa Clara County, California

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ACRONYMS AND ABBREVIATIONS

°C	degrees Celsius (Centigrade)
°F	degrees Fahrenheit
µg/m ³	micrograms per cubic meter
AB	Assembly Bill
ABAG	Association of Bay Area Governments
ACE	Altamont Commuter Express
AIA	Airport Influence Area
AQMP	Air Quality Management Plan
ARB	California Air Resources Board
BAAQMD	Bay Area Air Quality Management District
BART	Bay Area Rapid Transit
BMP	Best Management Practice
BPRD	Business Park Research and Development
BVMU	Boulevard Very High Density Mixed Use
CAAQS	California Ambient Air Quality Standards
Cal/OSHA	California Occupational Health and Safety Administration
CalEEMod	California Emissions Estimator Model
CAP	Climate Action Plan
CBC	California Building Standards Code
CBSC	California Building Standards Commission
CCA	Community Choice Aggregation
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CESA	California Endangered Species Act
CFC	California Fire Code
CH ₄	methane
CHRIS	California Historical Resources Information System
CIP	capital improvement project
CNDDDB	California Natural Diversity Database
CO	carbon monoxide
CPUC	California Public Utilities Commission
CUPA	Certified Unified Program Agency
CWA	Clean Water Act
DTSC	California Department of Toxic Substances Control

EIR	Environmental Impact Report
EOP	Emergency Operations Plan
EPA	United States Environmental Protection Agency
FAR	floor area ratio
FEIR	Final Environmental Impact Report
FEMA	Federal Emergency Management Agency
FHSZ	Fire Hazard Severity Zone
FIRM	Flood Insurance Rate Maps
FMMP	Farmland Mapping and Monitoring Program
GHG	greenhouse gas
GNC	General Commercial
HRA	Health Risk Assessment
HS	Highway Service
HVAC	heating, ventilation, and air conditioning
IWMP	Integrated Waste Management Plan
LDR	Low Density Residential
LEED®	Leadership in Energy and Environmental Design
LID	Low Impact Development
LOS	Level of Service
LRA	Local Responsibility Area
LUST	Leaking Underground Storage Tank
mgd	million gallons per day
MM	Mitigation Measure
MMRP	Mitigation Monitoring and Reporting Program
mph	miles per hour
MS4	Municipal Separate Storm Sewer System
MTC	Metropolitan Transportation Commission
N ₂ O	nitrous oxide
NAAQS	National Ambient Air Quality Standards
NC	Neighborhood Commercial
NCMU	Neighborhood Commercial Mixed Use
ND	Negative Declaration
NFIP	National Flood Insurance Program
NO _x	nitrogen oxides
NPDES	National Pollutant Discharge Elimination System
NWIC	Northwest Information Center
PG&E	Pacific Gas and Electric Company
PM ₁₀	particulate matter less than 10 micrometers in diameter

PM _{2.5}	particulate matter less than 2.5 micrometers in diameter
POS	Public Open Space
R&D	research and development
ROG	reactive organic gases
RRMU	Residential Retail High Density Mixed Use
RWF	Regional Wastewater Facility
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
SCCFD	Santa Clara County Fire Department
SCH	State Clearinghouse
SCVURPP	Santa Clara Valley Urban Runoff Prevention Program
SFBAAB	San Francisco Bay Area Air Basin
SFEIR	Subsequent Final Environmental Impact Report
SIP	State Implementation Plan
SOI	Sphere of Influence
SR	State Route
SRA	State Responsibility Area
SSMP	Sewer System Management Plan
SVCE	Silicon Valley Clean Energy
SWPPP	Storm Water Pollution Prevention Plan
TAC	Toxic Air Contaminant
TASP	Transit Area Specific Plan
TCR	Tribal Cultural Resource
TDM	Transportation Demand Management
UGB	Urban Growth Boundary
URR	Metro Urban Residential
USA	Urban Service Area
USACE	United States Army Corps of Engineers
USGBC	United States Green Building Council
UWMP	Urban Water Management Plan
VHD	Very High Density
VHFHSZ	Very High Fire Hazard Severity Zone
VMT	Vehicle Miles Traveled
VOC	volatile organic compound
VTa	Valley Transportation Authority
WMPU	Water Master Plan Update
WPCP	Water Pollution Control Plant
WQMP	Water Quality Management Plan

WSA	Water Supply Assessment
WSCP	Water Shortage Contingency Plan

SECTION 1: INTRODUCTION

This Addendum and attached supporting documents have been prepared to determine whether and to what extent the certified City of Milpitas General Plan 2040 Final Environmental Impact Report (General Plan FEIR, State Clearinghouse Number 2020070348) and the certified City of Milpitas Metro Specific Plan Subsequent Final Environmental Impact Report (Metro Specific Plan SFEIR, SCH #2006032091) remain sufficient to address the potential impacts of proposed updates to zoning districts and the Zoning Map for specific parcels necessary to ensure consistency with the adopted General Plan and Milpitas Metro Specific Plan (Metro Specific Plan), as well as minor technical amendments to the General Plan to ensure cohesive implementation, or whether additional documentation is required under the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000, *et seq.*).

1.1 - Environmental Checklist

Pursuant to Public Resources Code Section 21166, and CEQA Guidelines Sections 15162 and 15164, subd. (a), the following Addendum has been prepared to evaluate the project. This Addendum has been prepared to evaluate the potential environmental effects of the proposed project consistent with the significance thresholds and analysis methods contained in the previously certified EIRs. Accordingly, this Addendum uses the standard environmental checklist categories provided in Appendix G of the CEQA Guidelines but provides answer columns for evaluation consistent with the considerations listed under CEQA Guidelines Section 15162, subd. (a).

1.2 - Environmental Analysis and Conclusions

1.2.1 - CEQA Guidelines Section 15164

CEQA Guidelines Section 15164, subd. (a) provides that the lead agency or a responsible agency shall prepare an Addendum to a previously certified Environmental Impact Report (EIR) or adopted Negative Declaration (ND) if some changes or additions are necessary but none of the conditions described in CEQA Guidelines Section 15162 calling for preparation of a subsequent EIR or ND have occurred (CEQA Guidelines § 15164(a)).

An Addendum need not be circulated for public review but can be included in or attached to the FEIR (CEQA Guidelines Section 15164, subd. (c)). The decision-making body shall consider the Addendum and the FEIR prior to making a decision on the project (CEQA Guidelines Section 15164, subd. (d)). An agency must also include a brief explanation of the decision not to prepare a subsequent EIR or ND pursuant to Section 15162 (CEQA Guidelines Section 15164, subd. (e)).

Consequently, once an EIR or ND has been certified or adopted for a project, no subsequent EIR or ND is required under CEQA unless, based on substantial evidence:

- 1) Substantial changes are proposed in the project which will require major revisions of the previous EIR . . . due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;¹
- 2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR [or ND] . . . due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR [or ND] was certified as complete. . . shows any of the following:
 - a. The project will have one or more significant effects not discussed in the previous EIR [or ND];
 - b. Significant effects previously examined will be substantially more severe than shown in the previous EIR [or ND];
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR [or ND] would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative (CEQA Guidelines § 5162(a); see also Public Resources Code [PRC] § 21166).

This Addendum, checklist, and attached documents constitute substantial evidence supporting the conclusion that preparation of a supplemental or subsequent EIR or ND is not required prior to approval of the above-referenced project by responsible and trustee agencies and provides the required documentation under CEQA.

1.2.2 - Findings

There are no substantial changes contemplated by the proposed project, as described in Section 2.3.1, Project Summary, or under the circumstances in which the proposed project will be undertaken that require major revisions of the existing EIRs, or preparation of a new subsequent or supplemental EIR or ND, due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. As illustrated herein, the project is consistent with the General Plan FEIR and Metro Specific Plan SFEIR and would involve only minor updates and clarifications necessary to ensure consistency in planning documents.

1.2.3 - Conclusions

The Milpitas City Council may approve the proposed project, as described in Section 2.3.1, Project Summary, based on this Addendum. The impacts of the proposed project remain consistent with the

¹ CEQA Guidelines Section 15382 defines “significant effect on the environment” as “. . . a substantial, or potentially substantial adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance . . .” (see also Public Resources Code, Section 21068).

impacts previously analyzed in the certified General Plan FEIR and Metro Specific Plan SFEIR (CEQA Guidelines Section 15061, subd. (b)(3)).

The proposed project does not require any substantial revisions to the General Plan FEIR or Metro Specific Plan SFEIR. No new significant information or changes in circumstances surrounding the proposed project have occurred since the certification of the General Plan FEIR or Metro Specific Plan SFEIR. The previous analysis completed for the General Plan Update FEIR and Metro Specific Plan SFEIR remain adequate under CEQA.

1.3 - Mitigation Monitoring Program

The General Plan FEIR does not identify any significant unavoidable impacts. Accordingly, it does not contain any mitigation measures. Rather, the General Plan identifies policies that, when implemented, would avoid or minimize potential impacts. Therefore, preparation of a Mitigation Monitoring and Reporting Program (MMRP) was not required as part of the approval of the General Plan.

The Metro Specific Plan SFEIR contained several mitigation measures related to air quality, greenhouse gas (GHG) emissions, and noise that when implemented would avoid or minimize potential impacts. Therefore, an MMRP was prepared in conjunction with certification of the Metro Specific Plan SFEIR. Mitigation measures relevant to the proposed project are referenced throughout Section 3, CEQA Checklist.

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SECTION 2: PROJECT DESCRIPTION

The proposed project includes amendments to the Zoning Ordinance to ensure conformity with the City of Milpitas General Plan 2040 (General Plan) and Metro Specific Plan, which were recently updated. Additionally, the proposed project includes rezoning of certain parcels, revisions to zoning districts, and minor technical amendments to the General Plan Land Use Element and General Plan Land Use Map to ensure vertical consistency among the City's planning documents.

Government Code Section 65860 requires a city's zoning ordinance to be consistent with the general plan. When a Zoning Ordinance becomes inconsistent due to a general plan amendment, the City must enact a consistent Zoning Ordinance within a "reasonable time," pursuant to Government Code Section 65860(c). Accordingly, the proposed project identifies parcels that require rezoning to ensure conformity with the current General Plan land use designations.

2.1 - Location and Setting

The project site consists of a portion of the General Plan Planning Area (Planning Area) as well as the Metro Specific Plan Area (Exhibit 1). The Planning Area encompasses the city limits, Sphere of Influence (SOI), and Urban Growth Boundary (UGB), also known as the Urban Service Area (USA), and is approximately 12,327 acres or approximately 19.3 square miles (Exhibit 2). It is bounded by San Francisco Bay and Santa Clara County (west), the City of Fremont (north), unincorporated Santa Clara County (east), and the City of San Jose (south). In addition, there are mountain ranges and wilderness areas to the east. The Planning Area is located on the Milpitas, California United States Geological Survey 7.5-Minute topographic quadrangle map, Township 6 South, Range 1 East, Section 00 (Latitude 37° 25' 56" North; Longitude 121° 53' 58" West).

The proposed project involves lands that are generally urbanized, including industrial, commercial, and residential land uses. The proposed rezonings would involve lands primarily within the southwestern and northwestern portions of the Planning Area. Additionally, parcels within the Metro Specific Plan Area as well as certain individual parcels in the center of the Planning Area would be rezoned.

2.2 - Project Background

As noted, this Addendum evaluates whether the General Plan FEIR and the Metro Specific Plan SFEIR remain sufficient to address the potential impacts of the proposed project. This section provides background and context for these two foundational documents.

2.2.1 - City of Milpitas General Plan 2040

The General Plan, the City's current long-range planning document, was adopted by the Milpitas City Council on March 9, 2021.

The General Plan establishes goals, policies, and actions to guide the future growth and development of the City. The General Plan's key objectives include (1) protecting and enhancing the

unique character of the community, (2) promoting efficient use of limited land resources, (3) fostering strategic land use decisions, and (4) facilitating the use of alternative transportation options. It also establishes the City's current Land Use Designations (Exhibit 2).

The General Plan buildout numbers for population, dwelling units, and employment are summarized in Table 1.

Table 1: General Plan Buildout Estimates

Category	General Plan Buildout Estimate
Population	113,530
Dwelling Units	33,401
Employment ¹	84,333
Notes: ¹ Number of jobs in the City. Source: City of Milpitas. 2021. Milpitas 2040 General Plan Update FEIR. Website: https://www.milpitas.gov/DocumentCenter/View/1168/Draft-EIR-PDF?bidId= . Accessed August 9, 2023.	

The General Plan established a new Business Park Research and Development (BPRD) land use designation. To ensure consistency, a corresponding zoning district—BPRD—is proposed as part of this project.

City of Milpitas General Plan 2040 Final Environmental Impact Report

In conjunction with the City's adoption of the General Plan, on March 9, 2021, the City Council certified the General Plan FEIR (State Clearinghouse No. 2020070348), which analyzed the potential environmental impacts associated with implementation of the General Plan.

2.2.2 - Milpitas Metro Specific Plan

The General Plan designates the Metro Specific Plan Area and mandates the maintenance and implementation of the Metro Specific Plan through Action LU-2a.

The Milpitas Transit Area Specific Plan (TASP) was adopted in 2008. The Metro Specific Plan was adopted by the Milpitas City Council on February 7, 2023, as an update to the TASP. The purpose of the Metro Specific Plan is to create consistency between the TASP and the General Plan.

The Metro Specific Plan increased the TASP area from approximately 437 acres to approximately 510 acres, through annexation of lands to the east and west. The long-term objective of the Metro Specific Plan is to continue to accelerate the transformation of the area to a vibrant, connected, and fully developed, transit-oriented neighborhood. The Metro Specific Plan encompasses land located in the southeastern portion of the City.

The Metro Specific Plan buildout numbers for dwelling units, office, retail, and hotel rooms are provided in Table 2.

Table 2: Metro Specific Plan Buildout Estimates

Category	General Plan Buildout Estimate
Dwelling Units	14,577
Office (Square Feet)	4,050,000
Retail (Square Feet)	2,540,000
Hotel (Rooms)	1,342
Sources: City of Milpitas. 2022. Milpitas Metro Specific Plan Draft Subsequent EIR. Website: https://www.milpitas.gov/DocumentCenter/View/1184 . Accessed August 9, 2023.	

The City utilizes specific plans to implement the policies of the General Plan in defined areas. The proposed project is partially located in the Metro Specific Plan Area. Development within the Metro Specific Plan Area is required to follow the policies and actions of the General Plan. It also contains policies and actions specific to the Metro Specific Plan Area that do not apply to the remainder of the Planning Area. As such, there are policies, actions, and mitigation measures relevant to the proposed project which only apply to the Metro Specific Plan Area portion of the project site.

The Metro Specific Plan established seven land use classifications specific to the Metro Specific Plan Area (Exhibit 3):

1. Metro Residential Retail High Density Mixed Use (RRMU)
2. Metro Boulevard Very High Density Mixed Use (BVMU)
3. Metro Multi-Family High Density Residential (MFH)
4. Metro Multi-Family Very High Density Residential (VHD)
5. Metro Urban Residential (URR)
6. Metro Business Park Research and Development (BPRD)
7. Metro Business Park Research and Development, Limited Residential (BPRD-R)

Implementation of Metro Specific Plan requires updates to the City's Zoning Map (Exhibit 4) and the City of Milpitas Zoning Ordinance (Zoning Ordinance), which are undertaken as part of the proposed project.

City of Milpitas Metro Specific Plan Subsequent Final Environmental Impact Report

In conjunction with the City's adoption of the Metro Specific Plan on February 7, 2023, the City Council certified the Metro Specific Plan SFEIR (State Clearinghouse No. 2006032091), which analyzed the potential environmental impacts associated with implementation of the Metro Specific Plan.

The Metro Specific Plan SFEIR tiered from the TASP FEIR (State Clearinghouse No. 2006032091), which was certified in May 2008. The Metro Specific Plan SFEIR used analysis and information provided in the TASP FEIR to inform the analysis contained therein.

2.2.3 - Milpitas Zoning Ordinance

The current Zoning Ordinance was originally adopted in 1955 and was last updated in 2008. Accordingly, the Zoning Ordinance is not currently consistent with City-approved planning documents. The proposed project would ensure consistency with the General Plan and Metro Specific Plan by making amendments to the Zoning Ordinance, where needed, to conform to the current land use designations.

2.3 - Project Characteristics

2.3.1 - Project Summary

The proposed project would update the Zoning Ordinance and Zoning Map and would also implement minor technical amendments to the General Plan Land Use Element and General Plan Land Use Map to ensure vertical consistency among the City's planning documents.

Zoning Ordinance and Zoning Map Updates

The proposed project would include updates to the City's current Zoning Ordinance, zoning districts, and Zoning Map to ensure conformity with current General Plan and Metro Specific Plan land use designations.

The land use designations include a new BPRD General Plan land use designation, as well as seven Metro Specific Plan land use designations (RRMU; BVMU; MFH; VHD; URR; BPRD; and BPRD-R). All of these land use designations were thoroughly analyzed in the environmental documents certified by the City before approving the General Plan and Metro Specific Plan.

To ensure consistency with the approved General Plan and Metro Specific Plan, the proposed project would include updates to zoning districts along with specific development standards that would implement the purpose and goals of the General Plan and Metro Specific Plan land use designations, facilitating mixed-use, commercial, industrial, residential, and transit-oriented development in key opportunity areas within the General Plan Planning Area and Metro Specific Plan Area (as shown in Exhibits 5, 5a, 5b, 5c, and 5d).

As shown in Appendix A, the proposed project also includes minor technical clarifications to existing policies to facilitate implementation of the approved General Plan. None of these clarifications would result in impacts to the physical environment.

Proposed Zoning Districts Implementing the General Plan

The proposed conforming updates to the zoning districts and development standards for the Planning Area necessary to bring them into alignment with the General Plan are described below:

- **Business Park Research and Development (BPRD) Zone:** The BPRD District includes important employment centers, business parks, high-intensity office buildings, advanced manufacturing, and other light industrial uses. The BPRD District would also include the integration of research and development, office, warehouse, and light manufacturing uses on consolidated sites with supportive ancillary uses.

Proposed Zoning Districts Implementing the Metro Specific Plan

The proposed conforming updates to the zoning districts and development standards necessary to bring them into alignment with the Metro Specific Plan Area are described below:

- **Metro Multi-Family High Density Residential (R3-Metro) Zoning District:** The R3-Metro District includes High Density Residential areas (30 to 40 dwelling units per acre) with a mix of multi-family unit types and small-scale neighborhood businesses. The R3-Metro District implements the Multi-Family High Density Residential (MFH) land use designation as described in the Metro Specific Plan.
- **Metro Multi-Family Very High Density Residential (R4-Metro) Zoning District:** The R4-Metro District includes very high-density residential areas (40 to 85 dwelling units per acre) with low- and mid-rise multi-family residential buildings and compatible commercial uses. The R4-Metro District is intended to provide for higher density residential “villages” structured around transit station, streets, creek side open spaces, trails, and parks. The R4-Metro District implements the Multi-Family Very High Density Residential (VHD) land use designation as described in the Metro Specific Plan.
- **Metro Urban Residential (R5-Metro) Zoning District:** The R5-Metro District includes very high-density residential areas (70 to 120 dwelling units per acre) with high-rise residential buildings and compatible commercial uses located around transit stations. The R5-Metro District implements the Urban Residential (URR) land use designation as described in the Metro Specific Plan.
- **Metro High Density Mixed Use (MXD2-Metro) Zoning District:** The MXD2-Metro District includes a mix of retail, restaurant, entertainment, and commercial service uses on the ground floor and residential or office uses on upper stories. The MXD2-Metro District includes mixed-use floor area ratios (FARs) between 1.0 and 2.5 and residential densities between 40 to 85 dwelling units per acre. The MXD2-Metro District implements the Residential Retail Mixed Use (RRMU) land use designation as described in the Metro Specific Plan.
- **Metro Very High Density Mixed Use (MXD3-Metro) Zoning District:** MXD3-Metro District includes urban areas with a mix of very high-density housing, retail, and employment uses. The MXD3-Metro District includes mixed-use FARs between 2.5 and 5.0 and residential densities between 85 to 250 dwelling units per acre. The MXD3-Metro District implements the Boulevard Very High Density Mixed Use (BVMU) land use designation as described in the Metro Specific Plan.
- **Metro Business Park Research and Development, Limited Residential (BPRD-R-Metro) Zone:** The BPRD-R-Metro District includes important employment centers, especially for jobs in the high-tech industry, with limited, integrated residential development (mixed-use FARs in the

range of 1.0 to 5.0). The BPRD-R-Metro District includes business parks, high-intensity office buildings, advanced manufacturing, other light industrial uses, and limited residential uses. The BPRD-R-Metro District implements the Business Park Research and Development, Limited Residential (BPRD-R) land use designations as described in the Metro Specific Plan.

- **Metro Business Park Research and Development (BPRD-Metro) Zone:** The BPRD-Metro District includes important employment centers, business parks, high-intensity office buildings, advanced manufacturing, and other light industrial uses. The BPRD-Metro District includes FARs between 1.0 and 2.5, with additional FAR up to 4.0 for properties within 1,000 feet of the Milpitas Transit Center. The BPRD-Metro District implements the Business Park Research and Development Lower Intensity and Higher Intensity (BPRD-L and BPRD-H) land use designations as described in the Metro Specific Plan.

Existing Zoning Districts Undergoing Zoning Map Updates

In addition to the new zoning districts described above, certain other parcels within the City would be rezoned for the purpose of ensuring consistency with their corresponding land use designations as identified in the updated General Plan. The existing zoning districts undergoing increases in acreage as part of the updates to the Zoning Map and development standards are described below:

- **General Commercial (C2) Zone:** The purpose of the C2 District is to provide for general commercial needs of neighborhood areas of the City and to promote stable, attractive commercial development. Permitted uses include those which primarily provide for day-to-day shopping needs, such as grocery stores, offices, restaurants, and certain other stores. The C2 District corresponds to the Neighborhood Commercial Mixed Use (NCMU) and General Neighborhood Commercial (GNC) land use designations. The C2 District allows a FAR of 0.5.
- **Mixed Use District (MXD) Zone:** The purpose of the MXD District is to encourage a compatible mix of residential, retail, entertainment, office, and commercial services within a pedestrian-oriented streetscape. Permitted uses include those which provide an “around-the-clock-environment” with urban open areas that serve multiple purposes and can be used for special events. Residential uses within the MXD District have a minimum of 21 dwelling units per gross acre and a maximum of 30 dwelling units per gross acre.
- **Park and Public Open Space (POS) Zone:** The POS District provides for public open space and recreational uses to preserve environmentally sensitive areas and accommodate community service or recreational facilities. Permitted uses include public parks, recreational facilities, public trails, and public community gardens.
- **Single-Family Residential (R1) Zone:** The purpose and intent of this zone is to stabilize and protect the residential characteristics of the City’s single-family neighborhoods and to promote and encourage a suitable environment for family life. The R1 District is intended for the suburban family home and the service appurtenant thereto. One dwelling unit per lot is allowed and allowable lot sizes vary.
 - **R1-3:** The R1-3 Zone requires a minimum 3,000 square-foot lot area and specific setback requirements. Residential uses within the R1-3 Zone have a minimum of three dwelling units per gross acre and a maximum of 14.52 dwelling units per gross acre.

- **Multi-Family High Density Residential (R3) Zone:** The purpose and intent of this zone is to stabilize and protect the residential characteristics of the City's high-density multi-family neighborhoods and to promote, insofar as compatible with the intensity of land use, a suitable environment for family life. Lots in this zoning district must be at least 8,000 square feet and there must be a minimum of 2,000 square feet per dwelling unit.
- **Institutional Zone (I):** The purpose and intent of the Institutional District is to encourage the orderly development of public service and educational uses in the community and to ensure their presence as a vital part of the neighborhood balance. This zone conditionally permits correctional facilities, private universities, government offices, public hospitals, public libraries, parks, museums, public service uses, etc. Mobile food vending and temporary seasonal sales are permitted by right.

The existing zoning districts undergoing decreases in acreage as part of the updates to the Zoning Map and development standards are described below:

- **Single-Family Residential (R1) Zone:** The purpose and intent of this zone is to stabilize and protect the residential characteristics of the City's single-family neighborhoods and to promote and encourage a suitable environment for family life. The R1 District is intended for the suburban family home and relevant services. One dwelling unit per lot is allowed and allowable lot sizes vary.
 - **R1-2.5:** The R1-2.5 Zone requires a minimum 2,500-square-foot lot area and specific setback requirements. Residential uses within the R1-2.5 Zone have a minimum of three dwelling units per gross acre and a maximum of 15 dwelling units per gross acre.
 - **R1-6:** The R1-6 Zone requires a minimum 6,000 square-foot lot area and specific setback requirements. Residential uses within the R1-6 Zone have a minimum of three dwelling units per gross acre and a maximum of 7.26 dwelling units per gross acre.
 - **R1-10:** The R1-10 Zone requires a minimum 10,000 square-foot lot area and specific setback requirements. Residential uses within the R1-10 Zone have a minimum of three dwelling units per gross acre and a maximum of 4.36 dwelling units per gross acre.
- **Multi-Family Very High Density Residential (R4) Zone:** The purpose and intent of the R4 Zone is to stabilize and protect the residential characteristics of the City's high-density multi-family residential areas and to promote a suitable residential environment. The R4 District is intended to provide for higher density residential villages structured around transit stations, streets, creek side open spaces, trails, and parks. Residential uses within the R4 Zone have a minimum of 31 dwelling units per gross acre and a maximum of 40 dwelling units per gross acre.
- **Light Industrial (M1) Zone:** The M1 Zone is reserved for the construction, use, and occupancy of facilities for office, research, limited and light manufacturing, and other compatible uses. The M1 Zone allows a maximum FAR of 0.4.
- **Industrial Park (MP) Zone:** The MP Zone is reserved for the construction, use, and occupancy of facilities for office, research, general manufacturing, warehousing and distribution, and other compatible uses. The MP Zone allows a maximum FAR of 0.5.

- **Agricultural (A) Zone:** The purpose and intent of the A Zone is to preserve lands best suited for agricultural use from the encroachment of incompatible uses and to preserve in agricultural use land suited to eventual development in other uses.
- **Highway Services (HS) Zone:** The purpose and intent of the HS Zone is to provide for the wide range of personal and business services primarily oriented to the automobile customer and transient residential uses such as motels or mobile home parks. The HS Zone allows a maximum FAR of 0.5.
- **Neighborhood Commercial (C1) Zone:** The purpose and intent of the C1 Zone is to provide for general commercial needs of neighborhood areas of the City and to promote stable, attractive commercial development, which will afford a pleasant shopping environment and complement the essential residential character of the neighborhood. The C1 Zone currently allows a maximum FAR of 0.35.

Existing Land Use Designations vs. Proposed Zoning Districts

Table 3 and Table 4, as well as Exhibit 6a, demonstrate the changes in maximum density allowed for the parcels not within the Metro Specific Plan Area. Tables 3 and 4 calculate the maximum development allowed for the parcels being evaluated. However, there are a number of factors that can limit the actual density constructed; actual buildout would likely occur at levels below the maximum allowed. By statute, zoning actions, development agreements, and tentative maps all must be consistent with the general plan. (Government Code §§ 65680 [zoning], 65867.5 [development agreements], and 66473.5 [tentative maps]; see also *Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531, 536 [zoning]) Accordingly, for purposes of this analysis, the maximum density for the parcels not within the Metro Specific Plan is assumed to be limited by the applicable General Plan density range. As such, the potential maximum density and intensity of development would remain the same for every parcel with proposed zoning changes.

Table 3: Change in Maximum Units at Buildout of the Proposed Project for Residential Parcels not Within the Metro Specific Plan Area

Land Use Designation	Existing Total Acreage	Density Range for Land Use Designation	Maximum Buildout of Units	Corresponding Zoning District	Proposed Total Acreage	Density of Zoning District
HDR	230.10	16-30 du/ac	6,903 du	R3	274.82	12-20 du/ac
MDR	271.57	6-15 du/ac ¹	4,074 du	R2	129.49	7-11 du/ac
				R1-2.5	6.25	3-15 du/ac
				R1-3	113.08	3-14.52 du/ac
				R1-4	20.05	3-10.89 du/ac
				R1-5	3.02	3-8.71 du/ac
LDR	1,455.26	3-5 du/ac ²	7,276 du	R1-6	1,357.13	3-7.26 du/ac
				R1-10	84.13	3-4.36 du/ac
VHDR	21.78	31-40 du/ac	871 du	R4	115.59	31-40 du/ac

Land Use Designation	Existing Total Acreage	Density Range for Land Use Designation	Maximum Buildout of Units	Corresponding Zoning District	Proposed Total Acreage	Density of Zoning District
NCMU ^{3, 4}	70.27	29 du/ac	2,038 du	MXD	51.455	21-30 du/ac
Total	2,048.98	—	21,162 du	—	2,155.015	—
Notes: All values are approximate. ac = acre du = dwelling units FAR = floor area ratio HDR = High Density Residential LDR = Low Density Residential MDR = Medium Density Residential NCMU = Neighborhood Commercial Mixed-Use sf = square feet VHDR = Very High Density Residential ¹ As described below, the proposed project would also update the minimum allowable density for the Medium Density Residential (MDR) land use designation from 6-15 du/ac to 7-15 du/ac. ² As described below, the proposed project would also update the maximum allowable density for the Low Density Residential (LDR) land use designation from 3-5 du/ac to 3-7 du/ac. ³ The NCMU land use designation and MXD zone are mixed use, and therefore, allow for both residential and nonresidential development. For the purpose of simplifying this calculation, it is assumed that 50 percent of the acreage for both the existing NCMU land use designation and the proposed MXD zone would be residential, and 50 percent of the acreage would be nonresidential. Therefore, 50 percent of the acreage for the existing NCMU land use designation (70.27 acres) and 50 percent of the acreage for the proposed MXD zone (51.455) are analyzed in this table, utilizing their corresponding development standards. The remaining 50 percent of the acreage is analyzed in Table 4, below, utilizing the corresponding development standards. ⁴ The NCMU land use designation includes multiple implementing zoning districts, including C1, C2, CO, and MXD. For the purposes of simplifying this calculation, this table and Table 4, below, utilize the MXD Zone and C1 Zone as the only implementing zones. C1 and CO both correspond with other land use designations analyzed in Table 4, below.						

Table 4: Change in Square Footage at Buildout of the Proposed Project for Nonresidential Parcels not Within the Metro Specific Plan Area

Land Use Designation	Existing Total Acreage	FAR	Square Footage at Maximum Buildout	Corresponding Zoning District	Proposed Total Acreage	Maximum Allowable FAR
BPRD ¹	518.13	2.5	56,424,357 sf	BPRD	485.15	2.5
GNC	154.59	0.5	3,366,970.2 sf	HS ²	89.96	0.50
				CO ³	13.4	0.50
NC	27.39	0.75	894,831.3 sf	C1 ⁴	59.25	0.35
MFG	499.73	1.0	21,768,238.8 sf	M1	20.58	0.40
				M2	583.79	0.40
INP	231.20	1.0	10,071,072 sf	MP ⁵	260.34	0.50
NCMU ⁷	70.27	0.75	2,295,720.9 sf	C2 ⁶	246.76	0.50
				MXD	51.455	0.75
Total	2,701.15	—	94,821,190.2 sf	—	1,510.685	—

Land Use Designation	Existing Total Acreage	FAR	Square Footage at Maximum Buildout	Corresponding Zoning District	Proposed Total Acreage	Maximum Allowable FAR
Notes: All values are approximate. The Agricultural District (A), Institutional Zoning District (I), Waterways, and Public Open Space (POS) District are not represented in this table because they do not have development standards, and therefore would not serve this calculation. BPRD = Business Park Research Development FAR = floor area ratio GNC = General Neighborhood Commercial INP = Industrial Park MFG = Manufacturing NC = Neighborhood Commercial NCMU = Neighborhood Commercial Mixed-Use sf = square feet ¹ The BPRD land use designation includes multiple implementing zoning districts, including BPRD and MP. For the purposes of simplifying this calculation, this table utilizes the BPRD zone as the only implementing zone because MP corresponds to the INP land use designation as well. ² The HS Zone implements multiple land use designations including GNC and NC. For the purposes of simplifying this calculation, this table utilizes the GNC land use designation as the only associated land use designation because NC corresponds with other districts. Additionally, the development standards of the HS Zone were most consistent with the development standards of the GNC land use designation. ³ The CO zone implements multiple land use designations including NCMU, GNC, and NC. For the purposes of simplifying this calculation, this table utilizes the GNC land use designation as the only associated land use designation because NCMU and NC both correspond with other districts. Additionally, the development standards of the CO zone were most consistent with the development standards of the GNC land use designation. ⁴ The C1 Zone implements multiple land use designations including NCMU and NC. For the purposes of simplifying this calculation, this table utilizes the NC land use designation as the only associated land use designation because NCMU also corresponds with the MXD zone. ⁵ The MP zone implements multiple land use designations including BPRD and INP. For the purposes of simplifying this calculation, this table utilizes the INP land use designation as the only associated land use designation because the BPRD land use designation more directly corresponds with the BPRD zone. ⁶ The NCMU land use designation and MXD zone are mixed use, and, therefore, allow for both residential and nonresidential development. For the purpose of simplifying this calculation, it is assumed that 50 percent of the existing acreage for both the NCMU land use designation and the proposed MXD zone would be residential, and 50 percent of the existing NCMU acreage would be nonresidential. Therefore, 50 percent of the acreage for the existing NCMU land use designation (70.27 acres) and 50 percent of the acreage for the proposed MXD zone (51.455) are analyzed in Table 3, above, utilizing their corresponding development standards. The remaining 50 percent of the acreage is analyzed in this table, utilizing the corresponding development standards for nonresidential development. ⁷ The C2 zone is an implementing zone for multiple land use designations, including NCMU, GNC, and NC. For the purposes of simplifying this calculation, this table utilizes the NCMU land use designation as the only associated land use designation because GNC and NC both correspond with other districts. Additionally, the majority of parcels being rezoned would correspond to the NCMU land use designation.						

As shown in Table 5, as well as Exhibit 6b, the proposed zones within the Metro Specific Plan Area would directly implement the existing Metro Specific Plan land use designations with the same allowable density ranges. As such, buildout would be equivalent to what was evaluated and approved in the Metro Specific Plan.

Table 5: Metro Specific Plan Land Use Designations and Proposed Zones Within the Metro Specific Plan Area

Metro Specific Plan Land Use Designation	Proposed Metro Zones	FAR/Density of Land Use Designation
RRMU-Metro	MXD2-Metro	40-85 du/ac 1.0-2.5 FAR
BVMU-Metro	MXD3-Metro	85-250 du/ac
MFH-Metro	R3-Metro	30-40 du/ac
VHD-Metro	R4-Metro	40-85 du/ac
URR-Metro	R5-Metro	70-120 du/ac
BPRD-Metro	BPRD-Metro	1.0-2.5 FAR 4.0 FAR for properties within 1,000 feet of the Milpitas Transit Center ¹
BPRD-R-Metro	BPRD-R	1.0-5.0 FAR for Mixed-use 1.0 FAR for office and R&D
PF-Metro	I-Metro	N/A
POS-Metro	POS	N/A
Notes: du/ac = density units per acre FAR = floor area ratio ¹ Allowable FAR utilizes a sliding scale for FAR based on distance from the Milpitas Transit Center between 2.5 and 4.0 FAR.		

General Plan Amendments

As part of the proposed project, 294 parcels would undergo land use updates to establish consistency between the General Plan Land Use Map and updated Zoning Map (Exhibit 7). Also, the Neighborhood Commercial (C1) Zoning District would no longer be considered an implementing Zone for the GNC Land Use Designation. The C1 Zone would be an implementing zone for the NC Land Use Designation only.

The proposed project would also clarify the allowed residential density of several General Plan land use designations, so they are consistent and aligned with the allowed density of the corresponding zoning districts. The proposed project would incrementally increase the allowable density for the Low Density Residential (LDR) land use designation from 3-5 du/ac to 3-7 du/ac, but would not exceed the corresponding zoning density, which allows for 3-15 du/ac (Table 3).

The proposed project would also update the minimum allowable density for the Medium Density Residential (MDR) land use designation from 6-15 du/ac to 7-15 du/ac. The maximum density would not be impacted. Table 6 illustrates seven of the parcels undergoing General Plan land use designation updates. Six of the parcels would be converted to the Permanent Open Space (POS) land use designation, thereby reducing the overall allowable intensity of development.

Table 6: General Plan Land Use Map Amendments

Assessor's Parcel Number (APN)	Current General Plan Land Use	Density	Proposed General Plan Land Use	Density
8319027	Business Park/Research and Development (BPRD)	2.5 FAR	Public Facilities (PF)	N/A
2259085	High Density Residential (HDR)	16-30 du/ac	POS	N/A (Open Space)
2201021	Manufacturing (MFG)	1.0 FAR	POS	N/A (Open Space)
2239002	Industrial Park (INP)	1.0 FAR	POS	N/A (Open Space)
8326002	Milpitas Gateway-Main Street Specific Plan (MGSP)	N/A	POS	N/A (Open Space)
8327051	MGSP	N/A	POS	N/A (Open Space)
8334002	MGSP	N/A	POS	N/A (Open Space)
Notes: APN = Assessor's Parcel Number				

Furthermore, 287 parcels, totaling approximately 12.04 acres and currently designated MDR in the General Plan would be updated to High Density Residential (HDR) to ensure consistency between the General Plan Land Use Map, Zoning Ordinance, and actual built form/density. The parcels are currently zoned R3, which would align with the HDR land use designation. Note that these parcels are largely built out, and updates to the land use designation would be consistent with the City's planning documents. Therefore, these updates would not be expected to result in any significant development.

Lastly, the BPRD land use designation description included in the approved General Plan would undergo the following minor change shown in strikethrough:

The Business Park Research & Development (BPRD) is intended to accommodate business parks, high-intensity office buildings, light manufacturing parks, and light industrial areas that provide for a variety of businesses that support employment opportunities and services for Milpitas and the region. The BPRD designation would enable the integration of research and development, office, ~~small~~ warehouse and light manufacturing uses in one location, and allows existing firms to grow/expand operations on-site.

This change would not impact relevant development standards such as building height or FAR and thus, would not impact intensity and density of development.

Project Summary

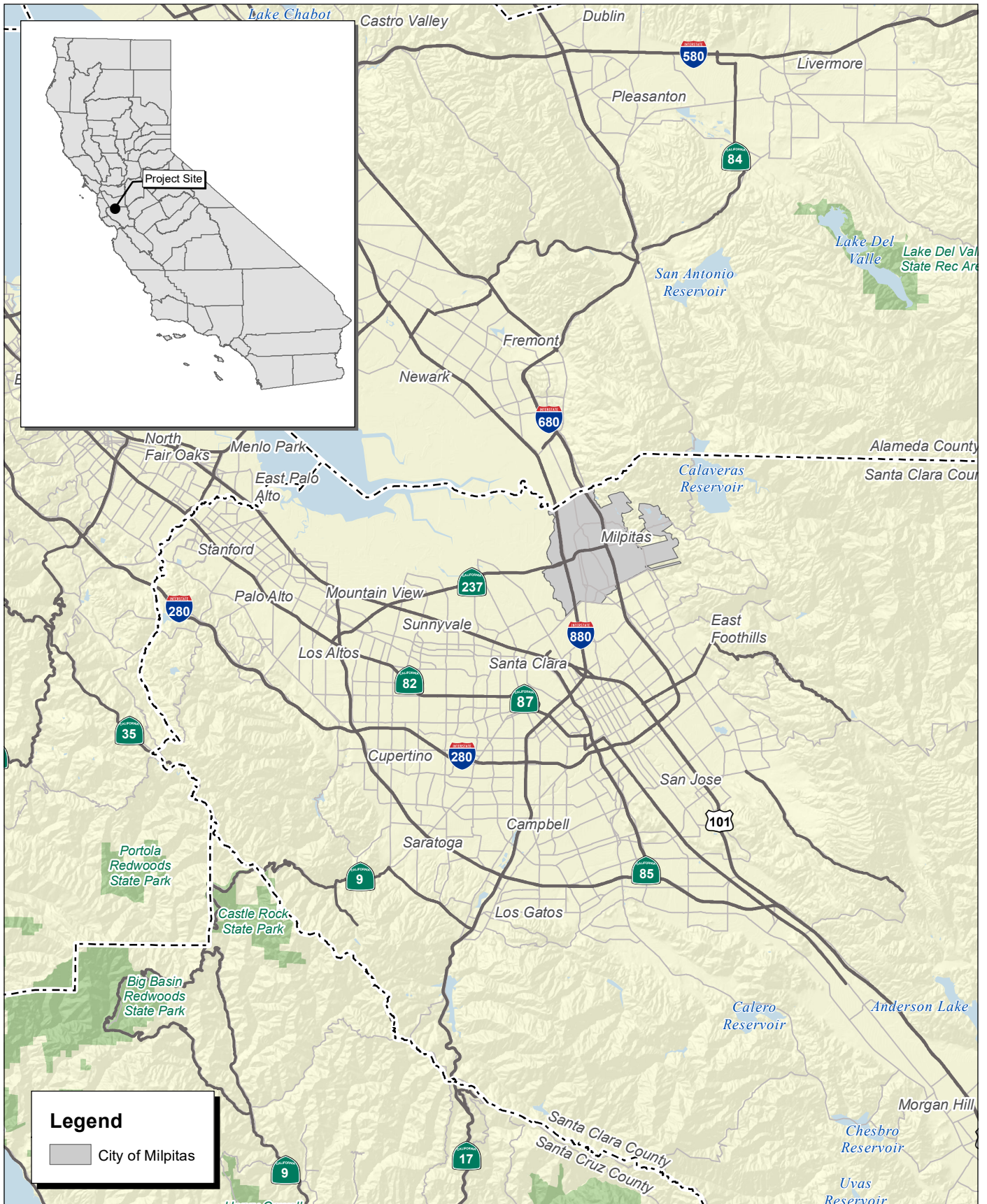
The proposed project would update the Zoning Map, the General Plan Land Use Map, and some General Plan and Zoning Ordinance text. However, as explained above, overall land uses, density, and intensity at full buildout of the City would remain relatively the same as previously evaluated in the approved General Plan and Metro Specific Plan.

2.4 - Discretionary Approvals

The proposed project requires the following discretionary approvals from the City of Milpitas:

- Approval of General Plan Amendments
- Approval of Zoning Ordinance Amendments
- Approval of Zoning Map Amendments

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Source: Census 2000 Data, The California Spatial Information Library (CaSIL).

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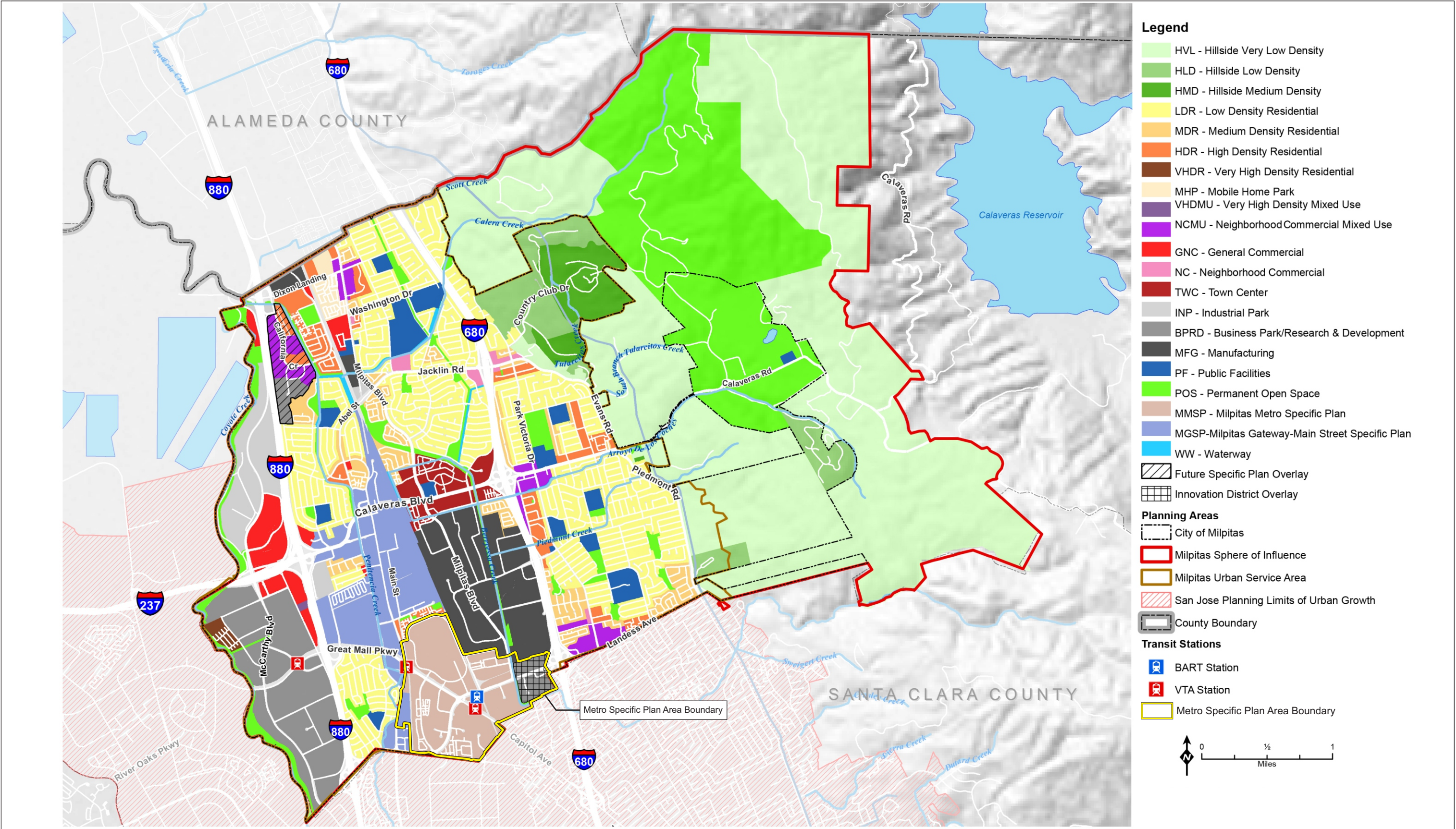
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Exhibit 1 Regional Location Map

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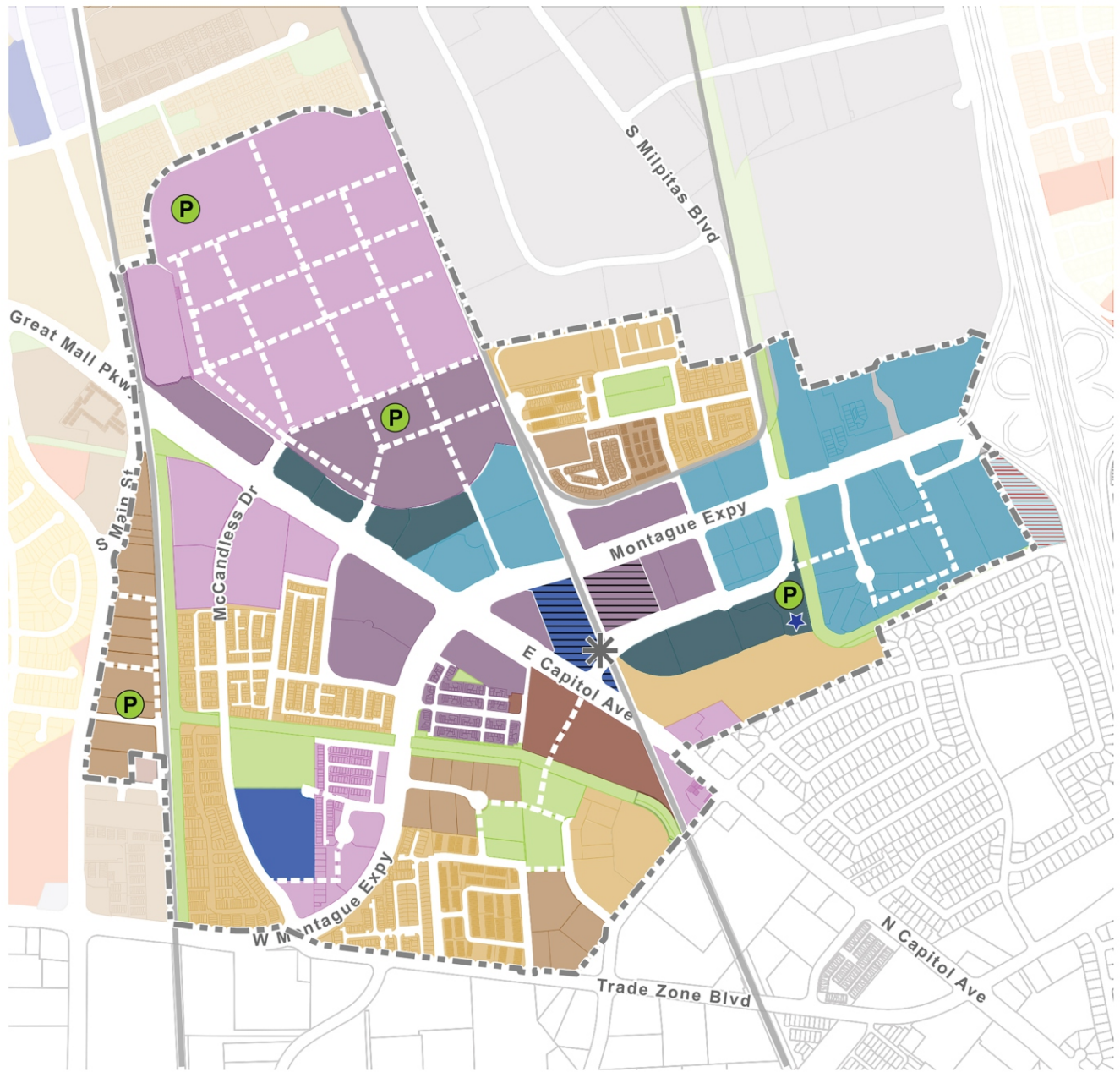
CITY OF MILPITAS
ZONING DISTRICTS, AND ZONING MAP, AND GENERAL PLAN AMENDMENT PROJECT
ADDENDUM TO THE CITY OF MILPITAS GENERAL PLAN UPDATE FEIR
AND THE CITY OF MILPITAS METRO SPECIFIC PLAN
Page 108 of 1026

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Source: City of Milpitas; Santa Clara County; USGS; CalAtlas. August 4, 2020..

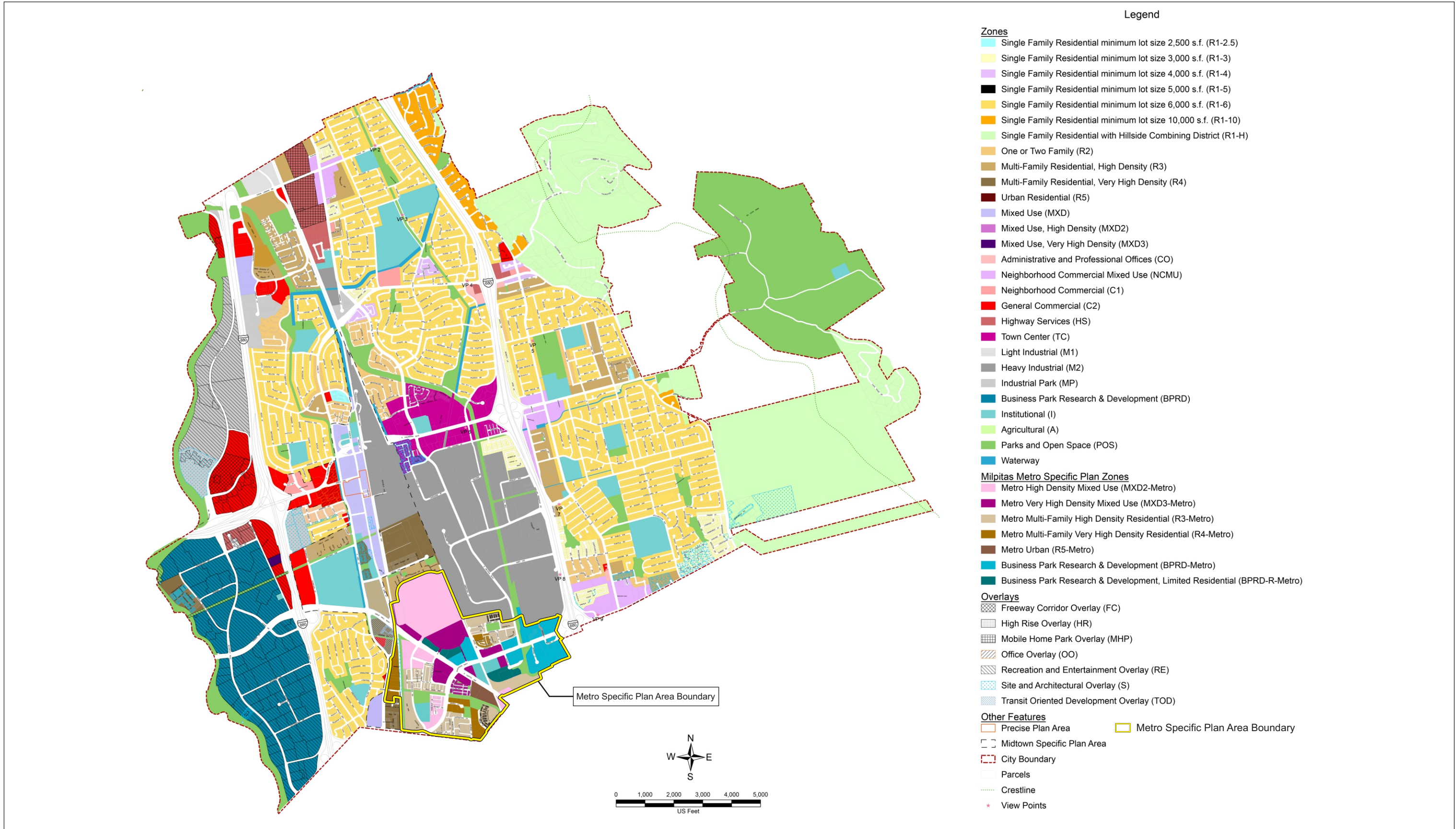
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- | | | | |
|----------------------|--|---|---|
| --- Milpitas Metro | Public Facilities (PF) | Boulevard Very High Density Mixed Use (BVMU) 85-250 units/acre; 2.5-5.0 FAR | Multi-Family High Density Residential (MFH) 30-40 units/acre |
| * BART Station | Permanent Open Space (POS) | Business Park Research & Development (BPRD); 1.0-2.5 FAR | Multi-Family Very High Density Residential (VHD) 40-85 units/acre |
| ★ Police Substation* | Residential Retail High Density Mixed Use (RRMU) 40-85 units/acre; max 2.5 FAR | Business Park Research & Development, Limited Residential (BPRD-R); 1.0-5.0 FAR | Urban Residential (URR) 70-120 units/acre |
| (P) Park* | Potential Annexation Area | | |
| — Railway | | | |
| ≡ Transit Center | | | |
- *Location is approximate and shall be determined through the implementation of the MMSP.

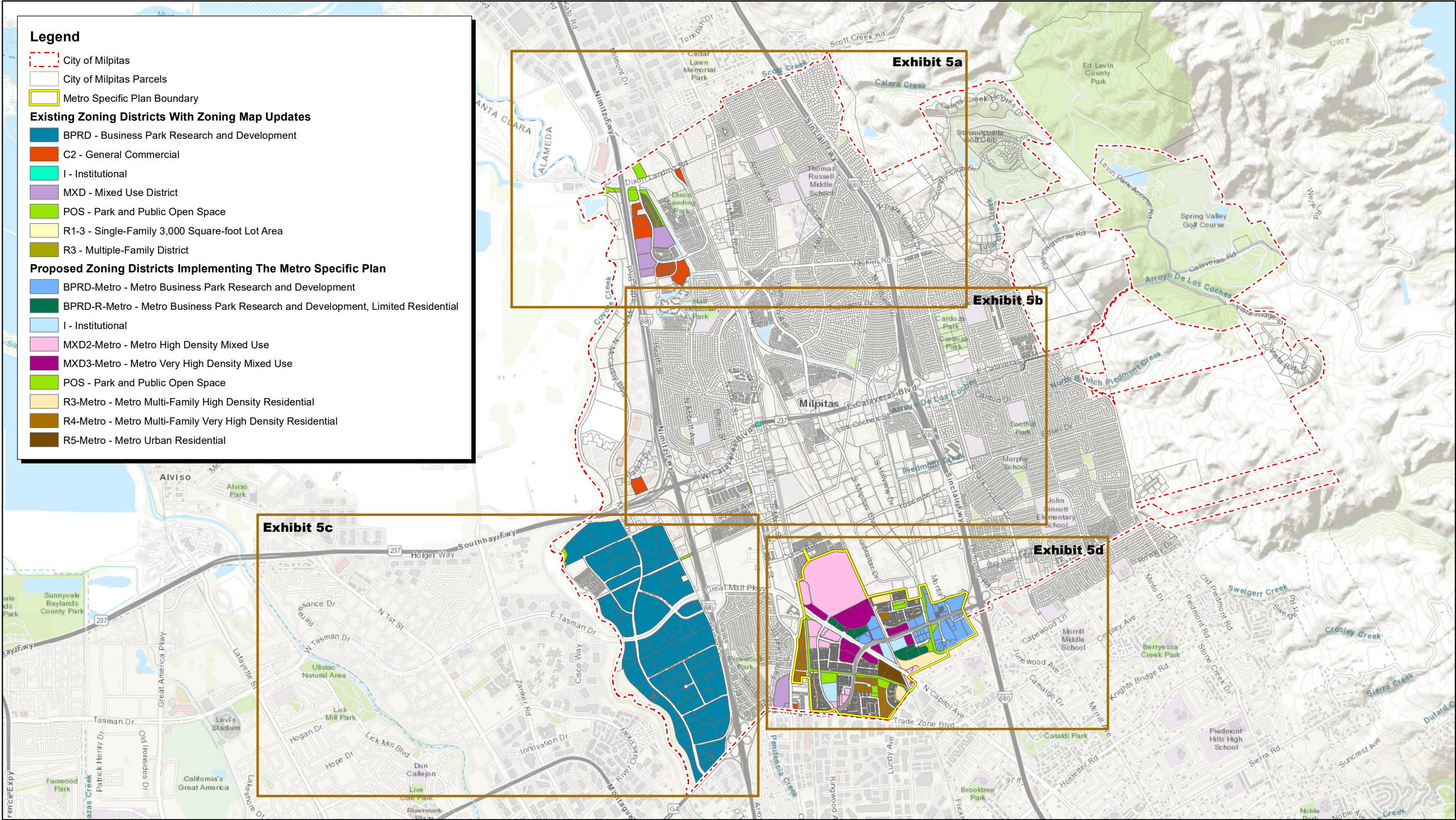
Source: General Plan; City of Milpitas. Roads; US Census Bureau 2019 TIGER. Basemap; ESRI. April 06, 2022.

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Source: City of Milpitas, June 28, 2023.

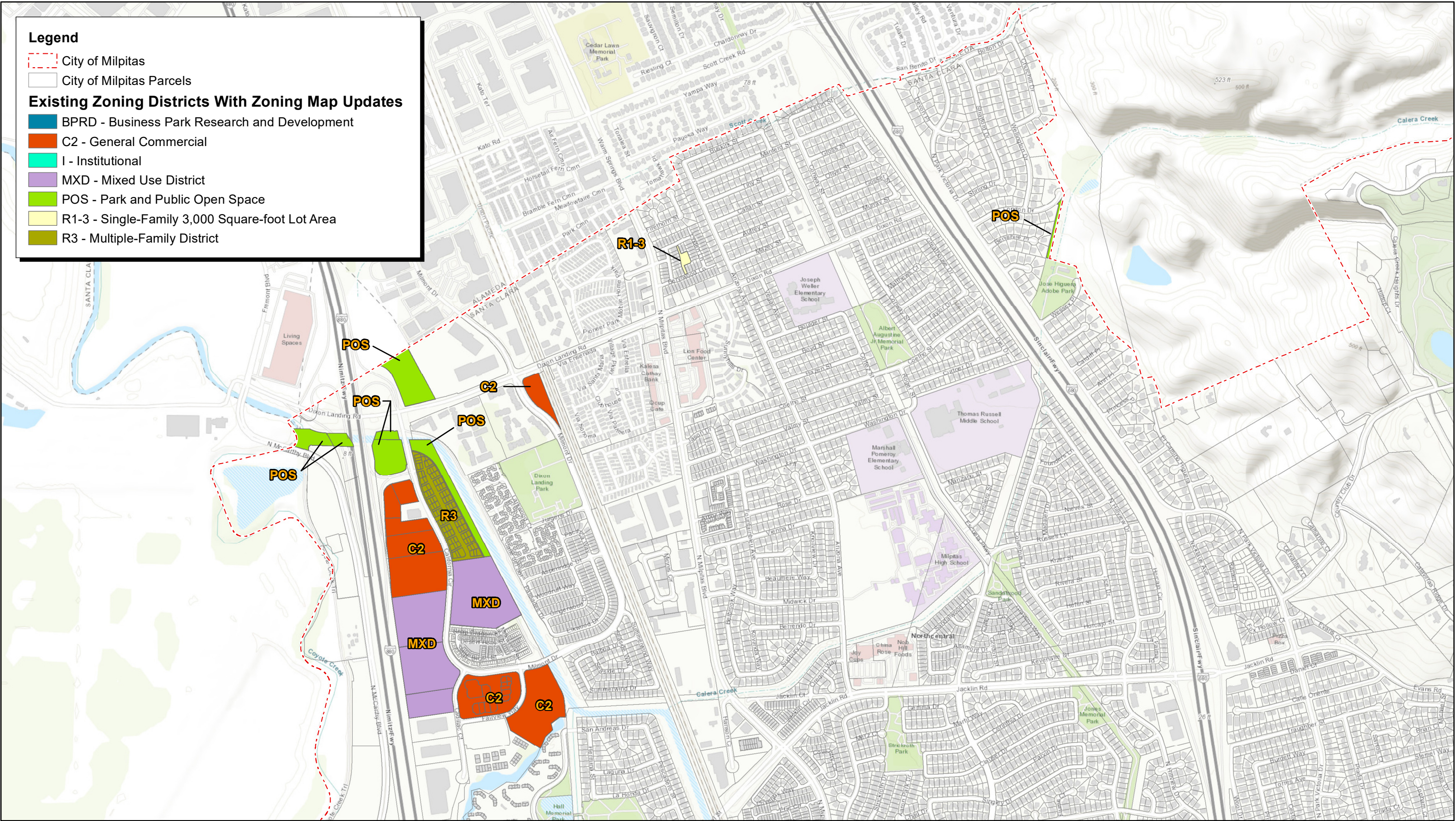
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Source: City of Milpitas, updated 12/2023.

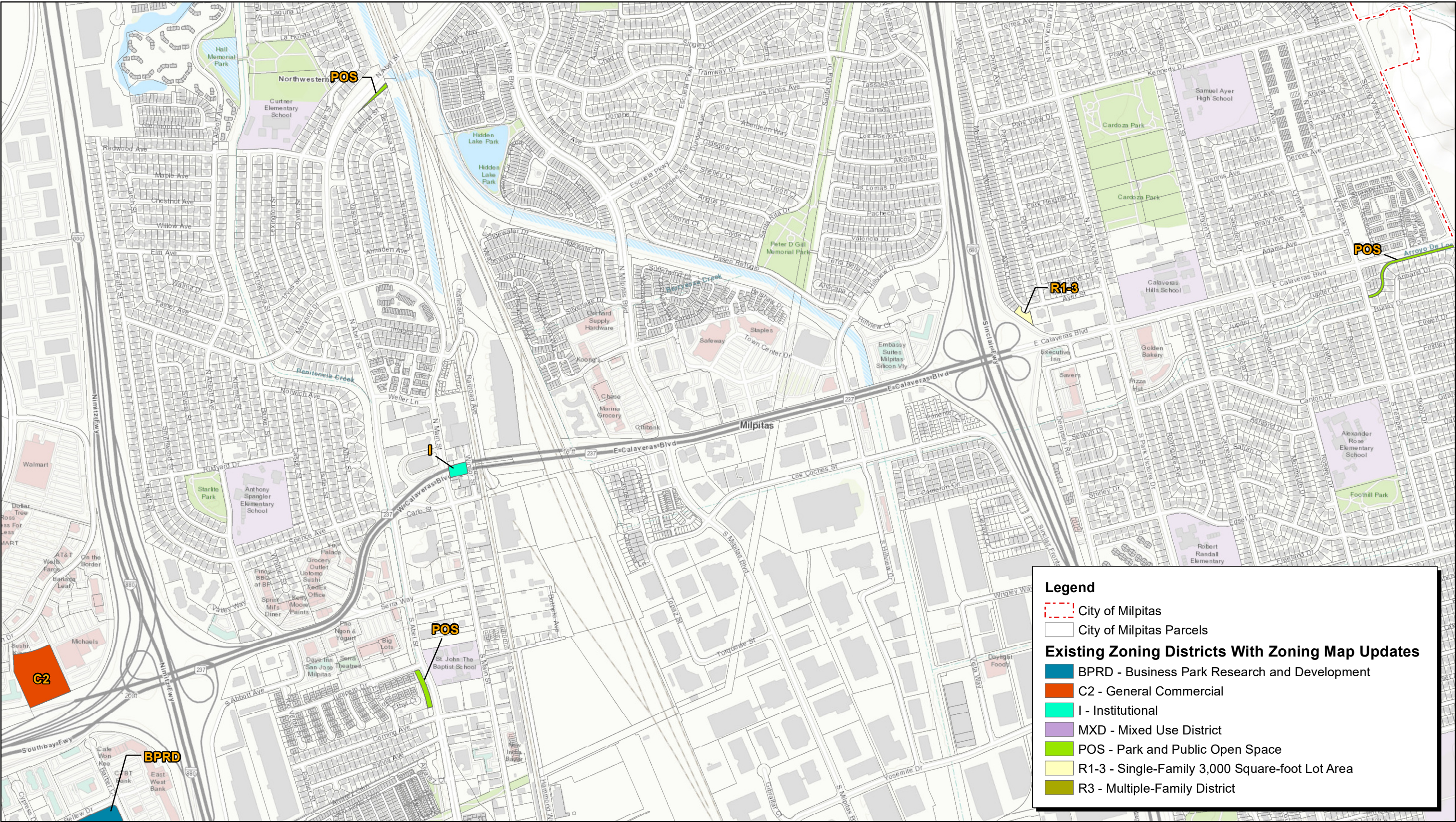


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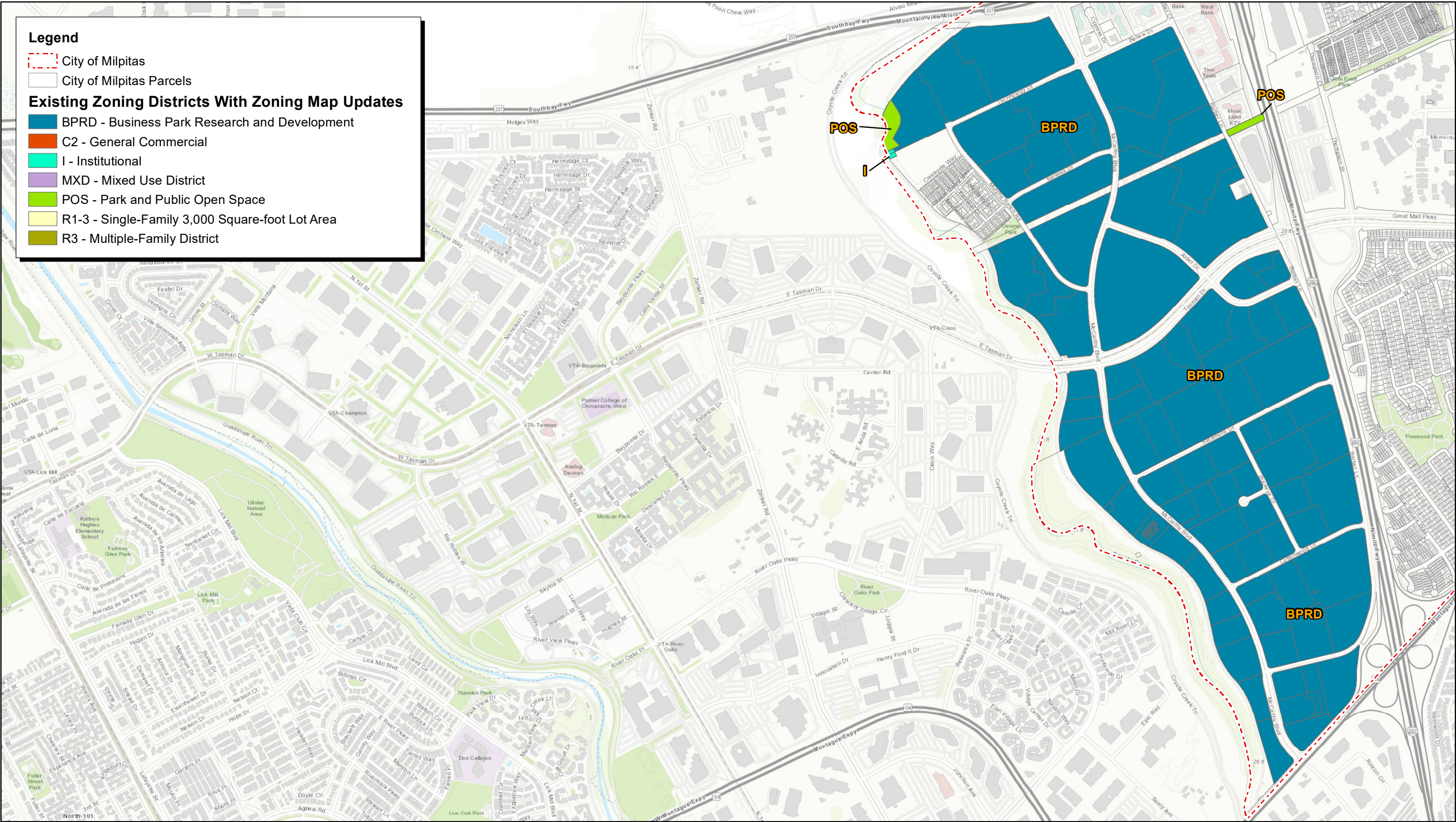
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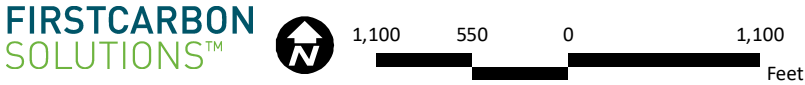


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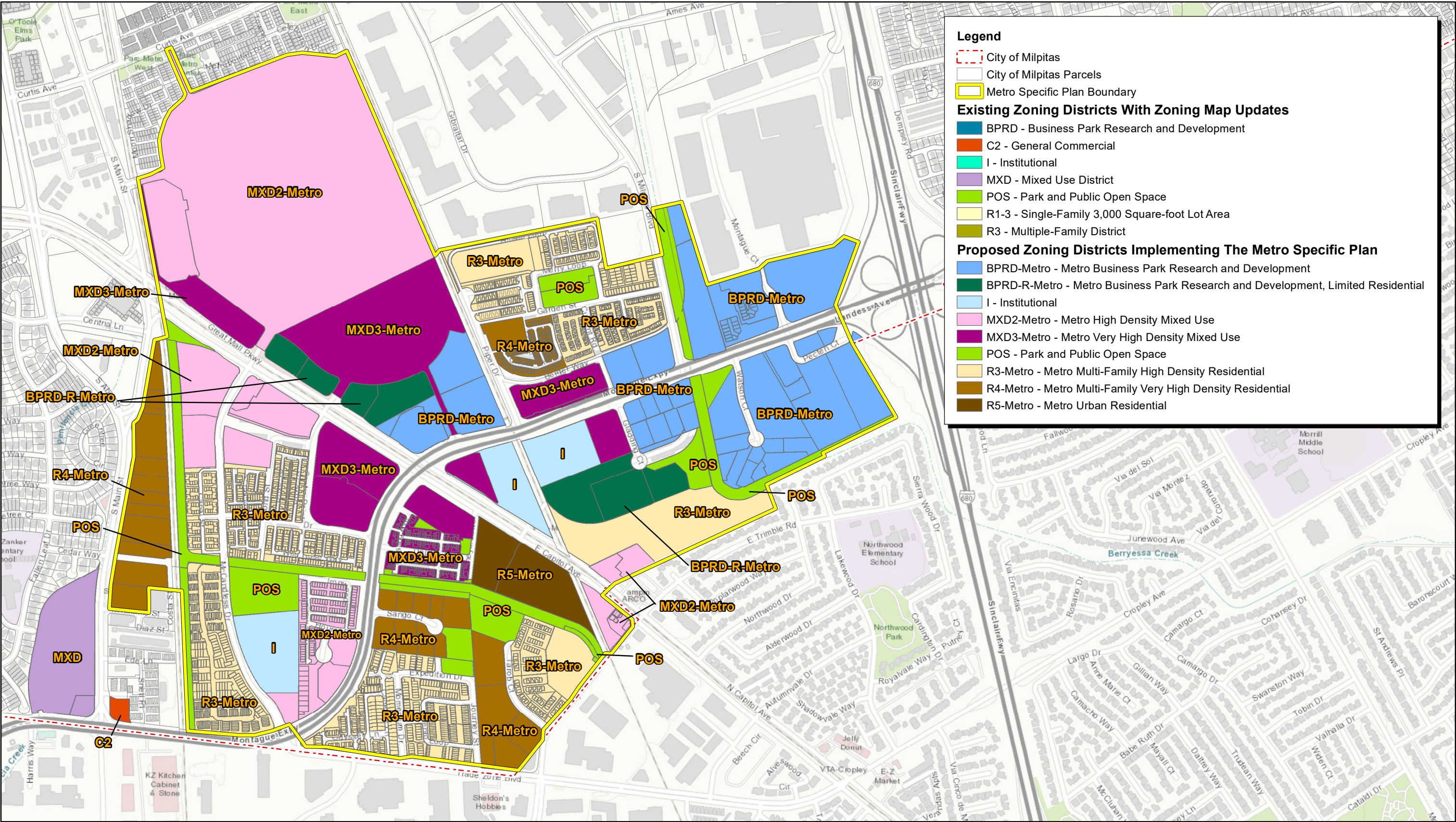
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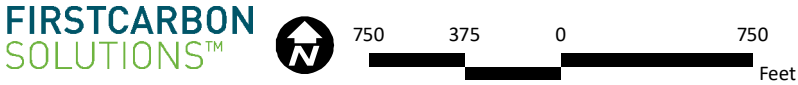
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Exhibit 5c
Proposed Zoning Map - Detailed Map

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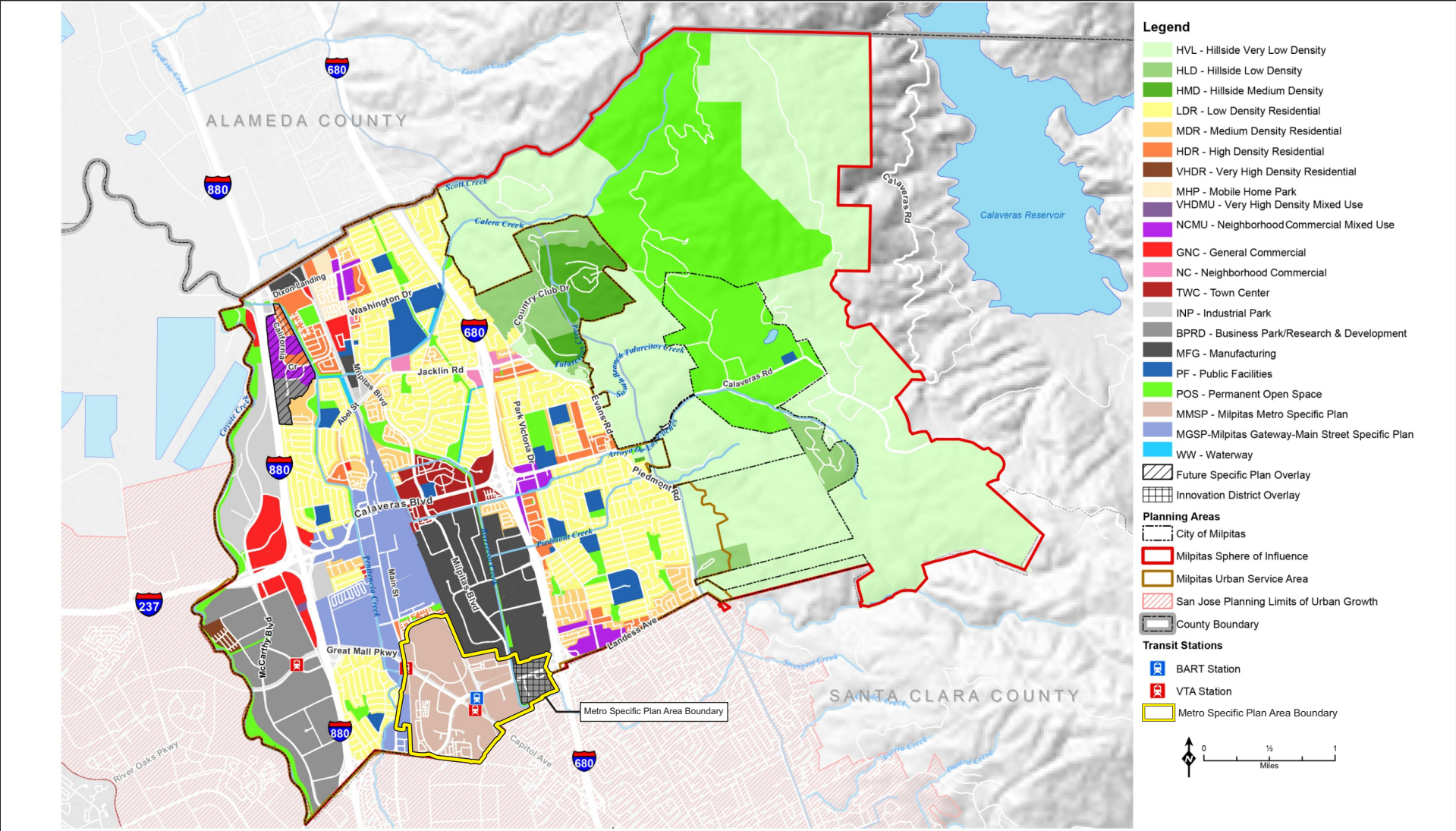


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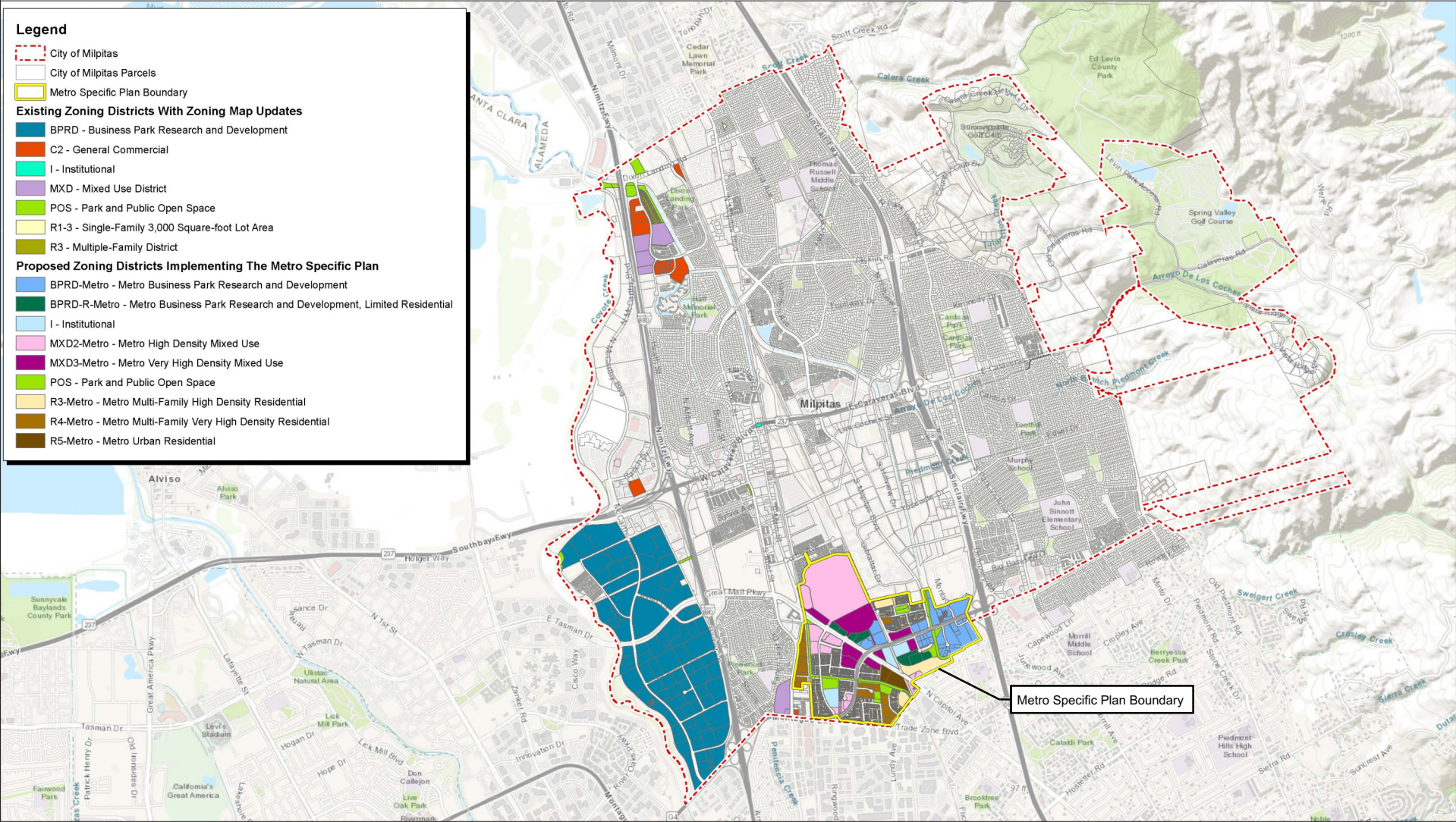


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Existing General Plan Land Use

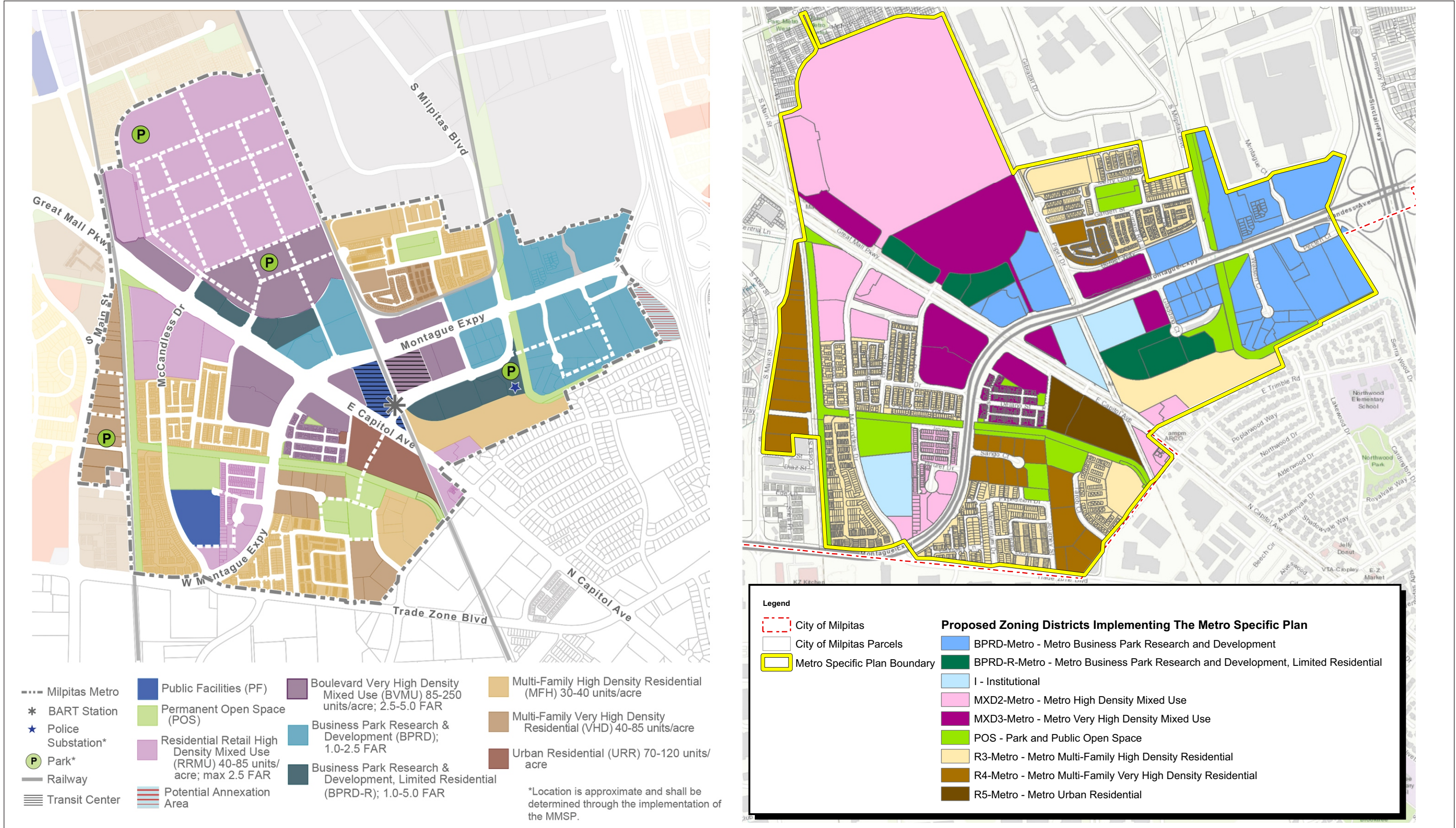


Proposed Zoning



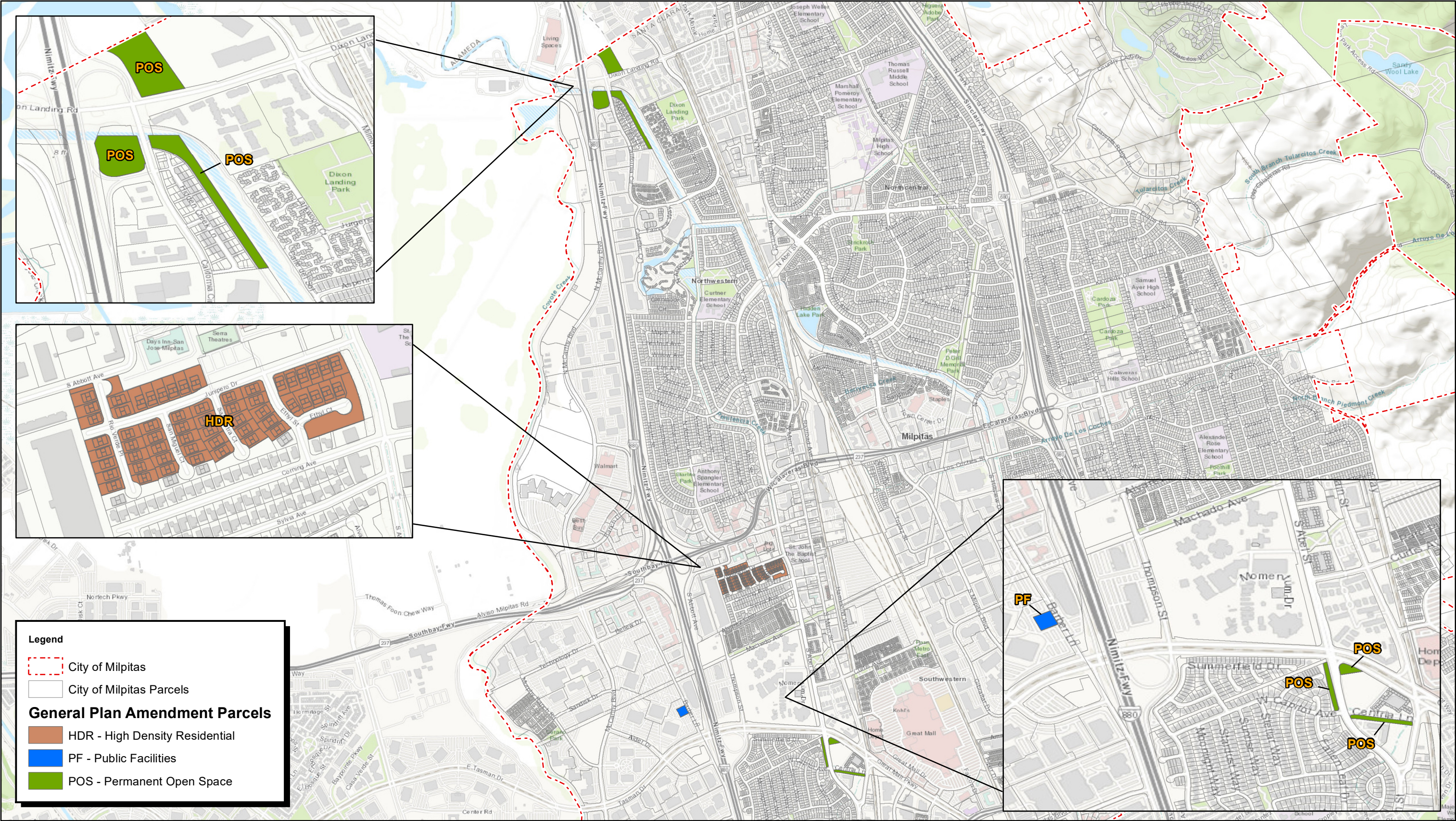
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SECTION 3: CEQA CHECKLIST

The purpose of the checklist is to evaluate the categories in terms of any changed condition (e.g., changed circumstances, project changes, or new information of substantial importance) that may result in a changed environmental result (e.g., a new significant impact or substantial increase in the severity of a previously identified significant effect) (CEQA Guidelines § 15162).

The questions posed in the checklist come from Appendix G of the CEQA Guidelines. A “no” answer does not necessarily mean that there are no potential impacts relative to the environmental category, but that there is no change in the condition or status of the impact since it was analyzed and addressed with mitigation measures in the Final EIR. These environmental categories might be answered with a “no” in the checklist, since the proposed project does not introduce changes that would result in a modification to the conclusion of the previously approved CEQA document.

This Addendum addresses the conclusions of the General Plan FEIR and the Metro Specific Plan SFEIR to establish planning document consistency and evaluate minor technical General Plan Amendments.

3.1 - Explanation of Checklist Evaluation Categories

(1) Conclusion in General Plan FEIR and Metro Specific Plan SFEIR and Related Documents

This column summarizes the conclusion of the previous certified EIRs relative to the environmental issue listed under each topic.

(2) Do the Proposed Changes Involve New Impacts?

Pursuant to CEQA Guidelines Section 15162, subd. (a)(1), this column indicates whether the changes represented by the proposed project will result in new significant environmental impacts not previously identified or mitigated by the previous certified EIRs or whether the changes will result in a substantial increase in the severity of a previously identified significant impact.

(3) New Circumstances Involving New Impacts?

Pursuant to CEQA Guidelines Section 15162, subd. (a)(2), this column indicates whether there have been substantial changes with respect to the circumstances under which the proposed project is undertaken that will require major revisions to the previous certified EIRs due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

(4) New Information Requiring New Analysis or Verification?

Pursuant to CEQA Guidelines Section 15162, subd. (a)(3)(A-D), this column indicates whether new information of substantial importance, which was not known and could not have been

known with the exercise of reasonable diligence at the time the previous certified EIRs was adopted, shows any of the following:

- (A) The project will have one or more significant effects not discussed in the previous certified EIRs or negative declaration;
- (B) Significant effects previously examined will be substantially more severe than shown in the previous certified EIRs;
- (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
- (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous certified EIRs would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

If the additional analysis completed as part of this environmental review were to find that the conclusions of the previous certified EIRs remain the same and no new significant impacts are identified, or identified impacts are not found to be substantially more severe, or additional mitigation is not necessary, then the question would be answered “no” and no additional environmental document would be required.

(5) Mitigation Measures Implemented or Address Impacts

Pursuant to CEQA Guidelines Section 15162, subd. (a)(3), this column indicates whether the previous certified EIRs provide mitigation measures to address effects in the related impact category. Any previously adopted mitigation measures will be identified. The response will also address proposed revisions to previously adopted mitigation measures. These mitigation measures will be implemented with the construction of the project, as applicable. If “NA” is indicated, the previous certified EIRs have concluded that the impact either does not occur with this project or is not significant, and therefore no additional mitigation measures are needed.

3.2 - Discussion and Mitigation Sections

The following sections include three components for each environmental checklist question: discussion of each checklist question and any potential impacts to the environment, any mitigation measures required, and a conclusion of the analysis. Each component is further described below:

(1) Discussion

A discussion of the elements of the checklist is provided under each environmental category in order to clarify the answers. The discussion provides information about the particular environmental issue, how the project relates to the issue, and the status of any mitigation that may be required or that has already been implemented.

(2) Mitigation Measures

Applicable mitigation measures from the previous certified EIRs that apply to the proposed project are listed under each environmental category.

(3) Conclusions

A discussion of the conclusion relating to the analysis is contained in each section.

3.3 - Environmental Topics

The following topics are evaluated in accordance with current CEQA Guidelines and requirements:

- Aesthetics, Light, and Glare
- Agriculture and Forestry Resources
- Air Quality
- Biological Resources
- Cultural Resources and Tribal Cultural Resources
- Energy
- Geology and Soils
- Greenhouse Gas Emissions
- Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Mineral Resources
- Noise
- Population and Housing
- Public Services
- Recreation
- Transportation
- Utilities and Service Systems
- Wildfire

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
I. Aesthetics, Light, and Glare <i>Except as provided in Public Resources Code Section 21099, would the project:</i>							
a) Have a substantial adverse effect on a scenic vista?	Less than significant impact	Less than significant impact	No	No	No	None	None
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic building within a State Scenic Highway?	Less than significant impact	Less than significant impact	No	No	No	None	None
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	Less than significant impact	Less than significant impact	No	No	No	None	None
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	Less than significant impact	Less than significant impact	No	No	No	None	None

Discussion

a. Have a substantial adverse effect on a scenic vista?

Summary of General Plan FEIR

The General Plan FEIR indicated that there are no officially designated scenic vistas in the Planning Area. Significant visual resources in the Planning Area include Mission Hills and Monument Peak; Mount Diablo, though outside the Planning Area is considered a significant visual feature visible from the city limits.

The majority of areas within the City that are designated for urban land uses are already developed. Additionally, the General Plan does not propose to convert any open space lands to urban uses. However, implementation of the General Plan could lead to new and expanded urban development in the City, which could result in interference with views of visual features surrounding the City. Development could also occur along highway corridors with high scenic values; however, the General Plan is developed to minimize interruption of views of nearby visual features by ensuring that new development is primarily an extension of the existing urban landscape.

The General Plan FEIR concluded that the implementation of the policies and actions contained in the General Plan would ensure that new urban residential and nonresidential development in the City is located in and around existing urbanized areas and developed to be visually compatible with open space resources. Therefore, the General Plan FEIR concluded that implementation of the General Plan would result in a less than significant impact regarding scenic vistas.

Summary of Metro Specific Plan SFEIR

There are no officially designated scenic vistas within the Metro Specific Plan Area. The Metro Specific Plan SFEIR concluded that the policy updates made to the TASP as part of the Metro Specific Plan would require compliance with the General Plan and the Metro Plan; furthermore, through compliance with these existing regulations, the changes made to the TASP policies by the Metro Specific Plan would not substantially change the overall impacts on aesthetics.

In addition, it was determined that the majority of projects that would be developed as a part of the Metro Specific Plan would not result in aesthetic impacts pursuant to Public Resources Code Section 21099, which states that visual resource impacts of residential, mixed-use residential, or employment center projects on an infill site within a Transit Priority Area shall not be considered significant impacts on the environment.

Therefore, the Metro Specific Plan SFEIR concluded that impacts related to aesthetics would be less than significant.

Proposed Project Analysis and Conclusions

There are no officially designated scenic vistas within the Metro Specific Plan Area or the General Plan Planning Area. As described in Section 2, Project Description, buildout of the proposed project would result in a similar intensity of development as that anticipated in the General Plan and Metro Specific Plan.

Furthermore, the proposed project does not include any specific development proposals at this time. Future development and associated land use activities would be subject to the General Plan policies and Metro Specific Plan policies, as applicable, including provisions associated with the protection of visual resources and visual compatibility with open space resources.

Therefore, implementation of the proposed project would not introduce new significant environmental impacts related to scenic vistas or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic building within a State Scenic Highway?**

Summary of General Plan FEIR

The General Plan FEIR indicated that no designated State Scenic Highway is located within the Planning Area, and no scenic highways provide views of the Planning Area. Therefore, the General Plan FEIR concluded that impacts associated with General Plan implementation would be less than significant with respect to scenic resources.

Summary of Metro Specific Plan SFEIR

There are no designated State Scenic Highways within the Metro Specific Plan Area, and no scenic highways provide views of the Planning Area. Refer to summary provided in Impact I(a).

Proposed Project Analysis and Conclusions

There are no officially designated State Scenic Highways within the Metro Specific Plan Area or the General Plan Planning Area. A portion of I-680 in the northern portion of the City is listed as eligible for designation as a State Scenic Highway. However, there are no changes being proposed in the immediate vicinity of this portion of I-680. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- c. In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?**

Summary of General Plan FEIR

The General Plan FEIR found that the Planning Area is considered an urbanized area. Zoning and other regulations governing scenic quality in the City include the Design Guidelines and Plan Review Checklist, the City of Milpitas Master Streetscape Plan, and voter-approved Measures I, J, and K (summarized on page LU-2 of the General Plan Land Use Element. The General Plan FEIR also noted that the policies and actions included in the General Plan are intended to complement and further the intent of these provisions regulating scenic quality and resources, and any development

occurring under the General Plan would be subject to compliance with these guidelines, as well as applicable regulations set forth in the City of Milpitas Municipal Code (Municipal Code).

The General Plan FEIR concluded that, with compliance with applicable regulations, implementation of the General Plan would result in a less than significant impact related to consistency with regulations governing scenic quality.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan Area is in an urbanized area. Refer to summary provided in Impact I(a).

Proposed Project Analysis and Conclusions

As described in Section 2, Project Description, buildout of the proposed project would result in a similar intensity of development as that anticipated in the General Plan and Metro Specific Plan.

Additionally, the proposed project includes updating the Zoning Ordinance to further protect visual character of the environment by specifying height restrictions, design standards, and FAR regulations for various new zoning districts. Future development associated with implementation of the proposed project would undergo discretionary review to ensure that such development matches the surrounding visual character and complies with development standards in the General Plan, Metro Specific Plan, and Zoning Ordinance. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- d. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?**

Summary of General Plan FEIR

The General Plan FEIR found that implementation of the General Plan would introduce new sources of daytime glare into previously developed areas and increase the amount of daytime glare in existing urbanized areas. Additionally, exterior lighting around commercial and industrial areas may be present throughout the night, and nighttime lighting would be most severe in areas that do not currently experience high levels of nighttime lighting. The General Plan FEIR also indicated that future development would be required to be consistent with the General Plan, as well as lighting and design requirements in the Municipal Code. Therefore, the General Plan FEIR concluded that, with the implementation of applicable General Plan policies and actions and the Municipal Code during the design review process, impacts related to daytime glare and nighttime lighting would be less than significant.

Summary of Metro Specific Plan SFEIR

Refer to summary provided in Impact I(a).

Proposed Project Analysis and Conclusions

As described in Section 2, Project Description, buildout of the proposed project would result in a similar intensity of development as that anticipated in the General Plan and Metro Specific Plan.

As such, the proposed project would likely introduce a similar amount of light and glare to the Metro Specific Plan Area and the Planning Area.

While the proposed project does not include any specific development proposals at this time, future individual development projects would likely introduce new sources of daytime glare into previously undeveloped areas and increase the amount of daytime glare in existing urbanized areas. As already noted, future development associated with the implementation of the proposed project would be required to be consistent with the policies contained in the General Plan, Metro Specific Plan, and Municipal Code, as applicable and would be subject to regulatory process and environmental review. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

Mitigation Measures

General Plan FEIR Mitigation Measures

None.

Metro Specific Plan SFEIR Mitigation Measures

None.

Mitigation Measures for the Proposed Project

None required.

Conclusion

With regard to Aesthetics, the analysis demonstrates that:

1. No substantial changes are proposed in the project which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
2. No substantial changes are proposed with respect to the circumstances under which the project is undertaken which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
3. No new information of substantial importance indicates any new or more significant effects than shown in the previously certified EIRs.
4. No mitigation measures are necessary because the proposed project's specific impacts would be less than significant.
5. None of the conditions described in State CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Substantial Changes in Project Involving New or More Severe Impacts?	Substantial Changes in Circumstances Involving New or More Severe Impacts?	New Information of Substantial Importance Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
II. Agriculture and Forestry Resources <i>In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the State's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:</i>							
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to nonagricultural use?	Less than significant impact	No impact	No	No	No	None	None
b) Conflict with existing zoning for agricultural use, or a Williamson Act Contract?	Less than significant impact	No impact	No	No	No	None	None
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or	No impact	No impact	No	No	No	None	None

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Substantial Changes in Project Involving New or More Severe Impacts?	Substantial Changes in Circumstances Involving New or More Severe Impacts?	New Information of Substantial Importance Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?							
d) Result in the loss of forest land or conversion of forest land to non-forest use?	No impact	No impact	No	No	No	None	None
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to nonagricultural use or conversion of forest land to non-forest use?	Less than significant impact	No impact	No	No	No	None	None

Discussion

a-e) Conversion of Important Farmland to Nonagricultural Use, Conflict with Existing Zoning for Agricultural Use or Williamson Act Contracts, Conflict with Existing Forest Land Zoning, Conversion of Forest Land to Non-Forest Use, and Other Changes to Convert Farmland to Nonagricultural Use or Forest Land to Non-Forest Use

Would the project:

- a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to nonagricultural use?**
- b) Conflict with existing zoning for agricultural use, or a Williamson Act Contract?**

- c) **Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?**
- d) **Result in the loss of forest land or conversion of forest land to non-forest use?**
- e) **Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to nonagricultural use or conversion of forest land to non-forest use?**

Summary of General Plan FEIR

The General Plan FEIR indicated that there are no parcels within the City that have a land use designation for agricultural use or forest land, contain agriculture or forestry uses, have a Williamson Act Contract, or are on lands identified by the California Department of Conservation's Farmland Mapping and Monitoring Program (FMMP).

The majority of the areas within the City are designated for urban land uses and are already developed. While there are three parcels throughout the Planning Area that are zoned for agricultural use, none of these parcels are in active agricultural production. Furthermore, parcels within the Zoning District Agricultural District (A) are not intended to be used exclusively for agricultural uses in perpetuity. Table 1: General Plan Designations and Implementing Zoning Districts in the General Plan Land Use Element notes that the A zoning district is consistent with all land use designations; therefore, a zoning change from A to any other zoning district can be made in general accord with the General Plan.

Therefore, the General Plan FEIR concluded that implementation of the General Plan would result in a less than significant impact on Agricultural and Forestry Resources.

Summary of the Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR states that there are no areas with a land use or zoning designation for agricultural or forestry resources in the Metro Specific Plan Area, nor are there any lands currently being used for agriculture or forestry in the Metro Specific Plan Area. As such, the Metro Specific Plan SFEIR concluded that there would be no impacts related to agriculture and forestry.

Proposed Project Analysis and Conclusions

As part of the proposed project, Assessor's Parcel Number (APN) 2201021, totaling approximately 4.09 acres, would undergo both a General Plan Amendment to change the land use designation from MFG to POS and change the zoning designation from A to POS. These changes would ensure consistency with the parcel's existing land uses. Additionally, there are no lands within the General Plan Planning Area or the Metro Specific Plan Area currently being used for agriculture or forestry. Therefore, implementation of the proposed project would not introduce new significant environmental impacts related to agriculture and forestry or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

Mitigation Measures

General Plan FEIR Mitigation Measures

None.

Metro Specific Plan SFEIR Mitigation Measures

None.

Mitigation Measures for the Proposed Project

None required.

Conclusion

With regard to Agricultural and Forestry Resources, the analysis demonstrates that:

1. No substantial changes are proposed in the project which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
2. No substantial changes are proposed with respect to the circumstances under which the project is undertaken which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
3. No new information of substantial importance indicates any new or more significant effects than shown in the previously certified EIRs.
4. No mitigation measures are necessary because the proposed project's specific impacts would be less than significant.
5. None of the conditions described in State CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
III. Air Quality <i>Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project:</i>							
a) Conflict with or obstruct implementation of the applicable air quality plan?	Less than significant impact	Less than significant impact	No	No	No	None	None
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or State ambient air quality standard?	Less than significant impact	Significant and unavoidable impact	No	No	No	None	MM AQ-1, MM AQ-2, MM AQ-3, MM AQ-4, MM AQ-5, MM AQ-6, MM AQ-7, and MM AQ-8
c) Expose sensitive receptors to substantial pollutant concentrations?	Less than significant impact	Significant and unavoidable impact	No	No	No	None	MM AQ-9
d) Result in other emissions (such as those leading to odors or) adversely affecting a substantial number of people?	Less than significant impact	Less than significant impact	No	No	No	None	None

Discussion

a. Conflict with or obstruct implementation of the applicable air quality plan?

Summary of General Plan FEIR

The General Plan FEIR determined that the General Plan includes various policies and actions aimed at improving air quality by promoting compact urban development form, emphasizing infill development, and ensuring that land use patterns do not expose sensitive receptors² to pollutant concentrations. The General Plan would also reduce Vehicle Miles Traveled (VMT) per service population at buildout using complete streets and multimodal transportation systems. The General Plan FEIR determined that the implementation of the General Plan would be consistent with the Bay Area Air Quality Management District's (BAAQMD) 2017 Clean Air Plan through policies reducing greenhouse gas emissions, criteria pollutant emissions, odors, health risks, and other emissions. The General Plan would also be consistent with the goals of the BAAQMD by reducing emissions of criteria pollutants associated with VMT. Therefore, the General Plan FEIR concluded that impacts would be less than significant.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan includes various policies and improvements that support regional attainment of the California Ambient Air Quality Standards (CAAQS) and National Ambient Air Quality Standards (NAAQS). These policies include recommended sustainability measures, such as green building and Leadership in Energy and Environmental Design (LEED) certification, reduction in GHG emissions, and coordination at local and regional levels to improve air quality. The Metro Specific Plan also promotes alternative modes of transportation, alternative transportation development, and VMT reductions. Additionally, the Metro Specific Plan SFEIR identified policies that aim to protect public health and reduce GHG emissions, such as policies that require new development near toxic air contaminant (TAC) sources be designed to minimize any potential health risks to adjacent receptors. The Metro Specific Plan SFEIR also identified control measures within the 2017 Clean Air Plan aimed at reducing air pollution related to transportation, energy, building, waste management, water, and stationary source control measures. The Metro Specific Plan SFEIR further determined that the Metro Specific Plan would not cause the disruption, delay, or otherwise hinder implementation of any applicable control measure from the 2017 Clean Air Plan. Therefore, the Metro Specific Plan SFEIR concluded that the Metro Specific Plan would have less than significant impacts related to conflicts with a clean air plan.

Proposed Project Analysis and Conclusions

The proposed project would update the Zoning Ordinance and Zoning Map, as well as make minor technical amendments to the General Plan Land Use Element and General Plan Land Use Map, to create conformity between the General Plan, the Metro Specific Plan, and the Zoning Ordinance. As

² Air pollution does not affect every individual in the population in the same way, and some groups are more sensitive to adverse health effects than others. Residences, schools, day care centers, hospitals, nursing and convalescent homes, and parks are often identified as "sensitive receptors" since their occupants are sensitive to poor air quality. The groups identified with these land uses may have increased susceptibility to respiratory distress or, as in the case of residential receptors, their exposure time is greater than that for other land uses. BAAQMD defines sensitive receptors as children, adults, and seniors occupying or residing in residential dwellings, schools, day care centers, hospitals, and senior-care facilities.

explained under Section 2.3, Project Characteristics, buildout of the proposed project would result in relatively similar land use densities and intensities as was previously evaluated under the approved General Plan FEIR and Metro Specific Plan SFEIR. Therefore, air quality impacts associated with the proposed project would be consistent with those identified in the General Plan FEIR and Metro Specific Plan SFEIR analyses, including the conclusions that both the General Plan and Metro Specific Plan are consistent with the BAAQMD's 2017 Clean Air Plan and would have a less than significant impact, as future individual development projects under the proposed project would be required to comply with policies and measures contained in both the General Plan and Metro Specific Plan. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- b. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is nonattainment under an applicable federal or State ambient air quality standard?**

Summary of General Plan FEIR

Refer to summary provided in Impact III(a).

Summary of Metro Specific Plan SFEIR

Construction

The Metro Specific Plan SFEIR found that construction under the Metro Specific Plan would result in temporary generation of ozone precursors (reactive organic gases [ROG], nitrogen oxides [NO_x]), carbon monoxide (CO), and particulate matter emissions, which could result in short-term impacts on ambient air quality within the Metro Specific Plan Area from construction equipment exhaust, haul trucks, demolition, etc. The construction emission impacts associated with future individual development projects would be short-term in nature and limited to the period of time when construction activity is taking place for the particular development, but concurrent construction of multiple projects would generate combined criteria pollutant emissions that could exceed BAAQMD's project-level thresholds, resulting in a potentially significant impact. Per MM AQ-1 through MM AQ-4, the use of at least Tier 4 engines and renewable diesel for off-road equipment newer trucks to reduce NO_x and particulate matter exhaust emission levels, and use of low-volatile organic compounds (VOC) paints to reduce ROG emission levels would be required during construction activities. Additionally, the Metro Specific Plan SFEIR would implement MM AQ-5, which requires construction projects to implement Best Management Practices (BMPs) to reduce fugitive dust emissions. Therefore, the Metro Specific Plan SFEIR concluded that impacts related to fugitive particulate matter less than 10 micrometers in diameter (PM₁₀) and particulate matter less than 2.5 micrometers in diameter (PM_{2.5}) emissions would be less than significant.

However, there could be conditions under the Metro Specific Plan where the amount of construction activity for an individual development project or a combination of projects could result in the generation of ROG, NO_x, and particulate matter emissions that exceed the BAAQMD significant thresholds. Therefore, MM AQ-6, which requires applicants to assess, determine, and mitigate total emissions from proposed construction activities, would reduce impacts related to exceeding BAAQMD's daily pollutant thresholds. However, the Metro Specific Plan SFEIR concluded that

construction air quality impacts would be significant and unavoidable because it is possible that mitigation for future project health risks may be inadequate to reduce impacts below BAAQMD's threshold level.

Operation

The Metro Specific Plan SFEIR determined that the Metro Specific Plan's operational emissions would potentially exceed BAAQMD's regional significance thresholds for ROG, NO_x, and CO. However, implementation of MM AQ-7 and MM AQ-8 would help ensure that individual development projects within the City would not contribute a significant level of air pollution such that regional air quality within the San Francisco Bay Area Air Basin (SFBAAB) would be degraded. However, because cumulative development would potentially exceed the regional significance thresholds, the Metro Specific Plan SFEIR concluded that health impacts related to regional criteria pollutants would be significant and unavoidable.

Criteria Pollutants

The Metro Specific Plan SFEIR determined that the implementation of the Metro Specific Plan would have a significant and unavoidable impact with regard to exposing sensitive receptors to particulate matter pollution during construction and operation. The Metro Specific Plan SFEIR further identified that construction emissions resulting from future individual development projects could exceed BAAQMD's regional ROG, NO_x, and particulate matter thresholds. MM AQ-1 through MM AQ-6 would reduce regional emissions below BAAQMD's regional thresholds, and MM AQ-7 and MM AQ-8 would reduce regional emissions of ROG, NO_x, and particulate matter operational emissions to below the BAAQMD's regional thresholds. However, the Metro Specific Plan SFEIR determined that health impacts related to regional criteria pollutants would be significant and unavoidable because offset programs under MM AQ-6 and MM AQ-8 may not be available at the time of future development. Additionally, the Metro Specific Plan SFEIR determined that CO emitted by traffic would exceed BAAQMD screening criteria. However, according to the Metro Specific Plan SFEIR, maximum traffic volumes would be less than the BAAQMD's recommended screening criterion of 44,000 vehicles per hour or 24,000 vehicles per hour for areas where vertical and/or horizontal mixing is substantially limited. Therefore, the Metro Specific Plan SFEIR concluded that the Metro Specific Plan would be consistent with the City/County Association of Government's Congestion Management Plan and would have less than significant impacts related to concentrations of CO.

Proposed Project Analysis and Conclusions

Consistent with the General Plan FEIR, future individual development projects resulting from buildout of the proposed project would be evaluated under the policies and programs contained in the General Plan. The overall buildout numbers from the proposed project would be similar to those contained in the General Plan, resulting in similar operational emissions. As such, the traffic volumes would continue to meet the BAAQMD screening criteria for CO concentrations.

The proposed project would be required to implement Metro Specific Plan SFEIR mitigation measures, SFEIR MM AQ-1 through AQ-4, which require the use of at least Tier 4 engines and renewable diesel for off-road equipment, newer trucks to reduce NO_x and particulate matter exhaust emission levels, and use of low-VOC paints to reduce ROG emission levels would be required during

construction activities in areas within the Metro Specific Plan; and Metro Specific Plan SFEIR MM AQ-5, which requires construction projects within the Metro Plan Area to implement BMPs (as recommended by BAAQMD) to reduce these fugitive dust emissions. These MMs would reduce fugitive PM₁₀ and PM_{2.5} emissions from the proposed project in areas within the Metro Specific Plan to less than significant levels. In addition, the proposed project would also be required to implement Metro Specific Plan SFEIR MM AQ-6 for project areas under the Metro Specific Plan, requiring applicants for individual development to assess and determine the estimated total emissions from proposed construction activities (subject to City review and approval), and coordinate with BAAQMD or a third-party or governmental entity to determine the mitigation fees for each development project's applicant to pay on a pro rata basis to BAAQMD or a third-party or governmental entity to offset their pollutant emissions as necessary, such that BAAQMD's daily pollutant thresholds would not be exceeded.

During operations, activities within the Metro Specific Plan would also be required to implement Metro Specific Plan SFEIR MM AQ-7 to reduce operational area source emissions to the extent feasible, and Metro Specific Plan MM AQ-8 to offset operational criteria pollutant emissions through the purchase of mitigation credits.

As discussed above, the Metro Specific Plan SFEIR concluded that, even with implementation of MM AQ-1 through AQ-8, offset of cumulative impacts to criteria pollutants could not be guaranteed to reduce impact levels below the BAAQMD's significance threshold. Since the proposed project would implement similar land use densities and intensities as the existing Metro Specific Plan, the proposed project in areas under the Metro Specific Plan would be consistent with the analysis within the Metro Specific Plan SFEIR. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

c. Expose sensitive receptors to substantial pollutant concentrations?

Summary of General Plan FEIR

The General Plan FEIR determined that the implementation of the General Plan would have the potential to introduce new sources of TAC and PM_{2.5} emissions within the City as well as siting new sensitive receptors in close proximity to existing sources of air pollutants. However, the General Plan FEIR identified various policies and actions within the General Plan intended to minimize exposure of TACs to sensitive receptors within the City. For example, Policy CON 7-2 requires adequate buffer or setback distances between sensitive land uses and potential sources of toxic or harmful air emissions. Additionally, Policy CON 7-3 requires projects that generate high levels of pollutants to incorporate air quality mitigations into design, and Action CO-7c requires site-specific air quality Health Risk Assessments (HRAs) for developments that would place sensitive receptors within a specific distance from sources of TAC emissions. Furthermore, the General Plan FEIR found that all new sources of TAC emissions within the City would be required to obtain an Air Permit from BAAQMD, including the analysis of TAC or PM_{2.5} emissions generated and potential health impacts to the nearest sensitive receptor. Therefore, the General Plan FEIR determined that the General Plan

would minimize exposure to TACs and PM_{2.5} concentrations within the City. Therefore, the General Plan FEIR concluded that impacts would be less than significant.

Summary of Metro Specific Plan SFEIR

Toxic Air Contaminants

The Metro Specific Plan SFEIR determined that additional emissions generated by new stationary sources, vehicle trips, and construction activity could expose receptors to cancer and non-cancer risks in excess of BAAQMD significance thresholds during construction and operation. Furthermore, the Metro Specific Plan includes industrial development within 1,000 feet of existing sensitive receptors. Therefore, MM AQ-9 requires applicants to provide a project-level evaluation of construction- and operational-related health risks from future individual development projects. However, the Metro Specific Plan SFEIR concluded that impacts would be significant and unavoidable because it is possible that mitigation for future project health risks may be inadequate to reduce impacts below BAAQMD's threshold level.

Proposed Project Analysis and Conclusions

As discussed above, buildout of the proposed project would result in similar land use densities and intensities as those analyzed under the General Plan FEIR and the Metro Specific Plan SFEIR. The proposed project would not propose any significant land use modifications that could result in a substantial increase in air pollutant emissions. Furthermore, future individual development projects would be required to comply with applicable General Plan policies and measures described above, as well as applicable BAAQMD rules and regulations, designed to minimize the potential exposure of sensitive receptors to substantial concentrations of TACs and PM_{2.5} within the City. Within the Metro Specific Plan Area, future individual development projects would be required to implement Metro Specific Plan SFEIR MM AQ-9, which requires individual projects within 1,000 feet of a sensitive receptor to provide a project-level evaluation of construction- and operational-related health risks. Furthermore, SFEIR MM AQ-1, which requires the use of at least Tier 4 engines and renewable diesel for off-road equipment, would also reduce TACs during construction. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- d. **Result in other emissions (such as those leading to odors or) adversely affecting a substantial number of people?**

Summary of General Plan FEIR

The General Plan FEIR determined that potential odor sources within the City are the Newby Island Landfill and Composting operation, the Santa Clara/San Jose Wastewater Facility, which is also known as the Water Pollution Control Plant (WPCP), the Zanker Landfill and Composting Facility, and the Zanker Organic Digester Facility. The General Plan FEIR found that the General Plan does not include land uses within the vicinity of these or any other potential sources of objectional odors. Future individual development projects with the potential to generate significant objectional odors would be required to undergo CEQA review, as applicable, and the implementation of the General

Plan policies would further minimize the potential for other emissions to adversely affect a substantial number of people. Therefore, the General Plan FEIR concluded that impacts related to odors would be less than significant.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR determined that the implementation of the Metro Specific Plan would have a less than significant impact related to odors. While odors from heavy-duty equipment and paving equipment could result during construction, these odors would be identical to those generated by construction activities in the previously adopted and previously analyzed TASP. Therefore, the Metro Specific Plan SFEIR concluded that construction-related odor impacts would be less than significant. During operation, diesel exhaust from landscaping equipment and trash pickup could create unpleasant exhaust odors. However, the Metro Specific Plan SFEIR determined that these impacts would be temporary and localized. Therefore, the Metro Specific Plan SFEIR concluded that operation-related odor impacts would be less than significant.

Proposed Project Analysis and Conclusions

Implementation of the proposed project would result in similar land use patterns as well as land use densities and intensities to those identified and analyzed under the General Plan FEIR and Metro Specific Plan SFEIR. Furthermore, the proposed project would not place sensitive land uses near odor sources beyond what was analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

Mitigation Measures

General Plan FEIR Mitigation Measures

None.

Metro Specific Plan SFEIR Mitigation Measures

MM AQ-1 Require at Least Tier 4 Final Engines on Construction Equipment

All applicants proposing development of projects within the Metro Plan Area shall require their contractors, as a condition of contract, to further reduce construction-related exhaust emissions by ensuring that all off-road equipment greater than 50 horsepower (hp) and operating for more than 20 total hours over the entire duration of construction activities, shall operate on at least an Environmental Protection Act (EPA)-approved Tier 4 Final or newer engine. Exemptions can be made for specialized equipment where Tier 4 engines are not commercially available within 200 miles of the Metro Plan Area. The construction contract must identify these pieces of equipment, document their unavailability, and ensure that they operate on no less than an EPA-approved Tier 3 engine.

MM AQ-2 Require Use of Diesel Trucks with 2010-Compliant Model Year Engines

All applicants proposing development of projects within the Metro Plan Area shall require their contractors, as a condition of contract, to use diesel trucks that have 2010 model year or newer engines, but no less than the average fleet mix for the current calendar year as set forth in the ARB's EMFAC database. In the event that 2010 model year or newer diesel trucks cannot be obtained, the contractor must provide documentation to the City showing that a good faith effort to locate such engines was conducted.

MM AQ-3 Require Construction Fleet to Use Renewable Diesel

All applicants proposing development of projects within the Metro Plan Area shall require their contractors, as a condition of contract, to reduce construction-related exhaust emissions by ensuring that all off-road equipment greater than 50 hp and operating for more than 20 total hours over the entire duration of construction activities shall operate on renewable diesel (such as high performance renewable diesel).

MM AQ-4 Require Low-VOC Coatings During Construction

All applicants proposing development of projects within the Metro Plan Area shall require their contractors, as a condition of contract, to reduce construction-related fugitive ROG emissions by ensuring that low-VOC coatings that have a VOC content of 10 grams/liter (g/L) or less are used during construction. The project applicant will submit evidence of the use of low-VOC coatings to City prior to the start of construction.

MM AQ-5 Require Fugitive Dust Best Management Practices

All applicants proposing development of projects within the Metro Plan Area shall require their contractors, as a condition of contract, to reduce construction-related fugitive dust by implementing BAAQMD's basic control measures at all construction and staging areas. The following measures would be implemented.

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) will be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site will be covered.
- All visible mud or dirt track-out onto adjacent public roads will be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads, driveways, or driving surfaces shall be limited to 15 miles per hour (mph).

- All roadways, driveways, and sidewalks to be paved will be completed as soon as possible. Building pads will be laid as soon as possible after grading unless seeding or soil binders are used.
- A publicly visible sign will be posted with the telephone number and the name of the person to contact at the lead agency regarding dust complaints. This person will respond and take corrective action within 48 hours. The phone number of the BAAQMD will also be visible to ensure compliance.

MM AQ-6 Purchase Mitigation Credits for Construction Emissions Exceeding BAAQMD's Daily Pollutant Thresholds

Applicants proposing development of projects within the Metro Plan Area shall compare their project size with the BAAQMD screening sizes appropriate to their project for construction criteria pollutants found in Table 3-1 in BAAQMD's current CEQA Guidelines (2017). The screening limit for general office buildings, office park, or government office building is 277,000 square feet. There are different screening limits for residential, retail, hotels, and other developments based off specific land use type (e.g., single-family housing, apartments, low-rise, hotels, strip malls). If the project is less than the screening limit for its project type, then applicants shall confirm to the City whether construction-related activities would include any of the following:

- Demolition.
- Simultaneous occurrence of more than two construction phases (e.g., paving and building construction would occur simultaneously) or construction would occur simultaneous with other Metro Plan development.
- Simultaneous construction of more than one land use type (e.g., project would develop residential and commercial uses on the same site) (not applicable to high-density infill development).
- Extensive site preparation (i.e., greater than default assumptions used by the CalEEMod model for grading, cut/fill, or earth movement).
- Extensive material transport (e.g., greater than 10,000 cubic yards of soil import/export) requiring a considerable amount of haul truck activity.

If the project is less than the screening limit for the project type and construction would involve none of the five conditions above, no further action is required.

Project applicants not excluded by the conditions above shall estimate annual average emissions for each year of construction and compare the annual average emissions for each year of construction to the applicable BAAQMD thresholds at the time of analysis. The emissions estimate shall be provided as part of the project's initial application to the City. The City will review the estimate and confirm whether offsets are required for construction. Should the City-confirmed estimate indicate that the proposed development estimate would not result in construction emissions exceeding BAAQMD's daily pollutant thresholds, no further action will be required.

For proposed developments that are estimated to result in exceedances of thresholds, the applicants shall coordinate with a third-party (e.g., Bay Area Clean Air Foundation) or governmental entity to pay for criteria pollutant offsets for every year in which construction emissions are estimated to exceed the BAAQMD thresholds. If the estimate shows exceedances of multiple criteria pollutants above the BAAQMD thresholds, then offsets must be obtained to address each pollutant above the thresholds. Emission reduction projects and fee will be determined in consultation between the applicant and the third-party or governmental entity and will include offset provider administrative costs. The agreement that specifies fees and timing of payment shall be provided to the City for review and signed by the applicant and the third-party or governmental entity. The emission reductions shall be secured prior to any year in which construction activity is estimated to result in an exceedance. The payment for the emissions can either be on an annual basis or done once upfront, prior to construction.

To qualify under this mitigation measure, the specific emissions reduction project(s) must result in emission reductions in the SFBAAB that are real, surplus, quantifiable, and enforceable, and that would not otherwise be achieved through compliance with existing regulatory requirements of any other legal requirement.

MM AQ-7 Restrict Use of Natural Gas in New Development

Future development within the Metro Plan Area shall utilize electric space and water heating to the maximum extent feasible or to the extent required by existing or future local building regulations. Natural gas infrastructure and appliances shall be installed to the extent feasible as determined by the availability and capacity of electrical power distribution infrastructure.

MM AQ-8 Purchase Mitigation Credits for Operational Emissions Exceeding BAAQMD's Daily Pollutant Thresholds

Applicants proposing development of projects within the Metro Plan Area shall compare their project size with the BAAQMD screening sizes appropriate to their project for operational criteria pollutants found in Table 3-1 in BAAQMD's current CEQA Guidelines (2017). The screening limit for general office buildings, office park, or government office building is 346,000 square feet, 323,000 square feet, and 61,000 square feet, respectively. There are different screening limits for residential, retail, hotels, and other developments based off specific land use type (e.g., single-family housing, apartments, low-rise, hotels, strip malls)

If the project is less than the screening limit for the project type, then no further action is required.

Project applicants not excluded by the condition above shall estimate annual average operational emissions for each operational year over the life of the project

(20 years) and compare the annual average emissions for each year of operations to the BAAQMD thresholds used in the EIR for criteria pollutants. The emissions estimate shall be provided as part of the project's initial application to the City for the project. The City will review the estimate and confirm whether offsets are required for operation. Should the City-confirmed estimate indicate that the proposed development estimate would not result in operational emissions exceeding BAAQMD's daily pollutant thresholds, no further action is required.

For proposed developments that are estimated to result in exceedances of thresholds during any year of the project's life, the applicants shall coordinate with a third-party (e.g., Bay Area Clean Air Foundation) or governmental entity to pay for criteria pollutant offsets for every year in which operational emissions are estimated to exceed the BAAQMD thresholds. If the estimate shows exceedances of multiple criteria pollutants above the BAAQMD thresholds, then offsets must be obtained to address each pollutant above the thresholds. Emission reduction projects and fee will be determined in consultation between the applicant and the third-party or governmental entity and will include offset provider administrative costs. The agreement that specifies fees and timing of payment shall be provided to the City for review and signed by the applicant and the third-party or governmental entity. The emission reductions shall be secured prior to any year in which operational activity is estimated to result in an exceedance. The payment for the emissions can either be on an annual basis or done once upfront prior to operation.

To qualify under this mitigation measure, the specific emissions reduction project(s) must result in emission reductions in the SFBAAB that are real, surplus, quantifiable, and enforceable, and that would not otherwise be achieved through compliance with existing regulatory requirements of any other legal requirement.

MM AQ-9 Prepare a Health Risk Assessment

All applicants proposing development of projects in the Metro Plan Area within 1,000 feet of existing sensitive receptors, as defined by BAAQMD (e.g., residential), shall prepare a site-specific construction and operational Health Risk Assessment (HRA). The HRA shall include all reasonably foreseeable sources of TAC, consistent with BAAQMD guidelines. If the HRA demonstrates, to the satisfaction of the City, that the health risk exposures or PM_{2.5} concentrations for adjacent receptors would be less than BAAQMD project-level thresholds, then additional mitigation would be unnecessary. However, if the HRA demonstrates that health risks or PM_{2.5} concentrations would exceed BAAQMD project-level thresholds, additional feasible on- and off-site mitigation would be analyzed by the applicant to help reduce risks to the greatest extent practicable. Mitigation may include installation of indoor air filters (MERV 13 or higher) at sensitive receptor locations and planting of vegetation and trees as pollution buffers.

Mitigation Measures for the Proposed Project

Implement MM AQ-1, MM AQ-2, MM AQ-3, MM AQ-4, MM AQ-5, MM AQ-6, MM AQ-7, MM AQ-8, and MM AQ-9.

Conclusion

With regard to Air Quality, the analysis demonstrates that:

1. No substantial changes are proposed in the project which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
2. No substantial changes are proposed with respect to the circumstances under which the project is undertaken which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
3. No new information of substantial importance indicates any new or more significant effects than shown in the previously certified EIRs.
4. No new mitigation measures or alternatives previously found not to be feasible, would in fact be feasible and would reduce one or more significant effects of the project. No new mitigation measures or alternatives which are considerably different from those analyzed in the previously certified EIRs would substantially reduce significant impacts. None of the conditions described in State CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
IV. Biological Resources							
<i>Would the project:</i>							
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or United States Fish and Wildlife Service?	Less than significant impact	Less than significant impact	No	No	No	None	None
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Wildlife or United States Fish and Wildlife Service?	Less than significant impact	Less than significant impact	No	No	No	None	None
c) Have a substantial adverse effect on State or federally	Less than significant impact	Less than significant impact	No	No	No	None	None

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?							
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of wildlife nursery sites?	Less than significant impact	Less than significant impact	No	No	No	None	None
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	Less than significant impact	Less than significant impact	No	No	No	None	None
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other	Less than significant impact	Less than significant impact	No	No	No	None	None

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
approved local, regional, or State Habitat Conservation Plan?							

Discussion

- a. **Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or United States Fish and Wildlife Service?**

Summary of General Plan FEIR

The General Plan FEIR concluded that development associated with the implementation of the General Plan could result in the direct loss of habitat areas associated with special-status plant and animal species. Additionally, indirect impacts to special-status plant and animal species could occur, including habitat degradation, due to impacts to water quality, increased human presence, and loss of foraging habitat. However, special-status plant and animal species receive protection from various federal and State laws and regulations, including the Endangered Species Act and the California Endangered Species Act (CESA). These regulations generally prohibit the removal of a species or direct impact to foraging and breeding habitats without a special permit. Additionally, the General Plan FEIR indicated that the General Plan includes various policies and actions intended to reduce or avoid impacts to special-status plant and animal species, such as General Plan Policies CON 2-1, CON 2-3, CON 3-1, CON 3-2, CON 3-4, CON 3-5, and CON 3-7, which require the conservation and/or replacement of trees, preservation of riparian corridors, and development of an urban forest along major corridors. Therefore, the General Plan FEIR concluded that impacts would be less than significant.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR concluded that future development projects would be required to comply with the General Plan and the Metro Specific Plan. Furthermore, the Metro Specific Plan SFEIR determined that the Metro Specific Plan could impact biological resources, such as burrowing owls, special-status raptor and bird species, significant trees, wetland, creeks, drainages, and riparian habitats. However, with the implementation of policies within the General Plan and the Metro Specific Plan, the Metro Specific Plan SFEIR concluded that impacts related to biological resources would be less than significant.

Proposed Project Analysis and Conclusions

The proposed project does not propose any physical development and would result in similar land use patterns, densities, and intensities to those already evaluated in the General Plan FEIR and the Metro Specific Plan SFEIR, thereby precluding the potential for new impacts associated with biological resources beyond those already evaluated and disclosed in the General Plan FEIR and the Metro Specific Plan SFEIR. Future development and land use activities resulting from the proposed project would be subject to federal and State regulations, including the Endangered Species Act and CESA, as well as General Plan goals, policies, and actions that would reduce impacts related to special-status plant and animal species.

Future development projects would also be evaluated for conformance with the General Plan, Metro Specific Plan, Municipal Code, and other regulations, as applicable. Applicable policies may include, but are not limited to, General Plan Policies CON 2-1, CON 2-3, CON 3-1, CON 3-2, CON 3-4, CON 3-5, and CON 3-7, which require the conservation and/or replacement of trees, preservation of riparian corridors, and development of an urban forest along major corridors. The General Plan also includes Action CON-2a, 2b, 2f, 3a through 3c, 3f, 3g, 3j, and 3l, which involve coordination with the California Department of Fish and Wildlife (CDFW), Santa Clara County, the Santa Clara Valley Water District, and local water district groups; and require compliance with the Santa Clara Valley Habitat Plan. Additionally, applicable Metro Specific Plan policies may include Policy SC 9.1, which protects bird habitat, Policy SC 8.1, which requires review and permitting for construction over the Santa Clara Valley Water District fee or easement lands, Policy SC 8.2, which requires new development adjacent to creeks to comply with standards for land uses near streams, and Policy SC 8.3, which requires minimum setbacks adjacent to creeks and drainage channels.

Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or United States Fish and Wildlife Service?**

Summary of General Plan FEIR

The General Plan FEIR concluded that development associated with the implementation of the General Plan could change the physical environment, thereby adversely affecting riparian habitat or sensitive natural communities. A California Natural Diversity Database (CNDDB) search revealed three sensitive natural communities within the 12-quadrant region of the Planning Area, including the aquatic communities of the Northern Coastal Salt Marsh and the Sycamore Alluvial Woodland, as well as the terrestrial community of Serpentine Bunchgrass grassland. Additionally, the General Plan FEIR identified numerous aquatic habitats that qualify as sensitive habitat within the City. Therefore, implementation of individual projects would require site-specific review of the project site to determine the presence or absence of riparian habitat or natural sensitive communities. If riparian habitat or natural sensitive communities are present and disturbance is required, federal and State laws require measures to reduce, avoid, or compensate for impacts to these resources. Furthermore,

development projects would be required to comply with the General Plan's policies intended to protect sensitive natural communities, such as General Plan Policies CON-3.1 through CON-3.6, which require the preservation and enhancement of biological communities and riparian habitat and limit the disturbance of natural water bodies and drainage systems in the City. Therefore, the General Plan FEIR concluded that impacts would be less than significant.

Summary of Metro Specific Plan SFEIR

Refer to summary provided in Impact IV(a).

Proposed Project Analysis and Conclusions

The proposed project does not propose any physical development and would result in similar land use patterns, densities, and intensities to those already evaluated in the General Plan FEIR and the Metro Specific Plan SFEIR, thereby precluding the potential for new impacts associated with sensitive natural communities and riparian habitat beyond those already evaluated and disclosed in the General Plan FEIR and the Metro Specific Plan SFEIR. Future development and land use activities resulting from the proposed project would be subject to federal and State regulations, as well as General Plan goals, policies, and actions, detailed above, which would require site-specific review of future project sites to determine whether riparian habitat or natural sensitive communities are present and mitigate as necessary.

Future development projects would also be evaluated for conformance with the General Plan, Metro Specific Plan, Municipal Code, and other regulations, as applicable. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- c. Have a substantial adverse effect on State or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?**

Summary of General Plan FEIR

The General Plan FEIR determined that the City contains numerous aquatic habitats that qualify as federally protected wetlands and jurisdictional waters found in the northwest corner of the Planning Area. Section 404 of the Clean Water Act (CWA) requires any project that involves disturbance to a wetland or water of the United States to obtain a permit that authorizes the disturbance. If a project cannot avoid a wetland or jurisdictional water, then the United States Army Corps of Engineers (USACE) requires that an equal amount of wetland be created elsewhere to mitigate loss of wetlands.

The General Plan FEIR determined that construction activities could result in the disturbance or loss of protected waters of the United States, but individual projects would be required to have a detailed review of the project site to determine the presence or absence of water features and to reduce, avoid, or compensate for impacts to these resources. Furthermore, projects would be required to comply with the General Plan's policies and actions intended to protect wetlands and

jurisdictional water features, such as General Plan Policies CON-3.1 through CON-3.6, which require the preservation and enhancement of biological communities and riparian habitat and limit the disturbance of natural water bodies and drainage systems in the City. Therefore, the General Plan FEIR concluded that impacts would be less than significant.

Summary of Metro Specific Plan SFEIR

Refer to summary provided in Impact IV(a).

Proposed Project Analysis and Conclusions

The proposed project does not propose any physical development and would result in similar land use patterns, densities, and intensities to those already evaluated in the General Plan FEIR and the Metro Specific Plan SFEIR, thereby precluding the potential for new impacts associated with federally protected wetlands beyond those already evaluated and disclosed in the General Plan FEIR and the Metro Specific Plan SFEIR. Future development and land use activities resulting from the proposed project would be subject to federal and State regulations, including CWA and USACE requirements, as well as General Plan goals, policies, and actions intended to protect wetlands and jurisdictional water features, described above.

Future development projects would also be evaluated for conformance with the General Plan, Metro Specific Plan, Zoning Ordinance, and other regulations, as applicable. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of wildlife nursery sites?**

Summary of General Plan FEIR

The General Plan FEIR concluded that implementation of the General Plan would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with wildlife corridors. The General Plan FEIR found that the City contains numerous aquatic habitats that may be used for movement of wildlife, but the areas of land next to waterways within the city limits were generally designated for urban uses by the previous Land Use Map and were generally developed with urban uses. Therefore, the creeks at the time did not function as important movement corridors for native wildlife.

The updated General Plan Land Use Map that was adopted as part of the implementation of the most recent General Plan designates the majority of land adjacent to existing waterways as POS to allow the area to be used by wildlife as movement corridors.

Discretionary projects associated with the implementation of the General Plan would be required to undergo a detailed review to determine the presence or absence of movement corridors on the project site and to reduce, avoid, or compensate for impacts to these resources. Furthermore, the

General Plan contains policies and actions intended to protect movement corridors, including Policies CON-3.1 through CON-3.6 and Actions CON-3a through 3c, CON-3e, CON-3f, CON-3h, CON-3j, and CON-3l. Therefore, the General Plan FEIR concluded that impacts would be less than significant.

Summary of Metro Specific Plan SFEIR

Refer to summary provided in Impact IV(a).

Proposed Project Analysis and Conclusions

The proposed project does not propose any physical development and would result in similar land use patterns, densities, and intensities to those already evaluated in the General Plan FEIR and the Metro Specific Plan SFEIR. Additionally, the proposed project does not propose to convert any open space lands to urban uses. In fact, as illustrated in Table 6, six of the seven parcels undergoing General Plan land use designation updates would be converted to the POS land use designation, thereby reducing the overall allowable intensity of development. This would preclude the potential for new impacts on wildlife movement corridors beyond those already evaluated and disclosed in the General Plan FEIR and the Metro Specific Plan SFEIR. Future development and land use activities resulting from the proposed project would be subject to federal and State regulations, including CWA and USACE requirements, as well as General Plan goals, policies, and actions, described above, which require individual projects to determine the presence or absence of movement corridors and to mitigate impacts as necessary.

Furthermore, future development projects would also be evaluated for conformance with the General Plan, Metro Specific Plan, Municipal Code, and other regulations, as applicable. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- e. **Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?**

Summary of General Plan FEIR

The General Plan FEIR concluded that since the General Plan is a policy-level document, it would not conflict with local policies or ordinances. Further, individual development projects associated with the implementation of the General Plan would be required to comply with the General Plan and with the Municipal Code. Therefore, impacts would be less than significant.

Summary of Metro Specific Plan SFEIR

Refer to summary provided in Impact IV(a).

Proposed Project Analysis and Conclusions

The proposed project does not propose any physical development and would result in similar land use patterns, densities, and intensities to those already evaluated in the General Plan FEIR and the

Metro Specific Plan SFEIR, thereby precluding the potential for new impacts on the City's existing and proposed local policies protecting biological resources beyond those already evaluated and disclosed in the General Plan FEIR and the Metro Specific Plan SFEIR. Future development projects would be evaluated for conformance with the General Plan, Metro Specific Plan, Municipal Code, and other regulations, as applicable. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State Habitat Conservation Plan?

Summary of General Plan FEIR

The General Plan FEIR found that implementation of the General Plan would not conflict with the Santa Clara Valley Habitat Plan or any other Habitat Conservation Plans. The City is not currently a permittee of the Santa Clara Valley Habitat Plan, and the land within the city limits is not within the Habitat Plan Study Area and Permit Area. Additionally, the General Plan FEIR determined that the Land Use Map did not re-designate any land designated for open space or habitat protection. Although the City is not a permittee of the Santa Clara Valley Habitat Plan, future projects associated with the implementation of the General Plan would be required to comply with the Santa Clara Valley Habitat Plan through the implementation of General Plan Action CON-3a, which states "Require new development, as well as infrastructure projects, long-range planning projects, and other projects, to comply with the requirements of the Santa Clara Valley Habitat Plan to ensure that potentially significant impacts to special-status species and sensitive resources are adequately addressed." Therefore, the General Plan FEIR concluded that impacts would be less than significant.

Summary of Metro Specific Plan SFEIR

Refer to summary provided in Impact IV(a).

Proposed Project Analysis and Conclusions

The proposed project does not propose any physical development and would result in similar land use patterns, densities, and intensities to those already evaluated in the General Plan FEIR and the Metro Specific Plan SFEIR, thereby precluding the potential for new impacts on Habitat Conservation Plans (HCPs) or Natural Community Conservation Plans (NCCPs) beyond those already evaluated and disclosed in the General Plan FEIR and the Metro Specific Plan SFEIR. Future development and land use activities resulting from the proposed project would be required to comply with the Santa Clara Valley Habitat Plan through the implementation of Action CON-3a in the General Plan. Furthermore, future development projects would also be evaluated for conformance with the General Plan, Metro Specific Plan, Santa Clara Valley Habitat Plan, Municipal Code, and other regulations, as applicable. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

Mitigation Measures

General Plan FEIR Mitigation Measures

None.

Metro Specific Plan SFEIR Mitigation Measures

None.

Mitigation Measures for the Proposed Project

None required.

Conclusion

With regard to Biological Resources, the analysis demonstrates that:

1. No substantial changes are proposed in the project which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
2. No substantial changes are proposed with respect to the circumstances under which the project is undertaken which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
3. No new information of substantial importance indicates any new or more significant effects than shown in the previously certified EIRs.
4. No mitigation measures are necessary because the proposed project's specific impacts would be less than significant.
5. None of the conditions described in State CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
V. Cultural and Tribal Cultural Resources							
<i>Would the project:</i>							
a) Cause a substantial adverse change in the significance of a historical resource as pursuant to Section 15064.5?	Less than significant impact	Less than significant impact	No	No	No	None	None
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	Less than significant impact	Less than significant impact	No	No	No	None	None
c) Disturb any human remains, including those interred outside of formal cemeteries?	Less than significant impact	Less than significant impact	No	No	No	None	None
<i>Would the project cause a substantial adverse change in the significance of a Tribal Cultural Resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American Tribe, and that is:</i>							
d) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or	Less than significant impact	No impact	No	No	No	None	None

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
e) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American Tribe.	Less than significant impact	No impact	No	No	No	None	None

Discussion

Cultural Resources

- a. Cause a substantial adverse change in the significance of a historical resource as pursuant to Section 15064.5?

Summary of General Plan FEIR

The General Plan FEIR determined that the General Plan Planning Area includes various known historic resource sites and would have the potential for undiscovered prehistoric sites to be located in the Planning Area as well. Thirty-three cultural resources have been identified within the Planning Area and 25 buildings are identified on the Santa Clara County Historic Property Data File Directory. The General Plan FEIR further determined that future development associated with the implementation of the General Plan could affect known historical or unknown historical and archaeological resources which have not yet been identified.

Future projects would be evaluated for conformance with the General Plan, Municipal Code, and other applicable State and local regulations, as well as analyzed for potential environmental impacts, consistent with CEQA. Additionally, the General Plan FEIR includes policies and actions that would reduce impacts to cultural, historic, and archaeological resources, such as requiring archaeological monitoring, halting ground-disturbing activities and construction in the event that a resource is discovered, and Tribal consultation. Therefore, the General Plan FEIR concluded that impacts related to historic and archaeological resources would be less than significant.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR determined that future projects associated with the implementation of the Metro Specific Plan would include ground-disturbing activities that could potentially affect known archaeological resources. The Metro Specific Plan SFEIR identified only one known archaeological resource (CA-SCL-593) within the Metro Specific Plan Area. However, future projects would be required to comply with General Plan Actions CON-4a and 4b, which require surveys prior to the approval of a project that would require excavation in an area sensitive for cultural or archaeological resources and the approval of measures to conserve, preserve, and document discovered resources. Additionally, the Metro Specific Plan SFEIR determined that Metro Specific Plan Policy SC 7 would require archaeological monitoring to reduce impacts. Therefore, the Metro Specific Plan SFEIR concluded that impacts would be less than significant.

Proposed Project Analysis and Conclusions

The proposed project does not include any ground disturbance and therefore would not directly result in impacts related to historic resources. Future individual development projects would be required to comply with General Plan policies and actions, such as Policy CON 4-1, which requires a record search of the California Historical Resources Information System (CHRIS) at the Northwest Information Center (NWIC) at Sonoma State University. Furthermore, Policy CON 5-2 requires that future individual development projects evaluate the condition of historical buildings when considering the demolition of historic structures, and Action CON 4a requires a cultural survey prior to approval of any project in areas that are sensitive for cultural or archaeological resources. If historic resources are identified, Action CON 4b requires that all development, infrastructure, and other ground-disturbing projects comply with certain conditions and processes in the event that there is an inadvertent discovery of historic resources. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?**

Summary of General Plan FEIR

Refer to summary provided in Impact V(a).

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR determined that there is a moderate to high potential for unrecorded Native American cultural resources to be located within the Metro Specific Plan Area. Future projects associated with the implementation of the Metro Specific Plan would be required to comply with General Plan Actions CON-4a and Action CON-4b, which require archaeological monitoring and protection measures if resources are uncovered. Metro Specific Plan Policy SC 7 would also be implemented, which requires archaeological monitoring. Therefore, the Metro Specific Plan SFEIR concluded that impacts related to unknown archaeological resources would be less than significant.

Proposed Project Analysis and Conclusions

The proposed project does not include any ground disturbance and therefore would not directly result in impacts related to historic resources. Future individual development projects would be required to comply with General Plan policies and actions, such as Policy CON 4-1, which requires a record search of the CHRIS at the NWIC at Sonoma State University. Action CON 4a requires a cultural survey prior to approval of any project in areas that are sensitive for cultural or archaeological resources. If archaeological resources are identified, Action CON 4b requires that all development, infrastructure, and other ground-disturbing projects comply with certain conditions and processes in the event that there is an inadvertent discovery of archaeological resources. Furthermore, Metro Specific Plan Policy SC 7 requires archaeological and Native American monitoring, cultural sensitivity training for the general contractor and those conducting ground-disturbing activities, and inadvertent discovery procedures for all projects involving ground disturbance within the Metro Specific Plan Area. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

c. Disturb any human remains, including those interred outside of formal cemeteries?

Summary of General Plan FEIR

The General Plan FEIR determined that excavation and construction activities allowed under the General Plan may yield human remains that may not be marked in former burials. Future projects may disturb or destroy buried Native American human remains. However, the General Plan FEIR further identified that future development projects in the City would be evaluated for conformance with the General Plan, Municipal Code, and State and local regulations, as well as analyzed for potential environmental impacts, consistent with CEQA. Public Resources Code Section 5097 requires construction activities to stop work and follow specific notification procedures in the event that human remains are inadvertently discovered during development activities. The General Plan also requires that human remains are treated in compliance with the provisions of California Health and Safety Code Section 7050.5 and California Public Resources Code Section 5097.98. Therefore, the General Plan FEIR concluded that impacts related to human remains would be less than significant.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR determined that future projects associated with the implementation of the Metro Specific Plan would include ground-disturbing activities that could potentially affect human remains. The Metro Specific Plan SFEIR found that human remains were identified in association with CA-SCL-593 within the Metro Specific Plan Area and identified a moderate to high potential for encountering as-yet undiscovered archaeological resources containing further human remains. Metro Specific Plan Policy SC 7 requires archaeological monitoring that would reduce impacts related to human remains, and if human remains are discovered, General Plan Action CON-4b would require halting work, notifying the County Coroner, and determining next steps to reduce and mitigate impacts. The General Plan also requires that human remains are treated in compliance with the provisions of California Health and Safety Code Section 7050.5 and California Public Resources Code Section 5097.98. Therefore, the Metro Specific Plan SFEIR concluded that impacts related to human remains would be less than significant.

Proposed Project Analysis and Conclusions

The proposed project does not include any ground disturbance and therefore would not result in impacts related to historic resources. Future individual development projects would be required to comply with General Plan policies and actions, such as Policy CON 4-1, which requires a record search of the CHRIS at the NWIC at Sonoma State University. Policy CON 4-2 requires that if human remains are found during construction, they are treated in compliance with the provisions of California Health and Safety Code Section 7050.5 and California Public Resources Code Section 5097.98. Policy CON 4-3 requires collaboration with Native American Tribal representatives to identify and appropriately address impacts to Native American cultural resources and sacred sites during the development review process. Action CON 4a requires a cultural survey prior to approval of any project in areas that are sensitive for cultural or archaeological resources. If archaeological resources are identified, Action CON 4b requires all development, infrastructure, and other ground-disturbing projects comply with certain conditions and processes in the event that there is an inadvertent discovery of human remains. Furthermore, Metro Specific Plan Policy SC 7 requires archaeological and Native American monitoring, cultural sensitivity training for the general contractor and those conducting ground-disturbing activities, and inadvertent discovery procedures for all projects involving ground disturbance within the Metro Specific Plan Area. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

Tribal Cultural Resources

Would the project cause a substantial adverse change in the significance of a Tribal Cultural Resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American Tribe, and that is:

- d. **Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or**
- e. **A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American Tribe.**

Summary of General Plan FEIR

The General Plan FEIR identified that no responses to Tribal consultation conducted under Senate Bill (SB) 18 were received and no specific resources were identified through consultation with affiliated Tribes. However, the General Plan FEIR determined that it is possible unknown cultural resources may be present and could be adversely affected by the implementation of the General Plan. Future projects would be required to be evaluated for project-specific impacts under CEQA at the time of project application, and the General Plan and CEQA Guidelines require Tribal consultation and the protection of any identified archaeological and Tribal resources. With the implementation of General Plan policies and actions, such as General Plan Action CON 4a and 4b, local review guidelines, and State and local guidelines, the General Plan FEIR concluded that impacts related to Tribal Cultural Resources (TCRs) would be less than significant.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR determined that the General Plan includes policies and actions to protect TCRs in compliance with AB 52. While ground disturbance associated with new construction could result in temporary or permanent construction-related impacts on TCRs during ground disturbance, no TCRs have been identified within the Metro Specific Plan Area. Furthermore, the City has not received any requests from Tribes to be notified of future projects under AB 52. Therefore, the Metro Specific Plan SFEIR concluded that impacts related to TCRs would be less than significant.

Proposed Project Analysis and Conclusions

The proposed project does not include any ground disturbance and therefore would not directly result in impacts related to TCRs. Future individual development projects would be required to comply with General Plan policies and actions, such as Policy CON 4-1, which requires a record search of the CHRIS at the NWIC at Sonoma State University. Policy CON 4-2 requires that if TCRs are found during construction, they are treated in compliance with the provisions of California Health and Safety Code Section 7050.5 and California Public Resources Code Section 5097.98. Policy CON 4-3 requires collaboration with Native American Tribal representatives to identify and appropriately address, impacts to Native American cultural resources and sacred sites during the development review process. Policy CON 4-4 requires compliance with SB 18 and AB 52 related to Tribal intergovernmental consultation. Action CON 4a requires a cultural survey prior to approval of any project in areas that are sensitive for TCRs. If archaeological resources are identified, Action CON 4b requires that all development, infrastructure, and other ground-disturbing activities comply with certain conditions and processes in the event that there is an inadvertent discovery of TCRs. Furthermore, Metro Specific Plan Policy SC 7 requires archaeological and Native American

monitoring, cultural sensitivity training for the general contractor and those conducting ground-disturbing activities, and inadvertent discovery procedures for all projects involving ground disturbance within the Metro Specific Plan Area. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

Mitigation Measures

General Plan FEIR Mitigation Measures

None.

Metro Specific Plan SFEIR Mitigation Measures

None.

Mitigation Measures for the Proposed Project

None required.

Conclusion

With regard to Cultural Resources and Tribal Cultural Resources, the analysis demonstrates that:

1. No substantial changes are proposed in the project which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
2. No substantial changes are proposed with respect to the circumstances under which the project is undertaken which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
3. No new information of substantial importance indicates any new or more significant effects than shown in the previously certified EIRs.
4. No mitigation measures are necessary because the proposed project's specific impacts would be less than significant.
5. None of the conditions described in State CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
VI. Energy <i>Would the project:</i>							
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	Less than significant impact	Less than significant impact	No	No	No	None	None
b) Conflict with or obstruct a State or local plan for renewable energy or energy efficiency?	Less than significant impact	Less than significant impact	No	No	No	None	None

Discussion

- a. Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?
- b. Conflict with or obstruct a State or local plan for renewable energy or energy efficiency?

Summary of General Plan FEIR

The General Plan FEIR determined that the implementation of the General Plan would not cause an inefficient, wasteful, or unnecessary use of energy resources or conflict with or obstruct a State or local plan for renewable energy or energy efficiency. Buildout of the General Plan would use energy resources for the operation of buildings, on-road vehicle trips, and off-road construction activities. However, the General Plan FEIR determined that future individual development projects would conserve energy to the maximum extent feasible and would reduce per capita energy consumption to achieve this goal, since the General Plan requires that all implementing projects comply with all applicable federal, State, and local regulations regulating energy usage. Furthermore, the General Plan FEIR would comply with the State's latest Title 24 building energy efficiency standards and other

Statewide measures intended to improve energy efficiency. Therefore, the General Plan FEIR concluded that impacts related to energy would be less than significant.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR determined that energy would be required during construction of the Metro Specific Plan for construction equipment, employee and haul truck trips, lighting, and heat. The Metro Specific Plan FEIR found that the Metro Specific Plan was compliant with the applicable federal, State, and local regulations regulating energy usage. The Metro Specific Plan SFEIR determined that the Metro Specific Plan is compliant with the General Plan and the updated Climate Action Plan (CAP). The Metro Specific Plan also aims to promote higher density and intensity development to provide an opportunity for advancing sustainability measures related to accessibility, energy use, and resource management. The Metro Specific Plan SFEIR identified that the Metro Specific Plan would be consistent with the goals of the Plan Bay Area 2050 prepared by the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC).

Future individual development projects would also comply with the State's latest Title 24 building energy efficiency standards, as well as the Municipal Code. The Metro Specific Plan further incorporates policies to prevent wasteful, inefficient, or unnecessary consumption of energy. Additionally, the Metro Specific Plan FEIR identified that Silicon Valley Clean Energy (SVCE), the local Community Choice Aggregation (CCA), in conjunction with the Pacific Gas and Electric Company (PG&E), would maintain sufficient capacity to serve residential and commercial electricity customers in the Metro Specific Plan Area. Therefore, the Metro Specific Plan SFEIR concluded that impacts related to energy resources would be less than significant.

Proposed Project Analysis and Conclusions

As discussed in Section 2.3.1, Project Summary, implementation of the proposed project would result in similar land use patterns, densities and intensities to those analyzed by the General Plan FEIR and Metro Specific Plan SFEIR. Therefore, the effects of the proposed project were anticipated in the General Plan FEIR and Metro Specific Plan SFEIR and there are no project-specific effects that were not analyzed in the General Plan FEIR and Metro Specific Plan SFEIR. All projects within the City would be required to comply with applicable regulations stated above to ensure efficient energy use. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

Mitigation Measures

General Plan FEIR Mitigation Measures

None.

Metro Specific Plan SFEIR Mitigation Measures

None.

Mitigation Measures for the Proposed Project

None required.

Conclusion

With regard to Energy, the analysis demonstrates that:

1. No substantial changes are proposed in the project which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
2. No substantial changes are proposed with respect to the circumstances under which the project is undertaken which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
3. No new information of substantial importance indicates any new or more significant effects than shown in the previously certified EIRs.
4. No mitigation measures are necessary because the proposed project's specific impacts would be less than significant.
5. None of the conditions described in State CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
VII. Geology, Seismicity, and Soils <i>Would the project:</i>							
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving: i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	Less than significant impact	Less than significant impact	No	No	No	None	None
ii) Strong seismic ground shaking?	Less than significant impact	Less than significant impact	No	No	No	None	None
iii) Seismic-related ground failure, including liquefaction?	Less than significant impact	Less than significant impact	No	No	No	None	None

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
iv) Landslides?	Less than significant impact	Less than significant impact	No	No	No	None	None
b) Result in substantial soil erosion or the loss of topsoil?	Less than significant impact	Less than significant impact	No	No	No	None	None
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	Less than significant impact	Less than significant impact	No	No	No	None	None
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	Less than significant impact	Less than significant impact	No	No	No	None	None
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	Less than significant impact	Less than significant impact	No	No	No	None	None

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	Less than significant impact	Less than significant impact	No	No	No	None	None

Discussion

- a. **Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:**
 - i. **Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.**
 - ii. **Strong seismic ground shaking?**
 - iii. **Seismic-related ground failure, including liquefaction?**
 - iv. **Landslides?**
- b. **Result in substantial soil erosion or the loss of topsoil?**
- c. **Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?**
- d. **Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?**

Summary of General Plan FEIR

The General Plan FEIR determined that development associated with the implementation of the General Plan would have the potential to expose people or structures to substantial adverse effects, related to surface rupture, ground shaking, liquefaction, landslides, ground instability/failure, or expansive soils. The Planning Area includes known active faults, and the Hayward Fault Zone traverses the Planning Area. Unstable geologic units could be present within the Planning Area, including those at risk for liquefaction, landslides, lateral spreading, subsidence, or collapse, and the majority of the land within the Planning Area has moderately to very highly expansive soils, while the eastern and western portions of the Planning Area have low expansive soils. The areas with

moderately to highly expansive soils would require special design considerations due to shrink-swell potentials.

Furthermore, the General Plan FEIR determined that implementation of the General Plan has the potential to result in substantial soil erosion or loss of topsoil. Construction-related erosion could result in the loss of a substantial amount of nonrenewable topsoil and adversely affect water quality in surface waters. However, the General Plan FEIR identified that, because the majority of the land within the city limits contains urban uses, the erosion potential is low.

The General Plan FEIR found that all future projects would be required to comply with the provisions of the California Building Standards Code (CBC), which require geotechnical studies, engineering improvements to address potential seismic and ground failure issues, and earthquake-resistant construction techniques. Future individual development projects would be evaluated for conformance with the CBC, General Plan, Zoning Ordinance, and other regulations. Further, the General Plan requires review of development proposals to ensure compliance with the California Health and Safety Code, applicable building standards related to seismic safety, and CEQA. Therefore, the General Plan FEIR concluded that impacts would be less than significant.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR concluded that future individual development projects in the Metro Specific Plan Area would be required to comply with the CBC, building permit applications (which require a preliminary soils report) the Municipal Code, a geotechnical investigation and appropriate mitigation measures for development within a seismic hazard zone, and General Plan Policy 5.a-I-3, which requires that projects comply with the guidelines prescribed in the City's Geotechnical Hazards Evaluation manual. Therefore, the Metro Specific Plan SFEIR concluded that impacts related to geology and soils would be less than significant.

Proposed Project Analysis and Conclusions

The proposed project does not propose any physical development, which precludes the potential for new impacts associated with seismic hazards, erosion, sedimentation, unstable geologic units, and expansive soils beyond those already evaluated and disclosed in the General Plan FEIR and the Metro Specific Plan SFEIR. Construction-related soil erosion could occur during future discretionary projects associated with the implementation of the proposed project. However, most development that could occur as a result of the proposed project would take place on lands that already contain urban uses, which have a low erosion potential.

Furthermore, future development and land use activities resulting from the proposed project would be subject to General Plan goals, policies, and actions that would reduce impacts related to development occurring in a fault zone, ground shaking, ground failure, and landslides. Future development projects would be evaluated for conformance with the California Building Standards Commission (CBSC), General Plan, Metro Specific Plan, Zoning Ordinance, and other regulations described above, as applicable. Future projects would be required to develop and implement a site-specific geotechnical study in compliance with the State and City codes. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create

substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- e. **Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?**

Summary of General Plan FEIR

The General Plan FEIR determined that implementation of the General Plan would not have the potential for soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems. Construction within the city limits would not require the use of septic tanks or alternative wastewater disposal systems because wastewater would be discharged into the existing public sanitary sewer system in the Planning Area. Additionally, the General Plan FEIR identified that adequate system capacity is ensured through implementation and periodic auditing of the Sewer System Management Plan (SSMP) and sewer-related capital improvement project (CIP) projects and studies. Therefore, the General Plan FEIR concluded that impacts would be less than significant.

Summary of Metro Specific Plan SFEIR

Refer to summary provided in Impact VII(a).

Proposed Project Analysis and Conclusions

Existing urban development within the General Plan Planning Area and the Metro Specific Plan Area is currently served with sanitary sewer service provided by the City. New urban development that would occur within the Planning Area or the Metro Specific Plan Area as a result of the proposed project would be served by sanitary sewer service. No new septic systems or alternative wastewater systems are contemplated by the proposed project. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- f. **Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?**

Summary of General Plan FEIR

The General Plan FEIR determined that there could be fossils of potential scientific significance and other unique geologic features that remain undiscovered and are not recorded. Ground-disturbing construction associated with the implementation of the General Plan could potentially uncover previously unknown resources. However, the General Plan FEIR found that implementation of the General Plan policies and actions would ensure steps would be taken to minimize impacts to paleontological resources if they are discovered during construction. This includes Action CON 4b, which requires that all work within 100 feet of a paleontological discovery cease until it can be evaluated by a paleontologist. Therefore, the General Plan FEIR concluded that impacts would be less than significant.

Summary of Metro Specific Plan SFEIR

Refer to summary provided in Impact VII(a).

Proposed Project Analysis and Conclusions

The proposed project would largely maintain the existing land use patterns throughout the General Plan Planning Area and the Metro Specific Plan Area, thereby precluding the potential for new, unaddressed impacts on paleontological resources beyond those already evaluated and disclosed in the General Plan FEIR and the Metro Specific Plan SFEIR. Future individual development projects would be required to adhere to all federal, State, and local policies regarding paleontological resources, including Action CON 4b. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

Mitigation Measures

General Plan FEIR Mitigation Measures

None.

Metro Specific Plan SFEIR Mitigation Measures

None.

Mitigation Measures for the Proposed Project

None required.

Conclusion

With regard to Geology, Seismicity, and Soils, the analysis demonstrates that:

1. No substantial changes are proposed in the project which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
2. No substantial changes are proposed with respect to the circumstances under which the project is undertaken which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
3. No new information of substantial importance indicates any new or more significant effects than shown in the previously certified EIRs.
4. No mitigation measures are necessary because the proposed project's specific impacts would be less than significant.
5. None of the conditions described in State CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
VIII. Greenhouse Gas Emissions <i>Would the project:</i>							
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	Less than significant impact	Significant and unavoidable impact	No	No	No	None	MM GHG-1, MM GHG-2, and MM GHG-3
b) Conflict with any applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	Less than significant impact	Significant and unavoidable impact	No	No	No	None	MM GHG-1, MM GHG-2, and MM GHG-3

Discussion

- a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?
- b. Conflict with any applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

Summary of General Plan FEIR

The General Plan FEIR determined that the implementation of the General Plan would contribute to increases of GHG emissions that are associated with global climate change, including increases of carbon dioxide (CO₂), methane (CH₄), and nitrous oxide (N₂O).

Short-term Emissions

Short-term GHG emissions would occur because of construction equipment used for demolition, grading, paving, and building construction activities. The General Plan FEIR identified that construction-related GHG emissions would be assessed on a project-by-project basis and would be required to comply with the State's requirements for GHG emissions, as required by the City's CAP

and the BAAQMD. For example, Milpitas CAP Measure 12.2 encourages projects to comply with BAAQMD performance-based BMPs that reduce GHG emissions during construction. Further, General Plan Policy CON 704 requires projects to adhere to the requirements of the BAAQMD, and Policy CON 705 requires the City to use the development review process and the CEQA process to evaluate and mitigate effects of new development on air quality.

Long-Term Emissions

The General Plan FEIR determined that future individual development projects would result in continuous GHG emissions from mobile, area, and operational sources. However, the implementation of the General Plan would reduce VMT per capita and per service population at buildout, thereby decreasing GHG emissions in the long run. Additionally, the General Plan FEIR acknowledges that the City's CAP is a Qualified GHG Reduction Plan, which identifies reduction measures and implementation strategies to achieve the State-recommended GHG emissions reduction targets. The General Plan FEIR identifies several General Plan policies that directly support and implement the goals established by the CAP. Because future individual development projects would be required to comply with the General Plan and adopted federal, State, and local regulations, the General Plan FEIR concluded that impacts related to the generation of GHG emissions would be less than significant.

Conflict with Applicable Plans and Policies

The General Plan FEIR determined that the General Plan is consistent with the city's adopted CAP, which satisfies the GHG reduction requirements established by Assembly Bill (AB) 32. In addition, the General Plan FEIR found that the General Plan would not conflict with the implementation of regional transportation-related GHG targets outlined in ABAG's Plan Bay Area because of the land use modifications contained in the General Plan and the corresponding reduction in VMT. The General Plan would also not conflict with any provisions of the Scoping Plan or other applicable regulations related to GHG reductions because the General Plan expands transit access, increases mobility options, promotes a compact pedestrian-oriented urban development pattern, and focuses new development on infill sites with higher densities. Therefore, the General Plan FEIR concluded that impacts would be less than significant.

Summary of Metro Specific Plan SFEIR

Construction-related Emissions

The Metro Specific Plan SFEIR determined that the implementation of the Metro Specific Plan would result in the temporary generation of GHG emissions from mobile and stationary construction equipment exhaust and employee and haul truck vehicle exhaust. However, construction-related GHG emissions from the Metro Specific Plan would be required to comply with MM GHG-1, which would reduce construction emissions consistent with BAAQMD guidance and Statewide emission reduction goals.

Operation-related Emissions

The Metro Specific Plan SFEIR determined that operation of the Metro Specific Plan would generate direct and indirect GHG emissions from vehicle trips, natural gas combustion, landscaping activities, electricity consumption, water and wastewater generation, and water use. The Metro Specific Plan

SFEIR also found that implementation of the Metro Specific Plan would reduce VMT per service population at buildout, consistent with SB 743, through various policies prioritizing transit and pedestrian connectivity and transit infrastructure. However, the Metro Specific Plan SFEIR determined that mobile emissions from the Metro Specific Plan would not achieve the State's carbon neutrality goal by 2045.

The Metro Specific Plan includes policies to reduce emissions from building energy consumption, area sources, water consumption, and waste generation; however, the Metro Specific Plan SFEIR determined that there is no guarantee that all of the voluntary sustainability features would be included in all future development, and impacts would be potentially significant. Therefore, future individual projects would be required to implement MM GHG-2 to reduce operational GHG emissions in the sectors with the largest amount of emissions. If all measures included in MM GHG-2 were implemented, then the Metro Specific Plan would be consistent with the State's reduction targets for 2030. Implementation of MM GHG-3 as part of future individual projects would further reduce net operational GHG emissions through purchase of GHG mitigation credits if not all of the measures in MM GHG-2 are implemented. However, the Metro Specific Plan FEIR concluded that there could still be GHG emissions by 2045 and carbon neutrality may not be achieved. Therefore, the Metro Specific Plan SFEIR concluded that impacts would be significant and unavoidable.

Proposed Project Analysis and Conclusions

As described under Section 2.3.1, Project Summary, the proposed project would result in similar land use densities and intensities to those identified and analyzed in the General Plan FEIR and Metro Specific Plan SFEIR. For areas under the General Plan FEIR but outside the Metro Specific Plan SFEIR, the proposed project would comply with applicable policies and measures contained in the General Plan and the City's adopted CAP. Therefore, the effects of the proposed project were anticipated in the General Plan FEIR and Metro Specific Plan SFEIR and there are no project-specific effects that were not analyzed in the General Plan EIR. Future individual development projects within the Metro Specific Plan Area would be required to implement Metro Specific Plan SFEIR MM GHG-1, which would require the implementation of BAAQMD-Recommended Construction BMPs, Metro Specific Plan SFEIR MM GHG-2, which would require individual development projects to implement operational GHG reduction measures, and Metro Specific Plan SFEIR MM GHG-3, which would require individual development projects to purchase GHG mitigation credits.

Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

Mitigation Measures

General Plan FEIR Mitigation Measures

None.

Metro Specific Plan SFEIR Mitigation Measures

MM GHG-1 **Require Implementation of BAAQMD-Recommended Construction Best Management Practices**

All applicants within the Metro Plan Area shall require their contractors, as a condition of contracts, to reduce construction-related GHG emissions by implementing BAAQMD's recommended BMPs, including the following measures (based on BAAQMD's 2017 CEQA Guidelines):

- Ensure alternative fueled (e.g., biodiesel, electric) construction vehicles/equipment make up at least 15 percent of the fleet.
- Use at least 10 percent local building materials (sourced from within 100 miles of the Metro Plan Area).
- Recycle and reuse at least 50 percent of construction waste or demolition materials.

MM GHG-2 **Implement Operational GHG Reduction Measures or Their Equivalent**

Applicants of future projects within the Metro Plan Area shall implement the following operational GHG emissions reduction strategies where feasible or demonstrate why a measure is not feasible, and implement equivalent GHG reductions to the foregone measure, or pay a mitigation fee per Mitigation Measure GHG-3 (see below) to compensate for any foregone GHG reductions not implemented. Applicants of future projects that do not propose to implement all of the strategies described below shall prepare a feasibility study outlining why the declined strategies were not implemented (e.g., feasibility, not applicable, etc.), estimating the foregone GHG reductions, and identifying any equivalent GHG reduction measures proposed (or proposal to pay a mitigation fee instead) for the City's review and concurrence prior to the issuance of building permits.

- **LEED® Certification.** The United States Green Building Council (USGBC) is a private 501(c)3, non-profit organization that promotes sustainability in building design, construction, and operation. The USGBC developed the LEED® program, which provides a rating system that awards points for new construction based on energy use, materials, water efficiency, and other sustainability criteria. LEED® has certification systems for both commercial and residential use.

While LEED® allows some flexibility in choice of measures to meet LEED® criteria, new construction shall be required to include specific committed measures in use of recycled and sustainable materials in construction, water efficiency, and efficiency of energy use. New development in the Metro Plan Area shall be required to achieve LEED® Silver certification or equivalent, or a higher certification, or provide equivalent GHG reductions through proposed new measures or payment of a fee per Mitigation Measure GHG-3.

- **Natural Gas Infrastructure.** Future development within the Metro Plan Area shall utilize electric space and water heating to the maximum extent feasible or to the extent required by existing or future regulations. Natural gas infrastructure and appliances shall not be installed to the extent feasible as determined by the availability and capacity of electrical power distribution infrastructure.
- **Solar Roofs.** Mounted rooftop electricity-generating solar panels convert solar energy to electricity for use in commercial and residential buildings.
- New construction in the Metro Plan Area shall be required to either employ solar roofs on at least 30 percent of roof square footage or provide equivalent GHG reductions through proposed new measures or pay a mitigation fee per Mitigation Measure GHG-3. The inclusion of solar roofs may be part of meeting LEED® Silver or equivalent requirements.
- **Water Minimization Programs.** For waste that is generated by nonresidential uses, recycling, composting of food waste and other organics, and the use of reusable products instead of disposal products diverts solid waste from the landfill stream.
New nonresidential uses in the Metro Plan Area shall be required to implement recycling (including organics recycling) and reusable product use programs or provide equivalent GHG reductions through proposed new measures or pay a mitigation fee per Mitigation Measure GHG-3. The inclusion of these measures may be part of meeting LEED® Silver or equivalent requirements.

MM GHG-3 Purchase GHG Mitigation Credits

Where a future project in the Metro Plan Area does not propose to implement all of the GHG reduction measures in Mitigation Measure GHG-2 and does not propose equivalent reduction measures to compensate for the measures not implemented, the project applicant shall be required to pay on a pro rata basis for net operational GHG emissions to compensate for emissions foregone from not implementing all measure in Mitigation Measure GHG-2 or providing equivalent reductions.

Applicants may purchase GHG credits from a voluntary GHG credit provider that has an established protocol that requires projects generating GHG credits to demonstrate that the reduction of GHG emissions are real, permanent, quantifiable, verifiable, enforceable, and additional (per the definition in California Health and Safety Code Sections 38562(d)(1) and (2)). Definitions for these terms are as follows.

- **Real:** Estimated GHG reductions should not be an artifact of incomplete or inaccurate emissions accounting. Methods for quantifying emission reductions should be conservative to avoid overstating a project's effects. The effects of a project on GHG emissions must be comprehensively accounted for, including unintended effects (often referred to as "leakage"). To ensure that GHG reductions are real, the reduction must be a direct reduction within a confined project boundary.

- **Additional:** GHG reductions must be additional to any that would have occurred in the absence of the Climate Action Reserve, or of a market for GHG reductions generally. “Business as usual” reductions (i.e., those that would occur in the absence of a GHG reduction market) should not be eligible for registration.
- **Permanent:** To function as offsets to GHG emissions, GHG reductions must effectively be “permanent.” This means, in general, that any net reversal in GHG reductions used to offset emissions must be fully accounted for and compensated through the achievement of additional reductions.
- **Quantifiable:** GHG reductions or GHG removal enhancements must be able to be accurately measured and calculated relative to a project baseline in a reliable and replicable manner for all GHG emission sources, GHG sinks, or GHG reservoirs included within the offset project boundary, while accounting for uncertainty and activity-shifting leakage and market-shifting leakage.
- **Verified:** GHG reductions must result from activities that have been verified. Verification requires third-party review of monitoring data for a project to ensure the data are complete and accurate.
- **Enforceable:** The emission reductions from offset must be backed by a legal instrument or contract that defines exclusive ownership and the legal instrument can be enforced within the legal system in the country in which the offset project occurs or through other compulsory means. Please note that per this mitigation measure, only credits originating within the United States are allowed.

GHG credits must also meet the following requirements:

- GHG credits may be in the form of GHG offsets for prior reductions of GHG emissions verified through protocols or forecasted mitigation units for future committed GHG emissions meeting protocols.
- All credits shall be documented per protocols functionally equivalent in terms of stringency to ARB’s protocol for offsets in the cap-and-trade program. The applicant must provide the protocols from the credit provider and must document why the protocols are functionally equivalent.
- Applicants shall identify GHG credits in geographies closest to Santa Clara County first and only turn to larger geographies (i.e., California, United States, global) if adequate credits cannot be found in closer geographies, or the procurement of such credits would create an undue financial burden. Applicants shall provide the following justification for not using credits in closer geographies in terms of either availability or cost prohibition:
 - Lack of enough credits available in closer geographies.
 - Prohibitively costly credits in closer geographies are defined as credits costing more than 300 percent the amount of the current costs of credits in the regulated ARB offset market.
 - Documentation submitted supporting GHG credit proposals shall be prepared by individuals qualified in GHG credit development and verification and such individuals shall certify the following: (1) proposed credits meet the definitions

for the criteria provided in this measure; and (2) the protocols used for the credits meet or exceed the standards for stringency used in ARB protocols for offsets under the California cap-and-trade system.

This mitigation includes the following specific requirements for applicants of future projects within the Metro Plan Area:

- Applicants shall provide the City with a 30-year operational GHG emissions estimate for the final design that includes two scenarios: (1) project operations including all Mitigation Measure GHG-2 reduction measures; and (2) project operations only including those Mitigation Measure GHG-2 reduction measures the applicant proposes to implement and any alternative GHG reduction measures proposed by the applicant. The emissions estimate can be focused exclusively on the sectors where Mitigation Measure GHG-2 measures will not be fully implemented. The difference between the Scenario 1 and Scenario 2 operational emissions will define the amount of needed annual GHG reductions to be addressed through purchase of GHG mitigation credits. The City shall review the emission estimates to ensure they are representative and determine the total amount of annual GHG emissions required to be addressed through purchase of mitigation credits.
- Applicants shall purchase GHG mitigation credits meeting the above requirements and provide documentation to the City of how the credits meet the above requirements. Applicants shall provide the City with documentation of the retirement of sufficient GHG credits to meet the annual GHG reduction amount prior to January 1 of each calendar year for the following year. This requirement shall apply to operations for up to 30 years. Applicants may purchase credits up front or in advance as they choose.

Mitigation Measures for the Proposed Project

Implement MM GHG-1, MM GHG-2, and MM GHG-3.

Conclusion

With regard to GHG Emissions, the analysis demonstrates that:

1. No substantial changes are proposed in the project which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
2. No substantial changes are proposed with respect to the circumstances under which the project is undertaken which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
3. No new information of substantial importance indicates any new or more significant effects than shown in the previously certified EIRs.

4. No new mitigation measures or alternatives previously found not to be feasible, would in fact be feasible and would reduce one or more significant effects of the project. No new mitigation measures or alternatives which are considerably different from those analyzed in the previously certified EIRs would substantially reduce significant impacts.
5. None of the conditions described in State CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
IX. Hazards and Hazardous Materials							
<i>Would the project:</i>							
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	Less than significant impact	Less than significant impact	No	No	No	None	None
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	Less than significant impact	Less than significant impact	No	No	No	None	None
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	Less than significant impact	Less than significant impact	No	No	No	None	None
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code	Less than significant impact	Less than significant impact	No	No	No	None	None

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?							
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?	Less than significant impact	Less than significant impact	No	No	No	None	None
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	Less than significant impact	Less than significant impact	No	No	No	None	None
g) Expose people or structures, either directly or indirectly to a significant risk of loss, injury or death involving wildland fires?	Less than significant impact	Less than significant impact	No	No	No	None	None

Discussion

- a. **Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?**
- b. **Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?**
- c. **Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?**

Summary of General Plan FEIR

The General Plan FEIR determined that the implementation of the General Plan has the potential to create a significant hazard to the public or to the environment through routine transport, use, or disposal of hazardous materials. Future development projects allowed under the General Plan may involve the transportation, use, and/or disposal of hazardous materials for construction and operation. Therefore, the General Plan FEIR found that there is a potential for accidental release of hazardous materials. The use, transportation, and disposal of hazardous materials is regulated and monitored by local fire departments, Certified Unified Program Agencies (CUPAs), the California Occupational Health and Safety Administration (Cal/OSHA), and the California Department of Toxic Substances Control (DTSC), consistent with the requirements of federal, State, and local regulations and policies. These requirements would limit the potential for a project to expose nearby uses, such as schools, to hazardous emissions or an accidental release. In the event of a hazardous materials spill or release, notification and cleanup operations would be performed in compliance with applicable regulations. Facilities that store hazardous materials are also required to maintain a Hazardous Materials Business Plan per General Plan Safety Element Policy SA-5.3. Per General Plan Action SA-5a, applications for future discretionary projects must provide detailed information regarding the potential for the historical use of hazardous materials on-site as well as mitigation measures if warranted. Therefore, the General Plan FEIR concluded that impacts would be less than significant.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR concluded that future individual development projects under the Metro Specific Plan could cause impacts related to hazards and hazardous materials because development could be located in an area with a known hazardous release site, include demolition of structures potentially containing hazardous building materials, result in the future use, transport, and disposal of hazardous substances, and require construction near a school. However, future discretionary projects would be required to comply with federal, State, and local policies regarding hazardous materials and outlined above. Therefore, the Metro Specific Plan SFEIR concluded that impacts related to hazards and hazardous materials would be less than significant.

Proposed Project Analysis and Conclusions

The proposed project includes similar land uses and intensity of development to those contemplated in the General Plan FEIR and the Metro Specific Plan SFEIR. The proposed project does not propose specific development. Future development and land use activities within the Planning Area and Metro Specific Plan Area, including development within 0.25 mile of a school, would be subject to all applicable federal, State, and local policies for the transport, use and disposal of hazardous materials as described above, including General Plan Action SA-5a. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- d. **Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?**

Summary of General Plan FEIR

The General Plan FEIR determined that there are no hazardous materials release sites compiled pursuant to Government Code Section 65962.5 within the Planning Area. The General Plan FEIR identified 65 locations with a Milpitas address listed in the EnviroStor database. Of these sites, two are active, eight require no further action, four are certified, two are closed, two are protective filers, 37 are inactive and need evaluation, two are inactive and withdrawn, and eight are referred to RWQCB, SB 1248 local agency, or other agency. The General Plan FEIR further identified 95 Leaking Underground Storage Tank (LUST) locations within the City listed in the GeoTracker database. Of these sites, 93 have undergone LUST cleanup and have been closed by the State, one is open for site assessment, and one is an open verification monitoring case. These sites are subject to various federal and State laws such as Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and oversight by various regulatory agencies, including the United States Environmental Protection Agency (EPA), DTSC, and RWQCB. The General Plan FEIR concluded that future development projects would comply with applicable federal and State regulations, reducing impacts to less than significant.

Summary of Metro Specific Plan SFEIR

Refer to summary provided in Impact IX(a).

Proposed Project Analysis and Conclusions

The proposed project does not propose any physical development. As described above, there are no hazardous materials release sites within the Planning Area. While there are LUST sites and sites identified by EnviroStor in the Planning Area, these sites would be evaluated and restored subject to federal and State laws and regulatory agencies, including the CERCLA, the EPA, DTSC, and the RWQCB, in the case that any specific development was proposed at these sites. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe environmental impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?

Summary of General Plan FEIR

The General Plan FEIR determined that there are no airport facilities within the Planning Area and the nearest airport facility is the San Jose International Airport, located approximately two miles south of the Milpitas border. The Airport Influence Area (AIA) extends south along State Route (SR) 87 to just south of I-280, approximately 3 miles northeast of the City. The National Transportation Safety Board Aviation Accident Database identifies a total of eight aircraft accidents at the San Jose International Airport, and these incidents were small-scale and did not occur within Milpitas city limits. Furthermore, the General Plan FEIR identified that the City is not located within one of the Airport Safety Zones for the San Jose International Airport. Therefore, the General Plan FEIR concluded that impacts would be less than significant.

Summary of Metro Specific Plan SFEIR

Refer to summary provided in Impact IX(a).

Proposed Project Analysis and Conclusions

The proposed project does not propose any development in areas not previously contemplated by the General Plan FEIR and the Metro Specific Plan SFEIR. As described in the General Plan FEIR, the closest airport to the Planning Area is the San Jose International Airport, located approximately two miles south of the City. Further, the City is not located within one of the Airport Safety Zones identified by the Comprehensive Land Use Plan for the San Jose International Airport. Therefore, development and land use activities contemplated by the proposed project would not expose persons residing or working in the Planning Area or the Metro Specific Plan Area to aviation safety hazards. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe environmental impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- f. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

Summary of General Plan FEIR

The General Plan FEIR determined that implementation of the General Plan would not remove or impede any established evacuation routes within the City and that the General Plan does not include land uses, policies, or other components that conflict with adopted emergency response or evacuation plans. However, the City could receive a development proposal that could potentially interfere with an established emergency evacuation route or plan. The Santa Clara County Operation Area and the Santa Clara County Emergency Management Organization provide mutual aid to communities via the Santa Clara County Sheriff's Office, Santa Clara County Fire Department (SCCFD), and the State of California Office of Emergency Services. The City of Milpitas Emergency Operations Plan (EOP) also addresses the integration and coordination within other governmental

agencies required during an emergency. The General Plan FEIR found that coordination with these agencies required by the General Plan would ensure the City's emergency access routes, emergency contact lists, and public information regarding designated facilities and routes are regularly reviewed and updated. Therefore, the General Plan FEIR concluded that impacts would be less than significant.

Summary of Metro Specific Plan SFEIR

Refer to summary provided in Impact IX(a).

Proposed Project Analysis and Conclusions

The proposed project does not propose any physical development within the Planning Area or the Metro Specific Plan Area. Therefore, the proposed project would not directly interfere with emergency response or evacuation. The proposed project includes shifts in zoning districts along established vehicular corridors but does not propose any increase in overall development associated with the buildout of the General Plan or the Metro Specific Plan. Roadways would continue to accommodate project-related traffic, and individual projects would be required to make improvements where needed to ensure adequate capacity for emergency response. Therefore, the implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe environmental impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- g. Expose people or structures, either directly or indirectly to a significant risk of loss, injury or death involving wildland fires?**

Summary of General Plan FEIR

The General Plan FEIR determined that the City and its vicinity are not categorized as Very High Fire Hazard Severity Zone (VHFHSZ) by the California Department of Forestry and Fire Protection (CAL FIRE) and that Local Responsibility Areas (LRA) are concentrated in the incorporated areas of the City and served by the Milpitas Fire Department. The General Plan FEIR identified policies and actions in the General Plan which require adequate water supply and water flow availability, adequate emergency access, adequate fire protection services, fire safe design site standards, and public awareness regarding fire safety. Future individual development projects associated with the implementation of the General Plan would be required to comply with the provisions of federal, State, and local requirements related to wildland fire hazards. Therefore, the General Plan FEIR concluded that impacts would be less than significant.

Summary of Metro Specific Plan SFEIR

Refer to summary provided in Impact IX(a).

Proposed Project Analysis and Conclusions

The proposed project does not propose any physical development within the Planning Area or the Metro Specific Plan Area. Furthermore, the proposed project would implement the General Plan and Metro Specific Plan with the same intensity of development. As such, future individual development

projects resulting from the proposed project would not expose additional people to wildland fire hazards. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe environmental impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

Mitigation Measures

General Plan FEIR Mitigation Measures

None.

Metro Specific Plan SFEIR Mitigation Measures

None.

Mitigation Measures for the Proposed Project

None required.

Conclusion

With regard to Hazards and Hazardous Materials, the analysis demonstrates that:

1. No substantial changes are proposed in the project which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
2. No substantial changes are proposed with respect to the circumstances under which the project is undertaken which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
3. No new information of substantial importance indicates any new or more significant effects than shown in the previously certified EIRs.
4. No mitigation measures are necessary because the proposed project's specific impacts would be less than significant.
5. None of the conditions described in State CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
X. Hydrology and Water Quality							
<i>Would the project:</i>							
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	Less than significant impact	Less than significant impact	No	No	No	None	None
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	Less than significant impact	Less than significant impact	No	No	No	None	None
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	Less than significant impact	Less than significant impact	No	No	No	None	None
(i) result in substantial erosion or siltation on- or off-site;	Less than significant impact	Less than significant impact	No	No	No	None	None

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
(ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	Less than significant impact	Less than significant impact	No	No	No	None	None
(iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	Less than significant impact	Less than significant impact	No	No	No	None	None
(iv) impede or redirect flood flows?	Less than significant impact	Less than significant impact	No	No	No	None	None
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	Less than significant impact	Less than significant impact	No	No	No	None	None
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	Less than significant impact	Less than significant impact	No	No	No	None	None

Discussion

- a. Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?
- b. Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?
- e. Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

Summary of General Plan FEIR

Construction

The General Plan FEIR determined that grading, excavation, removal of vegetation cover, and loading activities associated with construction of future individual development projects could temporarily increase runoff, erosion, and sedimentation. Construction activities could also result in soil compaction and wind erosion impacts with the potential to adversely affect soil and reduce revegetation potential at construction sites. A future development project would require an approved SWPPP if it disturbs more than one acre of land to ensure BMPs are implemented during project construction. Further, the General Plan FEIR identifies that specific projects larger than one acre in size are required to obtain National Pollutant Discharge Elimination System (NPDES) coverage under the California General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities from the Regional Water Quality Control Board (RWQCB). Therefore, the General Plan FEIR concluded that impacts would be less than significant.

New Development

The General Plan FEIR determined that development associated with the implementation of the General Plan could introduce constituents into the stormwater system associated with urban runoff and could increase impervious surfaces that could reduce rainwater infiltration and groundwater recharge. However, the majority of development imagined by the General Plan is within areas currently developed with urban uses, and the amount and type of runoff would be similar to the existing conditions. Additionally, the General Plan FEIR identified that the implementation of the General Plan would not appreciably add to the volume of impervious surfaces in the City or the Santa Clara Plain Recharge Area and that there are adequate water supplies. Furthermore, the General Plan FEIR identified that each future development project is required to prepare a detailed project-specific drainage plan, Water Quality Management Plan (WQMP), and a SWPPP to control stormwater runoff and erosion. Future projects would also require a Dewatering permit, NPDES permit, and Waste Discharge permit from the RWQCB and compliance with all stormwater sewer system (Municipal Separate Storm Sewer System [MS4]) requirements.

Furthermore, the General Plan FEIR identified various policies and actions in the General Plan which would reduce water pollution, enhance storm drainage, and reduce the potential for water quality impacts. Applicable policies include, but not are limited to, General Plan Policies SA 2-2, SA 2-3, UCS 1-1 through UCS 1-3, and UCS 4-1 through UCS 4-15. These policies involve coordination with agencies and landowners to plan, construct, and maintain stormwater management facilities,

demonstration of stormwater runoff detention, retention, and/or conveyance for project sites, requiring all future projects to analyze infrastructure and service impacts and mitigate as necessary, as well as incorporate BMPs and Low Impact Development (LID) measures. Therefore, the General Plan FEIR concluded that impacts would be less than significant with implementation of all applicable federal, State, and local policies and regulations.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR concluded that future individual development projects under the Metro Specific Plan would require compliance with the General Plan and, therefore, the Metro Specific Plan would not substantially change the overall impacts on hydrology and water quality. It was determined that the Metro Specific Plan would not substantially affect groundwater levels, interfere substantially with groundwater recharge, substantially alter the course of a stream or river, or be subject to inundation by seiche, tsunami, or mudflow. The Metro Specific Plan could create impacts related to hydrology and water quality because development projects in the Specific Plan area could result in erosion, entrainment of sediment in runoff, sedimentation, localized ponding, flooding, and potential release of chemicals during construction, could include increase discharge of pollutants in stormwater, and could result in impacts from construction within a flood zone. However, with the implementation of policies in the General Plan described above, impacts related to hydrology and water quality would be reduced to less than significant. Furthermore, the Metro Specific Plan includes Policies ICS 1.1 through ICS 1.3 and ICS 2.1 through ICS 2.2, which set standards for stormwater drainage and development in flood hazard zones.

Therefore, the Metro Specific Plan SFEIR concluded that impacts related to hydrology and water quality would be less than significant.

Proposed Project Analysis and Conclusions

The proposed project does not propose any physical development. It imagines similar land use patterns as well as a similar intensity and density of development to those imagined in the General Plan and Metro Specific Plan, and therefore, impacts related to polluted runoff are not anticipated beyond those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. Furthermore, future development and land use activities within the City's jurisdiction would be subject to General Plan policies and Metro Specific Plan policies detailed above, as applicable, including provisions associated with the protection of water quality and runoff. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- c. **Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:**
 - i. **Result in substantial erosion or siltation on- or off-site;**
 - ii. **Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;**
 - iii. **Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff;**
or
 - iv. **Impede or redirect flood flows?**

Summary of General Plan FEIR

The General Plan FEIR determined that the implementation of the General Plan could alter the Planning Area's storm drainage system, primarily in areas that are currently undeveloped or underutilized. Construction activities are regulated by the NPDES General Construction Stormwater Permit, which requires the preparation of a SWPPP to control the discharge of pollutants. Additionally, the General Plan FEIR found that the City must implement post-construction stormwater management in new development and redevelopment projects. Furthermore, the Santa Clara Valley Urban Runoff Prevention Program (SCVURPP) implements pollution prevention, source control, and monitoring and outreach programs aimed at reducing pollutants in stormwater runoff and protecting water quality. The General Plan FEIR also identifies several policies and actions within the General Plan which seek to reduce impacts associated with stormwater and drainage, such as Policies SA 2-2, SA 2-3, UCS 1-1 through UCS 1-3, and UCS 4-1 through UCS 4-14. Future projects would also be required to obtain permits from USACE and the CDFW if any work is performed within a waterway, and future development projects must include project-specific floodplain and drainage studies, as necessary. Therefore, the General Plan FEIR concluded that impacts would be less than significant with implementation of General Plan policies and Actions, the Municipal Code, federal and State regulations, and regulations for the SCVURPP.

Summary of Metro Specific Plan SFEIR

Refer to summary provided in Impact X(a).

Proposed Project Analysis and Conclusions

The proposed project does not propose any physical development and would result in similar land uses, densities, and intensities to those contemplated in the General Plan and Metro Specific Plan. Therefore, the proposed project would not result in any changes to existing drainage patterns, nor would it result in stream alteration that could result in erosion or siltation in the City beyond those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. Furthermore, future development and land use activities within the City's jurisdiction would be subject to General Plan policies and Metro Specific Plan policies, as applicable, including provisions associated with the protection of water quality and runoff, such as General Plan Policies SA 2-3, UCS 1-2, UCS 4-2, UCS 4-5, and UCS 4-14 and Metro Specific Plan Policies ICS 1.1 and ICS 1.2, detailed above.

Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

d. In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?

Summary of General Plan FEIR

Flood

The General Plan FEIR determined that the Planning Area is subject to flooding along natural creeks, drainages, and lakes. Milpitas contains areas within the 1 percent annual chance flood hazard zone, the 0.2 percent annual chance flood hazard zone, and areas of undetermined flood hazard. Portions of the City may also be at risk of inundation from upstream dam failure. According to the General Plan FEIR, the City is a participant in the National Flood Insurance Program (NFIP), which provides property owners and renters with flood insurance, reduces flood damage through a mandatory local floodplain management ordinance, and identifies and maps flood hazards. The NFIP requires the City to maintain a floodplain management ordinance based upon current Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRMs), which the City is consistent with through the implementation of Floodplain Management Regulations. Further, the General Plan FEIR determined that future projects would require an approved SWPPP designed to control stormwater quality degradation, and the City regulates stormwater discharge in accordance with the NPDES programs and WQMP stormwater requirements. Therefore, the General Plan FEIR concluded that impacts would be less than significant with implementation of the General Plan and compliance with applicable federal, State, and local regulations.

Tsunami and Seiches

The General Plan FEIR determined that there are no tsunami inundation areas or tsunami inundation lines within the Planning Area. However, there are multiple dam inundation areas that could impact the Planning Area. Therefore, the Santa Clara Valley Water District's Dam Safety Program operates a comprehensive Dam Safety Program for the public. The Dam Safety Program includes periodic special engineering studies, a surveillance and monitoring program, routine inspections, maintenance activities, and emergency response and preparedness plans. This program ensures the continued operation of the 10 major dams within the County, ensuring that Milpitas is not at significant risk from dam failure. Therefore, the General Plan FEIR concluded that impacts would be less than significant.

Summary of Metro Specific Plan SFEIR

Refer to summary provided in Impact X(a).

Proposed Project Analysis and Conclusions

The proposed project does not propose any physical development. This precludes the potential for new impacts associated with 100-year flood hazards, levees, dam failure, tsunami, seiche, or mudflow. Future individual development projects would be evaluated for inundation risks pursuant to General Plan and Metro Specific Plan policies as detailed in General Plan Policies SA 2-3 through

SA 2-10, which describe flood control measures and requirements for new developments to reduce flooding risks; and Metro Specific Plan Policies ICS 2.1 and ICS 2.2, which describe standards and reduction measures for development that would occur in flood zones. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

Mitigation Measures

General Plan FEIR Mitigation Measures

None.

Metro Specific Plan SFEIR Mitigation Measures

None.

Mitigation Measures for the Proposed Project

None required.

Conclusion

With regard to Hydrology and Water Quality, the analysis demonstrates that:

1. No substantial changes are proposed in the project which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
2. No substantial changes are proposed with respect to the circumstances under which the project is undertaken which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
3. No new information of substantial importance indicates any new or more significant effects than shown in the previously certified EIRs.
4. No mitigation measures are necessary because the proposed project's specific impacts would be less than significant.
5. None of the conditions described in State CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
XI. Land Use and Planning <i>Would the project:</i>							
a) Physically divide an established community?	Less than significant impact	No impact	No	No	No	None	None
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	Less than significant impact	Less than significant impact	No	No	No	None	None

Discussion

The proposed project would largely maintain existing land use patterns and designations within the city limits, Planning Area, and Metro Specific Plan Area and would occur within the same building envelopes that were analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR.

a. Physically divide an established community?

Summary of General Plan FEIR

The General Plan FEIR determined that the implementation of the General Plan would not physically divide an established community. The land uses allowed under the General Plan provide opportunities for new growth at infill locations within existing urbanized areas of the City and would not create physical division within the community. The General Plan FEIR found that development projects would be designed to complement the character of the existing community and provide connectivity between the existing development and new development. Furthermore, according to the General Plan FEIR, the General Plan would not include any new areas designated for urbanization or new roadways, infrastructure, or features that would divide existing communities. Therefore, the General Plan FEIR concluded that impacts would be less than significant.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR concluded that the Metro Specific Plan would not divide an established community or conflict with adjacent uses or the established pattern of development. The Metro Specific Plan would further create street connections, trail connections and pedestrian bridges across major thoroughfares, connecting the Metro Specific Plan Area's residents and employees with jobs, services, parks, and transit. Additionally, the Metro Specific Plan SFEIR found that the Metro Specific Plan's urban design and development standards would contribute to fewer incompatible uses in the Metro Specific Plan Area. Furthermore, the Metro Specific Plan would enhance community connectivity for existing residential uses and would continue implementing similar goals as the TASP regarding community connectivity.

Therefore, the Metro Specific Plan SFEIR concluded that the Metro Specific Plan would have no impacts related to the division of an established community.

Proposed Project Analysis and Conclusions

The proposed project would result in similar land use patterns to those evaluated in the General Plan and Metro Specific Plan. Furthermore, the proposed project would not alter existing roadways. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe environmental impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- b. **Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?**

Summary of General Plan FEIR

The General Plan FEIR found that the General Plan was prepared in conformance with State laws and regulations, and therefore would not conflict with continued application of State land use plans, policies, and regulations. Additionally, the General Plan focuses on a balanced land use pattern that promotes the City as a desirable place to live and work. The General Plan enhances policies and measures from the previous General Plan that were intended for environmental protection, and the implementation of the General Plan would not remove or conflict with City plans, policies, or regulations adopted for environmental protection. Furthermore, future development projects would be required to be consistent with all applicable policies, standards, and regulations. Therefore, the General Plan FEIR concluded that impacts would be less than significant.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR determined that the Metro Specific Plan would support the goals and policies of the General Plan and Plan Bay Area 2050 with its focus on creating walkable, transit-oriented areas with a mix of neighborhood-serving uses, creating new job opportunities near transit, providing affordable and market rate housing, and encouraging non-vehicular modes of transportation. Additionally, the Metro Specific Plan SFEIR found that all future projects would be required to adhere to the relevant policies of the Comprehensive Airport Land Use Plan for Santa Clara County for Norman Y. Mineta San Jose International Airport.

Therefore, the Metro Specific Plan SFEIR concluded that impacts related to conflicts with a land use plan, policy, or regulation would be less than significant.

Proposed Project Analysis and Conclusions

The proposed project contains various updates to the Zoning Ordinance. These updates would result in a similar density and intensity of development as well as similar land use patterns to those imagined in the General Plan and Metro Specific Plan, as the purpose of these updates is to establish consistency between the General Plan and Zoning Code. As described in Section 2.3.1 Project Summary, the proposed project also creates eight new zoning districts with development standards designed to correspond with various General Plan land use designations. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe environmental impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

Mitigation Measures

General Plan FEIR Mitigation Measures

None.

Metro Specific Plan SFEIR Mitigation Measures

None.

Mitigation Measures for the Proposed Project

None required.

Conclusion

With regard to Land Use and Planning, the analysis demonstrates that:

1. No substantial changes are proposed in the project which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
2. No substantial changes are proposed with respect to the circumstances under which the project is undertaken which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
3. No new information of substantial importance indicates any new or more significant effects than shown in the previously certified EIRs.
4. No mitigation measures are necessary because the proposed project's specific impacts would be less than significant.
5. None of the conditions described in State CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
XII. Mineral Resources <i>Would the project:</i>							
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State?	Less than significant impact	No impact	No	No	No	None	None
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	Less than significant impact	No impact	No	No	No	None	None

Discussion

- a) **Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State?**
- b) **Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?**

Summary of General Plan FEIR

The General Plan FEIR determined that the implementation of the General Plan would not result in the loss of availability of a known mineral resource. The Planning Area contains four areas identified by the State Geologist as containing Regionally Significant Construction Aggregate Resources, located outside city limits. These areas are part of the South San Francisco Bay Production-Consumption Region, contain sandstone deposits, and are currently being quarried. Additionally, the General Plan FEIR determined that the Planning Area does not contain sites designated as a locally important mineral resource recovery site by the General Plan. The Santa Clara County General Plan identifies important mineral resources within the County, including the hillside areas within the City's SOI. However, the General Plan FEIR determined that the implementation of the General Plan would not result in the loss of a locally important mineral resource recovery site, and impacts would be less than significant. Therefore, the General Plan FEIR identified that there would be no loss of known or

locally important mineral resources as a result of the implementation of the General Plan, and impacts would be less than significant.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR concluded that there would be no impacts to mineral resources because there are no mineral resources in the Metro Specific Plan Area.

Proposed Project Analysis and Conclusions

The proposed project does not propose any changes within the Planning Area that could potentially result in development in areas not previously contemplated by the General Plan FEIR or the Metro Specific Plan SFEIR. This precludes the potential for new impacts associated with mineral resources. Therefore, implementation of the proposed project would not introduce environmental impacts or create more severe environmental impacts than those analyzed in the General Plan FEIR or the Metro Specific Plan SFEIR. No additional analysis is required.

Mitigation Measures

General Plan FEIR Mitigation Measures

None.

Metro Specific Plan SFEIR Mitigation Measures

None.

Mitigation Measures for the Proposed Project

None required.

Conclusion

With regard to Mineral Resources, the analysis demonstrates that:

1. No substantial changes are proposed in the project which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
2. No substantial changes are proposed with respect to the circumstances under which the project is undertaken which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
3. No new information of substantial importance indicates any new or more significant effects than shown in the previously certified EIRs.
4. No mitigation measures are necessary because the proposed project's specific impacts would be less than significant.
5. None of the conditions described in State CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
XIII. Noise <i>Would the project:</i>							
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	Significant and unavoidable impact (traffic noise) Less than significant impact (railroad noise) Less than significant impact (stationary noise sources) Less than significant impact (construction noise sources)	Less than significant impact (traffic noise) Less than significant impact (mixed-use and transit-oriented development) Less than significant impact (stationary noise sources) Significant and unavoidable (construction noise sources) Less than significant impact (sire noise at future police station)	No	No	No	None	MM NOI-1
b) Generation of excessive groundborne vibration or groundborne noise levels?	Less than significant impact	Significant and unavoidable impact (construction) Less than significant impact (operation)	No	No	No	None	MM NOI-2 and MM NOI-3

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	No impact	No impact	No	No	No	None	None

Discussion

- a. **Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?**

Summary of General Plan FEIR

Traffic Noise

The General Plan FEIR indicated that the General Plan may contribute to an exceedance of the City's transportation noise standards and/or result in significant increases in traffic noise levels at existing sensitive receptors. While the General Plan included several policies and actions to reduce noise and land use compatibility impacts from traffic noise sources, the General Plan FEIR concluded that traffic noise would still exceed applicable noise exposure criteria even with implementation of General Plan requirements. Impacts related to traffic noise on existing noise-sensitive uses in the City were therefore determined to be significant and unavoidable.

Railroad Noise Sources

The General Plan FEIR indicated that although future development located along railroad lines could expose residents to unacceptable exterior noise levels, implementation of General Plan policies and actions related to noise mitigation would ensure that development allowed under the General Plan

would not expose residents to noise levels associated with railroad operations in excess of the City's established standards. Therefore, the General Plan FEIR concluded that implementation of applicable General Plan policies and actions would ensure that development allowed under the General Plan would not be exposed to noise levels associated with railroad operations in excess of the City's established standards, and impacts would be less than significant.

Stationary Noise Sources

The General Plan FEIR indicated that future development could result in land uses that generate noise levels in excess of applicable City noise standards for non-transportation noise sources. However, implementation of General Plan policies and actions would ensure that development allowed under the General Plan would reduce noise impacts from stationary noise sources, and impacts would be less than significant.

Construction Noise Sources

The General Plan FEIR indicated that future development could result in an increase of construction noise sources that could result in periods of significant ambient noise level increases and the potential for annoyance. The General Plan FEIR noted that due to the temporary nature of construction noise, noise increase from construction activities would not lead to ongoing or long-term exceedances of the City's noise standards. In addition, the ambient noise standards established by the General Plan do not apply to temporary noise sources such as construction activity. The General Plan FEIR concluded that implementation of General Plan policies and actions would reduce noise impacts from construction noise to a less than significant level.

Summary of Metro Specific Plan SFEIR

Construction

The Metro Specific Plan SFEIR indicated that construction of future development associated with the Metro Specific Plan would generate noise and temporarily increase noise levels at nearby land uses. Most construction activities would be limited to the daytime allowable hours for construction defined in the Municipal Code, but some construction noise could occur during nighttime hours and/or could result in a substantial temporary increase in ambient noise levels. Construction noise would be reduced through compliance with General Plan Policies and actions. However, construction noise from development consistent with the Metro Specific Plan could occur during nighttime hours and/or could result in substantial temporary increase in ambient noise levels in the City during daytime or nighttime hours. It is not possible to ensure that in all instances and for all future projects that mitigation measures would be able to reduce construction noise to less than significant levels; therefore, the Metro Specific Plan SFEIR conservatively concluded that construction noise impacts from implementation of the Metro Specific be would be significant and unavoidable.

Operation

Traffic Noise

The Metro Specific Plan SFEIR indicated that implementation of the Metro Specific Plan would result in changes to the land use classifications (i.e., increased allowable densities and intensities, new land use classifications, and change in location of land use classifications) within the Metro Specific Plan Area and could therefore result in increases in traffic in certain portions of the Metro Specific Plan

Area or in the redistribution of traffic along new or different segments. The Metro Specific Plan SFEIR concluded that traffic noise increases would be below General Plan significance thresholds, and impacts related to traffic noise would be less than significant.

Noise Impacts Related to Mixed-Use and Transit-Oriented Development

The Metro Specific Plan SFEIR indicated that the Metro Specific Plan would not directly result in the relocation of rail or Bay Area Rapid Transit (BART) tracks or result in increases in rail or BART activity, and that impacts associated with noise from rail and BART activity would be less than significant.

Operational Mechanical Equipment Noise

The Metro Specific Plan SFEIR indicated that development within the Metro Specific Plan Area would be expected to include the installation and operation of stationary sources of noise, such as heating, ventilation, and air conditioning (HVAC) equipment, and emergency generators, which could expose adjacent land uses and sensitive receptors to excessive noise. The Metro Specific Plan SFEIR presented typical noise generation from HVAC equipment and emergency generators and discussed potential reductions. However, the Metro Specific Plan SFEIR noted that because operational mechanical equipment for specific future projects would vary, it determined that the potential reductions could not be quantified and therefore impacts would potentially be significant. The Metro Specific Plan SFEIR concluded that compliance with applicable General Plan policies and actions would help reduce the effects of mechanical equipment noise on nearby sensitive uses, and that implementation of MM NOI-1 would further reduce potential impacts by requiring applicants of future projects under the Metro Specific Plan to conduct a noise analysis to estimate noise levels of project-specific mechanical equipment and implement mitigation measures to ensure noise levels are below allowable limits. The Metro Specific Plan SFEIR concluded that compliance with applicable General Plan policies and actions and implementation of MM NOI-1 would reduce operational impacts associated with operational mechanical equipment to less than significant.

Siren Noise at Future Police Station

The Metro Specific Plan SFEIR indicated that development of the police station could introduce operational noise in the form of siren noise. However, because siren use would be temporary and would occur to protect public health and safety, it would result in a less than significant noise impact.

Proposed Project Analysis and Conclusions

The proposed project does not propose any physical development in areas not previously contemplated by the General Plan and Metro Specific Plan. As described in Section 2, Project Description, buildout of the proposed project would result in a similar intensity of development as that anticipated in the General Plan and Metro Specific Plan. Therefore, the proposed project does not anticipate any additional construction noise impacts beyond those analyzed in the General Plan FEIR and Metro Specific Plan SFEIR. Furthermore, future development and land use activities resulting from the proposed project would be subject to General Plan goals, policies and actions that would reduce noise and land use compatibility impacts from traffic noise sources, stationary sources, railroad-related sources, and construction sources. Future development located within the Metro Specific Plan Area would also be required to adhere to Metro Specific Plan policies, including the

implementation of MM NOI-1, which mandates that all development projects within the Metro Specific Plan Area conduct a noise analysis to estimate noise levels of project-specific mechanical equipment and implement mitigation measures to ensure noise levels are below allowable limits.

As such, implementation of MM NOI-1 and the Metro Specific Plan goals and policies would reduce the proposed project's noise impacts to a less than significant level within the Metro Specific Plan.

For portions of the proposed project outside of the Metro Specific Plan, the goals, policies, and actions from the General Plan would help reduce potential future noise impacts resultant from the proposed project. Similar to the conclusions of the General Plan FEIR, potential impacts related to traffic noise would continue to be significant and unavoidable for the proposed project. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

b. Generation of excessive groundborne vibration or groundborne noise levels?

Summary of General Plan FEIR

Construction

The General Plan FEIR indicated that construction associated with development under the General Plan could create perceptible vibration levels and potential damage to existing structures, resulting in a potentially significant impact. However, the General Plan FEIR concluded that, given the temporary nature of construction, and with compliance with applicable General Plan policies and actions, impacts from construction vibration would be less than significant.

Operation

The General Plan FEIR indicated that development could expose persons to excessive groundborne vibration levels caused by trains; given the programmatic nature of the General Plan, the locations of buildings and their sensitivity to vibration were not known at the time General Plan FEIR was certified. The General Plan FEIR concluded that compliance with applicable General Plan policies and actions would require that individual development projects undergo project-specific environmental review and address potential vibration impacts associated with railroad operations. Therefore, the General Plan FEIR determined that impacts related to groundborne vibration during operation would be less than significant.

Summary of Metro Specific Plan SFEIR

Construction

The Metro Specific Plan SFEIR concluded that some construction activities could result in vibration levels in excess of significance thresholds that could result in damage to structures and vibration-related annoyance, resulting in a potentially significant impact. Development consistent with the Metro Specific Plan would be required to comply with applicable General Plan policies and actions. Future development requiring pile driving within 100 feet of an existing structure or utilizing other ground-disturbing equipment within 25 feet of existing structures would also be required to implement MM NOI-2, which requires that construction contractors implement all feasible means to

avoid damage to adjacent and nearby buildings from construction-generated vibration. MM NOI-3 requires implementation of a nighttime construction vibration control plan to reduce vibration-related annoyance impacts.

The Metro Specific Plan SFEIR concluded that even with compliance with General Plan policies and MM NOI-2 and MM NOI-3, because it is not possible to ensure that mitigation measures would reduce construction vibration to less than significant levels, construction groundborne vibration impacts would remain significant and unavoidable.

Operation

The Metro Specific Plan SFEIR indicated that while sensitive receptors could be exposed to groundborne vibration from Amtrak trains, freight trains, and BART, the Metro Specific Plan would not result in relocation or the increased use of these facilities beyond what would otherwise exist without the implementation of the Metro Specific Plan. Therefore, it concluded that rail or BART-related operational vibration impacts would not be directly affiliated with the Metro Specific Plan, and impacts would be less than significant.

Proposed Project Analysis and Conclusions

The proposed project does not propose any physical development in areas not previously contemplated by the General Plan and Metro Specific Plan. As described in Section 2, Project Description, buildout of the proposed project would result in a similar intensity of development as that anticipated in the General Plan and Metro Specific Plan. Therefore, the proposed project does not anticipate any additional construction vibration impacts beyond those analyzed in the General Plan FEIR and Metro Specific Plan SFEIR.

In compliance with General Plan policies and actions, buildout of the proposed project would be required to undergo project-specific environmental review and address potential vibration impacts associated with railroad operations. Furthermore, buildout of the proposed project within the Metro Specific Plan Area would be required to comply with applicable Metro Specific Plan policies and actions. Development resulting from the proposed project within the Metro Specific Plan would also be required to comply with Metro Specific Plan SFEIR MM NOI-2 and MM NOI-3, which provide mitigation to protect potentially susceptible structures from construction-generated vibration and also require individual development projects to implement a nighttime construction vibration control plan to reduce vibration-related annoyance impacts. With implementation of the goals, policies, and actions provided by the General Plan, buildout of the proposed project outside of the Metro Specific Plan Area would be less than significant.

Within the Metro Specific Plan Area, Metro Specific Plan policies and actions, and MM NOI-2 and MM NOI-3 would help reduce vibration impacts associated with the proposed project. However, similar to the conclusions of the Metro Specific Plan SFEIR, vibration impacts resulting from construction of development under the proposed project would not differ significantly from those analyzed under the Metro Specific Plan SFEIR, and as such, impacts would remain significant and unavoidable.

Implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- c. **For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?**

Summary of General Plan FEIR

Impacts related to airports are discussed in Section 3.8, Hazards and Hazardous Materials, of the General Plan FEIR. The General Plan FEIR concluded that Milpitas is not located within an airport land use plan or within two miles of a public airport. Therefore, implementation of the General Plan would result in less than significant impacts related to aircraft noise.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR indicated that there are no private or public airport facilities located in the City, and concluded there would be no impact related to exposing people residing or working in the Metro Specific Plan Area to excessive aircraft noise levels.

Proposed Project Analysis and Conclusions

The area associated with the proposed project the same as the General Plan Planning Area and the Metro Specific Plan Area. As such, the proposed project is not located within an airport land use plan or within two miles of a public airport, and the proposed project would not expose people residing or working in the Planning Area or the Metro Specific Plan Area to excessive aircraft noise. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

Mitigation Measures

General Plan FEIR Mitigation Measures

None.

Metro Specific Plan SFEIR Mitigation Measures

MM NOI-1 Mechanical Equipment Noise Reduction Plan

To reduce potential noise impacts resulting from mechanical equipment (including but not limited to HVAC equipment and emergency generators), the applicants of future projects under the Metro Plan shall conduct a noise analysis to estimate noise levels of project-specific mechanical equipment. The noise analysis shall be based on the selected equipment models and design features. The applicant for the project shall create a Noise Reduction Plan to ensure noise levels of equipment, once installed, are below the applicable criteria described below.

The Noise Reduction Plan shall include any necessary noise reduction measures required to reduce project-specific mechanical equipment noise to a less than significant level. The plan shall also demonstrate that with the inclusion of selected measures, noise from equipment would be below the significance thresholds. Feasible noise reduction measures to reduce noise below the significance thresholds include, but are not limited to, selecting quieter equipment, utilizing silencers and acoustical equipment at vent openings, siting equipment farther from the roofline, and/or enclosing all equipment in a mechanical equipment room designed to reduce noise. Regarding emergency generators, additional noise reduction options include, but are not limited to, installing quieter model generators, incorporating noise-reducing emergency generator weather enclosures, and installing exhaust mufflers or silences. The results of the noise analysis and the final Noise Reduction Plan shall be provided to the City prior to the issuance of building permits.

The noise analysis and Noise Reduction Plan shall be prepared by persons qualified in acoustical analysis and/or engineering. The Noise Reduction Plan shall demonstrate with reasonable certainty that noise from mechanical equipment selected for the project, including the attenuation features incorporated into the project design, will not exceed the City of Milpitas property plane thresholds of 55 dBA during daytime hours or 45 dBA during nighttime hours for nearby residential land uses.

The applicants of future projects under the Metro Plan shall incorporate all feasible methods to reduce noise and any other feasible recommendations from the acoustical analysis and Noise Reduction Plan into the building design and operations, as necessary, to ensure that noise sources meet applicable requirements of the respective noise ordinances at receiving properties.

MM NOI-2 Protect Potentially Susceptible Structures from Construction-Generated Vibration

If a future development project in the Metro Plan requires any of the following construction activities, then this measure would apply:

- Pile driving within approximately 100 feet of an existing structure.
- Construction with other ground-disturbing equipment (e.g., jackhammers, bulldozers, excavators, etc.) within 25 feet of an existing structure.

The construction contractor shall consult with the City to determine whether adjacent or nearby structures could be adversely affected by construction-generated vibration. If buildings adjacent to construction activity are identified that could be adversely affected, the project applicant will incorporate into construction specifications for their project a requirement that the construction contractor(s) use all feasible means to avoid damage to adjacent and nearby buildings. Such methods to help reduce vibration-related damage effects may include maintaining a safe distance between the construction site and the potentially affected building (e.g., at

least 100 feet for “historic and some old buildings”) or using “quiet” pile driving technologies (such as predrilling piles or using sonic pile drivers).

Should pile driving be required within 100 feet of a building in the “historic or some old building” category, within 75 feet of buildings in the “older residential structures” category, and within 55 feet of buildings in the “modern industrial/commercial” category, the City will work with the construction contractor to implement a monitoring program to minimize damage to adjacent buildings and ensure that any such damage is documented and repaired. If required, the monitoring program will include the following components:

- Prior to the start of any ground-disturbing activity, the project applicant will engage a historic architect or qualified historic preservation professional to undertake a pre-construction survey of nearby affected buildings that may be considered historic. For buildings that are not potentially historic, a structural engineer or other professional with similar qualifications will document and photograph the existing conditions of potentially affected buildings within 100 feet of pile driving activity.
- Based on the construction and condition of the resource(s), the consultant will also establish a standard maximum vibration level that will not be exceeded at any building, based on existing conditions, character-defining features, soil conditions, and anticipated construction practices. Common standards are a peak particle velocity of 0.25 inch per second for “historic and some old buildings,” a peak particle velocity of 0.3 inch per second for “older residential structures,” and a peak particle velocity of 0.5 inch per second for “new residential structures” and “modern industrial/commercial buildings,” as shown in Table 3.4-2.
- To ensure that vibration levels do not exceed the established standard, the project applicant will monitor vibration levels at each structure and prohibit vibratory construction activities that generate vibration levels in excess of the standard.
- Should vibration levels be observed in excess of the selected standard, construction will be halted, and alternative construction techniques put in practice, to the extent feasible (e.g., predrilled piles could be substituted for driven piles, if feasible, based on soil conditions, or smaller, lighter equipment could be used in some cases).
- The historic preservation professional (for effects on historic buildings) and/or structural engineer (for effects on non-historic structures) will conduct regular periodic inspections (every 3 months) of each building during ground-disturbing activity on the project site. Should damage to any building occur, the building(s) will be remediated to their pre-construction condition at the conclusion of ground-disturbing activity on the site.

MM NOI-3 Implement Nighttime Construction Vibration Control Plan to Reduce Vibration-Related Annoyance Impacts on Adjacent Land Uses

Should vibration-generating construction activities for future development under the Metro Plan be proposed outside of the daytime hours of 7:00 a.m. to 7:00 p.m., and should non-pile driving equipment be proposed within 25 feet of occupied residences or buildings where people sleep, the construction contractor for a project in the Metro Plan Area shall develop a nighttime construction vibration control plan. In addition, should nighttime pile driving activities be proposed within 100 feet of such buildings, the construction contractor for a project in the Metro Plan Area shall similarly develop a nighttime construction vibration control plan. The construction vibration control plan shall demonstrate that vibration levels at the residential land uses during nighttime hours will not exceed 0.1 PPV in/sec.

In addition, the construction contractor will appoint a project vibration coordinator who will serve as the point of contact for vibration-related complaints during project construction. The contact information for the project vibration coordinator shall be posted at the project site and on a publicly available project website for future development projects under the Metro Plan. Should residents in the project area submit complaints to the project vibration coordinator for nighttime construction vibration concerns, the project vibration coordinator shall work with the construction team to adjust activities to reduce vibration or to reschedule activities for a less sensitive time.

Mitigation Measures for the Proposed Project

Implement MM NOI-1, MM NOI-2, and MM NOI-3.

Conclusion

With regard to Noise, the analysis demonstrates that:

1. No substantial changes are proposed in the project which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
2. No substantial changes are proposed with respect to the circumstances under which the project is undertaken which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
3. No new information of substantial importance indicates any new or more significant effects than shown in the previously certified EIRs.
4. No new mitigation measures or alternatives previously found not to be feasible, would in fact be feasible and would reduce one or more significant effects of the project. No new mitigation measures or alternatives which are considerably different from those analyzed in the previously certified EIRs would substantially reduce significant impacts.
5. None of the conditions described in State CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
XIV. Population and Housing <i>Would the project:</i>							
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	Less than significant impact	Less than significant impact	No	No	No	None	None
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	Less than significant impact	No impact	No	No	No	None	None

Discussion

- a. Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

Summary of General Plan FEIR

The General Plan FEIR determined that the implementation of the General Plan would not induce substantial unplanned growth in the City, either directly or indirectly. The General Plan accommodates future growth in the City, including new businesses, expansion of existing business, and new residential uses. The General Plan FEIR also identified that as future development occurs, new roads, infrastructure, and services would be required to serve the development, and that this infrastructure would accommodate the planned growth. There are few areas within the City designated for urban land uses that are not already developed as described in the General Plan FEIR,

and new growth is focused on infill sites throughout the City with higher density uses focused around major transportation corridors. Therefore, with implementation of the General Plan policies and actions intended to guide growth to appropriate areas and provide services necessary to accommodate growth, the General Plan FEIR concluded that impacts would be less than significant.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR determined that the Metro Specific Plan would seek to increase housing and jobs production in the City and would increase the population within the City. However, the population growth would be considered planned because the Metro Specific Plan calls for the development of multiuse neighborhoods around transit nodes. Additionally, the Metro Specific Plan includes area-wide infrastructure improvements to accommodate residential and mixed-use development; therefore, the Metro Specific Plan SFEIR found that the plan would support the movement of individuals that would live and work in the Metro Specific Plan Area. The Metro Specific Plan would also support the population and housing goals from the 2040 General Plan, including Goals A, B, C, D, and E from the Housing Element, which aim to provide adequate sites to accommodate the City's share of the regional housing need. Therefore, because the population and employment growth would be consistent with the City's growth plans and the growth envisioned for the Bay Area, the Metro Specific Plan SFEIR concluded that impacts would be less than significant.

Proposed Project Analysis and Conclusions

The proposed project would update the Zoning Ordinance and Zoning Map, as well as make minor technical amendments to the General Plan and General Plan Land Use Map to ensure vertical consistency among the City's planning documents. As described in Section 2.3.1 Project Summary, the potential maximum density and intensity of development would remain the same for every parcel with proposed changes. Therefore, the proposed project does not anticipate any changes to direct and indirect population growth impacts in the City beyond those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR.

- b. Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?**

Summary of General Plan FEIR

The General Plan FEIR determined that implementation of the General Plan would not displace substantial numbers of existing people or housing. The General Plan FEIR found that the majority of developed land in the Planning Area consists of residential uses, which would not undergo significant land use changes under the General Plan. Furthermore, the General Plan focuses on infill development in vacant and underutilized areas of the City, and the General Plan would generally increase the overall number of dwelling units within the City. Therefore, the General Plan FEIR concluded that impacts would be less than significant.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR determined that the Metro Specific Plan would not displace substantial number of existing people or housing. The Metro Specific Plan aims to provide more housing in the Metro Specific Plan Area by providing affordable and market rate housing through changes in land use classification. Additionally, future development projects would comply with existing federal, State, and local regulations that would avoid the displacement of people and housing through requirements for replacement housing, preservation of and increases in affordable housing, rental increase limits, and landlord-tenant dispute resolution. Furthermore, the Metro Specific Plan SFEIR determined that the Metro Specific Plan's area is currently used for primarily industrial, manufacturing, and research and development (R&D) uses. Therefore, no residences would be displaced in the eastern expansion area of the Metro Specific Plan. Further, future development projects would be required to undergo environmental review pursuant to CEQA to reduce impacts related to displacing people or housing. Therefore, the Metro Specific Plan SFEIR concluded that impacts would be less than significant.

Proposed Project Analysis and Conclusions

The proposed project would update the City's current Zoning Ordinance, zoning districts, and Zoning Map to ensure conformity with current General Plan and Metro Specific Plan land use designations. The proposed project does not propose any physical development and would not lower the number of housing units allowed within the City. The land use patterns that would result from the proposed project would be similar to those envisioned and evaluated in the General Plan and Metro Specific Plan. As such, there are no areas designated for residential development that would be rezoned for nonresidential uses. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe environmental impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

Mitigation Measures

General Plan FEIR Mitigation Measures

None.

Metro Specific Plan FEIR Mitigation Measures

None.

Mitigation Measures for the Proposed Project

None required.

Conclusion

With regard to Population and Housing, the analysis demonstrates that:

1. No substantial changes are proposed in the project which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
2. No substantial changes are proposed with respect to the circumstances under which the project is undertaken which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
3. No new information of substantial importance indicates any new or more significant effects than shown in the previously certified EIRs.
4. No mitigation measures are necessary because the proposed project's specific impacts would be less than significant.
5. None of the conditions described in State CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
XV. Public Services <i>Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:</i>							
a) Fire protection?	Less than significant impact	—	No	No	No	None	NA
b) Police protection?	Less than significant impact	—	No	No	No	None	NA
c) Schools?	Less than significant impact	Less than significant impact	No	No	No	None	None
d) Parks?	Less than significant impact	Less than significant impact	No	No	No	None	None
e) Other public facilities?	Less than significant impact	—	No	No	No	None	NA

Discussion

Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

- a. Fire protection?
- b. Police protection?
- c. Schools?
- d. Parks?
- e. Other public facilities?

Summary of General Plan FEIR

The General Plan FEIR determined that the implementation of the General Plan would result in additional residents and businesses in the City, which would result in increased demand for public services, including fire protection, police protection, schools, parks, and other public facilities, such as libraries. However, the General Plan SFEIR identified various policies and actions within the General Plan which would ensure that public services are provided at acceptable levels and that the City would maintain and implement public facility master plans to ensure compliance with applicable federal, State, and regional laws related to public services. While new public facilities would likely be required to serve growth contemplated by the General Plan, future development projects would be required to comply with regulations, policies, and standards in the General Plan and would be subject to CEQA review as appropriate. Therefore, the General Plan FEIR concluded that impacts related to fire protection would be less than significant.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR determined that the implementation of the Metro Specific Plan would increase the demand for public services, including fire protection, police protection, schools, and parks, due to the expansion of the Metro Specific Plan Area and the additional population growth expected. The Metro Specific Plan SFEIR concluded that the Metro Specific Plan includes policies meant to minimize physical impacts on the environment due to the need for new or altered public facilities.

Fire Protection

Metro Specific Plan Policies ICS 8.1, ICS 8.2, ICS 8.4, and ICS 8.5 require the City to prepare a “standards of cover” analysis to determine impacts on the Fire Department, hire additional staff and purchase equipment, site and develop future fire stations to reduce environmental impacts, and minimize noise and traffic impacts resulting from future fire stations. New development would also be required to pay an annual special tax to cover the cost of public service provision, as applicable. However, the Metro Specific Plan SFEIR determined that a CEQA conclusion could not be made because site-specific information on future fire stations that could be required was not known. Therefore, additional CEQA review would be required as additional fire protection services are required.

Police Protection

The Metro Specific Plan includes the addition of Policy ICS 9.2, which requires an additional police substation to be built within the Metro Specific Plan Area. As such, the Metro Specific Plan SFEIR determined that it is not possible to identify the specific nature, extent, and significance of physical impacts on the environment resulting from the construction and operation of a future police facility, because site-specific information was not available.

Therefore, the Metro Specific Plan SFEIR determined that a CEQA conclusion could not be made because site-specific information on a future police station was not known. As such, additional CEQA review would be required as additional police protection services are required.

Schools

Future development associated with the Metro Specific Plan would be required to pay school impact fees to support additional school facilities and services as applicable, and therefore, the Metro Specific Plan SFEIR concluded that impacts on school services would be less than significant.

Parks

The Metro Specific Plan identifies new parks that would be constructed in the Metro Specific Plan Area and includes policies to provide recreational facilities in the form of a trail system and open space in new developments. The Metro Specific Plan requires phased projects to prioritize the development of public amenities to serve new populations, require residential and mixed-use projects to develop and maintain private public spaces, use a hybrid model of an “acres ratio” and the Recreational Value System to assess public space facilities and identify opportunities for growth, and ensure that each district will include open space with amenities suitable to serve the area.

Overall, the Metro Specific Plan SFEIR concluded that impacts related to the construction of additional recreational facilities would be less than significant.

Other Public Facilities

The Metro Specific Plan SFEIR did not discuss or analyze impacts to other public facilities. Therefore, no CEQA determination was made in the Metro Specific Plan SFEIR.

Proposed Project Analysis and Conclusions

The proposed project does not propose any physical development, land use, or policy changes within the Planning Area or Metro Specific Plan Area that could result in direct or indirect population growth not previously contemplated by the General Plan FEIR and the Metro Specific Plan SFEIR. Additionally, the proposed project would largely maintain existing land use patterns as were envisioned and evaluated in the General Plan and the Metro Specific Plan Area and, as such, would result in similar intensity and density of development. This precludes the potential for new impacts associated with new or expanded public services beyond those already evaluated and disclosed in the General Plan FEIR and the Metro Specific Plan SFEIR. Furthermore, future development projects would be required to comply with applicable federal, State, regional, and local laws and regulations related to public services, including the policies and actions of the General Plan and the Metro Specific Plan.

Fire Protection

Applicable policies related to fire protection include, but are not limited to, General Plan Policies SA 3-1 through SA 3-9, which involve siting, development, staffing, and equipment requirements for critical facilities within the City. Policies SA 4-1, SA 4-8, SA 4-9, and SA 4-10 related to the provision of adequate funding for police and fire facilities and personnel, fire protection in hillside areas, response time for fire and emergency medical services, and adequate water supplies, would also be applicable to future development. Furthermore, Action SA 4b requires applications for future development to be reviewed by the Fire Department to evaluate impacts and facilitate adequate fire services. Future development within the Metro Specific Plan Area would also be required to comply with various policies including, but not limited to Metro Specific Plan Policy ICS 8.1 through ICS 8.6,

which establish standards for new fire facilities, staffing, and funding, including siting standards and updated emergency and disaster response plans. Furthermore, Policy M 1.2 ensures that all streets shall meet Fire Department design requirements for access and firefighting operations.

Police Protection

Applicable policies from the General Plan and Metro Specific Plan related to police protection include, but are not limited to, General Plan Policies SA 3-1 through SA 3-9, which involve siting, development, staffing, and equipment requirements for critical facilities within the City. Policies SA 4-1 through SA 4-7, related to adequate funding for police facilities and personnel, community-based crime prevention, enhancing safety through physical site planning, and coordination with Valley Transportation Authority (VTA) security and BART Police, would also be applicable to future development. Furthermore, Actions SA 4a and SA 4d require future development to consult with the Police Department to ensure adequate police services and crime prevention measures and encourage using technology as a means of crime reduction. Future development within the Metro Specific Plan Area would also be required to comply with various policies including, but not limited to, Metro Specific Plan Policy ICS 9.1, which requires the City to hire additional police staff and purchase equipment to provide an adequate level of service.

Schools

Applicable policies from the General Plan and Metro Specific Plan include, but are not limited to General Plan Policy UCS 1-5, Action UCS-8a, and Action UCS-8c, which require the payment of applicable school impact fees for future development and require the City to develop criteria for the siting of schools. Future development within the Metro Specific Plan Area would also be required to comply with various policies including, but not limited to, Metro Specific Plan Policies ICS 10.2 and ICS 10.2 through ICS 8.6, which require coordination with school districts on facilities needed to accommodate new students and ensure that all school impact fees are paid by future projects.

Parks

Applicable policies related to parks include, but are not limited to, General Plan Policies PROS 1-1 through 1-16, which establish standards for parkland acreage within the Planning Area, require dedication of parkland within future development or payment of in lieu fees, and provide various requirements for expansion, design, and maintenance of park facilities. Future development within the Metro Specific Plan Area would also be required to comply with various policies including, but not limited to, Metro Specific Plan Policies PPS 3.1, COS 1, PPS 5.5, PPS 1.2, PPS 1.3, and M 5.1 through M 5.3, which establish standards for parks, recreational facilities, and trails within the Metro Specific Plan Area.

Other Public Facilities

Applicable policies related to other public facilities include, but are not limited to, General Plan Policies UCS 1-5, UCS 8-7, and UCS 8-8, which involve paying impact fees, supporting the provision of civic, library, and community facilities, and supporting the Santa Clara County Library District.

Conclusion

Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe environmental impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

Mitigation Measures

General Plan FEIR Mitigation Measures

None.

Metro Specific Plan SFEIR Mitigation Measures

None.

Mitigation Measures for the Proposed Project

None required.

Conclusion

With regard to Public Services, the analysis demonstrates that:

1. No substantial changes are proposed in the project which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
2. No substantial changes are proposed with respect to the circumstances under which the project is undertaken which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
3. No new information of substantial importance indicates any new or more significant effects than shown in the previously certified EIRs.
4. No mitigation measures are necessary because the proposed project's specific impacts would be less than significant.
5. None of the conditions described in State CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
XVI. Recreation <i>Would the project:</i>							
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	Less than significant impact	Less than significant impact	No	No	No	None	None
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?	Less than significant impact	Less than significant impact	No	No	No	None	None

Discussion

- a. **Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?**
- b. **Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?**

Summary of General Plan FEIR

The General Plan FEIR determined that the implementation of the General Plan would increase the demand for parks and recreation facilities due to an increase in population, employment, and tourism in the City. The additional demand on existing parks and recreational facilities would

increase the need for maintenance and improvements. The General Plan FEIR found that the provision of new parks and recreation facilities would reduce the potential for adverse impacts and physical deterioration of existing parks and facilities. New facilities would be provided at a pace and in locations appropriate to serve new development in order to maintain the City-adopted standard for park space of 5 acres per 1,000 residents. New neighborhood and community parks and trails would generally be accommodated in the POS and Public Facilities land use designations to accommodate new parks and trails, in accordance with General Plan Policy PROS-1.4. The General Plan FEIR concluded that future projects would be analyzed for conformance with the General Plan, Municipal Code, and other applicable regulations, including evaluation pursuant to CEQA. Additionally, the General Plan includes policies and actions to ensure that parks and recreation facilities are adequately maintained and improved to serve both existing and planned growth. Therefore, the General Plan FEIR concluded that impacts would be less than significant.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR determined that impacts related to recreational facilities would be less than significant. The Metro Specific Plan SFEIR determined that the Metro Specific Plan's implementation would increase the demand for recreational facilities due to the expansion of the Metro Specific Plan Area and the additional population growth expected. The Metro Specific Plan identifies new parks that would be constructed in the Metro Specific Plan Area and includes policies to provide recreational facilities in the form of a trail system and open space in new developments. The Metro Specific Plan requires phased projects to prioritize the development of public amenities to serve new populations, require residential and mixed-use projects to develop and maintain private public spaces, use a hybrid model of an "acres ratio" and the Recreational Value System to assess public space facilities and identify opportunities for growth, and ensure that each district will include open space with amenities suitable to serve the area. Overall, the Metro Specific Plan SFEIR concluded that impacts related to recreational facilities would be less than significant.

Proposed Project Analysis and Conclusions

The proposed project does not propose any physical development, land use, or policy changes within the Planning Area or Metro Specific Plan Area that could result in direct or indirect population growth not previously contemplated by the General Plan FEIR and the Metro Specific Plan SFEIR. Additionally, the proposed project would largely maintain existing land use patterns as imagined in the General Plan Planning Area and the Metro Specific Plan Area. This precludes the potential for new impacts associated with new or expanded parks and recreational facilities beyond those already evaluated and disclosed in the General Plan FEIR and the Metro Specific Plan SFEIR. Furthermore, future development projects would be required to comply with applicable federal, State, regional, and local laws and regulations related to parks and recreational facilities, including the policies and actions of the General Plan and the Metro Specific Plan.

Applicable policies include, but are not limited to, General Plan Policies PROS 1-1 through 1-16, which establish standards for parkland acreage within the Planning Area, require dedication of parkland within future development or payment of in lieu fees, and provide various requirements for expansion, design, and maintenance of park facilities. Future development within the Metro Specific Plan Area would also be required to comply with various policies including, but not limited to, Metro

Specific Plan Policies PPS 3.1, COS 1, PPS 5.5, PPS 1.2, PPS 1.3, and M 5.1 through M 5.3, which establish standards for park, recreational facilities, and trails within the Metro Specific Plan Area.

Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe environmental impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

Mitigation Measures

General Plan FEIR Mitigation Measures

None.

Metro Specific Plan SFEIR Mitigation Measures

None.

Mitigation Measures for the Proposed Project

None required.

Conclusion

With regard to Recreation, the analysis demonstrates that:

1. No substantial changes are proposed in the project which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
2. No substantial changes are proposed with respect to the circumstances under which the project is undertaken which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
3. No new information of substantial importance indicates any new or more significant effects than shown in the previously certified EIRs.
4. No mitigation measures are necessary because the proposed project's specific impacts would be less than significant.
5. None of the conditions described in State CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
XVII. Transportation <i>Would the project:</i>							
a) Conflict with a program plan, ordinance or policy of the circulation system, including transit, roadway, bicycle and pedestrian facilities?	Less than significant impact	Less than significant impact	No	No	No	None	None
b) Would the project conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?	Significant and unavoidable impact	Less than significant impact	No	No	No	None available	None
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	Less than significant impact	Less than significant impact	No	No	No	None	None
d) Result in inadequate emergency access?	Less than significant impact	Less than significant impact	No	No	No	None	None

Discussion

- a. **Conflict with a program plan, ordinance or policy of the circulation system, including transit, roadway, bicycle and pedestrian facilities?**

Summary of General Plan FEIR

The General Plan FEIR determined that the policies included in the General Plan would support and further the implementation of a variety of City transportation plans, including the Bikeway Master

Plan and the Trails Master Plan. The General Plan FEIR also identified that the context of the City's transportation network would be considered through policies that support interjurisdictional coordination and linking the development of transportation facilities to the surrounding land uses. Furthermore, the VTA has provided Level of Service (LOS) thresholds for intersections and roadways since the 1990s, including for intersections and roadways within the Planning Area, but LOS is no longer considered an environmental impact under CEQA. As such, the General Plan's policies focus on the development of a multimodal transportation network and the enhancement of facilities to improve walking, bicycling, and transit use. Therefore, the General Plan FEIR concluded that impacts related to conflict with a program, plan, ordinance, or policy associated with the circulation system would be less than significant.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR determined that the Metro Specific Plan would result in less than significant impacts related to conflict with programs, plans, ordinances, or policies addressing the circulation system of the Metro Specific Plan Area. The Metro Specific Plan SFEIR determined that the Metro Specific Plan would result in increased demand for pedestrian, bicycle, and transit trips in the Metro Specific Plan Area, but the addition of multi-family housing, retail development, and commercial uses would result in convenient, walkable access to a range of services and employment opportunities. The Metro Specific Plan SFEIR further identified that the increased transit demand would be accommodated by various transit providers within the Metro Specific Plan Area, such as BART, VTA light rail, VTA bus routes, Altamont Commuter Express (ACE) shuttles, and an AC Transit line. The Metro Specific Plan also includes various policies meant to minimize potential impacts to pedestrians, bicyclists, and transit users, such as Policies M 2, M 2.1.1 through M 2.1.5, M 2.2, M 2.2.1 through M 2.2.5, M 5.1, and M 8, which detail the specific transportation and circulation improvements, requirements, and Transportation Demand Management (TDM) measures to be implemented.

The Metro Specific Plan SFEIR further determined that the Metro Specific Plan would be consistent with the Draft Trail, Pedestrian, and Bicycle Plan; the City of Milpitas Transportation Analysis Policy; the Plan Bay Area 2050; the Valley Transportation Plan 2040; the Santa Clara Countywide Bicycle Plan; and VTA's Bicycle Technical Guidelines. Goals and policies developed for the Metro Specific Plan would provide enhanced connectivity to destinations throughout the City as well as improved safety and quality of active transportation infrastructure. Therefore, the Metro Specific Plan concluded that impacts related to conflicts with a program, policy, plan, or ordinance associated with the circulation system would be less than significant.

Proposed Project Analysis and Conclusions

The proposed project would result in a similar intensity and density of development within the General Plan Planning Area and the Metro Specific Plan Area, as well as result in similar land use patterns, to those imagined in the General Plan FEIR and the Metro Specific Plan SFEIR. Therefore, the proposed project would not be expected to alter transportation patterns and uses or conflict with any programs, plans, policies, or ordinances associated with the circulation system. Future development projects would be required to comply with all applicable standards, policies, and regulations described above. Therefore, the proposed project would not introduce new significant

environmental impacts or create substantially more severe environmental impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- b. Would the project conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?**

Summary of General Plan FEIR

The General Plan FEIR determined that the implementation of the General Plan would result in less than significant impacts related to residential VMT and significant and unavoidable impacts related to employment-based VMT. The General Plan FEIR identified that residential uses in the City were projected to generate an average of 11.03 VMT per capita, which is below the applied significance threshold of 11.48 VMT per capita. However, the General Plan FEIR further identified that the projected VMT per employee (20.41) for the City was nearly 31 percent higher than the applied significance threshold (14.14 VMT per employee). The General Plan's land use patterns, intensities, and policies include several components that aim to reduce VMT, and individual development projects would also be required to complete VMT analyses and implement TDM measures as applicable. Although these measures would likely reduce VMT impacts to less than significant when considered at an individual project-level, the General Plan FEIR determined that they cannot be guaranteed and are not possible to fully quantify or mitigate at the programmatic level. Therefore, the General Plan FEIR concluded that impacts related to VMT would be significant and unavoidable.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR determined that the Metro Plan would substantially lower VMT per service population, per capita, and per employee as compared to both the 2040 Santa Clara countywide average and the General Plan at buildout. The Metro Specific Plan includes new residences, retail opportunities, and employment sites within the Metro Specific Plan Area located near BART and light rail stations, and therefore, the Metro Specific Plan SFEIR determined that many residents, employees, and visitors would opt to walk, bicycle, or use transit for trips. Furthermore, Metro Specific Plan Policy M 8 requires new development to implement TDM measures in order to achieve a 15 percent reduction in VMT per resident or employee compared to the countywide average. Therefore, the Metro Specific Plan SFEIR concluded that impacts related to VMT would be less than significant.

Proposed Project Analysis and Conclusions

The proposed project would result in similar land use patterns, densities, and intensities to those envisioned and evaluated in the General Plan FEIR and the Metro Specific Plan SFEIR. As such, it is unlikely that the proposed project would result in additional impacts related to VMT. Future development projects would be required to comply with all applicable standards, policies, and regulations described above. Therefore, the proposed project would not introduce new significant environmental impacts or create substantially more severe environmental impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- c. **Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?**

Summary of General Plan FEIR

The General Plan FEIR determined that the General Plan would not directly result in any modification to the transportation network and would have no impact related to increasing hazards related to design features. Furthermore, future facilities associated with the implementation of the General Plan would be required to meet applicable federal, State, and City design standards. General Plan Policy CIR 2-2 requires that intersections are designed to safely and comfortably accommodate all transportation modes and users. Therefore, the General Plan FEIR concluded that impacts related to hazards due to geometric design features would be less than significant.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR determined that any improvements to the transportation and circulation system within the Metro Specific Plan Area would be designed and constructed to federal, regional, and local standards, and would therefore not result in hazardous design features. The design of new streets, circulation improvements, and access points would also be reviewed for compliance with safety guidelines and standards as part of the development review process. Furthermore, the Metro Specific Plan SFEIR found that sidewalks, bike lanes, and paths would be added to create a more comprehensive facilities network, thereby enhancing access and safety for nonmotorized users. Therefore, the Metro Specific Plan SFEIR concluded that impacts related to hazards due geometric design features would be less than significant.

Proposed Project Analysis and Conclusions

The proposed project includes zoning updates and minor General Plan Amendments that would not result in any physical development, which precludes the potential for new impacts associated with roadway safety. Future development projects, including streets, circulation improvements, and access points associated with the implementation of the proposed project would be required to comply with the applicable federal, State, and City design standards, such as General Plan Policy CIR 2-2, described above. Therefore, the proposed project would not introduce new significant environmental impacts or create substantially more severe environmental impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- d. **Result in inadequate emergency access?**

Summary of General Plan FEIR

The General Plan FEIR determined that the implementation of the General Plan would result in modifications to the existing transportation network, which could impact emergency access response time. However, future development associated with the General Plan would be required to comply with the City's Design and Construction Standards, which include requirements for emergency access, and would be reviewed by public safety officials as part of the entitlement process. Additionally, the General Plan FEIR found that emergency vehicles are able to use vehicle

preemption technology and sirens to reduce response times, and specific locations that would experience a reduction in roadway capacity would undergo individual operations analyses to assess and mitigate potential impacts to emergency vehicle access. General Plan Policies CIR 1-1, 1-7, 1-11, and 1-13 further focus on considering safety needs as part of planning and implementing transportation improvements. Therefore, the General Plan FEIR concluded that impacts related to emergency vehicle access would be less than significant.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR determined that buildout of the Metro Specific Plan would not be expected to result in inadequate emergency access. Future individual development projects within the Metro Specific Plan Area would be required to comply with City and County standards and requirements, as well as Safety, Fire, and Building Codes, and would undergo review by public safety officials as part of the approval process. Furthermore, the Metro Specific Plan SFEIR identified that the addition of a police substation within the Metro Specific Plan Area would provide broader distribution of emergency response resources, thereby resulting in reduced travel distances and response times for emergency vehicles. Additionally, the Metro Specific Plan SFEIR found that emergency vehicles are able to use vehicle preemption technology and sirens to reduce response times, and specific locations that would experience a reduction in roadway capacity would undergo individual operations analyses to assess and mitigate potentially impacts to emergency vehicle access. Therefore, the Metro Specific Plan SFEIR concluded that impacts related to emergency vehicle access would be less than significant.

Proposed Project Analysis and Conclusions

The proposed project would result in similar intensity, density, and land use patterns to those envisioned and evaluated in the General Plan FEIR and the Metro Specific Plan SFEIR, which precludes the potential for new impacts associated with emergency response. Furthermore, any future development projects associated with the implementation of the proposed project would be required to comply with the applicable City and County design standards. For example, General Plan Policies CIR 1-1, 1-7, 1-11, and 1-13 require prioritization of infrastructure and facility safety on streets, coordination with neighboring jurisdictions regarding planned developments and transportation improvements, maintenance of acceptable operations for major streets and intersections, and maintenance of updated emergency preparedness and evacuation plans and procedures. Therefore, the proposed project would not introduce new significant environmental impacts or create substantially more severe environmental impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

Mitigation Measures

General Plan FEIR Mitigation Measures

None.

Metro Specific Plan SFEIR Mitigation Measures

None.

Mitigation Measures for the Proposed Project

None required.

Conclusion

With regard to Transportation, the analysis demonstrates that:

1. No substantial changes are proposed in the project which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
2. No substantial changes are proposed with respect to the circumstances under which the project is undertaken which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
3. No new information of substantial importance indicates any new or more significant effects than shown in the previously certified EIRs.
4. No mitigation measures are necessary because the proposed project's specific impacts would be less than significant.
5. None of the conditions described in State CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
XVIII. Utilities and Service Systems <i>Would the project:</i>							
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunication facilities, the construction or relocation of which could cause significant environmental effects?	Less than significant impact	Less than significant impact (all facilities except future reservoir and pump stations, see below); No CEQA conclusion could be made at the time. Future reservoir and pump station may be subject to further review under CEQA	No	No	No	None	None
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	Less than significant impact	Less than significant impact	No	No	No	None	None
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has	Less than significant impact	Less than significant impact	No	No	No	None	None

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?							
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	Less than significant impact	Less than significant impact	No	No	No	None	None
e) Comply with federal, State, and local management and reduction statutes and regulations related to solid waste?	Less than significant impact	Less than significant impact	No	No	No	None	None

Discussion

- a. **Require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?**

Summary of General Plan FEIR

Water

The General Plan FEIR determined that the implementation of the General Plan would increase demand for water supplies, including water conveyance and treatment infrastructure, but that the projected 2040 water supplies would be adequate to meet the demand that would be generated by buildout of the General Plan. Therefore, the General Plan would not result in the need to construct or expand water supply and treatment facilities that have not been addressed in the Santa Clara Valley Water District's water master plans. Future discretionary projects would be evaluated for conformance with the General Plan, Municipal Code, and other applicable regulations, including the

requirements of CEQA. Further, the General Plan FEIR identifies several policies to ensure that water providers are consulted with during future land use changes to ensure that future supply meets demands. Future development would also be required to connect to existing water distribution infrastructure, pay the applicable water system connection fees, and pay the applicable water usage rates. Therefore, the General Plan FEIR concluded that impacts would be less than significant.

Wastewater

The General Plan FEIR determined that the implementation of the General Plan would increase demand for wastewater services. The General Plan FEIR found that there is excess treatment capacity at the Regional Wastewater Facility (RWF), and no physical plant expansions would be required as a result of the General Plan. Further, future development projects would be evaluated for conformance with the General Plan, Municipal Code, and other applicable regulations, including the requirements of CEQA. The General Plan FEIR also identified policies within the General Plan that are designed to ensure adequate wastewater treatment capacity is available to serve development. Therefore, the General Plan FEIR concluded that impacts would be less than significant.

Stormwater Drainage

The General Plan FEIR determined that the implementation of the General Plan may result in increased areas of impervious surfaces throughout the Planning Area, requiring additional or expanded stormwater drainage, conveyance, and retention infrastructure. Future development would be required to evaluate stormwater drainage and conveyance facilities at the project level, and facilities would primarily be provided on sites with land use designations that allow such uses. Furthermore, General Plan Action UCS 4e requires compliance with the SCVURPP and the C.3 Stormwater Handbook, which includes post-construction stormwater controls on development projects. The General Plan FEIR also identifies several policies and actions designed to ensure adequate drainage infrastructure is available to serve development, minimize potential adverse effects of stormwater conveyance, and ensure that development does not move forward until adequate drainage capacity exists. All development projects would be required to demonstrate how stormwater detention and/or retention would occur on-site or be conveyed to the nearest drainage facility. Therefore, the General Plan FEIR concluded that impacts related to stormwater drainage would be less than significant.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR determined that the Metro Specific Plan would involve the relocation, construction, or expansion of numerous utility facilities. However, the additional facilities were included in the Water Master Plan, Sewer Master Plan, and Storm Drain Master Plan prepared by the City. These Master Plans were developed using modeling of the assumed buildout of the Metro Specific Plan, and as such, the demand on water, sewer, and storm drain utilities due to the growth associated with the Metro Specific Plan would be met through the utility improvements identified in the Master Plans.

Construction

The Metro Specific Plan SFEIR found that construction activities within the Metro Specific Plan Area would be served by existing utility systems and infrastructure. There would be adequate utility

service available to provide electricity during construction activities without requiring new or expanded facilities. Further, natural gas and telecommunications services are not generally used during construction, and limited construction-phase water needs would be met through the metered use of water conveyed by water trucks and tanks. The Metro Specific Plan SFEIR determined that construction would not result in substantially elevated wastewater generation levels into the local sanitary sewer system. Groundwater dewatering, required for major excavations, would be discharged into the storm drain system and subject to applicable regulatory controls. Therefore, the Metro Specific Plan SFEIR concluded that construction-related impacts to utilities and service systems would be less than significant.

Operation

The Metro Specific Plan SFEIR requires various improvements to the water system, wastewater system, and stormwater drainage system. The environmental impacts of these improvements were evaluated in various topical sections of the Metro Specific Plan SFEIR. Two improvements discussed in the Metro Specific Plan SFEIR included the implementation of a 2-million-gallon storage reservoir and a new pump station. However, because the locations of these facilities are not currently known, the Metro Specific Plan SFEIR did not make a CEQA significance determination. Future facilities would be evaluated for potential environmental impacts pursuant to CEQA prior to construction. Furthermore, the Metro Specific Plan SFEIR identified that future projects would include building design features that reduce energy consumption and increase renewable energy generation, and projects would be required to comply with the California Green Building Standards Code, Title 24, Part 11, of the California Code of Regulations, which includes green and sustainable building requirements to achieve energy efficiency. The Metro Specific Plan SFEIR thereby identified that it would not require new or expanded electrical facilities, and the Metro Specific Plan would limit the use of natural gas. The Metro Specific Plan would not require the construction of new or expanded natural gas facilities or telecommunication facilities. Therefore, the Metro Specific Plan SFEIR concluded that impacts would be less than significant.

Proposed Project Analysis and Conclusions

The purpose of the proposed project is to establish consistency between the General Plan, Metro Specific Plan, and Zoning Code; therefore, the proposed project would result in a similar density and intensity of development as well as similar land use patterns to those envisioned and evaluated in the General Plan and Metro Specific Plan. Accordingly, the proposed project would not result in direct or indirect population growth not previously contemplated by the General Plan FEIR and the Metro Specific Plan SFEIR, and would not result in the need for construction or relocation of any utilities infrastructure. Additionally, the proposed project would not increase demand for water supplies or wastewater due to an increase in population and employment. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe environmental impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- b. **Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?**

Summary of General Plan FEIR

The General Plan FEIR determined that the implementation of the General Plan would result in increased demand for additional water supplies due to an increase in population and employment in the Planning Area, although the General Plan FEIR also found that the City would have adequate water supply to serve the General Plan's land uses with an available water supply of 17.5 million gallons per day (mgd) compared to the 13.7 mgd water demands at buildout according to the 2020 Water Master Plan Update (WMPU). Additionally, the General Plan includes various policies designed to ensure an adequate water supply for development and minimize the potential adverse effects of increased water use, such as General Plan Policies UCS 2-1 through UCS 2-8 and Actions UCS 2a through 2k, which require that the water system adequately meets the needs of existing and future development, that additional water supply sources are pursued, that new development pays its fair share of funding for water distribution, and that the use of recycled water is encouraged. Therefore, the General Plan FEIR concluded that impacts related to adequate water supplies would be less than significant.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR determined that the Metro Specific Plan would result in additional water demand. A Water Supply Assessment (WSA) was prepared for the Metro Specific Plan, which concluded that the City's water supplies would meet projected demands for the Metro Specific Plan through 2045 during normal hydrologic years. Further, once the City's groundwater wells identified in the City's 2020 Urban Water Management Plan (UWMP) start operating in 2030, the City's dry year supplies can better meet projected demands in single dry and multiple dry years. There are small supply shortfalls starting in the third year of a 5-year drought starting in 2030 and the fourth year of a 5-year drought starting in 2045, as described in the Metro Specific Plan SFEIR. The City would implement its Water Shortage Contingency Plan (WSCP) and reduce water demands as needed to address these shortfalls. Therefore, the Metro Specific SFEIR concluded that the total projected water supplies would meet the projected water demand associated with the Metro Specific Plan and impacts were determined to be less than significant.

Proposed Project Analysis and Conclusions

Refer to Impact XVIII(a).

- c. **Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?**

Summary of General Plan FEIR

The General Plan FEIR determined that the implementation of the General Plan would not exceed the projected wastewater generation volumes described in the City's 2014 SSMP and the 2015 UWMP. The General Plan FEIR found that there would be an increased demand for water and wastewater services, including a reliable source of recycled water; however, these needs have been

addressed in the water and sewer master plans prepared for the City by West Yost Engineers and HydroScience Engineers, Inc., and the San Jose-Santa Clara Regional Wastewater Facility Master Plan. Projected future water demand will require that the districts continue to implement phased improvements to pump stations, sewer mains, and wastewater treatment plans. Furthermore, the General Plan FEIR identified various General Plan policies designed to ensure an adequate wastewater treatment capacity for development. Therefore, the General Plan FEIR concluded that impacts related to adequate wastewater treatment capacity would be less than significant.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR determined that the implementation of the Metro Specific Plan would increase total wastewater demand due to the expected population growth. Metro Specific Plan policies require ultra-low-flow fixtures and encourage incorporation of water collection and retention devices. The City's overall wastewater generation, including within the Metro Specific Plan Area, would be approximately 9.22 mgd, which is well below the City's capacity of 14.25 mgd. Therefore, the Metro Specific Plan SFEIR concluded that there would be adequate capacity to serve the Metro Specific Plan's projected wastewater demand, and impacts would be less than significant.

Proposed Project Analysis and Conclusions

Refer to Impact XVIII(a).

- d. **Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?**

Summary of General Plan FEIR

The General Plan FEIR determined that implementation of the General Plan would result in an increase of approximately 32,886.5 tons of solid waste per year. The City's projected increase in solid waste generation associated with the implementation of the General Plan is well within the permitted capacity of the Newby Island Landfill³, which serves Milpitas. The General Plan FEIR also identified that future projects would be required to comply with applicable State and local requirements pertaining to solid waste, construction waste diversion, and recycling. Further, the General Plan includes actions to further reduce impacts on solid waste services. Therefore, the General Plan FEIR concluded that impacts related to solid waste would be less than significant.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR determined that the implementation of the Metro Specific Plan would generate additional solid waste beyond the amount previously identified in the TASP. The Metro Specific Plan SFEIR found that the Kirby Canyon Landfill would have adequate capacity to serve the Metro Specific Plan because the solid waste generated by the Metro Specific Plan Area would only result in approximately 1.1 percent of the solid waste permitted daily. Therefore, the Metro Specific Plan SFEIR concluded that impacts related to solid waste would be less than significant.

³ At the time the General Plan FEIR was certified, the Newby Island Landfill provided solid waste disposal services for the City. However, the City entered a long-term agreement for landfill disposal with Kirby Canyon Landfill in 2017, as analyzed in the Metro Specific Plan SFEIR.

Proposed Project Analysis and Conclusions

The proposed project would not result in direct or indirect population growth not previously contemplated by the General Plan FEIR and the Metro Specific Plan SFEIR and would not result in any physical development. This precludes the potential for new impacts associated with solid waste capacity beyond those already evaluated and disclosed in the General Plan FEIR and the Metro Specific Plan SFEIR. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe environmental impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- e. **Comply with federal, State, and local management and reduction statutes and regulations related to solid waste?**

Summary of General Plan FEIR

Refer to summary provided in Impact XVIII(d).

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR determined that future development associated with the Metro Specific Plan would be required to comply with regulations requiring waste diversion, including AB 939, the City's Source Reduction and Recycling Program, and Integrated Waste Management Plan (IWMP). Furthermore, the Metro Specific Plan includes policies to provide organic waste collection services in residential and nonresidential development. Therefore, the Metro Specific Plan SFEIR concluded that impacts would be less than significant.

Proposed Project Analysis and Conclusions

The proposed project does not include any physical development. Future individual development projects would be required to comply with General Plan and Metro Specific Plan policies as well as AB 939 and the City's IWMP. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe environmental impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

Mitigation Measures

General Plan FEIR Mitigation Measures

None.

Metro Specific Plan SFEIR Mitigation Measures

None.

Mitigation Measures for the Proposed Project

None required.

Conclusion

With regard to Utilities and Service Systems, the analysis demonstrates that:

1. No substantial changes are proposed in the project which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
2. No substantial changes are proposed with respect to the circumstances under which the project is undertaken which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
3. No new information of substantial importance indicates any new or more significant effects than shown in the previously certified EIRs.
4. No mitigation measures are necessary because the proposed project's specific impacts would be less than significant.
5. None of the conditions described in State CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Substantial Changes in Project Involving New or More Severe Impacts?	Substantial Changes in Circumstances Involving New or More Severe Impacts?	New Information of Substantial Importance Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
XIX. Wildfire <i>If located in or near State Responsibility Areas or lands classified as Very High Fire Hazard Severity Zones, would the project:</i>							
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	Less than significant impact	No impact	No	No	No	None	None
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	Less than significant impact	No impact	No	No	No	None	None
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	Less than significant impact	No impact	No	No	No	None	None

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Substantial Changes in Project Involving New or More Severe Impacts?	Substantial Changes in Circumstances Involving New or More Severe Impacts?	New Information of Substantial Importance Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	Less than significant impact	No impact	No	No	No	None	None

Discussion

a. Substantially impair an adopted emergency response plan or emergency evacuation plan?

Summary of General Plan FEIR

The General Plan FEIR indicated that implementation of the General Plan does not include any site-specific designs or proposals that would have potential to impair an adopted emergency response plan or evacuation plan. In addition, the General Plan does not include land uses, policies, or other components that conflict with adopted emergency response or evacuation plans which would be provided by the City of Milpitas as a member of the Santa Clara County Emergency Management Organization. The City maintains adequate staffing and access for emergency services, and all new development contemplated under the General Plan would be subject to all City regulations, reviews, and requirements related to emergency services, as well as CEQA analysis of project-specific impacts.

The General Plan FEIR concluded that implementation of the policies and actions contained in the General Plan would ensure resiliency and functionality in the event of a natural disaster. Therefore, the General Plan FEIR concluded that implementation of the General Plan would result in a less than significant impact regarding impairment of adopted emergency response plans or emergency evacuation plans.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR found that the area surrounding the Metro Specific Plan Planning Area is generally developed and lacking features that exacerbate wildland fire risks. The Metro Specific Plan SFEIR is not located within or near a State Responsibility Area (SRA) or VHFHSZ.

In addition, it was determined that implementation of the Metro Specific Plan would not result in new or substantially more severe effects that were not analyzed in the General Plan FEIR. Therefore, the Metro Specific Plan SFEIR concluded that there would be no impact related to wildfire.

Proposed Project Analysis and Conclusions

The proposed project does not include any specific development proposals. Future development and associated land use activities would be subject to General Plan and Metro Specific Plan policies, as applicable, including provisions associated with fire safety.

Therefore, implementation of the proposed project would not introduce new significant environmental impacts related to wildfires to create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?**

Summary of General Plan FEIR

The General Plan found that the City of Milpitas does not contain any areas determined to have either a High or Very High fire threat to people within city limits. While the General Plan does not include any site-specific design or proposals or entitlements with the potential to expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire, all future development contemplated under the General Plan is required to comply with all applicable federal, State, and local policies and regulations related to wildland fire safety hazards, such as General Plan Policies SA 4-1, 4-8 through 4-11, and 6-7, which require ensuring adequate water supplies are available for fire suppression throughout the City, providing adequate funding for fire facilities and personnel, and maintaining a response time of 4 minutes or less for urban service areas.

The General Plan FEIR concluded that nothing in the General Plan will substantially alter the slope, prevailing winds, or other factors that would increase exposure of Milpitas residents to wildfires. Therefore, the General Plan FEIR concluded that implementation of the General Plan would result in a less than significant impact regarding the exposure of project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan Area is not located in an SRA or VHFHSZ. Refer to summary provided in Impact XIX(a).

Proposed Project Analysis and Conclusions

The proposed project does not include any specific development proposals. Future development and associated land use activities would be subject to the General Plan policies and Metro Specific Plan policies, as applicable, including provisions associated with fire safety.

Applicable policies include, but are not limited to, General Plan Policies SA 4-1, 4-8 through 4-11, and 6-7, detailed above. General Plan Actions SA 4b, SA 4c, and SA 6g further require development applications to be reviewed by the Public Works Department and Fire Department and to incorporate a climate vulnerability assessment and strategies to safeguard human health and community assets into relevant plans, such as the Emergency Preparedness Plan, Local Hazard Mitigation Plan, and CAP.

Therefore, implementation of the proposed project would not introduce new significant environmental impacts related to wildfires to create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- c) **Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?**

Summary of General Plan FEIR

The General Plan FEIR found that proposed construction projects contemplated under the General Plan would be located in areas that are already urbanized and served by infrastructure. However, all development would be required to comply with applicable provisions from the California Fire Code (CFC), the California Code of Regulations, and the California Public Utilities Commission (CPUC). The General Plan also includes requirements for adequate water supply and flow availability and access for fire suppression.

The General Plan FEIR concluded that implementation of the policies and actions included in the General Plan and described above would ensure that wildland fire hazards would not be exacerbated by local infrastructure. Therefore, the General Plan FEIR concluded that implementation of the General Plan would result in a less than significant impact regarding installation or maintenance of infrastructure and wildfire risk.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan Area is urbanized and contains infrastructure typically associated with urbanized areas. Refer to summary provided in Impact XIX(a).

Proposed Project Analysis and Conclusions

The proposed project does not include any specific development proposals. Future development and associated land use activities would be subject to the General Plan policies and Metro Specific Plan policies described above, as applicable, including provisions related to infrastructure and fire risk.

Therefore, implementation of the proposed project would not introduce new significant environmental impacts related to infrastructure-related fire risk to create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- d) **Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?**

Summary of General Plan FEIR

The General Plan FEIR found that a large portion of central Milpitas and areas along Coyote Creek are located within a mapped portion of 100-year and 500-year FEMA flood zones, according to the FEMA Flood Hazard Map Viewer. The General Plan Planning Area has not been impacted by fires, as wildfire areas within the City's SOI are located in the hillside areas outside of city limits. The topography in the urban areas of the Planning Area is generally flat and would not be at risk due to debris flows. However, as stated above, all future development under the General Plan will be evaluated for conformance to the CBC as well as the Zoning Ordinance and other City policies, and will be required to prepare a project-specific SWPPP by the RWQCB.

The General Plan FEIR concluded that proposed future development contemplated under the General Plan would not be subject to debris flows, as the topography of the urban portions of the General Plan Planning Area are generally flat, and portions of the Planning Area adjacent to hillside areas subject to landslides and debris flows are sparsely developed. Therefore, the General Plan would result in a less than significant impact regarding the exposure of people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage change.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan Area is generally characterized by flat topography. Refer to summary provided in Impact XIX(a).

Proposed Project Analysis and Conclusions

The proposed project does not include any specific development proposals. Future development and associated land use activities would be subject to the General Plan policies and Metro Specific Plan policies as applicable, including provisions associated with fire safety and flood hazard protection, such as General Plan Policies SA 2-1 through 2-11, which include various provisions related to flood hazards and flood control facilities.

Therefore, implementation of the proposed project would not introduce new significant environmental impacts related to risks from downslope or downstream flooding resulting from runoff or post-fire slope instability or create substantially more severe impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

Mitigation Measures

General Plan FEIR Mitigation Measures

None.

Metro Specific Plan SFEIR Mitigation Measures

None.

Mitigation Measures for the Proposed Project

None required.

Conclusion

With regard to Wildfire, the analysis demonstrates that:

1. No substantial changes are proposed in the project which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
2. No substantial changes are proposed with respect to the circumstances under which the project is undertaken which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
3. No new information of substantial importance indicates any new or more significant effects than shown in the previously certified EIRs.
4. No mitigation measures are necessary because the proposed project's specific impacts would be less than significant.
5. None of the conditions described in State CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
XX. Mandatory Findings of Significance							
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	Less than significant impact	Less than significant impact	No	No	No	None	None
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a	Significant and unavoidable impact	Significant and unavoidable impact	No	No	No	None	MM AQ-1, MM AQ-2, MM AQ-3, MM AQ-4, MM AQ-5, MM AQ-6, MM AQ-7, MM AQ-8, MM AQ-9, MM GHG-1, MM GHG-2,

Environmental Issue Area	Conclusion in General Plan FEIR	Conclusion in Metro Specific Plan SFEIR	Do the Proposed Changes Involve New or More Severe Impacts?	New Circumstances Involving New or More Severe Impacts?	New Information Requiring New Analysis or Verification?	General Plan FEIR Mitigation Measures	Metro Specific Plan SFEIR Mitigation Measures
project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?							MM GHG-3, MM NOI-1, MM NOI-2, and MM NOI-3.
c) Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?	Significant and unavoidable impact	Significant and unavoidable impact				None	MM AQ-1, MM AQ-2, MM AQ-3, MM AQ-4, MM AQ-5, MM AQ-6, MM AQ-7, MM AQ-8, MM AQ-9, MM GHG-1, MM GHG-2, MM GHG-3, MM NOI-1, MM NOI-2, and MM NOI-3.

Discussion

- a. Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?

Summary of General Plan FEIR

The General Plan FEIR determined that the General Plan would have less than significant impacts related to biological resources, cultural resources, and TCRs. Future individual development projects would be required to comply with the policies and actions of the General Plan, which would require site-specific review of project sites to determine whether movement corridors, sensitive habitat, special-status species, and potential cultural resources and TCRs are present. If any of these are

determined to be present, future projects would be required to mitigate and reduce impacts to the greatest extent feasible. Therefore, the General Plan FEIR concluded that the General Plan would not substantially degrade the quality of the environment, reduce special-status species habitats, or eliminate important examples of the major periods of California history or prehistory.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR determined that the implementation of the Metro Specific Plan would have less than significant impacts related to biological resources and cultural resources, including historical and archaeological resources. Therefore, the Metro Specific Plan SFEIR concluded that the Metro Specific Plan would not substantially degrade the quality of the environment, reduce special-status species habitats, or eliminate important examples of the major periods of California history or prehistory.

Proposed Project Analysis and Conclusions

The proposed project would result in a similar intensity and density of development, as well as similar land use patterns, to those envisioned and evaluated in the General Plan FEIR and the Metro Specific Plan SFEIR. Therefore, the proposed project would have similar environmental effects related to biological resources, cultural resources, and TCRs as evaluated and disclosed in the General Plan FEIR and the Metro Specific Plan SFEIR. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe environmental impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- b. Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?**

Summary of General Plan FEIR

The General Plan FEIR found that the General Plan would result in a significant and unavoidable cumulative impact related to noise because traffic noise increases would exceed the applicable noise exposure criteria. The General Plan would also result in a significant and unavoidable cumulative impact on the transportation network because it is unlikely that the 31 percent VMT reduction needed to reach the applied significance threshold would be obtained, since VMT reductions cannot be guaranteed and could not be fully quantified or mitigated at a citywide level in the programmatic General Plan. Therefore, the General Plan FEIR concluded that the implementation of the General Plan would have cumulatively considerable impacts related to noise and transportation.

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR determined that the Metro Specific Plan would not contribute to cumulatively considerable impacts on most resource areas. However, the Metro Specific Plan SFEIR further identified that the Metro Specific Plan would have potential impacts on air quality, GHG emissions, land use and planning, noise, population and housing, public services, recreation, transportation, and utilities and service systems. As discussed in the various environmental impact

sections of this document, the Metro Specific Plan SFEIR concluded that the implementation of the Metro Specific Plan would result in significant air quality impacts related to a net increase in criteria pollutants and exposing sensitive receptors to pollutant concentrations; significant GHG impacts related to conflict with applicable plans, policies, or regulations reducing GHG emissions; and significant noise impacts related to increases in ambient noise levels, and excessive groundborne vibration or noise levels. Therefore, the Metro Specific Plan SFEIR concluded that the Metro Specific Plan would have cumulatively considerable impacts related to air quality, GHG emissions, and noise.

Proposed Project Analysis and Conclusions

The proposed project would result in a similar intensity and density of development, as well as similar land use patterns, to those envisioned and evaluated in the General Plan FEIR and the Metro Specific Plan SFEIR, because the proposed project would ensure consistency between the Zoning Ordinance, the General Plan, and the Metro Specific Plan. Accordingly, the proposed project would have similar environmental effects related to noise, air quality, transportation, and GHG emissions, as evaluated and disclosed in the General Plan FEIR and the Metro Specific Plan SFEIR. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create substantially more severe environmental impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

- c. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?**

Summary of General Plan FEIR

The General Plan FEIR determined that the General Plan would result in a significant and unavoidable cumulative impact related to traffic noise, which could have adverse effects on human beings. Refer to summary provided in Impact XX(b).

Summary of Metro Specific Plan SFEIR

The Metro Specific Plan SFEIR determined that the Metro Specific Plan would have significant and unavoidable impacts related to air quality, GHG emissions, and noise, as discussed in the summary provided in Impact XX(b). Therefore, the Metro Specific Plan SFEIR concluded that the Metro Specific Plan would have an adverse impact on human beings, either directly or indirectly, from air pollutants, GHG emissions, and noise.

Proposed Project Analysis and Conclusions

The proposed project would result in a similar intensity and density of development, as well as similar land use patterns, as envisioned and evaluated in the General Plan FEIR and the Metro Specific Plan SFEIR because the proposed project would ensure consistency between the Zoning Ordinance, the General Plan, and the Metro Specific Plan. Accordingly, the proposed project would have similar environmental effects related to noise, air quality, and GHG emissions, as evaluated and disclosed in the General Plan FEIR and the Metro Specific Plan SFEIR. Therefore, implementation of the proposed project would not introduce new significant environmental impacts or create

substantially more severe environmental impacts than those analyzed in the General Plan FEIR and the Metro Specific Plan SFEIR. No additional analysis is required.

Mitigation Measures

General Plan FEIR Mitigation Measures

None.

Metro Specific Plan FEIR Mitigation Measures

MM AQ-1, MM AQ-2, MM AQ-3, MM AQ-4, MM AQ-5, MM AQ-6, MM AQ-7, MM AQ-8, MM AQ-9, MM GHG-1, MM GHG-2, MM GHG-3, MM NOI-1, MM NOI-2, and MM NOI-3.

Mitigation Measures for the Proposed Project

Implement MM AQ-1, MM AQ-2, MM AQ-3, MM AQ-4, MM AQ-5, MM AQ-6, MM AQ-7, MM AQ-8, MM AQ-9, MM GHG-1, MM GHG-2, MM GHG-3, MM NOI-1, MM NOI-2, and MM NOI-3.

Conclusion

With regard to Mandatory Findings of Significance, the analysis demonstrates that:

1. No substantial changes are proposed in the project which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
2. No substantial changes are proposed with respect to the circumstances under which the project is undertaken which require major revisions to the previously certified EIRs due to new significant effects or a substantial increase in the severity of previously identified effects.
3. No new information of substantial importance indicates any new or more significant effects than shown in the previously certified EIRs.
4. No new mitigation measures or alternatives previously found not to be feasible, would in fact be feasible and would reduce one or more significant effects of the project. No new mitigation measures or alternatives which are considerably different from those analyzed in the previously certified EIRs would substantially reduce significant impacts. None of the conditions described in State CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.

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**Summary of General Plan Amendment
In conjunction with Phase 1 of Comprehensive Zoning Update
City of Milpitas**

GENERAL PLAN LAND USE MAP AMENDMENT

Miscellaneous Parcels

Parcel APN	Current GP Land Use	Proposed Rezoning	GP Map Amendments	Notes
8319027	BPRD	<i>None</i>	<u>Change GP land use to Public Facilities (PF)</u>	This is Milpitas Fire Station No. 4. The parcel is currently zoned “I” (Institutional). The GP land use designation should be updated to Public Facilities (PF) to be consistent with the “I” zone.
2259085	HDR	<i>None</i>	<u>Change GP land use to Permanent Open Space (POS)</u>	This parcel is a waterway and has a current zoning description of “Waterways.” The GP land use designation should be changed to Permanent Open Space (POS).
2201021	MFG	Rezone to POS	<u>Change GP land use to Permanent Open Space (POS)</u>	These are two City-owned natural/open space parcels and should have both GP land use and zoning of POS.
2237002	INP	Rezone to POS	<u>Change GP land use to Permanent Open Space (POS)</u>	
8326002	MGSP	<i>None</i>	<u>Change GP land use to Permanent Open Space (POS)</u>	These three parcels were formerly located in the Milpitas Gateway Specific Plan (MGSP) Area. The City recently adopted changes to the boundaries of that specific plan area. Subsequently the City approved General Plan map amendments to change the land use designations of properties removed from the plan area from MGSP to new, appropriate designations under the General Plan. These three parcels were inadvertently left out of that effort. All three are currently zoned POS (Park & Public Open Space District) and must have the General Plan land use designations updated to match zoning.
8327051	MGSP	<i>None</i>	<u>Change GP land use to Permanent Open Space (POS)</u>	
8334002	MGSP	<i>None</i>	<u>Change GP land use to Permanent Open Space (POS)</u>	

Granada Residential Subdivision (PUD 11)

Parcel APNs	Current GP Land Use	Proposed Rezoning	GP Map Amendments	Notes
Multiple (8305009 through 8308244)	MDR	<i>None</i>	<u>Change GP land use to High Density Residential (HDR)</u>	Changing the land use designation to HDR will make the General Plan Land Use Map and the zoning consistent for these properties.

City of Milpitas

New Zoning Districts (Zoning Ordinance Update Phase I)

Public Hearing Draft | May 2024

Prepared for:



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Section 2 Definitions*

* Prior ordinance history: Ords. 38, 38.19, 38.22, 38.39, 38.227, 38.339, 38.342, 38.355, 38.395, 38.485, 38.541, 38.551, 38.591, 38.603, 38.629, 38.646, 38.654, 38.667, 38.688, 38.694, 38.697, 38.702, 38.708, 38.710, 38.713, 38.754, 38.759, 38.760, 38.761, 38.763, 38.767, 38.770, 38.776 and 124.27.

XI-10-2.01 Purpose and Intent

The purpose of this chapter is to ensure precision in interpretation of this title. This section provides definitions of terms and phrases used in this Zoning Code that are technical or specialized, or that may not reflect common usage. If any of the definitions in this chapter conflict with definitions in other provisions of the Municipal Code, these definitions shall control for the purposes of this Zoning Code. If a word is not defined in this chapter, or other provisions of the Municipal Code, the most common dictionary definition is presumed to be correct.

(Ord. 38.780 (2) (part), 8/19/08)

XI-10-2.02 General Definitions

- A. The word "shall" is mandatory and not discretionary. The word "may" is permissive and discretionary.
- B. The word "should" indicates a guideline that must be followed in the absence of compelling considerations to the contrary.
- C. In the case of any difference of meaning or implication between the text of any provision and any caption or illustration, the text shall control.
- D. Unless the context clearly indicates to the contrary, words in the present and the future tense are interchangeable, and words in the singular and plural are interchangeable.
- E. Unless the context clearly indicates to the contrary, the following conjunctions shall be interpreted as follows:
 - 1. "And" indicates that all connected items or provisions shall apply;
 - 2. "Or" indicates the connected items or provisions apply singly; and
 - 3. "And/or" indicates the connected items or provisions may apply singly or in any combination; and
 - 4. "Either...or" indicates that the connected items or provisions shall apply singly but not in combination.
- F. The word "used" shall include arranged, designed, constructed, altered, converted, rented, leased, occupied, or intended to be utilized.
- G. The words "Planning Director" shall mean the Planning Director of the City or designee.
- H. The words "Planning Division" shall mean staff representing the City in implementing this chapter, the General Plan, and other regulations affecting land use.
- I. The words "City Engineer" shall mean the City Engineer of the City or designee.
- J. The words "Building Official" shall mean the Building Official of the City or designee charged with the administration and enforcement of the Building Code of the City of Milpitas.
- K. The words "City Manager" shall mean the City Manager of the City or designee.
- L. The words "Planning Commission" or "Commission" shall mean the City Planning Commission.

-
- M. The word "Council" shall mean the City Council, the governing body of the City.
- N. The word "City" shall mean the City of Milpitas.
- O. The word "County" shall mean the County of Santa Clara.
- P. The word "State" shall mean the State of California.
- Q. The words "Zoning Ordinance" or "this Chapter" or "Zoning Code" shall mean Title XI, Chapter 10 of the Municipal Code of the City.
- R. The words "General Plan" shall mean the General Plan of the City.
- S. The word "code" shall mean the municipal code of the City.
- T. Unless otherwise indicated, reference in this Chapter to whole numbers of sections includes all of the decimal-numbered paragraphs listed under such whole number section; i.e., a reference to Section 1.00 includes Subsections 1.01, 1.01-1 where the same are applicable.
- U. The word "lot" includes "plot".
- V. The word "building" includes "structure" except as specified.
- W. The words "Enforcement Officer" mean that person or persons specifically designated by the City Manager to enforce the provisions of this Chapter.
- X. The words "Zoning Administrator" shall mean the City Zoning Administrator.
- (Ord. No. 38.834 , § 4, 8/20/19; Ord. 38.780 (2) (part), 8/19/08)

XI-10-2.03 Definitions

A

"Abate" shall mean to repair, replace, remove, destroy or otherwise remedy the condition in violation of this Chapter.

"Accessory Building or Use" means a subordinate building or use, whose purpose is clearly incidental to that of the main building or the use of the land, and which shall not contain living or sleeping quarters or storage for commercial vehicles in excess of three-quarter ($\frac{3}{4}$) ton size. Accessory dwelling units, as defined in subsection XI-10-13.08 "Accessory Dwelling Units," are exempted from the prohibition against living and sleeping quarters. An accessory building shall be considered attached to the main building if:

1. It shares a common wall with the main building; or
2. It shares an integral roof structure having the same framing system and roof covering as the main building and is separated from the main structure by no more than ten (10) feet at any given point.

"Accessory Structure" means a structure subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the use of the principal building. An accessory structure is that which an accessory building is not, by definition. Examples include, but are not limited to fences, trellises, covered patios, and porte cocheres.

"Active Use" means a use that attracts walk-in visitors and has a high degree of transparency from the street. Active uses include but are not limited to retail, restaurants, bars, markets, theaters, salons, yoga studios, art studios/galleries, banks, offices, and clinics. Active uses also include ground floor residential shared amenities, such as a lobby, gym, or conference room.

"Adjacent" means having a common border with, or being separated from such a common border by a right-of-way, alley or easement. Properties separated by a street, alley, intersection, or other public right-of-way (other

than an elevated interstate freeway), shall be considered abutting when their property lines would touch in any way if drawn to the center line of such street, alleyway, intersection, or other public right-of-way.

"Advanced Manufacturing" means the use of innovative technologies to create existing and new products or to improve products and processes. Advanced manufacturing focuses on the rapid transfer of science and technology into production activities and may incorporate high technology elements such as information, automation, computation, software, sensing, and networking. Advanced manufacturing may include storage space for raw materials and/or finished goods that actively supports the primary use.

"Airport" means any area of land or water designed, used, or intended to be used or set aside for the landing and taking off of aircraft. The term "Airport" includes all necessary taxi-ways, aircraft storage and tie-down area, hangars and other necessary buildings and open spaces.

"Alley" means any public thoroughfare which affords only a secondary means of access to abutting property.

"Alteration, Structural" means any change which would tend to prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

"Amateur Radio Facility" means a wireless communication facility operated by an FCC licensed amateur radio operator within the Amateur Radio Service (USC Title 47, Part 97).

"Amateur Radio Operator" means a person holding written authorization to be the control operator of an Amateur Radio facility. This authorization may be in the form of a license or permit issued by the Federal Communications Commission or a foreign national or multi-national license or permit recognized by treaty as valid in the United States.

"Antenna" means any system of towers, poles, panels, rods, wires, drums, reflecting discs or similar devices used for the transmission or reception of electromagnetic waves. See also "Satellite dish or satellite antenna."

Apartment House. See "Dwelling, Multiple-Family."

Apartment, Efficiency. Efficiency apartment means a dwelling unit in a multi-family building consisting of not more than one (1) habitable room, together with kitchen or kitchenette and sanitary facilities.

~~"Assembly" means the provision of activities for assembled groups of participants at institutions or facilities including but not limited to private and nonprofit clubs; social or fraternal organizations; and churches, temples, synagogues and other places of worship. Assembly uses in the context of groups of people is distinct from and unrelated to the definition of the industrial use "Assembly from pre-processed materials."~~ "Assembly" see "Places of Assembly."

"Assembly from pre-processed materials" means assembling, packaging, or distributing from previously prepared materials, such as cloth, plastic, paper, leather, precious or semi-precious metals or stones, electric or electronic instruments and devices such as television, radios, and pharmaceutical products. Assembly in the context of industrial manufacturing is distinct from and unrelated to the definition of "Places of Assembly" involving groups of people.

"Auto" means any motor vehicle requiring a license pursuant to the California Vehicle Code.

~~"Automobile Service Station" means any premises used for supplying gasoline and oil at retail, direct to the customer, including minor accessories and services for automobiles, but not including automobile repairs.~~

"Auto Repair shop" means any shop, building, room, place or space wherein, for compensation, any automobile, other motor vehicle, or any parts thereof, are repaired, remodeled, overhauled, reconditioned, or painted.

"Automobile and Trailer Sales Area" means an open area, other than a street, used for the display, sale or rental of new or used automobiles or trailers, and where no repair work is done except minor incidental repair of automobiles or trailers to be displayed or sold on the premises.

"Automobile Wrecking" means the dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

B

"Bar or nightclub" means a commercial establishment serving alcoholic beverages for consumption on the premises where the service of food is only incidental to the consumption of such beverages. Dancing and live entertainment may also be conducted within the establishment.

"Basement" means a story, partly or wholly, underground. For purposes of height measurements, a basement shall be counted as a story where more than one-half (½) of its height is above the average level of the adjoining ground.

"Bay Window" means a window or set of windows jutting out from the wall of a building, rising from the ground and forming an alcove which may or may not add additional floor area or a sitting area within.

"Bedroom" means any room which meets the minimum requirements of both the Zoning Ordinance and the Building Code for a Habitable Room, which is constructed in such a manner that less than fifty (50) percent of one (1) wall is open to an adjacent room or hallway and which can be readily used for private sleeping purposes, shall be counted as a bedroom in order to determine parking or other requirements. For the purpose of calculating parking requirements, the following rooms which regularly make up a standard dwelling unit shall not be considered a "bedroom": one (1) kitchen, one (1) living room; one (1) family or recreation room; one (1) dining room; and the customary sanitary facilities. Planning staff shall determine whether or not a room qualifies as one of the above exceptions.

"Billiard Center" means a place for the public to view and participate in cuesports, such as, but not limited to, billiards, pocket billiards (e.g., pool), snooker, and the various forms of carom billiards.

"Billiards" means a "Recreation and Entertainment facility" for the public to view and participate in cue sports, such as but not limited to billiards, pocket billiards (e.g., pool), snooker, and the various forms of carom billiards.

"Block" means that property so designated on an official map of the City, or part of the City, or bounded by streets, or by a street or streets, and railroad right-of-way, canal right-of-way, or unsubdivided acreage.

"Boarding House" means an establishment where lodging is provided for compensation, generally for stays of more than 30 days, for up to 8 persons. Boarding houses typically have individual rooms for guests, shared bathroom facilities and a single common kitchen. Meals may be served for guests and included as part of the cost of lodging.

"Breezeway" means a covered passageway between buildings which does not exceed ten (10) feet in width and which has at least one side open, except for necessary supporting columns.

"Building" means a structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, or chattels. Where a dwelling is separated by a division wall without openings, each portion of such dwelling shall be deemed a separate building.

Building, Height of. "Height of building" means the vertical distance measured from the adjoining curb grade to the highest point of the roof surface, if a flat roof; and to the mean height level between eaves and ridge for a gable, hip or gambrel roof; provided, however, that where buildings are set back from the street line, then the height may be measured from the average elevation of the finished grade along the front of the building.

Building, Main. "Main building" means a building in which is conducted the principal use of the lot on which it is situated. The main building shall contain all area within the interior faces of the building, including enclosed areas that are attached. In any "M" district any dwelling shall be deemed to be the main building on the lot on which the same is situated.

Building, Unit Group. "Unit group building" means two (2) or more buildings (other than dwellings) grouped upon a lot and held under single ownership such as universities, hospitals, institutions and industrial plants.

Business, Retail. "Retail business" means retail sale of any article, substance, or commodity for profit or livelihood conducted within a building, but not including the sale of lumber or other building materials or the sale of used or second-hand goods or materials of any kind.

"Business Support Services" means establishments primarily within structures that provide other businesses with ancillary services that further or facilitate the other businesses' primary activity. This term does not include activities or uses that are specifically listed as a conditionally permitted or prohibited use in the applicable zone. Examples of business support services include but are not limited to:

1. Business equipment repair services (except vehicle repair);
2. Commercial art and design (production);
3. Computer-related services (rental, repair);
4. Copying and quick-printing services;
5. Equipment rental businesses within structures;
6. Heavy equipment repair services where repair occurs ~~on the client site~~;
7. Janitorial services;
8. Mailbox rentals;
9. Mail advertising services (reproduction and shipping);
10. Other "heavy service" business services;
11. Outdoor advertising services;
12. Protective services (other than office related);
13. Rental, repairs and distribution of office or business equipment;
14. Window cleaning.

~~**Business, Wholesale.** "Wholesale business" means the wholesale handling of any article, substance or commodity for profit or livelihood, but not including the handling of lumber or other building material or the open storage or sale of material or commodity, and not including the processing or manufacture of any product or substance.~~

C

Camp, Trailer. "Trailer camp" means an area or tract of land used or designed to accommodate two (2) or more automobile or house trailers.

"Catering establishment" means an establishment in which the principal use is the preparation of food and meals on the premises, and where such food and meals are delivered to another location for serving and consumption.

"Candidate" means any person, party, referendum, initiative or other ballot measure.

"Cemetery" means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundary of such cemetery.

"Child Care Center" means any child care facility other than a family child care home, in which less than twenty-four (24) hour per day non-medical care and supervision are provided to children in a group setting. It

includes infant centers, preschools, and extended child day care facilities, but does not include after school programs.

"Class A Office Space" means a high quality, modern building with large floor plates and amenities that typically attracts rents in the top twenty-five percent (25%) bracket.

"College and University, Private" means a privately owned and operated college, community college, or university giving general academic instruction equivalent to the standards prescribed by the State Board of Education.

"Commercial Athletic Facility" means a building or site equipped for physical training or athletic type games and sports, such as but not limited to, health spas, tennis, gymnasiums, handball courts, racquetball courts; also including ancillary uses when incidental to the primary use, such as but not limited to, steam baths, weight training, aerobic classes, massage, saunas, and the retailing of athletic supplies to be used in the facility.

"Commercial Fueling Facility" means a fueling facility designed for commercial customers which dispenses gasoline, diesel, or similar vehicle fuels, and which is not open to the general public, has no cash sales and provides no personal services on-site, provided that said facility is located not closer than five hundred (500) feet from any residentially zoned district or any area designated on the General Plan as being "residential" or any mobile home park.

"Commercial Laboratory" means a facility for scientific research in technology-intensive fields. Examples include biotechnology, pharmaceuticals, genetics, plastics, polymers, films and fibers.

"Commissary" means a fixed-location kitchen where food is stored and prepared for off-site vending from mobile food vehicles. Commissaries serving mobile food vendors may include shared-use commercial kitchens, private commercial kitchens, restaurant kitchens, and kitchens associated with civic and community organizations such as churches or social clubs; but do not include catering service establishments.

"Community Garden" means an area where neighbors and residents have the opportunity to contribute to and manage the cultivation of plants, herbs, vegetables, and fruits, generally on property under public or non-profit ownership. May consist of individually tended plots on a shared parcel or many be communal on a single plot.

"Condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential, industrial, or commercial building on such real property, such as an apartment, office, or store. A condominium may include in addition a separate interest in other portions of such real property. Such estate may, with respect to the duration of its enjoyment, be either of the following:

1. An estate of inheritance or perpetual estate.
2. An estate of life.
3. An estate for years, such as leasehold or sub-leasehold.

"Condominium Conversion" means a change in the type of ownership of a parcel or parcels of land, together with the existing attached structures, to that defined for a condominium project or a community apartment project regardless of the present or prior use of such land and structures and whether substantial improvements have been made or are to be made to such structures.

"Conference Center" means a facility used for holding conventions, seminars, workshops or similar activities, including dining facilities and lounges for use by participants, as well as compatible accessory facilities such as offices and business centers.

"Continuing Violation" means a violation, infringement or breach of a provision of this chapter that is uninterrupted and lasts for a continuous period in excess of 24 hours.

"Contractor's Shop" means an establishment for specialized business activities related to building construction. This classification includes establishments for trades such as painting, carpentry, plumbing, glassworking, heating, air-conditioning, roofing, landscaping, cabinetmaking, and sign-making.

"Convenience Store" means a retail establishment selling food, beverages, and small convenience items such as personal hygiene products, cigarettes, magazines, etc. Food and beverage products sold primarily consist of packaged and canned goods, prepared foods and hot drinks for immediate consumption, fountain sodas, etc., with less than 10 percent of net retail floor area allocated for the sale of fresh fruits, fresh vegetables, fresh meat and dairy products, and other similar perishable items. Convenience stores are smaller in floor area than supermarkets/grocery stores (typically 4,000 square feet or less) and have long or late hours of operation (open before 7:00 am or after 10:00 pm).

"Court Dwellings" means a residential development in which there are several freestanding single-family or two-family dwellings with separate walls clustered on a single lot. Units are typically arranged to face around a common open space or drive aisle. If subdivided, a maintenance agreement or homeowners association may govern common areas like driveways or open space.

"Court" means an open unoccupied space, other than a yard, on the same lot with a building or buildings, and bounded on two (2) or more sides by a building, or buildings, including the open space in a dwelling group providing access to the units thereof.

"Court Apartment" means one (1), two (2) or three (3) multiple dwellings arranged around two (2) or three (3) sides of a court which opens onto a street, or a place approved by the Commission.

"Curb Grade" means the elevation of the established curb in front of the building measured at the center of such front. Where no curb grade has been established, the City Engineer shall establish such curb grade or its equivalent for the purpose of this Chapter.

"Custom and Artisan Manufacturing" means an establishment primarily engaged in on-site production of goods by hand manufacturing or artistic endeavor, which involves only the use of hand tools or small mechanical equipment and the incidental direct sale to consumers of only those goods produced on site. Typical uses include metalworking, pottery and ceramic studios, film processing, photo finishing, printmaking, lithography, glass furnace, or woodworking.

D

"Data Center" means a facility for the storage of computer systems and associated components.

"District" means a portion of the City within which certain uses of land and buildings are permitted or prohibited and within which certain yards and other open spaces are required and certain height limits are established for buildings, all as set forth and specified in this Chapter.

"Drive Through Uses" means any component or part of a building or structure which attracts or invites persons in motor vehicles to drive their vehicles upon the premises, and which is used to conduct business or used for the purpose of selling merchandise from the inside of said building to the occupants of motor vehicles.

"Dry-Cleaning Plant" means an establishment providing onsite, high-volume laundry and garment cleaning services, typically with the use of volatile solvents, including dry cleaning and garment pressing, diaper services, commercial laundries, and linen supply services. These facilities may include incidental onsite customer pick-up services.

"Dwelling" means a building or portion thereof designed exclusively for residential occupancy, including single-family, two-family and multiple-family dwellings, but not including hotels.

Dwelling, Group. "Group dwelling" means one (1) or more dwellings, other than a tourist court, arranged around two (2) or three (3) sides of a court, which opens onto a street, or a place approved by the commission, including single-family, two-family or multiple-family dwellings and court apartments. Group dwelling include homeless shelters and transitional housing.

Dwelling, Multiple-Family. "Multiple-family dwelling" means a building or portion thereof, designed for occupancy by three (3) or more families living independently of each other.

Dwelling, Single-Family. "Single-family dwelling" means a detached building designed exclusively for occupancy by one (1) family for living purposes and having only one (1) kitchen.

Dwelling, Two-Family. "Two-family dwelling" means a building designed exclusively for occupancy by two (2) families living independently of each other.

"Dwelling Unit" means a habitable room or group of habitable rooms (e.g., living room, bedroom, den, library, recreation, studio, etc.) designed for occupancy by one (1) or more persons living as a family or single household unit with common interior access to all living, kitchen and bathroom areas. No dwelling unit may have more than one (1) kitchen.

E

"EcoPass" means a program offered by the Valley Transportation Agency (VTA) in which employers or property owners purchase annual EcoPass stickers that allow their employees, tenants or residents to ride all VTA bus and light rail vehicles at no cost. ~~"Educational Institution" means a college or university giving general academic instruction equivalent to the standards prescribed by the State Board of Education.~~

"Electronic Smoking Device" means an electronic and/or battery-operated device, the use of which may resemble smoking that can be used to deliver an inhaled dose of nicotine or other substances. "Electronic Smoking Device" includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, vaporizer or any other product name or descriptor.

"Elevation" means:

1. A scale drawing of the front, rear or side of a building or structure; or
2. A vertical distance above or below a fixed reference level.

Emergency Cache, Community. "Community emergency cache" means a collection of disaster response supplies approved by the City's Office of Emergency Services that would benefit the surrounding community.

"Emergency Shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay as set forth in the California Health and Safety Code Section 50801(e), as may be amended.

"Erosion" means the wear and removal of the material in the earth's crust from one site and the deposition at another.

"Extended Stay Hotel" means a commercial establishment providing lodging for a fee for guests, generally marketed to long-term visitors on a temporary basis, which contain furnishings and facilities for sleeping, bathing, food preparation and cooking, Kitchen facilities within individual units may include, but are not limited to, counters, refrigerators, stoves, and ovens.

F

"Family" means an individual, or two (2) or more persons related by blood or marriage or legal adoption or joined through a judicial or administrative order of placement or guardianship, or unrelated persons who function together as a single household unit.

"Family Child Care Homes" means a home in which care, protection, and supervision of fourteen (14) or fewer children is regularly provided, in the caregiver's own home, for periods of less than twenty-four (24) hours per day, while the parents or guardians are away. Such homes are licensed by the State of California and include the following:

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1. **"Large family child care home"** means a home in which family child care is provided to nine (9) to fourteen (14) children, including children under the age of ten (10) who reside at the home.
 2. **"Small family child care home"** means a home in which family day care is provided to eight (8) or fewer children, including children under the age of ten (10) who reside at the home.

"Farmers' Market" means an event offering for sale produce, food items, and related goods and merchandise by certified growers authorized to sell, directly to consumers, products that are produced on land the producer controls or taken in consignment from other producers. Excludes flea markets.

"Floor Area Ratio (FAR)" is defined for nonresidential Zoning Districts as the maximum permitted ratio of gross floor area to site area and is calculated as follows:

$$\text{FAR} = \frac{\text{Total of Gross Floor Area for All Structures on Site}}{\text{Site Area}}$$

"Frontage" means all the property fronting on one side of a street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of dead-end street, or city boundary, measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street which it intercepts.

G

Garage, Private. "Private garage" means a detached accessory building or portion of a main building for the parking or temporary storage of automobiles of the occupants of the premises.

Garage, Public. "Public garage" means a building, other than a private garage, used for the care, repair, or equipment of automobiles, or where such vehicles are parked or stored for remuneration, hire or sale.

Game Machine, Mechanical or Electronic. "Mechanical or electronic game machine" means any machine, apparatus, contrivance, appliance, or device which may be operated or played upon the placing or depositing therein of any coin, check, slug, ball, token, or any other article or device, or by paying therefore either in advance or after use, involving in its use either skill or chance, including, but not limited to tape machine, card machine, pinball machine, bowling game machine, shuffleboard machine, marble game machine, horse racing machine, basketball game machine, baseball game machine, football game machine, electronic video game or any other similar machine or device, exclusive of food, beverage and tobacco vending machine.

Grade, Finished. "Finished grade" means the final elevation of the ground surface after development, as shown on a precise Grading Plan.

"Grocery Store" means any premises wherein any of the following are exposed, offered for sale, or sold by retail: fresh fruits; fresh vegetables; bakery; meat; poultry, or fish products; frozen foods; and processed and pre-packaged food.

"Grocery Store, Small" means any premises less than 15,000 gross square feet in area wherein any of the following are exposed, offered for sale, or sold by retail: fresh fruits; fresh vegetables; bakery; meat; poultry, or fish products; frozen foods; and processed and pre-packaged food.

"Gross Acreage" means the total area within the boundaries of a legal lot or parcel, including any area proposed to be dedicated or reserved for public right-of-way. Adjacent lands already dedicated for public right-of-way, including public roadways, easements or other areas, shall not be included as part of the gross acreage.

"Gross Floor Area" means the total of all floors measured from the interior faces of the building, but not including areas for parking, basements, shaft enclosures, or unroofed inner courts unless any outdoor areas are used for retail purposes.

"Group Living Accommodations" means a building or portion of a building designed for or accommodating a residential use by persons not living together as a household. This use includes dormitories, convents and monasteries, and other types of organizational housing. This use does not include residential care facilities, nursing homes, hotels, single room occupancy residences, or boarding houses. Group living accommodations typically provide shared living quarters without separate kitchen or bathroom facilities for each room or unit.

"Guest House Accessory Building" means a one accessory structure, used for the accommodation of guests. Said guest house shall not contain any kitchen or cooking facilities but may contain one (1) bedroom, one (1) living area and one (1) bathroom, and shall be limited in floor area to a maximum of twenty (20%) percent of the total floor area of the main residence.

H

"Habitable Space" means a room designed for living, sleeping, eating or food preparation, including but not limited to a den, study, library, home office, sewing room or recreational room and excluding such areas as garages.

"Hazardous Material" means a material identified as hazardous by California Health and Safety Code Section 25502(n).

"Head/Smoke/Tobacco Shop" means a retail establishment primarily engaged in the selling of smoking and tobacco products and accessories, and other products, devices and components reasonably assumed to be used for smoking and/or the inhalation or ingestion of any substances. Tobacco products may include but are not limited to cigarettes, cigars, loose leaf tobacco, tobacco pipes, Electronic Smoking Devices and accessories, vaporizers and accessories and any other product, device or component used in the inhalation of tobacco, nicotine or other substance. For the purposes of this definition only, "primarily engaged" means when thirty percent (30%) or more of products sold at the retail establishment are smoking and tobacco products and accessories, and other products, devices and components reasonably assumed to be used for smoking and/or the inhalation or ingestion of any substance.

"Home Occupation" means a business enterprise conducted within a dwelling by the residents of the dwelling and which is incidental and secondary to the use the dwelling for residential purposes.

"Hospital" means an institution that maintains and operates facilities for primarily inpatient medical care, including x-ray, laboratory and surgical, for the diagnosis, care and treatment of human illness, injury and disease (physical or mental).

"Hotel" means a commercial establishment providing lodging accommodations for a fee for transient guests, generally for stays of 30 days or less, with access to rooms or units primarily from interior lobbies, courts or halls. A hotel may include limited facilities for storage and preparation of food and beverages within individual rooms, such as coffee makers, mini refrigerators and microwave ovens.

I

"Individual Violation" means a noncontinuous condition or occurrence in violation, infringement or breach of a provision of this chapter that does not exceed twenty-four (24) hours in duration. An Individual Violation may be recurrent. Examples of "Individual Violations" for the purposes of this Chapter include, but are not limited to, the illegal outdoor storage of materials, entertainment events, or outdoor seating in violation of a use permit.

"Instruction, group and private" means the provision of instructional services, including but not limited to photography, fine arts, crafts, dance or music studios, driving schools, diet centers, yoga, martial arts studios, after school programs or similar uses. This definition does not include instruction received through trade or vocational schools nor a post-secondary school or child care centers. Private instruction includes fewer than six (6) students or clients at any one time and group instruction includes six (6) or more students or clients at any one time.

"Intensity" means the degree to which land is used, measured by a combination of the type of land used and the amount of land or floor area devoted to that use.

"Intensification of Use" means to alter the character of a use to the extent that the use generates new or different impacts on the health, safety, or welfare of the surrounding neighborhood, including but not limited to the level or amount of traffic, noise, light, smoke, odor, vibration, outdoor storage, or other similar conditions associated with the use.

J

"Junk Yard" means the use of more than one hundred (100) square feet of the area of any lot for the storage of junk, including scrap materials and metals, or wrecked vehicles and machinery, whether or not sale of such junk is made or proposed.

K

"Kennel" means any lot or premises on which four (4) or more dogs, more than four (4) months of age, are kept.

"Kitchen (for residential uses)" means a residential kitchen shall be enclosed and interior to the dwelling unit utilized for the preparation of food and include two (2) or more of each of the following:

1. A sink (typically larger than 14" × 17");
2. A full size refrigerator (typically larger than 24" × 64");
3. A 220-V electrical service outlet (typically used for major cooking appliances such as a stove, oven or cooking range).

L

"Laundromat" means a primarily self-service facility where customers wash and dry clothing and other textiles in on-site machines, and where ancillary full-service laundry services may also be offered.

"Live-Work Unit" means a dwelling unit with a separate living space attached to a work space within the same unit. The work space and the living space must be occupied by the same tenant. Live-work uses allow one non-residential employee, more customers, and a broader range of uses than permitted in Home Occupations. See XI-10-13.12 within Special Uses for Live-Work Unit purpose, intent, and regulations.

Uses permitted or conditionally permitted within the underlining zoning district apply unless otherwise prohibited in Section 10-13.12(E). Additional uses covered by this designation include, but are not limited to:

Art and craft work;
Offices, Business and Professional;
Artists and artisans;
Fashion.

"Loading Area" means an open area, other than a street or alley, used for the loading or unloading of vehicles.

"Loading Space" means an off-street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials, and which abuts upon a street or other appropriate means of access.

"Lot" means land occupied or to be occupied by a building, or unit group of buildings, and accessory buildings, together with such yards and lot area as are required by this Chapter and having its principal frontage upon a street or a place approved by the Commission.

1. **"Corner lot"** means a lot, or portion thereof, not greater than seventy-five (75) feet in width and situated at the intersection of two (2) or more streets.

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2. **"Flag lot"** means a lot having access or an easement to a public or private street by a narrow, private right-of-way.
 3. **"Interior lot"** means a lot other than a corner lot.
 4. **"Key lot"** means a lot with a side line that abuts the rear line of any one (1) or more adjoining lots.
 5. **"Reversed corner lot"** means a corner lot the street line of which is substantially a continuation of the front line of the lot to its rear.
 6. **"Through lot"** means a lot having frontage on two (2) paralleled or approximately paralleled streets.

"Lot Dimensions."

1. **"Lot Area"** means the total horizontal area within the lot lines of a lot.
2. **"Lot Depth"** means the horizontal distance between the front and rear lot lines, measured along the median between the two (2) side lot lines.
3. **"Lot Lines"** means the lines bounding a lot as defined herein.
 - a. In the case of an irregular shaped lot or a lot with more than four (4) sides where there is question as to which are the front, side, and rear property lines in order to determine setbacks and required yards, there shall be at a minimum of one (1) front property line and one (1) rear property line. The rear property line shall be the lot line directly parallel to the front property line and of a width of at least thirty (30) feet in length. If no such lot line exists, the Director of Planning shall make the final determination as to the rear property line of such lot.
4. **"Lot Width"** means the horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

M

"Manufacture/Manufacturing" means the preparation, making, treatment, or processing of articles as merchandise.

"Massage Establishment" means any establishment having a fixed place of business where any person, firm, association, partnership, corporation or other entity engages in, conducts, or carries on, or permits to be engaged in, conducted or carried on, any massage for compensation. For the purpose of this Chapter, the term "massage establishment" shall also include, but not be limited to, any business providing off-premises massage services.

"Massage Establishment, Accessory" means an establishment that provides massage which is incidental to the primary business, where the owner of the primary business is responsible for the massage services and conduct of the massage technician(s) employed at the location.

"Medical and Dental Offices" means a building or place where (a) member(s) of the medical profession, dentists, chiropractors, osteopaths, acupuncturists, and physicians or occupational therapists provide diagnosis and treatment to the general public without overnight accommodation and shall include such uses as reception areas, offices, consultation rooms, pharmacy and x-ray providing that all such uses have access only from the interior of the building or structure.

"Medical and Dental Clinics" means the same as Medical and Dental Offices, except they also include minor operating rooms and out-patient surgery with no overnight stay.

"Medical Support Laboratory" means a facility for scientific laboratory analysis of medical resources. The analysis is generally performed for an outside customer, to support the work of that customer.

"Micromobility Device" means a small, lightweight vehicle operating at a speed typically below 15 miles per hour and driven by the individual user, such as bicycles, e-bikes, and electric scooters.

"Mixed Use Development" means a development that consists of vertical or horizontal combination of residential and commercial uses within a single building or site.

"Mobile Fueling" means a commercial service that offers on-demand fueling of motor vehicles at a specified location instead of at a service station. Mobile fueling may be provided to individual customers via the use of a mobile app, with fuel delivered to a home, office, or other location requested by the customer. Mobile fueling may also be provided for operators of fleet vehicles at a fixed, semi-permanent or permanent location.

"Mobile Home" means a transportable structure designed to be used as a dwelling unit when connected to required utilities.

"Mobile Home Accessory Building or Structure" means any awning, portable, demountable or permanent cabana, ramada, storage cabinet, carport, fence, windbreak or porch established for the use of the occupant of the mobile home.

"Mobile Home Lot" means a portion of mobile home park designated or used for the occupancy of one mobile home.

"Mobile Home Park" means any areas or tract of land where mobile home lots are rented or leased or held out for rent or lease to accommodate mobile homes used for human habitation.

"Mobile Home Stand" means the area on which the mobile home is placed when it is stationed on the lot, including the land lying under the mobile home.

"Mobile Recycling Unit" means an automobile, truck, trailer or van, licensed by the Department of Motor Vehicles or bins, boxes or containers transported by a truck, van or trailer, and used for the collection of recyclable materials.

"Motel" means a building or group of attached or detached buildings providing lodging accommodations for a fee for transient guests, generally for stays of 30 days or less, with access to each room or unit through an exterior door. Motels are distinguished from hotels primarily in that the former provide direct independent access to, and adjoining parking for, guest rooms and do not provide 24-hour guest services.

N

"Natural Land Slope" means the average slope of the lot in percent, determined by observation on simple slopes, or more precisely by the formula:

$$S = 100 \frac{I}{L A}$$

Where:

I is the contour interval in feet;

L is the combined length of the contour lines in scale feet; and

A is the net area of the lot in square feet.

"Nonconforming Building" means a building or structure or portion thereof lawfully existing at the time this Chapter became effective, which was designed, erected or structurally altered, for a use that does not conform to the use regulations of the district in which it is located. A nonconforming building shall also mean any building or structure built in compliance with all city land use and zoning laws in existence at the time and which does not comply with current development standards, including but not limited to height, setbacks, floor area ratio, maximum lot coverage, maximum size of residence, front yard paving and impervious surface coverage.

"Nonconforming Use" means a use which lawfully occupied a building or land at the time this Chapter became effective and which does not conform to the use regulations of the district in which it is located.

O

"Occupation" means a principal business, profession or vocation in which one is regularly and habitually engaged for the purpose of compensation for a livelihood.

"Offices, Business and Professional" means offices of firms or organizations providing professional, management, or administrative services, including but not limited to:

~~Accounting;~~

~~Architectural;~~

~~Business~~ accounting, architectural, business and management consulting;

~~Computer, computer~~ and technology;

~~Engineering; Insurance;~~

~~Insurance;~~

~~Interior, engineering, insurance, interior~~ design;

~~Graphic, graphic~~ design;

~~Real, real~~ estate;

~~Title, title~~ companies;

~~Legal, and legal~~ services

. This classification ~~does~~ includes co-working spaces designed to accommodate different organizations that provide such services. Does not include medical and dental offices, ~~which have a separate definition.~~ or financial institutions such as retail and commercial banks.

"Open-Air Business" means drive-in business where persons are served in automobiles.

"Outdoor Music" means live music, both acoustic and amplified, including live individual musicians, bands, and disc jockeys (DJs), but not including karaoke, that takes place on a patio or other outdoor space. Outdoor music as defined and regulated in this Chapter shall also include recorded background music played outdoors at a public establishment such as a restaurant, bar, retail store, or other business.

"Owner/Occupant" means any person owning property, as shown on the last equalized assessment roll for City taxes, or the lessee tenant, or other person having control or possession of the property.

P

"Parcel" shall mean a legal lot of record.

"Parcel Hub" means a "last mile" warehouse or similar establishment for the processing and/or redistribution of parcels or products to end-user customers. A Parcel hub's primary function is moving a shipment from one mode of transport to vehicles with rated capacities less than 10,000 pounds, for delivery directly to consumers or end-users primarily within a ten-mile radius.

Parking Area, Private. "Private parking area" means an open area, other than a street or alley, used for the parking of the automobiles of occupants of a building.

Parking Area, Public. "Public parking area" means an open area, other than a private parking area, street or alley, used for the parking of automobiles and available for public or quasi-public use.

Parking Space, Automobile. "Automobile parking space" means a space within a building or a private or public parking area for the parking of one (1) automobile.

"Parking Structure" means a structure or portion thereof composed of one or more levels or floors used exclusively for the parking or storage of motor vehicles. A parking structure may be totally below grade (as in an

underground parking garage) or either partially or totally above grade with those levels being either open or enclosed.

"Patio Cover" means a one-story structure, not exceeding twelve (12) feet in height and open on one (1) or more sides (provided, however, that the open sides may be closed with insect or plastic screening that is permeable material and not in any manner that would obstruct the free passage of light or air) used for recreational, outdoor living purposes only and not as carports, storage rooms or habitable rooms.

"Person" means a natural person, his heirs, executors, administrators, or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

"Personal Services" means a commercial establishment which provides services of a personal or aesthetic nature directly to consumers, including but not limited to:

1. Beauty salons and barber shops;
2. Nail salons;
3. Tanning salons;
4. Hair removal salons;
5. Tattoo studios;
6. Body piercing studios.

"Place" means an open, unoccupied space, other than a street or alley, permanently reserved as the principal means of access to abutting property.

~~"Places of Assembly."~~ See "Assembly." **"Places of Assembly"** means an institution or facility that offers or hosts activities for assembled groups of participants, including but not limited to private and nonprofit clubs; social or fraternal organizations; and churches, temples, synagogues, and other places of worship. This use is distinct from and unrelated to the industrial use "Assembly from pre-processed materials."

"Private Recreational Areas" means any usable open space or recreational facility available for use by all of the site's residents.

"Property" means all real property and fixtures, including, but not limited to, parking lots, sidewalks, gutters, driveways, walkways and any building and structure located on such property.

"Public Right-of-Way" as defined in Section V-500-1.13 of the Milpitas Municipal Code, shall mean the full width of the right-of-way of any street or bicycle pathway, as defined in the California Vehicle Code used by the general public, whether or not such street or path has been accepted as and declared to be part of the City system of streets and paths, including streets forming a part of the State Highway System. "Public right-of-way" also includes easements where the City is the grantee of the easement and property owned by the City of Milpitas or the Milpitas Redevelopment Agency and any public park, trail, or right-of-way within the City of Milpitas.

"Public Safety Use" means facilities for public safety or emergency services, including police and fire protection.

"Public Service Use" means facilities owned and operated by governmental agencies that provide services to the general public, including but not limited to federal, state and municipal administration buildings, courthouses, and post offices.

"Public Use" means a use intended to serve the whole city and/or region and operated by a public institution or entity. Such uses have the purpose primarily of serving the general public and include public schools, recreational facilities, government housing, government clinics, and the like.

"Public Utilities" means facilities for the production, storage, treatment, transmission and/or distribution of electricity, natural gas, water, wastewater, and telecommunications and other similar essential services. Also includes service facilities, electric transmission and distribution substations and public utility service centers.

Q

"Quasi-Public Use" means a use intended to serve the whole city and/or region and are operated by a private, nonprofit, educational, religious, recreational, or charitable, and having the purpose primarily of serving the general public. Such uses include religious facilities, private schools, community theaters, community and club organizations, private hospitals, places of assembly and the like.

F

R

"Recreation or Entertainment Facility" means a commercial establishment (indoors or outdoors) where patrons can actively participate in entertainment or recreation activities either independently or in conjunction with other uses.

"Recyclable Material" means reusable material including but not limited to metals, glass, plastic and paper, which are intended for reuse, remanufacture, or reconstitution for the purpose of using the altered form. Recyclable material does not include refuse or hazardous materials. Recyclable material may include used motor oil collected and transported in accordance with the California Health and Safety Code.

"Recyclable Processing Facility" means a building or space used for the collection and processing of recyclable materials. Processing means the preparation of material for shipment by such means as baling, briquetting, compacting, flattening, grinding, crushing, sorting, shredding, cleaning and remanufacturing.

"Repair and Cleaning, Small Items" means a commercial establishment that performs cleaning, repair, and alteration of small consumer and household items, such as laundromats (self-service laundries), dry cleaning pick-up stores (where cleaning is done off-site), tailors, shoe repair shops, jewelry and watch repair shops, and locksmiths. Excludes dry-cleaning plants, business equipment and computer repair, heavy equipment and machinery repair, repair and servicing of large and bulky household items such as appliances and furniture, or vehicle repair.

"Research and Development (R and D) Uses" means ~~one industrial or more buildings which feature a combination of offices, manufacturing, assembly, warehousing, distribution, laboratories~~ scientific research for the design, development, engineering and testing of high technology, clean rooms, technology, industrial, or scientific products. Research and ancillary development uses such may include limited manufacturing as cafeterias necessary for the production of prototypes, but exclude the full-scale manufacturing of final products. Research and employee fitness development uses may also include storage space for raw materials and/or finished goods that actively supports the primary use.

"Residential Care Facility" means a facility licensed by the State of California to provide living accommodations, 24-hour care for persons requiring personal services, supervision, protection, or assistance for sustaining the activities of daily living for more than six individuals. Living accommodations are group homes or shared living quarters with or without separate kitchen or bathroom facilities, for each room or unit. This classification includes facilities that are operated for profit as well as those operated by public or not-for-profit institutions.

"Restaurant" means an establishment in which the principal use is the preparation and sale of food and non-alcoholic beverages. If approved, the service of alcoholic beverages is incidental to the principal use.

1. **"Drive-in"** means a restaurant that delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off the premises.
2. **"Drive-thru"** means a restaurant which includes one (1) or more drive-through lanes for the ordering and receipt of foods and/or beverages by patrons remaining in their vehicles.

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3. **"Fast-food"** means a restaurant that offers quick food service, which is accomplished through a limited menu of items already prepared and held for service, or prepared. Orders are generally not taken at the customer's table, and food is generally served for consumption either on or off the premises. For the purposes of parking requirements, the ordering or take-out area is defined as the counter and the area between the counter and the main entry to the establishment.
 4. **"Take-out"** means a restaurant where foods and/or beverages are sold directly to the customer in a ready-to-consume state for consumption off site with no seats onsite. For the purposes of parking requirements, the ordering or take-out area is defined as the counter and the area between the counter and the main entry to the establishment.

"Retail Stores, General Merchandise, Limited" means ~~retail trade establishments selling lines~~ an establishment which offers the sale of a limited line of merchandise; that is generally necessary or desirable for everyday living or everyday business activities. Examples ~~of general retail~~ include small grocery stores offering primarily prepared or pre-packaged food and lines of merchandise include but are not limited to:

1. ~~Art supply;~~
2. ~~Antiques;~~
3. ~~Bakeries (retail only);~~
4. ~~Bicycles;~~
5. ~~Books;~~
6. ~~Candy~~ beverage items, small drugstores and variety stores;
7. ~~Clothing and accessories;~~
8. ~~Collectables;~~
9. ~~Fabrics and sewing supplies;~~
10. ~~Floral;~~
11. ~~Gifts (novelties and souvenirs);~~
12. ~~Hobby materials;~~
13. ~~Jewelry;~~
14. ~~Luggage and leather goods;~~
15. ~~Music stores;~~
16. ~~Office supplies and~~ small stationery;
17. ~~Sporting goods and equipment;~~
18. ~~Toys and games;~~
19. ~~Tuxedo and formalwear rental;~~
20. ~~Variety~~ , office supply stores, shops selling other small household goods, and walk-out retail stores;
21. ~~Video rentals and sales.~~ This classification excludes convenience stores.

"Retail Stores, General Merchandise" means retail trade establishments selling lines of merchandise. This classification excludes convenience stores. Examples of general retail stores and lines of merchandise include but are not limited to:

1. Art supply;

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2. Antiques;
 3. Bakeries (retail only);
 4. Bicycles;
 5. Books;
 6. Candy stores;
 7. Clothing and accessories;
 8. Collectables;
 9. Fabrics and sewing supplies;
 10. Floral;
 11. Gifts (novelties and souvenirs);
 12. Hobby materials;
 13. Jewelry;
 14. Luggage and leather goods;
 15. Music stores;
 16. Office supplies and stationery;
 17. Sporting goods and equipment;
 18. Toys and games;
 19. Tuxedo and formalwear rental;
 20. Variety stores;
 21. Video rentals and sales.

"Reverse Vending Machine" means an automated mechanical device which accepts at least one or more types of empty beverage containers including, but not limited to aluminum cans, glass and plastic containers, and issues a cash refund or a redeemable credit slip. A reverse vending machine sorts, and processes containers mechanically provided that the entire process is enclosed within the machine. In order to accept and temporarily store all three container types in a proportion commensurate with their relative redemption rates, and to meet the requirements of certification as a recycling facility, multiple grouping of reverse vending machines may be necessary.

A bulk reverse vending machine is a reserve vending machine that is larger than fifty (50) square feet; is designed to accept more than one container at a time; and will pay by weight instead of by container.

S

"Satellite Dish Antenna or Satellite Antenna" means any device incorporating a reflective surface that is solid, open mesh or bar configured to form a shallow dish, cone, horn or cornucopia used to transmit and/or receive electromagnetic signals. This definition includes antennas that are sometimes called "SES," "TVRO," "TVBS," and "DBS."

"School: Elementary, Middle, or High" means an institution which offers instruction in the several branches of learning and study required to be taught in the public schools by the Education Code of the State of California.

"School, trade and vocational" means an establishment where training is received to learn a particular trade or craft that involves skilled labor. Trades and crafts include but are not limited to the various construction trades, auto mechanics, machining, HVAC installation/repair/maintenance and similar trades and crafts.

"Service Station" means any premises used for supplying gasoline and oil at retail, direct to the customer, including minor accessories and services for automobiles, but not including automobile repairs.

Setback. See "Yard."

"Self-Storage or Mini-Storage" means the storage, generally of furniture and/or other household items, in small individual units (typically 400 square feet or less) that are available for rental by the general public.

"Short-Term Rental Unit" or "Short-Term Rental" or "STR" means the use of a dwelling unit, including, without limitation, a single-family, two-family, or multiple-family dwelling unit, mobile home, or any portion of such dwellings, rented for occupancy for dwelling, lodging, or sleeping purposes for a period of 30 or fewer calendar days, counting portions of days as full calendar days.

Signs. For purposes of Section XI-10-24, Sign Regulations, of this Chapter, the following definitions shall apply:

1. **"Abandoned Signs"** means any sign used for advertising or other purposes where the business it advertised or the use or event it supported has ceased operation for or occurred more than ninety (90) days prior to the sign's posting.
2. **"Abate"** means to repair, replace, remove, destroy, or otherwise remedy the condition in violation of this Chapter.
3. **"A-Frame Sign"** means and includes a sign that is portable, is capable of standing without support or attachment, and folds open in the form of an "A" or "sandwich-board".
4. **"Ancillary services sign"** means a sign displaying ancillary services such as smog services, lotto, or that represent trade affiliations, such as credit card services, or other similar services and not for the purpose of displaying products being sold.
5. **"Approved Plastics"** means those materials specified in the U.B.C. Standard No. 52-1 which have a flame spread rating of 225 or less and a smoke density not greater than that obtained from the burning of untreated wood under similar conditions when tested in accordance with U.B.C. Standard No. 42-1 in the way intended for use. The products of combustion shall be no more toxic than the burning of untreated wood under similar conditions.
6. **"Architectural Sign"** means and includes a sign used for advertising purposes which constitutes an integral part of a roof or marquee and is designed with an intent and purpose to relate to the architectural style of the main building.
7. **"Area Identification Sign"** means and includes a permanent sign which serves to identify an area.
8. **"Awning sign"** means any sign or graphic attached to, painted on or applied to an awning or canopy.
9. **"Balloon Sign"** means and includes any large [over three (3) cubic feet in size] inflatable hot/cold air or helium balloon that is used as an advertising device for any business or promotional event.
10. **"Banner Sign"** means and includes a temporary sign composed of lightweight, flexible, non-rigid material either enclosed or not enclosed in a rigid frame.
11. **"Blade Sign"** means a pedestrian oriented sign, adjacent to a pedestrian walkway or sidewalk, attached to a building wall, marquee, awning, or arcade with the exposed face of the sign in a plane that is perpendicular to the plane of the building wall.
12. **"Building Perimeter"** means the total exterior wall length for any and all buildings intended for human occupancy, as measured at the ground elevation. No second story or subsequent upper story areas shall be considered as a part of this calculation.
13. **Canopy Sign.** See awning sign.

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14. **"City Identification Sign"** means and includes a sign placed at the point of entry to the City of Milpitas for the purpose of informing a person that they are entering the City of Milpitas.
 15. **"Construction Sign"** means and includes a sign placed on the property where site work, building construction and/or a tenant improvement within an existing building is in progress. The sign may denote that a business will be opening soon, the opening date, names of the architect, engineer, contractor, future business and lending agency.
 16. **"Directional Sign"** means a sign which guides and directs motorists to a specified destination in the most direct manner possible.
 17. **"Display Surface"** means the area made available by the sign structure of building surface for the purpose of displaying the advertising message.
 18. **"Electric Sign"** means any sign containing electrical wiring, but not including signs illuminated by an exterior light source.
 19. **"Erect"** means to build, construct, attach, hang, place, suspend or affix.
 20. **"Exposed raceway"** means an enclosure or conduit that is used to conceal wiring for a lighted sign and is visible from any elevation, typically located between the sign and the building to which the sign is attached.
 21. **"Flag"** means a visual device with no commercial copy, usually rectangular in shape and made of a cloth material suspended by, or attached to, a pole or post and may be raised or lowered.
 22. **"Flag sign"** means a visual display device with commercial copy, usually rectangular in shape and made of a cloth material suspended by, or attached to, a post, or pole and may be raised and lowered.
 23. **"Freestanding Sign"** means a sign which is supported by one or more uprights, poles, or braces in or upon the ground, or partially supported and attached to any building, other structure, or foundation on the ground.
 24. **"Garage Sale Sign"** means a sign used primarily for the purpose of advertising a "garage sale" and/or "yard sale" at a residence.
 25. **"Grand Opening Sign"** means and includes banners, pennants, flags, balloons, and similar advertising devices when used only for bona fide grand-opening functions, new ownership, name change, or the reopening of a business that has completely closed for remodeling for at least two weeks.
 26. **Graphic Panel, Freestanding.** Freestanding graphic panel means a freestanding sign located within five feet of the main building wall, which relates to the architecture of the building and depends primarily on a graphic image for delivering its advertising message. Graphic panels do not count as freestanding signs. The display area on graphic panels counts towards overall sign area.
 27. **"Impact Resistive Plastic"** means any plastic material capable of resisting fifty (50) foot pounds of force as tested in accordance with ANSI/UL 972 Multiple Impact Test or any similar test procedure.
 28. **"Information Sign"** means and includes signs providing courtesy information, or direction to the public without advertising the business products, or services such as hours, entrance, exit, self-serve, credit cards, restrooms, telephone drive-up, or which serves to direct motorist and pedestrians on private property.
 29. **"Joint Use Sign"** means and includes a freestanding sign for a commercial district under multiple ownerships where freestanding signs for each parcel for which signage is desired is infeasible. The commercial district shall be characterized by close proximity of the businesses and small parcel size. A common parking field and common vehicular circulation are encouraged.

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30. **"Logo"** means a trademark, or symbol of an organization which is registered with the federal or State government and consistently used in conducting the business activities of said organization.
 31. **"Marquee"** means a permanent roofed structure, attached to, and support by the building and projecting beyond the main building.
 32. **"Multi-use Structures"** means any commercial, industrial, quasi-public, or agricultural farm products sales use, containing five or more stores, or businesses on a single parcel of land.
 33. **"Mural"** means a display, or illustration painted on a building, or wall within a public view not intended to advertise a product, service, or business, and therefore is not considered a sign.
 34. **"Mural sign"** means a display, or illustration painted on a building, or wall intended to advertise a product, service, or business.
 35. **"Noncombustible Material"** means any material which will not ignite at, or below a temperature of one thousand two hundred (1,200) degrees during an exposure of five (5) minutes, and which will not continue to burn or glow at that temperature. Tests shall be made as specified in U.B.C. Standard No. 4-1.
 36. **"Nonstructural Trim"** means the molding, battens, capping, nailing strips, latticing, cutout, or letters and walkways which are attached to the sign structure.
 37. **"Off-site Advertising Display"** means any sign that advertises, or informs about a business organization, event, goods, products, services, or uses not available on the property upon which the sign is located.

The term "Off-site Advertising Sign" does not include Joint Use Sign, Temporary Tract Advertising Signs for subdivisions under construction in the City, Open House Directional Signs, Garage Sale Signs, Off-site Public Information Signs, off-site directional signs for purposes of identifying regional shopping centers, and Temporary Tract Advertising Signs.

38. **"Off-site Directional Sign"** means any sign that provides direction to retail, community, and cultural events not available on the property upon which the sign is located.

The term "Off-site Directional Sign" does not include Garage Sale Signs, Joint Use Signs, Official City or City-sponsored signs, Off-site Directional Signs identifying regional shopping centers, Off-site Public Information Signs, Open House Directional Signs, and Temporary Tract Advertising Signs.

39. **"Off-site Public Information Sign"** means a sign that is placed proximate to a major city entry on privately owned property that is used to provide non-advertising information and/or identification symbols or plaques to the public for civic organizations, service clubs or other quasi-public uses and is erected within the public right-of-way.
40. **"Open House Directional Sign"** means a sign, no larger than six (6) square feet in sign area per side, used primarily for the purpose of directing traffic to a house being offered for sale or lease.
41. **"Other Advertising Structure"** means any device erected or used for the same purpose as a sign, whether erected, or used:
 - a. Exclusively for advertising purposes, upon which any poster bill, printing, painting device, or other advertisement or identification of any kind whatsoever may be placed, posted, painted, fastened, or affixed.
 - b. Exclusively for advertising purposes and including any spectacle, display or advertising statuary.
42. **"Permanent Sign"** means every sign except temporary sign as defined herein.

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43. **"Political Sign"** means a sign which is designated to influence the action of the voters, and election, or defeat of a candidate for the nomination, or election to any public office, or a measure appearing on the ballot at any national, state, district, or local election.
 44. **"Portable"** means an object that is capable of being borne or carried, easily transported, or conveyed without difficulty.
 45. **"Portable Sign"** means and includes a sign that is portable and capable of being borne, or carried, easily transported, or conveyed without difficulty, is capable of standing without support or attachment, is unattached to any structure, and is used for advertising purposes.
 46. **"Projection"** means the distance by which a sign extends over public property or beyond the building line.
 47. **"Projecting Sign"** means a sign other than a wall sign which projects from, and is supported by a wall of a building or structure.
 48. **"Public Information Sign"** means a sign erected for the sole purpose of displaying advertising for community activities and/or identification symbols or plaques for civic organizations or service clubs.
 49. **"Public Street Frontage"** means a publicly owned street immediately adjacent to the parcel, for purposes of sign area and height calculations. Public streets for which the parcel does not have access rights are not included for purposes of any sign calculations.
 50. **Raceway.** See "exposed raceway."
 51. **"Regional Shopping Center"** means any commercial development on one (1) or more parcels of land which are contiguous, or across from a right-of-way which contains a gross land area of at least thirty (30) acres or a gross building area of at least 200,000 square feet. Current regional shopping centers are McCarthy Ranch Marketplace, the Town Center shopping center, and the Great Mall and its out-parcels zoned General Commercial.
 52. **"Roof Sign"** means a sign erected upon or above a roof or a part of a parapet of a building or structure.
 53. **"Scoreboard Sign"** means a sign located on scoreboard structures located in an adult or youth outdoor playing field on public property and shall be for products or businesses available to persons of all ages.
 54. **"Shopping Center"** means any commercial development containing five (5) or more stores or businesses on one (1) or more parcels of land operating as an integrated use and having a gross parcel area of five (5) or more acres.
 55. **"Shopping Center Identification Sign"** means a sign located on the site of a shopping center or regional shopping center that states the name of the shopping center or regional shopping center.
 56. **"Sign"** means every announcement, declaration, demonstration, display, illustration insignia, surface, or space when erected or maintained out of doors in view of the general public for identification, advertisement or promotion of the interests of any person.
 57. **"Sign Area"** means the area of a sign to be calculated that includes all lettering, wording, and accompanying designs or symbols, together with any background of a different material or color than the remainder of the wall of the building to which is affixed or upon which it is painted. In the case of a freestanding sign, the supports or uprights on which any sign is supported should not be included in determining the sign area unless such supports or uprights are designed in a manner as to form an integral background of the sign.

Where the sign consists of individual letters or symbols, the area shall be considered to be that of the smallest rectangle, circle, square, or triangle which can be drawn to encompass all of the letters. Provided however, that where such individual type letters or symbols are separated more than thirty-six (36) inches from each other, those letters or symbols shall be calculated separately.

If the sign has more than one (1) advertising surface, the sum of all the areas of all such surfaces shall be the area of the advertising surface of such sign except that, if two (2) surfaces on the same face in opposite directions (i.e., the relative angles between the directions they face is one hundred eighty (180) degrees) and the distance between such two (2) surfaces is not more than twenty-four (24) inches, then the area of only one of the two surfaces (the largest if they are not equal) shall be included in the computation.

- 58. **"Sign Program"** means a specific set of design standards established for the purpose of unifying a variety of signs associated with a multitenant or multiuse project, building or complex of buildings.
- 59. **"Sign Surface"** means the surface of the sign upon, against or through which the message is displayed or illustrated.
- 60. **"Snipe sign"** means temporary or portable signs advertising events that are fastened to fences, trees, utility poles, or other structures or fixtures and also including signs on sticks stuck in the ground and usually found off-site. These do not include real estate, political or open house signs.
- 61. **"Statuary Sign"** means statuary used for advertising purposes or representing the logo of a business.
- 62. **"Temporary Sign"** means any sign, banner, flag, valance, pennant, streamer, whirligig or advertising display, constructed of cloth, canvas, fabric, cardboard, plywood or other light material with or without a frame, whether attached or portable, and designed or intended to be displayed for a short period of time.
- 63. **"Temporary Promotional Sign"** means any temporary Balloon Signs, banners, and similar advertising devices when used only for special promotional events.
- 64. **"Temporary Tract Advertising Sign"** means a uniformly designed sign which advertises a residential development.
- 65. **"Vehicle-Mounted Sign"** means a sign, used for the purpose of advertising, larger than three (3) feet by three (3) feet mounted on, attached to or capable of being borne or carried, easily transported or conveyed without difficulty by a vehicle, where that vehicle is parked on public or private property. This definition does not include signs on delivery vehicles in the act of making a delivery or signs on vehicles parked on residential driveways or public streets.
- 66. **"Wall Sign"** means any sign painted on, attached to or erected against the wall of a building or structure.
- 67. **"Window Sign"** means any sign painted, attached, glued or otherwise affixed to the interior or exterior surfaces of a window or suspended or located within three (3) feet of the window for the primary purpose of being visible from the exterior of the building.

"Single Household Unit" means the functional equivalent of a traditional family, whose members are a non-transient interactive group of persons jointly occupying a single dwelling unit, including the joint use of common areas which are not compartmentalized, such locked cabinets or doors. A single housekeeping unit shall be limited to one (1) kitchen and shall have permanent internal access to all rooms within the dwelling unit, except as provided for Accessory Dwelling Units.

"Single Room Occupancy (SRO) Residence" means a multi-tenant building consisting of single room dwelling units that are the primary residence of its occupants, containing either individual or shared kitchen and bathroom facilities. These units are small (generally less than 350 square feet), and provide a valuable source of affordable housing for individuals and can serve as an entry point into the housing market for formerly homeless people.

Slope. Same as "Natural Land Slope."

"Specific plan" means a detailed plan for the development of a specific area. Specific plans are a significant tool to implement the General Plan. A specific plan documents the proposed distribution, location, extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal,

energy, parks and other essential facilities proposed to be located within or needed to support the land uses described in the plan, as well as implementation and financing methods and added benefits to the City as a whole.

Stable, Private. "Private stable" means a detached accessory building for the keeping of horses owned by the occupants of the premises and not kept for remuneration, hire or sale.

Stable, Public. "Public stable" means a stable other than a private stable.

"Story" means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between such floor and ceiling next above it.

Story, Half. "Half story" means a story under a gable, hip or gambrel roof, the wall plates on which on at least two (2) opposite exterior walls are not more than four (4) feet above the floor of such story.

"Street" means a permanently reserved thoroughfare which affords principal means of access to abutting property.

"Structure" means anything constructed or erected, which requires location on the ground or is attached to something having a location on the ground.

"Supportive Housing" means housing with no limit on length of stay, that is occupied by the target population as defined in Section 11302 of Title 42 of the United States Code, as may be amended, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community as defined in the California Health and Safety Code Section 50801(e), as may be amended.

T

"Thrift Store" means any profit or nonprofit business, organization, group or otherwise that engages in or specializes in the sale or resale of previously owned or used goods and merchandise from an area greater than 25 percent of the total floor area devoted to retail sales and whose goods and merchandise are donated or primarily donated. A specialty retail store that sells used goods or merchandise not donated for sale, including but not limited to used record stores, used book stores, used furniture stores, and sports trading card stores, shall not be considered a thrift store for the purpose of this Chapter.

"Townhouses" means dwelling units that are attached at their sides in groups of three or more and are sited on individual lots with vehicular access from driveways. Private rear yards or patios and common open space may be part of a townhouse development.

Trailer, Automobile. "Automobile trailer" means a vehicle without motive power designed to be drawn by a motor vehicle and to be used for human habitation or for carrying persons and property, including a trailer coach or house trailer.

"Transitional Housing" means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months as defined in the California Health and Safety Code Section 50801(e), as may be amended.

"Tri-laminate Asphalt Composition" means an asphalt composition roof material that is comprised of three layers of tile adhered together to create one shingle and when installed overlap with another row of three-layered tile for a total minimum thickness of 7/8 inches.

"Tutoring Centers" means facilities offering academic instruction to individuals or groups in a classroom setting.

"Two-unit Project" means the development of two primary dwelling units or, if there is already a primary dwelling unit on the lot, the development of a second primary dwelling unit on a legally subdivided lot.

U

"Unreasonable Period of Time" means not less than thirty (30) calendar days following notification by the City to the owner/occupant pursuant to this Chapter that the property is in violation of this Chapter. The City Manager, upon a finding that the violation in question constitutes a threat to the health and safety of any person may designate a time period of thirty (30) calendar days or less upon notice to the owner/occupant to abate the nuisance. Prior notice shall not be required for summary abatement pursuant to this Chapter.

"Urban Lot Split" means the subdivision of an existing, legally subdivided lot into two lots.

"Usable Open Space" means any open space, the smallest dimension of which is at least six (6) feet and which is not used as storage or for movement of motor vehicles. Yards abutting a public street, which are not adequately screened for privacy, in the opinion of the Planning Commission, shall not qualify as usable open space.

"Use" means the purpose for which land or a building is arranged, designed or intended, or for which either land or building is or may be occupied or maintained.

V

"Video Sales and Rental Store" means any place of business which includes the sale or rental of prerecorded video tapes, laser discs, compact discs, or any other medium which projects pictures on a screen.

W

"Warehousing and Distribution" means a facility, primarily within an enclosed building, for the storage of commercial or industrial goods, products and materials and the associated on-site sorting, packing, staging, shipping, receiving, and distributing of goods to wholesale and retail outlets, including ancillary truck parking and dispatching. Also includes long-term, passive storage of furniture, household goods, or other commercial goods; and of industrial equipment, products, and materials. Warehousing and distribution facilities may include, but are not limited to, wholesale distribution, distribution centers, moving and transfer storage, cross-dock facilities, package handling centers, order fulfillment centers, and logistics centers. Excludes storage of raw materials and/or finished products as part of an active primary use such as General Manufacturing, Advanced Manufacturing, or Research and Development. Excludes Parcel Hubs.

Wireless Communications Facilities Definitions. For the purposes of wireless communications facilities, the following definitions shall apply:

1. **"Commercial Wireless Communication Facility"** means a wireless communication facility operated by a for-profit business or for-profit purposes. See by contrast, "Noncommercial wireless communication facility."
2. **"Noncommercial Wireless Communication Facility"** means a wireless communication facility operated by a government agency, a nonprofit organization, a for-profit business for nonprofit purposes or a private citizen for personal use. It includes all amateur radio facilities. See by contrast, "Commercial wireless communication facility."
3. **"Stealth Wireless Communications Facility"** means any antenna designed to be architecturally integrated into a building that is architecturally consistent with the building design. Examples include a steeple, cupola or tower element on a building and do not include flag poles, monopoles or other structures designed to house antenna and resemble natural features.
4. **"Wireless Communication Facility"** means the equipment and associated structures needed to transmit and/or receive electromagnetic signals. A wireless communication facility typically includes antennas, supporting structures (including, but not limited to, monopoles, utility structures, buildings and accessory structures), enclosures and/or cabinets housing associated equipment, cable, access roads and other accessory development.

"Wholesale Sales" means the selling and/or distributing of merchandise to retailers; industrial, commercial, or institutional buyers; or other wholesalers; or acting as agents or brokers in the buying and selling of merchandise to or for such entities.

Y

"Yard" means an open space, other than a court, on a lot, unoccupied and unobstructed, except by eaves, from the ground upward, except as otherwise provided in this Chapter. Where applicable, yards shall be measured perpendicularly from the property line to the face of the nearest exterior wall of any main building, except as otherwise provided in this Chapter (See Subsection XI-10-55.04-11). Setback shall be synonymous with yard.

Yard, Front. "Front yard" means a yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot.

Yard, Rear. "Rear yard" means a yard extending across the full width of the lot between the most rear main building and the rear lot line; the depth of the required rear yard shall be measured horizontally from the nearest point of the rear lot line toward the nearest exterior wall of the main building.

Yard, Side. "Side yard" means a yard between the main building and the side lot line extending from the front yard, or front lot line where no front yard is required, to the rear yard; the width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest exterior wall of the main building.

Z

Zone. See "district."

(Ord. No. 38.848 , § 4, 11/15/22; Ord. No. 38.846 , § 4, 10/19/22; Ord. No. 38.847 , § 5, 8/16/22; Ord. No. 38.844 , § 4, 12/14/21; Ord. No. 38.841 , § 4, 5/4/21; Ord. No. 38.835 , § 4, 3/3/20; Ord. No. 38.839 , §§ 4, 5, 12/3/19; Ord. No. 38.837 , § 4, 11/5/19; Ord. No. 38.836 , § 4, 9/3/19; Ord. No. 38.833 , § 4, 5/7/19; Ord. No. 38.823, § 3, 11/17/15; Ord. No. 38.816, § 3, 9/2/14; Ord. No. 38.813, § 2, 4/1/14; Ord. No. 38.810, § 3, 12/3/13; Ord. No. 38.808, § 2, 5/21/13; Ord. No. 38.803, §§ 2—5, 4/17/12; Ord. No. 38.793, § 2, 5/17/11; Ord. No. 38.788, §§ 4—6, 9/7/10; Ord. No. 38.795, §§ 3—15, 4/6/10; Ord. No. 38.792, § 2, 8/4/09; Ord. No. 38.789, §§ 2—7, 4/21/09; Ord. No. 38.785, § 2, 4/7/09; Ord. 38.780 (2) (part), 8/19/08)

Title XI - ZONING, PLANNING AND ANNEXATION
Chapter 10 - ZONING
Section 3 Zoning Districts

Section 3 Zoning Districts

XI-10-3.01 Districts

In order to carry out the purpose and provisions of this Chapter, the City is hereby divided into districts known as:

Full Name	Short Name
"R1" Single-Family District	"R1" District
"R2" One and Two-Family District	"R2" District
"R3" Multiple-Family District	"R3" District
<u>"R3-Metro" Metro Multi-Family High Density Residential District</u>	<u>"R3-Metro" District</u>
"R4" Multiple Family Very High Density District	"R4" District
<u>"R4-Metro" Metro Multi-Family Very High Density Residential District</u>	<u>"R4-Metro" District</u>
"R5" Urban Residential <u>District</u>	"R5" District
<u>"R5-Metro" Metro Urban Residential District</u>	<u>"R5-Metro" District</u>
"AR" Agricultural Residence <u>District</u>	"AR" District
"CO" Administrative and Professional Office District	"CO" District
"C1" Neighborhood Commercial District	"C1" District
"C2" General Commercial District	"C2" District
"HS" Highway Service District	"HS" District
"TC" Town Center District	"TC" District
"MXD" Mixed Use District	"MXD" District
"MXD2" High Density Mixed Use District	"MXD2" District
<u>"MXD2-Metro" Metro High Density Mixed Use District</u>	<u>"MXD2-Metro" District</u>
"MXD3" Very High Density Mixed Use District	"MXD3" District
<u>"MXD3-Metro" Metro Very High Density Mixed Use District</u>	<u>"MXD3-Metro" District</u>
"M1" Light Industrial District	"M1" District
"M2" Heavy Industrial District	"M2" District
"MP" Industrial Park District	"MP" District
<u>"BPRD" Business Park Research and Development District</u>	<u>"BPRD" District</u>
<u>"BPRD-Metro" Metro Business Park Research and Development District</u>	<u>"BPRD-Metro" District</u>
<u>"BPRD-R-Metro" Metro Business Park Research and Development, Limited Residential District</u>	<u>"BPRD-R-Metro" District</u>
"A" Agricultural District	"A" District
<u>"I" Institutional District</u>	<u>"I" District</u>
"POS" Park and Open Space District	"POS" District
"PD" Planned Development District	"PD" District

(Ord. 38.814, § 3, 4/15/14; Ord. 38.777 (4), 6/17/08; Ord. 38.759 (part), 4/2/02; Ord. 38.733 (part), 1/6/98; Ord. 38 (part), 3/15/55)

XI-10-3.02 Combining Regulations

In addition to the foregoing district certain combining regulations are established as set forth in this Chapter, said combining regulations being as follows:

Full Name	Short Name
"HR" High Rise Overlay District	"HR" District
"H" Hillside Combining District	"H" District
"MHP" Mobile Home Park Combining Overlay District	"MHP" District
"OO" Gateway Office Overlay Combining District	"OO" District
"RE" Recreation & Entertainment Overlay District	"RE" District
"S" Site and Architectural Overlay District	"S" District
"TOD" Transit Oriented Development <u>Overlay</u> District	"TOD" District
<u>"FC" Freeway Corridor Overlay District</u>	<u>"FC" District</u>

(Ord. No. 38.795, § 16, 4/6/10; Ord. 38.782(1), 12/16/08; Ord. 38.776(3), 3/18/08; Ord. 38.761 (part), 5/20/03; Ord. 38.759 (part), 4/2/02; Ord. 38.663(B) (part), 8/20/91; Ord. 38 (part), 3/15/55)

XI-10-3.03 Zoning Map

The districts aforesaid and the boundaries of such districts are shown upon the map attached hereto and made a part of this Chapter, being designated as the "Zoning Map of the City of Milpitas," together with "Sectional District Map of the City of Milpitas" supplementary thereto, consisting of an "Index Map" to sectional district maps numbered consecutively, and said map and all notations, references and other information shown thereon shall be as much a part of this Chapter as if the matters and information set forth by said map were all fully described herein.

(Ord. 38.777 (5), 6/17/08; Ord. 38 (part), 3/15/55)

XI-10-3.04 Letter Designation Includes All Aspects of the Zone

Whenever the terms "R" District, "C" District or "M" District are used herein, they shall be deemed to refer to all districts containing the same letter in their names; for example, the term "C" District shall include the "C1" and "C2" District.

(Ord. 38 (part), 3/15/55)

XI-10-3.05 Most Restrictive and Least Restrictive Zones

The "R1" District is the most restrictive and the "M2" District is the least restricted.

(Ord. 38 (part), 3/15/55)

XI-10-3.06 Reference to General Provisions and Exceptions

For "General Provisions" and "Exceptions" pertaining to the following district regulations, see Sections 54 and 55 inclusive.

(Ord. 38 (part), 3/15/55)

Section 7 Industrial Zones and Standards

XI-10-7.01 Purpose and Intent

- A. Light Industrial (M1) Zone. The M1 Light Industrial District is reserved for the construction, use and occupancy of buildings and facilities for office, research, limited and light manufacturing, and other uses compatible with the district.
- B. Heavy Industrial (M2) Zone. The M2 Heavy Industrial District is reserved for the construction, use, and occupancy of buildings and facilities for office, research, general manufacturing, warehousing and distribution and other uses compatible with the district.
- C. Industrial Park (MP) Zone. The MP District is intended to accommodate, in a park-like setting, a limited group of research, professional, packaging and distribution facilities and uses which may have unusual requirements for space, light, and air, and the operation of which are clean and quiet and which meet the standards set herein.
- D. Business Park Research and Development (BPRD) Zone. The purpose of the BPRD District is to designate specific areas of the city as important employment centers, especially for jobs in the hightech industry. The BPRD zone is intended to accommodate business parks, high-intensity office buildings, advanced manufacturing, and other light industrial uses, and to enable the integration and growth of research and development, office, warehouse, and light manufacturing uses on consolidated sites with supportive ancillary uses such as restaurants, health/fitness centers, limited retail, and child care facilities.

(Ord. No. 38.803, § 8, 4/17/12; Ord. No. 38.789, § 9, 4-21-09)

XI-10-7.02 Industrial Use Regulations

- A. Permitted and Conditionally Permitted Uses.
 - 1. Primary uses. The uses identified in Table XI-10-7.02-1, Industrial Zone Uses, shall be the primary uses allowed to occur on a property. All uses except for those noted shall be conducted within enclosed structures. The primary uses identified in Table XI-10-7.02-1 shall be permitted or conditionally permitted, as indicated:

P	Where the symbol "P" appears, the use shall be permitted.
MCS	Where the symbol "MCS" appears the use shall be permitted subject to the issuance of a Minor Conditional Use Permit <u>by staff</u> , in accordance with Subsection XI-10-57.04, Conditional Use Permits and Minor Conditional Use Permits, of this Chapter.
C	Where the symbol "C" appears, the use shall be permitted subject to the issuance of a Conditional Use Permit, in accordance with Subsection XI-10-57.04, Conditional Use Permits and Minor Conditional Use Permits, of this Chapter.
MC	Where the symbol "MC" appears, the use shall be permitted subject to the issuance of a Minor Conditional Use Permit <u>by the Zoning Administrator</u> , in accordance with Section <u>Subsection XI-10-57.04</u> , Conditional Use Permits and Minor Conditional Use Permits, of this C chapter.
O	Where the symbol "O" appears, the use is subject to an alternative review process described in a subsequent footnote.

2. In the BPRD zone, all uses and activities must take place within an enclosed building.
 3. Accessory Uses. The following accessory uses are allowed when incidental to the primary use:
 - a. In M1 and MP zones, incidental services, such as restaurants and recreation facilities for employee use only and when conducted in and entered from within the building or campus.
 - b. Cafeterias may be permitted when ancillary to a primary use and associated with business or industrial uses.
 - c. Banquet halls may be permitted with a Conditional Use Permit, in accordance with Section XI-10-57.04, when ancillary to convention centers, hotels or motels.
 - d. In the BPRD, business support services, convenience retail, commercial athletic facilities, child care centers, and restaurants with or without on-site service of alcohol.
- B. Prohibited Uses. The following uses are prohibited:
1. Uses where the symbol "NP" appears within Table XI-10-7.02-1.
 2. Uses that have been excluded from Table XI-10-7.02-1, unless they are found by the City to be similar to permitted or conditionally permitted uses in accordance with C below.
- C. Other Uses. Any other uses may be considered by the Planning Commission that are similar in accordance with the procedure prescribed in Subsection 10-54.02, Other Uses Permitted by Commission, of this Chapter.

**Table XI-10-7.02-1
Industrial Zone Uses**

Use	M1	M2	MP	BPRD
1. Commercial Uses				
<u>Alcoholic beverage sales</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>C¹</u>
Adult businesses ^{4,2}	P	NP	NP	<u>NP</u>
Business support services	P	NP	P	<u>MCS¹</u>
<u>Convenience store</u>	<u>C</u>	<u>NP</u>	<u>C</u>	<u>NP</u>
Furniture repair and reupholstery	P	NP	NP	<u>NP</u>
<u>Grocery store</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
Personal services	C	NP	C	<u>C</u>
Printing (newspaper, blueprint, publishing)	P	NP	C	<u>MC</u>
Repair and cleaning, small items	P	NP	NP	<u>NP</u>
<u>Retail, limited</u>	<u>C</u>	<u>NP</u>	<u>C</u>	<u>MCS¹</u>
Retail stores, general merchandise ²	C	NP	C	<u>NP</u>
2. Entertainment and Recreation Uses				
Billiards	C	NP	C	<u>NP</u>
Commercial athletic facilities	C	NP	C	<u>MCS^{1, 3}</u>
3. Health and Veterinarian Uses				
Hospitals	NP	NP	C	<u>NP</u>
Kennel	P	NP	NP	<u>NP</u>
Medical support laboratories	P	NP	P	<u>MC</u>
Medical and dental offices and clinics ²	P	NP	P	<u>MC</u>
Veterinarian hospital	P	NP	P	<u>NP</u>
4. Industrial Uses				

Use	M1	M2	MP	BPRD
Advanced manufacturing	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Assembly from pre-processed materials ³⁴	P	P	P	<u>P</u>
Auto assembly facility	NP	P	NP	<u>MCS⁵/NP</u>
Bottling facility	P	P	NP	<u>NP</u>
Building material sales (equipment rental) ⁴⁵	NP	C	NP	<u>NP</u>
Commercial fueling facility	C	C	NP	<u>NP</u>
Commercial laboratory	P	P	P	<u>P</u>
Contractor's yard and offices ⁴ shop ⁶	NP	C <u>P</u>	NP	<u>C</u>
Custom and artisan manufacturing	<u>P</u>	<u>MCS</u>	<u>P</u>	<u>MCS</u>
Data centers	<u>P</u>	<u>NP</u>	<u>P</u>	<u>P</u>
Distribution facility	P	P	P	
Dry-cleaning plant	P	P	NP	<u>NP</u>
Film processing, photo finishing and printing, etching, lithography, printmaking, and other similar creative industries	P	MCS	P	<u>MCS</u>
Freight and trucking yard ⁴⁵	NP	P	NP	<u>NP</u>
Mini-storage complex or self storage	C	C	NP	<u>NP</u>
Parcel hub	<u>P</u>	<u>MCS</u>	<u>P</u>	<u>C</u>
Plumbing, metalworking, glassworking or woodworking	P	P	NP	<u>C</u>
Plant or facility (research & development , assembly of goods, manufacturing, packaging, processing, repairing, etc. or materials, merchandise or products)	P	P	P	<u>MC</u>
Pottery or tile manufacturing	P	P	NP	<u>C</u>
Recycling processing facility	C	C	NP	<u>NP</u>
Research and development	<u>P</u>	<u>MCS</u>	<u>P</u>	<u>P</u>
Soils and materials testing laboratories	P	P	P	<u>P</u>
Warehousing and wholesale distribution	P	P	P	<u>P/C⁷</u>
Wholesale sales	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
5. Lodging Uses				
Hotels/motels	C	NP	C	<u>NP</u>
6. Professional Office Uses				
Offices, business and professional	P	NP	P	<u>P</u>
Financial institutions (banks, savings and loans, etc.)	C	NP	P	<u>NP</u>
7. Public, Quasi-Public and Assembly Uses				
Auditorium ⁵⁸	NP	NP	C	<u>NP</u>
Child care center	<u>NP</u>	<u>NP</u>	<u>C¹</u>	<u>MCS¹</u>
Conference center ⁵⁸	NP	NP	C	<u>MCS</u>
College and university, public or private ⁹	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>C</u>
Vocational school	C	NP	C	<u>C</u>
Farmer's market (not including flea market) ⁶¹⁰	NP	NP	C	<u>MC</u>

Use	M1	M2	MP	BPRD
Public utilities ^{7,11}	P	P	P	<u>NP</u>
Transportation facility (taxi, parcel service, armored car, etc.) ^{4,6}	NP	P	NP	<u>NP</u>
Temporary Public Safety Uses ^{8,12}	C	C	C	<u>NP</u>
Places of assembly ^{9,13}	C	NP	C	<u>NP</u>
8. Residential Uses				
Caretaker's residence	C	C	NP	<u>NP</u>
9. Restaurants or Food Service Uses				
Catering establishment	P	NP	P	<u>MC</u>
Restaurants				
With on-site service of alcohol	C	NP	C	<u>C¹</u>
Without on-site service of alcohol	C	NP	C	<u>MCS¹</u>
With live entertainment/dancing	NP	NP	NP	<u>NP</u>
Drive-in or drive-thru	C	NP	C	<u>NP</u>
Mobile Food Vending (individual vehicle) ^{10,14}	P	P	P	<u>P</u>
Mobile Food Park	NP	NP	NP	<u>NP</u>
Commissary	P	NP	P	<u>MC</u>
10. Vehicle Related Uses				
Auto junk yard ^{4,6}	NP	C	NP	<u>NP</u>
Auto repair (tire, oil change, smog check, etc.) ^{11,15}	C	P	C^{12,16}	<u>NP</u>
<u>Mobile Fueling¹⁷</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>	<u>P/C</u>
Service stations (with or without repair or retail) ^{11,15}	C	C	C	<u>NP</u>
With car wash	NP	C	C	<u>NP</u>
Vehicle sales and rental (auto, RV and truck-new and used in operable condition) ^{13,18}	C	C	C^{12,16}	<u>NP</u>
Auto broker (wholesale, no vehicles on site) ^{9,13}	MCS	MCS	MCS	<u>NP</u>

Notes:

¹ Limited to accessory uses that support primary employment-generating uses on the same site. Accessory commercial uses such as restaurants and convenience retail shall be located on the ground floor and in an area of the development where they can be directly accessed by the public.

² In accordance with the Title III, Chapter 4, Adult Business Ordinance and Subsection XI-10-13.04, Adult Businesses, of this Chapter.

~~When found necessary to serve and appropriate to the industrial area.~~³ Maximum 8,000 gross square feet in size.

⁴ Assembling, packaging, or distribution from previously prepared materials, such as cloth, plastic, paper, leather, precious or semi-precious metals or stones, electric or electronic instruments and devices such as television, radios, and pharmaceutical products.

⁵ Consistent with the intent and purpose of the BPRD Zone to support emerging industries within the high-tech sector, manufacturing and assembling of electric vehicles and other zero-emission vehicles, and/or component parts for such vehicles, may be permitted in this zone through approval of a Minor Conditional Use Permit in accordance with Subsection 57.04 of this Chapter. Manufacturing and assembling of conventional and hybrid vehicles with internal combustion engines, as a higher-intensity industrial use, is not permitted in the BPRD Zone.

⁶ When conducted wholly within a completely enclosed building or within an area enclosed on all sides with a solid wall or fence (e.g., chain link with slats) not less than eight feet in height.

⁷ Warehousing and distribution facilities up to 150,000 square feet are permitted in the BPRD Zone. Warehousing and distribution facilities that exceed 150,000 square feet may be allowed through the approval of a Conditional Use Permit, in accordance with Subsection 57.04 of this Chapter. In addition to the general required findings for a Conditional Use Permit, the following special finding must be made for

approval to be granted for a warehousing and distribution facility greater than 150,000 square feet: That the proposed use will support the continued operations and/or growth of business in the high-tech sector, contributing to economic activity and employment opportunities in the Business Park Research and Development Zone.

⁸ Shall be ancillary to the primary use or associated with business or industrial uses.

⁹ State has authority over permitting process regarding public facilities.

¹⁰ Refer to Subsection XI-10-13.10, Farmers Markets, of this Chapter.

¹¹ Includes service facilities, electric transmission and distribution substations and public utility service centers.

¹² See Subsection XI-10-13.11(I), Temporary Public Safety Uses.

¹³ See Subsection XI-10-7.04(A)(1), Industrial Zone Special Development and Performance Standards.

¹⁴ Refer to Subsection XI-10-13.18, Mobile Food Vending, of this Chapter.

¹⁵ Entrances to the services bays shall not be open to the street, but shall be so designed to face the rear or interior side property line.

¹⁶ Within MP zones, rental and repair may be considered only when ancillary to new auto dealerships.

¹⁷ Mobile fueling is permitted when fueling service is ordered by an individual vehicle owner and the amount of fuel dispensed as part of any individual order does not exceed 50 gallons. Mobile fueling for fleet vehicles may be permitted subject to approval of a Conditional Use Permit. Refer also to the California Fire Code as amended by the City of Milpitas Municipal Code, Title V, Chapter 300.

¹⁸ Within MP zones, boat and camper sales are prohibited. Dealerships shall be on property at least three acres or greater in area.

(Ord. No. 38.837 , §§ 7, 8, 11/5/19; Ord. No. 38.836 , § 5, 9/3/19; Ord. No. 38.827, § 2, 2/21/17; Ord. No. 38.803, § 8, 4/17/12; Ord. No. 38.795, §§ 24, 25, 4/6/10; Ord. No. 38.789, § 9, 4/21/09)

XI-10.7.03 Industrial Zone General Development Standards

A. The following minimum or maximum requirements shall be observed.

**Table XI-10-7.03-1
Industrial Zone Development Standards**

Standard	M1	M2	MP	<u>BPRD</u>
Lot Area, minimum	None	None	Individual sites shall be of such size to that all space requirements in this table are satisfied.	<u>25,000 sq. ft.</u>
Lot Width, minimum	None	None	100 ft.	<u>100 ft.</u>
Front Yard Setback, minimum	Along major street: 35 ft. from face of curb. Along non-major street: 25 ft. from face of curb.	Along major street: 35 ft. from face of curb. Along non-major street: 25 ft. from face of curb.	35 ft.	<u>10 ft.</u>
Side Yard Setback (interior), minimum	None	None	10 ft.	<u>None; 20 ft where abutting an R zone</u>

Standard	M1	M2	MP	BPRD
Street Side Yard Setback, minimum	Same as front yard setback	Same as front yard setback	Same as front yard setback	<u>Same as front yard setback</u>
Rear Yard Setback, minimum	None	None	20 ft.	<u>None; 20 ft where abutting an R zone</u>
Building Height, maximum	None. However, prior to construction of any structure that exceeds three (3) stories or thirty-five (35) feet in height, the Planning Commission must make the following finding: That any such excess height will not be detrimental to the light, air or privacy of any other structure or use currently existing or anticipated.			<u>80 ft/5 stories</u>
<u>Parking Setback from street-facing property line, minimum</u>	<u>None</u>	<u>None</u>	<u>None</u>	<u>Surface parking: 25 ft</u> <u>Truck or bus parking: 40 ft</u>
Parking	Refer to Section 53, Off Street Parking, of this Chapter.			
Floor Area Ratio	0.40 <u>Maximum</u>	0.40 <u>Maximum</u>	0.50 <u>Maximum</u>	<u>Minimum 0.35</u> <u>Maximum 2.5</u>
Landscaping	Refer to Subsection 7.03(B)			

- B. Areas of Lot Required to be Landscaped. Landscaped areas shall mean any area planted with plant material (trees, shrubs, ground cover, etc.). Landscape areas shall be exclusive of parking and vehicular traffic area (direct driveways excepted) and this shall be shown on the site plan in detail for Planning Commission approval.

The following areas shall be landscaped:

1. Required front yard area.
2. Required street side yard area.

This may be adjusted, by the Planning Commission, if it is found that adequate landscaping adjacent to the building(s) is provided to compensate for a reduction.

- C. Fences, Hedges and Walls. All planting, fencing and walls for new development, including but not restricted to fences and walls along rear and interior side property lines shall be approved by the Planning Commission. Modifications regarding landscaping, fencing and walls at existing developed sites shall be subject to the provisions of Subsection 54.10, Fences and Walls, of this Chapter.
- D. Utilities. All wires, pipes, cables and utility connections shall be placed in underground or subsurface conduits. All above ground transformers and vaults for new development shall be adequately screened to the approval of the Planning Commission. Modifications regarding subsurface conduits or above ground transformers and vaults at existing developed sites shall be subject to the provisions of Subsection 54.16, Trash Enclosures, Equipment and their Screening, of this Chapter.
- E. Areas for Collecting and Loading Recyclable Materials. There shall be provided areas for collecting and loading recyclable materials in accordance with the requirements of Subsection 54.12, Areas for collecting and loading recyclable materials, of this Chapter.
- F. Legal Nonconforming projects. Existing developments lawful at the time of installation or improvements which have been approved and a building permit issued prior to June 17, 1982, and installed in conformance with said approval and permit are considered legal nonconforming projects.

(Ord. No. 38.803, § 8, 4/17/12; Ord. No. 38.789, § 9, 4-21-09)

XI-10-7.04 Industrial Zone Special Development and Performance Standards

- A. Performance Standards. For uses requiring approval of a Minor Conditional Use Permit by staff, in accordance with Section XI-10-57.04, Conditional Use Permits and Minor Conditional Use Permits, of this Chapter, the following performance standards shall be met.
1. Auto Brokers. Auto Brokers may be permitted by right if the following standards are met:
 - a. Local Sales and Use Tax. In order to assist the City of Milpitas in its efforts to receive direct distribution of the local tax on materials associated with the project, the California Sales and Use Tax (the "Local Tax") shall be allocated to the project site, to the extent reasonably possible. Evidence of tax allocation or cause as to why such allocation cannot be made shall be submitted at the time of business license submittal.
- B. Special Development Standards in All Industrial Zones.
1. Abutting any R District. Where any ~~M~~Industrial District abuts any R District, there shall be provided 100 feet between any ~~M~~building on an industrially zoned parcel and the nearest property line of any R District. Applicants are advised that mitigating improvements may be needed to eliminate any adverse impacts from the residences and that additional requirements may be imposed on the developer to remedy the situation.
 2. Outdoor Storage. Outdoor storage for such things as trash and materials shall be permitted only when said storage areas are suitably screened with a solid wall or tight board fence and are located at least 100 feet from any R District and not within any required front or street side yard. Said location and screening of outdoor storage areas shall be to the approval of the Planning Commission. Modifications regarding outdoor storage at existing developed sites shall be subject to the provisions of Subsection 54.16, Trash Enclosures, Equipment and their Screening, of this Chapter.
 3. Places of Assembly. Places of Assembly are prohibited in the ~~M2~~Heavy Industrial (M2) Zone and Business Park Research and Development (BPRD) Zone. When any place of assembly use is established in an M1 or MP zone after the effective date of this Ordinance, such use shall be subject to the following requirements:
 - a. Applicant shall submit a review of potential hazardous site conditions and potential exposure of site users to these conditions. At a minimum, a Phase I Environmental Site Assessment (ESA) shall be performed for each proposed assembly use within the City's Light Industrial (M1), and Industrial Park (MP) zoning districts. Each individual project shall comply with the recommendations of the Phase I Environmental Site Assessment (which may include conducting Phase II sampling and implementing the recommendations of the Phase II ESA that may include cleanup of hazardous materials) and demonstrate that exposure of site users to hazardous materials conditions would be below established thresholds prior to approval of the Conditional Use Permit. In addition, an Accidental Release Assessment (ARA) shall be performed for each proposed assembly use within the City's Light Industrial (M1) and Industrial Park (MP) zoning districts to determine if unacceptable safety risks may result from the proposed change in use. The ARA shall review and evaluate any and all Risk Management Plans prepared for facilities in the vicinity under the California Accidental Release Prevention (CalARP) program. The environmental professional preparing the ARA shall determine, based on Alternative Release Scenarios, whether the proposed new assembly use would result in unacceptable safety risks due to proximity of uses handling or emitting acutely hazardous materials. If unacceptable risks are identified, the proposed use shall not be allowed.
 - b. Applicant shall submit a further noise study. The noise study shall demonstrate that ambient noise conditions within the vicinity of the proposed assembly use do not exceed the City's "normally acceptable" Noise Compatibility Standard of 70 dBA Ldn. In the event that existing

conditions exceed the "normally acceptable" standard the proposed assembly use may be required to install noise insulating materials to achieve the interior noise standard. Also as a condition of approval, proposed assembly uses shall be required to sign a disclosure of acknowledgment that they agree to operate within an existing industrial area and may be subject to noise levels that exceed the City of Milpitas's Noise Compatibility Standards for noise-sensitive uses.

- c. No assembly use shall install or otherwise use exterior public address systems or other noise generating equipment that exceeds the 70 dBA noise standard.
 - d. No new structure shall be construed within the M1 or MP zoning district for use as a place of assembly and no more than 50% of the square footage of any existing structure within the M1 or MP zoning district shall be converted to use as a place of assembly.
 - e. No exterior modifications to any existing structure within the M1 or MP zoning district shall be permitted if such modifications would materially alter the structure's appearance or future use as an industrial building.
- C. Special Development Standards in the MP Zones and BPRD zones.
- 1. Uses in the District MP and BPRD zones shall ~~be such those they:~~
 - a. Emit no obnoxious, toxic or corrosive fumes or gases.
 - b. Emit no odors perceptible at the property line.
 - c. Emit no smoke. This does not preclude the use of backup or emergency generators.
 - d. Discharge into the air no dust or other particular matter created by any industrial operations or emanating from any products stored prior or subsequent to processing.
 - e. Produce no heat or glare perceptible beyond the lot boundaries.
 - f. Utilize all lighting in a manner which produces no glare on public streets or on any other parcel.
 - g. Produce no physical vibrations perceptible at or beyond the lot boundaries.
 - h. Produce no electromagnetic radiation or radioactive emission injurious to human beings, animals or vegetation, except under controlled operations being conducted observing standards or methods or operation established by the Nuclear Regulatory Commission. Electromagnetic radiation or radioactive emissions shall not be of an intensity that interferes with the use of any other property.
 - i. Do not engage in the production or storage of any material designed for use as an explosive, or in the use of such material in production.
 - j. Indicate that all industrial uses shall use only gas, electricity, or preheated oil as a fuel; provided, however, that oil-burning equipment may be installed for stand-by emergency use only.

XI-10-7.05 Special Design Standards for the BPRD Zone

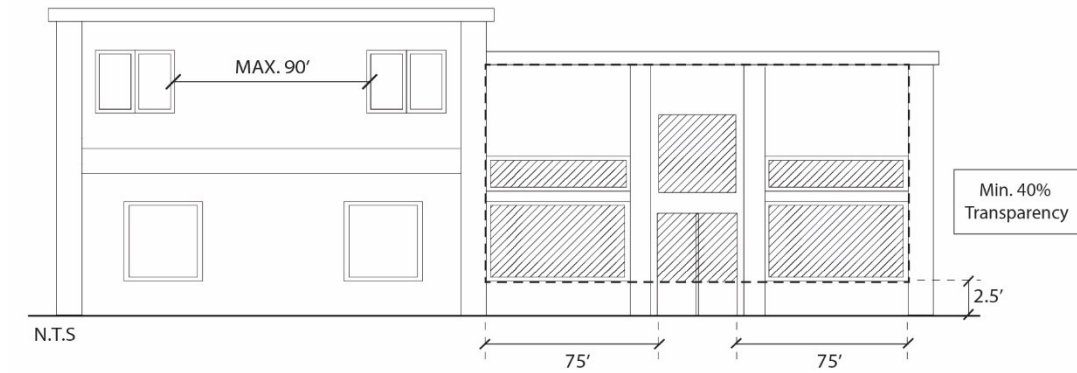
A. Building Entrances.

- 1. At least one building entrance must be provided along the primary street frontage.
- 2. The primary building entrance must incorporate a projection, recess, or combination of projection and recess at least 40 square feet in area and with a minimum depth of five feet.

B. Façade Design and Articulation.

1. Facades within 20 feet of a front or street side property line shall include windows, doors, other openings, or glazed areas for at least 40 percent of the building wall area located between 2.5 feet above the level of the sidewalk and the underside of the roof structure for portions of the façade within 75 feet of the street-facing main entry.
2. No street-facing façade may run in a continuous plane for more than 90 feet without an opening.

Figure 7.05-1: Façade Design and Transparency

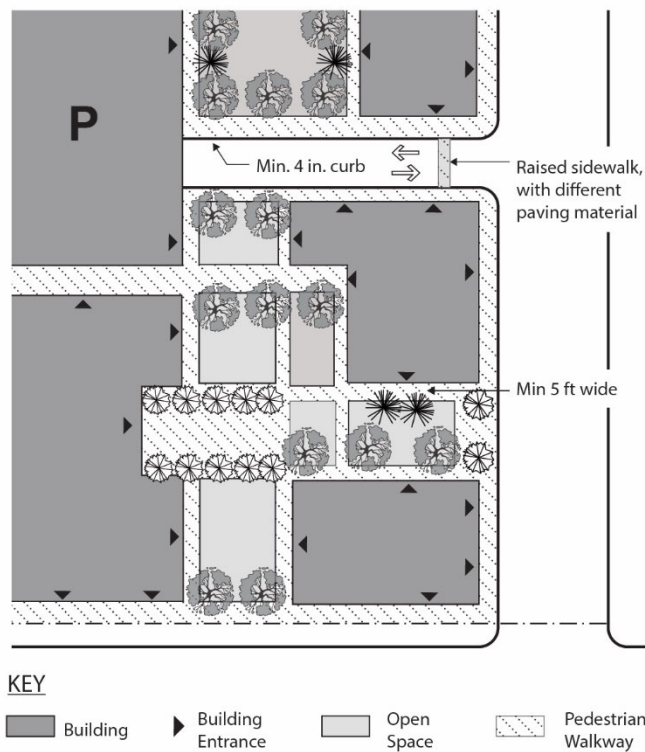


3. All building facades must incorporate window trim and/or window recesses, architectural features, changes in material, changes in texture, or similar design elements that add visual interest to the facade. This includes a varied palette of materials, textures, and colors that emphasize details and changes in plane.

C. Pedestrian and Bicycle Circulation.

1. A system of pedestrian walkways shall connect all primary building entrances on a site to each other, to on-site vehicle and bicycle parking areas, and to any on-site open space areas, pedestrian amenities, and transit stops. Walkways may be located within public utility easement areas provided they are publicly accessible.
2. Walkways between the primary building entrance and sidewalk shall be the shortest practical distance, generally no more than 125 percent of the straight-line distance.
3. Walkways shall be hard-surfaced and paved with materials that are visually distinct from vehicular access areas in terms of composition, texture, and/or color.
4. Where a required walkway crosses a driveway, parking area, or loading area, it must be clearly identifiable through a raised crosswalk, a different paving appearance, material, or similar method.
5. Where a required walkway is parallel and adjacent to a vehicle travel area, it must be raised or separated from the vehicle travel lane by a raised curb at least four inches high, bollards, or other physical barrier.

Figure 7.05-2: On-Site Circulation



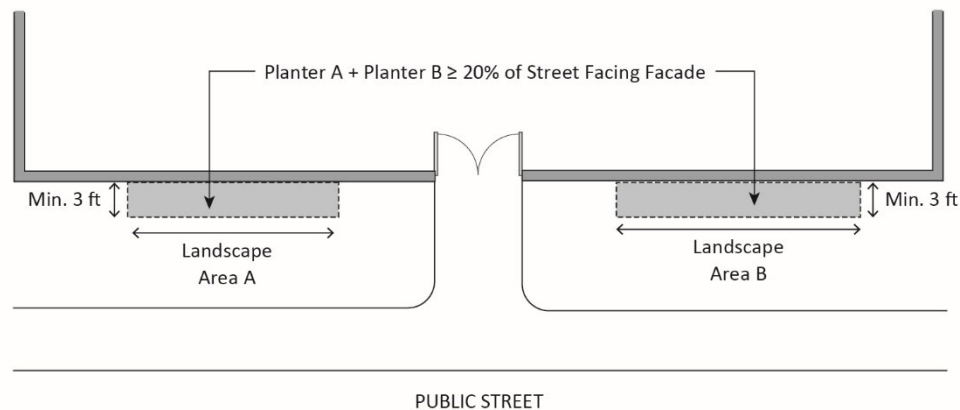
D. Site Design for Large Projects. Projects over 80,000 gross square feet must provide the following:

1. Landscaped areas and usable outdoor common open space [see Subsection XI-10-7.05(D)(2)] equal to a cumulative 10 percent of the site area that:
 - a. Provides gathering space or opportunities for active or passive recreation and benches or other seating.
 - b. Provides amenities that enhance the comfort, aesthetics, or usability of the space, including but not limited to trees and other landscaping, shade structures, drinking fountains, water features, or public art.
 - c. Is separated from on-site parking areas by a minimum of 6 feet.
 - d. May include on-site stormwater treatment areas and landscaped areas.
2. A minimum of 400 square feet of outdoor eating facilities for the use of employees. Outdoor eating areas shall have a minimum dimension of 12 feet and shall include tables, seating and covering to provide protection from sun and weather conditions. Employee eating areas must be contiguous with required on-site public open space or provided in a separate area. This area may be included as part of the open space requirement.
3. Stormwater detention facilities incorporated into the site landscaping. Refer also to Subsection VIII-5-3, Provisions for New and Rehabilitated Landscapes.
4. A lighting, landscaping, and signage design concept for common areas. Refer also to Subsection XI-10-54.17 for general lighting standards and to Subsection XI-10-24 for general signs standards.

E. Landscaping.

1. The following areas shall be landscaped and may count toward the total area of site landscaping required by the zoning district standards.
 - a. Street-Facing Setbacks, as required in Section 10-7.03.B of this Chapter.
 - b. Interior Property Lines Abutting Residential Districts. A six-foot-wide landscape buffer yard planted with a mix of trees and shrubs shall be provided along interior property lines. At least one tree of at least 15-gallon size shall be planted per 20 linear feet or as appropriate based on canopy size at maturity to create a tree canopy over the buffer yard. In addition, at least three shrubs shall be planted per 20 lineal feet. At least 10 percent of the required trees shall be 24-inch box size.
 - c. Building Perimeters. The portions of a building that face a public street or parking areas shall have one or more landscape planters, each a minimum of four feet in depth, installed along a minimum 20 percent of street-facing facades. This 20 percent may include landscape buffers located below windows and other transparent portions of the facade.

Figure 7.05-3: Landscape Planters



- d. Parking Areas. A minimum of 10 percent of any parking lot area shall be landscaped in the form of planted islands between rows of parking or between parking stalls. For the purpose of calculating required parking lot landscaping, parking lot areas are deemed to include parking and loading spaces as well as aisles, vehicle entry and exit areas, and any adjacent paved areas. Parking lot area does not include enclosed vehicle storage areas.
 - e. Unused Areas. All areas of a project site not intended for a specific use, including areas planned for future phases of a phased development, shall be landscaped or left in a natural state.
2. Landscaping Materials. In addition to the standards of Section VIII-5-3, Provisions for New and Rehabilitated Landscapes, the following landscape standards apply.
 - a. General. Landscaping must consist of a combination of groundcovers, shrubs, vines, and trees. Landscaping may also include incidental features including stepping stones, benches, fountains, sculptures, decorative stones, or other ornamental features, placed within a landscaped setting. Landscaped areas may include paved or graveled surfaces, provided they do not cover more than 10 percent of the area required to be landscaped.
 - b. Plant selection. Plants must be selected to control erosion and provide protection from wind and summer sun.
 - c. Ground Cover Materials. Ground cover shall be of live plant material. Groundcover may include grasses. Non-plant materials including gravel, colored rock, cinder, bark, and similar materials shall not be used to meet the minimum planting area requirements required by this section,

except with approval by the Zoning Administrator. Mulch must be confined to areas underneath shrubs and trees and is not a substitute for ground cover plants.

- d. Turf Allowance. The maximum amount of lawn in required landscape areas shall be 20 percent except for turf areas that comprise an essential component of a project (e.g., golf courses or playing fields), which are exempt from this limit. The installation of turf on slopes greater than 25 percent is prohibited.
- e. Size and Spacing. Plant materials shall be grouped in hydrozones in accordance with their respective water, cultural (soil, climate, sun and light) and maintenance needs. Plants shall be of adequate size and spacing at the time of installation to provide ample vegetation coverage. Minimum requirements include:
 - i. Ground Covers. Ground cover plants other than grasses must be at least the four-inch pot size. Areas planted in ground cover plants other than grass seed or sod must be planted at a rate of one per 24 inches on center or less.
 - ii. Shrubs. Shrubs shall be a minimum size of one gallon. When planted to serve as a hedge or screen, shrubs shall be planted with two to four feet of spacing, depending on the plant species.
 - iii. Trees. Tree canopies shall cover a minimum of 30 percent of the total required landscape area. Of the total number of trees provided on site, at least 20 percent shall be of the same species.
 - (a) A minimum of 15 percent of the trees planted shall be 24 inch-box or greater in size. All other trees shall be a minimum of 15 gallons in size with a one-inch diameter at breast height (dbh).
 - (b) Newly planted trees shall be supported with double stakes or guy wires and tree guards per International Society for Arboriculture and American National Standards Institute standards.
 - (c) Any trees planted along a sidewalk shall be 15 gallon trees no more than 30 feet apart on center.
 - (d) Any tree to be planted along a lot line or adjacent to a structure shall be no closer to said lot line or structure than one-half the diameter of the particular species' drip line at maturity, measured from the center of the tree. Any tree that cannot be planted in the ground shall be planted in a planter box at least twice the width and depth of the root ball plus one additional foot in container diameter for every four feet of mature tree height.

F. Parking and Loading.

1. Parking Location.

- a. Required parking spaces shall be located on the same lot as the use they serve.
- b. Parking areas shall be set back from adjacent buildings and streets as follows:
 - i. From Streets. Where parking is located between a building and street, a landscaped setback at least 10 feet wide must be provided between the parking area and adjacent right-of-way.
 - ii. From On-Site Buildings. Parking areas must be separated from the front and side exterior walls of on-site buildings by walkways at least five feet in width.
- c. On-site parking shall not be located within a required setback.

2. Parking Design.

- a. Access. Driveways shall not exceed 35 feet in width, except that driveways providing large truck access to truck bays shall not exceed 40 feet in width. All driveways must be located a minimum of 50 feet from the boundary of an abutting residential or open space zone.
 - b. Screening. Parking and loading areas shall be screened from view from public streets and properties in abutting residential, mixed-use, or commercial zones, according to the following standards.
 - i. Height. Screening of parking lots from adjacent public streets shall be a minimum of three feet in height. Screening of parking lots along interior lot lines that abut residential or open space districts shall be a minimum of six feet in height.
 - ii. Design. Screening should generally be opaque, but may have some degree of transparency depending on method used (e.g., plant material), and must consist of one or any combination of the methods listed below:
 - (a) Walls. Low-profile walls consisting of brick, stone, stucco, or other quality durable material and including a decorative cap or top finish as well as edge detail at wall ends.
 - (b) Fences. An open fence of wood, wrought iron or similar high-quality, durable material combined with plant materials. This option does not include the use of chain-link or vinyl fencing.
 - (c) Planting. Plant materials consisting of compact evergreen plants. Such plant materials must achieve a minimum height of two feet within 18 months after initial installation.
 - (d) Berms. Berms planted with grass, ground cover, or other low-growing plant materials.
3. Loading Areas. Truck docks, loading areas, and service areas within 100 feet of a public street shall not be visible from the public street. The outermost point of the truck docks, loading, and service areas are not permitted within 50 feet of the boundary of a residential district.

G. Lighting.

1. Fixtures. All exterior lighting fixtures shall be oriented downward, fully shielded, and certified by the International Dark Sky Association to prevent light intrusion into adjacent building buildings and sensitive habitat such as riparian habitat, streams, and wetlands.
2. Controls. All exterior lighting must be capable of accepting controls that enable dimmers, timers motion sensors, or networking to avoid unnecessary lighting and energy use, especially in areas adjacent to sensitive habitat, such as riparian habitat, streams, and wetlands.
3. On-Site Lighting.
 - a. Ground-floor building façades and other areas, including parking lots, driveways, pedestrian and bicycle circulation areas, and recesses, shall be illuminated with lighting fixtures that meet the following minimum standards:
 - i. Open parking lots: One foot-candle at ground level.
 - ii. Pedestrian paths/bike paths: One foot-candle at ground level.
 - iii. Covered parking: Five foot-candles at ground level.
 - b. Electrical elements for exterior building lighting such as wires, conduits, and panel boxes shall be concealed from public view or painted to match the background surface color.

c. Parking lot lighting shall be designed and installed so that light and glare is not directed onto residential use areas, adjacent public rights-of-way, or sensitive habitat, such as riparian habitat, streams, and wetlands.

4. Prohibited Lighting. The following types of exterior lighting are prohibited:

- a. Mercury vapor luminaires;
- b. Searchlights;
- c. Sky beams;
- d. Upward-directed fixtures; and
- e. Aerial lasers.

XI-10-7.06 Conformance with Specific Plans

Properties located within Specific Plans shall conform to the underlying Specific Plan in accordance with Section XI-10-11.06, Conformance with Specific Plans, of this Chapter.

(Ord. No. 38.803, § 8, 4/17/12; Ord. No. 38.795, § 26, 4/6/10; Ord. No. 38.789, § 9, 4/21/09)

Section 9 Metro Area Zones and Standards (New Section)

XI-10-9.01 Purpose and Intent

- A. Metro Multi-Family High Density Residential ("R3-Metro") Zoning District. The purpose of the R3-Metro zoning district is to create and enhance high-density residential areas (densities in the range of 30 to 40 dwelling units per acre) characterized by a mix of multi-family unit types and small-scale neighborhood businesses where appropriate. The R3-Metro zone implements the Multi-Family High Density Residential (MFH) land use designation as described in the Metro Specific Plan.
- B. Metro Multi-Family Very High Density Residential ("R4-Metro") Zoning District. The purpose of the R4-Metro zoning district is to create and enhance very high-density residential areas (densities in the range of 40 to 85 dwelling units per acre) characterized by low- and mid-rise multi-family residential buildings and compatible commercial uses where appropriate. The "R4" District is intended to provide for higher-density residential "villages" structured around transit stations, streets, creek side open spaces, trails and parks. The R4-Metro zone implements the Multi-Family Very High Density Residential (VHD) land use designation as described in the Metro Specific Plan.
- C. Metro Urban Residential ("R5-Metro") Zoning District. The purpose of the R5-Metro zoning district is to create and enhance very high-density residential areas (densities in the range of 70-120 dwelling units per acre) characterized by high-rise residential buildings and compatible commercial uses structured around transit stations. The R5-Metro zone implements the Urban Residential (URR) land use designation as described in the Metro Specific Plan.
- D. Metro High Density Mixed Use ("MXD2-Metro") Zoning District. The purpose of the MXD2-Metro zoning district is to create and enhance areas with a mix of retail, restaurant, entertainment, and commercial service uses on the ground floor and residential or office uses on upper stories, while maintaining a pedestrian-oriented streetscape (mixed-use FARs in the range of 1.0 to 2.5 and residential densities in the range of 40 to 85 dwelling units per acre). It is intended that the required active ground floor uses will ensure neighborhood-oriented retail and services are provided within walking distance of high-density residential development. The MXD2-Metro zone implements the Residential Retail Mixed Use (RRMU) land use designation as described in the Metro Specific Plan.
- E. Metro Very High Density Mixed Use ("MXD3-Metro") Zoning District. The purpose of the MXD3-Metro zoning district is to create and enhance urban areas characterized by a mix of very-high density housing, retail and employment uses (mixed-use FARs in the range of 2.5 to 5.0 and residential densities in the range of 85 to 250 dwelling units per acre). The MXD3-Metro zone implements the Boulevard Very High Density Mixed Use (BVMU) land use designation as described in the Metro Specific Plan.
- F. Metro Business Park Research and Development, Limited Residential; (BPRD-R-Metro) Zone. The purpose of the BPRD-R-Metro zoning district is to designate specific areas of the city as important employment centers, especially for jobs in the high-tech industry, with limited, integrated residential development (mixed-use FARs in the range of 1.0 to 5.0). The BPRD-R-Metro zone is intended to accommodate business parks, high-intensity office buildings, advanced manufacturing, other light industrial uses, and limited residential uses. It also enables the integration and growth of research and development, office, and light manufacturing uses on consolidated sites with supportive ancillary uses, typically on the ground floor, such as restaurants, health/fitness centers, limited retail, and child care facilities. The BPRD-R-Metro zone implements the Business Park Research and Development, Limited Residential (BPRD-H) land use designations as described in the Metro Specific Plan.

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- G. Metro Business Park Research and Development (BPRD-Metro) Zone. The purpose of the BPRD-Metro zoning district is to designate specific areas of the city as important employment centers, especially for jobs in the high-tech industry (FARs in the range of 1.0 to 2.5, with additional FAR up to 4.0 for properties within 1,000 feet of the Milpitas Transit Center). The BPRD-Metro Zone is intended to accommodate business parks, high-intensity office buildings, advanced manufacturing, and other light industrial uses, and to enable the integration and growth of research and development, office, and light manufacturing uses on consolidated sites with supportive ancillary uses, typically on the ground floor, such as restaurants, health/fitness centers, limited retail, and child care facilities. The BPRD-Metro zone implements the Business Park Research and Development (BPRD) land use designation as described in the Metro Specific Plan.

XI-10-9.02 Metro Area General Use Regulations

A. Permitted and Conditionally Permitted Uses.

1. Primary uses. The uses identified in Table XI-10-9.02-1, Metro Area Zone Uses, shall be the primary uses allowed to occur on a property. All uses except for those noted shall be conducted within enclosed structures. The primary uses identified in Table XI-10-9.02-1 shall be permitted or conditionally permitted, as indicated:

P	Where the symbol "P" appears, the use shall be permitted.
MCS	Where the symbol "MCS" appears, the use shall be permitted subject to the issuance of a Minor Conditional Use Permit by staff, in accordance with Subsection XI-10-57.04, Conditional Use Permits and Minor Conditional Use Permits, of this Chapter.
C	Where the symbol "C" appears, the use shall be permitted subject to the issuance of a Conditional Use Permit, in accordance with Subsection XI-10-57.04, Conditional Use Permits and Minor Conditional Use Permits, of this chapter.
MC	Where the symbol "MC" appears, the use shall be permitted subject to the issuance of a Minor Conditional Use Permit by the Zoning Administrator, in accordance with Subsection XI-10-57.04, Conditional Use Permits and Minor Conditional Use Permits, of this Chapter.
O	Where the symbol "O" appears, the use is subject to an alternative review process described in a subsequent footnote.

B. Prohibited Uses. The following uses are prohibited:

1. Uses where the symbol "NP" appears within Table XI-10-9.02-1.
 2. The following uses are not permitted in any Metro zone:
 - a. Adult Businesses as defined in Subsection 13.04, Adult Businesses, of this Chapter.
 - b. Disinfecting and extermination business.
 - c. Outdoor storage of vehicles.
 - d. Private self-storage facilities.
 - g. Drive through uses (restaurants, pharmacies, etc.).
- C. Mixed Use Development. Where a single parcel is proposed for development with two or more of the land uses listed in Table 9.02-1, Metro Area Zone Uses at the same time, the overall project will be subject to the permit with the highest level of review required by the Table for any individual use.
- D. Residential uses on Activity Streets and Neighborhood Streets. Residential units are not allowed on the ground floor facing any right-of-way designated as an Activity Street or Neighborhood Street by the Metro Specific Plan Figure 4-6, unless allowed by Subsection 9-05.B. Other residential spaces such as lobbies and

common areas are permitted on the ground floor facing an Activity Street in accordance with Table XI-10-9.02-1.

- E. Other Uses. Any other uses may be considered by the Planning Commission that are similar in accordance with the procedure, prescribed in Subsection 10-54.02, Other Uses Permitted by Commission, of this Chapter.

**Table XI-10-9.02-1
Metro Area Zone Uses**

Uses	R3 Metro	R4 Metro	R5 Metro	MXD2 Metro	MXD3 Metro	BPRD-R Metro	BPRD- Metro	Additional Regulations
Commercial								
Alcoholic Beverage Sales	C ¹	C ¹	C ¹	C	C	C	C ¹	
Business Support Services	NP	NP	NP	MCS	MCS	MCS ¹	MCS ¹	
Convenience store	MC	MC	MC	MCS	MCS	NP	NP	Refer to Subsection XI-10-9.03(A), Special Uses
Grocery Store	NP	NP	NP	C	C	NP	NP	
Grocery Store, Small	P	P	P	P	P	NP	NP	Refer to Subsection XI-10-9.03(A), Special Uses
Pawnshop	NP	NP	NP	C	C	NP	NP	Refer to Subsection XI-10-9.03(C), Special Uses
Personal Services	MCS ²	MCS ²	MCS ²	P ²	P ²	C	C	Refer to Subsection XI-10-9.03(A), Special Uses
Pet Shops	NP	NP	NP	MC	MC	NP	NP	
Repair and Cleaning, Small Items	NP	NP	MCS	P	P	NP	NP	Refer to Subsection XI-10-9.03(A), Special Uses
Retail, Limited	C ³	P	P	P	P	P ¹	P ¹	Refer to Subsection XI-10-9.03(A), Special Uses
Retail Stores, General Merchandise	C ³	P	P	P	P	NP	NP	Refer to Subsection XI-10-9.03(A), Special Uses
Thrift Shop								
<i>Retail only</i>	NP	NP	NP	P	P	NP	NP	Refer to Subsection XI-10-9.03(A), Special Uses
<i>With collections</i>	NP	NP	NP	C	C	NP	NP	
Entertainment and Recreation								
Commercial Athletic Facilities	NP	NP	NP	P	P	MCS ¹	MCS ¹	
Golf Course	NP	NP	NP	NP	NP	NP	NP	
Recreation or Entertainment Facility	NP	NP	NP	C	C	NP	NP	
Health and Veterinarian Uses								
Animal Grooming (no boarding)	NP	NP	NP	MC	MC	NP	NP	
Hospitals or Sanitariums	NP	NP	NP	C	C	NP	NP	Refer to Subsection XI-10-9.03(B), Quasi-Public Uses
Massage Establishment	NP	NP	NP	MC/MC S ⁴	MC/MC S ⁴	C ¹	C ¹	Refer to Title III, Chapter 6 of the Milpitas Municipal Code and to Subsection XI-10-13.16
Medical and Dental Offices and Clinics	NP	NP	NP	P	P	MC	MC	
Medical Support Laboratories	NP	NP	NP	P	P	MC	MC	
Optician and Optometrist Shop	NP	NP	NP	P	P	MC	MC	

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Uses	R3 Metro	R4 Metro	R5 Metro	MXD2 Metro	MXD3 Metro	BPRD-R Metro	BPRD-Metro	Additional Regulations
Pharmacy or Drug Store	NP	MCS	MCS	P	P	MC	MC	
Veterinary Clinic	NP	NP	NP	P	P	NP	NP	
Industrial Uses								
Advanced Manufacturing	NP	NP	NP	NP	NP	p ⁵	p ⁵	
Agriculture	p ⁶	NP	NP	NP	NP	NP	NP	
Art and Artisan Studio	NP	NP	NP	P	P	MCS	P	
Commercial Laboratory	NP	NP	NP	NP	NP	P	P	
Contractor's Shop	NP	NP	NP	NP	NP	NP	NP	
Custom and Artisan Manufacturing	NP	NP	NP	MCS	MCS	MCS	MCS	
Manufacturing, Assembling, Packaging, and Processing Facility	NP	NP	NP	NP	NP	MCS	MCS	
Parcel hub	NP	NP	NP	NP	NP	NP	MC	
Printing (Newspaper, Blueprint, Publishing)	NP	NP	NP	NP	NP	NP	MC	
Research and Development	NP	NP	NP	NP	NP	p ⁵	p ⁵	
Soils and materials testing laboratories	NP	NP	NP	NP	NP	P	P	
Warehousing and Distribution	NP	NP	NP	NP	NP	NP	NP	
Wholesale Sales	NP	NP	NP	NP	NP	MC	MC	
Lodging Uses								
Bed and Breakfast	P	P	P	P	P	NP	NP	
Boarding Houses	C	C	C	C	C	NP	NP	
Hotels	NP	NP	NP	P	P	P	P	
Motels	NP	NP	NP	NP	NP	NP	NP	
Short-Term Rentals	P	P	P	P	P	NP	NP	Refer to Subsection XI-10-13.17, Short-Term Rentals
Professional Offices Uses								
Offices, Business and Professional	C	C	C	P	P	P	P	
Financial institutions (banks, savings and loans, etc.)	NP	MCS	MCS	P	P	MCS ¹	MCS ¹	
Public, Quasi-Public and Institutional/Assembly Uses								
College and university, private	NP	NP	NP	C	C	P	P	
Conference Center	NP	NP	NP	NP	NP	C	C	
Community Garden	P	P	P	P	P	P	P	
Day Care Center	MC	MC	P	P	P	p ¹	p ¹	Refer to Subsection XI-10-13.06, Large Family Child Care and Child Care Centers
Farmer's Market	MC	MC	MC	MCS	MCS	MCS	MCS	Refer to Subsection XI-10-13.10, Farmers Markets
Instruction, Group	MC	MC	MC	MCS	MCS	NP	NP	
Instruction, Private	MCS	MCS	MCS	P	P	NP	NP	
Park, Playground or Community Center	O ⁷	O ⁷	O ⁷	O ⁷	O ⁷	O ⁷	O ⁷	
Places of Assembly	MC	MC	MC	MCS	MCS	NP	NP	

Uses	R3 Metro	R4 Metro	R5 Metro	MXD2 Metro	MXD3 Metro	BPRD-R Metro	BPRD-Metro	Additional Regulations
Public Utilities	NP	NP	NP	NP	NP	NP	NP	
Schools, private (elementary, middle, high)	C	C	C	C	C	C	C	
Theater (indoor)	NP	NP	NP	C	C	NP	NP	
Trade and Vocational School	NP	NP	NP	C	C	C	C	
Transportation Facilities	C	C	C	C	C	NP	NP	
Residential Uses								
Court Dwellings	P	P	P	P	P	NP	NP	
Duplex (two dwellings)	NP	NP	NP	NP	NP	NP	NP	
Group Living Accommodations	C	C	C	C	C	C	NP	
Live/Work	C ⁸	C ⁸	C ⁸	MCS	MCS	MCS	NP	
Multi-Family Dwellings	P	P	P	P	P	P	NP	
Residential Care Facility	P	P	P	P	P	P	NP	
Single-Room Occupancy Residences	MC	MC	MC	MC	MC	NP	NP	Refer to XI-10-13.13, Special Uses, Single Room Occupancy Residences
Transitional and Supportive Housing	P	P	P	P	P	P	NP	Refer to CA Government Code Sec. 65582
Restaurants or Food Service								
Bar or Nightclub	NP	NP	NP	C ⁹	C ⁹	NP	NP	
Brewery/ Eateries	NP	NP	NP	MCS ⁹	MCS ⁹	NP	NP	
Catering Establishment	NP	NP	NP	C	C	NP	NP	
Commissary	NP	NP	NP	NP	MC	NP	NP	
Mobile Food Park	NP	NP	NP	MC	MC	NP	NP	Refer to Subsection XI-10-13.18, Mobile Food Vending
Mobile Food Vending (individual vehicle)	P	P	P	P	P	P	P	Refer to Subsection XI-10-13.18, Mobile Food Vending
Restaurants								
<i>With on-site service of alcohol</i>	C ³	C	C	P/C ¹⁰	P/C ¹⁰	C ¹	C ¹	Refer to Subsection (XI-10-9.03(C)(5)
<i>Without on-site service of alcohol</i>	MCS ³	P	P	P/C ¹⁰	P/C ¹⁰	P ¹	P ¹	Refer to Subsection (XI-10-9.03(C)(5)
<i>With music (indoor/outdoor)</i>	NP	NP	NP	P ⁹	P ⁹	NP	NP	Refer to Subsection (XI-10-9.03(C)(5)
<i>With other live entertainment</i>	NP	NP	NP	C ¹¹	C ¹¹	NP	NP	Refer to Subsection (XI-10-9.03(C)(5)
Vehicle Related Uses								
Auto Broker (wholesale, no vehicles on site)	NP	NP	NP	MCS	MCS	NP	NP	
Auto Rental	NP	NP	NP	MC ¹²	MC ¹²	NP	NP	
Auto Sales	NP	NP	NP	NP	NP	NP	NP	
Mobile Fueling ¹³	P/NP	P/NP	P/NP	P/NP	P/NP	P/NP	P/NP	Refer to the California Fire Code as amended by the City of Milpitas Municipal Code, Title V, Chapter 300.
Service Stations	NP	NP	NP	NP	NP	NP	NP	
Auto Repair Shop	NP	NP	NP	NP	NP	NP	NP	
Accessory and Temporary Uses								

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Uses	R3 Metro	R4 Metro	R5 Metro	MXD2 Metro	MXD3 Metro	BPRD-R Metro	BPRD-Metro	Additional Regulations
Accessory Dwelling Unit	P	P	P	P	P	P	NP	Refer to Subsection XI-10-13.08, Accessory Dwelling Units
Model home complex	P	P	P	P	P	NP	NP	Refer to Subsection XI-10-13.11(E), Model Home Complexes and Sales Offices
Large family child care home	P	P	P	P	P	P	NP	Refer to Subsection XI-10-13.06, Large Family Child Care and Child Care Centers
Small family child care home	P	P	P	P	P	P	NP	
Temporary seasonal sales	NP	NP	NP	P	P	NP	NP	Refer to Section 13.11, Temporary Uses and Structures

1. Limited to accessory use that supports primary employment-generating uses on the same site. Accessory commercial uses such as restaurants and limited retail shall be located on the ground floor and in an area of the development where they can be directly accessed by the public.
2. When located on the ground floor, retail sales of products related to the Personal Services provided shall be offered at the front of the premises near the pedestrian entrance and shall comprise at least 10 percent of the floor area of the business establishment.
3. No exterior display or advertising and such activities are conducted in spaces which are integral parts of a main building.
4. Allowed with an MCS when an accessory use to any permitted or conditionally permitted medical office, medical clinic, chiropractor practice, acupuncture practice, physical therapist, fitness and athletic facility, health care facility (such as hospitals, nursing homes and sanitariums), and accredited school, college, and university. Massage services, limited to massage of the head, neck, shoulders, hands and feet may be allowed with an MCS when an accessory use to any permitted or conditionally permitted beauty salon, barbershop, and healing art practices. This section shall not exempt any person or business from complying with all the provisions of Title III, Chapter 6.
5. A Conditional Use Permit is required for storage space that exceeds 25,000 square feet, and in no case may storage space exceed 300,000 square feet.
6. The raising of animals or fowl for commercial purposes and the sale of any products at retail on the premises is not allowed.
7. For uses owned and operated by a government agency. The approval process will require that the site be re-zoned to POS.
8. Allowed non-residential uses to be specified through the Conditional Use Permit process.
9. Indoor or outdoor music is permitted as an accessory use on the same parcel in conjunction with a restaurant or bar that is a principal permitted use or approved conditional use. See also Subsection XI-10-9.03(E)(6) for additional regulations.
10. Permitted when located on the ground floor facing a public street designated as an Activity Street. Requires a Conditional Use Permit when located elsewhere.
11. "Other live entertainment" Includes but is not limited to dancing, stand-up comedy, theatrical shows, magic shows, and karaoke.
12. Bicycle and auto rental agency, excluding commercial vehicles, trucks, buses, vans, boats and RV rentals, must be fully enclosed within a building.

13. Mobile fueling is permitted when fueling service is ordered by an individual vehicle owner and the amount of fuel dispensed as part of any individual order does not exceed 50 gallons. Mobile fueling for fleet vehicles is not permitted.

XI-10-9.03 Metro Area Special Use Regulations

- A. Personal services, convenience stores, grocery stores, retail, repair and cleaning services, private and group instruction, and financial institutions within R3-Metro, R4-Metro and R5-Metro zones may be permitted provided they are:

1. Less than or equal to 10,000 square feet in gross floor area;
2. Not open past 10:00 p.m.;
3. Conducted wholly within a building, except for approved outdoor seating areas;
4. Not specifically noted in Table XI-10-9.02-1, Metro Zone Uses, of this Chapter, requiring Conditional Use Permit approval; and
5. Not listed as a prohibited use in Section XI-10-9.02(B), Prohibited Uses, of this Chapter.

If items (1) through (3), above, are not met, then approval of a Conditional Use Permit is required in accordance with Section 10-57.04 of this Chapter.

- B. Quasi-Public Uses. The following uses may be permitted within the MXD2-Metro and MXD3-Metro zones provided their location is first approved by the Planning staff, the Zoning Administrator, or the Planning Commission (as applicable), in accordance with Subsection 57.04, Conditional Use Permits and Minor Conditional Use Permits, of this Chapter, and they are not located within 1,000 feet of the parcel boundary of another quasi-public use listed below. This distance shall be measured from the property line of the parcel where such use is located.

1. Places of meeting or assembly, such as auditoriums, banquet halls, and fraternal or union halls. Churches and religious institutions are exempt from this spatial requirement.
2. Private elementary, middle or high schools.
3. Vocational schools, if not found objectionable due to noise, odor, vibration or other similar health, safety and welfare basis.

- C. Performance Standards for Certain Uses. For uses requiring approval of a Minor Conditional Use Permit by staff, in accordance with Section 10-57.04, Conditional Use Permits and Minor Conditional Use Permits, of this Chapter, the following performance standards below shall be met.

1. The following uses may not be located within 1,000 feet of another same use listed below. This distance shall be measured from the property line of the parcel where such use is located.
 - a. Vehicle Related Uses.
 - b. Transportation facilities without outdoor storage of vehicles.
 - c. Pawnshops.
2. Auto Brokers. Auto Brokers are subject to the following standards:
 - a. Local Sales and Use Tax. In order to assist the City of Milpitas in its efforts to receive direct distribution of the local tax on materials associated with the project, the California Sales and Use Tax (the "Local Tax") shall be allocated to the project site, to the extent reasonably possible. Evidence of tax allocation or cause as to why such allocation cannot be made shall be submitted at the time of business license submittal.
3. Art and Artisans Studios shall comply with the following standards:

- a. All operations shall be conducted completely within an enclosed building.
 - b. There shall be no dust, fume, or odor either emitted from the premise.
 - c. The operations shall not create excessive vibrations.
 - d. The operations shall be consistent with the City's noise standards.
4. Outdoor Music in the MXD2-Metro and MXD3-Metro zones:
 1. Outdoor music as an accessory use in conjunction with a restaurant or bar shall be permitted for the entertainment and enjoyment of customers at the restaurant or bar during regular operating hours. Outdoor music as an accessory use shall be limited to the hours of 9:00 a.m. to 11:00 p.m.
 2. Recorded background music may be permitted outdoors on public sidewalks and other public areas subject to the standards of this Chapter and Title V - Public Health, Safety and Welfare, Chapter 213 - Noise Abatement.
 3. Noise levels for outdoor music, when permitted as an accessory use to a restaurant or bar, shall not exceed a maximum range of 70 to 90 decibels (dB). See also Title V - Public Health, Safety and Welfare, Subsections V-213-2 and V-213-3, for additional regulations.
 4. Larger outdoor music events, both live and recorded music, which are intended for the entertainment and enjoyment of the general public shall not be considered accessory uses and shall require a Special Event Permit pursuant to Section 15, Special Events and Activities, of this Chapter.
 5. Minor outdoor music events, both live and recorded music, which are hosted onsite by a business with nine or fewer employees shall be exempt from applicable permit and fee requirements.
5. Restaurant Performance Standards. Restaurants shall comply with the following performance standards:
 - a. Outdoor seating is allowed if it has been approved as part of the facility's Minor Site Development Permit or Site Development Permit and is operated in conformance with any conditions of that approval.
 - b. Outdoor dining shall comply with the standards of Section 10-13.19 – Outdoor Dining.
 - c. The restaurant shall comply with the City Council's Guidelines for Recycling Enclosures (Resolution No. 6296).
 - d. The restaurant shall incorporate measures to reduce odors to acceptable levels, including, but not limited to, installation of a scrubber, carbon filter or similar equipment, on the roof vent to control odors.
 - e. All the facility's floor drains, trash compactors and indoor mat and equipment washing areas shall be drained to the sanitary sewer.
 - f. Where applicable, the restaurant shall maintain an active account with a tallow hauling company.
 - g. The restaurant shall prepare and implement a program assigning restaurant staff responsibility for complying with the following guidelines which shall be adhered to while the restaurant is in operation:
 - i. Wash all containers and equipment in the kitchen areas so that wash water may drain into the sanitary sewer.
 - ii. Keep garbage dumpsters clean inside and out; replace very dirty dumpsters with new, clean ones.

- iii. Double bag waste to prevent leaking.
- iv. Place, do not drop or throw, waste-filled bags, to prevent leaking.
- v. Keep the ground under and around the garbage dumpsters swept.
- vi. Sprinkle the ground lightly after sweeping with a mixture of water and a little bleach.
- vii. Hold training sessions to instruct employees on the proper procedures in the handling and disposal of food items; the general maintenance and use of the compactor and any other procedures that would assist the business in complying with all State and local health and sanitation standards. A record of such training must be kept to prove compliance with this requirement.
- viii. Post signs (in English and multi-lingual) inside the premises for all employees identifying procedures for food delivery and garbage disposal.
- ix. All garbage bins shall be stored in the garbage enclosure except for the 12 hours immediately before and after garbage collection.

XI-10-9.04 Metro Area General Development Standards

- A. Standards within the Metro Specific Plan area. For all Metro Area properties, refer to the Metro Specific Plan for development standards. When a standard is not listed within the Metro Specific Plan, the standards listed within the zoning ordinance shall govern.
- B. General Standards. The following requirements shall be observed.

Table XI-10-9.04-1
Metro Zones Development Standards

Standard	R3 Metro	R4 Metro	R5 Metro	MXD2 Metro	MXD3 Metro	BPRD-R Metro	BPRD-Metro
<i>Min.Lot Area</i>	8,000 sq ft	none	none	none	none	none	none
<i>Residential Density¹</i>	30-40 units/ac	40-85 units/ac	70-120 du/ac	40-85 units/ac	85-250 units/ac	No min. or max.	n/a
<i>FAR</i>	n/a	n/a	n/a	Mixed Use: min. 1.0, max. 2.5	Mixed Use: min. 2.5, max. 5.0	Mixed Use: min. 1.0, max. 5.0; non-residential uses: min. 1.0	Min. 1.0, Max. 2.5-4.0 ²
<i>Active Use</i>	none	none	none	Ground floor retail and active uses required on 80% of frontages on any one blockface along any Activity Street as identified on the Metro Specific Plan Figure 4-6: Circulation Network.			none
<i>Front Setback</i>	Min. 20 ft	8 ft min., 20 ft max. from back of sidewalk	12 ft min., 20 ft max. from back of sidewalk	Min. 0 ft, Max. 20 ft	Min. 12 ft, Max. 20 ft	Min. 10 ft, Max. 20 ft	Min. 0 ft.
<i>Interior Side Setback (min.)</i>	1 story: Each side 5 ft min, total of 12 ft both sides 2-2.5 story: Each side 10 ft min, total	10 ft	15 ft; 20 feet for buildings over 3 stories abutting residential uses	0 ft; 10 ft when abutting residential use and for portions of buildings over	10 ft; 15 ft when abutting residential; 20 ft for portions of buildings	10 ft	10 ft

NEW SECTION

Standard	R3 Metro	R4 Metro	R5 Metro	MXD2 Metro	MXD3 Metro	BPRD-R Metro	BPRD-Metro
	25 ft both sides 3-3.5 story: Each side 12 ft min, total 30 ft both sides			60 ft or 4 stories tall	over 60 ft or 4 stories tall		
<i>Street Side Setback</i>	Min. 10 ft	8 ft min., 15 ft max. from back of sidewalk	12 ft min., 20 ft max. from back of sidewalk	Min. 0 ft	Min. 12 ft, Max. 20 ft	Min. 10 ft, Max. 15 ft	Min. 0 ft
<i>Rear Setback (min.)</i>	1 story: 30 ft 2-2.5 story: 35 ft 3-3.5 story: 40 ft	10 ft	15 ft; 20 feet for buildings over 3 stories abutting residential uses	10 ft; 15 ft when abutting a R zone; 20 ft for portions of building over 60 ft or 4 stories tall	15 ft; 20 ft when abutting a R zone; 30 ft for portions of building over 60 ft or 4 stories tall	10 ft	10 ft
<i>Creek/Drainage Channel Setback</i>	25 ft min. from top of bank or from any maintenance road or required setback, whichever is greater.						
<i>Max. Primary Building Height</i>	75 ft	35 ft min., 75 ft max.	75 ft and 6 stories	85 ft ³	275 ft ⁴	275 ft or 18 stories	8 stories
<i>Accessory Building Height</i>	Max. 25 ft or 2.5 stories						
<i>On-Site Open Space</i>	Residential and mixed-use projects: Min. 100 sq ft per residential unit, may be private or common Non-residential projects: Min. 10% of site area						Min. 15% of site area
<i>Private Open Space Dimensions</i>	Min. 4 ft x 6 ft						n/a
<i>Common Open Space</i>	Residential and mixed-use projects: Min. 30% of the total open space provided on-site; Min. dimension 10 ft						Min. dimension 10 ft
<i>Publicly Accessible Open Space</i>	Mixed-use projects: Min. 5% of the total open space provided on-site ⁵ Non-residential projects: Min. 25 contiguous sq ft per 10,000 sq ft non-residential floor area.						Min. 25 contiguous sq ft per 10,000 sq ft non-residential floor area excluding retail, restaurant, or service areas

1. When determining the density of non-traditional housing configurations such as group living accommodations and single-room occupancy residences, three bedrooms may be counted as the equivalent of one unit.
2. Maximum allowed FAR is based on the following sliding scale:
 - 2.5 for properties farther than 3,000 ft from the Milpitas Transit Center;
 - 3.0 for properties within 3,000 ft from the Milpitas Transit Center;

- 3.5 for properties within 2,000 ft from the Milpitas Transit Center;
 - 4.0 for properties within 1,000 ft from the Milpitas Transit Center.
3. Within 60 feet of adjacent existing residentially zoned parcels, building height shall be stepped down to a maximum of 10 feet higher than the maximum allowed height of the adjacent parcel.
 4. A maximum 50% of base footprint may reach 85 feet in height and a maximum 25% of base footprint may reach 275 feet in height.
 5. Required publicly accessible open space may include one or more of the following types of public open spaces: park, plaza, garden, public sitting area.

XI-10-9.05 Metro Area Special Development Standards

A. R3-Metro Zone.

1. On-Site Utilities Requirements.
 - a. Where the allowable dwelling units exceed six for a single parcel or the total area to be subdivided exceeds three acres, all on-site utilities are to be placed underground.
 - b. Television antennas are to be centralized for structures of four or more units.
2. Trash and Storage Areas and Areas for Collecting and Loading Recyclable Materials.
 - a. There shall be provided areas for collecting and loading recyclable materials in accordance with the requirements of Section 10-54.12 of this Chapter.
 - b. All outdoor storage and trash areas shall be within a completely enclosed building or behind a solid wall or tight board fence a minimum of six feet in height.

B. 2023-2031 Housing Element Rezone Sites. Rezone sites are listed in the City of Milpitas 2023-2031 Housing Element, Appendix E, Table E-14. Rezone sites within the Metro Specific Plan are sites R-11 to R-29, which all provide lower-income housing capacity (see City of Milpitas 2023-2031 Housing Element Table E-14 and Figures E-4 and E-5). On these rezone sites (sites R-11 to R-29), the following shall apply:

1. Owner-occupied and rental multi-family housing uses shall be allowed by right (i.e., without any discretionary review) when at least 20 percent of the units will be affordable to lower income households.
2. 100 percent residential use is allowed.
3. A minimum of 50 percent of the floor area in mixed-use projects must be occupied by residential use(s).

C. BPRD-Metro and BPRD-R-Metro zones.

1. Fences, Hedges and Walls.
 - a. All planting, fencing and walls for new development, including but not restricted to fences and walls along rear and interior side property lines shall be approved by the review authority. Modifications regarding landscaping, fencing and walls at existing developed sites shall be subject to the provisions of Subsection 54.10, Fences and Walls, of this Chapter.
 - b. Temporary buffers must be installed when residential uses are developed adjacent to existing industrial uses. The buffers, which may be fences, walls, or vegetation, are subject to the provisions of Subsection 54.10, Fences and Walls, of this Chapter and must be reviewed and approved by the City Planning Department. The temporary buffers may be removed if and when an adjacent site is redeveloped as a non-industrial use.

2. Utilities. All wires, pipes, cables and utility connections shall be placed in underground or subsurface conduits. All above ground transformers and vaults for new development shall be adequately screened to the approval of the review authority. Modifications regarding subsurface conduits or above ground transformers and vaults at existing developed sites shall be subject to the provisions of Subsection 54.16, Trash Enclosures, Equipment and their Screening, of this Chapter.
3. Loading dock/doors. A maximum of two loading docks are allowed for any single project and must be located out of view from the primary abutting right-of-way.
4. Areas for Collecting and Loading Recyclable Materials. There shall be provided areas for collecting and loading recyclable materials in accordance with the requirements of Subsection 54.12, Areas for collecting and loading recyclable materials, of this Chapter.
4. Legal Nonconforming projects. Existing developments lawful at the time of installation or improvements which have been approved and a building permit issued prior to June 17, 1982, and installed in conformance with said approval and permit are considered legal nonconforming projects.
5. Uses in the BPRD-Metro and BPRD-R-Metro zones shall:
 - a. Emit no obnoxious, toxic or corrosive fumes or gases.
 - b. Emit no odors perceptible at the property line.
 - c. Emit no smoke.
 - d. Discharge into the air no dust or other particulate matter created by any industrial operations or emanating from any products stored prior or subsequent to processing.
 - e. Produce no heat or glare perceptible beyond the lot boundaries.
 - f. Utilize all lighting in a manner which produces no glare on public streets or on any other parcel.
 - g. Produce no physical vibrations perceptible at or beyond the lot boundaries.
 - h. Produce no electromagnetic radiation or radioactive emission injurious to human beings, animals or vegetation, except under controlled operations being conducted observing standards or methods or operation established by the Nuclear Regulatory Commission. Electromagnetic radiation or radioactive emissions shall not be of an intensity that interferes with the use of any other property.
 - i. Do not engage in the production or storage of any material designed for use as an explosive, or in the use of such material in production.
 - j. Indicate that all industrial uses shall use only gas, electricity, or preheated oil as a fuel; provided, however, that oil-burning equipment may be installed for stand-by emergency use only.
- D. Equipment and Screening in all Metro Zones.
 1. Trash enclosures and utility equipment (mechanical, electrical, and plumbing) may not be located within the front setback. Public utilities are excluded from this requirement.
 2. All exterior equipment and enclosures shall be screened or incorporated into the design of buildings so as not to be visible from public rights of way or public spaces.
 3. See also Subsection 54.16 – Trash Enclosures, Equipment and their Screening for standards related to equipment and screening.

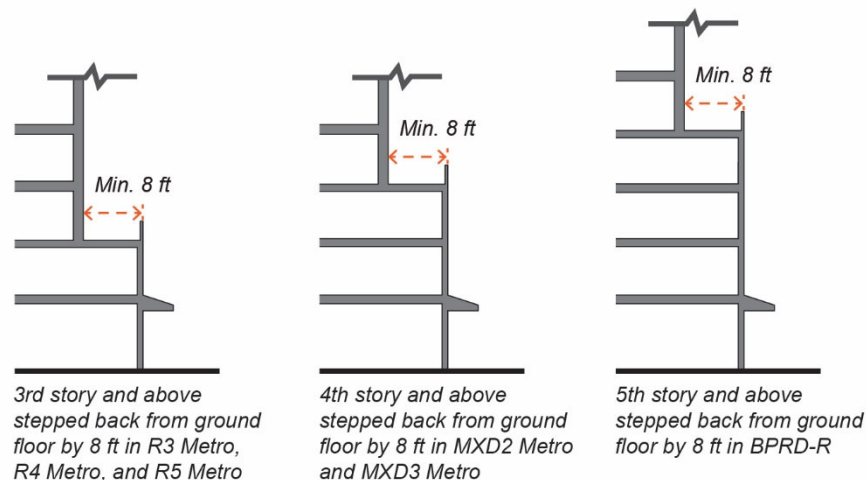
XI-10-9.06 Metro Area Special Design Standards

- A. All residential and residential mixed-use development must comply with the Milpitas Residential and Mixed-Use Objective Design Standards in addition to the standards of this Subsection 10-9.06. Where standards of

this Subsection conflict with those of the Objective Design Standards, the Objective Design Standards supersede.

- B. All non-residential development in the BPRD-R-Metro, BPRD-Metro zones must comply with the standards of Section 10-7.05, Special Design Standards for the BPRD Zone in addition to the standards of this Subsection 10-9.06. Where standards of this Subsection conflict with those of Section 10-7.05, the more restrictive standard applies.
- C. Block Length.
 - 1. Blocks may not exceed 700 feet in length.
 - 2. Blocks more than 500 feet in length must incorporate a mid-block pedestrian and bicycle through connection.
- D. Building Articulation.
 - 1. In the R3-Metro, R4-Metro and R5-Metro zones, the third floor and above must be stepped-back from the ground-floor street-facing building façade by a minimum of 8 feet.
 - 2. In the MXD2-Metro and MXD3-Metro zones, the fourth floor and above must be stepped-back from the ground-floor street-facing building façade by a minimum of 8 feet.
 - 3. In the BPRD-R Zone, the fifth floor and above must be stepped-back from the ground-floor street-facing building façade by a minimum of 8 feet.

Figure 9.06-1: Building Step-Back

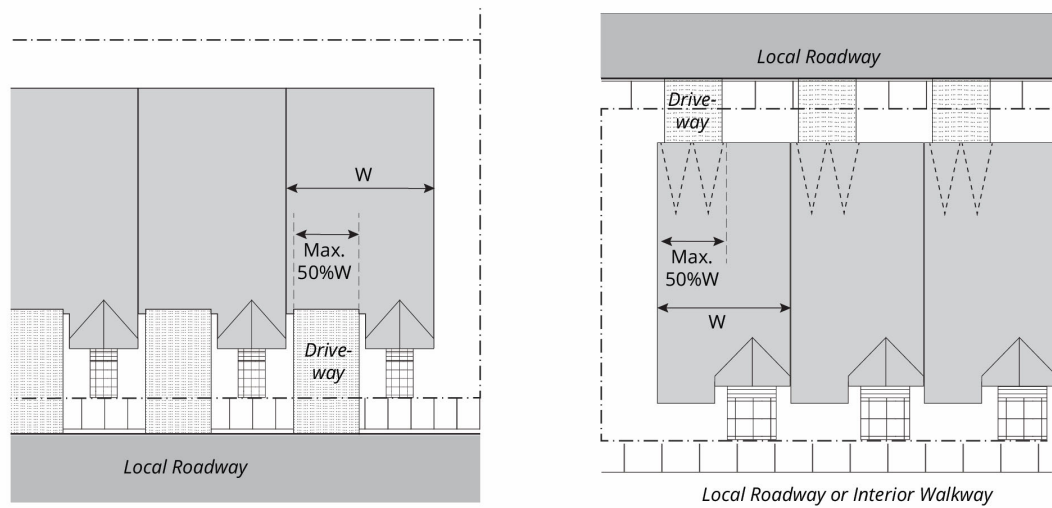


- 4. Non-residential building façades over 80 feet in length shall break up long street walls through at least two of the following features: recesses a minimum six feet in depth; awnings; colonnades; projections a minimum four feet in depth; step-backs a minimum six feet in depth; window reveals; cornice treatment; and changes in color and material.
- 5. Non-residential building height must vary such that the building has at least one change in height of at least one story. This may be achieved through changes in pitch, plane, orientation, a change in the number of stories, differentiated forms, projections and recesses and/or special architectural features such as towers.

- E. Ground Floor Commercial Design Standards. On retail mixed use streets, and in any other areas with ground floor retail, restaurant, and commercial service uses, the following standards apply:
1. Ground floor spaces shall be a minimum of 60 feet in depth for a minimum of 50 percent of the space, and a minimum of 40 feet in depth for any remaining space.
 2. Floor to Ceiling Height.
 - a. Retail: Minimum 18 feet floor-to-floor and a minimum 14 feet clear.
 - b. Office: Minimum 14 feet.
 3. Building Entrances. There shall be at least one entrance per 100 feet of building frontage and the main entrance may not face a parking lot.
 4. Wall Plane Articulation. Windows, doors, columns, and other features shall be recessed or project forward, such that there is a six-inch difference between wall and window surfaces and a total of at least eighteen inches from the window to the outermost plane of a wall or column.
 5. Floor Elevation. Ground floor elevation shall be no more than two feet above or below the sidewalk level.
- F. Building Materials.
1. Ground Floor Materials. All ground floor exterior materials shall be durable, quality materials, such as glass, concrete, precast concrete, aluminum and high quality metal panels, composite panels, stone, and stucco.
 2. Non-residential Building Materials. Primary building materials in all non-residential construction shall store carbon (e.g., wood, calcium carbonate-based cementitious substances, synthetic limestone).
 3. Glass Materials. Glass types shall be clear glass, frit glass, sandblasted glass, spandrel glass, or channel glass. Glazing should provide a high degree of light transmittance and be non-reflective.
 4. Roofing Materials. Roof design and materials shall include vegetated roofs, high-albedo built-up roofs, high albedo single-ply roofing, metal, terracotta tile, concrete tile, composite concrete tile, skylights, solar collectors, and photovoltaics.
 4. Window Materials. Vinyl-frame windows and doors are prohibited. Wood-framed windows must have metal or fiberglass cladding on the exterior. Metal-frame windows must be thermally broken.
- G. Unit Design.
1. A minimum of 10 percent of units in any single residential project shall be designed to be accessible to all users using the principles of Universal Design.
 2. Public plazas shall be constructed with ADA-compliant ramps and tactile warning strips at the crosswalks. Equipment and facilities such as tables, trash cans, restrooms, and drinking fountains should allow for universal access, including people of all ages and ability levels.
- H. Landscaping and Site Design.
1. All development projects shall include on-site vegetated stormwater treatment and landscaping and shade trees at a rate of one tree per 5,000 square feet of the residential building footprint and one tree for every 10,000 square feet of developed lot area for non-residential or mixed-use development.
 2. Where a creek runs under a site, the applicant must coordinate with the City Planning Department to daylight the waterway as part of the site design.
 3. All applicants shall also reference the Santa Clara Valley Urban Runoff Pollution Prevention Program C.3 Stormwater Handbook.

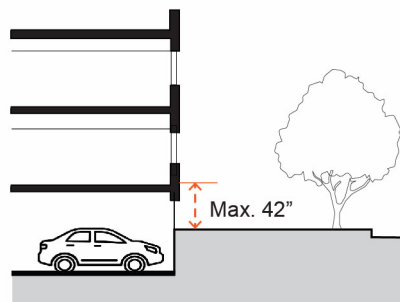
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- I. Parks and Publicly Accessible Open Spaces.
1. All development projects shall dedicate land for parks if a park is shown on the subject property on Figure 2-16: Existing and Proposed Parks, of the Metro Specific Plan.
 2. Privately-owned public open space must remain accessible and open to the public during business hours. Private single-access gates are prohibited.
 2. The Recreational Value System as described in the Metro Specific Plan Section 2.8, Parks and Public Spaces Framework, shall be used to ensure park improvements provide a diversity of active, contemplative, and social gathering experiences.
 3. Parks must be bordered by a public right-of-way such as a street, trail or railroad, on at least three sides, and must be clearly visible and accessible from all abutting rights-of-way.
 4. Small neighborhood-serving parks less than one-quarter acre must be located a minimum 500 feet from Montague Expressway, the Great Mall Parkway, or any rail line.
 5. Seating shall be provided in all publicly-accessible open spaces. Seating may include both moveable and fixed seating as well as seat walls, steps, boulders, and other multi-use objects and must be placed along pathways and within or near gathering spaces.
- J. Common and Private Open Spaces.
1. Private open spaces may take the form of balconies, patios, gardens, porches, decks, or roof decks.
 2. Usable open space surfaces may be any combination of lawn, garden, flagstone, wood planking, concrete, or other dust-free surfacing, and may not exceed 10 percent slope.
 2. Universal access shall be provided to all rooftop amenities. An accessible path to a publicly accessible restroom on an adjacent floor or at the rooftop level shall be provided for any common outdoor open space on the rooftop.
 3. A minimum of 10 percent of common rooftop open spaces shall be landscaped using green roofs or planters.
- K. Parking Design. Where parking is required or proposed, it must comply with the following:
1. Parking location. Off-street parking must be located in:
 - a. Ground-floor “tuck-under” individually secured garages;
 - b. Shared garages (podium or underground); or
 - c. Above-ground structures “wrapped” with habitable uses.
 2. Tandem Parking. Tandem parking may be provided in accordance with the following:
 - a. No more than two vehicles may be placed one behind the other.
 - b. Both spaces shall be assigned to a single dwelling unit or to employees of the same non-residential establishment.
 - c. Each tandem parking bay must be a minimum 40 feet in length by 10 feet in width.
 3. Ground-level visibility.
 - a. Individually secured garages. Individually secured garages shall be accessed from a shared rear or side drive aisle where such abuts the property. Where individual garages are accessed from the right-of-way, garages shall occupy no more than 50 percent of the frontage of each unit.
-

Figure 9.06-2: Individual Garages



- b. Structured parking. Structured parking may not be located along the ground-level building frontage unless the parking is:
 - i. Recessed a minimum of four feet from the rest of the building façade and screened with a living wall or textured or decorative screening; or
 - ii. Designed such that the parking area is located in a basement, where the vertical distance from grade to the finished floor directly above the parking area is a maximum of 42 inches.

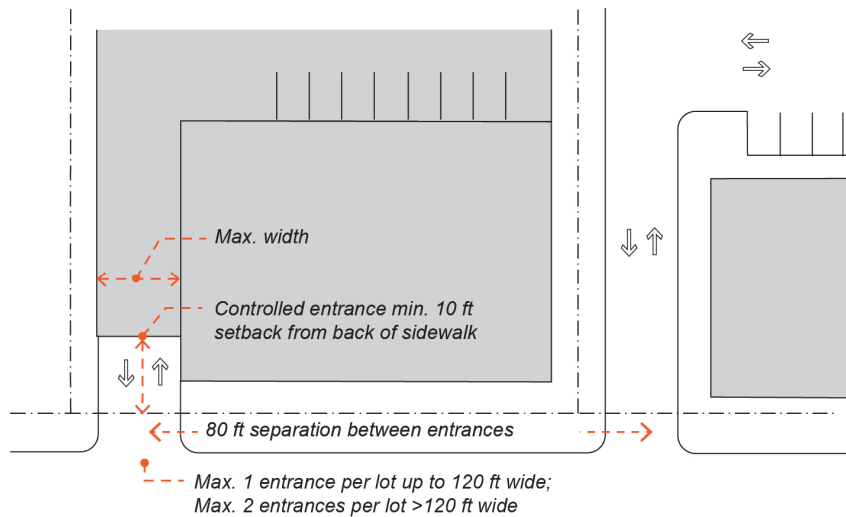
Figure 9.06-3: Structured Parking Ground Level



4. Upper-level visibility. All upper-level street-facing structured parking must be screened from view from the right-of-way by at least one of the following features:
 - a. Regular openings designed to resemble windows of habitable spaces that do not reflect the sloping floor lines of interior parking ramps on the facade;
 - b. A trellis or living wall; or
 - c. Textured or decorative screening.
5. Vehicle access. Parking must comply with the following standards:
 - a. A maximum of one driveway to shared parking is permitted on street frontages up to 120 feet in length; a maximum of two shared driveways are permitted on street frontages exceeding 120 feet in length.

- b. Controlled entrances to shared parking facilities (i.e., gates, doors, etc.) shall be located a minimum of 10 feet from the back of sidewalk.
- c. Vehicular entrances to parking areas shall be a minimum of 80 horizontal feet from vehicular entrances to parking areas on adjacent properties.
- d. Mechanical parking lifts are allowed in all structured parking configurations.

Figure 9.06-4: Parking Access



- 6. Parking separation. Parking for residential units shall be physically separated from parking for non-residential uses through a controlled fence, gate, or other barrier.
- L. Pedestrian and Bicycle Circulation.
- 1. A system of pedestrian walkways shall connect all primary buildings entrances on a site to each other, to on-site automobile and bicycle parking areas, and to any on-site open space areas, pedestrian amenities, and transit stops.
 - 2. Walkways shall be the shortest practical distance between the primary building entrance and sidewalk, generally no more than 125 percent of the straight-line distance.
 - 3. Walkways must link the entrances with on-site open spaces, on-site services, and other internal facilities.
 - 4. Walkways shall be a minimum of five feet wide, hard-surfaced, and paved with permeable materials.
 - 5. Where a required walkway crosses a driveway, parking area, or loading area, it must be clearly identifiable through a raised crosswalk, a different paving material, or similar method.
 - 6. Where a required walkway is parallel and adjacent to a vehicle travel area, it must be raised or separated from the vehicle travel lane by a raised curb at least four inches high, bollards, or other physical barrier.
- M. Utilities.
- 1. Utilities shall be placed in underground or subsurface conduits.
 - 2. All mechanical equipment, ground transformers and meters shall be located and screened to minimize visual impacts.

3. Rooftop mechanical equipment shall be concealed from street level views through roof designs that area architecturally integrated with the building, such as equipment wells and parapets.
4. Public utility distribution meters, vaults and similar installations shall be consolidated in a single area whenever possible and located away from highly visible areas such as street corners and public open spaces.
5. Backflow preventors shall be located within landscaped setback areas and painted black or dark green to minimize visual impact. Where no landscaped setback areas exist the backflow preventors shall be incorporated into the front of the building to minimize visual obtrusiveness.
6. Refuse and recycling containers shall not be visible from a public or private street. Such containers shall be stored either within the parking facility of the building or within a vehicular accessway with screening designed to meet the requirements of this section.
7. Trash enclosure walls shall incorporate building materials and colors that match the architecture of the building and be well landscaped.
8. All telecommunications antennas shall be building facade or roof mounted and screened appropriately.
9. On Main Street only telecommunication facilities that are disguised to appear as a part of the building architecture (i.e., "stealth" antennas) may be used.

XI-10-9.07 Affordable Housing

Affordable housing units should be provided in all new housing projects consistent with Title XII, Chapter 1 (Affordable Housing Ordinance).

XI-10-9.08 Exceptions to Standards

1. Exceptions to all but the use, floor area ratio, density, and park land requirement regulations of this Section may be approved by the Planning Commission through approval of a Conditional Use Permit in accordance with the requirements of Section 57, Conditional Uses Permitted by Commission, of this Chapter.
2. In addition to the required findings under Chapter 57, the Planning Commission must be able to make the following additional findings for such exceptions:
 - a. The exceptions meet the design intent identified within the Zoning District and/or Specific Plan and do not detract from the overall architectural, landscaping and site planning integrity of the proposed development.
 - b. The exceptions allow for a public benefit not otherwise obtainable through the strict application of the specified standard.
 - c. The project design in its totality does not adversely impact adjoining properties to a greater degree than a project that complies with all development standards. Impacts to be considered include: access to sunlight, views, shadows on parks and open space, privacy, and noise.

Section 53 Off-Street Parking Regulations¹

XI-10-53.01 Purpose and Intent

The following off-street parking requirements are regulations which are established in order to achieve, among others, the following purposes:

1. To establish minimum requirements for the off-street parking of motor vehicles in accordance with the use established on the property;
2. To relieve congestion on streets, and to provide more fully for movement of traffic, maneuvering of emergency vehicles or street maintenance equipment;
3. To protect neighborhoods from vehicular traffic congestion generated by the adjacent nonresidential uses of land; and
4. To promote the general welfare and convenience and prosperity of residential, commercial and manufacturing developments which depend upon the availability of off-street parking facilities.

(Ord. No. 38.785, § 7, 4-7-09)

XI-10-53.03 Applicability

Off-street parking spaces shall be provided in accordance with the schedule in Table 53.09-~~13~~³, Number of Parking Spaces Required, of this Section and improved as per Section 54.03 as a condition precedent to the occupancy of an institutional, commercial or manufacturing use and in conformance with other provisions of this Chapter:

1. Whenever a building is constructed; or
2. Whenever an existing building or use is altered, resulting in an increase in floor area, seating capacity or other units of measurement specified herein for required parking or loading facilities; or
3. Whenever the use of an existing building is changed to a use requiring fifty percent (50%) or more off-street parking spaces, as determined by the provisions of Table 53.09-~~13~~³, Number of Parking Spaces Required, of this Section.

(Ord. No. 38.785, § 7, 4-7-09)

¹Editor's note(s)—Ord. No. 38.785, § 7, adopted April 7, 2009, amended the Code by repealing former Section 53, §§ XI-10-53.01—XI-10-53.23, and adding a new Section 53. Former Section 53 pertained to similar subject matter, and derived from Ord. 38, adopted March 15, 1955; Ord. 38.384, adopted October 26, 1976; Ord. 38.530, adopted July 21, 1981; Ord. 38.546, adopted May, 1982; Ord. 38.665, adopted October 29, 1991; Ord. 38.675, October 20, 1992; Ord. 38.702, adopted August 15, 1995; Ord. 38.708, adopted August 6, 1996; Ord. 38.716, adopted September 15, 1998; Ord. 38.759, adopted April 2, 2002; Ord. 38.760, adopted September 17, 2002; Ord. 38.761, adopted May 20, 2003; Ord. 38.763, adopted April 20, 2004; and Ord. 38.776, adopted March 18, 2008.

XI-10-53.05 Maintenance of Off-Street Parking

- A. Continuation of Off-Street Parking. All off-street parking spaces shall continue unobstructed in operation, shall not be used for vehicle repair work of any kind unless within a building, and shall not be reduced below the required size as long as the primary use remains, unless an equivalent number of spaces is provided for said use in another approved location. This does not apply to those parking spaces which are established on a voluntary basis which are in excess of the requirements of this Chapter.
- B. Temporary Sales, Storage and Advertising. The sale or storage of merchandise in permissive parking areas may be allowed by the Zoning Administrator through the approval of a Minor Site Development Permit and subject to such reasonable conditions as may be deemed necessary by the Planning Commission to ensure adequate parking, access and circulation.

In no event shall any off-street parking space (permissive or otherwise) or lot be used for the stopping, standing or parking of any vehicle(s) for either the purpose of selling such vehicle (excluding an approved car sales lot), or advertising any other property, services or products on said vehicle.
- C. Maintenance. All parking areas shall be kept clean and free of dirt, oil, mud or trash; pavement and striping shall be maintained in a continuous state of good repair.
- D. Acknowledgment of Parking Spaces in Residential Projects. For new residential tract, multi-family or condominium projects, the amount and type of parking available to each dwelling unit shall be clearly stated within the CC&Rs in large font and bold lettering to the approval of the City Attorney or designee.

(Ord. No. 38.834 , § 8, 8/20/19; Ord. No. 38.785, § 7, 4-7-09)

XI-10-53.07 Types of Parking Allowed

- A. Standard Parking Spaces. The number of parking spaces required for various land uses shall be as required in Table 53.09-~~4~~3, Number of Parking Spaces Required. Parking spaces shall be designed as required in Subsection 53.13, Design Standards for Off-Street Parking Facilities, of this Chapter.
- B. Compact Parking Spaces. For parking areas and garages containing ten (10) or more stalls serving the following uses in Subsection 53.07(B)(1), up to forty percent (40%) of the required and non-required stalls may be designed as compact stalls to accommodate compact cars.
 - 1. Applicable uses.
 - a. Commercial uses (CO, C1, C2, HS, TC zones).
 - i. Standards. Compact stalls shall be dispersed throughout the parking lot.
 - b. Industrial uses.
 - i. Research and Development (R and D) facilities.
 - ii. Manufacturing facilities.
 - iii. Warehouse/distribution facilities.
 - iv. Other industrial uses deemed appropriate by the Planning Commission.
 - c. Multi-Family Residential uses.
 - i. Projects within R3, R4, and R5 zones.
 - 2. Design Standards. See Subsection 53.13, Design Standards for Off-Street Parking Facilities, of this Section.

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- C. Disabled Accessible Parking Spaces. Parking spaces for the disabled shall comply in all respects with the requirements of the California Code of Regulations (State Building Code) or Federal law, where such prevails over State law.
 - D. Tandem Parking Spaces.
 - 1. Applicability. Tandem parking may be allowed with the approval of a Conditional Use Permit, in accordance with Section 57.04, Conditional Use Permits, of this Chapter.
 - 2. Standards.
 - a. Maximum allowed.
 - i. A maximum of seventy-five percent (75%) of parking required for residential uses may be tandem parking in projects with open structured parking facilities (e.g. single level or multi-level parking structures).
 - ii. A maximum of fifty percent (50%) of parking required for residential uses may be tandem parking in projects with private individual garages.
 - b. Tandem parking spaces shall be a maximum of two (2) parking spaces deep.
 - c. When tandem parking spaces are used in private garages or other parking facilities with more than two (2) parking spaces, they shall be assigned and marked for resident use.
 - E. Bicycle or Motorcycle Parking Spaces. The number of parking spaces required for various land uses shall be as required in Table 53.09-~~43~~, Number of Parking Spaces Required. Parking spaces shall be designed as required in Subsection 53.13, Design Standards for Off-Street Parking Facilities, of this Chapter.

(Ord. No. 38.785, § 7, 4-7-09)

XI-10-53.09 Off-Street Parking Required by Land Use

- A. Enforcement and Interpretation of Parking Requirements.
 - 1. Number of Off-Street Parking Spaces Required. The number of off-street parking spaces required for the land uses identified in the Permitted and Conditional Use Tables of this Chapter are listed in Table 53.09-~~43~~, Number of Parking Spaces Required, except where parking requirements are established in Section 13, Special Uses, of this Chapter, or exceptions to these requirements are granted in accordance with this Section.
 - 2. Uses not specified. In the case of a use not specifically mentioned in Table 53.09-~~43~~, Number of Parking Spaces Required, or elsewhere in this Chapter, the requirements for off-street parking facilities shall be determined by the Planning Commission through the Interpretation process, in accordance with Section 61, Interpretation, of this Chapter, based on uses which create similar demands for off-street parking spaces. The Planning Commission may draw upon the experience of other local cities to make their decision.
 - 3. New Buildings Without Tenants. If the type of tenants that will occupy a nonresidential building, or the nonresidential portion of a mixed-use building, is not known at the time the new building is being proposed, the number of parking spaces required for the nonresidential uses will be determined through the discretionary review process.
 - 4. Mixed occupancies and uses. When two or more uses are located in the same lot or parcel of land or within the same building, the number of off-street parking spaces required shall be the sum total of the requirements of the various individual uses computed separately in accordance with the provisions of this Section and Section 13, Special Uses, when applicable.

Exception: For alternative parking computation in accordance with Subsection 53.11, Shared Parking, of this Chapter.

5. Measurement Standards and Definitions. For the purpose of determining off-street parking requirements, the following definitions and standards shall apply:
 - a. Gross Floor Area: The total of all the floors measured from the interior faces of the building, and outdoor areas used for retail purposes.
 - b. Net Floor Area (NFA): Net Floor Area shall mean the Gross Floor Areas less twenty percent (20%).
 - c. Seat: The number of seating units installed or indicated, or each twenty-four (24) lineal inches of benches, pews, or space for loose chairs. For places of meeting or assembly that do not include fixed seating, seven (7) square feet shall equal one (1) seat.
 - d. Employees/students: The maximum number of employees/students on the principal shift or period.
 - e. Fractional Measurements: When units or measurements determining the number of required off-street parking spaces result in a requirement of fractional space, any fraction up to and including (.49) shall be rounded down to the nearest whole number and fractions including and over (.50) shall be rounded up to the nearest whole number. For example, 7.41 would be rounded to 7 and 7.61 would be rounded to 8.
6. More than One Parking Ratio. Where more than one (1) parking ratio is shown for a particular use, the required number of spaces shall be the total of all ratios shown. For example, the parking requirement for hotel is "1 per unit, 2 for the manager's unit." The total parking requirement for a hotel is the sum of the required parking for the units and two (2) spaces for the manager's unit.

- B. Permissive Parking Facilities. Nothing in this Section shall prevent the voluntary establishment of off-street parking facilities in excess of the requirements of this Section to serve any existing use of land or buildings, provided that all regulations herein governing the location, size and access design, improvement and operation of such facilities are adhered to.

~~Exception: The Transit Area Specific Plan has a standard for the maximum number of parking allowed.~~

- C. Number of Parking Spaces Required. The number of off-street parking spaces required for various land uses shall be as listed in Table 53.09-1~~3~~, Number of Parking Spaces Required, except for those listed specifically elsewhere in this Chapter. Unless otherwise indicated, the parking requirements are for square feet of gross floor area occupied by the use and, in the case of nonresidential uses, include the parking required for customers and employees.

~~Exception:~~ Exceptions:

1. Where a portion of a structure is used for automobile parking, that portion shall not be counted in calculating the required parking for the structure. If parking is eliminated and the space is occupied by another use, parking shall be required for the use as indicated for the use in this Chapter.
2. Metro Specific Plan Area. Off-street parking requirements and bicycle parking requirements for all uses in the Metro Specific Plan area are as follows:

Table 53.09-1
Vehicle Parking Requirements in the Metro Zones

<u>Use</u>	<u>Minimum</u>	<u>Maximum¹</u>
<u>Residential and lodging uses</u>	<u>None</u>	<u>1.5 spaces per unit</u>
<u>Industrial uses</u>	<u>None</u>	<u>2 spaces per 1,000 square feet</u>
<u>All other non-residential uses</u>	<u>None</u>	<u>1 space per 1,000 square feet</u>

¹ Valet, tandem spaces, and mechanical lift stalls are counted as individual spaces.

Table 53.09-2
Bicycle Parking Requirements in the Metro Zones

Use	Minimum, Long-Term Spaces	Minimum, Short-Term Spaces
Multi-family residential uses	0.5 spaces per bedroom	0.1 spaces per bedroom
Retail uses	1 space per 10,000 square feet	1 space per 5,000 square feet
Offices, Business and Professional	1.5 spaces per 10,000 square feet	1 space per 20,000 square feet
All other uses	None	None

Table 53.09-3
Number of Parking Spaces Required

Use	Minimum Parking Spaces Required
A. Commercial Uses	
Business Support Services	1 per 350 sq. ft.
Furniture and appliance stores and other bulky item retail; Furniture Repair and Reupholstery	1 per 350 sq. ft.
General Retail, <u>Grocery</u> and Convenience Stores <u>uses</u> ; Check Cashing	1 per 200 sq. ft.
Mortuary, funeral parlor	1 per 4 seats and 1 per employee
Personal Services	1 per 200 sq. ft.
Plant nursery	1 per 200 sq. ft.
Repair and Cleaning, Small Items	1 per 200 sq. ft.
B. Entertainment and Recreation	
Arcade and amusement	1 per 200 sq. ft.
Billiards	1 per 200 sq. ft.
Bowling Alleys including incidental accessory uses (eating and drinking, billiards, etc.)	6 per alley or lane
Clubs and Lodges	1 per 200 sq. ft.
Commercial Athletic Facility (indoor)	1 per 150 sq. ft.
With outdoor or indoor sports courts	
Small courts (tennis, badminton)	2 per court plus required parking for other uses on site.
Large courts (basketball, volleyball)	5 per court plus required parking for other uses on site.
Golf Course	6 per hole plus parking for ancillary uses
Miniature Golf	1.25 per tee, plus 1 per employee
Motion Picture Theater (indoor)	1 per 3.5 seats
Nightclub	1 per 30 sq. ft.
C. Health and Veterinarian Uses	
Convalescent Homes	1 per 2 beds or 1 per 1,000 sq. ft, whichever is greater
Hospital	1 per bed or 1 per 220 sq. ft., whichever is greater
Kennel, indoor	1 per 1,000
Massage Establishments	Two per treatment room or if no treatment room, one per 2 chairs or 2 tables
Medical and dental Clinic and Office	1 per 225 sq. ft.
Veterinary Clinic and Animal Grooming	1 per 250 sq. ft.

D. Industrial Uses	
<u>Custom and artisan manufacturing, Contractor's shop</u>	<u>1 per 500 sq. ft</u>
Distribution <u>Data Centers</u> Manufacturing Processing/Plant (Dry-cleaning plant, photo finishing/printing, etc.) Warehousing <u>and Distribution</u>	1 per 1,500 sq. ft.
Mini Storage	1 per 5,000 sq. ft., plus 1 per resident manager
<u>Parcel hub</u>	<u>1 per 2,000 sq ft plus 1 truck parking space for each delivery vehicle on-site during the peak time. The requirement for delivery truck parking is not intended to accommodate semi trucks delivering products to the site.</u>
Wholesale <u>Sales</u>	1 per 500 sq. ft.
Research and Development Medical Laboratories Soils and Materials Testing Laboratories High employee demand uses	1 per 300 sq. ft.
Office space within an industrial building (to be combined with categories above)	1 per 350 sq. ft.
E. Lodging	
Extended Stay Hotels	0.7 per guest room or unit ⁵
Hotels	0.7 per guest room ⁵
Motels	0.7 per guest room ⁵
F. Professional Offices, Financial Institutions and Related Uses	
Automated Teller Machine (free standing)	2 per machine
Financial institutions (banks, savings and loans, etc.)	1 per 180 sq. ft.
Offices, business and professional	1 per 240 sq. ft.
G. Public, Quasi-Public and Assembly Uses	
Adult Day Care	1 per 500 sq. ft.
Auditoriums and theaters and places of meeting and assembly	1 per 4 seats
<i>Child Care Uses^{2, 3}:</i>	
Day Care School	1 per classroom or 1 per 500 sq. ft., whichever is greater.
Small family child care home	Same as required for underlying residential use
Large Family Child Care Home and Child Care Centers	1 per 1.5 employees
Community Center	1 per 4 fixed seats, or 1 per 6 linear feet of seating, plus 1 per 200 square feet of area without seating but designed for meeting or assembly by guests, plus 1 per 500 sq. ft. of outdoor area developed for recreational purposes
<u>Community Garden</u>	<u>Determined by Planning Director</u>
Museums	1 per 400 sq. ft.
Public Utilities	1 per 400 sq. ft.
Religious Institutions	1 per 5 seats in the main area of assembly plus parking for classrooms and offices in this table. Where there are no seats, then 1 seat equals 7 sq. ft.
<i>Educational Institutions:</i>	

	School-elementary (K-8 Private)	1 per classroom, plus 1 per 240 sq. ft. of office
	School-secondary (9-12 Private)	1 per classroom, plus 1 per 240 sq. ft. of office, plus 1 per 5 students
	Vocational School, including business, professional, technical and trade	1 per 200 sq. ft.
	Instructional Studios (Dance, Yoga)	1 per 150 sq. ft.
	Private instruction, personal enrichment (tutoring)	1 per instructional area or classroom, whichever is greater. No fewer than 3 spaces.
	Stadiums and arenas	1 per 4 seats
H. Restaurants or Food Service		
	Banquet facilities	See restaurants below
	Bars, Drinking Establishments	1 per 30 sq. ft.
	<u>Catering and Commissary</u>	<u>1 per 300 sq. ft. floor area</u>
	Drive thru	See "Vehicle Related Uses" section.
	<i>Restaurants:</i>	
	Sit down:	
	Indoor and outdoor:	1 per 39 square feet of dining area.
	Take out:	1 per 2.5 seats (indoor/outdoor) plus 1 per 60 sq. ft. GFA for the ordering or take out area.
	Mobile food parks	1 per 2.5 seats provide for on-site dining, plus 1 per 60 sq. ft. of lot area dedicated to mobile food vending.
I. Residential Uses		
	Single Family and Duplexes:	
	3 bedrooms or fewer	2 per unit ⁴
	4 or more bedrooms	3 per unit, plus 1 per each additional bedroom ⁴
	Multi-Family (R3—R5 zones):	
	Studio	1 covered per unit
	1 bedroom	1.5 covered per unit
	2—3 bedrooms	2 covered per unit
	4 or more bedrooms	3 per unit, plus 1 additional space for each additional bedroom (at least two covered). ⁴
	Guest parking	
	Projects with Parking structures	15% of the total required, may be uncovered
	Projects with Private garages	20% of the total required, may be uncovered
	Bicycle parking	5% of the total required
	Boarding houses, dormitories, sororities and fraternities, <u>group living accommodations</u>	1 per each room rented
	Live-Work Units	<i>Single family and duplexes</i> parking requirements shall apply, plus 1.5 for the commercial component
	<i>Mixed Use buildings or sites</i>	
	Residential use	
	Studio	1 covered per unit
	1 bedroom	1.5 covered per unit
	2—3 bedrooms	2 covered per unit
	4 or more bedrooms	3 per unit, plus 1 additional space for each additional bedroom (at least two covered). ⁴
	Guest parking	

	Projects with Parking structures	15% of the total required, may be uncovered
	Projects with Private garages	20% of the total required, may be uncovered
	Bicycle parking	5% of total required
Commercial use		
	Ground Floor Retail	1 per 250 sq. ft.
	Office	If building is 1,000 sq. ft. or smaller: 1 per 250 sq. ft. If building is larger than 1,000 sq. ft.: 3.3 per 1,000 sq. ft.
	Short-Term Rentals	1 per unit
	Other uses	Refer to specific uses within this table
	Bicycle parking	5% of total required
Mobile Homes		Refer to Section 13.07, Mobile Homes
Residential Care Facility		<u>1 for every three beds</u>
Senior Housing		1 per unit plus 2 per manager's unit
Single Room Occupancy (SRO)		1 per unit
J. Vehicle Related Uses		
	Auto rental agency	1 per 400 sq. ft. plus 1 per rental vehicle
	Auto repair (tire, oil change, smog check, etc.)	3 per service bay
	Car Wash	1 per 200 sq. ft. of building area and reservoir space outside of building equal to two (2) times the maximum capacity of facility
<i>Gas & Service Stations:</i>		
	With Retail	1 per 200 sq. ft.
	With Auto Repair	3 per service bay
<i>Auto dealerships:</i>		
	Sale or lease of vehicle	1 per 200 sq. ft. of showroom
	Office	1 per 200 sq. ft.
	With Service Bays	3 per service bay
	Window service or drive-thru in conjunction with any other use	The required parking for primary use (restaurant, or other use providing window service) plus queuing of 5 vehicles which do not interfere with any on-site parking spaces

¹ Refer to Subsection 2.03, Definitions, of this Chapter for a full description of "Commercial Services."

² For loading and unloading: One (1) parking space per six (6) children up to five (5) spaces and thereafter one (1) space per ten (10) children. Driveways, garage aprons and street frontage may be counted if appropriate permits are first received when calculating spaces for child care homes. Tandem spaces are prohibited.

³ Exceptions for Child Care Requirements: The parking and loading/unloading requirements for child care facilities may in the Planning Commission's discretion be reduced, based on an empirical study (provided by the applicant) which establishes no adverse effects will occur as a result. The required number of loading/unloading spaces may be reduced without a study by one (1) space for each employee permanently assigned to load and unload children from vehicles.

⁴ Applicable to new and existing projects being remodeled resulting in additional bedrooms submitted for approval after April 7, 2009. Existing projects or projects either entitled or submitted active planning applications prior to April 7, 2009 shall use the parking regulations in effect at the time of entitlement or application submittal. For R4, R5, MXD/MXD2/MXD3 zones, 15% guest parking is legal and conforming for projects entitled or active planning applications submitted prior to April 7, 2009.

⁵ Refer to Subsection XI-10-53.15, Parking Standards for Hotels and Motels, of this Chapter for allowed reductions to minimum parking requirements.

(Ord. No. 38.848 , § 9, 11/15/22; Ord. No. 38.845 , § 13, 6/21/22; Ord. No. 38.841 , § 5, 5/4/21; Ord. No. 38.835 , § 8, 3/3/20; Ord. No. 38.839 , § 14, 12/3/19; Ord. No. 38.808 , § 5, 5/21/13; Ord. No. 38.785 , § 7, 4/7/09)

XI-10-53.11 Shared Parking

- A. Purpose and Intent. Dedicated parking areas for individual uses, especially when provided in new developments, can result in less efficient land usage, lower floor area ratios, and more environmental/water quality impacts.

Shared parking is typically applied when land uses have different parking demand patterns and are able to use the same parking spaces/areas throughout the day. Shared parking is most effective when these land uses have significantly different peak parking characteristics that vary by time of day, day of week, and/or season of the year. In these situations, shared parking strategies will result in fewer total parking spaces needed when compared to the total number of spaces needed for each land use or business separately.

- B. Applicability. Shared parking may be applied in the following situations:
1. In mixed-use developments, which include one or more businesses that are complementary, ancillary, or support other activities. A typical mix of uses includes, but is not limited to: residential, office, restaurants, retail, colleges, churches, cinemas, and special event situations if they can demonstrate that demand patterns vary among uses.
 2. In shopping centers, when more than twenty percent (20%) of gross leasable area is occupied by dining and entertainment uses, (not including pad restaurants, unless they are located within 300 feet of the main shopping center building) shared parking may be applied.
- C. Required Review. Shared parking proposals may be allowed with the approval of a Conditional Use Permit, in accordance with Subsection 57.04, Conditional Use Permits, of this Chapter.
- D. Calculation of Parking Spaces Required with Shared Parking. The minimum number of parking spaces for a mixed use development or where shared parking strategies are proposed shall be determined by a study prepared following the procedures of the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other approved procedures. A formal study may be waived for small developments where there is established experience with the land use mix and its impact is expected to be minimal. The actual number of parking spaces required shall be based on well-recognized sources of parking data such as the ULI or ITE reports. If standard rates are not available or limited, the applicant may collect data at similar sites to establish local parking demand rates. If the shared parking plan assumes use of an existing parking facility, then field surveys may be conducted to determine actual parking accumulation. If possible, these surveys should consider the seasonal peak period for the combination of land uses involved.
- E. Location of Shared Parking Spaces. Shared spaces shall be located within three hundred (300) feet of the use entrances they serve. Up to fifty percent (50%) of nonresidential spaces may be provided at greater distances if dedicated shuttle bus or van service is provided. Clear, safe pedestrian connections must be provided.
- F. Captive Market Parking Requirements. For uses that are considered ancillary to a larger business, no additional parking may be required. Examples of this case include a coffee or snack shop within an office or hotel development, a copy/package store within a business park or redevelopment of small retail uses in a large business district. Parking requirements for similar ancillary uses may be reduced to account for the likely cross patronage among the adjacent uses located within a maximum walking distance of three hundred (300) feet. Parking requirements may be reduced up to ninety percent (90%) as appropriate.
- G. Agreement Between Sharing Property Owners. If a parking facility is to serve two (2) or more separate properties, a legal agreement between property owners guaranteeing access to, use of, and management of designated spaces shall be executed to the satisfaction of the City.
- H. Shared Parking Plan. A shared parking plan shall be submitted to the Planning Division with the following information:

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1. Site plan and required parking calculations of parking spaces intended for shared parking and their proximity to land uses that they will serve.
 2. A signage plan that directs drivers to the most convenient parking areas for each particular use or group of uses (if such distinctions can be made).
 3. A pedestrian circulation plan that shows connections and walkways between parking areas and land uses. These paths should be as direct and short as possible.

(Ord. No. 38.785, § 7, 4-7-09)

XI-10-53.13 Design Standards

A. Location of Parking.

1. Location of Parking in Relationship to a Use.
 - a. Residential Uses: Parking required for all residential uses shall conform with all of the following: (i) be located within the same project site as the use; (ii) be less than 300 feet away from the residential unit it serves; and (iii) shall not be located on any public street, public right-of-way or in any other public area.
 - b. Commercial Services and Retail Stores in the ~~Transit~~Metro or Midtown Specific Plan Areas: Commercial service and retail uses may meet its parking requirements with on-street parking if the project satisfies all of the following conditions: (i) the project site is located within the ~~Transit~~Metro or Midtown Specific Plan Areas; (ii) the on-street parking space is located along the project site frontage directly serving and adjacent to the use; (iii) no more than 50 percent of the required parking spaces shall be allocated on-street unless the commercial or retail use requires ten or less parking spaces; (iv) the on-street parking space is located less than 300 feet away from the use it serves; and (v) the on-street parking space shall be designated as limited time parking in accordance with the California Vehicle Code.
 - c. Other Uses: Required parking for all other uses shall conform with all of the following: (i) be located within the same project site as the use; (ii) be less than 300 feet away from the use for which the parking is required, as provided for in Table 53.09-~~13~~ Number of Parking Spaces Required or Section 13, Special Uses, of this Chapter; and, (iii) shall not be located on any public street, public right-of-way or in any other public area.
2. Location of Residential Parking, Permitted. Vehicles on private property used for residential purposes shall be parked only in paved parking spaces or in driveways which comply with the following standards:
 - a. The driveway provides access to required parking spaces; and
 - b. The vehicle is not blocking access to parking for other residential units.
3. Each automobile parking stall shall be so located that no automobile is required to back onto any public street or sidewalk to leave the parking stall, parking bay or driveway except from a lot in an "R2" or more restrictive zone containing not more than two (2) dwelling units.
4. Parking Location for R5, MXD2 and MXD3 projects.
 - a. No parking spaces area allowed within the front or street side setback areas.
 - b. Parking must be located behind buildings to minimize visibility from public streets.
 - c. At least seventy percent (70%) of the street facing perimeter of above-ground parking shall be wrapped with habitable space.

Exception: Exceptions may be allowed through the approval of a Conditional Use Permit, if the design quality of the structure is equivalent to habitable space.

- d. Parking may be partially above grade along the street, provided that no more than four (4) feet of the structure is above grade. The above-grade area must be wrapped with continuous landscaping that screens parking garage openings.
- 5. Parking Structure access for R5, MXD2 and MXD3 projects.
 - a. No more than one curb cut per street frontage is allowed.
 - b. Parking structure entrances shall be no greater than twenty-two (22) feet wide.
 - c. Parking structure access points shall be set back from the curb so that a car can pull up to the entry gate or ticket machine without blocking the sidewalk.
- B. Parking Space Size.
 - 1. Individual garage.
 - a. Each parking space with a minimum width of ten (10) feet and a minimum length of twenty (20) feet shall be required in residential garages meeting both of the following criteria:
 - i. The individual garage contains four (4) or fewer parking spaces;
 - ii. The individual garage does not include circulation elements such as driveway aisles, but consists primarily of parking spaces.
 - 2. Compact Spaces
 - a. Each stall shall be legibly marked "compact stall" or "small car" on the stall surface. Compact stalls may be used only for the above-listed buildings and uses and only within the Industrial zoning district.
 - b. Parking stalls shall be dispersed throughout the parking lot and not concentrated to discourage oversized vehicles from using the stalls.
 - 3. Tandem Spaces
 - a. Each residential garage tandem (two parking spaces) shall have a minimum width of ten (10) feet and a minimum length of thirty-eight (38) feet.
 - 4. Bicycle or Motorcycle Spaces. Any existing or proposed parking facility may utilize, on a substitution basis, on-site parking spaces for bicycle or motorcycle spaces.
 - a. Said bicycle spaces shall be raised a minimum of six (6) inches from grade of the adjacent parking facility.
 - b. One parking space may be omitted for each eight (8) bicycle spaces provided.
 - c. One parking space may be omitted for each two (2) motorcycle spaces provided.
 - d. Bicycle spaces shall measure at least two (2) feet by seven (7) feet and shall be located in groups of four (4) and shall be of the following three types:
 - i. A rack which secures the frame, or
 - ii. An enclosed bike locker, or
 - iii. A fenced, covered, locked or guarded bike storage area.
 - e. Motorcycle spaces shall measure four (4) feet by eight (8) feet and shall be provided with adequate unobstructed maneuvering areas to permit easy access to the space.

- f. In no instance shall credit for motorcycle or bicycle parking or combination thereof exceed five percent (5%) of the total required parking spaces.
- C. Required Improvements. All parking areas and access driveways shall have a smoothly graded, stabilized and dustless surface with adequate drainage so that injury will not be caused to adjacent properties. Bumper guards or curbs shall be provided in order to define parking spaces or limits of paved areas.

Also refer to Section 54.03 of this Chapter for Improvement of Parking Areas.

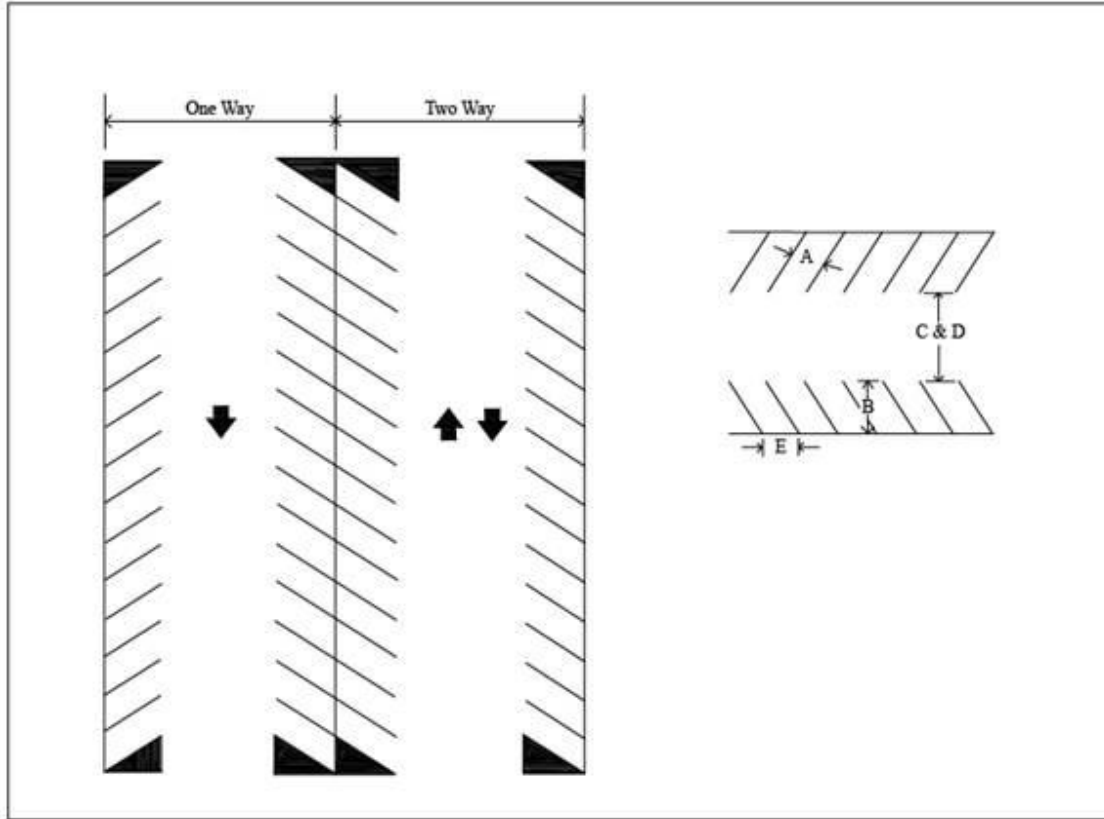
- D. Screening and Landscaping. All open automobile parking areas which abut upon a public street right-of-way shall provide landscaping to a depth of at least ten (10) feet of said street right-of-way and of any adopted plan line, with openings for walkway or drive purposes. Each landscaped planter in said parking facility shall be contained with a six (6) inch raised concrete curb (extruded curbing not permitted). Installation of an irrigation system shall be provided for in each planter area.
- E. Lighting. All lights used to illuminate a parking area shall be designed, located and arranged so as to reflect the light away from any street and any adjacent premises.
- F. Signs. Directional signs are permitted in parking areas in accordance with the adopted Sign Ordinance.
- G. Fencing. A solid masonry wall a minimum height of six (6) feet shall be required on all common property lines when any parking area is established abutting residentially zoned property or property shown on the adopted General Plan as being Residential. The architectural design of said wall shall be to the approval of the Planning Commission through the Site Development Permit process in accordance with Subsection 57.03, Site Development Permits and Minor Site Development Permits, of this Chapter.
- H. Angles and Dimensions
- Vehicle Overhang. Vehicles may overhang two (2) feet into any landscape area or private walkway if the walkway is a minimum six (6) feet in width, but in no event shall the overhang be permitted within any public right-of-way.
 - Stall and drive aisle dimensions. The stall and drive aisle dimensions shall be as follows:

Table 53.13-1
Parking Stall and Drive Aisle Dimensions

Angle	A ¹ Stall Width	B ¹ Stall Depth	C ¹ Aisle Width 1 Way	D ¹ Aisle Width 2 Way	E ¹ Curb Length per Car
Standard size:					
0°	9'	9'	12'	16'	22'
45°	9'	19.5'	12'	22'	12'
60°	9'	21'	18'	22'	10.5'
90°	9'	18'	24'	24'	9'
Compact size: [See Subsection 53.07(B)]					
0°	7.5'	7.5'	12'	15'	17'
45°	7.5'	16'	13'	20'	8.5'
60°	7.5'	17'	15'	20'	8.5'
90°	7.5'	15'	20'	20'	7.5'

¹ Reference to Figure 53.13-1, Parking Stall and Drive Aisle Dimensions

**Figure 53.13-1
Parking Stall and Drive Aisle Dimensions**



3. Backing Space in Residential Projects. A minimum unobstructed vehicular maneuvering distance of 25 feet measured from the opening of the garage or carport shall be provided, except as otherwise permitted in this section.
4. Parking Structures. The parking stall and drive aisle dimensions for Parking Structures, as defined in this Chapter, may be modified with the approval of a Conditional Use Permit in accordance with Section 57 of this Chapter.

(Ord. No. 38.815, § 2, 9-2-14; Ord. No. 38.785, § 7, 4-7-09)

XI-10-53.15 Allowed Reductions to Required Parking for Lodging Uses

- A. Allowed Reductions to Minimum Required Parking. The required parking for lodging uses, including hotels, motels, and extended stay hotels, may be reduced by up to 30 percent at the discretion of the decision-making authority based on a demonstrated program to reduce demand for on-site parking and maximize the efficient use of parking areas. A reduction in required parking shall be granted based on a point system as described in Subsection XI-10-53.15.C.
- B. An applicant requesting a reduction to the minimum required parking for a lodging use shall submit a written description of all proposed parking demand reduction and site design measures and a written justification of the anticipated reduction in parking demand that would result from implementation of such measures.
- C. Point System for Calculation of Parking Reduction. The decision-making authority may grant a reduction in the required number of parking spaces for lodging uses, as outlined in Table 53.15-1, according to the total number of points scored for implementation of parking demand reduction and site design measures.

Table 53.15-1
Point System for Parking Reduction for Lodging Uses

Total Points	Allowed Parking Reduction
60 points or more	30 percent
40 points or more	20 percent
20 points or more	10 percent

1. Parking Reduction for Lodging Near Fixed Guideway Transit. A parking reduction may be granted for a lodging establishment within one-half (0.5) mile of a fixed guideway transit station. Fixed guideway transit means a public transit facility that uses and occupies a separate right-of-way or rail line for the exclusive use of public transit vehicles (15 points).
2. On-Site Parking Demand Reduction and Site Design Measures for Lodging Uses. Any combination of the following measures may be incorporated into the site plan and operational plan for a hotel, motel, or extended stay hotel to support a reduction in the minimum required on-site parking:
 - a. Shared parking agreement with owners of other property or properties in the vicinity of the lodging establishment pursuant to Subsection XI-10-53.11, Shared Parking, of this Chapter. The shared parking spaces must be located within 0.25 mile of the lodging use (10 points for a number of shared parking spaces totaling between 10 and 20 percent of the base parking space requirement for the lodging use; 15 points for a number of shared parking spaces totaling more than 20 percent of the base parking space requirement for the lodging use).
 - b. Providing free monthly transit passes for employees. To qualify for this measure a lodging use must be located within 0.5 mile of a transit route (bus or rail) with service frequency of every 15 minutes or less between the hours of 7:00 a.m. and 7:00 p.m. (10 points).
 - c. Providing free 24-hour airport guest shuttle service (10 points).
 - d. Providing free guest shuttle service to other key destinations (including but not limited to BART and VTA light rail stations, San Jose Diridon Caltrain Station, Levi's Stadium, and major commercial centers) (5 points for shuttle service serving one or two destinations, 10 points for shuttle service serving three or more destinations).
 - e. Providing free shared cars for guest use with dedicated, permanent on-site parking spaces for the shared cars . To qualify for this measure the lodging use must provide at least one shared car for every 50 guest rooms (when applying this calculation, any fractional number of required shared cars shall be rounded up to the nearest whole number) (10 points).
 - f. Providing on-site, free micromobility devices for guest use. To qualify for this measure the lodging use must provide at least one shared micromobility device for every 50 guest rooms (when applying this calculation, any fractional number of required shared micromobility devices shall be rounded up to the nearest whole number). The operator of the lodging establishment shall obtain approval from the Planning Director or designee for the proposed placement and use of micromobility devices prior to commencing operations. The operator of the lodging establishment shall maintain micromobility devices in good working order at all times (5 points).
 - g. Providing valet parking (on-site or at an off-site shared parking location) (5 points for a number of valet parking spaces totaling between 10 and 20 percent of the base parking space requirement for the lodging use; 10 points for a number of valet parking spaces totaling more than 20 percent of the base parking space requirement for the lodging use).
 - h. Mechanical lifts for vehicles (if provided, lifts must be operated by staff of the lodging establishment) (5 points for a number of mechanical lift spaces totaling between 10 and 20 percent of the base parking space requirement for the lodging use; 10 points for a number of

mechanical lift spaces totaling more than 20 percent of the base parking space requirement for the lodging use).

- i. Charging a daily fee of \$25 or more for on-site parking of guest vehicles (10 points).
- j. Offering prepaid transit cards (Clipper) to guests (5 points).
- k. Featuring public transportation information and links on lodging establishment's website (schedules and route maps for Valley Transportation Authority [VTA] bus and light rail and/or Bay Area Rapid Transit [BART] regional rail) (3 points).
- l. Providing dedicated on-site passenger pickup/dropoff zones (3 points).
- m. Active marketing of guest shuttle services, on-site shared cars, and/or on-site shared micromobility devices, via the lodging establishment's website and other electronic and/or print advertising materials (3 points).
- n. Other measures as preproposed by lodging establishment operator (points to be determined by the decision-making authority based on the potential for parking demand reduction of the proposed measure).

(Ord. No. 38.841 , § 6, 5/4/21)

Section 54 General Provisions

XI-10-54.18 ~~Reserved.~~ 2023-2031 Housing Element Sites

- A. Reused Sites. Reused sites are opportunity and rezone sites listed in the City of Milpitas 2023-2031 Housing Element, Appendix E, Tables E-13 and E-14 that are identified for lower-income housing capacity and as a 5th Cycle Housing Element site. On these reused sites, owner-occupied and rental multi-family housing uses shall be allowed by right (i.e., without any discretionary review) when at least 20 percent of the units will be affordable to lower income households.
- B. Rezone Sites. Rezone sites are listed in the City of Milpitas 2023-2031 Housing Element, Appendix E, Table E-14 that are identified for lower-income housing capacity. On these rezone sites, the following shall apply:
 - 1. Owner-occupied and rental multi-family housing uses shall be allowed by right (i.e., without any discretionary review) when at least 20 percent of the units will be affordable to lower income households.
 - 2. 100 percent residential use is allowed.
 - 3. A minimum of 50 percent of the floor area in mixed-use projects must be occupied by residential use.

Editor's note(s)—Ord. No. 38.795, § 35, adopted April 6, 2010, amended the Code by repealing former § XI-10-54.18 in its entirety. Former § XI-10-54.18 pertained to temporary contractor's offices, and derived from Ord. 38.780 (25) (part), adopted August 19, 2008.

Section 56 Nonconforming Buildings, Uses, and ~~Uses~~ Parcels*

* Prior ordinance history: Ords. 38, 38.681 and 38.760.

XI-10-56.01 Purpose and Intent

The purpose of this chapter is to establish regulations for nonconforming buildings, structures and uses. It is the intent of these regulations to result in the conversion of nonconforming buildings, structures, and uses to conforming buildings, structures and uses. However, the City recognizes that until nonconforming buildings, structures, and uses are converted, improvements to them which promote their compatibility with their neighborhoods, enhance the quality of development, and do not increase nonconformity should be encouraged and allowed.

(Ord. 38.777 (14) (part), 6/17/08)

XI-10-56.02 Repair, Maintenance and Improvements to Nonconforming Buildings and Structures

A nonconforming building or structure may be maintained, except as otherwise provided in this section.

- A. Repair, Maintenance, Aesthetic Improvements. Repairs and alterations may be made to a nonconforming building or structure, provided that no structural alterations shall be made except those required by law or ordinance.
- ~~B.~~ B. Energy Efficiency and Sustainability Upgrades. Improvements may be made to a nonconforming building or structure related to improving the energy efficiency, reducing the energy usage, and reducing the greenhouse gas emissions impact of the building or structure.
- C. Restoration of Damaged Buildings. A nonconforming building or structure which is damaged or partially destroyed by fire, flood, wind, earthquake, or other calamity or act of God or the public enemy, to the extent of not more than seventy-five (75%) percent of its true value at that time, may be restored and the occupancy or use of such building, structure or part thereof, which existed at the time of such partial destruction, may be continued or resumed, provided the total cost of such restoration does not exceed seventy-five (75%) percent of the true value of the building or structure at the time of such damage and that such restoration is started within a period of one (1) year and is diligently prosecuted to completion.

In the event such damage or destruction exceeds seventy-five (75%) percent of the true value of such nonconforming building or structure, no repairs or reconstruction shall be made unless every portion of such building or structure is made to conform to all regulations for new buildings in the district in which it is located.

Provided, however, that any multistory single-family residence, which is subject to the provisions of the hillside section of this Title (Section XI-10-45), may be rebuilt to its approved height and setbacks and is not subject to the single-story height restrictions or other restrictions in the Zoning Title currently in effect, but shall conform to those regulations in effect at the time the structure was built.
- ~~C.D.~~ Additions to, Enlargements and Moving of Nonconforming Buildings and Structures.
 - 1. In the R1, R2 and R1-H Districts, a legal nonconforming building or structure shall not be added to or enlarged in any manner unless the addition or enlargement conforms to all development standards and regulations of the district in which it resides, including, but not limited to height, yard setbacks,

maximum lot coverage, impervious surface coverage, and maximum size of residence regulations of said district. In addition, a legal nonconforming building or structure shall not be added to or enlarged unless existing front yard paving is brought into conformance.

2. In all districts other than the R1, R2, and R1-H, a legal nonconforming building or structure may be added to or enlarged in a manner consistent with the criteria established in Table XI-10-57.04-1 and if a Conditional Use Permit is obtained.
3. A building or structure lacking adequate automobile parking space in connection therewith may be altered or enlarged provided the required additional automobile parking space is supplied as per Section XI-10-53 for the entire building or use, including the addition or enlargement.
4. A nonconforming building or structure shall not be moved in whole or in part to any other location on the lot unless every portion of such building or structure is made to conform to all regulations of the district in which it is located.

(Ord. No. 38.793, § 3, 5/17/11; Ord. 38.777 (14) (part), 6/17/08)

XI-10-56.03 Nonconforming Use of Buildings and Structures

- A. The continuation or change of a nonconforming use of a building or structure shall meet the requirements provided below.
 1. Continuation of Existing Nonconforming Use. A legally established use that is no longer permitted in a particular zoning district because of a modification of this Chapter shall be allowed to continue indefinitely, absent discontinuation of the use for a year or more and failure to comply with the re-establishment provisions of Section XI-10-56.03(B) below.
 2. Discontinuation of Nonconforming Use. The nonconforming use of a building, structure or portion thereof, which is discontinued for a continuous period of one (1) year or more, may be replaced only with a conforming use, absent an approved nonconforming use reestablishment set forth in Section XI-10-56.03(B) below. Nonconforming uses which have been discontinued for a period of less than one (1) year may be replaced, if (1) with a nonconforming use of the same use classification as a matter of right or (2) a nonconforming use of a different use classification, subject to compliance with the findings and procedures set forth Section XI-10-56.03(B).
 3. Changes of Use Within the Same Use Classification. An existing, ongoing nonconforming use may be changed to a different use within the same use classification. For example, a nonconforming auto repair shop use may be changed to a tire shop use, since both uses fall within the same use classification (auto service uses).
 4. Change of Use to a Different Nonconforming Use Classification. An existing, ongoing nonconforming use may be changed to a nonconforming use of a different use classification only if it can be found that the proposed use is equivalent to or more appropriate than the existing nonconforming use at the project location. The proposed use may be allowed only by way of a conditional use permit and only if, in addition, all of the following findings can be made:
 - a. The proposed nonconforming use would not cause a nuisance to the surrounding properties and district (e.g., excessive parking demand, traffic, noise, etc.).
 - b. The proposed nonconforming use would be compatible with the general character of the surrounding neighborhood or district.
 - c. The proposed nonconforming use is necessary to allow gainful economic use of structures or improvements until such structures or improvements can be permanently converted to conforming uses.

B. Re-establishment of Discontinued Nonconforming Uses Within the ~~Midtown and Transit Area~~ Milpitas Metro Specific Plan ~~Areas~~ Area (Sunsetting Provision).

1. Once discontinued for a year or more, nonconforming uses only within the ~~Midtown Specific Plan Area and the Transit Area~~ Milpitas Metro Specific Plan Area may be re-established if all of the following findings can be made:
 - a. The proposed re-establishment of a nonconforming use would not cause a nuisance to the surrounding properties and district (e.g., excessive parking demand, traffic, noise, etc.).
 - b. The proposed re-establishment of a nonconforming use would be compatible with the existing general character of the surrounding neighborhood or district.
 - c. The proposed re-establishment of a nonconforming use is necessary to allow gainful economic use of structures or improvements until such structures or improvements can be permanently converted to conforming uses.

In addition to the above findings, the re-establishment of a discontinued nonconforming use may only be approved by the Planning Commission by way of a conditional use permit, with the above additional findings, if (1) the proposed use lies within 1,000 feet of any residential use or (2) the proposed use would require conditional use permit review under current zoning requirements for the zoning district listed in the zoning map in existence at the time the use became nonconforming. The re-establishment of a discontinued nonconforming use may be approved administratively by Planning Division staff in all other circumstances, contingent on the existence of findings by Planning Division staff that the above listed grounds for re-establishment exist.

2. This Section XI-10-56.03(B) shall become inoperative ~~June 16, 2016~~ July 1, 2026, and shall be considered repealed on that date, unless a later enacted ordinance that becomes effective on or before ~~June 16, 2016~~ July 1, 2026, deletes or extends that date. All other provisions of Section XI-10-56.03 shall be unaffected by this sunset clause.

C. Expansion of Assembly Uses in the Heavy Industrial (M2) Zoning District.

1. Assembly uses approved after February 7, 2017, that are rendered legally non-conforming may expand in floor area up to 25 percent of existing floor area until December 31, 2020. Such expansions shall require approval of a Site Development Permit and Conditional Use Permit by the Planning Commission in accordance with the provisions of Section 57 "Applications."

(Ord. No. 38.837 , § 10, 11/5/19; Ord. No. 38.817, § 2, 9/16/14; Ord. No. 38.793, § 3, 5/17/11; Ord. 38.777 (14) (part), 6/17/08)

XI-10-56.04 Nonconforming Use of Land

1. Continuation of Use. The nonconforming use of land (where no main building is involved), existing at the time the Ordinance codified in this section became effective, may be continued for a period of not more than five (5) years therefrom, provided:
 - a. That no such nonconforming use of land shall, in any way, be expanded or extended either on the same or adjoining property.
 - b. That, if such nonconforming use of land, or any portion thereof, is discontinued or changed, any future use of land shall be in conformity with the provisions of this Chapter.
 - c. That any sign, billboard, commercial advertising structure or statuary, which is lawfully existing and maintained prior to January 26, 1954, may be continued, although such use does not conform with the provisions hereof; provided, however, that no structural alterations are made thereto and provided, further, that all such nonconforming signs, billboards, commercial advertising structures and statuary,

and their supporting members, shall be completely removed from the premises not later than five (5) years from the effective date of the Ordinance codified in this section.

2. Nonconforming Due to Reclassification. The foregoing provisions of this section shall also apply to buildings, structures, land, or uses which hereafter become nonconforming due to any reclassification of districts under this Chapter or any subsequent change in the regulations of this Chapter; provided, however, that where a period of years is specified in this section for the removal of nonconforming buildings, structures, or uses, said period shall be computed from the date of such reclassification or change.

(Ord. 38.777 (14) (part), 6/17/08)

XI-10-56.05 Nonconforming Parcels

- A. Legal Building Site. A nonconforming parcel that does not comply with the applicable lot requirements for the zone (e.g., lot area, lot width, etc.) in which it is located shall be considered a legal building site if it meets at least one of the following:
 1. The parcel was created by a recorded subdivision;
 2. The parcel is under one ownership and of record, and was legally created by a recorded deed prior to the effective date of the zoning amendment that made the parcel nonconforming; or
 3. The parcel was approved through a variance procedure or resulted from a lot line adjustment.
- B. Development of Legal Building Sites. A legal building site may be developed provided that any structure or development compiles with the standards for the zone unless standards are specifically waived or altered through a variance or as otherwise allowed by the zoning ordinance.
- C. Subdivision or Adjustment of a Nonconforming Parcel. No subdivision or lot line adjustment shall be approved that would increase the nonconformity of an existing parcel.

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	B	C	D	E	F	G
1	City of Milpitas - Zoning Ordinance Update Public Hearing Draft - August 2023 ERRATA and TYPOGRAPHIC ERRORS					  April 2024
2						
3						
4						
5	Date of Comment	Name of commenter	Section/Subsection Name	Description of Needed Edit	Notes/Proposed Edit to the Code	Date edit made in final document
6	Zoning Map					
7	8.15.23	Staff/LWC		Mapping of new NCMU zone to be removed from updated zoning map.	Mapping of NCMU zone will be completed as part of the separate effort to create NCMU zoning regulations and HODs	
8	9.12.23	Staff/LWC		1780 S. Main Street (APN 8342006) to be rezoned to C2 (General Commercial).	This parcel should have been included in a separate batch of City-initiated rezonings in the South Main area (related to a change in specific plan boundaries), but was inadvertently left out. To be included in this round of zoning map changes.	
9	9.12.23	Staff/LWC		1430 California Circle (APN: 022-37-019) to be rezoned to MXD, not R3 as shown	Rezoning to R3 had been proposed for consistency with the rezoning of adjacent residential areas (north and south), but upon further review and discussion, rezoning to MXD is preferred.	
10	9.22.23	Staff/LWC		Recreation and Entertainment (RE) Overlay zone to be removed from all parcels to be rezoned as BPRD (Business Park Research and Development), POS (Park and Public Open Space), and I (Institutional).	The RE overlay effectively modifies the allowed uses for the underlying base zone, so it must be removed in order for the use regulations for the BPRD, POS, and I zones to be in effect. <i>Note : the RE Overlay also applies to some properties currently zoned C2 and HS. It will remain in effect for those properties until the second phase of the Zoning Ordinance Update, when use regulations will be updated for all zoning districts</i>	
11	11.08.23	Staff		Change zoning for 1355 California Circle (APN: 022-38-007) from Industrial Park (MP) to Mixed Use (MXD)	Per City Council action on 11/7/23 to rezone parcel in conjunction with approved development application.	
12	12.12.23	Staff/LWC		Display boundaries and numbers of all approved Planned Unit Developments (PUDs) in the city on the citywide zoning map.		
13						
17	Section 2 - Definitions					
18	8.25.23	Ward Mace/Goodman	XI-10-2.03 - Definitions	Add definition for "Data Centers"		
19	10.04.23	Ward Mace/Goodman	XI-10-2.03 - Definitions	Ensure that the distinctions are clear between "Warehousing, General," "Distribution Facility," and "Parcel Hub" in the definitions for each term	Note that often Distribution Facilities and Parcel Hubs are primarily warehouse spaces	
20	11.29.23	Staff/LWC	XI-10-2.03 - Definitions	Refine language in definitions of "Advanced Manufacturing" and "Research and Development" to clarify that these uses may include any amount of storage/warehouse space for raw materials and/or finished goods (up to 300,000 sf) that actively supports the primary use.	Advanced manufacturing and R&D uses frequently require large areas for storage of materials and/or finished goods prior to distribution	
21	11.29.23	Staff/LWC	XI-10-2.03 - Definitions	Refine language in definition of "Warehousing, General" to clarify that this use refers to "passive storage" of goods and does not include storage of raw materials and/or finished products as part of an active primary use such as general manufacturing, advanced manufacturing, or R&D. Note also that "Warehousing, General" excludes parcel hubs.		

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5	Date of Comment	Name of commenter	Section/Subsection Name	Description of Needed Edit	Notes/Proposed Edit to the Code	Date edit made in final document
22	1.5.24	Brent Lower/ Washington Holdings	'XI-10-2.03 - Definitions	Consolidate the definitions for "Warehousing, General" and "Distribution Facility" into a single use classification.	Warehousing and distribution are functionally one and the same, they're part and parcel of the same type of operation.	
23						
24	Section 7 - Industrial Zones (BPRD)					
25	10.11.23	Staff	Industrial Zone Uses Table (XI-10-7.02-1)	Change Grocery Stores to not permitted (NP) in the M1 and MP zones.		
26	9.12.23	Staff	Industrial Zone Uses Table (XI-10-7.02-1)	Add Advanced Manufacturing to use table. Allow by right ("P") in BPRD zone.	Advanced manufacturing was inadvertently left out of the draft use table	
27	1.3.24	Joe Goggiano/ McCarthy Development	Industrial Zone Uses Table (XI-10-7.02-1)	Manufacturing/assembly of electric vehicles should be allowed in the BPRD Zone.	Research, development and manufacturing of electric vehicles is an important industry in the Silicon Valley region and is consistent with the intent of the BPRD zone.	
28	10.10.23	Staff	Industrial Zone Uses Table (XI-10-7.02-1)	Contractor's Shops should be permitted by right (P) in the Heavy Industrial Zone (M2), not conditionally permitted (C).		
29	9.12.23	Staff	Industrial Zone Uses Table (XI-10-7.02-1)	Custom and Artisan Manufacturing should be MCS (minor conditional use permit, staff level) (not MUP).	MUP doesn't exist in Milpitas' zoning code (typographical error in draft)	
30	8.25.23	Ward Mace/ Goodman	Industrial Zone Uses Table (XI-10-7.02-1)	Add Data Centers to use table. Allow in BPRD, M1 (Light Industrial), and MP (Industrial Park) zones. Prohibit in M2 (Heavy Industrial) zone.		
31	1.5.24	Staff	Industrial Zone Uses Table (XI-10-7.02-1)	Delete Distribution Facility from use table. This use classification is being consolidated with Warehousing, General.	Per comment above in Section 2 - Definitions	
32	12.01.23	Staff	Industrial Zone Uses Table (XI-10-7.02-1)	Change Parcel Hub to a minor conditional use permit, staff level (MCS) in the M2 zone, and to a regular conditional use permit (C) in the BPRD zone.	Policy intent during drafting of updated General Plan was to restrict "last mile" distribution/logistics uses in the Southwest Employment Area.	
33	4.01.24	Staff (with input from multiple commenters)	Industrial Zone Uses Table (XI-10-7.02-1)	Change Warehousing and Distribution (per refined definition - see entry above in "Definitions" section) in BPRD zone to permitted (P) for facilities up to 150,000 square feet and conditionally permitted (C) for facilities larger than 150,000 square feet. Add a specific CUP finding for approval of Warehousing and Distribution facilities exceeding 150,000 square feet.		
34	Multiple	Multiple	Industrial Zone Uses Table (XI-10-7.02-1), footnote 6	Delete footnote 6 related to limiting general warehousing to 20 percent of floor area.		
35	1.5.24	Brent Lower/ Washington Holdings	Industrial Zone Development Standards (Table XI-10-7.03-1)	Maximum building height in the BPRD Zone should be increased to 80 feet (instead of 60) / 5 stories.	Because buildings to accommodate typical BPRD uses often have larger floor-to-ceiling heights, a 5-story building would be greater than 60 feet in height.	
36	11.29.23	Multiple	Industrial Zone Development Standards (Table XI-10-7.03-1)	Reduce minimum floor area ratio (FAR) in the BPRD Zone to 0.35.		

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5	Date of Comment	Name of commenter	Section/Subsection Name	Description of Needed Edit	Notes/Proposed Edit to the Code	Date edit made in final document
37	9.11.23	Matt Taylor/ CBRE	XI-10-7.04 (B)(3) Places of Assembly	Make a clearer distinction between the use "Places of Assembly" (i.e. people assembling) and "Assembly from Pre-Processed Materials" (i.e manufacturing).	Revision/clarification needed in this code section and/or in Definitions for the uses that include the term "Assembly"	
38	9.11.23	Matt Taylor/ CBRE	XI-10-7.04 (C)(1)(C) Special Development and Performance Stds.	Following standard stating that uses shall emit no smoke, add a note stating this does not preclude the use of back-up/ emergency generators.		
39	10.04.23	Goodman and CBRE	XI-10-7.05 - Special Design Standards for BPRD Zone	Revise subsection A.1. Building Entrances to state that an entrance is required facing the primary street frontage, but also allowing the primary entrance to be on another side of the building.	This edit will allow greater design flexibility and allow developments to adapt to site-specific circumstances and the needs of building users.	
40	10.04.23	Goodman and CBRE	XI-10-7.05 - Special Design Standards for BPRD Zone	Delete subsection B.2. Façade Design and Articulation, removing the requirement that a minimum of 50 percent of building frontage be located at or within 10 feet of front setback.	This edit will allow greater design flexibility and allow developments to adapt to site-specific circumstances and the needs of building users.	
41	10.04.23	Goodman and CBRE	XI-10-7.05 - Special Design Standards for BPRD Zone	Revise subsection C.3 to remove requirement for permeable walkway materials, and instead to refer to variations in paving materials for walkways (e.g. decorative paving instead of concrete).	Permeable paving systems for walkways are very costly to install and require intensive maintenance.	
42	10.04.23	Goodman and CBRE	XI-10-7.05 - Special Design Standards for BPRD Zone	In subsection D.1 Site Design for Large Projects over 80,000 sf, revise language to clarify that total required open space may include stormwater treatment areas, landscaped areas, and required usable open space for outdoor dining.		
43	10.04.23	Goodman and CBRE	XI-10-7.05 - Special Design Standards for BPRD Zone	Delete subsection F.1.c. Parking Locations, removing the restriction on parking along lot frontages facing McCarthy Blvd, Milpitas Blvd, and Montague Expressway.	This edit will allow greater design flexibility and allow parking to be located nearer to building entrances.	
44	9.11.23	Matt Taylor/ CBRE	XI-10-7.05 - Special Design Standards for BPRD Zone	Revise subsection E.1.d to clarify that requirement for 10 percent of parking lot to be landscaped refers to planted islands between rows of parking.	As written, could be interpreted to mean that parking areas may not be paved with asphalt	
45	10.04.23	Goodman and CBRE	XI-10-7.05 - Special Design Standards for BPRD Zone	Revise subsection E.1.e.i to change the spacing requirement for landscaping ground cover plantings from minimum 12" on center to minimum 24" on center.		
46	10.04.23	Goodman and CBRE	XI-10-7.05 - Special Design Standards for BPRD Zone	Revise subsection F.2.b requiring screening of parking lots to clarify that a solid "wall" of screening is not required, and some transparency of screening method (fences, plantings, etc.) is allowed.	Ensure this language is also consistent with existing requirements in Zoning Ordinance subsection XI-10-54.10 Fences and Walls.	
47	1.3.24	Anthony Cataldo and Joe Goggiano/ McCarthy Development	XI-10-7.05 - Special Design Standards for BPRD Zone	Suggested several minor modifications to Special Design Standards for BPRD Zone to allow greater flexibility for architects/developers and to better accommodate site-specific conditions and project-specific needs.		
48						
49	Section 9 - Metro Area Zones					
50	9.12.23	Staff	Metro Area Zones Uses Table (XI-10-9.02-1)	Personal Services should be C (conditionally permitted), instead of NP (not permitted) in BPRD Metro and BPRD-R Metro zones.		
51	9.12.23	Staff	Metro Area Zones Uses Table (XI-10-9.02-1)	Add Advanced Manufacturing to use table. Allow by right ("P") in BPRD Metro and BPRD-R Metro zones.	Advanced manufacturing was inadvertently left out of the draft use table	
52	9.12.23	Staff	Metro Area Zones Uses Table (XI-10-9.02-1)	Add Contractor's Shop to use table and make NP (not permitted) in all Metro Area zones.		

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5	Date of Comment	Name of commenter	Section/Subsection Name	Description of Needed Edit	Notes/Proposed Edit to the Code	Date edit made in final document
53	1.11.24	Staff	Metro Area Zones Uses Table (XI-10-9.02-1)	Change Warehousing, General to Warehousing and Distribution (per comment above in Section 2 - Definitions). Warehousing and Distribution should be NP (not permitted) in the BPRD-Metro and BPRD-R-Metro zones.	Stand-alone warehousing and distribution to be prohibited, but note that storage of materials/finished goods as part of Advanced Manufacturing and R&D uses would still be permitted.	
54	12.01.23	Staff	Metro Area Zones Uses Table (XI-10-9.02-1)	Under College and University, delete "public or" so that this use refers only to private colleges and universities.	The City does not have authority over permitting for public colleges/universities. Also, these facilities are given the "I - Institutional" zoning designation.	
55	12.19.23	Staff	Metro Area Zones Uses Table (XI-10-9.02-1)	Private colleges and universities should be P (permitted) in the BPRD-R-Metro and BPRD-Metro zones.	This is consistent with policy language in the Metro Specific Plan (page 44) that refers to educational uses in the plan area.	
56	9.12.23	Staff	Metro Area Zones Uses Table (XI-10-9.02-1)	Add Conference Center to use table, and made C (conditionally permitted) in BPRD Metro and BPRD-R Metro zones.		
57	12.01.23	Staff	Metro Area Zones Uses Table (XI-10-9.02-1)	Delete the entry "School (not trade or vocational)" from table.	This is a vague use category - it is not clear what types of schools are intended to be included. All types of schools to be clearly described as separate entries in the table.	
58	12.01.23	Staff/Sean Morley/Stratford School	Metro Area Zones Uses Table (XI-10-9.02-1)	Private elementary, middle, and high schools should be conditional (C), rather than not permitted, in the BPRD-Metro and BPRD-Metro zones.		
59	9.12.23	Staff	Metro Area Zones Uses Table (XI-10-9.02-1)	Trade and Vocational Schools should be C (conditionally permitted) in BPRD Metro and BPRD-R Metro zones.		
60	9.12.23	Staff	Metro Area Zones Uses Table (XI-10-9.02-1)	Small Family Child Care Home should be NP (not permitted) in BPRD Metro (since residential uses are not permitted in this zone).		
61	12.01.23	Staff	Metro Area Zones Uses Table (XI-10-9.02-1)	Delete footnotes 6 and 7 to the use table, and re-number all subsequent footnotes in the table.	These footnotes referred to zoning provisions in the previous draft that are now being deleted.	
62						
63	Section 53 - Off-Street Parking Requirements					
64	10.04.23	Ward Mace/Goodman	XI-10-53.09 Off-Street Parking Required by Land Use -- Table 53.09-3	For requirement for one truck parking space for each delivery vehicle during peak time - clarify that this refers to "last mile"/delivery trucks and not semi trucks delivering products to the site.		
65	4.08.24	LWC	XI-10-53.09 Off-Street Parking Required by Land Use -- Table 53.09-3	Add parking requirement for Data Centers	This is a new land use being added to the Zoning Ordinance.	
66						
67	Section 56 - Nonconforming Buildings and Uses					
68	12.01.23	Prologis	XI-10-56.02 Repair, Maintenance and Improvements to Nonconforming Buildings and Structures	Add a clause stating that improvements related to energy efficiency, GHG emissions reductions, etc., may be made to nonconforming buildings/structures.		
69	11.27.23	Staff	XI-10-56.03 Nonconforming Use of Buildings and Structures, subsections (B) and (B)(1)	Regarding re-establishment of discontinued nonconforming uses after one year or more in specific plan areas, change "Transit Area Specific Plan" to "Milpitas Metro Specific Plan."	The adopted Milpitas Metro Specific Plan updated and replaced the Transit Area Specific Plan.	
70	11.27.23	Staff	XI-10-56.03 Nonconforming Use of Buildings and Structures, subsection (B)(2)	Change date for sunset provision from June 16, 2016 to July 1, 2026.		

RESOLUTION NO. 24-017

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS RECOMMENDING THAT THE CITY COUNCIL APPROVE GENERAL PLAN AMENDMENT GP24-0002, TO AMEND THE LAND USE ELEMENT TEXT AND LAND USE MAP, ZONING TEXT AND MAP AMENDMENT ZA24-0002, TO CREATE NEW ZONING DISTRICTS (BUSINESS PARK RESEARCH AND DEVELOPMENT ZONE, METRO AREA ZONES) AND TO CHANGE THE ZONING CLASSIFICATIONS OF CERTAIN PARCELS THROUGHOUT THE CITY, TO ACHIEVE CONSISTENCY BETWEEN THE MILPITAS 2040 GENERAL PLAN, MILPITAS METRO SPECIFIC PLAN, ZONING ORDINANCE, AND ZONING MAP, AND ADOPT THE COMPREHENSIVE ZONING ORDINANCE UPDATE PHASE I ADDENDUM TO THE GENERAL PLAN FEIR (SCH # 2020070348) AND MILPITAS METRO SPECIFIC PLAN SFEIR (SCH # 2006032091).

WHEREAS, the City of Milpitas, California (the “City”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, California Government Code Section 65300 et seq. requires each city to prepare and adopt, and amend as necessary, a comprehensive, long-term general plan for the physical development of the county or city; and

WHEREAS, California Government Code Section 65800 et seq. authorizes the adoption and administration of zoning laws, ordinances, rules, and regulations by cities as a means of implementing the General Plan; and

WHEREAS, on March 9, 2021, the Milpitas City Council adopted the Milpitas 2040 General Plan, updating and revising the land use policies, goals, and objectives contained in the City’s previous General Plan; and

WHEREAS, on February 7, 2023, the Milpitas City Council adopted the Metro Specific Plan to guide future land use, development, and public and private investment in the area surrounding the Milpitas Transit Center, the Milpitas Bay Area Rapid Transit (BART station), and the Great Mall; and

WHEREAS, California Government Code Section 65860 requires a city’s zoning ordinance to be consistent with its adopted general plan, including any specific plan that has been adopted to establish planning policies for a defined geographic area of the city; and

WHEREAS, the City has prepared a General Plan Amendment and Zoning Text and Zoning Map Amendment (“Amendments”) to implement the land use policies and goals of the Milpitas 2040 General Plan and Metro Specific Plan, including the creation of a new Business Park Research and Development Zone and new Metro Area Zones, and to ensure overall consistency between the City’s General Plan, Metro Specific Plan, Zoning Ordinance, and Zoning Map; and

WHEREAS, on March 9, 2021, a Final Environmental Impact Report (FEIR) was certified for the Milpitas 2040 General Plan in accordance with the California Environmental Quality Act (CEQA),

and whereas the proposed Amendments are consistent with the updated General Plan and the environmental analysis conducted for the same; and

WHEREAS, on February 7, 2023, a Subsequent Final Environmental Impact Report (SFEIR) was certified for the Metro Specific Plan in accordance with CEQA, and the proposed Amendments are consistent with the Metro Plan and the environmental analysis conducted for the same; and

WHEREAS, an Addendum to the certified Milpitas 2040 General Plan FEIR and Metro Specific Plan SFEIR was published on April 26, 2024, which concluded that the impacts of the proposed General Plan Amendments and Zoning Text and Zoning Map Amendments remain consistent with the impacts previously analyzed in the Environmental Impact Reports, and therefore no further environmental analysis pursuant to CEQA is required; and

WHEREAS, the Planning Commission makes and accepts as its own the findings set forth in this resolution; and

WHEREAS, the Planning Commission is an advisory body to the City Council; and

WHEREAS, on May 22, 2024, the Planning Commission held a duly noticed public hearing on the subject application, at which all those in attendance were given the opportunity to speak on the proposed Amendments; and

WHEREAS, the Planning Commission has considered all the written and oral testimony presented at the public hearing in making its decision; and

WHEREAS, all legal prerequisites to the adoption of this resolution and the Planning Commission's review, recommendation, and approval of the General Plan amendments, Zoning amendments, and CEQA review contained herein have been met.

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

SECTION 1. Recitals

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

SECTION 2. CEQA Finding

An Addendum to the Final Environmental Impact Report (FEIR) for the Milpitas 2040 General Plan (State Clearinghouse No: 2020070348) and Subsequent Final Environmental Impact Report (SFEIR) for the Milpitas Metro Specific Plan (State Clearinghouse No: 2006032091) was published on April 26, 2024. The Addendum finds that the impacts of the proposed project remain consistent with the impacts previously analyzed in the certified General Plan FEIR and Metro Specific Plan SFEIR. The Addendum

further concludes that proposed project does not require any substantial revisions to the General Plan FEIR or Metro Specific Plan SFEIR, that no new significant information or changes in circumstances surrounding the proposed project have occurred since the certification of the General Plan FEIR or Metro Specific Plan SFEIR, and that the previous analysis completed for the General Plan Update FEIR and Metro Specific Plan SFEIR remain adequate under CEQA. The Planning Commission therefore finds that its actions are consistent with CEQA and State CEQA guidelines and that no additional environmental review is required therefore. Subject to the City Council's ultimate adoption and approvals, the Planning Commission approves, recommends the City Council approve, and adopts this Addendum as if fully set forth herein.

SECTION 3. Findings for General Plan Amendment

The Planning Commission finds based upon the full record before it that all findings and prerequisites required for the General Plan amendments proposed have been met, including those set forth in the Government Code, including Sections 65350 et seq., the Milpitas Municipal Code, including Section XI-10-57.02, and page IN-8 of the Milpitas 2040 General Plan itself. The Planning Commission makes the following further and specific findings based on the evidence in the public record in support of General Plan Amendment No. GP24-0002:

1. The amendment is deemed to be in the public interest.

The proposed amendments to the text of the Land Use Element of the City's General Plan, as well as the proposed changes to the General Plan Land Use Map, are necessary to align the permitted land uses and allowed density ranges between the land use designations defined in the General Plan and the zoning districts that implement those designations. Some of the changes to the General Plan Land Use Map are also needed to accurately reflect the existing uses and actual built conditions of certain parcels. These changes are in the public interest because a General Plan map that corresponds to the actual ownership status, uses, and development patterns of land in Milpitas, as well as overall consistency between the General Plan and the zoning ordinance and zoning map, is good public policy, helping to promote orderly development and certainty for property owners and neighbors in terms of land uses, development potential, and protection of open space areas.

2. The amendment is consistent and/or compatible with the rest of the General Plan.

The introduction to the General Plan notes that the document "is not static, but rather is a dynamic and multi-faceted document that defines and addresses the changing needs of the City. It is based on an on-going assessment and understanding of existing and projected community needs" (page IN-8, Milpitas 2040 General Plan). This language reflects the understanding that the General Plan will occasionally require amendments to keep pace with changing circumstances and issues that affect growth, conservation, and quality of life in Milpitas.

The proposed amendments are in keeping with this understanding, instituting changes to the General Plan that reflect current conditions. The proposed land use map changes are intended to match the existing zoning and reflect on-the-ground conditions for select properties in the city. Changing the land use designation for certain parcels to Permanent Open Space will further the goals of the Parks, Recreation, and Open Space Element by protecting open space and natural areas in the city. The proposed amendment to the language in the Land Use Element describing the Business Park Research

and Development Zone reflects and supports existing market realities for Milpitas and the broader South Bay area, thereby helping to further the goals of the Economic Development Element.

The proposed minor amendments are related to the Land Use Element and Land Use Map only, and do not affect any other portion of the General Plan. The amendments are consistent with the General Plan as a whole and do not create any internal inconsistencies.

3. *The potential impacts of the amendment have been assessed and have been determined not to be detrimental to the public health, safety, or welfare.*

The proposed amendments involve changes to the General Plan map and land use designations for a relatively small number of parcels, as well as minor changes to the language of the Land Use Element. These amendments would not be detrimental to public health, safety, or welfare because they would simply bring the General Plan's allowed land uses and development density ranges into consistency with the corresponding zoning districts, resulting in clearer and more effective land use policies and regulations. In addition, the minor text amendment related to warehouses in the Business Park Research and Development area would not be detrimental to public health, safety, or welfare because it would simply allow larger warehouse uses on properties with that land use designation, which is consistent with current market demands and conducive to the city's economic health and development.

4. *The amendment has been processed in accordance with the applicable provisions of the California Government Code, the California Environmental Quality Act (CEQA), and the City's Municipal Code.*

California Government Code Section 65358 provides guidance for a local jurisdiction to follow in amending its general plan, stating that such an amendment may be initiated if deemed "to be in the the public interest" and "shall be initiated in the manner specified by the legislative body" (in this case, the Milpitas City Council). The City's procedure for amending the General Plan is outlined in Milpitas Municipal Code (MMC) Section XI-10-57.02. That procedure includes requirements for a General Plan amendment to be reviewed at a public hearing before the Planning Commission, which shall make a recommendation to the City Council; and then for the City Council to hold a public hearing and make a decision on the proposed amendment. These procedures are being followed for the General Plan amendments in question and are consistent with and fulfill the procedure specified in the Government Code.

The City has also fulfilled all procedural prerequisites of the Government Code and Milpitas Municipal Code. This includes public involvement (Gov. Code, § 65351), referral to other agencies (Gov. Code, § 65352), tribal consultation (Gov. Code, § 65352.3), and all public notices and hearings required.

In conformity with Government Code section 65350.5 and Water Code sections 10910 et seq., the amendments do not substantially change the City's prior analysis and conclusions regarding water systems, water rights, and groundwater sustainability and management or otherwise require amendment of the City's prior determinations in this regard with respect to its General Plan.

The California Government Code also states that a municipality may amend a mandatory element of its general plan (including a land use element) no more than four times per calendar year. This is the City's second proposed amendment to the Milpitas 2040 General Plan Land Use Element in 2024.

The proposed amendments are being processed in accordance with CEQA. As noted above, an EIR Addendum to the previously certified FEIR for the General Plan and SFEIR for the Metro Specific Plan

was prepared and concluded that impacts are consistent with those previously analyzed in these environmental documents and no further analysis pursuant to CEQA is required.

SECTION 4. Findings for Zoning Amendment (Milpitas Municipal Code, Subsection XI-10-57.02(G)(3))

The Planning Commission finds based upon the full record before it that all findings and prerequisites required for the Zoning Text and Zoning Map amendments proposed have been met, including those set forth in the Government Code, including Sections 65850 et seq., and the Milpitas Municipal Code, including Section XI-10-57.02. The Planning Commission makes the following further and specific findings based on the evidence in the public record in support of Zoning Text and Zoning Map Amendment No. ZA24-0002:

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

The fundamental purpose of the proposed Zoning Ordinance and zoning map amendments is to achieve consistency with the General Plan, as required by state law. This detailed set of Zoning Ordinance and zoning map amendments follows the adoption of the comprehensive update to the City's general plan, titled the Milpitas 2040 General Plan, as well as the adoption of the Metro Specific Plan. The creation of the new Business Park Research and Development Zone and the new Metro Area Zones, along with updates to the zoning classifications of certain parcels throughout the city, accomplish the important objective of bringing the Zoning Ordinance and zoning map into consistency with the General Plan and Metro Specific Plan.

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

The proposed zoning changes serve to implement several of the City's adopted land use and economic development policies that promote the public interest. They would help facilitate new, higher density and transit-oriented development in appropriate areas, which would serve to advance numerous City goals related to community design, environment, and economic development. They would also provide clear and user-friendly regulatory requirements and standards for new development, improving outcomes for property owners and adjacent residents and businesses. In summary, the proposed zoning amendments would support overall community health and well-being in Milpitas.

SECTION 5: Planning Commission Action

The Planning Commission of the City of Milpitas hereby adopts Resolution No. 24-017 recommending that the City Council (1) approve General Plan Amendment No. GP24-0002 and adopt the implementing proposed resolution in Exhibit 1 hereto, to amend the Land Use Element Text and Land Use Map, (2) approve Zoning Amendment No. ZA24-0002 and adopt the implementing proposed ordinance in Exhibit 2 hereto, to create new zoning districts (Business Park Research and Development Zone, Metro Area Zones) and to change the zoning classifications of certain parcels throughout the city, to achieve consistency between the Milpitas 2040 General Plan, Milpitas Metro Specific Plan, Zoning Ordinance, and Zoning Map, and (3) adopt the Comprehensive Zoning Ordinance Update Phase I Addendum to the General Plan FEIR (SCH # 2020070348) and Milpitas Metro Specific Plan SFEIR (SCH # 2006032091), based on the above Findings and the full record before it.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on May 22, 2024.

DocuSigned by:
Chair Mercedes Albana
2B40D51C93E540A...

Mercedes Albana, Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on May 22, 2024, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Mercedes Albana	✓			
Dipak Awasthi	✓			
Michael Caulkins	✓			
Alexander Galang	✓			
Parveen Gupta	✓			
Chia Ling Kong	✓			
Sonia Medina-Ashby	✓			

EXHIBITS

- 1: Draft City Council Resolution for General Plan Amendment
- Exhibit A: General Plan Map Amendment
- 2: Draft Zoning Text and Map Amendments Ordinance
- Exhibit A: Zoning Map Amendment
- 3: EIR Addendum

Certificate Of Completion

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Chair Mercedes Albana

mercedesalbana@gmail.com

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hpearson@milpitas.gov

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